

A CASE FOR RELIGIOUS LIBERTY IN SOUL CARE FROM A HISTORICAL PERSPECTIVE

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Current Problems Divorced

Religious liberty is under great strain in modern America. Questions regarding the definition of marriage threaten to compromise, for example, the religious convictions of Jack Phillips, the owner of Masterpiece Cakeshop, in Lakewood, Colorado. He was directed to change his store policies immediately and to force his staff to attend training sessions that encouraged greater sensitivity to sexual preferences. Commenting on the situation, conservator writer Todd Starnes said, “Think of [the training] as reverse conversion therapy (or straight man’s rehab) so that the state can mandate diversity through conformity.”² Christian bakers, florists, and photographers are under siege. And the problem is not limited to pressures that homosexual activists place on believers who provide personal services. Even large businesses like Hobby Lobby, are pressured to yield on issues of Christian conscience, such as when life begins, the value of that life, and whether a business should be forced to go against its owners’ deeply-held religious beliefs by adhering to the contraceptive mandate contained in the President Obama’s Affordable Care Act. Sadly, these are not isolated incidents. They are representative of a plethora of cases where freedom of religion has been challenged. If cake shops, florists, photographers, and Hobby Lobby are expected to compromise, we are naïve to think that the church will remain exempt.

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² Todd Starnes, “Baker Forced to Make Gay Wedding Cakes, Undergo Sensitivity Training, after Losing Lawsuit,” Foxnews.com, accessed October 16, 2014, <http://www.foxnews.com/opinion/2014/06/03/baker-forced-to-make-gay-wedding-cakes-undergo-sensitivity-training-after.html>.

Inconspicuous to many, religious freedom in the area of counseling has not yet become the primary focal point of social activists intent on eliminating traditional Christian values from American life. However, it deserves to be brought into the discussion. Recent court opinions and legislation regarding the definition of marriage and that definition's affinity toward homosexual orientation poses a threat to any who would counsel a contrary position. In light of a 2015 opinion by the United States Supreme Court, same-sex couples have the freedom to marry in each of the 50 states. Further, the overall positive sentiment toward same-sex unions and same-sex attraction has increased as evidenced by the new restrictions on conversion therapy.³ If states are able to limit counseling practices that attempt to address deeply moral, religious, and spiritual issues such as sexual orientation, then the state is demarcating the boundaries of religious freedom.

The state's attempt to legislate a moral position in relation to sexual orientation is certainly one concern, but there also seems to be another issue at stake, especially for Christian counselors. As the state claims jurisdiction in the arena of religiously derived moral convictions, many are voluntarily submitting to the state's counterfeit authority of professional counseling licensure. This is not to say that the state does not have authority at all, but the state is exceeding its jurisdictional responsibility regarding the care of men's souls. We often think of breaches in religious liberty as the fault of the state as it extends its influence into the jurisdiction of the church. While the state is most certainly encroaching upon the religious liberties of evangelicals in this country, believers appear to be joining in allegiance with the state to accomplish a task given by God to the jurisdiction of the church. According to a biblical understanding of jurisdiction, the problem then is

³ This article is not a polemic for or against different types of conversion therapy. The author is simply using this issue as representative of threats to religious liberty in counseling. Conversion therapy, and there are multiple approaches, is representative of varied therapies that attempt Sexual Orientation Change Efforts (sometimes known as SOCE). The states of California and New Jersey have said that a counselor may not participate in any method of SOCE for those who are under 18 years of age, even if the child and/or the parents desire to pursue a change in sexual orientation. This author would argue that conversion therapy, or reparative therapy as it is sometimes called, is an unbiblical approach to SOCE. Conversion therapy is built upon a faulty categorization assuming that same-sex attraction or orientation is a mental disorder according to the DSM III. It is believed that the issue of sexual orientation is representative of a moral and spiritual issue in which the state is legislating judgment that can be binding to Christians holding professional state licensure.

two-fold: First, the state is meddling in matters not intended by God. Second, a Licensed Professional Counselor (LPC) is submitting to an erroneous authority in matters of soul care.

The regulation placed upon LPCs during recent years in California and New Jersey regarding Conversion Therapy demonstrates the amalgamation of responsibility and authority between church and state. Therapeutic measures derived from Christian convictions in relation to sexual orientation would be restricted for those who practice licensed professional counseling.

When faced with an issue like sexual orientation, the modern mind tends to neglect the Christian thought of the past, believing that novel understandings and new methods must meet any contemporary crisis. Modern thinkers are enthralled with these types of ideological cliffs and situational canyons which appear as new horizons. Human experiences, however, tend to supersede culture and ideas. In fact, the similarities of human experience, no matter modernity's progress, are quite common considering the span of history. The avant-garde produces a cerebral, yet neglectful, response to contemporary intellectual dilemmas. Never has this been more true than with modern theoretical and practical approaches to the care of souls.

Some may question the value of history for such a practical discipline as soul care. The church, however, has always been about the business of helping hurting people. Many who have gone before have identified common patterns and vices of humanity. What remedies did they suggest? What doctrines guided their practice in the care of souls? Asking these questions of our predecessors reveals the relevance of church history to ministry today. Most counseling today, even that provided by professing Christians, has been separated from the rich Christian tradition of soul care.

Thomas Oden and Andrew Purves have documented the divorce of soul care from its classical history.⁴ Charles Kemp and J. T. McNeil, respected historians of

⁴ Thomas Oden, *Care of Souls in the Classic Tradition* (Minneapolis: Fortress Press, 1984); Andrew Purves, *Pastoral Theology in the Classic Tradition* (Louisville: Westminster John Knox Press, 2001).

pastoral theology in their time, noted the same shift in the focus of pastoral theology and soul care, but seem to categorize the shift as a new epoch in pastoral theology; an epoch that transitioned with the philosophies of the times and the desire to be progressive, even relevant, as its impetus. The neglect does not seem to be an intentional movement away from classical soul care, but more of a preferential mutation toward an alternate explanation of man etched out by scientific naturalism.

Thomas Oden identified the modern neglect of what he called classical pastoral care, and recommended a project of rediscovery.

A major effort is needed today to rediscover and remine [sic] the classical models of Christian pastoral care and to make available again the key texts of that classical tradition following about fifty years of neglect, the depths of which are arguably unprecedented in any previous Christian century. A whole generation of pastoral scholars will be needed to recover textually and rediscover practically the classics of pastoral care, texts which reach out for the contemporary working pastor in the counseling task.⁵

In the pages that follow the reader will encounter an attempt to answer Oden's call to rediscover classical texts and practices which act as a guide and caution to navigate the craggy dilemmas of modern human experience. The article is an effort to wed the thinking of Calvin, Hubmaier, and Kuyper from Christian history in order to revive the doctrine of jurisdiction and its implications for religious liberty in counseling and soul care. When considered within proper parameters, the doctrine is a standard by which to value the role of the modern church as the legitimate institution designed by God for the care of souls and as a caution to maintain religious liberty the church has enjoyed for centuries in the west. Once the threats to liberty and orthodoxy have been examined, the benefit and necessity for unlicensed counseling within the local church will be evident in order to maintain proper ecclesiastical authority, doctrinal purity, and religious liberty. If care is not taken, this freedom we assume to possess will soon degenerate into a tyranny which is foreign to the Church of Christ and may hinder her progress.

⁵ Oden, *Care of Souls*.

Doctrine of Jurisdiction

Historians of the western church will recognize the phrases sphere sovereignty or jurisdiction doctrine. Arguing similar distinctions in separate eras, the terms were used to delineate properly the roles and responsibilities of the God-ordained institutions of family, church, and government. Each institution was designed by God to be progressively revealed in the created order, for His gospel mission to be realized, for man's obedience, and for the benefit of society. The institutions have all been granted roles, responsibilities, and authority to perform their specific task within His created order.⁶

We must be careful in our use of history because it proves to be a deviant authority, but an efficacious light. Every era of human history has its blind spots, points at which thinkers address the problems before them limited by their own finiteness. The benefit of history may be a pattern to emulate or an error to avoid, but it aids to illuminate shadows in the present. History used as a supreme authority is dangerous because there is rarely a one to one correlation of past and present dilemmas. But, history discloses common problems from the past and often provides alternate ways to consider issues that are veiled by modern contexts. As we consider the development of this doctrine, we must remember that each figure writes within a particular context. This will aid our use of their thoughts as guiding and not binding since we also see through a glass darkly.

⁶ Due to the parameters of this article, the church and government are in focus, but not topics relating specifically to the family.

John Calvin

A doctrine of jurisdiction was promoted by magisterial reformers, but their version seemed to lack proper distinction.⁷ The church and the state naturally influence one another in the created order of society, but the reformers seemed to push that influence beyond God's intention. The magisterial reformers believed the state should look to the church to propose and define the categories for proper justice. Therefore, the state was to enact, through physical punishment, the responsibility of the church to maintain purity of souls. The state was sanctioned to use the physical sword to punish those who caused a doctrinal or spiritual affront to the church. The role of the government based on Romans 13:1-5, is to uphold justice in order to maintain peace within society. The government was created by God to be proactive in protecting those who are just, and on the other hand, responsible to bring evil doers to justice.

As one of those magisterial reformers, Calvin addressed the jurisdiction of the church in what he called, "ecclesiastical jurisdiction."⁸ Calvin acknowledged a distinction in jurisdiction between the magistracy and the church. Calvin writes to note the misuses of the papacy in their practices of excommunication and their failure to distinguish between civil and ecclesiastical power. "Spiritual power," in Calvin's writings was intentionally distinguished from the power given by God to the sword of the state. He feared that the magistrate had taken authority given to the church and cautioned against the government as a pseudo-ecclesiastical authority. Quoting 2 Corinthians 10:4-6, Calvin argued that pastors possessed a proper spiritual power for the purpose of admonishing, teaching, correcting, and its most severe form, excommunication to ensure the purity of the individual soul and the church of Christ as a whole.⁹

This did not mean that the state was without authority; on the contrary, he espoused the government as a gift of God. Calvin's sum of the church fathers was that they sought, "to prevent irreligious princes from impeding the church in the

⁷ John Calvin, *Institutes of the Christian Religion* trans. Henry Beveridge (Peabody: Hendrickson Publications, 2008), 799-804.

⁸ *Ibid.*, 799.

⁹ *Ibid.*, 804.

discharge of her duty, by their tyrannical caprice.”¹⁰ In purer times, the church bishops remained within their jurisdictional responsibilities for correction and left the magistrates to perform their duties before God. The curse of sin’s effects upon history is that the pendulum of roles and responsibility between church and state has often swung too much to one side or the other. In an attempt to maintain proper balance Calvin stated, “We must always hold by this principle, that magistrates were appointed by God for the protection of religion, as well as of the peace and decency of society, in exactly the same manner that the earth is appointed to produce food.”¹¹

Calvin attempted to navigate the “impious contradiction of the word of God,” by which the papacy, in conjunction with the magistracy exercised improper authority.¹² He attributed the necessity of reform to the “iniquitous traditions” built by the lack of distinction between church and government. Calvin argued that a spiritual government was necessary and “altogether distinct from civil government,” and primarily for the purpose of preserving “spiritual polity.”¹³ Spiritual power was to be kept entirely distinct from the power of the sword of the magistrate. In summary of his view of the doctrine of jurisdiction, Calvin stated that, “neither does the church assume anything to herself which is proper to the magistrate, nor is the magistrate competent to what is done by the church.”¹⁴ His application of the doctrine, however, may be in question, especially if one were to ask Servetus.¹⁵

Balthasar Hubmaier

Calvin was not the only one concerned with the improper wedding of church and state. The Anabaptists were alarmed with the symbiotic relationship between the magistrate and bishop, because there was little concept of the separation of

¹⁰ John Calvin, *Institutes of the Christian Religion* trans. Henry Beveridge (Peabody: Hendrickson Publications, 2008), 809.

¹¹ John Calvin, *Calvin’s Commentaries*, Volume XXI: The Epistles to Timothy, Titus, and Philemon, trans. by William Pringle (Grand Rapids: Baker), 53.

¹² Calvin, *Institutes*, 809.

¹³ *Ibid.*, 800.

¹⁴ *Ibid.*, 802.

¹⁵ Bruce L. Shelley, *Church History in Plain Language*, 4th Ed., revised by R. L. Hatchett (Nashville: Thomas Nelson, 2013), 270-271.

church and state since the debated conversion of Constantine.¹⁶ It was not unusual for those with Anabaptist beliefs regarding religious liberty to refer to the Catholic Church, the church Zwingli, Luther, and Calvin were trying to reform, as the “Babylonian Harlot” and to the Pope as the “Antichrist.”¹⁷ Anabaptists believed that the primitive church of the apostles had lost its purity, due in no small measure to the Corpus Christianum of Constantinianism, and that the church had ceased to be the church.¹⁸

On the one hand the faithful Anabaptists wrote treatises to declare themselves as pacifist, akin to the Mennonites of today.¹⁹ The typical Anabaptist belief was that the government was ordained by God as a necessary evil in this sin-cursed world. Balthasar Hubmaier, was a different brand of Anabaptist. Rather, he believed that the government was an institution ordained by God regardless of the sin-cursed world. Trained under Johann Eck, Hubmaier was a genuine theologian who consciously objected to his previous education to embrace ideas of the reformation. He, however, believed that the reformation of Luther and Zwingli did not press far enough to address issues that had corrupted the papal church.

Baptism and worship involving images were among his disputes, but chief was Hubmaier’s belief that the relationship with the state, that the Reformers encouraged, was damning to the church. Pipkin and Yoder described Hubmaier’s work, *On Heretics and Those Who Burn Them*, as setting the, “foundation and safeguards of the principle of religious liberty.”²⁰ In *On the Sword*, Hubmaier would add to this strong view on religious liberty a proper biblical perspective regarding church and state, written in 1527 while in Nikolsburg.²¹

Hubmaier courageously took neither the typical Anabaptist pacifist position nor the stance of the Reformers because his study of Scripture led him to a different viewpoint regarding the relationship of church and state. The state, Hubmaier believed, was ordained by God to wield the temporal sword in order to protect

¹⁶ Mabry. *Balthasar Hubmaier’s Doctrine of the Church*, 182.

¹⁷ n10 in Estep, *The Anabaptist Story*, 241.

¹⁸ Ibid., 241.

¹⁹ See Michael Sattler’s, *Schleitheim Confession*.

²⁰ Pipkin and Yoder, *Balthasar Hubmaier*, 58.

²¹ Ibid., 492-523; Vedder, *Balthasar Hubmaier*, 247-283.

those who were pious from wickedness and evil.²² Since the government was ordained by God, Hubmaier said, “The magistrate does not hate any enemy when he punishes; his sword is a good rod and scourge of God. In short, the Scriptures, fairly interpreted throughout, do not condemn magistracy, but sustain it.”²³ This was part of his argument against the Anabaptist position of pacifism.

The state, however, does not contain jurisdiction over the human soul and cannot force a man into faith, nor kill him for heresy. The church has been granted a means by which to maintain purity within—the sword of the Spirit, which is the Word of God. The Scripture commanded, in Hubmaier’s convictions, what he called fraternal admonition and the church ban under the jurisdiction of the assembled body that were to be exercised against any so-called brethren who professed Christ, but did not live as a disciple.

The command of the church ban in Scripture proved to be one of Hubmaier’s chief arguments against the magisterial reformers’ perspective of church and state. “Now if there are two swords,” Hubmaier said, “of which one belongs to the soul, the other to the body, you must let them both remain in their worthiness, dear brothers.”²⁴ He continued on, primarily utilizing Ephesians 6, 2 Corinthians 10:4-5, Romans 13 and portions of Matthew to demonstrate that there are two types of swords in the Scripture—the church is responsible for one and the state for the other. After a brief explanation of Ephesians 6, Hubmaier explained the distinction of these two swords, in the tenth passage of *On the Sword*:

Note here, dear friends, if your mind were fair, then you would speak as follows: There are two kinds of swords in the Scripture. There is a spiritual one as Christ also used against Satan, Matt. 4:1-11. And that is the Word of God. Indeed, Paul speaks here to the Ephesians and the Corinthians about this sword concerning which Christ also says, ‘I have not come to bring peace but the sword,’ Matt. 10:34. In addition to that there is also an external for the terror of the evil persons here on earth. That is given to the government in order to

²² Vedder, *Balthasar Hubmaier*, 247-283.

²³ Hubmaier, “On the Sword,” in Vedder, 165.

²⁴ Hubmaier, “On the Sword,” in Vedder, 265.

maintain a common territorial peace with it. It is also called a spiritual sword, when one uses it according to the will of God. These two swords are not in opposition to each other.²⁵

The infringement upon religious liberty was immense, due to the magistrate's attempts to use both swords to maintain the enmeshment of church and state. From Humbauer's viewpoint, this wedding of church and state was detrimental to the church as a denial of the Scripture's sufficiency, and a breach of the state into religious affairs. The same can be said today regarding the struggle between church and state for the responsibility and authority to care for the souls of men.

Abraham Kuyper

As a reformer in the Netherlands, Kuyper was known as a neo-calvinist who engaged the culture and government during the late 19th and early 20th centuries. Kuyper attempted to establish a clear picture of God's graces as they affected both the church and the secularist. His writings on common grace and wisdom are among his most well-known. He is also known for his views on the doctrine of jurisdiction, although Kuyper does not refer to it by that name. Rather, he uses the term sphere sovereignty. Kuyper attempted to articulate that there is only one supreme sovereign in the universe, but this sovereign had delegated smaller spheres of sovereignty. Each sphere has its own domain which is to be subject to the proper delegated authority that in turn is answerable to the Sovereign. He said that, "this exalted Sovereign delegated and does delegate His authority to human beings; so that on earth one does not meet God Himself in things visible, but that sovereign authority is always exercised through an office held by men."²⁶

The danger consistently present in a world ransacked by sin is that "one sphere may encroach upon the neighboring sphere; thus causing a wheel to jerk and to break cog upon cog, and interfering with the progress of the whole." That has certainly been true throughout history, the ebb and flow of power struggle between religious and secular authority. Kuyper categorizes this dispute in terms of Deus

²⁵ Hubmaier, "On the Sword," in Pipkin and Yoder, Balthasar Hubmaier, 509-510.

²⁶ Kuyper, *Rooted and Grounded*, 27.

Christus or Divus Augustus. Is Christ the true sovereign deity or Augustus, as a deified human, sovereign over the affairs of men? Kuyper said the category to which one gives the upper hand, “will determine the fate of the world.” If improper sovereignty is given to the government then there is truly no place for God, because He could never be acknowledged as the true sovereign. Kuyper said,

As long as a crown adorned her brow, the church was the “do-nothing queen,” “princess without influence,” and the mighty state, no matter how much it appeared to be her servant was in truth her master. But even though this is how the church lost her freedom, even though the state itself subsequently took the crown, the church’s freedom is still her inalienable right.²⁷

However, if God is acknowledged as the true sovereign, then there is a proper role and responsibility for church and government to work in tandem for the benefit of society and the glory of God. As God has delegated the church and government as good institutions, we must trust his delegation and seek to enact the roles and responsibilities that He prescribed.

Kuyper was cautious of the growing influence of the government because of the impact it had upon the church. He believed science was used as a means to squelch the proper sovereign sphere of the church, as far as science was built upon the growing foundation of naturalism. That limitation of science did not bode well for the church who believed in supernatural realities. If the realities of the world were minimized to naturalism, then the church was not recognized as a proper authority. This transition was obvious particularly with a shift in anthropology. If man is simply a naturalistic being, then he should be under the control of the societal sovereign. However, if man is a supernatural being, then the church also has a proper place in governing his soul. Kuyper stated it simply by saying that, “This depends upon whether one sees man as a self-developing product of nature or as a sinner worthy of condemnation.”²⁸ If man is a sinner, then the church is the organism that has been granted sovereignty in this sphere for nurture, growth, and correction. The church should flourish in this role and responsibility before the

²⁷ Kuyper, *Rooted and Grounded*, 27.

²⁸ Kuyper, “Sphere Sovereignty,” 24.

sovereign God. According to Kuyper,

The church stands above humanity, for the church gives birth to humanity. 'She is a mother' — to use Calvin's beautiful expression — 'whose womb not only carried us, whose breast not only nursed us, but whose tender care leads us to the goal of faith. . . Those to whom he is a Father, the Church must also be Mother, and apart from her motherly care no one grows to maturity.'²⁹

As disciples of Christ we agree with Kuyper in proclaiming that "there is not a square inch in the whole domain of our human life of which Christ, who is Sovereign of all, does not cry: 'Mine!'"³⁰ This statement presses the reader in two directions. First, Christ is sovereign over all, which means that the world's ruling authorities are subservient and answerable to him. Second, Christ as supreme authority has provided us with proper roles and responsibilities of the minor sovereigns he will hold accountable to their duties. For believers this does not demand that we dismiss the government as a proper authority, like many Anabaptists did, but there should also be caution not to overemphasize its role as did the papacy or some of the magisterial reformers.

As the doctrine of jurisdiction is considered historically, one must determine whether or not it represents a biblically accurate teaching. If the answer is no, then we are left to decipher levels of authority, roles and responsibility, good and evil on our own. If, however, these institutions are ordained by God and roles and responsibilities are identified in Scripture, then our duty is to apply them to the current context.

Inherent Threats

The government has not been granted the responsibility to care for the souls of men. Neither has the state been given the authority to correct those with soulish maladies. Through scientific fervor the state has attempted to deluge dominion delegated to the church and the church has obliged by relegation of the duty. As the state protrudes into the jurisdiction of the church, it begins to operate in a pseudo-

²⁹ Kuyper, *Rooted and Grounded*, 15.

³⁰ Kuyper, "Sphere Sovereignty," 26.

ecclesiastical nature, dutifully branding problems of human nature and devising solutions accordingly. The attempts at appellation affect the function of the state. If the church yields to the anti-jurisdictional activity of the state, then orthodoxy and orthopraxy of the church will tend toward compromise.

Threat to Religious Liberty

Recent controversy regarding conversion therapy and the governmental restrictions placed upon Licensed Professional Counselors (LPC) exemplifies a challenge to liberty of conscience. After contemplating the doctrine of jurisdiction from history there are some interesting parallels which could be applied as a warning against the demands of state statutes upon LPC's, since the statutes are binding for those even with specific religious convictions.

California became the first state to enact a legal ban upon conversion therapy.³¹ This section of the article is not an argument for or against the philosophical basis or the various techniques of conversion therapy. In fact, I hold the position that conversion or reparative therapies are non-biblical approaches to true healing. In reality, reparative or conversion therapies have become collateral damage in an effort to eradicate a religious polemic in relation to sexual orientation.

Nevertheless, the topic has been chosen as a simple demonstration of the confusion of jurisdictions clearly placed upon church and state in the Scripture. As any state or federal government encroaches upon the task expressly given to the church, namely care of souls and standards of morality, in the form of regulations or statutes, the church becomes limited in its freedom to embark upon her God given tasks. The state of California has chosen to ban Sexual Orientation Change Efforts (SOCE) in Senate Bill 1172.

Existing law provides for licensing and regulation of various professions in the healing arts, including physicians and surgeons, psychologists, marriage and family therapists, educational psychologists, clinical social workers, and licensed professional counselors. This bill would prohibit a mental

³¹ State of California: Senate Bill No. 1172, Chapter 835. Approved by Governor September 30, 2012.

health provider, as defined, from engaging in Sexual Orientation Change Efforts, as defined, with a patient under 18 years of age. The bill would provide that any Sexual Orientation Change Efforts attempted on a patient under 18 years of age by a mental health provider shall be considered unprofessional conduct and shall subject the provider to discipline by the provider's licensing entity.³²

As the legislation continues it states that, lesbian, gay or bisexual orientation is, "not a disease, disorder, illness, deficiency, or shortcoming."³³ SB1172 Sexual Orientation Change Therapy Fact Sheet presented by California Senator Ted W. Lieu he explains the reason for such a law:

The focus of SB 1172 is to limit deceptive "therapies" that are harmful to minors by mental-health providers. Sexual orientation change therapies, like reparative therapy conversion therapy or reorientation therapy, are the types of sham therapies that California law does not protect against for minors. SB 1172 seeks to provide protections for LGBT youth by preventing these types of therapies that are potentially dangerous as well as making adults aware of the potential harms associated with sexual orientation change therapies.³⁴

The state is attempting, to some degree, to legislate morality and in so doing has entered into the jurisdiction of the church. There are many among the ranks of evangelicals who have submitted to the state within this specific arena. Christians who hold a license to practice mental health care are bound by the legislation of the state, rather than the convictions of the church. The mental health provider's attempt to use Sexual Orientation Change Efforts in the manner defined above is seen as a breach in their professional conduct and codes of ethics.

In a study of case law discussed in Pickup v. Brown referring to the issue of Sexual Orientation Change Efforts, one will find certain caveats pertaining to the specific legislation.

³² State of California, Senate Bill No. 1172, Chapter 835 (September 30, 2012).

³³ Ibid., Section 1 (a).

³⁴ Legal Info, April 30, 2012, accessed August 2, 2017, http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_11511200/sb_1172_cfa_20120507_165926_sen_comm.html.

Importantly, SB 1172 does not do any of the following:

- Prevent mental health providers from communicating with the public about SEXUAL ORIENTATION CHANGE EFFORTS.
- Prevent mental health providers from administering SEXUAL ORIENTATION CHANGE EFFORTS to any person who is 18 years of age or older.
- Prevent unlicensed providers, such as religious leaders, from administering SEXUAL ORIENTATION CHANGE EFFORTS to children or adults.
- Prevent minors from seeking SEXUAL ORIENTATION CHANGE EFFORTS from mental health providers in other states.³⁵

The law is binding upon those who have obtained a license within the particular state. The law does not, however, apply to those individuals who are practicing as non-licensed, religious providers. Although of pragmatic value in this particular case, the method of biblical counseling would allow one to practice according to biblical convictions related to sexual orientation under the authority of the local church, without fear or necessity of breaking the law or an agreed upon code of ethics included in state licensure.

The position of the State of California, however, must alert Christians to the breach of religious liberty within Christian counseling.³⁶ Hubmaier's concerns regarding religious freedom echoes to believers in this generation. The task of soul care is the responsibility of the church and not the state. The church has the authority, from God, and the power of His Word, to wield the sword of the Spirit to fight against the wiles of the souls of men and not the state's sword. The current precedent would inevitably lead to several potential problems, similar to the issues of Hubmaier's day. First, the government's control in the arena of soul care will challenge the church to compromise orthodox beliefs, founded in Scripture alone, in order to defer to the state's opinion or mandate in such matters. Second, the church

³⁵ Pickup v. Brown. See <https://cdn.ca9.uscourts.gov/datastore/opinions/2013/08/29/12-17681.pdf> This specific resource has multiple case references regarding Sexual Orientation Change Efforts in its summary of the case and procedural history involved in this lawsuit. The specific information referenced herein came from the discussion of Pickup v. Brown.

³⁶ On October 15, 2012, legislation was introduced to the State of New Jersey that is nearly identical to California's regulation. See http://www.njleg.state.nj.us/2012/Bills/A3500/3371_I1.HTM, accessed March 29, 2014.

will be subservient to society's value system in regard to parameters which are deemed normal for humanity, rather than being able to simply rely upon the Scripture as the standard of morality and spiritual wisdom. Third, the church will be challenged to compromise orthodoxy for the sake of alternate or limited praxis, since the parameters of practice in this case would be set by the values of government adopted from society, rather than the conviction of Scripture. Finally, as in the days of the Reformation, the church will be tempted to cooperate with the government in order to use the authority aimed at forced compliance in spiritual teaching.³⁷ Hubmaier, along with other Anabaptists, were concerned about this relationship because it led to corruption within the church and compromise regarding Scripture:

For the Anabaptist, the most damaging element in the fall of the church was its alliance with the state. When church and state were joined, the church ceased to be the church. Anabaptists, in their attempt at restitution of the apostolic church, did not deny the right of the state to exist. Although ordained by God, the state was not the ultimate authority in all things—it was both temporal and limited. They did deny it any jurisdiction in religious affairs. Therefore, their attitude toward the state was not wholly negative. It was their customary reliance upon biblical authority which saved them from this.³⁸

For similar reasons, Christians today should demonstrate caution when submitting to the authority of the state to accomplish a task that God has given to His church. The symbiotic relationship between church and state concerned the Anabaptists and should cause concern among church leaders in modern times. As Hubmaier says of his day, “negligent bishops are to blame that there are divisions. ‘For while people were sleeping the enemy came’” (Matthew 13:25). Church leaders and theological educators are as much to blame for this enmeshment as anyone.

³⁷ The magisterial reformers believed the state was to force compliance of belief and those who did not believe as the state directed were given insidious treatment or even martyred. Hubmaier, Sattler, Servetus and others are examples of this kind of treatment. In contrast to Hubmaier, the Reformers conveyed a contrary teaching of Scripture regarding church discipline and church ban.

³⁸ Estep, *The Anabaptist Story*, 257-258.

Threat to Authority

State licensure poses a threat to proper authority that dismisses biblical views of jurisdiction. According to Samuel Gladding, the government's special interest in counseling began with the advent of World War II.³⁹ After several decades of education and organizational development, states began to require licensure and Virginia was the first state to do so in 1976. The intent was to be restrictive upon the state board of examiners for psychologists. As states followed Virginia in licensure requirements, standards of education were required with programs such as the Council for Accreditation of Counseling and Related Educational Programs (CACREP).⁴⁰ As education became standardized, certain types of counseling became specialized, leading to what Gladding called a diversification of counseling. Specialized counseling required specialized education, which required a specialized license for state regulation. The government was responsible for this standardization as it began to regulate a practice for which the church had been primarily responsible. As the government authoritatively regulates in relation to human nature, the origin or causality of human abnormality, and offers therapeutic solutions, the answerable party shifts from the church to the state. Thus, as the state declares the acceptable attitudes, actions, behaviors, sexual orientation, and other issues of moral significance, it places itself in a position of authority. As a result, biblical convictions are portrayed as the new immorality and the church's role and responsibility are unduly encroached upon.

There are two warnings that emerge from a concern about state regulations in counseling; one is convictional and the other pragmatic. First, if we accept the jurisdictional categories then state regulations raise caution for those with Christian convictions. Jay Adams has argued this case rather prophetically:

[W]hat you are trying to do is train people to attempt the work of the church without ordination, outside the church. That is distorting God's order of things. Counseling [Soul Care] may not be set up as a life-calling on a free-lance basis; all such counseling ought to be done as a function of the church, utilizing its authority and resources.⁴¹

³⁹ Samuel Gladding, *Counseling: A Comprehensive Guide*.

⁴⁰ Samuel Gladding, *Counseling: A Comprehensive Guide*.

⁴¹ Jay Adams, *A Theology of Christian Counseling: More Than Redemption*, (Grand Rapids: Zondervan, 1979), 276.

In Adams' view, those providing counsel were to act under, "Christ's divinely instituted order, the church."⁴² He presented a conviction and practice consistent with the classical tradition. Those who do soul care outside of the church may have the necessary gifts, but they neglect the resources of the body of Christ and act in an unauthorized way by submitting to a contrary authority.⁴³

However, if one does not share in convictions regarding the doctrine of jurisdiction, then a more pragmatic approach may suffice. Regardless of what one may believe relative to the degree in which one may integrate psychological theory with theological doctrine is irrelevant at this point. For example, state licensed practitioners who hold Christian convictions regarding homosexuality will be held to the state's standard regardless of religious sentiments or persuasion. If the state regulates a Licensed Professional Counselor from utilizing core Christian convictions, he is then bound under the authority of the state and not the church. The threat of government authority in matters of soul care will continue to grow, in part, because the government will not cease with sexuality as the only moral subject it will regulate. The Christian will find the implementation of biblical morals increasingly difficult as the state drifts further toward philosophical secularism.

Many have utilized the story of Daniel to grant permission for licensure under state regulation. The problem is that the two are very different in scope. Daniel did not volunteer himself to the service of the king, he was a captive, made a eunuch and forced to serve in the king's court. Even then, Daniel chose civil disobedience for matters that were contrary to the king's demands. Licensure is the voluntary pursuit of submission to the state's demand and restrictions for soul care. Daniel did not want to defile himself in submitting to the king's demands for food or drink. Later in his life, he did not bow to the demands of the king not to pray, but

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⁴² Jay Adams, *A Theology of Christian Counseling: More Than Redemption*, (Grand Rapids: Zondervan, 1979), 279

Jurisdictional blending has led to compromised orthodoxy throughout Church history. It should be expected that history could predict the direction of this breach of religious liberty will lead to a similar compromise.

⁴³ *Ibid.*, 278.

rather obeyed the Sovereign over all. Daniel seems to be doing the opposite in comparison to Christians with modern counseling licensure. Whereas Daniel appealed to the ultimate Authority in spite of the earthly king, Christian LPCs are voluntarily submitting to an authority that proposes regulations in direct opposition to God's moral standards.

Threat to orthodoxy

Even if, as Christians, we disagree on the levels of integration between psychology and biblical theology, the integration of church and state should be a concern. Therefore, the pursuit of state licensure is unnecessary in order to practice one's counseling convictions. Licensure is a means for the state to regulate counseling practices. While individual states may not intend to hinder church-based licensed counselors, the secondary effect from regulatory measures is that the state becomes the authority for the Christian counselor. Religious liberty is forfeited for the sake of practicing as a licensed practitioner. Epistemologically, the state regulations become the pinnacle documents of authority rather than Scripture. Matters of morality and conduct are guided by codes of ethics and state's statutes. The church's jurisdictional responsibility in soul care is, therefore, limited by the state's oversight for those who voluntarily submit to their regulations. One explanation for allegiance to the state and the voluntary binding of religious conscience for licensed counselors is the prospect of social capital. Simon the Magician, Balaam, Annanias and Saphira are representative of the men and women who were tempted to use the name of the Lord in this way. While these situations display the same basic concepts, the illustration is altered slightly. The dilemma challenges Christians to consider their allegiance to the moral standards of Christ not in their decision to participate in civil disobedience as a licensed counselor, but at the point of deciding whether to pursue the state regulated license altogether.

The dilemma for the licensed Christian counselor is that although he appreciates the privilege, prestige, and professional connections provided through the regulatory license of the state, he voluntarily submits to any regulations that infringe upon religious conscience or orthodox beliefs. As the culture shifts its center toward a modernistic quasi-religious individualism, the state is not as conducive to

evangelical or broader religious memes of the past. The question of social capital will become real in the days that follow as the state rules the arena of soul care and mental health in competing philosophical approaches relative to the church. If evangelicals simply want the state to allow the freedom to counsel without regulation, then there is no necessity for state licensure.

An appeal to Kuyper may help give understanding relative to the digression that occurs when believers submit to improper authority. He explained the mistake Christians make when we compromise our philosophical tenets with the philosophies of the world:

With a kind of color blindness they oppose our sacred things, and they are being entirely upright when they confess not to see what you see, and therefore to judge that you are mistaken about what you think you see. Reconciliation that would lead to agreement is completely inconceivable at this point. We are facing a gaping crevasse that cannot be bridged. As long as Christianity refuses to accept this duality with full conviction with all its consequences, it will be repeatedly punished with the invasion of her own territory by unbelieving science, with the falsification of its theology, with the undermining of its confession, and with the weakening of its faith. . . . So we must view it, then, as a fortunate consequence of the operation of common grace that unbelieving science increasingly shakes off every remnant of the Christian tradition, breaking more and more publicly with the categories that have been handed down. With escalating determination, unbelieving science substitutes a completely atheistic worldview for ours, and makes our continued lodging in her tents increasingly impossible. This, after all, is how it will increasingly press Christians to take a stand within their own territory.⁴⁴

What we are now witnessing within state regulations, as demonstrated by the wholesale acceptance of sexually deviant behavior as a moral norm, are parameters intentionally built to exclude Christian convictions. If Kuyper is correct, then that will only increase into other areas of morality that are inconsistent with biblical

⁴⁴ Kuyper, *Wisdom and Wonder*, 103.

standards, but in promotion of the naturalistic scientism of the state. The threat to orthodoxy is real because the state will demand compliance. The social sciences promoted by the state are never detached from their primary principles, which are more evidently non-Christian. The temptation increasingly will be to compromise biblical convictions for prestige, position, and monetary gain.

Conclusion

The Scriptures testify that the church has been endowed with the responsibility to care for souls. Since God bestowed that responsibility upon the church he has also given the necessary authority to alleviate vexations of the soul. As Hubmaier suggested, the sword of the Spirit is the tool properly allocated to the jurisdictional function of the church, in order to care and provide rest for the souls of men. If we believe this doctrine of jurisdiction to be biblically accurate, no matter the faulty application of the doctrine in history, then we are under obligation to practice that which we believe to be a scriptural doctrine in our own time.

Concern for an improper blending of church and state provides a relevant warning for churches and counselors in modernity. As religious liberty is abated by the infringement of the state upon the church, the mission of the church suffers and the Word of God is compromised. This fact has been demonstrated in Israel's cyclical history of wicked rulers, the rise of Constantine's Corpus Christianum, the corruption that resulted with the papacy, the magisterial reformers, and even in Colonial America. As the state moves to gain the ground of soul care, in the name of citizen protection, believers must not retreat in submission to the authority of the state in such matters. The historical pattern associated with servants who have professed allegiance to Christ, but who have confused authorities and submitted themselves to the regulatory arm of the state, presents a bleak picture for sustained biblical orthodoxy and orthopraxy. Obtaining a license to counsel compromises Christian orthodoxy by choosing a practice that grants the state jurisdictional rights to care for souls. Biblical counselors should remain steadfast as unlicensed under the authority of the church, trusting in the God who designed such care so that religious liberty and Christian convictions are to be sustained. May the mantra that guided

Hubmaier direct the affections and trust that each biblical counselor places in the Scripture, "Truth is Unkillable."