
A reply to John Coffey's analysis of Samuel Rutherford's theology and political theory¹

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Abstract

*The seventeenth-century Scottish theologian and political theorist Samuel Rutherford is among others, known for his work *Lex, Rex* which, briefly stated, pertains to the civil authorities, civic participation, resistance to political oppression and the law. The historian John Coffey's popular biography titled, "Politics, Religion and the British Revolutions: The mind of Samuel Rutherford", also focuses on Rutherford's political and legal thinking. The central concerns to Coffey in this regard comprise issues related to the parameters of 'reason' and 'natural law'; the relationship*

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between 'religion', 'reason' and 'nature'; as well as the Christian Republic's cause towards the protection of the true religion. This article critically responds to Coffey's views in this regard. Coffey's views are formed through an ideological lens that is foundationally different from the Presbyterian context and mind-set of early seventeenth-century Scotland. Coffey's intimation that religion should be separated from 'the secular' or from 'reason' and that 'religion' also should be separate from constitutional, political and legal aspects, ignores the fact that ideology and science are ultimately connected to a pre-suppositional basis (whether religious or irreligious). The quest for freedom during Europe in the sixteenth and seventeenth centuries not only included theories in which religion, politics and the law were inextricably connected but also entailed more to society than an unlimited approach towards religious expression. Even though 1649 heralded the end of a national Presbyterian church of England, at the time Scotland shared Rutherford's commitment to the universal suppression of unorthodox opinion and behaviour. Bearing the above in mind this article argues that Coffey's analysis of the political and legal mind of Rutherford must be approached with the necessary caution.

1. Introduction

The seventeenth-century Scottish theologian and political theorist Samuel Rutherford (1600-1661) is, among others, most famously known for his political and legal thought as postulated in his *Lex, Rex* (The Law and the Prince). John Coffey claims to have written the most informative biography of Rutherford, Coffey stating, "In short, no-one has yet provided a rounded, properly contextualised account of Rutherford's life and thought" (Coffey, 1997:15). Coffey adds, "Altogether, however, the small number of academic articles on Rutherford offers only patchy coverage of his ideas. Like seventeenth-century Scottish Presbyterians in general, Rutherford has not received sustained attention from professional historians" (Ibid., 17).

Rutherford is depicted by Coffey as being a controversialist (Ibid., 3), a supporter of persecution (Ibid., 1),² a militant (Ibid., 54, 149-150, 197, 219 and 248),³ a zealot (Ibid., 34, 44 and 256), authoritarian (Ibid., 53), and supporter

2 Coffey also, in no uncertain terms, labels Rutherford, "an intolerant advocate of religious persecution and divine-right Presbyterianism ..." (Ibid., 62).

3 Also see *ibid.*, 151, 234 and 258.

of anti-toleration (Ibid., 27, 255 and 257).⁴ *Lex, Rex* is associated with a “ferocity and bitterness” (Ibid., 150), with a “provocative purpose” (Ibid., 151), and with a “radical reputation” (Ibid., 174).⁵ Coffey refers to *Lex, Rex*, as an “inflammatory book” (Ibid., 152). Coffey refers to Rutherford as sometimes “rejoicing in the cross, and sometimes trusting in the sword”, and that “those who claim to be inspired by him today reflect the same ambiguity” (Ibid., 14).⁶

Coffey not only criticises modern-day supporters of Rutherford, but also states that such supporters, for example, Randall Terry, “have been described ... as ‘the leading figure’ of the 1980s ‘militant anti-abortion crusade’”. (Ibid., 12-13). Coffey then continues by referring to Ronald Dworkin’s comment in *Life’s Dominion* that, “The war between anti-abortion groups and their opponents is America’s new version of the terrible seventeenth-century European wars of religion”, Coffey then stating that, “In the light of Rutherford’s influence on Schaeffer and Terry, this seems strangely appropriate” (Ibid., 13, fn. 64). Coffey’s equating of “anti-abortion” groups with “terrible seventeenth-century European wars of religion” requires much convincing. According to Coffey, Rutherford ransacked the Old Testament for cases of “bloody revolutions, palace coups and armed resistance to royal authority” (Ibid., 176).⁷ Then there is Coffey’s comparison of Rutherford to the Ayatollah Khomeini, the Iranian cleric who made a speech, while holding the Koran, in which he accused the Shah of violating his oath to defend Islam and the Constitution (Ibid., 184).

4 Also see *ibid.*, 202.

5 Also see *ibid.*, 34-35, 46, 48, 87, 146-147, 157-158 and 179. It is clear on reading Coffey’s work that “radicalism” is to be understood in a negative sense, a sense of ascribing, among others, a fundamentalist trait to Rutherford. Coffey also refers to Rutherford as a member of the “radical Presbyterians”, (Ibid., 194).

6 This needs to be understood against the background of his following statement, “The examples of Randall Terry, the Christian Reconstructionists and John Whitehead illustrate the many political ‘lessons’ that have been drawn from Rutherford’s *Lex, Rex*, or at least from cursory readings of it. The book has been used to justify civil disobedience, a state run according to Mosaic law and the rights and liberties of religious people. Whilst partly reflecting the political confusion among conservative American Evangelicals, these views also point to ambiguities in Rutherford himself. Sometimes he appeared to be a constitutional liberal, at others a vengeful theocrat. Sometimes he rejoiced in the cross, at others he trusted in the sword ...” (Ibid., 14). Coffey then concludes that, “...Those who claim to be inspired by him today reflect the same ambiguity”, *ibid.* In other words, Coffey aligns “those in contemporary society who claim to be inspired by Rutherford” to the ambiguity of Rutherford.

7 Coffey also states, “... at times Rutherford came close to justifying king-killing” (Ibid., 178). J.P. Burgess’ observation is interesting in this regard, namely, “On the basis of the exigencies of the moment, John Goodwin argues for execution of the king. Rutherford, by contrast develops a casuistry on the basis of the natural law and concludes that resistance, not execution be justified” (Burgess, 1986:106).

Coffey also refers to Rutherford being one of the “hardliners” within the “kirk” who, inspired by the Old Testament concept of the covenanted nation, were to be guided by belief in the necessity of purging malignants, both in church and state (Ibid., 219).

Coffey states that his study on Rutherford differs from most of the academic theses written on Rutherford in that it is “truly historical” (Ibid., 25). Coffey's analysis of Rutherford, however, reflects a historical analysis inundated with subjective, unsubstantiated as well as vague comments, and which has an underlying aversion to the tenets of the *Westminster Confession of Faith* (WCF). This in turn depicts Coffey as anti-Presbyterian which is also confirmed when compared with his admission that, “My father's decision in 1975 to leave the Presbyterian ministry and become a Baptist has undoubtedly shaped the perspectives from which this book is written, and I can only hope that my Presbyterian friends do not find this Baptist life of Rutherford too unsympathetic” (Ibid., xi). It is not denied that a historian in many instances retains a sense of subjectivity in his or her analysis and description of the thought of a specific theorist, especially (in this instance) pertaining to legal and political theory. However, this should not negate the credibility of contrasting views nor, needless to say, does it exclude errors in the postulations of a historian.

This article unveils some central concerns related to Coffey's self-proclaimed informed analysis of the political and legal mind of Rutherford (and his explicit negatory labelling of Rutherford). In this regard, Coffey's negation of the Old Testament pertaining to constitutional theory, his superficial and subjective views on the relationship between that which is “religious”, “reason” and the “secular” as well as his ignorance of the “religious cause” aimed at by the civil authorities in early seventeenth-century Scotland is unveiled. By bringing these weaknesses to the fore, the value of Rutherford's thought to political and legal theory is placed in better perspective hereby also presenting a renewed appreciation of Rutherford's contribution towards insights related to constitutional theory for his time (and beyond).

2. Central concerns underlying John Coffey's views

The central concerns related to Coffey's views on Rutherford's political and legal theory comprise issues related to the parameters of “reason” and “natural law”; the inextricable relationship between “religion”, “reason”, “nature” and “thought on constitutionalism”; the relevance of the Old Testament for constitutional theory and the Christian Republic's cause

towards the protection of the true religion. Coffey's limited understanding of the parameters of "reason" and "natural law" and the relevance of context and religion in this, as well as his unconvincing negation of the importance and relevance of the Old Testament in the context of seventeenth-century Western constitutional theory require critical analysis.

According to Rutherford (and to many of the other Reformers in and around his time) the basic requirements and functions of the office of the civil magistrate in the Old Testament continues to the present (Flinn, 1978-9:72-73), hereby understanding Deuteronomy 17 and Romans 13:1-6⁸ as substantially overlapping in meaning. Coffey's approach rejects the establishment of a Christian State in a time period proceeding that of the Old Testament, adding that to support such an establishment would be contrary to "natural reason". Here Coffey separates "natural reason" from the Old Testament. In this regard, Coffey also says that:

On the one hand, Rutherford's arguments for popular sovereignty, the rule of law, and the right of resistance to tyranny, remind us of Locke, and can lead to the impression that the author of *Lex, Rex* was something of a modern liberal. On the other hand, his desire for a covenanted nation purged of heresy, idolatry and unbelief, makes him appear thoroughly reactionary, utterly committed to the ideals of Christendom. Ultimately, it was Rutherford's 'reactionary' side that was to win out, for it was the Old Testament concept of a nation in covenant with God that lay closest to his heart. The quest for a godly nation was destined to undermine the advice of natural reason (Coffey, 1997:187).⁹

However, how credible and nuanced is Coffey's understanding in this regard? The unrealistic view of establishing a Christian State in today's world needs to be distinguished from the realistic character such an idea had in seventeenth-century Scotland. Note how Coffey distinguishes between a more "secular language" (supposedly reflective of "popular sovereignty, the rule of law, and resistance to tyranny") on the one hand, and a more "religious language" (supposedly reflective of a "covenanted nation purged of heresy,

8 These references deal with the functions and obligations of the civil authorities also in the context of the protection and maintenance of the true religion.

9 Similarly, Coffey states that, "The Protestant covenant was to take precedence over the peace and order of the commonwealth". Here the "Protestant covenant" is juxtaposed alongside "the peace and order of the commonwealth". In this regard, Coffey expresses the view that Rutherford's "passionate conviction that the king was obliged to defend true religion and purge the land of idolatry" (this being the national covenant's purpose) was to be subordinated to "constitutional arguments" and "the peace and order of the commonwealth". Why should "peace and order" and "constitutional arguments" be distinguished from "defending the true religion"? A thorough reading of *ibid.*, 168-169 also provides clarity to the aforementioned concern.

idolatry and unbelief”).¹⁰ Can concepts such as “popular sovereignty”, the “rule of law” and “resistance to tyranny” find no overlap with the “ideals of a Christian nation”? Here it is important to take cognisance of the view by Richard Niebuhr that:

Every effort to deal with the history of ideas is beset by hazards. Semantic traps are strewn along the way of the inquirer; such words as democracy, liberty, justice, etc., point to different concepts ... as they are used in different periods of history and by different men. The unuttered and frequently unacknowledged presuppositions of those who employ them also vary; and since meaning largely depends on context the difficulties of understanding what is meant are increased by the difficulties of ascertaining what is at the back of the minds ... We are distressed equally by the blindness of historians who deal with the seventeenth and eighteenth centuries, for instance, as if the persons they were interpreting did not believe in God ... (Niebuhr, 1954:126).¹¹

Coffey views the “religious” side of Rutherford as the “reactionary side” that is viewed as synonymous to being “utterly committed to the ideals of Christendom”, which in turn is viewed as being synonymous to the “Old Testament concept of a nation in covenant with God”. This to Coffey is contrary to the dictates of “natural reason”. In this regard, Coffey assumes that the

10 Similarly, Coffey refers to, “... the deep tension in Rutherford's political thought between ‘secular’ discourses that can ultimately be traced back to classical sources (natural-law contractualism and ancient constitutionalism) and religious discourses derived from the Old Testament (religious covenantalism and apocalypticism). Often this tension is hard to detect, because in early modern Europe – and in Rutherford's own education – the Greek and Roman classical heritage was thoroughly interwoven with the Hebrew biblical heritage. In the end, however, this particular tapestry was to unravel, and when it did, it was not the classical sources but the Old Testament that guided Rutherford's political thinking” (Coffey, 1997:81). What makes “secular” discourses superior to discourses emanating from the Old Testament?

11 According to Omri Webb: “Belief in a Divine Supreme Being was virtually universal in the seventeenth century. In political thought, no British theorist, except the materialist Thomas Hobbes, pictured any society in which God is not creator and controller. Samuel Rutherford solidly agreed with his contemporaries that the idea of a sovereign God is the only framework in which the facts and ideals of politics can be discussed. He did not treat the subject by itself in *Lex, Rex*, but it is an assumption throughout the work. That anyone should seriously doubt the belief probably did not occur to him. Exposition of the doctrine would be superfluous” (Webb, 1963:28). Also see *ibid.*, 64 and 82. Referring to the Westminster Assembly, Robert Paul states: “The basic question at that time was not whether Parliament and the Assembly could produce a new and *different* sort of society and church, but whether they could restore a convincing semblance of the ancient unity of church and society, and in such a way that could convince people of its authority. All Puritans assumed that it could and would be done, and for that reason even the emerging constitutional and social problems would be debated largely in terms of Puritan theology and arrayed with their own panoply of scriptural references” (Paul, 1985:32).

voice of “natural reason” is distinct from “the ideals of Christendom”, hereby basing his views on the flawed understanding that “natural reason” can only be loyal to a certain perspective which is irreligious. Religion and natural reason can be as inextricably connected to one another as any irreligious perspective can be to that of the reason of the observer or interpreter.

Coffey’s distinction between “secular” arguments and “religious” arguments is further witnessed in the following: “Rather than presenting an argument for the secular right to resist, *Lex, Rex* concentrated on the religious duty to resist. The cause of true religion was always pre-eminent in Rutherford’s mind, and, in comparison with it, other concerns paled into insignificance” (Coffey, 1997:181). Here Coffey again seems to distinguish between “the cause of true religion” and a “secular argument” without arguing as to why such a distinction should be followed. What precisely is this “secular argument”, and is this secular argument necessarily superior to any other type of argument? It is erroneous to place concepts such as for example “popular sovereignty”, the “rule of law” and “resistance to tyranny” into watertight compartments coloured in by only one ideology; in this instance a “secular one”. In addition, a “secular” interpretive angle does not represent a single and uniform interpretation, Coffey hereby presenting his own “secular” point of view. Coffey tries to place “religious” insights into separate compartments from those of irreligious insights, but such an exercise remains futile, due to the inextricable link between belief (whether religious or irreligious) and insights related to the said concepts.

Coffey again distinguishes between the “religious” and the “secular” by commenting that, “In response to Maxwell’s claim that ‘the kingdom had peace and plenty in the prelates time’, he (Rutherford) retorted, ‘A belly-argument. We had plenty when we sacrificed to the queen of heaven.’ The Protestant covenant was to take precedence over the peace and order of the commonwealth” (Ibid., 169). Here Coffey views “the covenant” and the “peace and order of the community” as separate insights, the former religious and the other “irreligious”. But is this necessarily correct? Why can the idea of the “covenanted community” not overlap with “peace and order”? Yet again Coffey distinguishes between constitutional (secular) thinking on the one hand, and religious thinking on the other hand, in his comments on Rutherford and the covenant, also stating that: “John Morrill has persuasively suggested, it was this passion,¹² rather than constitutionalist arguments that drove men to take up arms against the king” (Ibid., 168).

12 According to Coffey, it was Rutherford’s passionate conviction that the king was obliged to defend true religion and purge the land of idolatry (Ibid., 168).

Here Coffey views “constitutionalist” arguments as separate from “religious” insights. Any “constitutionalist” argument has at its roots some or other belief or ideological point of departure and this Coffey fails to express. Towards the end of Coffey's analysis of the ‘mind’ of Rutherford, Coffey states:

... what attracted Evangelicals to it (*Lex, Rex*) was not Rutherford's passionate desire for a godly magistrate who would stamp out idolatry and advance the cause of true religion. Instead, eighteenth- and nineteenth-century writers warmed to Rutherford's natural-law arguments for a mixed constitution and the liberties of subjects. *Lex, Rex*, was interpreted as an apology for Victorian liberalism, though Rutherford would have been appalled at the tolerance of popish idolatry, heresy and unbelief that characterised nineteenth-century Britain. His admirers have now abandoned the bellicosity¹³ of the Puritan drive towards Godly rule (*Ibid.*, 258).

Here Coffey subtly implies that “natural-law arguments” are to be distinguished from the “abhorrence towards tolerance of popish idolatry, heresy and unbelief” and the “bellicosity of the Puritan drive towards Godly rule”, also placing the latter (the religious passion for a Godly nation) in a negative light. It is clear from the above that Coffey views a natural law mode of communication as similar to the secular (the irreligious), and anything to do with strictly biblical reflection and the establishment of Christianity in politics and society (the religious) is to be opposed. Here one needs to be reminded that a plethora of interpretations of nature, mostly anti-supernatural, have arisen since Rutherford's day. The observable world has been used to prove Hegelian pantheism and Darwinian evolution, with C.S. Lewis stating that, “Nature has all sorts of phenomenon in stock and can suit many different tastes” (Marshall, 1995:265). Natural data are not interpreted without some all-embracing philosophy that tries to account for that data. In the words of David Little, “Christians who take the fallenness of human nature seriously will always treat natural law as something that must be seen as relating to and complementing the norms of Christian revelation, not as a substitute for them” (*Ibid.*). Natural law in itself is open to various pre-suppositional ideological points of authority. The link between Rutherford's aspirations towards a godly nation where Presbyterian church government was to reign¹⁴

13 “Bellicosity” refers to “war-like”. Here Rutherford's passion that the king is to defend religion is understood by Coffey as being more important to Rutherford than constitutional arguments. This is incorrect. Rutherford's political and legal thought are inextricably connected to constitutional arguments including the defence of religion as a constitutional idea. Coffey assumes that constitutional arguments are always exclusive of religion.

14 Paul Smith observes, “The presbyterians comprised the largest group in the assembly, about 90 percent of the whole. They represented the mainstream of English puritanism, with roots extending back to Elizabethan times. They were the spiritual descendants of

and a reasoned or natural law argument are not at all separate as Coffey implies. From this it is clear that Coffey's separation of "religion" from the "secular", "reason", "constitutional thinking" and "natural law" is not qualified. Interwoven with this approach by Coffey is his opposition towards the Presbyterian quest in support of the true religion. A careful reading of Coffey in this regard implies that the Presbyterian quest towards the protection of the true religion is contrary to the dictates of "reason" and "natural law". In this regard, it is important to have a more nuanced approach to the context of the Presbyterian religious plight in early seventeenth-century Scotland.

Rutherford saw in Independency a dangerous rival to Presbyterianism. The Scottish Commissioners reported to the General Assembly that there was "nothing more pernicious, both to church and state, than the leaving of all men to autonomy in religion" (Rendell, 2003:69). As a result, Rutherford wrote *A Free Disputation Against Pretended Liberty of Conscience* (Ibid., 70). Rutherford's (and the other Scottish Divines') fear was reflected in Edmund Calamy's presentation to the Westminster Assembly in 1644 where he stated that,

Some errors are such, as *subvert the faith, and destroy the power of Godliness*: others are of a lesser nature, which may consist with the power of Godliness, and with an unity in the faith. But that which I now speak against, is that unbounded liberty that is pleaded for in divers books lately written, which hold forth this prodigious Tenent. *That every man is to be suffered to have the liberty of his conscience, be it never so Heretical or Idolatrical* (Calamy, 1644).

Independency's support of the doctrine of "the inner light" was staunchly rejected by Rutherford, Rutherford seeing in this a subjectivism which resulted in a threat to the community, especially taking into consideration the vacuum created by Charles I and Laud in which the individualism of the seventeenth century could express itself (Rendell, 2003:89). This threat included the numerous sects that arose in Britain during Rutherford's time, which in turn lead to a higher demand for toleration, eventually leading to Roger Williams' (the founder of the Rhode Island Colony) strong influences

such men as Thomas Cartwright, William Fulke, Lawrence Chaderton, and John Preston. Presbyterians were in the strongest position to assume the reins of church government from the outlawed bishops. Presbyterianism was the government of Reformed churches abroad, and it was respectable in England as well. This was in marked contrast to independency, whose reputation was tarnished by exile, constant fissure, and rumours of dissension and scandal" (Smith, 1975:147). Also see *ibid.*, 482-484 and 466-467. There were also important victories for the Presbyterians in the various debates taking place in the Westminster Assembly, something which could also have possibly lead to fuelling the expectations for a Presbyterial ecclesiological system, see for example, *ibid.*, 254, 258, 266, 309 and 413.

supporting the accommodation of different sects in early American history (Ibid, 90).¹⁵

Religion understood as the source of supremely important goods or duties, implies that a government in a Christian Republic concerned for the welfare (which includes the spiritual) of its citizens should require them to accept such goods or to perform such duties. If, according to Steven Smith, government imposes, for example, compulsory education laws, mandatory social security withholding, seat belt requirements and substance abuse prohibitions, based on the fact that this is 'good' for society, "why then should government impose these mundane benefits on its citizens and at the same time neglect their incomparably greater interest in the salvation of their souls?" (Smith, 1991:155).¹⁶ In this regard, Harold Berman's insight proves especially relevant: "It is never enough ... to attempt ... to explain a legal rule (or concept or value or institution) solely by appeal to logic or policy or fairness; it must also be ... explained in part by appeal to the circumstances that brought it into being and by the course of events that have influenced it over time" (Berman, 1983:16). The law in sixteenth- and seventeenth-century Europe as understood as an instrument working towards the protection and maintenance of the true religion should not seem strange at all when interpreted and explained through the ideological lens of the spirit of the times.

Rutherford's concern regarding the maintenance, protection and furtherance of the true religion within an already established Christian society runs like a golden thread through his political and legal thinking. This concern over keeping the true religion in society intact was inextricably connected to the Reformation's quest towards attaining the freedom to practise the true religion, which included the responsibility to maintain the believer's knowledge of the true religion, which, in turn, formed part of the ruler's obligations in the ordering of society and the salvation of man. Scotland at the time represented a religious society under threat from the Roman Catholic Church and the English monarchy. Rutherford lived during a time when there was increasing momentum (even from religious circles) towards the "self" as the autonomous source of authority as well as a selective

15 Also see *ibid.*, 91.

16 Smith adds, "An agnostic, for example, is not likely to agree that distinctively spiritual or religious goods and duties are supremely important; he may regard such ostensible goods and duties as illusory or even contemptible. For present purposes, however, the critical point is that although the religious justification is not universally persuasive, that justification carried considerable weight with Americans of the founding generation" (*Ibid.*, 156). A similar understanding can be applied to Britain in Rutherford's time.

approach towards the Bible as ultimate authority. When compared to many of the other prominent Reformers, Rutherford was probably best situated in understanding the threat of the subjectivity of faith (and the weakness of man in this regard) as he lived in a period where the flourishing of sects was at a high, causing Rutherford to be most receptive to the dangers that this posed. Accompanying this development was the rise in scepticism in the political ability to achieve and retain the maintenance and protection of the true religion. Here, for example, Jean Bodin, Hugo Grotius, George Buchanan, John Milton, the representatives of the Independents at the Westminster Assembly and the rising allurements towards Libertinism, and Arminianism¹⁷ made the threat of such scepticism to the maintenance of the true religion even more threatening.

Even though 1649 heralded the end of a national Presbyterian church of England, at the time Scotland shared Rutherford's commitment to the universal suppression of unorthodox opinion and behaviour. The records of the Commission of the General Assembly at the time included the statement that "no libertie is to be allowed unto men in the breaches of the duties of the second Table which we owe unto our neighbours" and "why it should not also be thus in regard of the duties of the first Table which we owe unto God?" (Gribben, 2009:363-364).¹⁸ Sensitivity to the sinful nature of man and woman, and therefore the weakness of his or her conscience (understood as his faculty of knowledge and his consequent ability to discern God's Will from falsities), as well as a biblical sense of the true meaning of liberty, served as an important reason for seeking constitutional, political and legal efforts toward the attainment of religious purity and uniformity in addition to that of civil justice.

It is evident from the above that Coffey's understanding of the political and legal "mind" of Rutherford needs to be approached with the necessary caution. Coffey's approach to central concepts such as "religion", "reason", "nature", "constitutionalism", as well as "the secular" is problematic and provides vagueness and subjectivity regarding ideas related to the "sovereignty of the people", the "rule of law" and "resistance to political oppression", Coffey having separated these concepts from their religious anchors in the context

17 Rutherford's *A Free Disputation Against Pretended Liberty of Conscience* (Printed by R.I. for Andrew Crook, London, 1649) includes many arguments in refutation of the scepticism postulated by among others, Libertine and Arminian deification of the conscience and scepticism towards the authority of Scripture and its representation of a uniform meaning. See for example, *ibid.*, 28, 32, 79 and 112.

18 See *ibid.*, 364 where Gribben confirms the Scriptural support for the responsibility of the magistrate to ensure the external orthodoxy of the community.

of seventeenth-century Scotland. In this Coffey draws a distinction between "religion" on the one hand and that which is "rational" and in line with the natural law on the other hand; and interwoven in this distinction is Coffey's dislike towards the Presbyterian quest in early seventeenth-century Scotland regarding the protection of the true religion.

3. Conclusion

A general weakness in Coffey's rendition of the political and legal "mind" of Rutherford is that he looks at Rutherford through a lens which excludes the authority of the Old Testament. Coffey also refrains from providing the necessary sensitivity to the context in which Rutherford wrote and gives substantial emphasis on reason, assuming here a one-size-fits-all meaning of reason. Emanating from this is Coffey's separation of "religion" and for example, "politics" (and its related concepts). It can be asked as to why there should be mention, when looking at Rutherford (and the likes) as to an "exclusive" political debate, instead of "religious" political debate. In this regard, see Coffey referring to Rutherford, Buchanan, Locke and others against the background of "talking exclusively about politics, not theology, and about the concept of rights, not religious duties" (Coffey, 1997:183). Why would one want to portray these authors as "talking exclusively about politics", bearing in mind the inextricable connection between politics and religion in a Christian cosmological and epistemological paradigm? In any event, political and legal theory always has some or other ideological foundation to them. Can resistance theory in the context of seventeenth-century Scotland, for example, not include opposition against idolatry, in addition to opposing a tyrannous paradigm that is threatening to one's physical health. The preservation of society for early seventeenth-century Scotland had as much to do with spiritual health as it had to do with physical health. With this in mind, it is difficult to understand Coffey's view that, "rather than presenting an argument for the secular right to resist, *Lex, Rex* concentrated on the religious duty to resist. The cause of true religion was always pre-eminent in Rutherford's mind, and, in comparison with it, other concerns paled into insignificance" (Ibid., 181).

Also, regarding the said view by Coffey that, "The quest for a godly nation was destined to undermine the advice of natural reason ..." does not take cognisance of Rutherford's view (as observed by John Marshall) that,

To obey God in all things is part of man's rational nature. There is no inherent contradiction in obeying God in what may seem to be a violation of the law of nature, such as Abraham's sacrificing his son Isaac, because obeying God in all things is part of that very law of nature originally concreated in the human heart. Any seeming contradiction is the result of sin which refuses to recognize God as infinitely wise and just in all he commands (Marshall, 1995:138).¹⁹

Since submission to the will of God is the height of rationality, the attempt to make absolute the will of a man is the height of irrationality (*ibid.*, 141). Also, God's law which is summed up in the commandment to love is as rational as can be and constitutes principles which enjoy general agreement. Here one is reminded of the view that, "The idea of an absolute reason is impossible for historical humanity. Reason exists for us only in concrete, historical terms, i.e. it is not its own master, but remains constantly dependent on the given circumstances in which it operates ... In fact history does not belong to us, but we belong to it" (Gadamer, 2002:267).

Coffey's evaluation of the political and legal 'mind' of Rutherford takes place through an ideological lens that is foundationally different from the Presbyterian context and mind-set of seventeenth-century Scotland. Coffey's idea that religion should be separated from "the secular" or from "reason" and that "religion" also should be separate from constitutional, political and legal aspects, ignores the fact that as stated earlier, ideology and science are ultimately connected to some or other ideological or pre-suppositional basis (whether religious or irreligious). Coffey chooses the line of thinking that is similar to the rationalist and religiously liberal development that confronted not only Rutherford but also seventeenth-century Scotland, and which Rutherford passionately and acutely defended. The quest for freedom during Europe in the sixteenth and seventeenth centuries entailed more to society than an unlimited approach towards religion – with freedom for religion came responsibilities under the authority of both the Old and New Testaments. The acceptance of the modern idea of the liberal State presupposes that politics and the law are held to exist solely for irreligious political purposes. The endorsement of this understanding remained impossible to not only Rutherford but also to seventeenth-century Scotland, as long as it was assumed that all temporal rulers had a duty to uphold godly as well as peaceable government (needless to say, within a Christian society). The sixteenth-century Reformers were entirely at one with their Catholic adversaries on this point, namely that they all insisted that one of the main aims of government must be to maintain "true religion" and the Church of Christ (Skinner, 1978:352).

19 Also see *ibid.*, 139 and 143, Marshall also observing that to Rutherford, God, on creating man, also created the natural law within man to love Him above all things.

To Rutherford the responsibilities of the civil ruler as prescribed in the Old Testament continued into the New Testament dispensation. In this regard, there is no substantial difference between Deuteronomy 17 and Romans 13:1-6, and *Lex, Rex* was inundated with references to these two sections in Scripture pertaining to the role of the civil ruler. This needs to be especially taken cognisance of when considering the relevance of the first Table of the Decalogue. The distance between both these authoritative biblical texts gained momentum towards the beginning of the seventeenth century, where there were a growing number of sects and denominations, eventually leading to a plurality of Christian central beliefs in Christian society. These, in turn, watered down the relevance of Roman 13:1-6 as it pertains to the role of the ruler in maintaining and protecting the true religion. This distance was eventually strengthened by the eventual transformation of what were originally Christian States, into religiously plural states where the accommodation of other religions and of irreligious beliefs took place. In this regard, Romans 13:1-6's interpretation, as limited to the second Table, grew in popularity and was viewed as substantially separated from the meaning of Deuteronomy 17.

Whether Romans 13:1-6 understood in this manner can still be applied to contemporary Western liberal and postmodern society is an altogether different question, but should not be confused with the proper understanding of the relevance of Romans 13:1-6 to the Christian Republic, such as, for example, in Scotland in the sixteenth and seventeenth centuries. Needless to state, it is accepted that Rutherford's views in this regard have no relevance to contemporary Western liberal and plural societies. However, this does not mean that there is to be a separation between Deuteronomy 17 and Romans 13:1-6 nor does it exclude the relevance of these foundational biblical texts for the Christian Republic. It is therefore clear that to Coffey the meaning and relevance of Deuteronomy 17 is not to be equated with that of Romans 13:1-6. According to Coffey there is a relevant connection between the Old Testament and Israel at the time, and that beyond Old Testament Israel, Deuteronomy 17 is, unlike Romans 13:1-6, no more applicable. However, this is not convincingly argued for by Coffey also bearing in mind that there is no convincing authority in the New Testament that negates the authority of the Old Testament against the background of Deuteronomy 17 and Romans 13:1-6.

The historian John Coffey's biography on the "mind" of Rutherford requires criticism due to its limitation pertaining to the meaning of the "secular"; and a more nuanced and sensitive understanding regarding the religious context at the time; the relationship between "religion", "reason", "natural law" and

“constitutionalism”; the validity of the Old Testament as well as the protection of the true religion in the context of the Christian Republic. In addition to this, although not dealt with in this article, it needs to be noted that Coffey fails to extract the constitutional relevance of Rutherford’s thinking for the centuries proceeding *Lex, Rex*, more specifically themes related to the importance of social contractarianism; the centrality and superiority of natural or moral law; the mutual relationship between rights and duties; every individual’s participation and duty towards a common good (which transcends mere self-interest); the ruler’s accountability primarily before the moral law; the office of the ruling power and its universalist and immutable normative substance; and activism against physical and psychological oppression. In all of this, Coffey’s description of Rutherford in explicit negative and personal terms and his labelling of Rutherford as “ambiguous”, is questioned and this article brings to light that Coffey’s analysis of the political and legal mind of Rutherford must be approached with the necessary circumspection.

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