

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 5: The Jacksonian Era – Foundations/Sources/Slavery and Civil Disobedience

John C. Lord, **The Higher Law in its Application to the Fugitive Slave Bill** (1951)¹

John C. Lord (1805–76) was the pastor of the Central Presbyterian Church in Buffalo, New York. He believed Christians had no religious obligation to assist fugitive slaves. In this sermon on the “duties men owe to God and to governments,” Lord called for compromise. “When there is no longer mutual respect; no more fraternal forbearance; no more regard for each other’s local interests; no more obedience in one section to the laws which protect the guaranteed rights of the other,” he stated, “the basis of union is wanting, and nothing but a military despotism, with a grasp of iron, and a wall of fire, can hold the discordant elements together.”

Consider the following when reading the excerpt below. On what basis did Lord and Parker disagree? Did they disagree that slavery violates natural law or did they disagree over whether persons in civil society must adhere to constitutional obligations when those obligations conflict with higher law? Did Lord insist on absolute obedience to civil authorities? Suppose civil authorities banned Christianity? How would Lord urge his congregants to respond?

...
In the discussions which the recent agitations of the country have originated, grave questions have arisen in regard to the obligation of the citizen to obey laws which he may disapprove; appeals have been made to a HIGHER LAW, as a justification, not merely of a neglect to aid in enforcing a particular statute, but of an open and forcible resistance by arms. ...

We take the ground, that the action of civil governments within their appropriate jurisdiction is final and conclusive upon the citizen; and that, to plead a higher law to justify disobedience to a human law, the subject matter of which is within the cognizance of the State, is to reject the authority of God himself; who has committed to governments the power and authority which they exercise in civil affairs. This is expressly declared by the Apostle in the Epistle to the Romans: “Let every soul be subject to the higher powers, for there is no power but of God; the powers that be are ordained of God; whosoever, therefore, resisteth the power, resisteth the ordinance of God. For he (that is, the civil magistrate) beareth not the sword in vain, for he is the minister of God, a revenger to execute wrath upon him that doeth evil. . . .”

The language here cannot be misunderstood. Obedience to governments, in the exercise of their legitimate powers, is a religious duty, positively enjoined by God himself. . . .

...
... Governments have jurisdiction in all affairs which belong peculiarly to the present life; in all temporal relations which bind societies, communities, and families together, in respect to all rights of person, and property, and their enforcement by penalties. General rules are, indeed, laid down in the Scriptures for the regulation of human conduct, but God has ordained the “powers that be” to appoint their own municipal laws, to regulate and enforce existing relations, and to execute judgment upon offenders, under such form of administration as shall be suitable to the circumstances of the people, and chosen by themselves. ...

...
... The decisions of governments upon matters within their jurisdiction, though they may be erroneous, are yet, from the necessity of the case, absolute. Every man has a right to test the constitutionality of any law

¹ Excerpt taken from John C. Lord, “The Higher Law,” In *Its Application to The Fugitive Slave Bill* (New York: John P. Trow, 1851).

by an appeal to the judiciary, but he cannot interpose his private judgment as a justification for his resistance to an act of the government. Freedom of opinion by no means involves the right to *refuse obedience to law*; for, if this were so, the power to declare war and make peace; to regulate commerce and levy taxes; in short to perform the most essential acts of government, would be a mere nullity. No statute could be executed on this principle, which would leave every man to do what seemed right in his own eyes, under the plea of a higher law and a delicate conscience. . . .

. . . But it may be replied to this, your argument proves too much. You reaffirm the old doctrine of tyrants, of passive obedience and non-resistance To this it may be said, that it does not belong to the Church in her organized capacity, nor to Christians, considered solely as such, and with reference to their religious duties, to revolutionize governments

The right of revolution is a *civil right*, which can be properly exercised only, *by a decided majority, under circumstances of aggravated oppression and upon a reasonable assurance of success*. It is not for the Church, as such, to determine when a just ground for revolution exists, it belongs to the body of the people in their civil capacity. . . . But while the Constitution remains, while the Government continues, let us observe the laws; let us not justify murder and sedition; and, least of all, let us not talk of a higher law, which absolves men from obedience to a Constitution which they have sworn to maintain. . . .

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