ENGLISH PROTESTANT CASUISTRY: WITH SPECIAL EMPHASIS ON CONSCIENCE AND OATH-TAKING

by
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Abstract

ENGLISH PROTESTANT CASUISTRY:
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by

Lawrence Witchel

Advisor: Professor Randolph Trumbach

The purpose of "English Protestant Casuistry: with Special Emphasis on Conscience and Oath-taking" is to examine the institution of Protestant casuistry and assess its effect on the religious and political directives that produced moral conflict.

The study focuses on six prominent clergymen who practiced casuistry: William Perkins, Joseph Hall, William Ames, Robert Sanderson, Jeremy Taylor and Richard Baxter, plus a lesser group of clergy and laymen, John Dury, Thomas Hobbes, John Donne and John Sharp. The dissertation supports the thesis that English Protestant casuistry was almost entirely grounded in Puritan anxiety over election and salvation. Therefore, it is written with predestinarian concerns in mind, particularly those of grace, ecclesiology and scriptural authority. It argues against the notion that casuistry was a kind of rationale developed for the purpose of avoiding moral obligation and, instead, holds that it favored the prevailing intellectual precepts of right reason, biblical precedent, and the moral ordering of conscience. The claim is made that all casuistry is indivisible in context from conscience which is a Christian construction with antecedents in Aristotelian and Roman Stoic thought.

This study shows the influence of casuistry in the playhouses, in the pulpits, on the agendas of religious meetings and in one-on-one practice among clergy and laymen. It also investigates the relationship between the moral perplexities of oath-taking and the need for Protestant casuistry. Additionally, it argues that the decline of casuistry, after the Restoration was due to an Arminian-influenced Church of England theology that

believed God's grace was available to all, as opposed to a Calvinist-centered theology of a humankind born into sin.

An important part of this dissertation is the section, "Casuistic Uses of Biblical and Secular Authorities." It is the first time that a historian has attempted to measure the degree to which casuistry used biblical and secular authority to support moral debate.

The demands of allegiance to the state versus allegiance to conscience created conflicts that called for a functional theology with a consistent codified body of principles. This thesis argues that casuistry fulfilled that need.

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INTRODUCTION

English Protestant Casuistry: With Special Emphasis On Conscience And Oath-Taking.

English Protestant casuistry was a phenomenon of the late sixteenth and seventeenth centuries that lasted until the early years of the eighteenth century. It commanded the attention of England's leading theologians because it presented a new, codified system for dealing with the moral issues of political and religious conflict. It was, simply put, a system by which conflicting cases of conscience were resolved. Also called "case divinity," casuistry was practiced by clergymen who referred to themselves as casuists and addressed dilemmas of conscience with the intention of finding a balance between an individual's religious and personal freedoms and the instruments of institutionalized coercion such as oaths, vows and subscriptions. To help an individual resolve the conflicts that compromised his conscience and affected his salvation, Protestant casuistry used a form of ethical investigation in which the probabilities and possibilities of moral law were applied to specific, individual situations for the purposes of determining the limits of moral principles. It recognized a tripartite body of law generally known as "... Divine, Natural, and Human, and [underscored the principle] that man's actions must be in accord with those laws."[1] However, it was apparent to most Christians thatthose laws were not perfectly applicable in all cases and other resources, beyond the immediate dictates of an individual's conscience, were needed. Casuistry, in part, filled that need.

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[1] Dwight Cathcart, *Doubting Conscience* (Ann Arbor, Mich: University of Michigan Press, 1975), 7.

Protestant casuistry emerged out of an England in transition when two factors characterized the country: One, political regimes changed with alarming rapidity and two, each change brought about a demand for people to visibly affirm their allegiance to each new regime through the process of accepting subscriptions, tendering vows and taking oaths. In the sixteenth century, England shifted religious allegiance three times, from Catholic to Protestant, back to Catholic and back again to Protestant. With each change people were asked to swear new oaths of allegiance to replace the oaths of allegiance they had already taken. The seventeenth century was equally mutable. In the comparatively short period of 85 years, from 1603 to 1688, there were seven regimes, averaging a shift in political and religious values almost once every ten years. In the difficult transitions from the Henrician Reformation onward, some lost their lives, many lost their financial and social standing, others went into exile and an adventurous number crossed the Atlantic into the New World.

The predominant period of time which concerns this dissertation is from the English Civil war to the Restoration of the monarchy which produced an abundance of demand for oaths, vows and subscriptions. John Spurr analyzes oath-taking in early modern England as an instrument of justice that had the "practical effect" of binding an individual's conscience to the directives of society.[2] From 1640 to 1650, there were four oaths, among others, that serve as evidence of the stress imposed by changing political conditions. They represented a contrasting sample of contemporaneous political coercion. Also, all four provided cases of divinity for some of the casuists mentioned below. In 1640 there was the two-part Et Cetera Oath, the first part of which called for the

swearing of allegiance to the present governing structure of the Church of England, both then and into an unspecified future. It included the phrase, "Nor will I ever give my consent to alter the government of the Church by Arch-Bishops, Bishops, Deans and Arch-Deacons, et cetera...,"[3] the last words of which, "et cetera," gave the oath its name and implied that the oath-takers would permanently uphold their governing structure for an unlimited period of time. In effect that meant that those who took the oath swore to withhold their consent to any alteration in the existing episcopacy, from that moment on.[4] Two years later, in 1642, the same people were asked to take the Negative Oath, so named because it was the official title of the oath when it was published in 1642. It was directed toward those who "...hath lived or shall live in the King's quarters, or been aiding and assisting or to adhering unto the forces raised against Parliament...[and will not] willingly assist the King in this war..."[5] It further goes on to give a list of what the oath-taker will not do. This was the same King to whom they had already sworn an Oath of Allegiance.[6] The next year, 1643,[7] they were asked to subscribe to the Solemn League and Covenant. The name comes from the full description of the oath: "A solemn league and covenant for Reformation and Defense of Religion, the honor and happiness of the

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[2] John Spurr, "The Strongest Bond of Conscience: Oaths and the Limits of Tolerance in Early Modern England" in *Contexts of Conscience in Europe, 1500-1700,* eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 151.

[3] David Lindsey Keir, *The Constitutional History of Modern Britain since* 1485, 9th ed. (New York: W. W. Norton & Company, 1969), 211.

[4] Irvonwy Morgan, *The Nonconformity of Richard Baxter,* (London: The Epworth Press, 1946), 77.

[5] *The Constitutional Documents of the Puritan Revolution: 1625-1660,* Third Edition Revised, Samuel Rawson Gardiner, ed. (Oxford: Clarendon Press, 1906.), 289.

[6] Robert Sanderson, *REASONS of the present judgement of the University of Oxford concerning The Solemne League and Covenant. The Negative Oath. The Ordinances concerning Discipline and Worship.* [London s. n.]1647. NP. Wing (2nd ed.) / S623. Thomason / E391 [15]. Madan, II, 1926. Copy from Duke University Library.

[7] 1643 was the year Scotland signed the Oath. Its effective date was 1645.

King and the peace and safety of the three kingdoms of England, Scotland and Ireland."[8] Despite reference to the happiness of the King, The Solemn League and Covenant was an anti-Royalist oath, in which Parliament tried to establish religious unity through a Presbyterian form of church government.[9] After the war, in 1650 most of the same people were asked to take the Engagement Oath which was a subscription that called for loyalty to a "Republic without a King or House of Lords" and was named after its title which is "Engagement taken by the members of the Council of State."[10] Thus, it would appear that every change in governance brought with it new oaths and new subscriptions, which affected an individual's conscience and in turn raised concerns about salvation. All four oaths will be discussed in greater detail in the fourth chapter as will the Jacobean Oath of Allegiance, which was crafted on behalf of James I for the purposes of ferreting out supposedly subversive Catholic recusants. The Jacobean Oath of Allegiance is important because it reflects both the Elizabethan Oath of Allegiance and the Henrician Oath of Succession and the three together form a continuum of coercive measures by which the state co-opted aspects of individual conscience. It is among the intents of this dissertation to show that casuistry emerged at this time partly in response to the specific pressures of the state oath.

During the same two centuries the pressures of governance came into further conflict with pressures from within the Reformed Community itself, namely as Puritan and opposing factions in court, church and parliament became polarized. The radical Puritans, for whom Calvinism was an ideal, had put stress on the fabric of the national

[8] Gardiner, *Constitutional Documents*, 257.

[9] Barry Coward, *The Stuart Age: England 1603-1714* (London: Longman, 1994), 213.

[10] *Constitutional Documents*, 384.

church. Calvin's theocracy in Geneva had focused attention upon an individual's external conduct as being indicitive of piety and it appeared to be the exemplary expression of personal discipline, one which emphasized scripture-based, ethical behavior as being as important as faith in assessing the potential of predestinarian salvation. The conformist English Church, on the other hand, emphasized a ceremonial liturgy, adherence to canon law, and recognition of an ordained, apostolic episcopacy. The tension between the two factions led to civil war as the post-Elizabethan Settlement shifted one more time, from a supposed *via media* between Catholic orthodoxy and English reform, to a Jacobean, Arminian-influenced Protestantism that called for a sworn, liturgical conformity. As regimes shifted, so did the Church of England. After the English Civil War power moved again, from an episcopal-centered Royalist system to a Puritan/Presbyterian Commonwealth. By 1660, the monarchy had been restored and governance shifted back to an Arminian-centered episcopacy, this time influenced by the Latitudinarians and their like. In 1662 the Act of Uniformity, which required the use, in church, of all rites and ceremonies in the book of Common Prayer, made conformism mandatory, oaths required, and severe laws against Dissenters were imposed.[11] The Act of Uniformity will also be discussed in detail in chapter five along with the Five Mile and Conventicle Acts, both of which emerged from the Act of Uniformity and both of which affected the lives of two of the casuists discussed below. The Five Mile Act forbade nonconformists and dissenters from living in incorporated and charted towns and from preaching within a five-mile radius of any English church. The Conventicle Act forbade religious assemblies of more than five people outside the auspices of the Church of England. This is followed by the

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[11] John Spurr, *England in the 1670s: This Masquerading Age* (Oxford: Blackwell Publishers, 2000), 5.

Declaration of Indulgences. Ten years after the Act of Uniformity was enacted, in 1673, new subscriptions were called for when Charles II took a path of tolerance and called for the Declaration of Indulgences, which minimized punishments and fines for those same Dissenters, including Catholics. Three years after Charles II died, his successor James II went into exile and a new power structure under William and Mary called for new oaths and new subscriptions.

This was an age that still honored a God-ordained magistracy. To most people disloyalty to the king was abhorrent and cause for damnation. With the execution of Charles I and the abdication of James II, familiar political institutions were uprooted and the ensuing friction made it seemingly impossible to reconcile conscience (in what has been called The Age of Conscience,[12]) with reasoned action. The inherent conflict was between soul and substance. One's soul was often as important as one's life and yet few wanted to lose their heads, or their fortunes, for that matter, in exchange for a clear conscience. These were then stormy waters in which it would appear that the individual might morally drown, had there not been some means by which they could navigate. Protestant casuistry provided that means. It examined the structures of moral order and advised on the extent to which an individual's moral responsibility could be stretched. This dissertation contends that casuistry provided a bridge between the demands of individual conscience and the subscriptions of the religious-political power structure. The English citizen asked the question *What must I do?* For some the answer lay in a practical rationale founded on scripture-based, ethical traditions offered by a theologian who practiced casuistry. The casuist would have analyzed individual cases and given

practical, not just theoretical, advice. The case itself was not unlike a twentieth-century case study in which a problem is defined, a judgment is proposed and the rest of the study defends the judgment by citing past precedents, anticipating possible outcomes and often incorporating social principles. In casuistry the problem is a conflict of conscience, the judgment is conscience-related, the precedent derives from either scripture or eternal law and the social principles concern political or theological matters.[13] In most instances, the casuist compiled these records of encounters into books along with theological commentary. These three elements, (1) individual counseling, (2) the compilations of cases of conscience and their resolutions, and (3) theological commentary on the cases, make up the casuistical process and will serve as the standard by which this dissertation defines English Protestant casuistry and those casuists who practiced it.

The dissertation will largely emphasize the works of six prominent casuists. Although many of their lives overlapped, they are listed in the order of their birth. They are William Perkins (1556-1602), Joseph Hall (1574-1656), William Ames (1576-1633), Robert Sanderson (1587-1663), Jeremy Taylor (1613-1667), and Richard Baxter (1615-1691).[14] Each considered himself a casuist and either referred to himself as such or to his writings on conscience as being casuistry. They were chosen from a large list of theologians who also practiced casuistry but in this case appeared to play either seminal roles in the development of the discipline or were given prominence in the writings of religious and literary historians whose works comprise, in part, the secondary sources for

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[12] Keith Thomas, "Cases of Conscience in Seventeenth-Century England," in *Public Duty and Private Conscience in Seventeenth-Century England*, eds., John Morrill, Paul Slack and Daniel Woolf (Oxford: Clarendon Press, 1993), 29.

[13] Ibid., 41.

[14] For sake of convenience and simplicity, they are grouped in their chronological order of birth and will be grouped as such throughout this dissertation.

the dissertation. Of equal importance is that they left behind records of cases of conscience.

Casuistry was also practiced by a second tier[15] of theologians, men who were politically and ecclesiastically prominent like John Donne, who published ten volumes of sermons and who twice refers to two books of cases of conscience which he wrote and that have since disappeared.[16] Donne did, however, write two important works in which he uses casuistic methods to make his case: The first is *Biathanatos* which made the case that suicide is not always a sin, and *Pseudo-Martyr* which defended the Jacobean Oath of Allegiance. Two other casuists were Thomas Barlow (1607-1691), Bishop of Lincoln who was published extensively in his lifetime, and John Dury (1596-1680), a Puritan divine who wrote a widely read work defending the Engagement Oath and another one critical of the relationship between the clergy and the state called *A Case of Conscience Resolved Concerning Ministers Meddling with State Matters in their Sermons* (London, 1649). Earlier, Dury had written *A Case of Conscience: whether it be lawful to admit Jews into a Christian Commonwealth* (1654), a work composed at the request of Samuel Hartlib who, although not a casuist himself, had expressed interest in the subject with his pamphlet *The Earnest Breathings of Forreign Protestants, Divines and others: to the Ministers and other able Christians of these Three Nations, for a compleat Body of Practical Divinity, and Cases.*[17] Additionally, John Sharp, Archbishop of York will be briefly discussed. Although the Archbishop, was not a practicing casuist as defined in this

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[15] The notion of first/second tier is arbitrary and is based on their volume of work. In some instances, such as John Dury, it is based on perceived influence. The designation is being made by the author of this dissertation.

[16] Perez Zagorin, *Ways of Lying: Dissimulation , Persecution and Conformity in Early Modern Europe* (Cambridge: Harvard University Press, 1990), 240-242. The missing volumes are also referred to in Edmund Gosse, *The Life and Letters of John Donne,* vol. II (London, 1904.), 150-152.

[17] It was a mutually beneficial relationship as Dury had written a preface to Hartlib's works.

dissertation, he gave casuistical advise and was concerned with the theological nature of conscience, with two short works *A Discourse Concerning Conscience* (1684) and *A Discourse of Conscience: the Second Part: A Doubting Conscience* (1685.)

It was noted above that there were three criteria for defining casuistry; individual counseling, the systematization of case divinity, and religious commentary. This dissertation will concentrate on the second and third elements, the compendia of casuistical writings and the theological commentaries on those writings, rather than the records of counseling. This choice is being made for two reasons: the first is that the records of individual counseling were the sources for the encyclopedic compilations of cases of conscience that comprised the bulk of the casuists' writings, and the second is that it was these prodigious books that insured their contemporaneous fame and lasting reputations. Additionally, all six either commented on specific oaths such as Robert Sanderson's "The Case of the Engagement Oath" or else wrote systematic commentary on the processes of swearing an oath.

All six casuists wrote copiously. They were translated into French, Dutch, and German and republished in numerous editions. William Perkins for example, was translated into six languages and carried into the new World.[18] William Ames' works were originally published in Latin and translated into Dutch and English and contributed to his reputation in England and abroad. They produced an exhaustive body of writing covering all aspects of Christian moral life in the seventeenth century. They wrote at immense length about such topics as the rights and duties of membership in the church and an individual's obligations to the Crown and society. They covered family life: The

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[18] *William Perkins: English Puritanist,* ed. Thomas Merrill (Nieuwkoop: B. de Graaf, 1966.), xi.

respective rights and obligations of husband to wife, parents to children, and the relationship of the family unit to the Church on the one hand and the State on the other. They dealt with the issues of masters and servants, landlords and tenants, doctor and patients, and students and schools. Every aspect of daily life was within their purview, from the obligations of owning private property to responsibility to the community. As quasi lawyers, their writings advised on contracts. As sometime businessmen, they advised on buying and selling goods and services, setting monopolies, fixing prices, and the ethics of profit making. Most important of all, they were concerned with political events, advising on how to deal with resistance to magistracy, and forced vows and subscriptions. Together and individually, they produced a literature of conscience which consisted of thousands of pages, almost all of which were translated and disseminated throughout the Continent and in some instances, into the New World.

William Perkins was the earliest of the published casuists. His work *A Discourse of Conscience wherein is set down the nature, properties, and differences* was first published in 1596, after which he published his major work on casuistry, *The Whole Treatises of Cases of Conscience*, which, as noted above was translated into most of the important languages of the day.[19] *The Whole Works of the Right Reverend Jeremy Taylor* (1613-1667) consisted of 15 volumes,[20] in which *Ductor Dubitantium,* a volume of cases of conscience was alone over 1200 pages. Richard Baxter (1615-1691) wrote 1,100 pages of moral analysis in *A Christian Directory,* comprising over a million words,[21] which

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[19] Thomas Merrill, "Introduction" in Perkins, *English Puritanist,* xi, xviii, xix.
[20] Camille Wells Slights, *The Casuistical Tradition* (Princeton: Princeton University Press, 1981), 36n.
[21] John T. MacNeill, "Casuistry in the Puritan Age." *Religion in Life* 12 (1943) 82.

made up but one volume of his 168 known books.[22] *The Works of Robert Sanderson* were published between 1634 and 1660 and filled six volumes.[23] Taken together, they produced an extraordinary body of work that infinitely informs us, 400 years later, of almost every detail of pious Christian life in the seventeenth century, the purpose of which was to bring people closer to holiness and salvation. "But when all is done...," said Robert Sanderson,

> ...positive and practique Divinity...must bring us to Heaven;
> that is it must poise our judgments, settle our consciences,
> direct our lives, mortify our corruptions, increase our graces,
> strengthen our comforts, [and] save our souls.[24]

If nothing else, this extraordinary body of writing speaks to both the importance of casuistry and the centrality of conscience in seventeenth-century English life.

English Protestant casuistry was evident in English theological discourse for more than a century. It appears that there were three reasons why it lasted as long as it did. The first, as noted above, was that the casuists produced a vast, comprehensive literature. The second was that an equally broad literature emerged around them, that either talked about the theologians themselves, or was written by authors who used the principles and language of casuistry as elements in their own writings. Intellectuals such as Thomas Fuller[25] and Robert Boyle,[26] John Donne, and George Herbert, and Daniel Defoe[27] all saw casuistry as a positive element in contemporaneous religious and political life. Izaak

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[22] Slights, C*asuistical Tradition,* 37.

[23] Ibid., 37n.

[24] Robert Sanderson, "Ad Clerum, Sermon iii" in *Works of Robert Sanderson,* vol. ii, ed., W. Jacobson (London: 1854), 105.

[25] Slights, *Casuistical Tradition,* xviii.

[26] Ibid., 62n.

[27] See George Starr, *Defoe and Casuistry* (Princeton: Princeton University Press, 1971), Passim.

Walton wrote brief and somewhat worshipful biographies of Sanderson, Herbert, Hooker, and Donne,[28] all of whom, he notes, embraced aspects of casuistry. Conversely, there were those who were critical of the discipline. Among them were John Milton who was contemptuous of casuistry and wrote against it in numerous works, the best known being *De Doctrina Christiana*,[29] which was not published until a century and half after Milton's death in 1825, and Alexander Pope who referred to the volumes of casuistic writings as tomes of casuistry in which chains were used to yoke a flea.[30]

Pro or con, casuistry produced an extensive secondary discourse that kept it alive and thriving. It meant, noted Keith Thomas, that major political writers like "Grotius, Filmer and Locke can all be better understood when fitted into the casuistical tradition."[31] Cases of conscience were published as books and in newspapers and broadsheets throughout the seventeenth century. Camille Wells Slights states that during this period "hundreds of published cases sufficiently attest to the popularity of casuistry."[32] The period from 1640 to1660 also saw a spate of anonymous political pamphlets concerning the problems of maintaining a right conscience. The following samples were published during the ten year period of 1640 to 1650: *Time, Conscience Satisfied* ; *A Resolution of a Seasonable Case of Conscience*; *Seven Cases of Conscience*; and *The Grand Case of Conscience.*[33]

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[28] See Izaak Walton, *The Lives of Donne, Wooten, Hooker, Herbert and Sanderson* (London: Metheun, 1895), Passim.

[29] Mary Ann Radzinowicz, *Toward Samson Agonistes: The Growth of Milton's Mind* (Princeton: Princeton University Press, 1978), iv.

[30] Slights, *Casuistical Tradition,* 9.

[31] Thomas, "Cases of Conscience," 45.

[32] Slights, *The Casuistical Tradition,* 7.

[33] Thomas, "Cases of Conscience," 43.

The third factor, thatof occupying important preferments, contributed to the hundred-year longevity of English Protestant casuistry. It was also a factor in choosing these particular six casuists. They were allinfluential Reform clergymen . Some of them came from the highest echelons of academic and church life and participated in both the English political system as well as its ecclesiastical life. During their years of pastoral service, almost all of these six men preached publicly and held well-known benefices from where they commanded the power of the pulpit at a time that England was obsessed with preaching.[34] The six casuists exercised an important measure of political clout through the medium of the sermon. Joseph Hall was the Bishop of Exeter and later Norwich. Robert Sanderson spent two years as the Bishop of Lincoln. Jeremy Taylor was the Bishop of Down and later of Connor. Richard Baxter held the benefice of Kiddeminster. The other two casuists singled out for this discussion, William Perkins and William Ames, were both clergymen of committed Puritan sympathies, with , as already noted, extensive published writings. Along with their writings on casuistry, they also published volumes of collected sermons and homiletic works. The place of the sermon in religious life was of particular importance to Puritans. Treatises on casuistry often consisted of expanded sermons.[35] In his autobiographical work, *Reliquiae Baxterianae*, Baxter talks about how his neighbors met every Thursday evening to repeat and discuss the week's sermon and resolve any doubts that they might have had. At the time, the pious habit of repeating the sermon at leisure was common, especially among

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[34] Horton Davies, *Worship and Theology in England from Cramner to Baxter and Fox: 1603-1690*, 2 vols., Comb. ed. (Cambridge, UK: William B. Eerdmans, 1996), 2: 133.

[35] McNeill, "Puritan Age," 78

the Puritans.[36] When Baxter was no longer permitted to preach because of the Conventicles and Five-Mile Acts, he claims he wrote *A Christian Directory* as an alternative.[37] By the time of the English Civil War, Puritan sermons and other writings had been published regularly for more than 20 years.[38] This enhanced the recognition of the casuists by Parliament and the Magistracy. Baxter, for example was called to preach before Cromwell on the ways that politicians used fortune for their own ends and weakened the church. Yet, he said that only by the stern and iron hand of Cromwell would England be "...a land of saints and a pattern of holiness to all the world."[39] Later, he was appointed to a political group through which he consulted with Charles II on the Act of Uniformity. According to Izaak Walton, Robert Sanderson was one ofthe 20 delegates chosen to draw up the Oxford Manifesto, which addressed Parliament with the reasons that he and members of the University of Oxford faculty could not take the Solemn League and Covenant and Negative Oaths.[40] Jeremy Taylor was a member of the Irish Privy Council.[41] Thomas Barlow and John Dury, two minor casuists, were advisors to Cromwell on the re-admittance of the Jews to England.[42]

By the middle of the seventeenth century, some people held that casuistry was merely sophistry and rationalization[43] rather than a means by which dissenting people

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[36] Thomas Wood, *English Casuistical Divinity During the Seventeenth Century: With Special Reference to Jeremy Taylor* (London: S.P.C.K., 1952), ix.

[37] McNeill, "Puritan Age," 78.

[38] William Haller, *The Rise of Puritanism* (New York: Harper & Brothers, 1938), 231.

[39] Marcus Loane, *Makers of Religious Freedom in the Seventeenth Century: Henderson, Rutherford, Bunyan and Baxter* (Grand Rapids: Eerdmans, 1961), 186.

[40] Walton, *Lives*, 254.

[41] Jeremy Taylor, *The Whole Works of the Right Rev. Jeremy Taylor, D. D.*, eds. Right Rev. Reginald Heber, D. D. and the Rev. Charles Page Eden, M. A., 10 vols. (London: Longman, Green, Roberts and Green, et al, 1864), 1: xcis.

[42] Slights, *The Casuistical Tradition*, 60-61.

[43] Michael Hunter, *Robert Boyle 1627-1691: Scrupulosity and Science* (Rochester, N.Y.: Boydell, 2000), 72-73.

accommodated themselves to the political forces of the time and casuistry came under attack by prominent writers like Blaise Pascal, who saw it as Jesuitical, and by John Milton, who viewed casuistry as synonymous with lying. In *De Doctrina Christiana* and *Samson Agonistes,* Milton summed up casuistry as having a wide latitude to tell lies legitimately.[44] Pascal produced, by far the most scathing and lasting attack on casuistry in his *Lettres Provinciales* (1656-57) which is discussed at greater length in the second chapter.

The idea that casuistry was an intricate form of rationalization persists to this day and this dissertation does not argue that casuistry was never sophistry. It frequently was. However, this dissertation offers the thesis that casuistry was founded on an integrity of principle that fulfilled the needs of seventeenth-century English Protestants to live holy and ethical lives. As late as 1695, when reliance on case divinity was already fading, Thomas Sprat, Bishop of Rochester, advised the clergy of his diocese that a

> well-experienced casuist is also a most excellent Qualification toward all other ends of your ministerial offices; there being no kind of Skill or frequency in all your theological studies that most becomes a Divine of the Church of England whose highest spiritual art is to speak directly from his own conscience to the conscience of those under his pastoral care.[45]

The fact of its persistence alone makes the case for the functional nature of casuistry, which was that there was a need for a consistent, codified body of principles with which to attend cases of conscience. Taken together, the casuistry movement had a profound affect on three major elements of seventeenth-century life. First, the casuists

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[44] Radzinowicz, "Toward Samson Agonistes," 186.

[45] Thomas Sprat, Archbishop of Rochester, *A discourse made by the Ld Bishop of Rochester to the Clergy of His diocese at his visitation in the year 1695* (London: 1696.), 49-50. Wing S5031. Copy from Union Theological Seminary.

set standards of conscience and principle that influenced popular literature, including the works of Shakespeare, Spenser, Marlowe and others.[46] Second, by virtue of the fact that many of the casuists had close associations with the Crown, they influenced and advised upon articles of legislation. Third, almost all of them were well-respected academics, who at some point in their careers held posts at Oxford, Cambridge and other colleges. Sanderson, for example, held a fellowship at Lincoln College and was Professor Regius of Divinity in Oxford.[47] Jeremy Taylor was elected a fellow of All Souls' College in Oxford and later was appointed to the position of Vice Chancellor of the University of Dublin,[48] and William Perkins was a fellow at Christ's' College, Cambridge. Thus they would have had a contemporaneous influence on education, in addition to ecclesiastical matters.

The original source materials used in this dissertation fall into several groups: The first group consists of the writings of the individual casuists and they provide the predominant content of this dissertation. The second are contemporaneous works such as Walton's *Lives of Donne, Wotten, Hooker, Herbert and Sanderson* (1678,) mentioned above and Edward Calamy's biographical introduction to Richard Baxter's autobiographical *Reliquiae Baxterianae* (1696)[49] which are valuable because they give important details on the lives of the casuists from a timely point of view. Additionally there are those works, also contemporaneous, that answer or comment on the casuists' writings. Among them are such tracts as John Bunyan's *A Defense of the Doctrine of*

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[46] Slights, *Casuistical Tradition*, xi-xvii.

[47] Walton, *Lives,* 254.

[48] Jeremy Taylor, *Whole Works* 1:ccliii.

[49] It was published in an abridged edition which is nearly complete. It was published again, in an edition with other articles in 1719.

Justification by Faith in Jesus Christ shewing True Gospel-Holiness(1673), and Edward Fowler's *The Design of Christianity* (1671), both of which comment on Robert Sanderson's controversial sermons on the doctrine of justification by imputation. Together, they indicate the lively discourse that surrounded the casuists.

A third group of primary source materials relate to the decline of casuistry. The crucial book on the decline of casuistry is Blaise Pascal's *Provincial Lettres,* originally written in 1656-57 but continuously reprinted, with critical commentary, into the twentieth century and generally seen as the deciding factor in casuistry's decline. Albert R. Jonsen and Stephen Toulmin[50] strongly support this contention. However, this dissertation argues, in Chapter Two, that other elements such as the Latitudinarian movement and increasing secularization in the eighteenth century had a far greater impact on casuistry's decline than Pascal's *Provincial Lettres.* Additionally the dissertation will look at the waning of Calvinism in favor of a resurgence of Arminianism, after 1660, as an additional factor in the decline of casuistry. Among the seventeenth and-eighteenth-century authors and their works that bolster the argument for eighteenth-century secularization as having a deleterious effect on casuistry are Adam Smith's *Theory of Moral Sentiments* (1759), John Locke's *Two Treatises on Government* (1688), and selectively cited writings of Anthony Ashley Cooper, the Third Earl of Shaftesbury, all of whose works are, toward that end, critically covered By Edward G. Andrew,[51] James Herrick,[52] and C. John Sommerville.[53]

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[50] Jonsen, Albert R. and Steven Toulmin, *The Abuse of Casuistry* (Berkeley, Ca.: University of California Press, 1988.)

[51] Edward G. Andrew, *Conscience and its Critics: Protestant Conscience, Enlightenment Reason, and Modern Subjectivity* (Toronto: University of Toronto Press, 2001.)

[52] James Herrick, *The Radical Rhetoric of the English Deists*, (Columbia: University of South Carolina Press, 1997.)

The other issue in the waning of casuistry has to do with the proliferation of oaths and vows and the decline in the power of oath-taking as a test of loyalty to the state. By the eighteenth century the numbers of oaths, vows and subscriptions, including those that applied to everyday life, had grown to such an extent that their power to bind an individual's conscience to the directives of state was no longer inviolable.[54] For example, during the Parliamentary session of 1695-1696, there were forty acts passed of which twenty called for swearing.[55] Even before that, by 1689 casuistry was challenged as an agent of political debate and by 1709 was no longer a central focus in resolving oath-related disputes, although there was no decline in the emergence of new oaths.[56]

From the eighteenth to the twentieth century casuistry gave way to other aspects of theological writings, particularly ethics, but in the twentieth century, there was a renewed interest in casuistry by Church of England moral theologians who saw casuistry as a high church construction that favored the conformist church over Puritan concerns. As it were, twentieth-century writers largely delineated casuistry in terms of either Puritan or Anglican casuistry and those distinctions later came under attack by writers Peter Lake[57] and Kenneth Fincham.[58] Nonetheless, earlier, two bishops of the Church of

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[53] John C. Sommerville, *The Secularization of Early Modern England: From Religious Culture to Religious Faith* (New York: Oxford Press, 1992.)

[54] John Spurr, "The Strongest Bond of Conscience: Oaths and the Limits of Tolerance in Early Modern England" in *Contexts of Conscience in Europe, 1500-1700,* eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 151.

[55] Edward Vallance, "The Decline of Conscience as a Political Guide: William Higden's *View of the English Constitution*" (1709) in *Contexts of Conscience in Early Modern Europe, 1500-1700,* eds., Harald F. Braun, and Edward Vallance (New York: Palgrave Macmillan, 2004), 67.

[56] Ibid.

[57] Peter Lake, *Anglican and Puritans? : Presbyterianism and English Conformist Thought from Whitgift to Hooker* (Boston: Allen & Unwin, 1988.), 1ff.

[58] Kenneth Fincham, *Prelate as Pastor: The Episcopate of James I* (New York: Oxford Press, 1990.), Passim.

England, Kenneth E. Kirk,[59] Bishop of Oxford, and H.R. McAdoo,[60] former Archbishop of Dublin, published works in 1927 and 1949 respectively, which were influential in establishing Protestant casuistry as being an Anglican construction. Together Kirk and McAdoo supported the notion that English casuistry was a seventeenth-century product of the conformist church as opposed to the Puritan faction within the church which held that Protestant casuistry was a form of moral theology that had emerged out of the traditional Catholic system of penance. Kirk claimed that English casuistry took the principles of Thomas Aquinas and applied them to the needs of the Church of England which he states underlies the writings of Sanderson and Taylor,[61] again, an arguable thesis, since Sanderson has since come to be seen as a moderate Calvinist. McAdoo similarly claimed that English moral theology had neglected its heritage of both Thomism and the Counter-Reformation and had forgotten that it was through Protestant reform that the true primitive Catholic faith had been saved and restored, as had been made clear by the writings of Robert Sanderson.[62] This distinction was further supported in 1952 by Thomas Wood[63] who also published an Anglican-centered work emphasizing the writings of Jeremy Taylor. Wood talks about the Protestant reaction to Roman Catholic excess and claims that one of Taylor's contentions was that by rejecting Rome, Protestants rejected aspects of needed pastoral care. Casuistry, he claims provide an aspect of that guidance.[64] In 1967, Kevin T. Kelly attempted to locate English casuistry

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[59] Kenneth E. Kirk, *Conscience and its Problems: An Introduction to Casuistry* (London: Longmans Green and Company, 1927.)

[60] H. R. McAdoo,*The Structure of Caroline Moral Theology* (London: Longmans Green and Company, 1949.)

[61] Kirk, *Conscience and its Problems,* xi.

[62] McAdoo, *Caroline Moral Theology*, 1.

[63] Wood, *English Casuistical Divinity*

[64] Ibid., xiii.

as a bridge between Roman Catholic doctrine and the Church of England, specifically as exemplified in the writings of Taylor, Sanderson and Joseph Hall.[65] This dissertation argues against the idea that English Protestant casuistry was an Anglican construction that emerged out of Catholic tradition but instead argues that Protestant casuistry was a Puritan construction which, while indebted to Catholic tradition represents a sharp break in the continuum of Roman Catholic tradition to Church of England tradition. Toward that end, the second chapter of this dissertation contains a history of Roman Catholic casuistry and purports to show, by contrast, that the shapers of English casuistry were William Perkins, William Ames and their Puritan-centered Cambridge University colleagues. The dissertation, although different in content and conclusions stands within a growing consensus of works that support these ideas. Among them are the writings of Norman Clifford,[66]who stands strongly on the side of casuistry as being a product of Puritan theology and Arthur William Lindsley,[67] whose work also traces and substantiates Puritan influences on English casuistry.

From the 1980s onward, there was a second generation of writers who saw casuistry as literature and were concerned about its affects on the writers of the English Renaissance. Camille Wells Slights[68] looks at the techniques and language of casuistry that is used by the six casuists, who inform this work, and builds a connection between English Renaissance playhouses. literature, and English moral theology. She contends

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[65] Kevin T. Kelly, *Conscience: Dictator or Guide. A Study in Seventeenth-Century English Protestant Moral Theology* (London: Geoffrey Chapman, 1967), 10-11.

[66] Norman Clifford, "Casuistical Divinity in English Puritanism During the 17th century: Its origins, Development & Significance," (Ph.D. diss., University of London, 1957.)

[67] Arthur William Lindsley, "Conscience and Casuistry in the English Puritan Concept of Reformation," (Ph.D., diss. University of Pittsburgh, 1982.)

[68] Slights, *Casuistical Tradition.*

that sixteenth and seventeenth- century poets were concerned with transcendent matters as a means of understanding human experience,[69] and that these matters were illuminated by casuistry. Lowell Gallagher[70] examines conscience as it applies to a range of literary documents, including the two speeches to Parliament made by Elizabeth I, the Siena Sieve portrait of Elizabeth and Book IV of Spenser's *The Fairie Queene.* Jonathan Goldberg[71] discusses the theological writings of Donne, Jonson, Baxter and Perkins and the effect it had on the Jacobean Court. Both he and John S. Wilkes[72] were concerned with the nature of sin in Jacobean tragedy. Wilkes largely concentrated on the works of John Webster (fl. 1602-1629), Thomas Middleton (c. 1570-1627) and John Ford (1586-c.-1629), among others who wrote about violence, revenge and conscience. The first chapter has additional discussion on the role of the playhouses in bridging conscience and the popular imagination.

Casuistry, as a discipline is grounded in the context of conscience. It is indivisible from conscience and its methodology takes the form of "cases of conscience," such as in William Perkins' *Whole Treatise of Cases of Conscience*, Joseph Hall's *Resolutions and Decisions of Divers and Practical Cases of Conscience,* and Robert Sanderson's *Nine Cases of Conscience.* Therefore the first chapter will concentrate on the history of the doctrine of conscience. The second will concentrate on the history of the development of casuistic doctrine. The third chapter will be about the lives of individual casuists and will emphasize conscience as a God-given faculty.

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[69] Ibid., xi.

[70] Lowell Gallagher, *Medusa's Gaze*: *Casuistry and Conscience in the Renaissance* (Stanford: Stanford University Press, 1991.)

[71] Jonathan Goldberg, *James I and the Politics of Literature: Jonson, Donne and their Contemporaries* (Baltimore: John Hopkins University Press, 1983.)

The fourth and fifth chapters will concentrate on oath-taking. The swearing of an oath which invoked God as witness was ultimately an issue of salvific concern to each of the casuists. It was also of political concern since, as noted above, each change in governance brought with it a demand for new, assured allegiances, which often involved moral conflict. Politically the rejection of an oath was considered to be social protest that denied the authority of the state, and in some instances constituted proof of heresy.[73] The sense of moral obligation emanating from oaths had barely changed since the days of the Stoics. In the third book of Cicero's *De Officiis,* Cicero argues that the duty to honor an oath is absolute and that no benefit can accrue to justify breaking an oath. For Cicero, God and heresy were not issues, and fear of divine punishment was of less importance than the societal implications of mistrustful relations between subject and governor.[74] In 1646 Daniel Featly wrote a book called *The Dippers Dipt* in which he described the relationship between oaths and governance: Without oaths

> the commonwealth hath no surety upon public officers and ministers: nor kings upon their subjects; nor lords upon their tenants; neither can men's titles be cleared in causes civil, nor justice done in causes criminal; nor dangerous plots and conspiracies be discovered against the state.[75]

However, by the seventeenth century, God and fear of Divine retribution were indeed urgent issues and the swearing of a false oath meant breaking the third commandment and taking the name of God in vain. Jeremy Taylor states assertively that All promises with oaths are regularly forbidden to Christians, unless they be made to God or God's vicegerent, "in a matter not trifling...for we cannot be supposed to speak to God without

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[72] John S. Wilkes, *The Idea of Conscience in Renaissance Tragedy* (London: Routledge, 1990.)

[73] Christopher Hill, *Society and Puritanism in Pre-Revolutionary England*, (New York:, Shocken Books, 1964), 383

[74] Jonsen and Toulmin, *Abuse of Casuistry*, 82-83.

using of His name explicitly..." [76] In the same passage he likens the taking of God's name in vain to offering God, "Goat's hair, or the fumes of mushrooms, or the blood of swine; that is things either impious or vain."[77]

Although Taylor claims that the taking of an oath is forbidden, he also recognizes the right of the state to decree the taking of a promissory oath. He warns, however, to be careful.

> That princes, and such have the power of decreeing the injunction of promissory oaths, be very curious and reserved... The matter of such promises must be only what is already [a] matter of duty or religion... when it is a matter of duty, then the oath is no other than a vow or promise made to God.[78]

The seventeenth century used oath-taking as a means of regulating the relationship between government and the individual. Although this dissertation will largely discuss oaths as political instruments, they nonetheless suffused every aspect of everyday life. In 1649, an anonymous book, *The Book of Oaths and the severall formes thereof...*[79] was published, which listed 416 pages of oaths covering every kind of oath from general oaths such as those taken by jurors to political instruments like the Solemn League and Covenant and Oath of Allegiance.

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[75] Daniel Fealty, *The Dippers Dipt* (1646), 142, quoted in Hill, *Society and Puritanism*, 383.

[76] Jeremy Taylor, *Whole Works*, 2: 427- 8.

[77] Ibid.

[78] Ibid.

[79] *The Book of Oaths and the severall formes thereof, both ancient and modern faithfully collected out of sundry authentick books of records not heretofore extant, very useful for all persons whatsoever, especially those that undertake any office of magistracy or publique imployment: wherunto is added a perfect table* (London: 1689.) Wing /G265. Copy from Cambridge University Library. The 1649 edition mentioned in the text was an earlier edition that may have been compiled by Richard Garnet, S.J., who claims authorship, however, according to an annotation on the reproduction from the British Library his authorship is in question. His name does not appear on the later edition.

The seventeen century historiography of oath-taking appears to be centered around John Donne's *Pseudo-Martyr*,[80] a 392-page apology for the Oath of Allegiance (1606). The oath asked that all Catholics swear that James I was a lawful King and that the Pope had no authority to depose him. It further decreed that the doctrine which permitted a pope to depose a king was heretical and made the claim that excommunicated princes could be murdered by their subjects. Rome ordered English Catholics to refuse the oath which, in turn produced a spate of books and pamphlets, among which was *Pseudo-Martyr.* [81] (It appeared on the Stationer's Register in 1609.) Prior to the Donne book, King James sent out the book, *Triplici Nodo, Triplex Cuneus, or an Apologie for the Oath of Allegiance, against the two Breues of Pope Paulus Quintas and the Late Letter of Cardinall Bellamine to G. Blackwwell the Arch-Priest.*[82] It was first published anonymously. It was published two years later in an edition that acknowledged the King as author: *An Apologie for the Oath of Allegiance: First set forth without a name and now acknowledged by the author, the Right High and Mightie Prince, James...King of Britaine...together with a Premonition of His Maiesties to all most mightie Monarchs...*[83] In 1610 John Donne published *Pseudo-Martyr*, possibly at the behest of the King. It is a dry, legalistic work that both defends the King and explores the nature of oath-taking.

The dissertation consists of six chapters. For reasons outlined above, the first chapter looks at the history of conscience from its scriptural roots in the first century to

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[80] John Donne, *Pseudo-Martyr* (Delmar, New York: Scholars' Facsimiles & Reprints, Inc. 1974.)

[81] Francis J. Sypher, "Introduction" to John Donne, *Pseudo-Martyr* (Delmar: New York: Scholars' Facsimile & Reprints, 1957.) np.

[82] *Triplici Nodo, Triplex Cuneus, or an Apologie for the Oath of Allegiance, against the two Breues of Pope Paulus Quintas and the Late Letter of Cardinall Bellamine to G. Blackwwell the Arch-Priest* (London: 1607.)

[83] An *Apologie for the Oath of Allegiance: First set forth without a name and now acknowledged by the author, the Right High and Mightie Prince, James...King of Britaine...together with a Premonition of His Maiesties to all most mightie Monarchs...* (London: 1609.)

the seventeenth century with the intent of understanding those elements of conscience that informed the architecture of casuistry.

The second chapter looks at the history of Protestant casuistic doctrine from its roots in the penitentials to its wane in the eighteenth century. It emphasizes the roles of the six casuists in the development of casuistic doctrine, particularly the contributions made by Puritans.

Chapter three contains biographical material and compares the writings, theologies and treatments of cases of conscience by the six casuists and, in particular, analyses their views on ecclesiology and grace.

Chapter three also contains a section entitled "Casuistic Uses of Biblical and Secular Authorities." This section consists entirely of original research done to ascertain the degree to which casuistry depended on Scripture to give authority to moral debate. It further concludes which books of the Bible and which religious and secular authors had the most influence on how each individual casuist resolved his cases of conscience. Some 8,000 Scriptural citations and nearly 1,000 non-biblical sources were collated and analyzed.

Chapters four and five are concerned with oaths, vows and subscriptions. The two chapters are chronologically arranged. Chapter four covers the period from 1603 to the Commonwealth, with particular emphasis on the history of oath-taking, including a discussion of contemporary scholarly thinking on the nature and functions of oaths. It discusses the Henrician Oath of Succession and the Elizabethan Oath of Supremacy as antecedents to the controversial Jacobean Oath of Allegiance. It also talks about the

Solemn League and Covenant, Et Cetera, and Negative oaths, which were pertinent to the Civil War as does Chapter five.

Chapter five is concerned with the period from the Restoration to the end of the century when the character of casuistry and oath-taking was affected by a shift in the nature of grace and with it a burgeoning appetite for tolerance. It looks at how casuistry affected four acts requiring sworn acceptance, three of which, the Exclusion Act, Conventicles Act and the Five-mile act were related bills put forth by the Cavalier Parliament calling for adherence to Arminian doctrine. The chapter is centered around the controversy concerning the Engagement Oath but also talks about the Solemn League and Covenant, Et Cetera, and Negative oaths as agents of a continuing moral dilemma that affect the nature of oath-taking for the rest of the seventeenth century.

Chapter six is the summary and conclusion.

CHAPTER ONE

THE HISTORY OF CONSCIENCE

Conscience in the English Renaissance with its rediscovery of classical values,[1] was grounded in a Christian amalgam of Aristotelian, Stoic, Pauline, and Thomist thought.[2] There were differences of nuance among the English Protestant factions—Anglicans, Conformists, Nonconformists, Arminians, radical Puritans, and conforming Puritans—but there was also a fundamentally shared belief in the nature of conscience as being a faculty of the human soul and heard by the individual as an inner voice of divine origin. Throughout the Elizabethan and Stuart centuries, there appeared to be an almost obsessive preoccupation with conscience and the avoidance of sin. It was central to the religious and political rhetoric of the time.

Conscience provided the reassurance of a universal order of things that came with faith in providence. For most Protestants, conscience was at once the central factor in assessing individual conduct and the undoubted manifestation of a providential, Godly order of things. John Calvin wrote in *The Institutes of the Christian Religion* that, "Surely the conscience, which, discerning between good and evil, responds to God's judgment, is an undoubted sign of the immortal spirit."[3]

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[1] Reid Barbour, *English Epicures and Stoics: Ancient legacies in Early Stuart Culture* (Amherst, University of Massachusetts Press, 1998), 2 – 3.

[2] Jonsen, Albert R. and Steven Toulmin, *The Abuse of Casuistry* (Berkeley, Ca: University of California Press, 1988)25, 58.

[3] John Calvin, *The Institutes of The Christian Religion*, ed., John T. McNeill, 2 vols. (Phila.: The Westminster Press, 1960), 1: 184.

Conscience was the central focus of the rhetoric of casuistry It is therefore necessary to look at the history of thinking on conscience, tracing it from its first-century Christian construction to the way seventeenth-century Christians responded to it. At its simplest, conscience can be defined as the propensity to endow human thoughts, words, and deeds with a range of moral values which motivate social behavior.

Michael Baylor identified the etymology of the word "conscience" as a derivative of the Latin word *conscientia* which originally meant knowledge that we share with others. It was a translation of the Greek word *syneidēsis* (*όμνείδηόις*), which loosely meant either conscience or consciousness. In both instances, it signified innate knowledge. When St. Jerome translated the New Testament into Latin, he used *conscientia* in place of *syneidēsis* and by doing so he extended the meaning of the word to include a secret or private knowledge shared with another person.[4] Taking it one step further, *conscientia* is the knowing of something with another person and that person constitutes a witness for or against the item of knowledge. With that, conscience becomes the understanding of a moral issue witnessed by God. That definition, that conscience was a piece of information shared with God, was also the fundamental definition of conscience throughout the Middle Ages and, with variation of nuance, lasted well into the seventeenth century and beyond. For the seventeenth century Christian, the definition of conscience was further stretched to include humankind's "capacity for choice," the ultimate consequence of which, was the avoidance of damnable sin.[5]

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[4] MIchael G. Baylor, *Action and Person: Conscience in Late Scholasticism and Young Luther* (Leiden: Brill, 1977), 28.

[5] Edward G. Andrew, *Conscience and its Critics: Protestant Conscience, Enlightenment Reason, and Modern Subjectivity* (Toronto: University of Toronto Press, 2001), 15.

Conscience, for most Christians of the period, including Calvin,[6] was self-knowledge combined with a fear of God's judgment.[7]

During the Greek and Roman periods, the term *conscientia* held slightly different meanings for different factions. To Plato and the Greek Stoics it meantjoint knowledge and included the concept of right and wrong.[8] Among the Roman Stoics, the definition of *conscientia* acquired further ethical distinction: It implied humankind's awareness of natural law and, with that awareness, the need for action as the appropriate response to natural law.[9] To the Roman Stoics, conscience also was associated with the idea that reason (*logos*) governs the operations of nature, and man participates in reason. They related reason directly to the structure (*systasis*) of the cosmos and believed that reason determined human behavior, which, in this instance, was coterminous with the idea that ethical behavior indicated harmony in the universe: Knowledge or reason, in other words, was kin to virtue.[10] The Roman Stoic meaning of conscience held importance for seventeenth-century Protestants because it affirmed the inherent characteristics of God's law.[11]

The doctrine of conscience, meaning any recognition of conscience as a faculty of the soul, or understanding of conscience as a matter of moral or ethical distinction, as opposed to simply a definition of the word *conscientia* is entirely a Christian

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[6] Calvin, *Institutes*, II, 367.

[7] Andrew, *Conscience and its Critics*, 25.

[8] W. H. S. Jones, "Conscience: Greek and Roman" in *Encyclopaedia of Religion and Ethics*, 13 vols. (New York: Scribner and Sons, 1911), IV: 37-41.

[9] Jonsen and Toulmin, *Abuse of Casuistry*, 78.

[10] Ibid.

[11] Jonathan Goldberg, *James I and the Politics of Literature: Jonson, Donne and their Contemporaries* (Baltimore: John Hopkins University Press, 1983), 118.

construction. This is, on the surface, a controversial statement that excludes the theology of Judaism. However, according to Rabbi Jacob Neusner,[12] there is no notion of conscience as authority in Toraic/Rabbinic Judaism. For the early Jews, the focus of Old Testament faith was based in large measure on Hebrew tribal nationalism, as well as on the individual's relation to God. The bond between the individual and God, however, was already inherent in the covenant and grounded in the unquestioning dogma of obedient response. In fact, there is no Hebrew equivalent to the Western word "conscience"; there is not even an approximation of the concept or a doctrine of conscience derived from a Jewish source. Additionally, conscience as it is understood in Christianity does not exist in almost any sacred literature prior to the first century outside of the New Testament. Furthermore, there are no Sanskrit, Chinese or Japanese words for conscience other than words that translate into the expression "good heart."[13]

The writings of St. Paul constitute the major scriptural influence on the context of conscience and casuistry in the seventeenth century. The theologian John Sherman in *A Greek in the Temple: Some Commonplaces delivered in Trinity Chapell in Cambridge, upon Acts xvii* (1641) argued that on the basis of Acts 17:18 Paul, although he disputes Athenian philosophy, shares with the Stoics the notion that reason and faith are compatible and are the fundamental ground of theological argument, an idea which is compatible with seventeenth-century theological thinking.[14] Thomas Wood[15] makes the case for the writings of Paul as being the source for the Christian construction of

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[12] Jacob Neusner, *Judaism: The Evidence of the Mishnah* (Chicago: Chicago University Press, 1981), 86-90.

[13] Andrew, *Conscience and its Critics*, 12.

[14] Barbour, *English Epicures and Stoics*, 240-242.

[15] Thomas Wood, *English Casuistical Divinity During the Seventeenth Century*, (London: S.P.C.K., 1952.)

conscience. He cites several passages, among them Romans 12:1,[16] wherein Christian behavior is the practical response to Christian faith. Richard Baxter, Wood notes, defined the extents of casuistical divinity as that which is "implied in this Pauline epitome of Christian living."[17] The writings of the six casuists often refer to Paul. For example, the index to the Heber-Eden edition of Jeremy Taylor's works shows 20 columns of citations from the entire Old Testament. It lists nine columns of citations for all three Synoptic Gospels, but it shows an overwhelming 38 columns of citations taken from the Pauline Epistles. Of those 38 columns, five columns cite texts from Romans and another five from 1 Corinthians, among which are texts that speak to the nature of obedience to authority and the concept of magistracy as proceeding from God.[18] This is further amplified in the third chapter on casuistical authority in which original research is used to count and reference the scriptural citations of the six casuists: The greatest number of these citations come from the Pauline epistles and of that group, "Letter to the Romans" received the greatest number of references. Additionally, the letters of Paul are the only places where there are actual uses of the word "conscience." The *Eerdmans Analytical Concordance to the Revised Standard Version of the Bible* lists 30 references to "conscience." One is, 1 Samuel 25:31, the only such reference in the First Testament, and two are in the Acts of the Apostles, both of which are in quotes from Paul. All the

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[16] Wood, *English Casuistical Divinity*, x. The actual passage reads: I appeal to you therefore, brethren, by the mercies of God, to present your bodies as a living sacrifice, holy and acceptable to God...Do not be conformed to this world but be transformed by the renewal of your mind...

[17] Ibid.

[18] Jeremy Taylor, *The Whole Works of the Right Rev. Jeremy Taylor, D. D.,* eds. Right Rev. Reginald Heber, D. D. and the Rev. Charles page Eden, M. A., 10 vols. (London: Longman, Green, Roberts and Green, et al, 1864), 1:cccxxxii-ccclvii.

rest are in the Epistles, including some which later theological scholarship does not attribute to Paul, such as the Epistle to the Hebrews.[19]

It is probably impossible to determine precisely when the term, "conscience" first took on the properties of revealed morality, as found in Scripture but one presumption that may be made is that it emerged from the Greek word *syneidēsis.* It was an ordinary Greco-Latin word that was commonly used to indicate an individual's reflection on his social responsibilities. The theologian, Paul Tillich says that the Greek word *syneidai* ("Knowing with, i.e. oneself; being witness with oneself") was common in popular language long before the philosophers used it. It described the act of observing oneself. In philosophical language, it bore the meaning of "self-conscious." Tillich noted that Philo of Alexandria, under the influence of the Old Testament, stressed that there was an ethical self-observation inherent in *syneidēsis* and he attributed to it the function of *elenchos,* that is, accusation.[20]

Thus it would seem that, according to Tillich, the Christian concept of conscience was constructed by Paul, for, among other reasons, the purposes of separating Christianity from Judaism. Among the characteristics of Pauline conscience were those of moral authority and the notion that there was an "innateness," an internal faculty of human consciousness through which God could give humankind a knowledge of law.[21]

> Which show the work of the law written in their hearts,
> their conscience also bearing witness, and their thoughts
> the mean while accusing or excusing one another.[22]

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[19] *Eerdmans Analytical Concordance to the Revised Standard Version of the Bible*, compiled by Richard E. Whitaker (Grand Rapids: Mich., 1990), 205.

[20] Paul Tillich, "The Transmoral Conscience," in *Morality and Beyond* (New York: Harper and Row, 1963), 66.

[21] Ibid., 13.

[22] Rom. 2:15 KJV

Andrew points out that Paul further stressed, in Romans 13:5, that for the sake of conscience, as well as adherence to the law, Christians must obey secular authority.[23] Thus, to the first-century Christian, it would appear that conscience had three seemingly tangible attributes: (1) It had the moral authority to determine behavior, (2) came directly from God, and (3) was actually an internal faculty of the human being, not unlike one's heart or lungs. Taken together, those three aspects of conscience made conscience a Christian phenomenon. They form a theology of conscience which established the basic characteristics of conscience that, as Jonsen and Toulmin say, influenced the writings of St. Thomas Aquinas and later theologians.[24]

It would further seem that, according to Romans 2:15 and 2 Corinthians 4:2 wherein Paul discusses conscience as "bearing witness," that Paul thought that conscience was a universal attribute and that everyone had one. He appeared to believe, as Andrew says, that conscience was a function of God's relationship to humankind and therefore had the authority to determine human behavior.[25] In Romans 9:1, he says "...my own conscience enlightened by the Holy Spirit... ." and establishes the authority of conscience by connecting conscience directly to God and the Holy Spirit. He took the issue of authority a step further by widening its definition to include political issues as well. With this, probably more than in any other instance, Paul influenced Protestant thought on conscience. For the Christian, he established the idea that authority, either religious or secular, came from God alone.[26] In Romans 13:1-6, he wrote,

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[23] Andrew, *Conscience and its Critics*, 13.

[24] Jonsen and Toulmin, *Abuse of Casuistry*, 222.

[25] Andrew, *Conscience and its Critics*, 14.

[26] Ibid., 178.

> There is no authority but by act of God and the existing authorities are instituted by him; consequently anyone who rebels against authority is resisting a divine institution... That is why you are obliged to submit...not merely by fear of retribution but by conscience.[27]

This connected secular authority to religious authority and supported the concept of the Divine Right of Kings, the theory that monarchs had ultimate power because their power proceeded from God and that resistance to kingly power was a sin, a seminal issue of the English Civil War. (It is valuable to remember that the affirmation of a monarch's power lay in those who would take up an oath of allegiance that put the oath taker in a position to resist political change or endanger his salvation.) Paul also associated conscience with virtue, which together with self-awareness additionally emphasized the connection to God.[28] Thus, it would seem that Paul stretched the definition of *syneidēsis/conscientia* from its Greco-Roman ethical roots to a specific, identifiable faculty of human consciousness. It had direct authority from God and functioned as a coercive instrument of religious and civil obedience. Paul further offered the probability that to deny the demands of conscience could lead to sin and damnation.[29] Based on that system of thought, by the beginning of the second century, conscience became an element in the system of salvation.

In seeing conscience as having moral consequence, Paul stood alone among contemporaneous theologians for the remainder of the first century. He wrote from 48 CE to 58 CE, from two years to almost half a century before most of the Evangelists and yet his notion of conscience appeared to have had scant influence on their theology. Paul

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[27] Rom. 13. 1-6 KJV

[28] Andrew, *Conscience and its Critics*, 14.

[29] Ibid., 13-14.

may have endowed conscience with theocentric qualities but the question arises: What exactly did he mean by conscience?[30] In Romans 2:15;[31] 9:1[32] and 2 Corinthians 1:12,[33] Paul's use of "conscience" reflected everyday speech. It also understood conscience as *syneidēsis,* which reflected upon one's past actions or consciousness of the self[34] and which for the Greeks was based on rational ethics rather than theology.[35] *Syneidēsis* to the Greeks also had a layered meaning: On one level it meant that aspect of personality which decided the moral worth of one's actions and on another, the making of a judgment based the individual's responsibility to the *polis*. To Paul however, *syneidēsis* implied that the existence of conscience meant that all humans, including pagans, are born with an innate sense of natural law and that one's conscience is witness to that law.[36] It is, as suggested above, the Roman Stoic definition extended to the point where conscience can be considered an internal organ of the human body and it is specifically one of the concepts, along with the notion that conscience has authority, that makes conscience unique to Christian theology and remains an important factor in assessing its centrality in Jacobean England.

After Paul, the early church fathers, men like Clement, Ignatius, Polycarp, Origen, and Augustine, did not so much alter the concept of conscience as accept the basic Pauline definition of an inner voice of divine origin that demanded obedience. They did,

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[30] Jonsen and Toulmin, *Abuse of Casuistry,* 124,92.

[31] "Their conscience is called as witness..." KJV

[32] "My own conscience, enlightened by God, assures me..." KJV

[33] "...our conscience assures us...our conduct has been governed by a devout and Godly sincerity..." KJV

[34] Kenneth Kirk, *Conscience and its Problems: An Introduction to Casuistry* (London: Longmans, Green and Co. 1948), 163-170.

[35] Baylor, *Action and Person*, 25-26.

[36] Jonsen and Toulmin, *Abuse of Casuistry*, 124-5, 128.

however, add one urgent element to the theology of conscience that became doctrine for Roman Catholics but abhorrent to English Protestants and that was the concept that obedience to God's "voice" also meant obedience to the church, and hence, obedience to the bishop. The impact of that addition signified that from the last decade of the second century until the Reformation the idea of conscience was linked to the idea of submission to ecclesiastical authority, in particular, in the person and authority of the bishop.

Ignatius, Bishop of Antioch during the reign of the emperor Trajan, justified the idea of obedience to the bishop in a series of letters to Christian communities that were reminiscent of the Pauline Epistles.

> Now our apostles, thanks to our Lord Jesus Christ, knew there was going to be strife over the title of bishop. It was for this reason and because they had been given an accurate knowledge of the future, that they appointed the officers we have mentioned. [37]

The letters were written over the course of almost two years, during which time Ignatius was transported to Rome to face a happily anticipated martyrdom fighting lions in the Roman Coliseum.[38] In the Letter to the Magnesians, which is one example of Ignatius' thinking, he wrote critically,

> We have not only to be called Christians but to *be* Christians. It is the same thing as calling a man a bishop and then doing everything in disregard of him...they seem to be acting against their conscience, since they do not come to the valid and authorized services.[39]

He is making the statement that to be a good Christian means having a good conscience and obeying the bishop. Polycarp, Bishop of Smyrna, in his letter to the Philippians, also

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[37] *Early Christian Fathers*, ed., Cyril Richardson (New York: The Macmillan Company, 1970), 20-22, 63.

[38] Ibid., 88. ("I hope, indeed...to have the good fortune to fight with wild beasts in Rome...so that I can be a real disciple.")

[39] Ibid., 95.

written during the final years of the second century, further amplified the matter: "It is necessary to be obedient to the presbyters and the deacons as unto God and Christ."[40] Both Clement and Polycarp set up a hierarchy of obedience that began with obedience to God, obedience to the church, obedience to the bishop, and extended all the way through the social system to include the obedience of women and children to men. Clement wrote,

> You instructed your women to do everything with a blameless and pure conscience, and to give their husbands the affection they should. You taught them to abide by the rule of obedience...[41]

Thus, the understanding of conscience as authority shifted away from the individual self-reflection of the Greco-Roman thinkers to a new set of ecclesiastical and social meanings in which the authority of conscience was tied to the authority of the church, especially the bishop, and obligated the whole social structure. Through the influences of Tertullian, Cyprian of Carthage, and Augustine, among others, this became dogma and lasted through Late Antiquity and into the Reformation, when the tying of conscience to the church appeared to Protestants to be an egregious example of constricting papism.

The language of conscience was largely determined by Jerome and made up the basic platform upon which the language of casuistry was built.[42] Jerome gave conscience a dual set of components that consisted of (1) *conscientia* or *syneidēsis* and (2)*synteresis* . Together, they provided an interactive whole. Jerome, as noted above had translated *syneidēsis* into *conscientia*. At the same time he also identified the concept of

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[40] Ibid., 133.

[41] Ibid., 43-44.

[42] Baylor, *Action and Person*, 26.

synteresis,[43] which he defined as, "That spark of the conscience (*scintilla conscientiae*) which was not quenched even in the heart of Cain when he was driven from paradise."[44]

Robert A. Greene sees *synteresis* as having several layers of meaning. Peter Lombard who made the first important translation of Jerome's definition of conscience, mentioning it in his *Sentences* (1152),[45] ignored the expression *scintilla conscientiae* and substituted *scintilla rationis*, which Greene suggests was derived from Augustine's "identification, in *The City of God,* of the *scintilla rationis* with the image of God in man, behind which lay an earlier Greek tradition," in which the soul holds onto a "spark of its power."[46] By the twelfth and thirteenth centuries, the word *scintilla* inevitably signified *synteresis* and Bonaventure, in summarizing the powers of the soul uses the word to mean the "spark of moral discernment."[47] By the end of the fourteenth century Jean Gerson uses *synteresis* in a variety of synonyms. However, there was also a darker side to the meaning of *synteresis.* The traditional function of *synteresis* provided only a diminished perception of primal moral principles However, it could also give a perception of the "remorse of conscience which it stimulated when its insights were compared with the foolish and sinful acts of man's ungovernable appetites and deluded reason."[48]

More simply put; s*ynteresis* is the part of conscience thatfunctions as the storehouse of moral law. It expresses the belief that man is born with a complete

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[43] There are numerous spellings for *synteresis, including syntheresis, synderesis, synterēsis, suneidesis* and others. The most common spelling appears to be *synteresis.*

[44] Baylor, *Action and Person*, 26.

[45] Robert A. Greene, "Synderesis, the Spark of Conscience, in the English Renaissance." 52 (April-June 1991) :2, 197.

[46] Ibid., 199.

[47] Ibid.

[48] Ibid., 201.

knowledge of God's laws by which every action is judged and by which sin, defined by the Puritan casuist, William Perkins, as "a want of conformitie to the Law of God,"[49] is also identified. Jerome claimed that *synteresis* was a distinct, independent element of the soul that made us aware of our sinfulness when we were overcome by evil desires or were deceived by reason itself.[50] *Conscientia* or *syneidēsis*, on the one hand, is the voice that accompanies and examines every aspect of a given action and passes judgment and at the same time directs the will to recognize and acknowledge virtuous behavior. *Synteresis*, on the other hand produces the apprehension of sin.

By the twelfth century, the rational ethics of Greece and Rome, as compared to the revealed morality found in scripture and Christian teachings, no longer constituted the same kind of threat it offered Augustine and Jerome.[51] Moral education based on Roman pedagogy was incorporated into the chapters and schools of the regular canons. Bernard of Chartres, for example taught the works of Quintillian;[52] Ailred (c.1163), the Cistercian abbot of Rievaulx in Yorkshire, wrote *Spiritual Friendship*, which was modeled on Cicero's *On Friendship (De amicitia)*;[53] and Peter Abelard cited Cicero's *On Friendship,* as a standard for true friendship in the face of "disinterested love...made necessary" where physical love would be sublimated.[54] Another of Cicero's works, *De officiis,* was adapted into a twelfth-century treatise on morality called *Moralium dogma philosophorum* (Anonymous), most of which dealt with the subject of honesty and

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[49] William Perkins, *The Works of that Famous and Worthy Minister of Christ...Mr. William Perkins*, 3 vols. (London: 1612-1613), II: 3.

[50] Baylor, *Action and Person*, 26.

[51] Peter Abelard, *Ethica*, ed., D. E. Luscombe (Oxford: Clarendon Press, 1971), xxi.

[52] Ibid., xviii.

[53] Ibid., xvii.

[54] *The Letters of Abelard and Heloise*, trans., by Betty Radice (Hammondsworth: Penguin Classics, 1974), 18.

emphasized the four cardinal virtues: prudence, justice, fortitude, and temperance. The anonymous author also drew inspiration from Cicero's *De inventione* and Microbius's *Commentary on the Dream of Scipio*.[55] In his theological monograph *Ethica*, Peter Abelard compared contemporaneous Christian morality to the moral philosophies of the ancient Greco-Roman world.[56] He thought that Seneca was "of all philosophers the greatest teacher of morals" and an authority on ethics.[57]

Still, it was Jerome's definition of conscience that was embedded in the theology of conscience in the twelfth century. For the Medieval Christian, violating one's conscience led to sin and only a clean conscience could save a person from the torments of hell[58] Thus, conscience, combined with the Patristic doctrine of obedience, in effect gave the medieval church extraordinary power over men's souls. It also raised difficult questions: What was the nature of sin and where in the spectrum of the theology of conscience did the responsibility for sin rest? Although Jerome had interpreted *synteresis* and *conscientia* as dual components of a single unit, theologian philosophers of the Middle Ages like Bonaventure, Thomas Aquinas, and Peter Abelard saw *synteresis* as an ineffable and inconsistently defined concept with a wide range of meanings that raised questions such as: Was *synteresis* a potentiality or a disposition? Could it lead to wrongdoing? Was it extinguishable in some people? Bonaventure in his *Commentaries* on Peter Lombard's *Sentences* (Book II, Distinction 39) saw conscience as a consequence of rational thought and said that it was an aspect of practical reason, particularly since it was connected to the performance of action. Therefore, he wrote, it was a "dispositional

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[55] Abelard, *Ethica*, xx, xxi.

[56] Ibid., xvii.

[57] *Letters of Abelard and Heloise*, 243-244.

potentiality."[59] To paraphrase Bonaventure: We are born seeing the truth and it is immutable. We can't lose the ability to see it nor improve upon it but we can improve our ability to recognize it, accept it, or reject itand therefore Bonaventure thought that *synteresis* was a separate element, apart from *conscientia*. It was instead the spark of life provided by human beings, which *conscientia* needed to operate. It was humankind's innate desire to do good and avoid evil, which meant to avoid sin.[60]

Peter Abelard in his monograph *Ethica* appears to have had an almost twentieth-century sensibility toward sin and conscience, in which ignorance was indeed an excuse.[61] If you didn't know that you were sinning, then it was not your fault; if you were forced into sin you were not necessarily culpable. However, he also said, "there is no sin unless it is against conscience." (*Quod peccatum non est nisi contra conscientium*),[62] which presumes that if you are about to commit a sin and your conscience tells you so, then you are not ignorant of the sin. Abelard emphasized the faculty of choice and the importance of a person's ability to acquire knowledge of divine law.[63] As a result he defined sin in "an objective sense, as contempt of God," but he also went on to define it subjectively, as "consenting to that which it is believed ought not be consented to."[64] It would seem that for him there was no sin unless one acted against conscience, because ignorance of God's will excuses humankind from sin and therefore men and women have

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[58] John S. Wilks, *The Idea of Conscience in Renaissance Tragedy* (London: Routledge, 1990), 36.

[59] Douglas Langton, "The Spark of Conscience: Bonaventure's View of Conscience and Synteresis," *Franciscan Studies* 53 (1993): 84.

[60] Ibid., 85-86.

[61] Abelard, *Ethica*, xxxi.

[62] Ibid., 54.

[63] Ibid., xxxv.

[64] Ibid., 55.

an absolute obligation to follow conscience.[65] Most of the Scholastics saw *synteresis* and *conscientia* as having specific locations. The Dominican and Thomist traditions located conscience in the reasonable soul or within the boundaries of right reason. The Franciscans located conscience as an element of the will. From Aquinas forward, conscience gained currency with the notion that it was embedded in the faculty of rational thought, as opposed to the Franciscan tradition of being located in the will.

William Ames, a disciple of Perkins, confirmed in 1622, that "I call Conscience Iudgement...to shew that it belongs to the Understanding, not to the Will."[66] For him, as for his fellow casuists, conscience was a function of the practical intellect, and while it also maintained an important doctrinal function, the theologians of the seventeenth century emphasized its practical rather than theoretical qualities.

Aquinas also thought that *synteresis* and *conscientia* were interchangeable. He believed that all forms of conscience emerged out of rational thought and were infallible.[67] The soul was the Intellectual Principle (*intellectivum principium*) in human nature and conscience was but one aspect of the power of reason, which was dispositional.[68] Conscience, while located in the realm of reason was not, however, just linked to reason: It also reflected Thomist thought on law as a product of reason,[69] and as will be apparent in the chapters where specific cases of conscience are analyzed, practicing casuists appeared to draw upon the Thomist sequence of thought that moved

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[65] Ibid., 27.

[66] William Ames, *De Conscientia*, (London: 1643) 2. Wing/A2993.

[67] Baylor, *Action and Person*,. 54.

[68] Ibid., 31.

[69] Thomas Aquinas, *St. Thomas Aquinas on Politics and Ethics*, trans. and ed., Paul Sigmund (New York: W. W. Norton & Company, 1988), 44.

from eternal law to natural law to right reason and ultimately to action.[70] Aquinas defined law as the "dictates of practical reason by a ruler who governs some perfect community" and eternal law as "the rational governance of everything on the part of God."[71] The means by which a "rational creature" participates in eternal law is called natural law.[72] Natural law, which Aquinas also equated with *synteresis,* is innate; however, the exigencies of being alive, produced "dispositions" which were not innate and therefore "human reason must proceed from the precepts of natural law" and arrive at human law,[73] which is at best uncertain of human judgment and "often divergent and contradictory."[74] It should be clearly stated that although Aquinas talks about the three aspects of law as being separate and individual, he also believed that they were, in fact aggregates that were part of a whole, sometimes called eternal law.

Additionally Aquinas thought that prudence (*prudentia*) or "wisdom in human affairs," not necessarily conscience, was among the definitive virtues of humanness.[75] Finally. for Aquinas, "conscience *is* the command, *is* the accusation, not something that produces these effects. Conscience does not have a voice, it *is* a voice."[76] The issue of moral consciousness was of little consequence to Aquinas because he already saw morality as intrinsic to human action.[77] Hence, Aquinas makes the argument that conscience was a call for action. It was a linguistic argument that existed on two levels:

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[70] Wood, English *Casuistical Divinity*, xviii.

[71] Aquinas, *Politics and Ethics*, 46.

[72] Ibid.

[73] Ibid.

[74] Ibid., 47.

[75] Andrew, *Conscience and its Critics*, 18.

[76] Ibid., 36-38

[77] Ibid., 42-43.

The first was the etymological meaning of the word *conscientia,* which he translated from the Latin *cum alio scientia,* and the other was the way the word was used in common speech, which held a variety of meanings including to witness, to bind, to accuse or rebuke.[78] Aquinas built his theology of conscience on the grounds that conscience was the rational response to divine, natural, and civil law.[79] His insistence on right reason as an agent of virtue amounted to an implicit call to action that deeply informed the writings of William Perkins[80] and Jeremy Taylor,[81] both of whom acknowledged the existence of the Thomist notion that men were beholden to a tripartite body of law consisting of divine, natural and civil. Taylor, for example, writes that conscience is a conjunction of the universal practical law which calls for a particular moral action.[82] (Taylor also believed in what he called the *scintillam conscientiae* of Jerome, which he defined as the "spark or fire put into the heart of man...the conscience of the deed done."[83]) Perkins invests eternal law and individual conscience with eschatological properties.

> When a man dies, conscience dieth not: when a body is rotten in the grave, conscience livith & is safe and sound; conscience shall come with us to the barre of Goddes judgement ...before all the saints and angels in heaven. By the first duty of conscience we are to learn ... that there is a God.[84]

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[78] Ibid., 30.

[79] Aquinas, "The Treatise on Law," (Qu. 90-97) , 46.

[80] William Perkins. "A Discourse of Conscience," in *William Perkins, English Puritanist*, ed., Thomas F. Merrill (Nieuwkoop, Netherlands: B. De Graaf, 1966), 11.

[81] Jeremy Taylor, *Ductor Dubitantium* in *The Whole Works of the Right Rev. Jeremy Taylor, D. D.,* eds. Right Rev. Reginald Heber, D. D. and the Rev. Charles page Eden, M. A., 10 vols. (London: Longman, Green, Roberts and Green, et al, 1864), 9: 5, 6.

[82] Ibid., 14.

[83] Ibid.

[84] Perkins, "Discourse on Conscience," 8-9.

In the end Thomist, like Pauline thought on conscience was a predominant influence on many of the casuists' writings. Richard Baxter, for example, said, "[I] read all the Schoolmen I could get; for next [to] practical divinity, no books so suited my disposition as Aquinas, Scotus..."[85]

Martin Luther was not a significant influence on English casuistical thought, in all probability because, although he acknowledged the existence of conscience, he never stated a single consistent doctrine, despite his often quoted Here-I-Stand statement.[86] He does, however, make reference to *synteresis.* In his biblical commentary, *Dictata Super Psalterium* he refers to *synteresis* as a function of reason that seeks out "the best, the true, the right and the just."[87] Thus Luther locates conscience in the will. He later drifts away from that notion and he offers the corrective, instead that the first principle of all good works is faith.[88] Stephen Ozment[89] argues thatLuther seesaws between doctrines that express an absolute belief in the authority of conscience and the doctrine that conscience can also be erroneous and lead humankind to sin. In 1521 at Worms, Luther wrote *On Monastic Vows* in which Luther comes closest to stating a position on conscience. It is neither definitive nor deeply thought through, nor does it contain seeds of reform theology.

> Conscience is not a power of acting but a power of judging that judges about actions. Its proper task (as

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[85] Richard Baxter, *The Autobiography of Richard Baxter being the Reliquiae Baxterinae*, ed., J. M. Lloyd Thomas,(London: J. M. Dent & Sons, 1931), 9.

[86] "I am bound by the scriptures I have quoted and my conscience is captive to the word of God. I cannot and I will not retract anything, since it is neither safe nor right to go against conscience. I cannot do otherwise, here I stand, may God help me. Amen." Luther at Worms. Quoted in Baylor, Action and Person, 2-3.

[87] Greene, *Synteresis,* 203.

[88] Ibid.

[89] Steven Ozment, *Homo Spiritualis: A Comparative Study of the Anthropology of Johannes Tauler, Jean Gerson and Martin Luther* (Leiden: E. J. Brill, 1969)

> Paul says in Romans, chapter 2) is to accuse or to excuse, to determine what is chargeable and what is absolvable, about what we must be fearful and about what we may be carefree. By means of its workings something is not done, and about that which ought to be done, about things which are done fearfully or without concern before God.[90]

Nonetheless, he mentioned conscience in his writings and as Baylor notes, Luther's references to conscience showed the influence of those Scholastic[91] writers who saw *synteresis* and conscience as separate elements that formed one unit.[92] Ultimately, Luther dropped *synteresis* because it was neither biblical nor authentic Greek and used the term *Gewissen*[93] instead.

An important point for Luther was that conscience could be erroneous. Luther believed that acting according to conscience was not always good, because conscience can be in error and mislead a person,[94] a theme that comes up again in the writings of all six casuists who, like Luther, question the authority of conscience but who all, ultimately find a route toward acceptance. Jeremy Taylor in *Ductor Dubitantium, or the Rule of Conscience* acknowledged the existence of an erring conscience and found the means with which to deal with it.

> Wherever the superior or the ruling part of conscience is an imperfect rule; in the same cases the inferior is an evil judge, that is acquits the criminal, or condemns the innocent, calling good evil, and evil good; which is to be understood when the persuasion of the erring conscience is permanent...[95]

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[90] Ibid., 153.

[91] Cardinal Cajetan, who debated Luther in Augsburg (1518) was also the author of a widely used Catholic casuistic summa for confessors called the Summa Summarum, also known as the Sylvestrina. See: Baylor, *Action and Person,* 22.

[92] Ozment, *Homo Spiritualis*,128.

[93] In present-day German, it simply means "conscience." It also relates to *Gewissheit* which means "subjective certainty".

[94] Ozment, *Homo Spiritualis*, 145.

[95] Taylor, *Ductor Dubitantium*, 9: 42-43.

One of the distinctions in the separation of *conscientia* and *synteresis* is that while *conscientia* can be erroneous, *synteresis* never misleads.[96] Luther cites heresy as an example of an erroneous conscience noting that heretics obstinately act according to their consciences, but they are still committing a sin. He also says that the weak in faith should not be condemned for their weakness but should be instructed by the strong.[97] Taylor, in the same paragraph quoted above, reflects Luther by concluding that the persistence of erroneous sin, "is the cause of why so many orders of persons continue in a rebellion... while other men [who are] justly persuaded wonder at their peace, and hate their practices."[98]

John Calvin wrote extensively on conscience and along with Aquinas and St. Paul, was a greater influence on seventeenth-century English thought than was Luther. Throughout *A Discourse of Conscience* and *A Reformed Catholic,* William Perkins, a radical Puritan, expounded the principles of Calvinism.[99] Ian Breward[100] describes Perkins' notion of the minister's task and the role of the church as the keeper of holy scripture as being derived from Calvin.[101]

Calvin made three important points that became the basis for the resolutions of cases of conscience in English Protestant casuistical practice: (1) that conscience was an

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[96] Andrew, *Conscience and its Critics*, 18.

[97] Ozment, *Homo Spiritualis*, 147.

[98] Taylor, *Ductor Dubitantium*, 9: 43.

[99] Elliot Rose, *Cases of Conscience: Alternatives open to Recusants and Puritans under Elizabeth I and James I* (Cambridge: Cambridge University Press, 1975), 185.

[100] William Perkins, *The Work of William Perkins,* ed., Ian Breward, The Courtenay Library of Reformation Classics, (Appleford, Abingdon, Berkshire, England: The Sutton Courtenay Press, 1970.)

[101] Ibid., 44-45.

instrument of God's judgment,[102] (2) that obedience to magistracy reflected humankind's obedience to God,[103] and (3) that although humankind was corrupt and had to strive to fulfill God's law, men had to understand that it was an unattainable ideal.[104] He expounded these ideas in the *Institutes of the Christian Religion,* particularly in the chapters *The Nature of Conscience,*[105] the *Bondage and Freedom of Conscience,* and *How the Roman Constitution Enslaves Consciences,*[106] as well as in his writings on conscience and the Pope, conscience and the church, conscience and the Christian traditions and conscience and the law. For Calvin, conscience was central to the entire Protestant system of salvation. He specifically defined conscience as men having "...an awareness of divine judgment adjoined to them as a witness which does not let them hide their sins but arraigns them as guilty before the judgment seat – this awareness is called 'conscience...."[107] He later added the Roman Stoic notion that, "Conscience is a thousand witnesses...,"[108] a notion which largely defined the witness aspect of conscience for Perkins and other casuists. In chapter II of *A Discourse of Conscience*, Perkins writes, "...we must consider...of what things conscience bears witnesse...conscience bears witnesse of our thoughts, of our affections, of our outward actions...it bears witnesse of our secret thoughts."[109] Calvin stretched the Pauline concept of conscience as deriving its

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[102] William J. Bouwsma, *Calvin: Sixteenth Century Portrait* (New York: Oxford University Press, 1988), 41.

[103] E. William Monter, *Calvin's Geneva* (New York: John Wiley & Sons, Inc., 1967), 101.

[104] François Wendel, *Calvin: Origin and Development of his Religious Thought,* trans. Philip Mairet (Grand Rapids, Mich: Baker Books, 1997), 163.

[105] Calvin, *Institutes*, Bk. II, Ch. viii, sec 3.

[106] Ibid., Bk. IV, Ch. x, sec 2. The "Roman" reference is to the papacy. He uses the expression "Roman constitutions" in place of Papal decrees and laws.

[107] Ibid.

[108] Ibid. The quotation is cited in Calvin's *Institutes* as being from Quintilian's *Institutes of Orator,* V. xi. 41.

[109] Perkins, "Discourse on Conscience," 9.

authority from God to include conscience as the mediator between human law and God's law. For Calvin, conscience emanated directly from God ("...the blessings of a good conscience...refers to God alone."[110]) and he held, therefore, as did most Puritans, that the authority of conscience was higher than all other human judgments. In his exegesis of Romans 13:1,[111] Calvin states that Paul taught obedience to authority not in fear of punishment but "because of conscience."[112] This idea also included the dictum of obedience to magistracy, because "it follows that consciences are also bound by civil laws."[113]

> There is a twofold government in man: one aspect is spiritual whereby the conscience is instructed in piety and in reverencing God: the second is political, whereby man is educated for the duties of humanity and citizenship that must be maintained among men...There are in man... two worlds over which different kings and different laws have authority.[114]

He further made the point (and for the purposes of this dissertation it is an important point, because the issue of conscience versus secular law, particularly in respect to oaths, vows and subscriptions, dominated most casuists' writings on conscience) that:

> ...human laws, whether made by magistrate or by church, even though they have to be observed, (I speak of good and just laws), still do not of themselves bind the conscience. For all, obligation to observe laws looks to the general purpose, but does not consist in the things enjoined.
>
> Far different from this order are those laws which prescribe a new form of worshipping God...[115]

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[110] Calvin, *Institutes*, Bk. IV, Ch. x, sec 4.

[111] "Let every person be subject to the governing authorities..." RSV

[112] Calvin, *Institutes* Bk IV , Ch. x, sec 3.

[113] Ibid.

[114] Ibid., Bk. III, Ch. xix, sec. 15.

[115] Ibid., Bk. IV, Ch. x, sec. 5. In section 6 which follows, Calvin makes clear that the new forms of worship are what he calls "ecclesiastical constitutions" which are new papal laws; "traps to catch and ensnare souls."

The Puritans and Calvin arguably shared exaggerated ideas of innate corruptibility, anxiety over election, and the belief that humans are born with a knowledge of God's Laws but cannot be expected to live up to them. In the *Institutes*, Calvin describes conscience as leading directly to Divine intervention on the basis of humanity's inability to attain virtue.

> First by comparing the righteousness of the law with our own life, we learn how far we are from conforming with God's will and for this reason we are unworthy to hold our place among his creatures – still less to be accounted his children. Secondly, in considering our powers we learn that they are not only too weak to fulfill the law, but utterly nonexistent. From this necessarily follows mistrust of our own virtue, then anxiety and trepidation of mind. For the conscience cannot bear the weight of iniquity without soon coming before God's judgment. Truly, God's judgment cannot be felt without evoking the dread of death. So also, constrained by the proofs of its impotence, conscience cannot but fall straightway into deep despair of its own powers.[116]

Calvin clearly preaches a theoretical construction of conscience as a source of despair which for many Radical Puritans, moderate Puritans and nonconformists dominated seventeenth-century casuistry.

The principle that to act against conscience is sinful was a cornerstone of the Pauline-Scholastic-Calvinist position on the authority of conscience. That raised the question, how did one know if one's conscience was in error? In the case of Roman Catholics, this was provided for by the confessional and the administration of the confessional by the clergy; for Protestants, guidance was provided by a non-institutional agency such as pastoral counseling or, for that matter, casuistry. For the Catholics, the burden could be resolved through penance, but for the Protestants, the consequence of a

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[116] Ibid., Bk. IV. , Ch. v, sec 3.

guilty conscience was sin and the consequence of sin had ramifications every day of life, then after death, through eternity until the Day of Judgment.

Thomas F. Merrill[117] connects assurance of election, sin and a guilty conscience in the work of Perkins and cites as an example the full title of Perkins' *A Discourse of Conscience Wherein Is Set Downe The Nature, properties, and differences thereof: as also the way to get and keepe good Conscience.* In the dedication to *A Discourse of Conscience,*[118] one of the earliest works of casuistry, Perkins described some of the consequences of a guilty conscience:

> The benummed and drousie [conscience]...roused by the judgement of God waxeth cruell and fierce like a wilde beaste... When a man sinnes against his conscience...he plunges himselfe into the gulfe of desperation; for every wound of the conscience, though the smart of it be little felt, is a deadly wound...hardly ever cured...he that sinnes against his conscience, cannot call upon the name of God; for a guiltie conscience makes a man flee from God...What can be more doleful than to be barred of the invocation of God's name? After the last judgement [such persons] shall have not only their bodies in torment but the worm in their soule & conscience shall never die.[119]

Perkins makes three points above that reflected Protestant thought on conscience; (1) that man is helpless against an erroneous conscience because it is demonic in nature; (2) that God is the source of conscience and therefore the man with a guilty conscience will be estranged from God and (3) the consequences of a guilty conscience are eternal. The three together imply the idea of self-awareness juxtaposed with an awareness of God and the likelihood of impending judgment. It is a scenario that, with individual variations, infused the greater part of seventeenth-century daily life.

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[117] Thomas Merrill, "Introduction" in *William Perkins: English Puritanist* (Nieuwkoop, Netherlands: B. De Graaf, 1966) xviii.

[118] It was dedicated to Sir William Piryan, Knight Lord Chief Baron of her Majesties' Exchequer.

CONSCIENCE AND CASUISTRY IN A SOCIAL CONTEXT

The centrality of conscience in the seventeenth century produced an anxious concern among thoughtful, religious laymen to be certain that their moral decisions and Christian-centered conduct held a measure of prudence and rectitude. To meet those needs English Protestant casuistry and its codification of conscience took on a social context that reached beyond the ecclesiastical structures of case divinity and informed the popular imagination through four outlets: the playhouses, public sermons, private associations of clergymen and clergymen who privately consulted with individuals regarding moral doubt.

All four were venues where clergy and lay people could seek out and hear conscience-directed, casuistical argument. Although the Puritans avoided the playhouses, they were open to everyone else. The plays of Shakespeare, Marlowe and the Jacobean revenge dramas dealt with sin, either justly punished or mediated by casuistical argument but in which conscience was almost always the axis around which their conflict revolved. Puritans, on the other hand could attend sermons as could Christians of all denominational persuasions. Like the playhouses, sermons were available to the public, in every church on Sundays and holidays and on a regular basis during the week. Sermons were the focus of Puritan spiritual life; they were open to all religious groups and the participants shared in a conscience-centered response to religious admonition and prophesy. Meetings of ministerial groups and the resolutions of individual moral conflict were largely private events but they still took place in a social context. Throughout the seventeenth century ministers met in small groups on a regular basis to

[119] Perkins, "A Discourse on Conscience," 3.

discuss moral, ethical and scriptural questions in which issues of conscience were an inherent characteristic. Although these conferences were mostly of interest to the clergy, prominent citizens of the community both hosted and attended the meetings. Additionally, individual members of the clergy and individual parishioners met for the purpose of resolving conflicts of conscience. These were private, one-on one meetings and in some instances were sources for published cases of conscience. It is valuable to look at all four social contexts as indicative of the shape and importance the doctrine of conscience held in the seventeenth century. More important, however, it shows that casuistry was readily available in other forms than those in which clergymen collected cases of conscience and published them.

Camille Wells Slights says that so long as there was an issue of moral choice, the casuistical tradition of argument and presentation provided a context that illuminated the conflicts within the literary genres that concern her and provide a platform for understanding its complexities.[120] Much of the dramatic canon of the late English Renaissance, from the death of Elizabeth I to the Interregnum (when the playhouses were closed), concerned matters of sin, free will, and conscience, dramatized in such a way that it reflected the paradigms of casuistry that were taking shape. The Jacobean tragedians used "religious ideas, images and inevitably references to states of conscience in order to heighten the emotional moral and spiritual drama."[121] Conscience constituted "proof" that God was the major player in life's drama. As it was portrayed in Milton's *Paradise Lost*, conscience was a spiritual battle that separated natural law from God's

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[120] Slights, *Casuistical Tradition*, xvi-xvii.

[121] Robert Ornstein, *The Moral Vision of Jacobean Tragedy* (Madison: University of Wisconsin Press, 1960), 13.

law, with God's law on the one side and natural law on the other.[122] As shown on the Jacobean stage, natural law was sometimes synonymous with uncontrolled free will, a notion abhorrent to Protestants. *Richard III,* for example, is concerned with the consequences of unrestrained will. Richard takes natural law to the margins of *hubris.* Conscience and will were the two elements of dramaturgy that were central to the theatregoers' understanding of the play. Together, they presented a portentous inevitability that promised retribution in the form of divine judgment and assured the seventeenth-century theatregoer that, however tragic, the play would end justly.[123] All four plays of Christopher Marlowe touched on both conscience and will. In *Doctor Faustus,* Marlowe dramatized the satanic will against God's providence and predestination. Marlowe argued that the consequences of free will and an erroneous conscience led the Christian to inevitable damnation. Marlowe seemed to believe as did the Protestant theologians of the day—and certainly William Perkins—that man is helpless against free willand an erroneous conscience. "The more free the will is, the greater is the sinne...for the will cannot be constrained."[124] As for the matter of an erroneous conscience, Perkins says, "...the fact is done upon an erroneous conscience, and therefore must be a sinne in the doer. For the error of judgement cannot take away the nature of that which is simply evill."[125]

Shakespeare followed in kind. He delved into the intellectual and theological themes of conscience, erroneous and otherwise, by calling into question, notably in

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[122] Slights, *Casuistical Tradition*, 255 256.

[123] Ibid. 68-78.

[124] William Perkins, "The Whole Treatise of Cases of Conscience" in *William Perkins, English Puritanist* (Nieuwkoop, Netherlands: B. De Graaf, 1966), 95.

[125] Ibid., 100.

Hamlet, the issue of conscience as the agent of God's law. The appearance of the ghost of Hamlet's father sets the play in motion.[126] The ghost challenges the protagonists with the duty to avenge their murders. Hamlet responds knowing that conscience is a certainty of existence (*Hamlet* makes reference to conscience eight times[127]) and that a moral choice has to be made. *Hamlet* rests firmly on a substrata of moral choice, which reflects a "view of life as a struggle in which souls are lost and saved."[128] *Richard III* stands outside of conscience and is driven by will. Richard's sin is that he makes wrong choiceswhen the moral choice is apparent, as opposed to Hamlet, who makes complex moral choices of conscience.[129] In the case of *Richard III*, it is the notion of sinning against conscience that is the thematic infrastructure informing the play as it does many of Shakespeare's tragedies and histories. The speech of the Second Murderer makes that point:

> ...[Conscience] makes a man a coward; a man cannot steal, but it accuseth him; he cannot swear, but it checks him; he cannot lie with his neighbor's wife, but it detects him: It is a blushing shamefast spirit that mutinies in a man's bosom; it fills one full of obstacles:[130]

Shakespeare actually uses the word conscience more than 112 times throughout his plays.[131] It can be a minor element as it is in *King Henry V.* There, Henry tells his soldiers

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[126] Slights, *Casuistical Tradition*, 91.

[127] Andrew, *Conscience and its Critics*, 37. Andrew makes the case for Hamlet possessing a Lutheran conscience based in part on the idea that Shakespeare says that Hamlet was educated at the University of Wittenberg at the time that Melanchthon was professor of Philosophy. Marvin Spevack's *A Complete and Systematic Concordance to the Works of Shakespeare* (Hildesheim, N.Y: George Olms, 1968), confirms that the word "conscience" is used eight times in Hamlet.

[128] Slights, *Casuistical Tradition*, 91.

[129] Ibid.

[130] William Shakespeare, "King Richard III," in *The Complete Works of William Shakespeare:Cambridge Edition Text,* ed., William Aldis Wright (Phila: The Blackston Company, 1936.), i, IV, 124. The theme that "conscience does make cowards of us all," from Hamlet appears several times in Shakespeare, including twice in King Richard III.

[131] John Bartlett, *A Complete Concordance, Verbal Index to Words, Phrases and Passages in the Dramatic Works of Shakespeare* (New York: St. Martin's Press, 1966.)

to account for their own consciences before going into battle and if they live or die, not to look toward the king but to praise God.[132] In *Richard III,*[133] it is a central element of the dramatic scheme, and well it might be, since the characterization of Richard III is taken from Sir Thomas More's *History of Edward V and Richard III.*[134] Richard exemplifies Perkins's point, that the man with a guilty conscience is estranged from God.[135] "He that lieth in sinnes against conscience, cannot call upon the name of God; for a guiltie conscience makes a man flee from God." [136] For Richard, his sinful conscience is also an evil conscience and as Slights points out, the dramatic events often take on a surprising likeness to Perkin's definition of conscience which is cited above. For example, in Act 1, Scene 3, Queen Margaret when she realizes that Richard is driven by what Perkins describes as the "benummed and drousie conscience...waxeth cruell and fierce like a wilde beaste," says "The worm of conscience will begnaw thy soul." It might be noted that both Shakespeare and Perkins, who were contemporaries, saw the shape of sin as a worm that gnawed awayat the soul. It was a common metaphor of the time and Perkins says, "...the worme in the soule and conscience shall never die."[137] By Act 3, Scene 7, Richard feigns reluctance to accept the crown with a coy "Albeit against my conscience and my soul," but accept he does. As corruptive power further alienates him from God,

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[132] William Shakespeare, "Henry V" in *Complete Works*, v 1, 578. "Every Subject's duty is to the king but every subject's soul is his own...do as every sick man in his bed, wash every mote, out of his conscience...and in him that escapes, it were not a sin to think that, making God so free an offer..."

[133] Comprehensive analyses of conscience in Richard III have been made by a number of scholars, including the following: Richard Wheeler, "History, Character and Conscience in Richard III," *Comparative Drama* 5 (1971-72): 301-32; Slights, *Casuistical Tradition*, 68-79; and Robert Heilman, "Satiety and Conscience: Aspects of Richard III," *Antioch Review* 24 (1964): 57-73.

[134] Shakespeare, *Complete Works,* 112.

[135] Perkins, "Whole Treatise," 83.

[136] Perkins, "Discourse of Conscience," 3.

[137] Ibid.

he recognizes that he will suffer the consequences of ignoring the voice of conscience. It is Perkins's wounded conscience, a "deadly wound...little felt," which Richard will come to understand is eternal. Despite that, Richard refuses to recognize God's voice and as in *Hamlet* equates the refusal to obey conscience with cowardice: "For conscience is a word that cowards use."[138] Richard is amoral and conscience will not make a coward of him. The consequences of not recognizing *synteresis*, or not hearing the voice of God are legion, and one of those is the uneasy sleep of the damned, a notion that Perkins understood. "For as the sicke man, when he seems to sleep and take his rest, is inwardly full of troubles."[139] In the end, Richard can no longer sleep and the terrors of the last judgment appear to him as dreams.[140] By comparison, Hamlet is driven by conscience but lacks ambition, while Richard ignores conscience and is driven by ambition. In both instances conscience, as described by Perkins, operates as *deus ex machina* and serves to reinforce the point that conscience was central to the spiritual life of the seventeenth century. That said, it is in *Henry VIII*[141] that Shakespeare mirrors prevailing Jacobean attitudes toward having a clear conscience. Wolsey claims, "I know myself now; and I feel within me a peace above all earthly dignities. A still and quiet conscience."[142] The parallels of thought connecting Shakespeare and Perkins on matters of conscience bear, to some degree, on the matter of Shakespeare's religious commitment and raises the

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[138] Shakespeare, *King Richard III*, V iii, 211.

[139] William Perkins, A Discourse of Conscience, in The Workes of that Famous and Worth Minister of Christ,,,Mr. William Perkins, 3 vols. (London: 1612-1613), I: 516. Also quoted in Slights, *Casuistical Tradition*, 69.

[140] Wilks, *Idea of Conscience*, 47.

[141] Scholarly writings on *King Henry VIII* open the question of Shakespeare's full authorship of the play. The exact date is unknown, however, it was being performed on June 29, 1613, the date when the Globe theatre burned down. The fifth act is said to have been based on Foxe's *Acts and Monuments*. See: *Complete Works of Shakespeare: Cambridge Edition*, 1328.

[142] William Shakespeare, "King Henry VIII," 1353.

issues of whether or not the similarities of thought was a sign of a common Scholastic heritage, a predisposition toward Puritanism or indicative of possible Roman Catholicism.

After Shakespeare and Marlowe comes a second but flourishing tier of Jacobean dramatists. Among them were John Ford (1586-c. 1640), Cyril Tourneur (c. 1575-1626), John Webster (fl. 1602-1624), and Thomas Middleton (c. 1570-1627), whose works, like Shakespeare's and Marlowe's, filled the playhouses with issues of moral choice that glanced inward for its resolutions, often with extraordinary violence. They relied in large measure on conscience as a motive for conduct and their work was often characterized by a pervading pessimism, alien to the Elizabethan humanist temper.[143] As Robert Ornstein points out, the Spenserian ideals of chivalry twenty years earlier were a joke to the Jacobean tragedians,[144] and "they were caught between old and new ways of determining the realities upon which moral values rest."[145] In John Ford's works, for example, the issues are often overwhelming passion or uncontrolled will as opposed to self-restraint, which he, with almost casuistical proficiency, translates into the ancillary theme of natural law as opposed to God's law. In *'Tis Pity She's a Whore,* for instance, the subject is brother-sister incest, and the second act contains the argument that the protagonist's desire for his beautiful sister is natural, but forbidden by God. The casuistical argument can be summed up as, why did nature make her so beautiful while God forbids me to touch her? The issues of natural law versus God's law is the dramatic paradigm that shapes the play.

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[143] Ornstein, *Moral Vision...Jacobean Tragedy*, 3 4.

[144] Ibid., 47.

[145] Ibid., 6.

As with Ford and Tourneur, John Webster also reflected prevailing attitudes toward conscience, although in his case, conscience functioned almost entirely as psychomachia. He was the author of numerous dramas, poems, and pageants, two of which stand out above the rest: *The Duchess of Malfi* and *The White Devil.* The plot of *The Duchess of Malfi* concerns the crossing of class lines and sinning against conscience. For Webster, conscience was a factor only as long as it was a guilty conscience:

> ...a guilty conscience
> Is a black register, wherein is writ
> All our good deeds and bad, a perspective
> That shows us hell![146]

The play depicts a "dramatic state of mind that the casuists discussed in terms of evil conscience."[147] Webster differed from Tourneur and Ford by his own outspoken moral outrage. In *The White Devil,* his characters do not discuss natural law but make their choices instead on the basis of will. They are villainous, Italian[148] immoralists who will pay for their emancipated, willful ways, and when they do, they will acknowledge that the penalty, which is inevitably death, is also just. God's law is acknowledged and conscience is, for Webster, the voice or knowledge of God that threatens eternal damnation. "Let all that doe ill, take this precedent: Man may his fate foresee but not prevent,"[149] he proclaims. Ford and Webster were only two of many contemporaneous

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[146] John Webster, *The Duchess of Malfi, The Revels Plays*, ed. John Russell Brown, (London: Methuen, 1972), 356-59

[147] Slights, *Casuistical Tradition*, 67.

[148] The fact that they are Italian is a signal of their depravity. Ford, Tourneur, and Webster have all set most of their plays in Renaissance Italy which was seen by the Elizabethans and the Jacobeans as being both a decadent and pious society at the same time. "English Protestant imagination [saw] Italy...as a sink of atheism , luxury and sensual abandonment." Ornstein, *Moral Vision...Jacobean Tragedy*, 107.

[149] John Webster, White Devil, ed. John, Russell Brown, (London: Methuen, 1972), 178-161. Also quoted in Ornstein, *Moral Vision...Jacobean Tragedy* 138.

dramatists. Others like James Shirley (1596-1666), Ben Jonson (1523/4-1637), Thomas Middleton (1580-1627), and Thomas Dekker (c. 1570-1672), again to cite a few of many, allwrote works for the public playhouses that had psychological and theological underpinnings in which there was an issue of moral choice and conscience was a motive for behavior.

Like the culture of the playhouses, the culture of homiletics took on a dramatic shape centered around conscience. Sermons focused on conscience, not so much in their content as in their intent, which was to invoke the strictures of conscience as a motivating force in maintaining Christian conduct. The pulpits of England were open to all and sermons were available to all who would listen. They were central to the worship of Protestants: Doctrine held that all services were to be centered around the sermon; the sermon itself was centered around scripture.[150] Sermons, which were a source of greater concern to Puritans than Anglicans, were venues for spiritual, conscience-based discussion. Thus, sermons reflected the conscience in a social context and equally as important, certainly to this dissertation, is the fact that all six casuists who are discussed below, and whose writings on homiletics are cited, had distinguished careers as ministers and were reputed to be passionate preachers.

Sermons had a traditional set form: The minister opened by reading the text, a passage from scripture. He then stated the relevance that the topic of the sermon had to the text. This was followed by exegetical argument, which in turn was followed by common objections to the argument. His conclusion was the heart of the sermon. It consisted of admonition, prophesy and the proper use that could be made of the sermon

[150] Barry Coward, *The Stuart Age* (London: Longman, 1995), 81.

the parishioners just heard. The pattern was largely consistent no matter whether the inclination of the preacher was Puritan or Conformist.

Both William Ames and Jeremy Taylor give directions for delivering a sermon and in both instances they follow a similar pattern.[151] The differences were in length and fervor. Many sermons held to a world view of an unfolding eschatological continuum leading to the final battle in which the forces of Christ would triumph over the anti-Christ, an idea that appeared frequently from 1618 onwards, the time of the Thirty Years' War when many English wanted England to go to war for the purpose of defending Protestantism.[152] All sermons were grounded in scriptural reading. Few, if any, took the shape of cases of conscience, nor were many based on conscience alone, but rather conscience figured as either the consequence of behavior or a rationale for action. Conscience was also used as a medium of admonition. As such, sermons because they were open to all, presented a public social context in which casuistical arguments of conscience could be heard.

Puritans might well go to hear sermons as often as three times a day on Sundays and in addition, there were prayers twice a day, every day. On Sunday evenings, Puritan heads of households and fathers of families memorized and rehearsed the main headings and important points of that day's sermons.[153] There were Bible readings every day, meditation every day and a constant reiteration of catechism. The essential difference between Puritan and Church of England factions was that the English church stressed

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[151] William Ames, *The Marrow of Theology,* ed., John Eusdan (Boston: Pilgrim Press, 1968), 191-197. Also, Taylor, *Works*, 1:107-111.

[152] Coward, *Stuart Age*, 82.

[153] Horton Davies, *Worship and Theology in England: From Cranmer to Baxter and Fox, 1534-1690*, 2 vols, Combined edition (Cambridge, UK: William B. Eerdmans, 1996), 2: 139.

ritual and the role of the priest as a bearer of the sacraments,[154] although the sacraments were infrequently celebrated. The center of the service was the liturgy. Both the 1559 and 1662 prayer book provided for the creed in the communion service if the clergy so desired. Further, although there were morning and evening services, no sermon was called for in the *Book of Common Prayer*. Services may or may not have had a sermon. The Puritans however declaimed Holy Writ and saw preaching as a means of unlocking the intricacies of scripture and at the same time opening their lives to Old and New Testament prophesy. Thus, for Puritans, the sermon was the center of the service.[155]

The great preachers of the day were well-known figures like John Donne, Lancelot Andrewes, William Barlow, Henry Hammond, and each of the six casuists discussed in this dissertation along with the second tier of casuists like John Sharp, John Dury and Gilbert Burnet, a modest sampling from a distinguished plenitude. They could all deliver a message that constituted an aggressive assault on the spiritual faculties of the listener and at the same time, they called the conscience of the listener into question. It was politics as theatre and religion as politics, a heady mixture that on occasion forged scripture, the King, conscience, and salvation into one demanding statement of faith. England, at that time seemed obsessed with preaching, which reached its peak between the 1640s, and the end of the 1650s, after which preaching started a long, slow decline in both style and importance[156] that, to a degree, mirrored the decline in casuistry. All of the casuists were preachers and all of them had published volumes of collected homiletic works. Being published moved them a step away from the spiritual and into the political

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[154] Stuart E. Prall, *Church and State in Tudor and Stuart England* , (Arlington Heights, Ill.: 1993), 115.

[155] Davies, *Worship and Theology*, 2: 138.

[156] Ibid.,, 2: 133.

world. Publication of anything gave the government and in particular the king some control of what was said.[157] Who sermonized and what was said became public record. Furthermore, publishing had been a franchise of the Crown until 1695 when it lapsed. William Perkins included both casuistic as well as homiletic writings in *A Case of Conscience, the Greatest that ever was: how a man may know whether he be the childe of God or no*. Robert Sanderson collected his sermons in separate volumes and two of their titles give an indication of their contents: *Twelve sermons preached, whereunto are added two sermons more, the one Preached at St. Paul's Crosse, the other at Visitation, Concerning the Persuasion of Conscience* and *Two sermons...the right use of Christian liberty...May 6...[and] persuasion of conscience...Aug, 22, 1634.* (Both are referred to below.)

Under most circumstances, the basic purpose of a Protestant sermon was to impart divine revelation as it was stated in Scripture and at the same time enhance the notion of the Protestant Covenant. Sermons dealt with a wide range of subjects, such as the mercy of God , assurance of election, and inevitably, among Puritans, aspects of predestinarian theology. William Ames, for example, who preached on predestination stated that God knows how many will be saved and who the actual persons are.[158] He believed, with seeming casuistic reasoning, that the church only existed where the word was preached.[159] For him the act of preaching was a step in the salvific process that was

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[157] *In God's Name: Examples of Preaching of Preaching in England from the Act of Supremacy to the Act of Uniformity, 1532- 1662,* ed., John Chandos (New York: Bobbs-Merrill Company, 1971), xxiv.

[158] John D. Eusdan, "Introduction" to William Ames, *The Marrow of Theology* (Boston: Pilgrim Press, 1968), 25-26.

[159] Ames, *Marrow,* 56.

indebted to Christ who, himself had been a preacher and served as the model for contemporaneous clergymen, all of whom, Ames said, should have a "call" to preach.[160]

> The public career of Christ was given to preaching and working miracles. Grace and authority were always joined to the teaching of Christ...the object of his preaching was basically the gospel or the kingdom of heaven.[161]

Ames regarded conscience as the target toward which the text was to be aimed.

> In order that the will of God be set forth fruitfully for edification two things are necessary. First, the things contained in the text must be stated; second they must be applied to the consciences of the hearers... They sin who stick to the naked finding...Such preachers edify the conscience little or none at all.[162]

The quotation from Ames, cited above, comes from Chapter XXXV of *The Marrow of Theology* entitled *Ordinary Ministers and their Office in Preaching.* The chapter consists of a seventy-paragraph manual on preaching that is valuable to look at for two reasons; the first because it outlines the set form of a sermon and the second because it enumerates the qualities a minister should have. Ames presumes that the minister who has received a call from God is a person of extraordinary talent and his burden is to convince his flock that he is conveying the majesty of God's word. Among the points Ames makes is that the authority of the minister comes directly from God, not the church; the purpose of the preaching is for the edification of the listeners and for this the ordinary must be well educated. Doctrine must derive from scripture and precede analysis which must be logical. It should all come to a conclusion with a confirmation that consists of proof from scripture, structured for "use," an expression that Ames calls,

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[160] Ibid.,, 191.

[161] Ibid., 140.

"a theological principle deduced from a doctrine which shows the use, goodness or end of it."[163]

The twentieth-century mind might find Ames' range of ministerial authority somewhat overwhelming. A sermon, he says, should offer direction "which is needed in the practice of life [consisting of] instruction and correction;" instruction which is the "setting forth of the life which ought to be followed;" and correction which is a "condemnation of the life which ought to be shunned."[164] He goes on to talk about delivery of the sermon, emphasizing that it should be lively enough to "transfix" the unbeliever; that it must provide consolation, exhortation and admonition, all of which must not seem manifest of human wisdom or "carnal affections" but rather seem to be, throughout, a demonstration of the Holy Spirit.[165] Toward that result, the preacher is asked to eschew human testimonies or anecdotes involving human beings, despite Paul who quoted the words of "heathen poets" (without naming them) because, Ames says, human words violated the "purity, perfection and majesty of the word of God."[166]

Ames, as mentioned in the introduction was a follower of William Perkins and like Perkins a radical Puritan. Jeremy Taylor, who was an Arminian and defender of episcopacy, in direct opposition to Ames, also wrote an extensive manual on preaching that was part of a visitation tract called *Rules and Advises to the Clergy of the Dioceseof Down and Connor.* There are notable differences between him and Ames that go beyond style and inclination, the most visible being that Ames concentrates on a word-centered,

[162] Ibid., 19- 2.

[163] Ibid.,, 190-193.

[164] Ibid., 193.

[165] Ibid., 194.

[166] Ibid.,, 195.

God-mandated theology whereas Taylor concentrates on a church-centered, sacramental theology. Rather than simply concentrating on content and delivery, Taylor concentrates on the characteristics of the minister. "Let every minister be careful to live a life...abstracted from the affairs of the world...;"[167] observe Christian simplicity; suffer no quarrels, houses of debauchery, drunkenness or lust in the parish but "bring them all to peace and brotherly kindness."[168] As for content, Taylor asks that the minister speak of the four last things, of Death and Judgment, Heaven and Hell and to do so in language that uses, "primitive, known, accustomed words."[169] In several places, Taylor reminds the minister that he must honor "feast days because they contain in them the great fundamentals of our faith," an admonition that reflects Arminian sacramentalism. Taylor who had written several thousand pages on casuistry, may have presumed that most ministers practiced casuistry. In the section of the manual entitled *Rules and Advises Concerning the Visitation of the Sick*, Taylor warns his reader to be careful under what circumstances the minister practices casuistry.

> In answering the *cases of conscience* of the sick or afflicted people,
> consider not who asks, but what he asks; and
> consult in your answers more with the estate of his soul,
> than the conveniency of his estate.[170]

Throughout the seventeenth century sermons were published in collected volumes as well as in inexpensive chapbooks thatwere sold door -to-door by itinerant peddlers. Richard Baxter (1615-1691), a self-termed nonconformist, claimed to have been converted as a young boy by a sermon of William Gouge thathis parents purchased from

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[167] Taylor, *Works*, 1: 102.

[168] Ibid., 1: 105.

[169] Taylor, *Works*, 1: 109.

[170] Ibid., 1; 113.

a door-to-door peddler.[171] Geoffrey Nuttall describes Baxter's childhood as "...marked by a concern for preaching...[and] a willingness to suffer for conscience's sake."[172] Preaching apparently had a lifelong impact on the boy because when he grew up he published his own sermons. In the *Reliquiae Baxterianae,* an autobiographical volume by Baxter, Baxter wrote that what was said in the pulpit as well as what was published was talked about in much the same way that people get together today and discuss the news.

> Every Thursday evening, my Neighbors...met at my House, and there one of them repeated the Sermon...proposed what doubts any of them had about the sermon, or any other Case of Conscience, and I resolved their doubts."[173]

Baxter, although ultimately a nonconformist, had mediated his religious position several times in his life, seemingly in response to a continually developing theology. Similarly with preaching: Baxter's point of view included growth and change. For example, he held differing opinions on the controversy of preaching directly from scripture as opposed to extemporaneous preaching. Perkins, Ames and Taylor, as cited above, firmly held that all preaching had to emerge from a text of scripture. Baxter, however, made exception to this, claiming, in *A Christian Directory* in a section called *Ecclesiastical Cases of Conscience* that, based on "sacred orations" and homilies made by the early church fathers like Gregory Nazianzen and others, "it is lawful to preach without a text."[174] True to casuistical form, he cites Scripture as authority, specifically

[171] Baxter, *Reliquiae Baxterianae,* 3-4.

[172] Geoffrey Nuttall, *Richard Baxter,* (London: Richard Nelson, 1965), 11.

[173] Baxter, *Reliquiae Baxterianae*, 83.

[174] Richard Baxter, *A Christian Directory*, (Morgan, Pa: Soli Deo Gloria Publications, 2000), 718.

Acts 2 and 3, and Luke 4:18,[175] as examples. All three references are to spontaneous preaching. Baxter supports his contention by comparing the contemporaneous preacher to ancient priests and says that, like the ancient preachers, using text is the fittest way to preach but that there is also room for preaching without it. He articulates the difference between the biblical prophets who preached spontaneously and priests in stating that the prophets brought a new word from God but it was the priests' job to interpret it: "We are not the successors of the inspired prophets; but the priests were teachers of God's received word."[176] That said, later in his life in 1684 he also said:

> For my part, it is easier to pray or preach six hours in freedome, about things which I understand, than to pray or preach the tenth part of an hour in the fetter of a form of words which I must not vary.[177]

Yet neither position was meant to cancel out the other.[178]

Baxter was passionate about preaching. His aim was to reach an understanding and then to touch the heart. He never preached for less than one hour, measured with an hourglass on the lectern and always carried a written manuscript, which, despite the quotation above, he may or may not have used since he was described as speaking with "vehement intensity."[179] He also said that it was easier to preach three sermons without notes than one with them.[180] With as much simplicity of language as possible, he opened almost all of his sermons on scriptural text, touched on possible misunderstandings and

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[175] Acts 2 is when the Galilean spontaneously preached in tongues and in their own language; Acts 3 is when Peter and John heal the lame stranger and burst into prophesy and Luke 4:18 is "When the spirit of the Lord is upon me and he has anointed me to preach."

[176] Baxter, *Directory*, 718.

[177] Quoted in, Nuttall, *Baxter,* 50.

[178] Nuttall, *Baxter,* 48

[179] Frederick J. Powicke, *Richard Baxter: 1615-1691*, (London: Jonathan Cape, Ltd., 1924), 50.

[180] Powicke, *Baxter*, 256.

objections, then, like Ames concentrated on "use" and ended with an appeal to conscience.[181] "I seldom come out of the Pulpit, but my Conscience smiteth me that I have been no more serious and fervent."[182] He considered the sermons of Lancelot Andrewes and casuist Joseph Hall to be "lifeless."[183]

Among the functions of seventeenth-century preaching was that a sermon was, on occasion, as much a conduit for political information as it was a spiritual experience, and often both.[184] One of the most visible venues for such activity was St. Paul's outdoor cross. Jessica Martin described Robert Sanderson, who was a predestinarian, as a "Calvinist Laudian"[185] and notes that, in 1627 he preached the last sermon ever preached at St. Paul's Cross on the subject of predestination. The fact that the venue was St. Paul's Cross gave weight to the message. The Cross was an outdoor pulpit that had a direct relationship to British history: In the sixteenth century Ridley and Latimer preached there and in the seventeenth so did men like Immanuel Bourne and John Donne.[186] Because the makeup of the auditory was visible to all who passed by or came onto the church grounds, preaching at the Cross confirmed the importance of the homily. That Sanderson was preaching a predestinarian homily publicly had seemingly less political than spiritual intent since the contents of the homily implied the existence of a visible church and pleaded for greater charity in human affairs.[187] Sanderson's introduction to the

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[181] Ibid., 51.

[182] Quoted in, Nuttall, *Baxter,* 49.

[183] Powicke, *Baxter*, 282.

[184] Chandos, *God's Name*, 110.

[185] Jessica Martin, *Walton's Lives: Conformist Commemorations and the Rise of Biography* (London: Oxford University Press, 2001), 274.

[186] Millar Maclure, *Register of Sermons Preached at St. Paul's Cross: 1534-1642*, (Ottawa: Dovehouse Editions, Inc., 1989), 72-3, 75, 85.

[187] Martin, *Walton's Lives,* 277.

sermon in the *Register of Sermons Preached at St. Paul's Cross, 1534-1642,* described the sermon as

> A subtle discourse from a distinguished casuist, upon the sin of Abimelech, treating of how far ignorance excuses sin, and of the nature of God's mercy in the restraint of sin.[188]

Nonetheless it was predestinarian and apparently had notable political implications because shortly thereafter Archbishop Laud put a stop to all public predestinarian sermons.[189] Sanderson's genius may have resided in the fact that he safely tread a path between Calvinism and conformity because Sanderson's next sermon at the Cross was by appointment of Laud, *Concerning the Right Use of Christian Liberty* in which Sanderson, in spite of his Calvinist beliefs, "argued against the objections of the Puritans who contended that the ecclesiastical ordinances set bounds to Christian liberty."[190]

Preachers not only preached to the public, they preached to each other, often on the occasion in which an archbishop made a visitation to a parish . On October 8, 1641 Sanderson, who was by then the Archbishop of Lincoln made a visitation to Grantham preaching on Matthew 15:9,[191] in which instance conscience was a component of the homily in which Sanderson told the auditory to draw the differences between the commandments of men as opposed to the commandments of God. Referring to human beings he said , "If they have not sufficient foundation in the sacred text...to be pressed upon our judgments or consciences...they are to be held as chaff..."[192]

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[188] Maclure, *Register of Sermons*, 132.

[189] Martin, *Walton's Lives,* 274.

[190] Maclure, *Register of Sermons*, 137.

[191] But in vain they do worship me, teaching for doctrines the commandments of men.

[192] Robert Sanderson, *XXI Sermons: viz Ad Clerum,* (London: 1641), 3.

Sanderson, who Izaac Walton described as being moderately tall, of plain comeliness, affable, mild and methodical, "but so matchless a fortitude, as secur'd him from complying with any of those many Parliament injunctions, that interfer'd with a doubtful conscience,"[193] may indeed have had a comforting presence and trusting mien. In 1631 on Laud's recommendation, Sanderson was appointed to be the personal preacher of King Charles I. He preached before him, on the Isle of Wight both publicly and privately. For Charles I, Sanderson's sermons were indeed a matter of conscience: The King supposedly said, "I carry my ears to hear other Preachers, but I carry my conscience to hear Mr. Sanderson and to act accordingly."[194]

The playhouses and the pulpits were highly visible social conduits for matters of conscience and casuistry. Conscience and casuistry also filtered down to private venues such as informal groups of Puritan ministers who came together, as the spirit moved them to pray, sing psalms and discuss sermons. Within time some of these informal groups, which included prominent members of the community formed associations, and conferences. They met on a regular basis for the purpose of discussing sermons, matters of conscience, and questions of liturgical procedures. Many of the conferences, also known as a "classis" kept records of their proceedings, the most complete being *The Minute Book of the Dedham Classis: 1582-1590.* By the end of the sixteenth century they evolved into formal conferences, such as the group organized by Samuel Clarke in Cheshire which met for a day of discussion every three weeks, " at all the richer men's

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[193] Izaac Walton, *The Lives of John Donne, Sir Henry Wotton, Richard Hooker, Richard Hooker, George Herbert and Robert Sanderson* (London: Methuen, 1895), 274.

[194] Ibid., 249.

houses."[195] The conference was formally structured. After prayer, three questions were read; the younger members gave their opinions first, together with proof from scripture; then the older persons spoke. The conferences started in the morning, continued through dinnertime and ended in the evening when the master of the house assigned three questions for the next conference.[196] By the 1630s, some of the conferences were seen as subversive, grounds from which sectarian and separatist congregations emerged.[197]

The Puritan Classis was an important stage in the gradual progression from spontaneous discussion to formal conference. A Puritan classis was a group, usually twelve in number, of neighboring ministers who met together on a regular basis.[198] It was originally Calvinist in character and offered discussions on how to maintain Calvin's Discipline. The Discipline was a system of behavior that connected action and scripture, meaning that individual conduct and behavior reflected the tenets of scripture. The system put the minister in the position of disciplinary agent who was expected to censure a parishioner who persisted in committing a condemned action. Scripture however can be ambiguous or silent on social, civil or religious matters and give rise to what Richard Bancroft, a pastoral member of the Dedham Classis, in 1593, called, "Dangerous Positions...published and practiced within this illand of Brytaine, under pretence of reformation and for the presbiteriall discipline."[199] The Classis discussed those positions among themselves or, as they referred to one another, among brethren. One of the entries

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[195] John Spurr, *English Puritanism: 1603-1689* (News York: St. Martin's Press, 1998), 36.

[196] Spurr, *Puritanism*, 36-37.

[197] Ibid., 37.

[198] Clifford, "Casuistical Divinity in English Puritanism," 4n.

[199] *Conferences and Combination Lectures in the Elizabethan Church: Dedham and Bury St. Edmunds, 1582-1590* Patrick Collinson John Craig, Brett Usher, eds. (Suffolk, UK: Church of England Record Society; Boydell Press, 2003), xv, xlix, lxxx.

in *The Minute Book of the Dedham Classis*, for example talks about a Classis in which the ministers discussed the Book of Common Prayer and, "what might be tolerated and what might necessarily to be refused in euery point of it: Apparel. matter, forme, dayses, fastings, iniunctions etc.," after which is added, "Our meeting was appointed to be kept very secretly and to be made knowne to none etc."[200] The Classis however should not be viewed as a conspiratorial entity operating in the shadow of a coercive state-church. As ministers of that church they operated on the assumption that they had a sufficiency of authority to make and impose decisions. Although of Puritan predilection, the Classis was essentially a Conference or presbytery within the Church of England, operating in much the same way as did congregations of limited power and authority.

The classis took up all manner of questions dealing with conscience-related matters. The following case of conscience was indicative of the way the Classis worked, and also reflected the influence of the Classis movement on casuistical manuals. It revolved around the issue of, "whether a Pastor called to a place may leave the people they being unwilling of his departure." [201] In September 1584, one Bartimaeus Andrewes wanted to leave his ministerial post in Wenham for the higher paying job of town preacher in Yarmouth. Despite the higher pay, the job held the lower title of Doctor rather than Pastor. Two members of the Classis were assigned to see whether they could get Andrewes a raise and keep him in Wenham but Classes work slowly and by December 1585, Andrewes had left on his own accord and went to an unspecified town, probably Yarmouth. The Classis admonished him. Andrewes countered with his side of

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[200] Roland G. Usher, *The Presbyterian Movement in the Reign of Queen Elizabeth as Illustrated by the Minute Book of the Dedham Classis, 1582-1589*(London: Offices of the Royal Historical Society, 1 905), 7.

[201] Collinson, Craig, Usher, *Conference and Combination Lectures,* xciii.

the story and a meeting was held at the home of Edmund Sherman, Dedham's leading clothier. The meeting was attended by a full conference including Dedham's bailiff. The decision went against Andrewes on the basis that the bond between pastor and congregation was, like marriage, inseparable and furthermore it was not right to go from a higher title to a lower.[202] Thus, the casuistic decision was that Andrewes had to stay where he was and the case of conscience should have ended there. However, two months later in February 1586 , Andrewes, during the February Classis sent a message to the conference that he had left town anyway.[203] Andrewes' leaving was indicative of the fact that the Classis movement could censure but not enforce discipline. However, during the disputation, one Mr. Negus of Ipswich offered an observation on the Discipline and said that every man that professes himself desirous of Discipline should exercise it himself. When Negus heard that Andrewes had gone he "moved whether he might saflie in conscience preach being requested thereunto..." In other words, he claimed that the town requested him to preach in Andrewes place but, as it happened he was not yet a minister and that led the conference into yet another case of conscience.[204]

The cases of conscience that were raised, are also covered by later casuistical manuals. Richard Baxter in the chapter *Ecclesiastical Cases of Conscience* in *A Christian Directory* for example, covers the question of ministers not being ready. Baxter titles his Case: *Whether the true calling of the minister by ordination or election, etc. be necessary to the essence of the church?* Baxter defines the church as a "political society of

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[202] Ibid.

[203] Ibid.

[204] Ibid., 15-16. In the interest of completing the story: Negus got the job but relations between him and the congregation broke down and he landed a job with a congregation in Lee, South Essex. When he asked permission to leave, the Classis told him to stay in Ipswich. He went to Lee anyway.

Christians...not a community." He then lists the qualifications for being a minister as being acceptable to God, understanding the articles of faith "without heresy," having the ability to teach, Godliness, and "ordination when it may be had." He weighs his pros and cons against the precedent of a kingdom without a prince but with a usurper: "It is a kingdom, but faulty." Baxter's conclusion is that the minister can preach if the people will have him but it is a questionable situation.[205]

Not all cases of conscience that came before a Classis were of major importance and not every case warranted counsel. On Dec 6, 1585, at the 38th meeting of the Dedham Classis, the conference was asked to counsel on the case of an unnamed party who had married his wife's sister. (Marriage to a dead wife's sister was illegal. [206]) He stated that if the conference thought it was a sin, he would then leave her.

> It was answered that the marriage was unlawfull and that he was wed in Adulterie, but the brethren knew not whether his motion came of conscience or of a carnall desire to have another, and therfore wold not geve counsell in it.[207]

Conferences, associations and Classes had little power in implementing their decisions, other than by invoking the authority of conscience, as evidenced by Bartimeaus Andewes. However they affected the conduct and thinking of their members. Most of his life Baxter belonged to associations of ministers whom he states had immeasurable influence on him. For example, during the late 1640s, disturbed by aspects of religious conformity, and in spite of ecclesiastical disapproval of secret meetings, he belonged to a small group of Nonconformists who met in Shrewsbury, that made a lasting

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[205] Baxter, *Directory*, 632-633.

[206] Collinson, Craig, Usher, *Conference and Combination Lectures,* 28, n92.

[207] Ibid., 28.

impression on him by their "prayers...conference...and holy lives." Although he disapproved of nonconformism at that time, he later embraced it[208] and defended it at his peril, as is discussed in the third chapter.

Conferences and Classes provided a means by which the clergy could discuss issues of conscience, in relative privacy, or at least among like-minded colleagues. It would appear that the much of their discussion concerned issues similar to those which also came up in private counseling, the difference being that the arena for discussion in that instance was one-on-one, as opposed to the classis which was a group of twelve or more. The intent of person-to-person, or clergy-to-lay-person discussion however, was similar; to resolve moral doubt. All clergy met with individual members of their congregations to talk about issues of conscience and it is, in fact, the compilation of these conflicts of conscience that gave rise in certain instances to books of casuistry. There are, however, problems with the individual discussions of conflicts of conscience in that there are few records extant of the discussions themselves. The voluminous books that were compiled by casuists and the regular clergy deal mostly with the clergyman's response to the issues of conscience and rarely recount the problem from the layman's perspective. Michael Hunter says of case divinity emerging from the clergy-lay-person relationship that the

> evidence we have on the subject is very one-sided... what we know about its theory and practice comes from clerics who purveyed advise on questions of conscience to laymen who consulted them...it is less usual to find a surviving record made by one of those on the receiving end...detailing the matters on which the clerical mentors were consulted and the advise given.[209]

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[208] Quoted in, Nutall, *Baxter,* 12.

[209] Michael Hunter, *Robert Boyle 1627-1691*: Scrupulosity and Science (Rochester, N.Y.: Boydell, 2000), 72-73.

One-on-one casuistry between clergy and lay-person were among the sources of a casuist's collected cases of conscience. The following are three brief cases of conscience that came from specific instances in which a casuist advised a lay person on the resolution of a moral doubt. In these instances the arena of social context is both small and private as opposed to playhouses, sermons and conferences. One of Robert Sanderson's cases of conscience, dated July 7, 1656 was published in 1665 as *The Case of Marrying with a Recusant*. It was originally a person-to-person-case, conducted by letter that was published as part of a larger work, *Nine Cases of Conscience.* Judging from Sanderson's introductory letter the case was brought to Sanderson by an unspecified acquaintance (Sanderson starts the case with a letter addressed to, "Sir") whose daughter was going to marry a recusant, at a time when the Puritan Commonwealth was in effect and marriage to professed recusants was unlawful. Sanderson begins by questioning the lawfulness of the issue.

I am so far from thinking the thing in itself to be simply,

> and *toto genere* unlawful; that I dare not condemn the Marriage of a *Christian* with a *Pagan* (much less with any other *Christian,* of how different persuasion soever) as simply evil and unlawful, inasmuch as there be Causes imaginable which seem not only lawful, but expedient as well.[210]

That said, Sanderson states that the law must be nonetheless considered.

> I conceive it altogether unsafe for a Conscientious person (especially in a business of so great concernment, as the Marrying of a Child) to proceed upon the General Lawfulness of the thing without due consideration of the circumstances.[211]

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[210] Robert Sanderson, *Nine Cases of Conscience* (London: Printed for H. Brome, J. Wright and C. Wilkinson, 1678. Wing / S618. Copy from Union Theological Seminary Library), 2.

[211] Sanderson, *Nine Cases,* 2.

Furthermore, he goes on, the difference between "Protestants and Papists" is such that

> *evil consequences* probably to ensue upon such Marriages are so many and great, that the conveniences which men promise to themselves from the same...would not turn the scale.[212]

He enumerates many of the dangers of such a marriage among them: the husband will put the wife in danger of damnation; The Roman Church will want to convert her; and she will become a heretic.

However, as a casuist he then gives the circumstances under which the situation might possibly work but he speaks with immense trepidation: If they persist in this folly, the utmost they can expect is a measure of conjugal happiness.[213] The boy must, of course convert. He must also be questioned on whether or not he knows *The Fundamental Articles of the Christian Religion*. Additionally, it would be best if his parents were dead so the boy wouldn't be "*assaulted* by the *whole authority* of them to whom he owes reverence."[214] Also, their chances would be improved if they were of the same economic station in life.

Sanderson ends the case by comparing the "*English* and *Romish Church,*" the important principle to be concerned with here being, that the "*Church of England* doth not *impose* upon the *judgments* and *consciences* of her *Members* anything to be *believed* or *received*, as of necessity to *Salvation*."[215] Essentially, Sanderson begins by making a legal case for the acceptance of the marriage; he then offers his objections; he follows it

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[212] Ibid., 3.

[213] Ibid., 5.

[214] Ibid., 6-7.

[215] Ibid., 8.

up with the circumstances that could make the marriage work and closes by recommending against it, but not forbidding it.

Sanderson largely dealt with cases of conscience that touched the popular imagination such as *The Case of Unlawful Love* and *The Case of a MilitaryLife.* Joseph Hall on the other hand wrote difficult ecclesiastical works that included two important books on Protestant meditations. However, when Joseph Hall was Bishop of Norwich, he wrote his major work on casuistry, in 1650, entitled *Cases of Conscience Practically Resolved: A Decision of the principall Cases of Conscience of daily Concernment and continual Use among men*. What sets the book apart from his other writings is his contention that the forty cases of conscience which make up the book, emerge out of, and are directed toward, the "simpler sort of Christians; and as matter of grave censure to the learned."[216] His cases are short and his concerns are clearly practical as his title suggests. Several of his cases are surprisingly, secular in nature. The first ten cases for example concerns such matters as whether it is lawful to lend money at interest or whether or not a buyer can sell his merchandise at any price the market can bear. This dissertation will look at two contrasting cases here. The first is the third case in the book *Whether is the Seller bound to make known to the Buyer the faults of that which he is about to sell?* and the second, which is the eighth case in the book, *Whether and how farre doth a promise extorted by fear, though seconded by an oath, bind my conscience to performance.* The first case of conscience is almost entirely secular in content and conscience directed. The second relies heavily on biblical precedent and reflects a larger, political picture wherein governance, including oath-taking is often coercive.

In the first case of conscience in which the question arises, must the seller tell the buyer the faults of the merchandise, Hall's authority dates back to Diogenese, Cicero and Cato who faced similar decisions and asks what is the nature of the fault: "Whether it be slight and unimporting;..[is it] either unusefull or dangeous to the buyer...[is the fault] apparant, or secret...."[217] Hall then says that "slight and harmless faults" may be concealed by the seller but an important fault must be "signified." The buyer thinking that the merchandise is perfect, "bind[s] the seller in conscience to void the bargaine or to give just satisfaction."[218] The seller must also consider whether or not the buyer trusts the seller because he believes in the sellers honesty and if so, "a double bond lyes upon the seller to deale faithfully with the buyer." Hall largely takes an ethical course without resorting to religion other than to remind the seller that, "he is a member of a community both civill and Christian...and it is not lawful for a Christian Chapman to thrive by fraud."[219]

In the first case which is entirely ethical in nature, Hall relies on Stoic and Roman thought to establish his precedent. In the second case, in which the question is asked, does an enforced oath bind conscience? Hall relies on Scripture. He starts his case with the pronouncement that, "A mere promise is an honest man's strong obligation; but it be withall backed with an oath, the bond is sacred and inviolable."[220] If however the promise is unlawful, the oath-taker has sinned. "It was ill to promise but was worse to

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[216] Joseph Hall, *Cases of Conscience Practically Resolved: Containing A Decision of the principall Cases of Conscience, of daily concernment and continuel use among Men; 3rd ed.* (London: Printed by R. H. and J. G., 1654. Wing/H371. Copy: Harvard University Library), n p.

[217] Ibid., 20.

[218] Ibid., 20-21.

[219] Ibid., 23.

[220] Ibid., 54.

perform."[221] Hall cites Herod and Salome. Herod's oath was "ill-principled and he should have responded that he could only do what was lawful, rather than kill an innocent man. Hall cites "learned casuists" who say that a forced oath is void but he "dare not goe along with them."[222] His example is Joshua's oath to the Gibeonites in which "there could not be a greater fraud," yet, although Joshua thought he broke the covenant, he kept it. Saul broke the covenant and Israel suffered plague and famine. Hall concludes that where once God was invoked, it could not be undone. If, therefore

> a bold thief...has set his dagger to your belt, threatened
> to stab you, unless you promise and sweare to give him
> an hundred pounds...I cannot see how you (if you be able)
> can dispense with the performance; the only help is...
> that nothing hinders why you may not, when you have done
> call for it back again, as unjustly extorted.[223]

Hall's sense of casuistry is apparent when he suggests that it is indeed possible to get the money back, despite the oath:

> We are beholden to the Jesuite[s] for so much of a reall
> equivocation; why should you not thus right your selfe, since
> you have only tyed your self to a mere payment of the summe;
> upon taking it down to him, you are free.[224]

What he is saying is that once you have performed the oath, the implied agreement is over and you are free to recover the money. However, Hall says, only in the event that the thief did not swear you to secrecy are you free. Even then,

> If you find your silence may be prejudiciall to the publique
> good...you ought, though not to accuse him for the fact done
> unto you; yet give warning to some in authority to have a
> vigilant eye for so leud a person.[225]

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[221] Ibid., 55.

[222] Ibid., 56.

[223] Ibid., 58.

[224] Ibid., 59.

[225] Ibid.

Meaning: Your actions must affects the public good. If you are the only person it affects,

> then you must hold close to performance [because] it should be a just shame to you, that a Pagan[226] should out of common honesty hold himself bound to his word, (not without the danger of torment and death) when you that are a Christian slip away from your oath.[227]

That raises the question of how does it affect the public good. One way is to use some of that money to make a charitable contribution or better yet, make a gift to the church.

Among the contentions of this dissertation is that casuistry infiltrated the ranks of clergy as well as laity who did not consider themselves to be practicing casuists. They did not meet the criteria established in both the introduction and chapter two. Nonetheless, they practiced casuistry, albeit of a highly individual kind. What sets them apart from the six casuists with which this dissertation is concerned is that they did not keep records of their cases of conscience. Still they attempted to resolve cases of conscience and, like Sanderson, Ames and Hall, participated in casuistic events such as the Engagement Controversy debates. Among them were four prominent men: John Sharp, Archbishop of York, who became prominent under William and Mary; Thomas Hobbes, who was in the vanguard of British moral philosophers and who practiced a unique kind of secular casuistry; John Donne, who wrote four books on casuistry, two of which, *Biathanatos* and *Pseudo-Martyr* were important statements. (*Pseudo-Martyr* is discussed at length in chapter four because it defends the Jacobean Oath of Allegiance); John Dury, who was a Puritan clergyman and wrote an important rebuttal to Robert Sanderson's *The Case of the Engagement,* also discussed at length in chapter five, and

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[226] Hall is referring to Attilus Regulus here.

[227] Hall, *Conscience Practically Resol*ved, 60.

Anthony Horneck (1641-1697) who was lesser known. Horneck is included here, along with two others as examples of an ordinary clergyman of no extraordinary repute who advised on cases of conscience but did not compile the records of his cases.

John Sharp, Archbishop of York, spiritual advisor to Queen Anne, was disdainful of casuistry but applied the fundamental tripartite doctrine of eternal, natural and civil law to the resolution of cases of conscience. Sharp's cases of conscience were largely concerned with people who had broken away from the conformist High Church.[228] Like Perkins and Ames, he was a product of Cambridge but, unlike them, he was committed to the conformist policies of the High Church. In 1684 and 1685, he published two anonymous pamphlets on the subject of conscience, *A Discourse concerning Conscience* and *A Discourse concerning Conscience: the Second Part: Concerning A Doubting Conscience*. Both pamphlets defined conscience as a faculty that was limited in its scope regarding the sphere of obligation. Kevin T. Kelly sums up Sharp's definition of conscience as a judgment concerning the "lawfulness or unlawfulness of an action" that, in order "to be rational, must have some criterion against which it judges things," some kind of rule that is based on the law of God. That law includes both revelation, the laws of nature and the binding powers of human law.[229] Kelly points out a similarity between Sharp and Sanderson. As noted in the third chapter, Sanderson practiced a casuistry that is balanced between human law and the innate knowledge of God's law, as did Sharp. However, they part company in how widely they apply their casuistry. Sharp restricts the role of conscience to those duties commanded by God and those things forbidden by God

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[228] Kevin T. Kelly, *Conscience: Dictator or Guide* (London: Geoffrey Chapman, 1967), 106.

[229] Ibid., 107-109.

that would be considered sins. He establishes a field of obligation or what might be termed a casuistry of obligation, in which cases of conscience that do not concern obligation are resolved by prudence and human law.[230] Sharp sees actions outside the sphere of obligation as "indifferent actions" that do not ultimately affect conscience.

The notion of balance between human law and an innate knowledge of God's law comes up in the letters of the Earl of Nottingham, Secretary of State under William III, to Archbishop Sharp regarding the taking of The Abjuration Oath. The Abjuration Oath called for forswearing any rights claimed by the Pretender of the Throne of England. It was part of the Act of Settlement in 1701, which was designed to insure a Protestant succession to the throne after the deaths of William III and his successor, Queen Anne. The oath stated that any person who tried to hinder the next in succession ascending the throne would be guilty of treason. The Abjuration Act, so called by Parliament, extended the time allowed for accepting the bill which became known as the Oath of Abjuration. The oath forswore all members of the House of Lords and Commons, clergymen, dissenters, teachers and lawyers to repudiate the Pretender and his descendants.[231] The Earl, who was concerned that the oath was inconsistent with the belief in God's providence, wrote to Bishop Sharp:

> ...the Oath of Abjuration with which we were threatened is now before us...how this is consistent with the belief of God's Providence or how they, who formerly trembled at it can now be advocates for it I can't imagine nor can I reconcile so very different sentiments;...The safest side in conscience is to refuse it.[232]

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[230] Ibid., 109.

[231] David L. Smith, *The Stuart Parliaments: 1603-1689* (New York: Arnold, 1999.) 170 -171.

[232] A, Tindal Hart, *The Life and Times of John Sharp Archbishop of York* (London: S.P.C.K, 1949), 332.

Sharp's reply has been lost but based on Nottingham's second letter and Sharp's position as Archbishop he, in all likelihood, disagreed with Nottingham's desire to refuse the oath. Sharp appears to have said that as a member of Parliament, it was Nottingham's duty to take the oath. Nottingham still had doubts and responded with,

> Your Grace reasons very justly...yet I apprehend the argument is founded upon a principle, which I can't entirely come up to and therefore, since it is a duty of a subject to actively obey. as far as is consistent with his own conscience, I have been endeavoring to draw the conclusion...that I might reconcile my practice to my faith.[233]

Nottingham reluctantly agrees with Sharp but recognizes that as a man, he has doubts. In a moving statement he says

> What I have said upon this subject, I think is just and true but it would have been a great satisfaction to me to have had an assurance of it as your Grace's approbation.[234]

His rank as a member of Parliament won out. Two months later, with great hesitation, Nottingham swore the Abjuration Oath.[235]

Sharp also used casuistical reasoning as a device in his homiletics, which were neither glorious oratory nor brilliant literature, as were reputed to be the case with the six casuists.[236] That said, it should be noted that although Sharp attended to cases of conscience, he was generally skeptical of casuistry, particularly the value of probabalism. Edmund Leites cites a sermon by Sharp on double doubts, a situation in which an act is both a duty and a sin at the same time. In the sermon, Sharp invoked the issue of probability by arguing the degree to which the person believed that the sin was major and

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[233] Ibid., 333.

[234] Ibid.

[235] Ibid., 332-333..

[236] Ibid., 67.

the duty also major, as opposed to believing that the sin was trivial but the duty was great. The issue was probabilistic and the configurations of sin and duty almost endless. Rather than resolving the problem, Sharp asks why bother, since the people to whom this discourse is directed would find the issue impractical.[237] Still, Sharp says he is citing the rules for resolving this case of conscience because they are the only principles available by which one can make a safe and informed judgment. Ultimately, "Sharp denied the utility of casuistry altogether," saying that people mostly wanted to "gratify their appetites without transgress[ing] divine law." Further, he implies that there is no need for an "instructor," meaning a casuist, since virtue, religion and charity is obvious in any quandary; if it is not, there is little point in deliberating choices.[238]

As casuistry was absorbed into certain segments of the English seventeenth-century social system, it gave rise to men like John Sharp, who, although not casuists, seemingly integrated the casuistic techniques of creating a case study based on a moral dilemma and resolving the dilemma through scriptural or legal precedent. As quasi-casuists, they were beholden to men like Perkins, Ames, Baxter and Taylor. Margaret Sampson makes the case for Thomas Hobbes as a sometime casuist "usurping a social role and function which were once the preserve of the clergy." Hobbes had bragged that his writings on moral philosophy could easily replace complete libraries on moral theology.[239] For Hobbes, who was anti-clerical, casuistry was not grounded in the theology of salvation so much as its jurisdiction was rooted in the legal code and an

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[237] Edmund Leites, "Casuistry and Character" in *Conscience and Casuistry in Early Modern Europe.* Ed., Edmund Leites (Cambridge: Cambridge University Press, 1988), 126.

[238] Ibid., 127.

[239] Margaret Sampson, "'Will you Hear What a Casuist he is?' Thomas Hobbes as Director of Conscience." XI.4 (Winter 1990): 722,

individual's conflict with the law. Hobbes further disliked casuistry because he saw it as a means by which the clergy gained power over the laity through the agencies of salvation and damnation. Hobbes practiced lay casuistry and scholars have seen his efforts as a way of making lay supremacy the mechanism of judgment between clerical and civil jurisdictions with a goal being to render casuistry, such as he would practice it, secular.[240] Sampson points out that the call for reform of common law during the Interregnum was indicative of the movement toward transferring power from the common lawyer to the laity. Hobbes' intention to make himself into a casuist was to further the movement of lay supremacy, a philosophy which Sampson says developed within a Protestant context.[241] She argues the case that Hobbes' disdain for moral theology was based on her claim that casuistry had "developed an unsavory reputation" as early as the 1650s, and that Protestant divines in their zealous rejection of popery "willfully misrepresented the nature of Roman casuistry," thereby tainting casuistry's reputation.[242]

Johann Sommerville complements Sampson's premise by showing how Hobbes accepted some of the basic tenets of Protestant casuistry and rejected others. Hobbes rigorously rejected the fundamental doctrine of Protestant casuistry when he argued in *De Cive* that what man does against his conscience should not be a sin. At the same time, he clearly embraces basic Calvinism when he writes that the citizen should obey the

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[240] Ibid., 723.

[241] Ibid.

[242] Ibid., 727.

monarchy in all things except that which is contrary to God's commandments.[243] Hobbes takes his definition of conscience from the Schoolmen and later the Protestant casuists. He started out believing that conscience was a description of shared knowledge but ultimately ended up saying that the "traditional doctrine of conscience was vulnerable to exploitation by priests."[244] He bases his disagreement of the doctrine that an act against conscience is a sin on his belief, because he believed that the law of the sovereign constituted a public conscience, crafted for the purposes of providing the citizen with guidance.[245] His thinking appears to provide the basis for his participation in the Engagement Oath debate.

It is with the Engagement Controversy, discussed in detail in chapter five, that Hobbes takes on some of the coloring of the Protestant casuist. It is also the same period during which he wrote *Leviathan.* The debate surrounding the oath was grounded in the question of whether or not one could tender allegiance to a *de facto* magistrate as opposed to a *de iure* succession of the legitimate monarchy. As a participant in the debate, which has been described as an exercise in political casuistry,[246] Hobbes took the *de facto* position that suggested that so long as people submitted openly to the protection of a government, they were under obligation to that government.[247] For Hobbes, the concerns of private conscience was terrain where neither natural nor civil law prevailed

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[243] Johann Sommerville, "Conscience Law and Things Indifferent: Arguments on Toleration from the Vestarian Controversy to Hobbes and Locke," in *Contexts of Conscience in Early Modern Europe 1500-1700.* Eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 177.

[244] John Spurr, "The Strongest Bond of Conscience: Oaths and the Limits of Tolerance in Early Modern England" in *Contexts of Conscience in Early Modern Europe 1500-1700.* Eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 162.

[245] Ibid.

[246] Sampson, "Will you hear What a Casuist, 724.

[247] Quentin Skinner, "Conquest and Consent: Thomas Hobbes and the Engagement Controversy" in *The Interregnum: The Quest for Settlement 1646-1660.* Ed., G. E. Aylmer (London: MacMillan, 1974), 96.

and it represented so great a diversity of private opinions that human beings would have to choose in favor of their own good as opposed to choosing the good of the sovereign power. John Spurr cites Hobbes as saying that in the course of time his view of conscience would prevail and humanity would be its own judge, accused only by its own conscience, dictated to only by the right reason of its own intentions.[248]

Hobbes, who took on individual cases of conscience[249] shared with William Perkins the idea that one of the functions of casuistry was to educate the conscience rather than judge it. At the same time, he claimed that casuistry more often confirmed an individual's evil purpose than affirmed his civil duty.[250] Like all casuists, Hobbes uses Scripture as authority and cites the apostles as instructors, not dictators, seeking to "convert the laity thorough persuasion rather than power." He thus claims that the only power the clergy should have over the laity was that of exemplary moral conduct, to be used to maintain a peaceful society.[251] Hobbes sounds briefly like Perkins when he says that everything one needs to know about moral duty, faith and the right conduct for salvation is in Scripture. He parts from Perkins on the question of how far one takes the morality of scripture before toleration becomes rigorism.[252] Hobbes often attacked the rigorism of Puritan divines with the intention of convincing them that they should abandon secular casuistry and leave it to the laity. As indicative of their theologies,

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[248] Spurr, "Strongest Bond," 162.

[249] Sampson, "Will you hear What a Casuist, 733.

[250] Ibid., 727.

[251] Ibid., 728.

[252] Ibid, 729.

Sampson points out that the signature scriptural text for Perkins was Romans 14:23,[253] for Hobbes the more lenient Romans 13:1-2.[254]

Hobbes' "pretensions" as a casuist provoked John Bramhall, an Irish theologian and critic of Hobbes, to write, "his whole works are a heap of mis-shapen errors, and absurd paradoxes, vented with the confidence of a juggler...."[255] In the *Castigations of Mr. Hobbes,* he ironically described Hobbes as "An Excellent Casuist." He accused Hobbes of arriving at the resolutions of cases of conscience, purely on personal whim and in ignorance of casuistic method.[256] Nonetheless, Hobbes was a practicing casuist, albeit on his own secular terms.

John Dury, like John Sharp, practiced casuistry but left no significant compilation of cases of conscience among his writings. It would appear, however, that by default he had been instrumental in getting Richard Baxter to write the monumental 948-page *A Christian Directory.* Dury had traveled throughout the continent and knew many of Europe's theologians. From a brief notice in the *Advertisement* to Baxter's *Directory*, it appears that Dury "from many foreign divines subscribed a request that, the English would give them in Latin a Sum of our Practical Theology."[257] James Usher, Archbishop of Armagh and Primate of Ireland, turned down the project. George Downame, Bishop of Londonderry, accepted and died trying. Richard Baxter finally took on the project and

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[253] Ibid. Romans 14:23. Whatsoever is not of faith is sin. KJV

[254] Ibid. Romans 13:1-2. There being nothing in men's manners that makes them righteous or unrighteous, but their conformity with the law of the sovereign. KJV

[255] Thomas Hobbes, "An Answer to Dr. Bramhall" in *English Works of Thomas Hobbesof Malmesbury.* Ed., Sir William Molesworth (London: J. Bohn, 1839-1845), 4:382.

[256] Sampson, "Will you hear What a Casuist, 733.

[257] Baxter, *A Christian Directory*, 4

succeeded.[258] It is helpful in assessing Dury that he did not take on the project himself, although, as John T. McNeill says, Dury wrote 89 works at least six of which are in the field of casuistry.[259] He was, however, influential in defining the nature of Puritan casuistry as being grounded in scripture. In an exchange of letters with Samuel Hartlib, a reformer and publisher concerned with the unification of Protestant churches and education reform, about the differences between practical divinity and case divinity, Dury claims that practical divinity is fully and plainly written down and explained according to scripture so that the organization of the case and its undoubted truths are clear, Case divinity, Dury writes, takes into account the variety of circumstances that lead to a doubting conscience and that the two, case divinity and practical divinity, must be joined together in the same case of conscience.[260]

Further, all the cases of conscience must be joined together to arrive at the kinds of criteria or what he calls "Rules" by which cases can be judged. He also calls for the development of categories under which cases can be divided so that there will be a consistency of judgment. More important, Dury calls for "the application of Biblical principles [Rules] to particular problems [objects]."[261] By emphasizing criteria derived from scripture, Dury is setting Puritan casuistry apart from Roman Catholic casuistry, which resolved moral quandaries by resorting to moral principles derived from a hierarchical system of law. Puritan casuistry, by contrast, depended upon biblical principles, appropriately categorized to resolve crises of conscience.[262]

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[258] Ibid.

[259] John T. McNeill, "Casuistry in the Puritan Age." *Religion in Life,* 12 (1943): 80

[260] Clifford, "Casuistical Divinity," 69

[261] Ibid., 71

[262] Ibid.

John Dury was a useful catalyst in the Engagement oath debates. As a Puritan "Engager," he took a hard Calvinist line of non-resistance to magistracy at a time when other Puritans considered the subscription a compromise to their consciences. Robert Sanderson wrote about the Engagement oath and took the moderate Calvinist position in his important *The Case of the Engagement*, and Dury responded with his equally as important *A Case of Conscience Resolved: Concerning Ministers Medling in State-Matters* (1649). Although Dury was a Puritan and John Sharp a High Church conformist, they held somewhat similar positions on the matter. For Dury, the argument was that it was wrong to question magistracy and therefore the role of a spiritual guide, or casuist, in that matter was inconsequential.[263] For Sharp, the casuist was entirely dispensable because the law of the land prevailed over the obedience to magistracy.

John Donne's reputation, when he was alive, was more as a courtier in the court of James I than as the clergyman (Dean of St. Paul's) he ultimately became. After his death, he was mostly remembered as a poet. Izaak Walton, however, allegedly found "copies of divers letters and cases of conscience that had concerned his friends, with his observations and solutions of them,"[264] among which were two letters that referred to collected volumes of cases of conscience that have since been lost, as noted above. It would appear that, in addition to being clergyman, courtier and poet, Donne was also a practicing casuist. Like both Sharp and Dury, he was critical of casuistry, but unlike Sharp and Dury, it was not simply a general dissatisfaction. In a letter to Sir Thomas Lucy, Donne cites probabalism as the critical element, saying that casuists are so

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[263] Edward Vallance, "The Decline of Conscience as a Political Guide: William Higden's *View of the English Constitution* (1709)" in *Contexts of Conscience in Early Modern Europe 1500-1700*Eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 75.

[264] Walton, *Lives, 39*

indulgent that they allow the conscience to accept any probable opinion that works even if it permits dissembling.[265] That, however, did not prevent Donne from using probabalism in his own cases of conscience. Still, it is an understandable cavil, since Donne shared with most casuists the general understanding that individual conscience is the center of human moral life. He further respected the complexity of conscience and said that there is nothing in life without perplexity, nothing that did not require intellectual inquiry.[266] Donne used preaching as a platform for casuistry. In several of his sermons, he referred to other casuists and explained the way they classified conscience and advised consulting a casuist in doubtful cases. Slights describes a sermon on Esther 4:16,[267] wherein Donne set up the story as if it were a case of conscience with ethical questions calling for clarification. The passage tells the story of Esther. Hearing that Haman will kill all the Jews at her husband, the kings's, request, Esther violates the king's edict that no one come into his presence on penalty of death in order to save her people. In doing so she violates natural law by risking her life and the king's law by disobeying his edict. She was further bound by God's law, which she could not have invoked unless her conscience was absolutely clear. By invoking ahierarchy of God's law, natural law and human law, Donne resolves the conflict of conscience. He explains that in a conjunction of the three classifications of law, one must obey that which comes from the greatest power and imposes the greatest duty. Esther, he says concluded that her relationship to the king meant that his edict did not apply to her. Further, she did not break the law by exposing herself to danger because she was bound by a greater duty, to

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[265] A.E. Malloch, "John Donne and the Casuists," *Studies in English Literature* 1 (1962): 59

[266] Slights, *Casuistical Tradition*, 134.

[267] Esther 4:16. Go gather together all the Jews that are present in Shushan…KJV.

save her people. In the end, Donne resorts to probabalism and concludes that had Esther's plight been known at the time the laws were crafted, provision would have been made for this case.

Donne is important to this dissertation because of *Pseudo-Martyr*, a work of casuistry written in defense of the Jacobean Oath of Allegiance, In 1609, James I promulgated an oath of allegiance, written in the tradition of both the Henrician Act of Succession and the Elizabethan Oath of Allegiance, with the difference being that the Jacobean oath called for the repudiation of papal authority in England. The oath became a center of debate. Donne wrote *Pseudo-Martyr* at the request of the King. Both the oath and *Pseudo-Martyr* are discussed in detail in chapter four.

In the late seventeenth-century, a time when scholars would have it otherwise, as discussed in the second chapter, casuistry was seemingly wide-spread throughout the social fabric of England. Numbers of clergy and laymen practiced casuistry but left few records behind. They did not have the stature of Dury, Donne, Sharp and Hobbes, but nonetheless built significant reputations. Dr. Anthony Horneck, for example was a country clergyman who spent 26 years in reduced circumstances as a preacher in Devonshire until 1671 when he was appointed to the Savoy Church in London. His fortunes picked up when he was appointed Prebendary at Westminster and later at Wells. He wrote against Romanism. He was the originator and principle director of the Religious Societies for whom he also counseled on cases of conscience.[268] J. H. Overton uses Horneck, among others, to make a case for there having been "abundant evidence that the Anglican Divines fully appreciated the value of casuistry," after the Restoration. He

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[268] J. H. Overton, *Life in the English Church: 1600-1714* (London: Longmans, Green, 1885), 97-98.

writes that a chair of Moral Philosophy or Casuistical Divinity was set up at Cambridge in 1683. He further cites clergy who counseled on cases of conscience among whom were Horneck who was "frequently addressed to...on cases of conscience that "were very extraordinary." He further notes a Mr. Marsh, Vicar of Newcastle whose "known abilities in resolving cases of conscience drew people from remoter distances for his counsel." He also cites Henry Dodwell, a layman who advised his young minister on the importance of cases of conscience.[269]

Taken together all four venues, playhouses, pulpits, private ecclesiastical conferences and individual casuistry indicate a wide range of concern on the parts of the English clergy and their public for the elements of conscience-directed, casuistic argument. All four reflected the notion that few religious people doubted that they could talk to God and God to them. As Protestants, the discourse inevitably expressed concern over salvation. They understood that at the final reckoning, only a clean conscience could secure them from the torments of hell and thus almost any discourse between themselves and the Almighty invariably involved the question, What is the right thing to do? Casuistry offered at least one answer.

[269] Ibid., 333.

CHAPTER TWO

THE HISTORY OF CASUISTICAL DOCTRINE.

Seventeenth-century English Protestant casuistry was a new, possibly subversive understanding of individual conscience thatconfirmed the thesis of Protestant anxiety over election, particularly among Puritans for whom such anxiety had been articulated by John Calvin.[1] To the theologian William Perkins, anxiety over election was a gift that came with God's grace and he saw casuistry as the revealed solution to the problem of assurance of election and a means by which to relieve the intense pressure of that gift.[2] His book on casuistry, *A Case of Conscience the Greatest that ever was: How man may know whether he be the Child of God or no*, is about the idea that, in a world uneasy over salvation, conscience was a moral justification of election. Embedded in his idea of conscience was the secondary theme that revelation authorized action as duty.[3] In other words, conscience could not be ignored. It was a source of moral knowledge and, for Perkins, that knowledge empowered its possessors. Conscience, as discussed in the previous chapter, was heard as a voice from within that carried the authority of revelation[4] and the reminder that the potential sinner was still within receiving distance of the infinite mercy of God, thus necessitating a need for a codified course of moral and spiritual guidance: casuistry.

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[1] William J.Bouwsma, *John Calvin: A Sixteenth Century Portrait* (New York: Oxford University Press, 1988), 32.

[2] Keith Thomas, "Cases of Conscience" in *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer,* eds., John Morrill, Paul Slack, and Daniel Woolf (Oxford: Clarendon Press, 1993), 34.

[3] William Perkins, *A Case of Conscience the Greatest that ever was: How man may know whether he be the Child of God or no.* (London 1626). xv.

[4] Thomas F. Merrill, "Introduction" to *William Perkins, 1558-1602, English Puritanist.* (Nieuwkoop: De Graaf, 1966), xix.

This chapter will concentrate on the history of casuistic doctrine, covering the writings of the Greek and Roman Stoics, and the importance of medieval and Tridentine thought in the development of casuistic doctrine. It contends that casuistry was a Puritan construction that produced a vast body of conscience based literature that was taken up by a large group of Church of England clergy. This literature came about in direct response to pre-existing Jesuit manuals of penance and manuals of instructions for use in the confessionals, no versions of which existed that met the needs of Protestants.[5] At its inception Puritan casuistry had as its goal a means by which ecclesiastical groups such as the Classis and Conference systems might implement a reordering of Calvin's Discipline,[6] a theology in which all human activity is virtuously conducted according to scriptural tenets so that a person may be eligible for participation in a metaphorical Lord's Supper. Thus, there were two considerations that came together and eventually developed into forms of casuistical argument: There was a need for spiritual and moral guidance from within the Protestant universe and there already existed an orderly structure of guidance in the Roman Catholic Church.[7]

As is discussed in greater detail below, Puritan casuistry emerged out of Roman Catholic casuistical writings which trace their antecedents to the theology of Scholastics like Aquinas and Bonaventure and later the medieval penitentials. Albert R. Jonsen and Stephen Toulmin, however, trace Christian casuistry as beginning in the year 1000 AD, around which time the case method of deciding moral issues emerged. They also claim that the roots of Christian casuistry are to be found in three earlier systems of thought: the

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[5] Norman Clifford, "Casuistical Divinity in English Puritanism during the 17th Century: Its Origins, Development and Significance" (Ph.D. diss., University of London, 1957), 14.

[6] Ibid., 4.

"ideas of Greek philosophy, the judicial practices of Roman Law, and the traditions of Rabbinical debate that developed within Judaism."[8] Although Aristotle and other philosophers differentiated between practical and theoretical knowledge, they had not come up with a system of case morality, which Jonsen and Toulmin define as paradigmatic cases of conscience to be resolved in a practical, rather than theoretical manner.[9] Nor did the Aristotelians recognize those specialized areas of social behavior that we today classify as "law, ethics, politics and procedural distinctions."[10] Instead, ideas of ethical behavior were tied into a citizen's obligation to the *polis* and to a limited degree matters of justice were determined by a collective citizenry.

The Romans operated similarly to the Greeks, except for those instances when "ambiguous or marginal situations arose and the Romans turned to the College of Pontiffs,"[11] who were under no legal obligation to explain or give reasons for their judgments. In the end, despite the codification of Roman law, they did not so much apply the strictures of an ordered legal system, as simply arbitrate disputes.[12] Rabbinical Judaism fell somewhere between the Roman and the Greek systems in that it was based on the two traditions of written law and oral law; oral law amplified and interpreted written law and written law derived its authority from the *Mishnah*, a compilation of treatises covering the rabbinical interpretations of Talmudic aspects of religious and civil

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[7] Ibid., 16.

[8] Jonsen, Albert R. and Steven Toulmin, *The Abuse of Casuistry* (Berkeley, Ca.: University of California Press, 1988). 47.

[9] Ibid., 23.

[10] Ibid., 48.

[11] Ibid., 52.

[12] Ibid., 53.

life.[13] This literature which grew exponentially as the Diaspora encountered other nations and other cultures became the basis for systems of rabbinical judgment that helped the Jews adapt to new and isolating circumstances.[14] Although rabbinical judgment did not encompass the principles of formal case morality, rabbinical debate, based on a collective literature of Talmudic law was closest in spirit to what ultimately became English Protestant casuistry, which too was based on a collected literature of conscience.

Jonsen and Toulmin say that the first formalized instance of casuistry appeared in Cicero's *de Officiis*, which strung together a series of moral dilemmas for the purpose of uncovering a cohesive moral system based on conscience.[15] The Ciceronian or Stoic moral system defined conscience as being a guardian of cosmic harmony and the basis of virtue. Cicero used two elements to build a moral argument; 1) structured cases of moral dilemmas and 2) conscience. Taken together they functioned as casuistry in the sense that they expressed the elements of a moral argument in the form of a conscience-based argument. Cicero accepted the fundamental Stoic premise, that virtue was a balance between rational thought and an ordered universe. However, Cicero also knew that where virtue existed so did a system of rights and wrongs along with unattainable ethical values. Stoicism ignored the problems of human frailty in favor of lofty wisdom but Cicero, like the Greeks, saw those problems in terms of the community and its demands. He was appreciative of "civil achievement" but he also abhorred "unprincipled pragmatism." This

[13] Ibid., 56.

[14] Ibid., 57.

[15] Ibid., 76.

led him to become the world's first casuist, says Jonsen and Toulmin.[16] In effect, Cicero brought a measure of practical utility to theoretical argument: He believed, for example, that it was the task of the arbitrator to arrive at the resolution of an ethical dilemma that was practical and could be "supported by 'reasonable justification,' "[17] and he structured his thesis in a way that "offered posterity the first example of casuistry."[18] He posed the proposition that when an advantageous situation may also be morally wrong, one does not have to abandon the advantageous situation because, if it is indeed morally wrong, there can be no true advantage. For him, the morally correct resolution was always the advantageous one because it demonstrated the Stoic premise that the "law of nature binds all humans into a community."[19] Reason (*logos*), it would appear governed the operations of nature, and man participated in reason. Reason determined human behaviorand supported the idea that ethical behavior and a good conscience indicated harmony in the universe. Cicero wrote in *De Senectuate* that a good conscience was the foundation of man's greatest joy.[20]

Cicero and the Stoics mattered to seventeenth-century Protestants in the age of conscience for two reasons. The first was that by the end of the sixteenth and the early years of the seventeenth centuries, the works of Sextus Empiricus (the Phyrronists) and the Skeptics plus Stoic writers like Seneca and Cicero inspired the Neostoic movement that became a prominent faction in the Elizabethan and Jacobean courts and influenced the way the nature of conscience was regarded. James I, for example, railed against both

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[16] Ibid., 76.

[17] Ibid., 78.

[18] Ibid., 79.

[19] Ibid., 80.

Stoic and Puritan egalitarianism, seeing them as similar affronts to his authority but, Michael Baylor argues, that he "clings to the Stoic theory of conscience for its own sake" because he needed his audience to sympathize with him and to believe in the "uprightness of the king's individual conscience."[21] The second reason that it appealed to the Puritan faction was that the Stoic construction of conscience shifted away from being mostly an awareness of right reason and leaned toward the idea that conscience was an affirmation that everyone was born with an intrinsic knowledge of eternal law, a notion which closely reflected Puritan theories of conscience.[22]

Although Jonsen and Toulmin cite Cicero as being the first casuist, they make the case for casuistry, in general, being indebted to Pauline Christianity[23] wherein Jesus is presented as a controversial rabbi who preached the contradiction that Judaic law is above everything, but who, at the same time, asserts that he himself is above the law: "Observe all these Commandments, but if you would be perfect, go sell all you possess and follow me."[24] In effect the controversies and contradictions, spread by the travels of his disciples, including Paul, resulted in two millennia of exegetical tradition, much of which was applied to the resolutions of conflicts of conscience. With the exhortation of the early church to walk in the footsteps of Jesus instead of the ways of the world, conscience soon came into tension with the demands of daily life whether it be "service in the military, cooperation with pagans, questions about marriage, behavior during

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[20] Michael G. Baylor, *Action and Person: Conscience in Late Schlolasticism and Young Luther* (Leiden: Brill, 1977), 25.

[21] Ibid.

[22] Jonathan Goldberg, *James I and the Politics of Literature: Jonson, Donne and their Contemporaries* (Baltimore: John Hopkins University Press, 1983), 118.

[23] Jonsen and Toulmin, *Abuse of Casuistry,* 91.

[24] Matt. 19-21. The quotation is shortened but it is reproduced as cited in Jonsen and Toulmin, *Abuse of Casuistry*, 91.

persecution," or the taking of oaths and vows.[25] Eventually these became cases to be taken up and set as precedents by early ecclesiastical institutions and Councils, and later, added to by the early Christian Fathers.[26]

From the thirteenth to the seventeenth centuries, casuistry went through four stages of development. The first was in response to the advent of confession which was decreed by the Fourth Lateran Council in 1215. The second took place in the Tridentine period when casuistic forms, which emerged out of the books of penitentials, were reinterpreted and refined by the Jesuits. In the third stage English Protestants expropriated the work of the Jesuits and gave it a Protestant, largely Puritan, context. Finally, there was a long slow decline which started in the 1660s and lasted until the middle of the eighteenth century.

In 1215, the Fourth Lateran Council, in its twenty-first canon made individual, private confession and the taking of communion compulsory, at least once a year, for all adult Christians. It further decreed that the priest keep the confession totally secret on "pain of deposition and perpetual penance."[27] It was this act more than any other that opened the gates to the casuistry of sin and emphasized the need for manuals and directives for confessors. Hitherto, confession and penance had been mostly a public act. Jacques Le Goff describes the difference between secret and public confession. With the inception of individual, private confession, "...every one was required to examine his conscience..." and in so decreeing, the Roman Catholic church acknowledged, almost by default, the possibility that the souls of laymen had depths of spirituality that had

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[25] Jonsen and Toulmin, *Abuse of Casuistry,* 91-93.

[26] Ibid. 47 ff., 93 ff.

previously been limited to the souls of clerics.[28] This posed questions concerning the ways clergymen should both ritualize and universalize private confession and subsequent acts of penance and absolution. Although compulsory confession offered clear benefits to both the church and the penitents, it also presented problems. The problems were fourfold: (1) How and what to confess. In other words, what was a sin and what was not. (2) How was a priest supposed to hear confession? (3) What was he supposed to say? Was there a correct procedure for listening and a correct procedure for commenting? (4) What constituted the appropriate penance for a specific sin?[29] The last was the most difficult of the four problems, because there were few universal guidelines that specified which acts of penance were appropriate for which sins. Clearly there was a need for a systematic, consistent, universal codification of sins that could be used as a standard by which to mete out individual penance.[30]

One solution to the problem was already in existence. Prior to the Fourth Lateran Council, private confessional practices had already been compiled in books by early Irish priests for whom public confession had taken the form of a private act.[31] These were the Irish penitentials and in their form and style lay the roots of casuistry. The books were largely the personal writings of priests, abbots and bishops. They were manuals for confessors called *Liber Poenitentials* that contained two kinds of instruction: One was how to hear confession and the other was how to administer the appropriate penance to be prescribed for the sinner. Thus, a casuistry of sin, as exemplified by the penitentials,

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[27] John T. McNeill and Helena M. Gamer, eds. & trans., *Medieval Handbooks of Penance* (New York: Columbia University Press, 1938), 29.

[28] Jacques Le Goff, *The Birth of Purgatory* (Chicago: University of Chicago Press, 1981), 216.

[29] McNeill and Gamer, *Handbooks of Penance*, 7-8

[30] Ibid., 7.

developed that was linked to the emergence of auricular confession. According to data furnished in the introductions to some of the early penitentials and cited in the *Medieval Handbooks of Penance,*[32] penitentials were in use throughout the Frankish kingdoms by the late sixth century. They were in England by the late seventh, in Italy by the eighth, and in Spain by the ninth centuries. By the time the Fourth Lateran Council had declared its position on confession, a new generation of penitentials were already being written that would become models for later Roman Catholic Tridentine casuistic manuals, as well as models for Protestant casuistry. These included penitentials like the works by Robert of Flamborough, in which the books had moved from mere catalogues of tariffs for various sins to "manuals of pastoral instruction."[33] In the eleventh century, Burchard of Worms had compiled the *Decretum* (1007-15) of which Book 19, also known as Burchard's *Corrector,* was made up of questions to be asked by confessors and suggestions for penances. The penitentials themselves were rarely original with the writer. They were often based on previous sources. For example, Dom Adrian Morey, in the introduction to Bartholomew's penitential, points out that Burchard, for whom the Irish penitentials were an important source, was in turn a major source for Bartholomew, Alain of Lille and Robert of Flamborough.[34] Additionally he notes that Ivo of Chartes, Gratian and Peter Lombard were also sources for Bartholomew who apparently had lifted sections wholesale from his sources, as did most other writers of penitentials. The *Liber Poenitentials* were the forerunners, both in content and methodology, of the cases of

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[31] Le Goff, *Purgatory,* 215.

[32] McNeill and Gamer, *Handbooks of Penance*, 26.

[33] Robert of Flamborough: Canon-Penitentiary of Saint-Victor of Paris, *Liber Poenitentialis,* Ed. J.J. Francis Firth, C. S. B. (Toronto: Pontifical Institute of Medieval Studies, 1971), 10.

[34] Dom Adrian Morey, *Bartholomew of Exeter* (Cambridge: Cambridge University Press, 1937), 173-4.

conscience written by seventeenth-century English casuists. Some of the *Liber Poenitentials* were straightforward instructional manuals while others were in the form of questions and answers.[35] The casuist Richard Baxter's *A Christian Directory* mirrors both forms. *A Christian Directory* is divided into several parts, alternating throughout, in which there are straightforward numbered instructional sections called *Directives* that are followed, in turn, by numbered sections of questions and answers.

After the Fourth Lateran Council, which encouraged the articulation of ecclesiastical law, the penitentials included theological commentary, most of which foreshadowed the writings of the later Catholic casuists. The expansion of canon law, as exemplified by Gratian's *Decretum,* contributed to the demand in both the schools and confessionals for a broader and more systematized literature of penance. The need was met by the growing literature of penitential and casuistical summae such as the *Summa de casibus poenitenialibus (1222-30)* by the Dominican St. Raymond of Penafort[36] and the *Summa confessorum* (1280-1298) by John of Frieburg. The new summists included extensive citations from the works of earlier summists like Albertus Magnus, Peter Lombard and Thomas Aquinas.[37] These newer penitentials were distinguished by less rigid definitions of sin in which consideration was given to the circumstances that modified or justified the sins. They appear to have moved a step closer to what became the Protestant casuistic manuals. The questions, casuistical in nature, that were central to most of these works were, to what degree did a particular sin actually breech existing canon law; should an awareness of the circumstances under which the act was committed

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[35] McNeill and Gamer, *Medieval Handbooks of Penance*, 4.

[36] Pennafort also wrote one of the earlier *summae* on domestic issues: The *Summa de Poenitentia et Matrimonio.* (1235)

be taken into consideration and should it effect the penance? The questions represented a shift that extended the range of cases to include domestic issues of marriage, commercial and business considerations, feudal obligations based on oath-taking and issues of civil justice foreshadowing the concerns of the English casuists. By the fourteenth century, new *summae* emerged with additional changes, such as presenting the topics in alphabetical order. Among were the *Summa Sylvestrina,* also known as the *Summa Summarum* by Sylvester Prierias, O. P. (d. 1523); and the *Summa Angelica* (1486), by Angelo di Chivasso, OFM, which Martin Luther, who loathed the summists, called the "Summa Diabolica" and tossed into his bonfire of heretical works.[38]

The theology of confession, penance, and absolution remained constant until 1551, at which time the Council of Trent (1545) decreed that Catholics had to confess their sins by genre of sin and number of sins. It was a response on the parts of the Counter-Reformation to the abolition of confession by the Protestants. This is essentially the start of the second stage in the development of the doctrine of casuistry when Catholic casuistry, strongly under the influence of the Jesuits, changed its form in response to the Counter-Reformation. Martin Luther, for example, led a frontal attack on confession with the publication in 1519 of *Sermon on the Sacrament of Penance,* which by 1521 had gone into fourteen editions. He did not consider confession to be a sacrament but rather an ecclesiastical ordinance and a voluntary matter between the

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[37] Jonsen and Toulmin, *Abuse of Casuistry,* 139.

[38] Ibid., 157.

penitent and the priest.[39] Luther dismissed, as useless and harmful, the complete panoply of traditional sins.[40]

For the Catholics, however, penance was indeed a sacred sacrament. The Society of Jesus, which was founded in 1540, defined itself in the *Constitutions of the Society of Jesus*[41] as an order devoted to the education of clergy and laity and as such advised and established proper ritual and function for the sacraments, and penance.[42] The Jesuit *Constitutions* required lengthy courses in scholastic theology, which were designed especially for clergy working toward the title of doctor and a lesser course in cases of conscience, which was slated for clerics who took only a two-year course in theology. Later, the course in cases of conscience became obligatory for all theologians. What makes this important to English Protestant casuistical argument is that, as detailed below, Protestant casuistry emerged directly out of Jesuit casuistry and, one of the early problems of the Protestant casuists was that they were accused of practicing Jesuitry.

The central factor in Jesuitical casuistry was the concept of probability. Probabilism was the defining aspect of Catholic casuistry and was the reason the Protestant casuists claimed to reject Jesuitical casuistry. In fact, probabalism appears in almost all Jesuit penitential writing and there exists a large body of writings on the subject of "probable opinions."[43] Probabalism is the theory that when a problem or conflict occurs there is often more than one solution to the problem.

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[39] Steven E.Ozment, *The Reformation in the Cities* (New Haven: Yale University Press), 50.

[40] Ozment, *Reformation in the Cities,* 51.

[41] It is also known as *The Ignatian Constitutions* and is made up of four books that were ultimately published in one volume, although Ignatius Loyola saw them as distinct and separate.

[42] Hans J. Hillebrand, *Men and Ideas in the Sixteenth Century* (Chicago: Rand McNally & Company, 1969), 112-114.

[43] *The Principles of the Jesuits Developed in a Collection from their Own Authors* (London: J. G. & F. Rivington, 1839), Passim. Among the writings and their authors who develop probable opinions are, *Instructio Sacerdotum*

As a doctrine it recognizes that in a case of moral perplexity, any choice of a solution to a problem must have the element of probability; that is the "option selected can be supported by authoritative arguments and the judgments of reputable authorities."[44] There are often several valid choices that will resolve the problem. Some of those choices are "safer" to make than others. If there is more than one choice, one of those choices would be the safest to make and one of those choices would be less safe. Safety in this instance means being as far removed as possible from sin. Catholic or Jesuit casuistry always came as close to the edge as possible and took the path of least resistance by choosing the least safe choice, so long as it was not a sin. Protestant casuistry, which will be discussed in full detail below, took the more stringentcourse: Of all the choices that could resolve a conflict, English casuistry made the most probable choice or, in other words, the choice farthest removed from sin. The English Protestant choice is the doctrine of "probabiliorism."

Catholic probabalism, however, accepted the idea that the nature of a penance could be based on the least probable cause of a sinful action. It was precisely this concept that made the Catholic system of penance operable in the face of changing political and religious systems but it also opened the church to attack. Not the least being the term itself, "probable." The medieval Lain term, *probabilis* meant, "approved of" by acknowledged authority and that the probable solution, however apt, was inherently and

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(1601) by Francis Tolet,; *Praxis Fori Poenitentialis* (1622) by Valerius Reginald; *Commentariorum ac Disputationum in primam Secundae Sancti Thomae* (1620) by Gabriel Vasquez; *Theologia Moralis* (1627) by Paul Laymann; and *Disputationes, Theologicae* (1646) by John Martin on. These are but four Jesuit theologians out of some 60 mentioned in *The Principles of the Jesuits*. Almost every single one of the some 200 Jesuit theologians extracted in the book, no matter what their topic, use principles of probability in deciding cases of conscience.

[44] M.W.F. Stone, "The Origins of Probabalism in Late Scholastic Moral Thought: A Prolegomenon to Further Study," *Recherches de Théologie et Philosophie Médiévales,* 58 (2000), 116n.

permanently arguable.[45] Further, the intricacies of weighing one probable cause against another often gave rise to insupportable casuistic decisions which led to derision, as exemplified by Blaise Pascal's attack against casuistry in the *Provincial Letters* which is discussed in detail below. Probabalism was an intricate and intellectually dangerous high-wire act. In 1631, Ferdinand De Castro Palao explained in part the workings of probabilism in *De Virtutibus et Vittiis Contrariis.* It has, to the twentieth century, non-Jesuitical mind, a certain quality of the absurd.

> You may not only lawfully act, according to the probable opinion of others, rejecting your own, which is more probable; but, in a case of great necessity, you are bound to conform to the opinion of others, which, under other circumstance, would be less probable. For, by reason of that extreme necessity and danger, the opinion which would otherwise have little or no probability, is rendered very probable and very safe.[46]

The above quotation actually says that that which conforms to the greater advantage be it by majority or civil law is the appropriate choice. Jesuitical principles of probability informed most cases of conscience until Perkins and Ames established a Puritan-based English Casuistry. On the subject of theft, for example, Emmanuel Sa. wrote in *Aphorismi Confessariorum* (1590) that there are probable instances in which a thief does not have to return what he has stolen.

> He who has stolen small things from any one at different times is obliged to make restitution when they amount together to a considerable sum, although some persons deny it with probability.[47]

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[45] Ibid., 117.

[46] *Principles of the Jesuits*, 97.

[47] Ibid., 199.

Despite its obtuse language and dependence on probabilism, Jesuit casuistry is the direct source for English Protestant casuistry. Its value as a means of resolving moral doubt was recognized by William Perkins and William Ames, who took Jesuitical thought and adapted it to Protestant purposes. Perkins was the father of English Protestant casuistry and was the first English Protestant theologian to examine and publish cases of conscience on a systematic basis, notably *The Whole Treatises of the Cases of Conscience* [48] He was a clergyman of the Church of England and held radical Puritan sympathies. He was also an influential Calvinist whose works were translated into more than six languages and carried into the New World. He established the tone of Protestant casuistry through a series of lectures given at Cambridge during the 1590s. Thomas Merrill argues that Perkins believed that a system of morality meant to "complement Reformation dogma " was needed and that Perkins further believed that such a system would have revolutionary consequences that reflected the revolutionary changes that had occurred, in theory.[49] It would appear that English Protestant casuistry's time had arrived. H. R. McAdoo[50] makes the observation that, "The frequent recurrence of phrases such as, 'the quieting of conscience' in sermons and writings leaves little doubt that if a casuistry were not ready at hand, the atmosphere of seventeenth-century theology and politics would have made its invention imperative."[51]

William Ames was also part of the Puritan faction at Cambridge at the end of the sixteenth century and a committed follower of Perkins. Unhappily, Ames delivered an

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[48] Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Harvard University Press), 235.

[49] Merrill, "Introduction" to *William Perkins,* xii.

[50] H. R. McAdoo, *The Structure of Caroline Moral Theology,* (London: Longmans, Green and Co., 1949.)

[51] McAdoo, *Caroline Moral Theology,* 64.

inflammatory sermon on St. Thomas' Day and thereafter was exiled to the Netherlands for the rest of his life, where he opposed the Arminian or Remonstrant church.[52] Even though he worked outside of England he, like Perkins, concluded that Protestants needed a system similar to the Jesuit manuals with which to deal with the problems of conscience. Ames like most Protestants believed in the supremacy of conscience and rejected papal authoritarianism. To both Perkins and Ames, Catholic casuistry, despite being intellectually and spiritually flawed, represented a rebirth of pastoral concern for the needs of the faithful and the seeming demands of conscience. In the preface to his book of cases of conscience *Conscience with the Power and Cases Therof,* Ames referred to casuistry as

> untying and explaining diligently, Cases of Conscience...
> My heart hath ever since been so set upon that Study, that
> I have thought it worthy to be followed with all care,
> by all men.[53]

In the same work, Ames stated the importance of Catholic casuistry when he said that like the children of Israel, the English casuists were forced to go down to the "Philistines [Jesuits] to have their shares and coulters sharpened."[54] The quotation about "sharpening shares and coulters" held significance for Ames' contemporaries, It was a reference to 1 Samuel, 13:20. Similar variations on the same biblical passage also appear in the writings of Thomas Fuller and Jeremy Taylor. Although Taylor was a staunch Church of England conformist, he shared the same convictions in this instance. as his Puritan colleagues. In the introduction to *Ductor Dubitantium*, the first folio of which

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[52] William Ames, *The Marrow of Theology,* ed., and trans., John D. Eusden, (Boston: Pilgrim Press, 1968), 4.

[53] William Ames, *Conscience with the Power and Cases Thereof* (London: E.G. for I Rothwell, T. Slater, L. Blacklock, 1643),3. Wing/ A2993 Copy from Cambridge University Library.

[54] Ibid., 5. Shares refer to plows as in plowshares and coulters is a variant spelling on colter which is the disk on a plow.

was published in 1660, some sixty years after Ames made a similar remark, Taylor summed up the Protestant adaptation of Catholic casuistry with:

> But for any public provisions of books of casuistical theology, we were almost wholly unprovided, and like the children of Israel in the days of Saul and Jonathan, we were forced to go down to the forges of the Philistines to sharpen every man his share and his coulter, his axe and his mattock. We had swords and spears of our own, enough for defense, and more than enough for disputation: but in this more necessary part of the conduct of consciences, we did receive our answers from abroad...[55]

Thomas Fuller, who wrote a contemporaneous biography of William Perkins wasn't quite so enthusiastic. He responded sarcastically with

> In Case-Divinity, Protestants are defective...for we go down to our enemies to sharpen all our instruments, and are beholden to them for offensive and defensive weapons in Cases of Conscience." [56]

That said, one should note Fuller's description of the Catholics as "our enemies" and by no means consign approval of the Jesuit penitential system on the parts of the Protestants, particularly Puritans.

Although the English Protestants co-opted the system, they also altered it radically. The Catholics had written their *summae* entirely in Latin: The English Protestants mainly wrote their treatises in English and in some instances, Latin.[57] The Jesuits wrote for an audience of clergymen: The Protestants wrote with the intent of reaching as far down into the population as possible. "They wrote for the people and

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[55] Jeremy Taylor, "Ductor Dubitantium or Rule of Conscience in all her General Measures" in *Whole Works of the Right Rev. Jeremy Taylor, D. D.,* 10 vols. ed., Reginald Heber, and Rev. Charles Eden (London: 1847-1854), 9: v.

[56] Merrill, "Introduction" to *William Perkins,* xii.

[57] It should be mentioned that Ames, Perkins, Taylor and others initially wrote some of their casuistical works in Latin, but they were soon translated into English.

(usually) not for the professional theologian."[58] The Protestants totally rejected the Jesuit theory of probabalism and substituted probabiliorism as the basis of what would become a working methodology for the resolution of ethical conflict.[59] They lauded Christian liberty of conscience rather than canon law. They based their casuistry on the authority of scripture, not the authority of the priest or magistrate. The Protestants further rejected the idea of ministerial functions as being an intermediate between humankind and God. Thus, Protestant casuistry was conscience-directed and scripture-centered. Further, Jesuit casuistry seemed to deny the notion that conscience was a condition of the practical intellect, as Thomas Aquinas had defined it, in favor of the Franciscan theory that it was an act of the will. To the Protestants, if casuistry was an act of the intellect it was practical and action-directed and a conflict of conscience called for a practical resolution that was subject to the laws of logic and certainly common sense.

The Protestants looked back to Aquinas, and the earlier, medieval penitentials for their model[60] while still holding on to some Jesuit forms and content. It should be noted, however, that any attempt to presume that Protestant casuistry had a consistency of thought, as Jesuit casuistry had, beggars the memory of Protestant society as being composed of Puritans, Radical Puritans, conformists, nonconformists, members of the English church, and sectaries, all disparate factions drinking from the same fountain but with different-sized cups. H. R. McAdoo points out that although Protestant casuistry was critical "of other aspects of the medieval structure, medieval casuistry was accepted as a

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[58] McAdoo, *Caroline Moral Theology,* 9.

[59] Thomas Wood, *English Casuistical Divinity during the Seventeenth Century* (London: S.P.C.K.,1952), xviii.

[60] McAdoo, *Caroline Moral Theology,* 64.

basis and a working principle."[61] McAdoo further notes that the early Caroline clergy, although they had read Aquinas and Calvin, were committed members of the Church of England who believed that the reforms of the state church were in effect the rescue of a corrupt Catholic church that was thereby restored to its true faith.

Protestant casuistry owes its inception to the Puritans but it was quickly taken up by the clergy at large. Three of the leading casuists Taylor, Sanderson and Hall, were bishops[62] and they, along with many of their secular contemporaries, were enthusiastic about the new "Divine Science."[63] Joseph Hall, wrote: "Of all Divinity, that part is most useful, which determines Cases of Conscience; and of all cases of Conscience the Practical is most necessary; as action is of more concern than speculation"[64] The Divine Science reached all through ecclesiastical life. Thomas Barlow, Bishop of Lincoln, when listing the books that were important for his library, said, "It is necessary for a Divine to have some Casuists, and to know more, that upon occasion he may consult them."[65] Acceptance of casuistry among the English church clergy reached down into the parish level, where it was expected that the ordinary country parson would include casuistry among his pastoral duties. George Herbert (1593-1633), for example, who wrote a posthumously published collection of unified religious poems under the title of *The Temple: Sacred Poems and Private Ejaculations,* appears to have had an undue faith in the learning of country parsons who, he believed, were conversant in the writings of the church fathers, the scholastics, and medieval theologians and also understood the

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[61] Ibid., 65.

[62] Ibid.

[63] Wood, *English Casuistical Divinity,* 36.

[64] Joseph Hall, *Resolutions and Decisions of Divers Cases of Conscience Practically Resolved*, (London: Printed by N.F. for Nath. Butter, 1649), A3.

practical aspects of a case of conscience.[66] Herbert cites the exactitude of casuistry as opposed to theological generalities. He accepted the notion that Protestant casuistry was practical rather than theoretical in nature. "There is Justice," Herbert writes, "in the least things, and for the least there shall be a judgment."[67] Thus, to Herbert, "The country parson knows that 'exactness lyes in particulars.' "[68] Throughout *The Temple*, Herbert posits cases of conscience which reflect the writings of the Puritan casuist William Perkins. Camille Wells Slights points out that Herbert's list of cases "suggests familiarity" with Perkins' *The Whole Treatises of the Cases of Conscience,* which Wood labels as having been the first "sustained attempt" to develop a codified collection of cases of conscience.[69] The book was published posthumously in 1606.[70] The Divine Science, Perkins says "could be truly described as a subject of popular interest."[71]

Norman Clifford argues that Protestant casuistry was a Puritan construction. He draws a trajectory that starts with the Roman Catholic penitential system and includes Calvin's Discipline in Geneva, the Classis movement in England and ends with, if not wide-ranging acceptance of casuistry, then certainly acknowledgment of it by the literate Protestant population at large.[72] He states that the Reform Movement turned away from the penitential system on the basis that the Reformers believed that the relationship

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[65] Wood, *English Casuistical Divinity,* 32.

[66] Ibid., 33.

[67] Camille Wells Slights, *The Casuistical Tradition in Shakespeare, Donne, Herbert and Milton,* (Princeton: Princeton University Press, 1981), 185.

[68] Ibid. 184.

[69] Wood, *English Casuistical Divinity,* 34.

[70] Ibid., 41.

[71] Ibid., 36.

[72] Norman Clifford, "Casuistical Divinity in English Puritanism during the 17th Century: It Origins, Development and Significance." Ph.D. diss., University of London, 1957. 1- 10 ff.

between God and humankind brooked no hierarchy of intermediaries, as the Catholics did. In abandoning the centuries' old penitential system, the Reformers also abandoned a codified system of moral direction and an attendant system of moral instruction, leaving a void. To some degree, Calvin's Discipline, if it did not fill the void, provided an assisted footing over it.

The Discipline, the perpetuation of which was at the heart of the Classis Movement, consisted of rules and regulations laid down for the clergy, extending to the worldly community which Calvin saw as a single unit joined in faith. Calvin, as noted in chapter one, had established obedience to the Discipline as a standard for eligibility to participate in a metaphorical Lord's Supper.[73] He insured the maintenance of standards within Geneva by instituting an unofficial consistory of elders who met unobserved for the purposes of establishing a unified conduct within the religious communities, meaning both lay and ecclesiastical, in much the same way that a city council functions in a secular community. In actuality the consistory took on functions that had indeed belonged to the city council. Furthermore, it had already been the practice of church members to comment and advise on the behavior and conduct of other church members.[74] Thus there was a system of moral obligation, in which conscience was a factor, almost automatically in place, for Protestants; certainly for Puritans for whom the Discipline represented an ideal that had several functions, including to "bridle" and "restrain" the "refractory" and "inactive" and "bar those who 'lead scandalous and flagitious lives' " from participating in the Lord's Supper.[75] As an ideal, however, the Discipline

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[73] Bouwsma, *John Calvin,* 216.

[74] Ibid., 218.

[75] Clifford, "Casuistical Divinity...English Puritanism," 2.

confronted both the Act of Uniformity and the Elizabethan Settlement, which of themselves provided platforms for the development of a moral system more appropriately indigenous to a national church, than did the Discipline. Furthermore, as Clifford points out, the Discipline holds the idea that an external act takes precedence over faith, meaning that external conduct, not depth of faith was the basis of worthiness to participate in the Lord's Supper.

The measure of external conduct, however, was an assessment of how well an individual's actions and choices conformed to Scripture.[76] The problem was that Scripture was often ambiguous and just as often didn't cover an existing situation. With the intention of resolving those problems, around the 1580s, groups of neighboring Puritan ministers attended regular meetings and formed the Classis Movement, as discussed in the previous chapter. By the late sixteenth century, the Classis bodies had taken on the character of regional societies of collegial brotherhoods of Puritan clerics, who came together for the purposes of discussing and advising on matters concerning Christian life.[77] Questions of particular weight, such as "...how farre a Pastor might safelie reade on the Common Praier book and hazard his liberty in the mynisterie for the same..."[78] were referred to the collective minds at Cambridge, which was the center of learning for some of the most important Puritan casuists of the seventeenth century. Perhaps the most important aspect of the Classis movement, certainly for the purposes of making a case for their being forerunners of the Protestant casuistry movement, was the enormous volume

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[76] Ibid., 4.

[77] I am indebted to Norman Clifford for his work on the Classis Movement and its members.

[78] *The Presbyterian Movement in the Reign of Queen Elizabeth as Illustrated by the Minute Book of the Dedham Classis 1582-1589,* Roland G. Usher, ed., from the ms in the possession of J. F. Gurney (London: Royal Historical Society, 1905), 72.

of spiritual literature they left behind. Their contribution to casuistry, however, is indirect; none of the classis members left behind systematized compilations of cases of conscience as did Perkins, Ames, Sanderson, Hall, Baxter and Taylor. Among the Classis members was Richard Greenham, minister of Dry Drayton, a fellow of Pembroke College, and a member of the Cambridge Classis , who wrote a prodigious number of works concerning the problems of conscience and the means by which his fellow Puritans could resolve them. Among Greenham's writings were *A Most Sweet and Assured Comfort for an Afflicted Conscience* (1595) and *Propositions Containing Answers to Certaine Demands in Divers Spiritual Matters* (1597). Other contributors to the literature from the Classis Movement were Greenham's son-in-law, John Dod (1549?-1645), a member of the Oxford Classis who collaborated with Robert Cleaver to write *A Treatise or Exposition upon the Ten Commandments* (1603) and later edited Cleaver's *A Godly form of Household Government* (1598) and *The Patrimony of Christian Children* (1624);[79] Richard Rogers (1550-1618), the Vicar of Wethersfield, [80] and a member of the Braintree Classis; and Arthur Dent (d. 1607), author of *The Plain Man's Pathway to Heaven* and also a member of the Braintree Classis. In addition, some clerics associated with various Classis were perceived as having gained reputations for practical divinity and casuistry, but apparently did not leave sufficient documentation of their cases behind. Among them were John Carter, vicar of Bramford (1554-1634), and Arthur Hildersham (1563-1632), vicar of Ashby-de-la-Zouch in Leicestershire.[81] Stephen Egerton (c.1555-

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[79] Clifford, "Casuistical Divinity...English Puritanism," 12-13.

[80] He wrote: *Seven Treatises containing such direction as is gathered out of holie scripture, leading and guiding to true happiness, both in this life and the life to come: and may be called the practice of Christianitie: profitable for such as desire the same: on which more particularly true Christians learne how to lead a Godly and comfortable life every day.*(1604)

[81] Clifford, "Casuistical Divinity..English Puritanism," 5-13. passim.

c.1621) took a different direction. He formed one of the first groups that became a Classis, in 1572, in Wadsworth, Surrey, and later joined the London Classis but never wrote a volume of his own. Rather, he wrote introductions to the works of Rogers and Greenham.[82]

The movement had originally emerged out of the Puritan desire to find ways to implement the Discipline and in doing so the Classis movement contributed to the environment in which there was a demand for a spiritual literature concerning conscience.[83] What may have also contributed to the sudden emergence of a casuistical literature was the immediate contrast between the Jesuits, who had an extensive library of literature on conscience going back several centuries, including the later penitentials, and the Puritans who, while producing a spiritual literature at a prodigious rate, had little to compare to the Catholics. This was felt by almost every author and casuist "from Greenham to Baxter" and was mentioned as a *raison d'etre* for their own writings.[84] It was but a short step from that point to the sudden accumulation of volumes of English casuistic divinity that appeared throughout Great Britain and parts of Europe in the seventeenth century. Neither Wood nor McAdoo talk about the Classis movement as being an influence on the development of casuistical doctrine. McAdoo who, as was noted in the introduction, was the former Archbishop of Dublin, credits Ames and Baxter as having made a contribution that was based on the scholastic system, but also states that the "attitude of authority for the study of casuistry was almost an episcopal

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[82] Ibid., 12.

[83] Ibid., 14.

[84] Ibid., 16.

preserve...strongly urged on the clergy by their diocesans."[85] Wood credits Perkins with making the first sustained effort to codify cases of conscience, with Ames and Baxter as strong support.[86] He pictures the Roman church as being "freely drawn upon" by the entire Reformed church.[87] Kenneth Kirk, Bishop of Oxford also credits Ames and Perkins with articulating the need for casuistry but sees its development in the writings of Taylor and Hall.[88]

The notion of the history of casuistical doctrine, as a continuum of thought that went through four stages, starting with the advent of confession, moving through the Tridentine books of penitentials, emerging in the form of case divinity, or compilations of cases of conscience that emphasized Protestant-based, often predestinarian, casuistical argument, and its subsequent decline is the trajectory that runs through this dissertation. There are, however, other mirrors which can be held up to the development of casuistical doctrine that elucidate the forms and content of casuistic argument as it emerged in the seventeenth century. Arthur William Lindsley, looks at the history of casuistical doctrine as an epistemology based on four idealized terms which defined the nature of Catholic casuistry during the pre-Protestant period.[89] The four terms he uses are legalistic, formalistic, rigoristic and moralistic. All four terms are often used in interpreting British moral philosophy and are here used as a way to interpret casuistic argument.

It is valuable to look at those terms because they assert that there was an historical development to the textual content of casuistic thought before English Protestant

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[85] McAdoo, *Caroline Moral Theology,* 65.

[86] Wood, *English Casuistical Divinity,* 34-36.

[87] Ibid., 38.

[88] Kenneth Kirk, *Conscience and its Problems* (London: Longmans, Green and Company, 1948), 202-203.

casuistry emerged as a separate discipline from Roman Catholic casuistry, and that those constructions have been influential on English Protestant thought. The first category, the notion of casuistry as legalistic, means it is defined, in part, as the desire to obey the law as a path to justification. It separates the law from the spirit of the law.[90] The identification of casuistry as being legalistic is beholden to Anders Nygren,[91] who sees casuistry "as being rooted in a theology of merit...[as is also]...true of Roman Catholic casuistry, generally."[92] The Roman Catholic casuists were essentially legalists as compared to the Puritan casuists, who, although conscious of the letter of the law, were not necessarily acting in accord with the exactitude of civil law.[93]

The second category, formalism, is defined as the "beginning of concentration on rules...[and] the tendency to exalt the law above grace,"[94] to which Lindsley is, as he states in this instance, indebted to Kenneth Kirk. Typical examples of the structural formalization of materials are the medieval summae and the penitentials in which the need to accommodate the demands of the confessional[95] led to formal expositions of sin, which in turn led to the increasingly codified Jesuit accumulations of penances. It is also to be found in the writings of the Christian fathers and the compendia of such casuists as Richard Baxter, whose *A Christian Directory* attempts to cover all possible ethical and

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[89] Arthur William Lindsley, Jr., "Conscience and Casuistry in the English Puritan Concept of Reformation" (Ph.D. diss., University of Pittsburgh, 1982), 50 .

[90] Ibid., 62.

[91] Anders Nygen, *Agape and Eros*, trans., Philip S. Watson (New York: Harper and Row, 1969.)

[92] Lindsley, "Conscience and Casuistry, 81

[93] Ibid., 63.

[94] Ibid., 60.

[95] Lindsley, "Conscience and Casuistry," 61.

moral quandaries in the form of a systematic theology.[96] In fact, formalisim is reminiscent of the Protestant tendency to create a systematic theology, whether it be Calvin's *Institutes* or works as late as Paul Tillich's twentieth-century, three volume *Systematic Theology.* In most instances, the emphasis is "on grace and assurance [of salvation] rather than on law."[97]

Rigorism, the third category, is also indebted to Kirk. It is similar to formalism in that structure precedes mitigated personal freedom or, in other words, it is often opposed to a humanist stance in the sense that humanism "calls for the enjoyment of life in moderation."[98] Rigorist concentration can be described as radical self-denial and finds its expression in the works of such writers as Tertullian.[99] It tends to recognize a restricted other-worldly experience, but one that is directed toward a disciplined goal.[100] Perkins, for example, was rigoristic, but he also espoused a contrasting humanism that was, on the one hand ascetic and on the other included a contemporaneous world view.[101] Ultimately, however, rigorism relies on a worship-centered theology that emerges out of obedience and self-discipline.[102]

The fourth term, moralism, is used in the sense that the word often emphasizes "works rather than faith, and ethics rather than theology."[103] It can be seen as the practice of morality apart from religion. Of larger importance, however, is that moralism

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[96] Ibid., 81-82.

[97] Ibid., 61.

[98] Ibid., 59.

[99] Ibid., 81.

[100] Ibid., 59.

[101] Ibid., 59.

[102] Ibid., 59-60.

[103] Ibid., 63-64.

inherently separates ethics from theology and thus early Catholic casuistry was essentially moralistic until the advent of Thomism, when it took on a more formalist and legalist shape. Lindsley claims that the early Puritan casuists such as Perkins and Ames were not moralistic because their casuistry was founded on a theology of grace[104] but that the later casuists, such as Jeremy Taylor, a member of the conformist church and Robert Sanderson, a moderate Calvinist, appear to be moralists, as is indicated by Taylor's *Unam Necessarium,* his major work on repentance and grace.

Lindsley concludes that Puritan casuistry was not legalistic in the theological sense because "it was founded on a theology of grace and assurance of salvation."[105] Nor was it formalistic in the sense that it depended upon an exhaustive formulation of rules and regulations for daily living,[106] a conclusion with which this dissertation disagrees, citing Baxter's *A Christian Directory* and Taylor's *Ductor Dubitantium* as two examples of formalism in seventeenth-century casuistry. Lindsley sees Protestant casuistry as rigorist and ascetic. It called for self-denial but embraced "a balancing humanism,"[107] which this dissertation would agree with, adding that inherent by definition it minimized self-denial and maximized humanism. The fourth term, moralistic, is reinterpreted as "wholistic" [sic] and contends that casuistry did not separate ethics from theology and as such was not moralistic,[108] a statement that is arguable.

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[104] Ibid., 64.

[105] Ibid., 82.

[106] Ibid.

[107] Ibid.

[108] Ibid., 83.

George L. Mosse[109] takes a different point of view and interprets seventeenth-century casuistry in terms of reason of state. Embedded in the history of casuistical doctrine was the recognition that there was an inherent conflict between liberty and authority. To this, Mosse offers two related arguments. The first is that Catholic and Protestant casuistry were similar in content but dissimilar in consequence: "Protestant ideas of supremacy of conscience led to freedom, and Catholic toward authoritarianism."[110] The second argument is that "the steady growth of English liberalism" brought about an important change in political morality, the affect of which posed greater problems in the seventeenth century "than the conflict of liberty and authority."[111] It brought about the conflict between religion and policy, in which religion becomes subordinate to policy.

Mosse states that the origins of that conflict lay with Machiavelli and his understanding of reason of state which is "the emancipation of political action from moral restraint."[112] He further claims that because of a developing sense of English political realism in the seventeenth century, the separation of political behavior from moral rectitude penetrated deeply into the English political establishment, especially among Catholic casuists who accepted the idea that there was a positive relationship between politics and morality.

He affirms the thesis that Perkins and Ames took casuistic principles from the Jesuits by comparing Perkins to Giovanni Botero, whose *A Treatise Concerning*

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[109] George L. Mosse, *The Holy Pretence: A Study in Christianity and Reason of State from William Perkins to John Winthrop* (New York: Howard Fertig, 1968)

[110] Ibid., 3.

[111] Ibid., 2.

[112] Ibid., 4.

Magnificence and Greatness of Cities, also known as *Della Ragione di Stato* was published in England in the early seventeenth century (and was translated by a Protestant, Sir Richard Etherington).[113] Botero contradicted the Machiavellian dictum of one law for the state and one for the conscience and instead advised that the state not break with the church because reason of state does not work unless supported by religious doctrine.[114] This essentially placed God as one element in reason of state and policy, and also as a participant in a sixteenth-century *realpolitik*. Botero depicted the prince as an abstraction of the state without friends or enemies. The prince's righteousness emanated from his relationship to the church[115] and he is beholden to the church and also to a father confessor, the "godly counsel without which there can be no political success,"[116] but at the same time he was a functionary of the state.

Perkins dealt with a similar issue when asked if St. Paul was not a liar when he claimed to be a Nazarene. Perkins said no, because he had had the approval of the church of Jerusalem.[117] Mosse draws other parallels between Perkins and Botero. For the Puritan casuists, the substitute for the father confessor is "the Divine Science of Conscience"[118] which acts as a "kind of control mechanism." Conscience is the intermediary between God and humankind and as such, in matters of reason of state, conscience is the connection between God and political action. It provides standards of either faith or

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[113] Ibid., 34-35.

[114] Ibid., 35-36.

[115] Ibid., 36.

[116] Ibid., 37.

[117] Ibid.

[118] Ibid., 52.

worldly considerations for any action taken.[119] Although Perkins condemns Machiavelli, like Botero, he finds that he can equate policy and Christian conscience and uses as an example the ambush of Ai.[120] Perkins agrees with Botero that policy cannot happen without faith and he writes about what he calls *dolus bonus*, an acceptable, good kind of deceit such as when Rehab hides Joshua's spies and lies to the king's messengers because she knows that it was God's intention to give the people of Israel the land of Canaan. Therefore fulfilling God's intention is virtuous and prudent. Policy, in turn, which is essentially Machiavellian, becomes prudent[121] and prudence is an aspect of God's law.[122] Looked at as a whole, the relationship between prudence and policy was a set of nested boxes that, by virtue of knowing God's intentions, fit one into the other with ease. For Perkins' *dolus bonus* was "not policy but prudence,"[123] examples of which constitute Biblical precedent throughout scripture. Perkins frequently interprets Biblical contradictions in the light of that which constitutes God's intentions as they relate to the intentions of an individual action. Perkins reads Abraham's outright lie of Sarah being his sister, not his wife, as legitimate because it fulfills God's intentions, even though Calvin claimed that Abraham showed a lack of trust in God.[124] However, when the Egyptian midwives lie to the Pharaoh, they are exonerated for their faith but their actual lying is seen as evil, although in this instance it is allowed. The issue again is intention, in this

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[119] Ibid., 49.

[120] Josh. 7:2-12. The Ambush of Ai is when Joshua does not show faith in God and miscalculates the strength of the Canaanites. He is punished with the slaughter of members of his army.

[121] Mosse, *Holy Pretence*, 50-51.

[122] Ibid., 52.

[123] Ibid., 51.

[124] Ibid., 53.

case the intention of the act itself.[125] The midwives lied but their intention was prudent and prudence is never sinful, even though it may seem that way; policy, however, can be sinful.[126]

William Perkins might justifiably be called the architect of Protestant casuistry in that it begins with him. His disciple, William Ames, who wrote thirty years later than Perkins, nonetheless follows him closely and builds his own casuistry upon the foundations of Perkins. For both Perkins and Ames, the virtue and goodness of any act existed in relationship to its goals.[127] In other words, both saw conscience as an agent of intention. For Ames, it would seem that the parallel phrase to Perkins' *dolus bonus* is *sonare in malum*, acts that sound evil but are made good by their intentions instead of their actions. They both evaluated God's intentions and it is likely that this gave both of them a wide latitude for individual judgment. Compared to Perkins, Ames had a more pointed concept of the uses of policy.[128] He was above all an absolutist who saw monarchy in the light of Divine Right and also as a bulwark against encroaching Papism. Hesitatingly, however, he recognized the fact that the character of the magistrate need not necessarily be virtuous.[129] That said, his mission was the common good which "the magistrate must preserve by 'politic' means and by coercive power and"[130] thus *sonare in malum* presupposes the double morality of *realpolitik* as the justification of a seemingly unlimited reason of state. Both Perkins and Ames put forth intention as the defining

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[125] Ibid., 54-55.

[126] Ibid., 57.

[127] Ibid., 70.

[128] Ibid., 86.

[129] Ibid., 85.

[130] Ibid., 86.

stance in Puritan casuistry and were followed in that direction by the English church as well.

One of the defining characteristics of Puritan casuistry that ultimately shaped Protestant casuistry was the teaching of Peter Ramus. Ramus was a dialectician who dominated the study of logic at Cambridge during the years in which Perkins and Ames went to Cambridge.[131] Ramist logic was a series of diagrammed, structured syllogisms in which one argument emerged out of another.[132] Perkins and Ames both demonstrated Ramist principles in the methods they used to create cases of conscience.[133] The Ramist influence on Perkins and Ames will be argued in considerable greater detail in the third chapter.

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[131] Donald K. McKim, *Ramism in William Perkins' Theology* (New York: Peter Lang, 1987), 37.

[132] Ibid., 22-23.

[133] Ibid., 51.

THE DECLINE OF CASUISTRY

Casuistry ultimately developed a doctrine of conscience that was practiced actively throughout the seventeenth and the first quarter of the eighteenth centuries, but by the end of the seventeenth, it had taken on a seemingly repetitious, somewhat conventional character and entered a period of decline.[134] Even some of the casuistic writings of the major English church casuists such as Robert Sanderson and Jeremy Taylor almost as often reflected a conformist Caroline church view, as it did a contrarian stance. Yet it did not appear that the quality, and certainly the enormous quantity, of contemporaneous casuistic literature brought about any marked disinterest in casuistry but rather its decline can be attributed to other reasons. The first, which is the most often cited reason for the decline of case divinity and which this dissertation argues against, is that casuistry came under attack by many well known seventeenth-century public figures, two of whom were Blaise Pascal and John Milton. They charged casuistry with having promulgated excessive moral license, sophistry, quibbling, and evasion.[135] Most scholarly writings cite Blaise Pascal's *Provincial Letters* as the knife in the chest of casuistry. Albert Jonsen and Stephen Toulmin state that Pascal's attack "demolished the reputation of casuistry for all subsequent generations."[136] Their opinion is shared by Camille Wells Slights who writes that "Casuistry has never recovered from this scathing attack."[137]

This dissertation, however, argues that among the reasons for casuistry's decline is that the Restoration brought about a radical shift from a Calvinist-centered theology based on the predestinarian ideals of a humankind born to sin and degradation to an

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[134] Jonsen and Toulmin, *Abuse of Casuistry,* 250.

[135] Ibid., 238.

[136] Ibid.

Arminian-influenced Church of England that believed God's grace was available to all, and that this had a greater impact on the waning of casuistry than did the criticisms of Pascal. Isabel Rivers, although emphasizing the means by which language reflected the way different religious and secular movements perceived the often conflicting, and changing relationships between ethics and religion, offers the thesis that it is the "kinds of language in which these changes were expressed" that affected how the Church of England responded to what was, to them, a seeming betrayal of the Reformation tradition. While she is not writing expressly of casuistry, her point of view regarding post-Restoration theology supports, in part, the contention of this dissertation that the movement away from orthodoxy participated in the decline of casuistry.[138] She describes the changing relationships as centering on two shifts in seventeenth-century Protestant thought. The first was a rejection of the orthodox in which Reformation tradition emphasized man's innate condition of depravity and, second, an existential emphasis on human nature alone as the source of human action rather than human action as being a "cooperation of human nature and divine grace." Taken together, her précis highlights a reordering of the English Church's conception of free will and divine grace.[139] It questions the random exercise of election, which essentially meant that the consequences of a conflicted conscience moved, in part, out of the purview of the church and into the realm of social approbation. This change was further amplified by the doctrinal directives of Latitudinarian groups like the Cambridge Platonists and the Great Tew Circle, who were in the vanguard of a rising British moralism in which grace, repentance, and original

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[137] Slights, *Casuistical Tradition,* 9.

[138] Isabel Rivers, *Reason Grace and Sentiment: A Study Of The Language Of Religion And Ethics In England. 1660-1780.* (Cambridge: Cambridge University Press, 1991), 1.

sin were redefined in the light of an increasingly tolerant, reasoned English Protestant piety.[140] After the Restoration, the Great Tew Circle, the Cambridge Platonists and the Latitudinarians represented a theology that was characterized by the direct simplicity of reasoned polemics based on the concept of the fatherhood of God and the benevolent duty of charitable good works.[141] Their influence as such existed from the 1640s to the 1660s and after that they ultimately shaped post-Restoration politics and theology.[142] This argument is supported in part by Keith Thomas who argues that there was a change in the nature of morality away, "from the application of divine laws to human affairs to the idea of it as the simple love of God and pursuit of goodness."[143]

Of equal weight to the Thomas argument of an invading tolerance and secularism is a secondary argument that there was a reinterpretation of conscience in the eighteenth century, away from the notion that conscience was a God-driven innate faculty of human nature and toward the belief that conscience was moved by social approbation. This argument is indebted to Edward G. Andrew.[144] Andrew backs up his contention with the writings of John Locke, Anthony Ashley Cooper (Third Earl of Shaftesbury), and Adam Smith, discussed below. The consequence of increased toleration, social approbation and "the simple love of God" is that there will be an emphasis away from conscience and on the will. Where once the will was dominated by conscience, by the end of the seventeenth century, Edmund Leites says, "nothing was more important for the individual than his

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[139] Ibid.

[140] W. M. Spellman, *The Latitudinarians and the Church of England, 1660-1700* (Athens, Ga.: University of Georgia Press, 1993), 3.

[141] Jeremy Taylor, *Holy Living and Holy Dying,* ed., P. G. Stanwood,(Oxford: Clarendon Press, 1989), xvii.

[142] Spellman, *Latitudinarians,* 3.

[143] Thomas, "Cases of Conscience," 51.

[144] Andrew, *Conscience and its Critics,* 79 ff.

possession of a truly moral will, " and that it was the "chief task of both moral and religious instruction" to foster a right moral character in the individual.[145] Casuistry, he says, was rejected in favor of character and he argues that its rejection was based on two premises. The first was that a defining attribute of the will was rational thought and the second was that rational thought did not exist so long as the will was beholden to external authority.[146] Taken together, character, rationality and the preeminence of the will displaces casuistry which is only called for when conscience conflicts with external authority.

This dissertation's argues that although Pascal's polemic did indeed damage casuistry, so did the new tenor of British moralism. It transformed casuistry from a theological force into an element of ethics. From the Restoration forward, the power of both Parliament and the English church increased and with it both a measure of comparative tolerance and increased personal restraint. Some religious and political liberties moved forward to the extent that casuistic solutions to ethical problems were no longer as urgent as they had been before but it was an increasingly secularist world and the need for a "Divine Science" became increasingly irrelevant. Nonetheless, Pascal did alter the casuistic landscape beyond repair.

Blaise Pascal (b. 1623) wrote *The Provincial Letters* from January 13, 1656, to March 24, 1657, in response to the Jansenist-Jesuit controversy. "No history of casuistry can ignore him,"[147] or the details of the controversy. The first English translation of the *Provincial Letters* appeared as early as August, 1657, a mere five months from the

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[145] Edmund Leites, "Casuistry and Character" in *Conscience and Casuistry in Early Modern Europe.* Ed., Edmund Leites (Cambridge: Cambridge University Press, 1988), 120.

[146] Ibid.

completion of the eighteenth and final letter in 1657. Pascal's sister, whose religious views were an important influence on Pascal, was a nun in the Abbye of Port-Royal des Champs, a small town that was a stronghold of the Jansenist movement. Pascal was himself a Jansenist. Jansenism was a doctrine of extreme piety and moral rigorism which stressed divine grace and Augustinian predestination.[148] Jansen's doctrine was outlined in a three-volume work called *Augustinus* that was published in 1640. The book came into vigorous conflict with the Jesuits, particularly Luis Molina, a noted apologist for Jesuit casuistry, who accused Jansen and his followers of espousing Calvinism and[149] declared the work heretical. Pascal joined the fray with the first *Provincial Letter*, called *Letters written to a Provincial Gentleman by One of his Friends on the Subject of the Present Debates in the Sorbonne.*[150] Eighteen more *Letters* followed. The form of the letters were a dialogue in which Pascal's alter ego engaged in repartee with a priest. Eleven of the letters attacked Jesuit casuistry on the grounds that it represented laxist morality particularly in the area of probabalism. Referring to casuists who practiced probabalism, Pascal, who viewed the doctrine of probabalism as the cause of conflicting opinions,[151] wrote that while most Jesuits are of the "looser sort of casuists," some are nonetheless pious in case a sinner is also morally strict, but for the most part, "whole multitudes of lax casuists are provided for the multitudes that prefer laxity."[152]

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[147] Jonsen and Toulmin, *Abuse of Casuistry,* 231.

[148] Ibid.

[149] William Clark, *Pascal and the Port Royalists* (Edinburgh: T & T Clark, 1902), 74.

[150] Jonsen and Toulmin, *Abuse of Casuistry,* 233.

[151] Albert Jonsen and Stephen Toulmin, *The Abuse of Casuistry,* Los Angeles: University of California Press, 1988, p.237.

[152] Blaise Pascal, *The Provincial Letters*, ed., Saxe Commins, New York: Random House, 1941. p. 374.

The seventh letter is arguably the most important and concerns the casuistry of killing. King Louis XIV, Mazarin, and Boileau "judged the seventh letter to be the finest...because of the great elegance of its reasoning." It looks at the casuistic principle of "direction of intention," which means, "in any given action one should aim one's intention away from the evil consequence of the act to the good that will redound from it."[153] Simply stated, it is the casuistic principle that almost any action, evil or otherwise, can have a positive as well as a negative consequence and one should choose the positive alternative. Pascal argues against the principle, saying that it allows dueling, private revenge, assassination, killing for a lie, murder for revenge, and even that churchmen may kill.[154]

Throughout all of the *Letters,* Pascal directs his attacks by name toward some of the most important Jesuit writers of the time, men like Emanuel Sa, Juan Azor, Luis Molina, Francisco Suarez, Paul Layman, and Antonio y Mendoza Escobar, who were all authors of *Summae*. Thus, these were well-known contemporaneous names, which in all likelihood contributed to the widespread interest in the *Letters*. Ultimately, the letters were circulated by the thousands. The first edition was published in 1656, and, "there was an uninterrupted succession of new printings until bibliophiles lost all count. [They were] translated into every civilized language."[155]

One of the arguments of this dissertation is that Pascal's target was solely Jesuit casuistry. Nowhere in the *Letters* does he make any reference whatsoever to Protestant or English casuistry, but ultimately, like a stray bullet, damage was done to all casuistry.

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[153] Francis X. J. Coleman, *Neither Angel nor Beast: The Life and Work of Blaise Pascal* (New York: Routledge & Company, 1986), 121.

[154] Each of those instances are actual section headings in the "Seventh Letter."

The *Provincial Letters* sport a literary device in the character of a "good Jesuit Father" who, in the first eleven *Letters*, cites various cases of Jesuit casuistry in a naive, unquestioning manner that gives Pascal the license to build a devastating argument that casuistry is only for the simple-minded.[156] He draws his argument in caricatures which have survived to this day.[157] He cites probabalism as a specious device, one in which intricacies pile on top of each other until all vestiges of moral law are neutralized.[158] His cry against casuistry and probabalism was that it inevitably led to laxity which, to Pascal, was morally repugnant and, as Jonsen and Toulmin note, may be seen as Jansenist. The rigid observances of moral teachings, however, were shared alike by Catholics, Protestants, Jesuits, Pietists, Puritans, and the Jansenists themselves, who parted from other devout Christians by the degree to which they put their unbending ideals into practice, reflecting the austere ideals of the Stoics.[159] Casuistry, dependent on probabalism, denied true morality, "commanded no sacrifice, insisted on no heroic dedication."[160] That said, the reader should be reminded that the English Protestant casuists rejected probabalism in favor of the stricter doctrine of probabiliorism and from 1656 forward, when the *Provincial Letters* were published, Baxter, Taylor and Sanderson continued to write, despite Pascal.[161] They published several of their major works, if not all to universal acclaim, certainly to noteworthy acceptance.

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[155] Saxe Commins, "Introduction" to Pascal, *Provincial Letters*, xiii.

[156] Jonsen and Toulmin, *Abuse of Casuistry,* 236.

[157] Ibid., 237.

[158] Ibid.

[159] Ibid., 239.

[160] Ibid., 241.

[161] Thomas, "Cases of Conscience," 50.

Keith Thomas sees a slow, accumulating dissatisfaction with casuistry as a phenomenon of social change stretching from the *Provincial Letters* well into the eighteenth century.[162] There is little doubt that Pascal's influence labeled casuistry as a means to avoid uncomfortable moral obligation, but it did not invalidate the process *per se* so much as it called for a system that offered a more rigorous discipline for dealing with moral obligation, particularly in the face of Protestant theologians who seemingly persisted in the notion that the resolution of moral matters was to relieve individual discomforts without formally breaking God's law.[163] According to Thomas, it would also appear that by the Restoration there was a reaction against the Puritan casuists as being purveyors of "adjustment and accommodation" and that in questionable moral instances, the individual might do better to follow his own instincts rather than seek precedence as a guide. Supposedly there was a shift toward recognizing the innate love of God and the appreciation of virtue as opposed to recognizing conscience as a response to divine law.[164] It would appear that the shift toward virtue represented a radical change; however, it can also be read as a realization among Protestant casuists that intention supplanted the sin of following an erroneous conscience. Thomas Hobbes says

> ...there is no place for Accusation; every man being his own judge, and accused onley by his own Conscience, and cleared by the Uprightnesse of his own Intention. When therefore his Intention is right, his fact is sinne; but not Crime."[165]

It would appear that there was a transition from moral theology to political theory. It would further seem that political theory takes the place of political casuistry; meaning

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[162] Ibid., 51-60..

[163] Ibid., 50-51.

[164] Ibid., 51.

[165] Thomas Hobbes, *Leviathan,* ed., C. B. Macpherson (New York: Penguin Books, 1986), 337.

that there was as an increasing encroachment of secularism on what had formerly been the purveyance of the church.[166] Late seventeenth-century British moral philosophy looked toward human reason for the resolution of moral and political obligations rather than scripture, and by the eighteenth century, the relationship between government and subject turned away from the dictates of conscience and toward self-preservation. Although conscience still remained a force, it was perhaps with diminished authority.[167] By the eighteenth century, with the coming of religious toleration, "the discussion of 'cases of conscience' ...ceased to be so conspicuous a feature of the cultural landscape" although moral perplexity continued as did the call for instances of casuistical ministration.[168]

Several instances contradict the argument that casuistry diminished in authority after the 1650s. First, publications of cases of conscience continued vigorously even after Robert Sanderson and Jeremy Taylor died in 1663 and 1667. They maintained their influence as writers even though their reputations rested on posthumous publications and reprints of earlier editions. Other such as Gilbert Burnet and Richard Baxter were published from the Restoration to the end of the century. Richard Baxter, who called himself a nonconformist, and was one of the few casuists during the Restoration who held on to vestiges of radical Puritanism, died in 1691 and was published until his death and after.

Second, there was an early shift in thought from a stance of English church conformism on the parts of the non-Puritan casuists to a mainstream recognition of

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[166] Thomas, "Cases of Conscience, 53.

[167] Ibid., 54.

[168] Ibid., 55.

Latitudinarian and toleration doctrines. It was in 1660, for example, that Taylor published *Ductor Dubitantium* in which he expressed a doctrine of free will and a doctrine of original sin, both of which he was publicly forced to defend.

> The Liberty of will did not perish to mankind by the fall of Adam...if sin be avoidable, then we have liberty of choice... to say that our actual sins should any more proceed from Adam's fall, than Adam's fall should proceed from itself, is not to be imagined.[169]

He defended himself with the tract, *Deus Justificatus or A Vindication of the Glory of the Divine Attributes, in the Question of Original Sin* which went into three printings by 1673. His book *The Life of Christ: or The Great Exemplar,* which had been written in 1648 and had reached its ninth edition by 1694[170] had expressed similar views.

Like Taylor, Sanderson was also published posthumously. His important work, *Nine Cases of Conscience,* was reprinted until 1685. *De Obligatione conscientiae preelectiones, decem* or *Ten Lectures on the Obligation of Human Conscience* was continuously reprinted until 1676 and *Episcopacy (As Established by Law in England) Not Prejudicial to Regal Power. A Treatise written in the time of the Long Parliament by the Special Command of the Late King* bears a publication date of 1661, although the Long Parliament had long since passed into history.

J. R. Jacob notes that in 1659-1660, Robert Boyle and his associate Thomas Barlow, librarian at Bodley's asked Sanderson to rewrite and edit *De Obligatione conscientiae preelectiones, decem*, for publication, which Sanderson had read at Oxford, in 1647. This was a time in Sanderson's life when he suffered poverty and Boyle gave

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[169] Taylor, "Deus Justificatus" in *Whole Works,* 8: 506-508.

[170] P. G. Stanwood, ed., "Introduction" to Jeremy Taylor, *Holy Living and Holy Dying* (Oxford: Clarendon Press, 1989), liv.

him fifty pounds. Sanderson dedicated the published volume to Boyle,[171] as he did later under similar circumstances with *Several Cases of Conscience*, discussed in the next chapter.

While Boyle did not practice casuistry he nonetheless consulted casuists on various grounds of moral doubt, including Gilbert Burnet and Edward Stillingfleet, both bishops. Burnet practiced casuistry and Stillingfleet talked about the importance of casuistry in his sermons, and also when he addressed the clergy in the diocese of Worcester. Boyle was concerned with the subject of oath-taking. He regarded oath-taking with so much apprehension that in 1680 he declined the presidency of the Royal Society on the basis that it required swearing an oath. Boyle was concerned that obligations were established even when making spontaneous promises.[172] Thus, in any discussion on the waning of casuistry it is worthwhile looking at Boyle, who as a scientist and founder of the Royal Society was a product of the new British moralism but maintained an intense interest in casuistry. In looking at Boyle, it is clear that the function of casuistry is a means by which a pious person relieves the pressures of moral doubt, a set of conditions that did not change with the waning of cauistry. Boyle was a Latitudinarian, as was Stillingfleet and it would appear that members of the Royal Society and members of the Latitudinarian movement saw science as a means by which they could encourage belief in religious moderation,[173] a notion that speaks of only moderate interest in matters of casuistic tradition. Boyle, however, maintained a commitment to the tenet that Scripture was the word of God, a notion he shared, both

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[171] J. R. Jacob, *Robert Boyle and the English Revolution: A Study in Social and Intellectual Change* (New York: Burt Franklin, 1997), 130.

[172] Michael Hunter, *Scrupulosity and Science* (Rochester, N. Y.: Boydel, 2000), 76, 81, 82.

intellectually and as a friend, with Richard Baxter.[174] Boyle conducted and left records of a series of interviews held with Stillingfleet and Burnet in which he discussed such matters with Stillingfleet as to whether or not he, Boyle used proceeds from abbey lands appropriately; what was his responsibility when servants mishandled a matter on his behalf; and the matter of his will, had he overextended himself in the face of financial losses. With Burnet, he discussed the same issues but concentrated on vows, including the question, he had asked thirty years earlier: What was the obligation of spontaneous promises. He also expressed his anxiety about blasphemous thoughts that came upon him, including the holding of what were anti-Christian opinions.[175] In almost all instances Stillingfleet and Burnet minimized Boyle's concerns and reassured him of his moral righteousness. It is valuable in thinking about the affects of increasing toleration to realize that Boyle who had done so much to develop and promulgate the new philosophies held, in his personal life, the same ideas that some casuistry-minded bishops were working to dispel.[176]

By far the most prolific casuist of the last half of the seventeenth century was Richard Baxter. In 1676, he published a 360-page work, *The Judgment of Non-Conformists about the Difference Between Grace and Morality,*[177] which dealt with the changing context of grace. He defended nonconformity with a 200-page tract called *A Defense of the Nonconformists Plea For Peace or An Account of the Matter of their*

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[173] Jacob, *Robert Boyle*, 154.

[174] Ibid., 123.

[175] Hunter, *Scrupulosity and Science*, 82-83.

[176] Ibid., 85.

[177] Richard Baxter, *The Judgment of Non-conformists About the Difference Between Grace and Morality* (London: s. n., 1676. Wing/B1292.) Copy from the University of Chicago Library.

Nonconformity,[178] which was also published in 1680 along with a second *Plea for Peace*, which he refers to in the book *English Nonconformity.* Nine years later, in 1689, he published another 300-page work, written specifically in response to the Act of Uniformity, called *The English Nonconformity as under King Charles II and King James II, Truly Stated and Argued.* This in turn elicited several responses including the unattributed *Reflections upon Mr. Baxter's Last Book Entitled, The English Conformity, as under King Charles II and King James II.*[179] Thus the notion that casuistry was diminishing in quantity and influence after the Restoration is somewhat specious. All of the above was written around, during, or after the Restoration and the constant republication of succeeding editions contradicts the thesis that casuistry died from a knife in its chest driven by Pascal.

Edward G. Andrew also talks about the decline of casuistry taking place in the second half of the seventeenth century. However, he attributes it to the perception that casuistry was seen as morally unscrupulous "Jesuitical reasoning," and that it connoted, "self-indulgent reasoning" rather than moral theology. In this instance, however, his thrust is in the direction of a radical change in how the late-seventeenth century viewed conscience. He argues that there was an important change in the nature and function of conscience, in particular that "individual conscience replaced ecclesiastical control of civil society" and that in the process, the decline of casuistry increased the power of the state. The context of conscience had changed since its Pauline origins of God-driven authority and in its place was the contention that individual conscience ratified worldly

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[178] Richard Baxter, *The Defense of the Nonconformists Plea for Peace, or, An Account of the Matter of their Nonconformity* (London: Printed for Benjamin Alsop, 1680.) Wing/ B1238. Arber's Term cat./ I 401. Copy from Bodleian Library.

authority.[180] He uses John Locke as an example. By the eighteenth century, social approbation appeared to be a greater motivation of virtuous conduct than individual conscience. This reflected John Locke's belief that God and conscience could be replaced by public opinion. Although not a Hobbesian, Locke takes the Hobbesian point of view, that the motivation for virtue is to garner praise,[181] although he also says that through education the young "man of Protestant conscience...can be enlightened to virtue."[182]

Locke appears to be of several minds about conscience. First, in the place of conscience he uses rational consciousness, "consciousness" that is having been a word which had only recently been coined and which appeared to have meant "selfhood or personal identity," and was likely to express the separation of understanding from God-given conscience.[183] Second, conscience, which was a factor in *Two Treatises on Government,* was not so much a human faculty of moral choice, but was an agent of consciousness that emerged from past behavior, experience and environment. Consciousness, to Locke is essentially memory.[184] Third, he denies the existence of innate conscience and says that men will do any evil when they are not afraid of punishment and censure.[185] However, he applies a different standard to himself. In the *Letter Concerning Toleration* (1680), he speaks of the dictates of conscience as a

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[179] *Reflections upon Mr. Baxter's Last Book Entitled, The English Nonconformity, as Under King Charles II and King James II* (London: 1689.) Wing N 51. Arber's Term cat. / II 305. Copy from Henry E. Huntington Library.

[180] Andrew, *Conscience and its Critics,* 31, 32.

[181] Ibid., 81.

[182] Ibid., 82.

[183] C. B. Martin and D. M. Armstrong, eds., *Locke and Berkeley: A Collection of Critical Essays* (Notre Dame, Ind.: 1968), 158-9

[184] Ibid., 259.

[185] Andrew, *Conscience and its Critics,* 80.

compelling force in his own life. "No way whatsoever, that I shall walk in against the dictates of my conscience, shall ever bring me to the mansions of the blessed."[186]

However, in casuistry, freedom of conscience often comes in conflict with government and ecclesiastical coercion and Locke was skeptical of conscience as a faculty of the common man because he saw the consequence of a conflicted conscience as being anarchic. He thought that civil peace was the result of uniform religious worship, which in this instance meant conforming Protestantism.[187] Yet, he questioned the validity of conformity.

> ...the magistrate has no power to enforce by law, either in his own church or much less in another, the use of any rites or ceremonies whatsoever in the worship of God.[188]

On the other hand, Locke is intolerant of dissenters, whom he called fanatics, Catholics whom he saw as socially destructive and lacking a conscience, and atheists because like Catholics they too posed a danger to social peace.[189] At the same he takes the position that liberty of conscience is every man's right[190] and that liberty of conscience is essentially neutral.[191]

> No man by nature is bound unto any particular church or sect, but every one joins himself voluntarily to that society in which he believes he has found that profession and worship which is truly acceptable to God.[192]

He later adds:

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[186] John Locke, "A Letter Concerning Toleration" in *John Locke, A Letter Concerning Toleration in Focus*. Eds., John Horton and Susan Mendus (London: Routledge, 1991), 32.

[187] Andrew, *Conscience and its Critics*, 86-87.

[188] Locke, *Letter Concerning Toleration,* 33.

[189] Andrew, *Conscience and its Critics*, 87.

[190] Nicholas Jolley, *Locke: His Philosophical Thought* (Oxford: Oxford University Press), 204.

[191] Andrew, *Conscience and its Critics*, 89.

[192] Locke, *Letter Concerning Toleration*, 20.

> Let us suppose two churches, the one of Arminians, the other of Calvinists...will any one say, that either of these churches has [the] right to deprive the members of the other of their estates and liberties.[193]

Locke relates conscience to revolution where again, he is of several minds. First, despite fear of anarchy, freedom of conscience translates into acceptance of revolution (it helps to remember that Locke lived through the Exclusion Crisis, Monmouth Rebellion and the Glorious Revolution) and civil discord.[194] Second, he says that the role of government, and with it the church, is balanced against an unwritten agreement in which the public person agrees not to resist the political reality in favor of fewer restraining oaths, vows and subscriptions, and third, self-governing individuals maintain their right of judgment in following the laws of nature, but by virtue of the social contract the right of majority rule exists as well. However, the right of the individual precedes the right of the group and "majority rule does not trump the rights of conscience."[195] Nor does the magistrate.

> What if the magistrate should enjoin anything that appears unlawful to the conscience of a private person? I answer that if...the counsels of magistrate be indeed directed to the public good, this will seldom happen. But if perhaps it do so fall out, I say that such a person should abstain from the action that he judges unlawful; and he is to undergo the punishment, which is not unlawful for him to bear... for the public good does not take away the obligation of that law, nor deserve a dispensation.[196]

Thus, for Locke, the tyranny of government turns on the higher court of the conscience of individuals, which, in turn, can provide a justification for revolution.[197] It

[193] Ibid., 24.

[194] Jolley, *Locke,* 219.

[195] Andrew, *Conscience and its Critics*, 94.

would seem that, for Locke, conscience was an independent construction that supplanted casuistry as a system of moral theology, thereby diminishing the authority of casuistry as an element of social conduct, a theory that this dissertation supports.

Locke's student, Anthony Ashley Cooper, the Third Earl of Shaftesbury, posited an alternate concept of virtue in which conscience was tied to a personal sense of honor, one which differentiates between religious conscience and moral conscience.[198] Shaftesbury had developed a philosophy based on the idea of social affability, in which virtue is derived from the individual's relationship to his society. The quality of any action embodied elements of taste, conduct, honor, moral beauty, and moral deformity, thus making all action subject to social approbation: "The sociable affections...are the best antidote to dismal devotion," Shaftesbury claimed.[199] He reduces Locke's doctrine of the liberty of conscience to a doctrine of "supernatural destiny" and "a morality of self-interest."[200] However, like Locke, he subscribes to the idea that social approbation is at the heart of all virtue. He rejects belief in a God who offers supernatural rewards and punishments because among other considerations the consequence of such thought is self-consciousness instead of the more welcome "social affection."[201] Instead, he believes that that which motivates the individual to differentiate right from wrong is fear of social condemnation.[202] This in effect removes conscience from religion and also from

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[196] Locke, *Letter Concerning Toleration*, 44.

[197] Jolley, *Locke,* 219.

[198] Stanley Grean, *Shaftesbuy's Philosophy of Religion and Ethics: A Study in Enthusiasm* (Athens, Ohio: University of Ohio Press, 1962), 184-185.

[199] Andrew, *Conscience and its Critics*, 94.

[200] Ibid., 99.

[201] Grean, *Shaftesbuy's Philosophy*, 153-156.

[202] Ibid., 185-186.

Lockian doctrine at the same time.[203] George Berkeley thought Shaftesbury erred by separating morality from religion, because in the past the structure of conscience presupposed the existence of God. Berkeley claimed that morality independent of God was mere fashion and manners without substance.[204] Shaftesbury, by comparison, believed it was necessary to cultivate taste in moral and esthetic matters. "Taste [is] the knowledge of what merits the esteem of mankind,"[205] Shaftesbury said. He ascribed aspects of beauty and charm to moral matters and claimed that nature itself offered fundamental standards of right and wrong and that these were founded in esthetics. For Berkeley, it appeared to be a difficult leap of thought and he could not reconcile Shaftesbury's esthetic definition of morality with virtue, which for him could not exist without conscience, and conscience could not exist without religion. Neither could casuistry. Since casuistry was grounded in the resolution of dilemmas of conscience, fear of God and the notion of conscience as a God-given directive, Shaftesbury's separation of conscience from religion negated the basic principles of case divinity and undoubtedly contributed to the decline of casuistry in the eighteenth century.

Adam Smith embraced some of the aspects of Shaftesbury's construction of conscience as an act of public approbation but added the dimension of conscience as being an "impartial spectator" in the judgment of what is decent and fair.[206] The core of Smith's moralism is that the conscience seeks social approval but not approval based on social conformity. He delineates an inner man and an outer man and makes the

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[203] Andrew, *Conscience and its Critics*, 101.

[204] Ibid., 105.

[205] Anthony Ashley Cooper, Third Earl of Shaftesbury, *Complete Works*, 2 Vols. G. Hemmerlich and W. Benda (Stuttgart: Frommann-Holzboog, 1981), 2. 1: 90.

[206] Andrew, *Conscience and its Critics*, 102, 123.

distinction in which the inner man seeks the virtue of praise-worthiness while the outer man seeks praise. Conscience is a demigod, "partly of immortal, yet partly too of mortal extraction."[207] Smith parts from Shaftesbury and Locke in the belief that there is a dichotomy within man in which there is the judgment of conduct by fellow humans on the one hand, and the awareness of the higher tribunal of conscience as represented by the inner spectator on the other. Man is not born with moral knowledge but acquires it; conscience would not exist in isolated, non-social situations. It is therefore, in this one instance, as Locke believed, not innate. Thus, man judges himself and faces the temptation of self-delusion that is finally mitigated by the forced self-examination that comes of social exposure, seeing oneself through the eyes of others, which Smith says, can be as painful as a surgeon's scalpel.[208] Smith's concept of conscience as impartial spectator is linked to self-assessment wherein conscience creates conditions that prevents itself from doing what it abhors in others. For every virtue there is a spectator who is an alternative personification of humankind and is a substitute for God.[209] "He knows perfectly what he has done; but, perhaps some only can know perfectly what he himself is capable of doing."[210] Smith reconstructs Protestant conscience within the parameters of "Enlightenment social psychology" when he unifies the internal sensibility of God with the external sensibility of an idealized, impartial spectator. However, as with Shaftesbury, he is describing an individual environment of sin that no longer equates

[207] Adam Smith, *Theory of Moral Sentiments,* eds., A.L. McFie and D. D. Rafael. (Indianapolis: Liberty Press, 1985), III.2.32.

[208] Andrew, *Conscience and its Critics,* 125.

[209] Ibid., 127.

[210] Smith, *Moral Sentiments,* III.2.15.

moral censure with an endangered salvation, thus negating the fundamental condition in which casuistry operated.

The religious and political shifts and changes that occurred with the Restoration and continued well into the eighteenth century make it clear that no single force such as the *Provincial Letters* or secularism was the sole cause for the disappearance of a religious institution that had fulfilled so much of the spiritual and political needs of people in the seventeenth century. Other streams of change must be taken into account, such as increased social stability, the movements of people from rural areas to the proto-industrial cities, British globalization, and, in particular, a growing interest in travel abroad which James Herrick[211] cites as a " 'crash course in comparative religion,' which left many...suspicious, even contemptuous of clergy and dogmatism." [212] Additionally, the flowing stream of British secularization produced a gradual shift from "a religious culture to a religious faith,"[213] which can be interpreted as a movement away from the authority of religious institutions. The late seventeenth century was also a period of searching doubt when "religious skepticism[214] was evident in every segment of British society, from...the literary hack's coffee house to the courts of royalty, the works of atheists were read voraciously and debated vigorously."[215] It was a skepticism that was not necessarily coincident with the twentieth century definition of skepticism that Richard Popkin said is

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[211] James A. Herrick, *The Radical Rhetoric of the English Deists: The Discourse of Skepticism, 1680-1750* (Columbia: University of South Carolina Press, 1997)

[212] Ibid., 2.

[213] C. John Sommerville, *The Secularization of Early Modern England* (New York: Oxford University Press, 1992), 3.

[214] The skeptical writings of Mersenne and Gassendi, albeit a mitigated skepticism had taken hold on the Continent early in the century. England was already 60 years late. It was even later in the instance of Montaigne and *le crise Pyrronienne.* See: Jonsen and Toulmin, *Abuse of Casuistry,*240.

> associated with disbelief, especially disbelief of the central doctrines of the Judeo-Christian tradition...The skeptics of the sixteenth and seventeenth centuries asserted almost unanimously, that they were sincere believers in the Christian religion...[which] would not in itself contradict their alleged skepticism, meaning a philosophical view that raises doubt about the adequacy or reliability of the evidence that could be offered to justify any proposition.[216]

By 1690, dissenters and religious English radicals found England "to be a freer place."[217] The Restoration restored a church which Interregnum politics had eroded, and where civil authority, which operated within the confines of state courts, warned of a possible return to centripetal power.[218] It had been an environment that supported anti-Trinitarian heresies like Arianism and Socinianism to the extent that in 1697 Parliament had found itself obliged, in an effort to contain a spreading reinterpretation of scripture and liturgy, to pass the Blasphemy Act. It called for a three-year prison term for anyone who spoke against the Trinity, mentioned polytheism or argued that the Scriptures were not of divine authority,[219] Outside of England, but an important influence on English thought nonetheless, were philosophers like Spinoza, who applied reason to scripture and looked for the natural explanation of miracles,[220] and Rene Descartes, whose *Discourse de la Methode* holds doubt as being a criterion of faith. Thus, almost by default, both in England and on the Continent, there was a burgeoning atmosphere of relative religious tolerance that started in the post-Restoration years. In 1685, the year he came to the throne, James II pardoned people who were imprisoned for their religious beliefs,

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[215] Herrick, *Radical Rhetoric,* 3.

[216] Richard H. Popkin, *The History of Skepticism from Erasmus to Descartes*, (Netherlands: Royal Van Gorcum, 1960), xiv.

[217] Herrick, *Radical Rhetoric,* 2.

[218] Sommerville, *Secularization,* 17.

[219] Herrick, *Radical Rhetoric,* 4.

[220] Herrick, *Radical,*6.

including 1,200 Quakers.[221] In 1689, under William III, the Toleration Act was introduced in Parliament, which effectively suspended much of the Clarendon Code, a series of Parliamentary Acts that taken together were designed to enforce conformity to the late-Restoration church. In 1695, the Licensing Act lapsed and with it most government interference in publishing, thus opening England to a nearly free press.

Taken together, the social, religious and political climate was fertile ground, if not for outright atheism, certainly for questions of disbelief and the decline of Calvinist anxiety over election. It was also fertile ground for the further emergence of libertarian cult movements, particularly those of mid-century, like the Levellers. Richard Overton of the Levellers asked as early as the late 1650s,

> are we not all the creatures of one God,
> redeemed by one Lord Jesus Christ...persecution
> is the utter enemy of all spiritual knowledge,
> a hinderer of its increase and growth.[222]

One of the more widespread of such cults was Deism, which was as much a cult as it was a means by which freethinkers might distinguish themselves from atheists. H. R. McAdoo specifically attributes the disappearance of casuistry to Deism.[223] Deism was a religious movement of the seventeenth and eighteenth centuries that started in the 1680s. It was based on a rationalist theology that was defined by belief in a single God, with faith in God based on natural reason not revelation or revealed authority. It made no provision for clergy. Some Deists, confusing though the idea may be, characterized themselves as "Christian Deists," which meant that they believed in a combination of

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[221] It is of interest to remember that 1685 was also the year Louis XIV revoked the Edict of Nantes thereby encouraging intolerance in France.

[222] Lawrence Stone, *The Family, Sex and Marriage: in England 1500-1800* (New York: Harper Torchbooks, 1979), 157.

[223] McAdoo, *Caroline Moral Theology,* 66.

traditional Christianity and revelation, all supposedly based on reason. Deism lasted through the eighteenth century, by which time the need for a rhetoric of difference between reason and tradition, the natural and the supernatural, in a society which had become increasingly tolerant and where atheism was no longer a punishable offense, lost its urgency.

This is not to say that religious tolerance and acceptable kinds of dissent were the dominant characteristics of the late seventeenth century. The Exclusion Crisis of 1679-1681[224] gave lie to that. Nor is it to say that casuistry fell into disrepute and disappeared. It had not. It lasted, albeit with diminished vigor, until the middle of the eighteenth century when it continued to elicit controversial response, especially on the subject of probabalism. As late as 1695, Bishop Thomas Sprat, who in 1677 wrote *The History of the Royal Society of London, For the Improving of Natural Knowledge,* echoed the sentiments of many Protestant theologians when he wrote in his Visitation Charge to the Bishop of Rochester,

> I would persuade you to have some good, sound body of Casuistical Divinity to be always at hand...there being no kind of skill or proficiency in all your theological studies that more becomes a divine of the Church of England whose highest spiritual art [is] to speak directly from his own conscience to the consciences of those under his pastoral case."[225]

Thus, it would appear that the decline of casuistry can be attributed to several streams of thought, all libertarian in nature, that diffused the Protestant anxiety over election and

[224] On one side were the exclusionists (they became the Whigs), who were supportive of Protestant dissenters and critical of the intolerance of English church conformist bishops; on the other were the anti-exclusionists, or the Tories, who considered all but orthodox clergy to be a threat to the stability of the government. The controversy lasted almost three years and in the process England came close to civil war.

salvation and offered alternate means by which the concerned English Christian could resolve his dilemmas of conscience. If Sprat and others are any indications, casuistry lingered, in religious importance, until the middle of the eighteenth century.

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[225] Thomas Sprat, Bishop of Rochester, *A Discourse made by the Ld Bishop of Rochester to the clergy of his diocese at his visitation in the year 1695* (London: 1696. Wing / S5031. Copy from Union Theological Seminary Library, New York), 49-50.

CHAPTER THREE

THE LIVES OF PERKINS, HALL, AMES, SANDERSON, TAYLOR AND BAXTER: Biographical Event, Ecclesiology, And Authority.

William Perkins, Joseph Hall, William Ames, Robert Sanderson, Jeremy Taylor and Richard Baxter spanned the years from 1556 to 1691, from the reign of Elizabeth I to William and Mary. Their writings, although largely theological in nature, reflected a period in which England moved from crisis to stability by way of accommodation between the demands of conflicting religious sects and reasons of state.[1] If their prodigious writings were categorized and summed up, they would center around four elements of concern: 1) The use of a logical structure upon which to build a reformed theology of conscience; 2) reasons of state, which in this instance means the accommodation of theology to policy, notably oath-taking; 3) resistance to authority; and 4) sin. The four elements are further informed by individual concepts of conscience as, in effect, all casuistry is arguably a form of systematic theology of conscience. In particular, the Thomist notion of conscience which, as noted in chapter one, means three things: 1) conscience has God-given authority; 2) everyone has a conscience and; 3) to ignore conscience is a sin. Consideration of the subject at hand, casuistry that is, prohibits looking at the massive volumes of their theological works any way but selectively, which in this case means concentrating on those writings that reflect the events of their lives and the development of their casuistic methods.

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[1] See: Theodore Rabb, *The Struggle for Stability in Early Modern Europe* New York: Oxford University Press, 1975); Christopher Hill, *The Century of Revolution* (New York: W.W. Norton, 1966.)

WILLIAM PERKINS (1556-1602)

William Perkins established the tone of English Protestant casuistry in the 1590s through a series of influential lectures at Cambridge where he was a Reader in Divinity at Christ's College. Perkins was born to the English church. He came under the influence of Puritanism while he was at Cambridge. He built his reputation in 1597 on a treatise called *The Reformed Catholicke,* one of several works he wrote that attacked Catholicism and defended the Protestant cause.[2] Eventually he joined the Puritan faction at Cambridge and developed an intense interest in John Calvin, which he shared with his Cambridge associates.[3] He became the leading authority of his time on Calvin.[4] However, he was also a committed defender of the royal church who never acknowledged the Separatist movement and "focused more strongly on matters of spiritual reform than on ecclesiastical reform."[5] It would appear that he condoned the idea that Puritan ministers had to make some gestures of conformity in order to get and keep a parish although once they had it, they often held it at their peril.[6] He rejected that aspect of Puritanism that claimed that there was the possibility of leading a sinless, blameless life that might lead to sanctification.[7] Nonetheless, these controversial attitudes notwithstanding, Perkins was committed to the radical Puritan movement and must be seen as a proponent of the

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[2] Thomas F. Merrill, "Introduction" in *William Perkins: English Puritainist,* ed., Thomas F. Meriill (Nieuwkoop: De Graaf, 1966), xvii.

[3] Albert Jonsen and Stephen Toulmin, *The Abuse of Casuistry* (Los Angeles: University of California Press, 1988), 159.

[4] Kenneth Kirk, *Conscience and its Problems* (London: Longmans, Green, 1948), 203.

[5] Donald K. McKim, *Ramism in William Perkins' Theology* (New York: Peter Lang, 1987), 5.

[6] Elliot Rose, *Cases of Conscience: Alternatives open to Recusants and Puritans Under Elizabeth I and James I* (Cambridge: Cambridge University Press, 1995), 191.

[7] Donald K. McKim, *Ramism,* 11.

austere supralapsarian, predestinarian theology that gripped England at the end of the sixteenth century.[8]

Perkins was born in 1558 and as a young man was given to profligacy. Most biographies of him inevitably note that he had a moment of conversion when he overheard a woman on the street pointing him out to her child as that "drunken Perkins." Supposedly, he was so taken aback that he thereafter committed his life to God.[9] Apocryphal or not, it must have made for good storytelling back at Christ's College in Cambridge. Perkins had a lifelong association with Cambridge. He never held any ecclesiastical preferments, other than a fellowship at Christ's College and later a lectureship at St. Andrew-the-Great, also in Cambridge. However, at the time, a lectureship which presumed conformity to the Church of England liturgy had its conveniences. It consisted entirely of preaching and the lecturer could avoid reading from the Book of Common Prayer, wearing a surplice or administering the sacraments, all of which were avoided by the Puritans.[10]

Essentially Perkins devoted his life to writing and preaching. It was a short life; he died in 1602, at the age of 44. Nonetheless there are some 252 entries of writings by Perkins in the *English Short Title Catalogue.*[11] They range from general theological works to writings on eschatology, preaching, and exegetical expositions of biblical verse. They include *A Golden Chaine: Or The Description of Theologie Containing the Order*

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[8] David Como, "Puritans, Predestination, and Construction of Orthodoxy in Early Seventeenth Century England," in *Conformity and Orthodoxy in the English Church: 1560-1660,* eds, Lake and Questier, (Rochester, N.Y.: Boydell, 2000), 65.

[9] Merrill, "Introduction" in *Perkins...Puritanist,* xvii.

[10] Rose, *Recusants and Puritans*, 191.

[11] The *English Short Title Catalogue*, which will be frequently cited in this dissertation, is the online version of the entire Wing, Pollard and Redgrave, and Thomason Tracts' listings. It should be noted that any one number of entries

of the Causes of Salutation and Damnation (1590), which contains what purports to be God's order of the causes of salvation and damnation. *A Golden Chaine* is the work that defines Perekins' doctrine of supralapsarian predestination.[12] However, on the title page Perkins credits M. T. Beza[13] with providing God's ordering. Two years later Perkins wrote *The Foundation of the Christian Religion Gathered into Sixe Principles* (1592), the declared purpose of which was to help people profit from what they heard in sermons. His theological writings include *A Reformed Catholique* (1597), a polemic that showed similarities between the Roman Church and the English Church.[14] It inspired several rebuttals, in particular by William Bishop (1554-1642), who wrote *Maister Perkins Reformed Catholique* (Part I, 1604; Part II, 1607.) It also inspired support: Anthony Wotton (1561-1626), Lecturer at All-Hallows, Barking, wrote *A Defense of M. Perkins Booke, called A Reformed Catholicke Against the cauils of a Popish Writer* (1606.) Additionally Perkins wrote a work on preaching, *The Arte of Prophecying* (1606), which was the first systematic preaching manual written for the Church of England[15] and his rules for preaching are clearly reflected in the preaching manuals of Baxter and Taylor, as noted in the second chapter. Perkins' eschatological writings include *A Warning against the Idolotrie of the Last Times* (1598) and *Death's Knell* (1604), which was meant to prepare the dying for "the great day of doome." Perkins' exegetical writings include *An*

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is not necessarily the actual number of individual works by the author but includes multiple editions and reprints of the same work.

[12] Bryan D, Spinks, *The Two Faces of Elizabethan Anglican Theology* (Lanham, Md: Scarecrow Press, 1999), 26.

[13] Theodore Beza was a professor of divinity at Edinburgh and the author of an important work, *Propositions and Principles of Divinitie, propounded and disputed in the University of Geneva* (1591).

[14] Ian Breward, Ed., *The Work of William Perkins*, (Abingdon, Berkshire, UK: Sutton Courtenay, 1970), 515.

[15] Ibid., 328.

Exposition of the Lord's Prayer (1597) which also contains what Perkins refers to as the prayers of Paul, taken out of his epistles.

It is difficult to differentiate between Perkins' works on conscience and his writings on casuistry. However, only three of his works were intended to be read as systematic casuistry despite the fact that most authorities such as Slights, Jonsen and Toulman, Merrill, McAdoo and Kirk credit Perkins for fathering English Protestant casuistry. His books on casuistry are: *A Discourse of Conscience Wherein is Set downe the Nature, properties and differences thereof: as also the way to get and keepe good Conscience,* published in 1596; and the *Whole Treatise of the Cases of Conscience,* published posthumously in 1606. Both are devoted to the resolutions of cases of conscience. *A Case of Conscience the Greatest that ever was; how a man may know whether he be the child of God or no* can also be included, but it is arguable. Elliott Rose argues that only one book, the *Whole Treatise,* which was published posthumously was entirely made up of casuistic argument. He contends that it was conceivable that Perkins did not intend *A Discourse of Conscience* to be a systematic work[16] and that *A Case of Conscience* is simply a polemic tract. This dissertation contends that *A Case of Conscience* is indeed marginal as a casuistic work, but both it and *A Discourse of Conscience* bear on the subject of casuistry, because in both works Perkins deals with conscience as the revealed solution to the problem of assurance of election.[17] In other words: In a world uneasy over salvation, Perkins argues that a clean conscience could morally justify election,[18] and he gives specific directions on ways to maintain a clean

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[16] Rose, *Recusants and Puritans*, 190.

[17] Merrill, "Introduction" in *Perkins...Puritanist,* xv.

[18] William Perkins, *A Case of Conscience the Greatest that Ever Was* (London: 1626), passim.

conscience in the face of moral dilemma. Rose also states that *A Reformed Catholique* is linked to casuistry because Perkins mentions casuistry as an egregious branch of Christian doctrine that was misused by the Roman church.[19] He also points out that the *Whole Treatise* is a theoretical work, rather than a practical, adding that he can find little of relevance to the situation of Puritans in England during Perkins' time, other than commentary on the appropriate conduct for Christians under persecution in which it appears that the persecutors are the Roman Catholics.[20]

Generally speaking, it is worthwhile looking at the question of what is theoretical and what is practical casuistry. As noted in both the introduction and the second chapter, most Protestant casuistry is essentially practical: A problem is posed and a direct answer is given and that answer is backed up by scriptural precedent or tripartite eternal law, rather than theological debate. However, not all cases of conscience are taken directly from experience. Some are set up as systematic, hypothetical cases. Richard Baxter sets his up that way in *A Christian Directory.* He will take one topic such as prayer and pose, perhaps thirty conscience-affecting questions about prayer, resolving each question with a here's-what-to-do answer. [21] Others like Joseph Hall and Robert Sanderson set up their cases based on actual incidents such as Sanderson's *The Case of a Bond Taken in the King's Name.*[22] Perkins, unlike Hall and Sanderson, sets up his cases of conscience as a series of hypothetical situations that have practical implications. A case in point is in the second book of the *Whole Treatise*; an entire section is devoted to oaths, dealing with such questions as: "How farre-forth doth an oathe binde, and is to be kept?" He frames

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[19] Rose, *Recusants and Puritans*, 194.

[20] Ibid., 193.

[21] Richard Baxter, *A Directory Directory* (Morgan, PA.: Soli Deo Gloria. 2000), 483-492.

the answer in the form of a case of conscience that is structured like a syllogism. Sanderson and Hall, by comparison, took actual cases to which they had personally attended and restructured them into practical guides for anyone facing a similar situation.

Practical or theoretical, Perkins created the method, form, and content that influenced the overall tone of casuistry for the remainder of the century. William Ames, for example, admittedly reflected Perkins. He dedicated *Conscience with the Power and the Cases therof* to Perkins with an acknowledgment of that debt.

> I gladly call to mind that time, when being young, I heard worthy Master Perkins so preach in a great Assembly of Students, that he instructed them soundly in the truth, stirred them up to seeke godliness, made them fit for the kingdome of God...and among other things to teach. How with the tongue of the learned...untying and explaining diligently Cases of Conscience (as they are called.)...My heart hath ever since been so set upon that Study, that I have thought it worthy to be followed with all care, by all men.[23]

The important influence on Perkins was Peter Ramus.[24] Perkins seemingly based his method of resolving cases of conscience on a Ramist pedagogy of logic. Peter Ramus (Pierre de la Ramee: 1515-1572) was a French scholar who held a Chair in Rhetoric and Logic at the Collège de France in the years prior to the St. Bartholomew Massacre, in which he was killed. He represented a liberal, anti-Scholastic point of view which was condemned by the faculty of the Sorbonne. The basic principle of Ramist logic, which was anti-Aristotelian in nature, emphasized the Platonic notion that the hierarchies of

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[22] Robert Sanderson, *Nine Cases of Conscience* (London: 1685), 82.

[23] William Ames, *Conscience with the Power and Cases thereof, Divided into Five Bookes,* a translation of *De Conscientia et Eius Iure vel Casibus (1622)* (London: 1643.), a. Wing/ A2993.

[24] There are several books in which both Perkins and Ames and Sanderson are linked to Ramism. Three such works are McKim, *Ramism in William Perkins' Theology*, (New York: Peter Lang, 1987); Arthur William Lindsley, "Conscience and Casuistry in the English Puritan Concept of Reformation," (Ph.D Diss., University of Pittsburgh, 1982), 174 ff and Camille Slights, *The Casuistical Tradition.* (Princeton: Princeton University Press, 1981), 41.

God's heaven were to be reflected on earth.[25] It was a complex method in which Ramus strove for a clarity of thought by dividing and sub-dividing a proposition until it was broken down into intersecting elements or ideas which could then be arranged into ordered diagrams or schematics. Ramus believed that a logical construction started from a universal proposition and ended as a specific conclusion. He took the premise of a syllogism and recast it as an axiom. In other words, he created a criterion which reflected the syllogism and, "paired it with its counterpart, for example, sun with moon, man with woman, cause with effect."[26] This permitted ideas to be weighed in term of either one's own experience or an authority like the Bible. The Ramist method was important to the followers of Calvin because its insistent order of things corresponded to the belief in a rational universe; many Puritan theologians zealously based their writings and sermons on Ramus.[27]

Ramus was first published in England in 1574. His works in Latin and French had previously been published on the continent and had circulated in Great Britain, particularly Presbyterian Scotland, which had embraced Ramus. The first English editions in 1574 were edited by a Scot, Roland McIlmaine.[28] Andrew Melville, modeled educational reforms in Scotland along Ramist principles. Ramism took hold at Christ's College where it dominated the study of dialectics (logic.) However, it was at Cambridge that Ramus had his greatest influence and where the teaching of rhetoric and dialectics

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[25] H.G. Koenigsberger and G. L. Mosse, *Europe in the Sixteenth Century* (New York: Holt Rinehart and Winston, Inc., 1968), 289.

[26] Ibid.

[27] Ibid.

[28] McKim, *Ramism,* 37.

based on Ramus took hold.[29] During the last quarter of the sixteenth century, Ramist-influenced Cambridge produced a number of important scholars, including Laurence Chaderton, Gabriel Harvey, William Temple, George Downame and Alexander Richardson, all respected thinkers and theologians who separately and together were influential in Protestant as well as secular circles and were said to have had an impact on the works of Perkins, Ames and lesser casuists who constituted the radical wing of Puritanism.[30]

Donald McKim contends that "Perkins' allegiance to Ramus was widespread and deeper than had been realized."[31] Nonetheless, it must also be noted that the hypothesis that Perkins was a committed Ramist is difficult to prove, largely because there is no one place where Perkins states that Ramus was an authority for him. However, in works like *The Arte of Prophecying* or *A Treatise concerning the sacred and only true manner of Preaching* and in most of the cases in both *A Discourse of Conscience* and *Whole Treatise,* Perkins divides and subdivides his subject matter into an orderly procession of arguments that "make it clear that Perkins was probably the first Englishman to have written on preaching within the framework of Ramist philosophy."[32] Unlike Baxter, who relied on a question and answer format, Perkins framed his cases of conscience as a set of nested boxes, in which one cycle of premises and conclusions led to another, and which, in turn, led to a judgment or resolution.

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[29] Ibid., 35.

[30] Arthur William Lindsley, "Conscience and Casuistry in the English Puritan Concept of Reformation," (Ph. D Diss., University of Pittsburgh, 1982), 149-50.

[31] McKim, *Ramism,* 2.

[32] Lee W. Gibbs, "The Major Sources of Technometry" in William Ames, *Technometry* (Phila: University of Pennsylvania Press, 1979). 27.

In *A Discourse of Conscience*, for example, Perkins says that conscience "gives judgment." His form and method is apparently Ramist. He starts by establishing that there is an internal logic to conscience. "Conscience gives judgment in or by a kind of reasoning or disputing, called a *practical syllogisme."*[33] He cites Romans. 2:15 as authority.[34] He adds a second proposition regarding reason and says that reason is made up of two "assistants," mind and memory. The mind is the "storehouse ...[of] rules and principles, which includes the rules of divine law,"[35] and memory is simply the remembrance of actions past. He illustrates what he means with a cycle of three syllogisms that serve as a model Ramist argument for the nature of murder. The first syllogism is:

> *Every murtherer is cursed,* saith the mind.
> *Thou art a murtherer,* saith conscience assisted by memorie:
> Ergo, *Thou art cursed,* saith conscience, and so giveth her sentence.[36]

The second syllogism which emerges out of the first, demonstrates the dichotomy between mind and memory by showing that conscience exists in either the past or the future. As a phenomenon that has already taken place in the past, conscience has two properties. It either accuses or excuses, which means to "give judgment."

> *Every murther is a sinne:*
> *This thy action is murther:*
> Ergo, *This thy action is a sinne.*[37]

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[33] Perkins, "Discourse of Conscience" in *Perkins...Puritanist,* 38.

[34] Romans 2:15. Their reason accusing or excusing each other. KJV

[35] Perkins, "Discourse of Conscience" in *Perkins...Puritanist,*. 39.

[36] Ibid., 38 – 39.

[37] Ibid.

Thus conscience accuses. The third syllogism takes place in the future where conscience makes a judgment and either condemns or absolves.

> *Every Murtherer deserveth a double death"*
> *Thou art a murtherer:*
> Ergo, *Thou hast deserveth a double death.*[38]

Perkins believed that the consequence of accusing and condemning was not simply that a judgment was made, but that the making of the judgment also had emotional consequences. It stirred up five "passions and motions in the heart," shame, sadness, fear, desperation and perturbation, which he described, as a worm "that never dieth, but alwaies lies gnawing...at the heart of man."[39] On the other hand, to excuse and absolve carried with it the gift of "boldnes and confidence...Hence it is said, that a good conscience is a continuall feast."[40] The three premises and conclusions cited above, start with a proposition that eventually leads to a judgment. In this case the judgment is double death; a judgment that fits the sin. It is diagrammatic and symmetrical, in almost pure Ramist style. The sinner had taken a life and the judgment was therefore the denial of both life on earth and eternal life. Further, in Ramist style, it reflected a Platonic universe.

Perkins divided his cases of conscience into three forms: Man alone, man in relationship to God and man in society.[41] They are the titles of each of the three volumes that constitute *The Whole Treatises of Cases of Conscience.* The title page of Book One, reads: *Cases of Conscience, concerning Man considered in himself without relation to*

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[38] Ibid.

[39] Ibid., 39.

[40] Ibid.,. 41.

[41] Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambride, Mass.: Harvard University Press, 1990), 235.

another.[42] Book Two and Three read jointly: *Cases of Conscience Concerning Man standing in relation to God and Man.*[43] Book Three spells out Perkins' concern for man in society on a subsequent page, stating that he is dealing with: "Questions of conscience ...which doe belong unto man, as he is a member of some Societie, whether it be Familie, the Church or the Commonwealth."[44] With that Perkins provides a foundation that connects his casuistical work under one umbrella from which he then extrapolates a procession of syllogisms leading to a resolution. It should be noted that similar divisions make up Ames' *Conscience and the Power thereof*, which is discussed below.

George L. Mosse argues for the connection between religion and reasons of state with casuistry being a function of both. The tension between the continually changing demands of state and the religious liberties of its citizens gave rise to the need for a constant reordering of allegiances and loyalties.[45] An important portion of Perkins' casuistry was concerned with the problems of political "policy," which is defined by Mosse as the implementation of "reasons of state,"[46] or what the late nineteenth century called *realpolitik.* Perkins set up a structure of four conditions with which to deal with reasons of state. The first was that nothing must be done against the honor of God. In the seventeenth century "reasons of state" was further complicated by notions of Divine Right and the inviolability of monarchs.. The second was that the truth of the Gospel was inviolate. The third was that civil justice is almost sacrosanct and the fourth was that all

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[42] William Perkins, *The Whole Treatise of the Cases of Conscience* (Cambridge: 1606. Facsimile edition, Amsterdam: Theatrvm Orbis Terrarvm Ltd., 1972), I, 1.

[43] Ibid., II, 1.

[44] Ibid., III, 471. (Perkins paginated the title and dedicatory pages of each book as 1, 2, 3, etc., but the pages of theological text were numbered continuously throughout the three books.)

[45] George L. Mosse, *The Holy Pretence* (New York: Howard Fertig, 1968), 9 ff.

[46] Ibid., 48.

dictates of policy must pertain to "our calling,"[47] meaning the Godly directive to join the clergy. Thus Perkins links "policy" with faith.

Perkins illustrates his casuistry of "reason of state" in a case of conscience entitled *Of Justice* from Chapter VI, third volume, of the *Whole Treatise*. The case is collected under man in society and is important because it concerns three elements of policy that reflect Perkins' conditions under which human beings live with the demands of state. The first is the extent to which power of magistracy rules the individual; the second is the inviolability of civil law; and the third is the means by which judgment and justice come together. The following is a step-by step analysis of the case in detail because it shows the intricacies of Perkins' casuistry, demonstrates his use of Ramist logic, shows his use of scriptural authority and sets up the rules and regulations that would make up a court of conscience, a seventeenth-century concept that takes up the obligations imposed on conscience by culture, civil and ecclesiastical law.[48] The notion of a Court of Conscience also informs the thinking of Sanderson and Taylor, as noted in detail below.

The authority of the case is the text of Psalm 15 which asks the question: "Who can dwell in King David's tent?" Perkins will arrive at the answer that only the just can dwell in King David's tent. To arrive at that answer, Perkins divides justice into two parts, "The Justice of the Gospel, and the Justice of the Law."[49] He defines the Justice of the Gospel as being evangelical justice or obedience to Christ. He further says the Justice

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[47] Ibid., 50.

[48] Wood, *English Casuistical Divinity During the 17th Century: With Special Reference to Jeremy Taylor* (London: S.P.C.K., 1952), 67 ff.

[49] William Perkins, "The Whole Treatise of Cases of Conscience" in *William Perkins. English Puritanist,* ed. Thomas Merrill. (Nieuwkoop. 1966.), 231. Note: Two editions of this work have been used. One is the facsimile, which is noted above and a modern edition edited by Thomas Merrill which contains several different works. Additionally there is an edition edited by Ian Breward, also mentioned, whose title implies it is the complete works, however, it contains a limited selection of important writings and an introductory essay.

of the Gospel is a consequence of divine revelation as opposed to man-made law which Perkins calls Justice of the Law. Justice of the Law is legal justice provided by civil institutions. These premises, in turn, are divided into two more parts called Universal and Particular justice. Universal justice is obedience to all civil law as stated in Romans 10:5.[50] Particular justice "is that whereby we give every man his right or due."[51] In true Ramist style, Perkins further divides particular justice into two parts which he describes as being first,

> in *distribution* or in *exchange,* and [second, as being in] *contract*. Justice in distribution is that, which keepes a proportion in giving to every man that honor, dignity, reverence, reward or punishment that is due unto him.[52]

Thus, particular justice is dispensed proportionately, in relation to what is owed each person, as opposed to contractual justice, which is negotiated.

Perkins breaks down the matter one more time by asking: "What is that judgment, which men are to give and hold, one to and of another?"[53] Perkins' answer is, "Judgement is of two sorts: publike and private."[54] Public judgment is the judgment of a magistrate that is made in a public place and private is "whereby one man gives judgement privately of another."[55] Perkins cites as authority 2 Chronicles. 19:6,[56] Psalms 56.1[57] and

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[50] Romans 10:5. ...the man who practices righteousness based on law shall live by it. RSV

[51] Perkins, "Whole Treatise" in *Perkins... Puritanist,* 232.

[52] Ibid.

[53] Ibid.

[54] Ibid.

[55] Ibid.

[56] 2 Chronicles 18:6. Consider what you do, for you judge not for man but for the Lord....RSV

[57] Psalms 56:1 Do you indeed decree what is right...Do you judge the sons of men uprightly? RSV

1 Corinthians 14:24,[58] all four verses of which deal with forms of excommunication and punishment. Private judgment, however, requires further elaboration and Perkins says, two more points must be considered. "First, of what things judgment must be given: Secondly, how are we to give judgment."[59] Public judgment takes circumstance into account and touches on three elements: facts, doctrine and the kind of person who is being judged. Private judgment is accessible to only two kinds of people: members of the church and outsiders. Members of the church must be judged charitably. Outsiders may be tried and examined but we must "reserve the judgment of condemnation to God alone."[60]

Perkins having answered the question "What is Judgement...?" now asks, "How are we to judge one of the other?" He answers with six rules. They are 1) If one knows something good about the judged, say it; 2) the same if one knows anything evil; 3) always speak charitably; 4) judgment must be withheld if the offense is secret; 5) there must be at least two or three witnesses before accusing an elder, which means ministers, civil authorities and all superiors; and 6) ministers may only be judged by peers or ecclesiastical superiors.[61] The last three rules substantiate Perkins' belief that reasons of state need not compromise faith so long as the conditions of magistracy are upheld. Number four, that judgment must be withheld if the offense is secret, is further illuminated with, "If thy brother trespasse against thee, first reprove him privately, betweene thee and him, and goe no further..."[62] In other words, keep the state out of it.

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[58] 1 Corinthians 14:24. But if all prophesy, and an unbeliever or outsider enters, he is convicted by all. RSV

[59] Perkins, "Whole Treatise" in *Perkins...Puritanist,* 232.

[60] Ibid., 233.

[61] Ibid., 234-236.

[62] Ibid., 234.

The fifth rule regarding the accusation of elders is also further enhanced with, "This may be a lesson for all inferiours to learne, who take liberty to themselves, to speak what evill they please of their govenours,"[63] and the sixth rule goes even further with "Private persons have no power to examine [doctrine and] no power to give judgement."[64] Doctrine, he says is subject only to "censure by Prophets." Prophets in this instance are the clergy and only the clergy can censure its own. After the clergy makes its judgment, then "private persons" may make their judgments.

Perkins asks a second question on the issue of justice that ties justice to virtue: "How one man should honor another?"[65] The question relates to the point Perkins makes above in which he says that Justice gives every man that honor, dignity, reverence, reward or punishment that is due unto him. He is working toward a context of grace. He says that the bases for honor are "virtue" and "goodness" because those qualities in a person mean that a person stands in the image of God.[66] One man honors another when he

> beareth the image of something that is in God...Thus the king is honored, because in his Majestie and state, he carries a resemblance of the power and glorie of God...thus the husband is to be honored of the wife, because he beareth, before the woman, the image of the glorie of God...so the father is honored of the son...[67]

The remainder of the case of conscience is an admonition to honor one's self and he finally reaches the conclusion that it is the just man who dwells in the House of David.

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[63] Ibid., 231.

[64] Ibid., 232.

[65] Ibid., 236.

[66] Ibid.

[67] Ibid., 236-237.

It might do well to briefly sum up and restate the progression of Perkins' thought on justice and ask if it relates to reason of state. Essentially Perkins is saying that only the just can expect God's grace. There are two kinds of justice, earthly and revealed. Earthly is either particular or universal. Particular is where man is accorded his due. Universal is obedience to Civil law. Justice leads to judgment. What is judgment? Judgment is either trial by magistrate in public or private. That opens the question: What is judgment and who can render judgment? Only the virtuous and the good. As a case of conscience, it makes an implicit demand on the honor or magistracy to be both virtuous and good. Indeed, only the just can dwell in King David's tent.

JOSEPH HALL (1574-1656)

Joseph Hall, whose theology emerged out of the Elizabethan *via media,* spent his life as a Church of England clergyman who held moderate Puritan views.[68] He was a defender of the Elizabethan consensus and the substance of his thought, which was a middle-of-the-road stance between Calvinist theology and Episcopalian prelacy, placed him in the center of the argument between the Puritans and the proponents of a High Church, endearing him essentially to neither.[69] His theological writings, however, were only one facet of his oeuvre. He also wrote satires, secular meditations, essays, sermons and two works of casuistry.[70] Eventually his work and reputation earned him the Bishoprics of Exeter and later Norwich, begun during the last years of Elizabeth I reign and lasting well into the Protectorate.

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[68] Frank Livingstone *Bishop Hall and Protestant Meditation in 17th Century England: A Study with the Texts of "The Art of Divine Meditation" (1606) and "Occasional Meditations" (1633)* (Binghampton, N. Y.: Center for Medieval and Renaissance Studies, 1981),1.

[69] Patrick Collinson, *The Religion of Protestants: The Church in English Society 1559-1625.* (Oxford: Oxford University Press, 1992), 19

In 1589, Hall entered Emmanuel College in Cambridge, which at the time was largely high church but with an abiding concern for the work of John Calvin.[71] As outlined above, Cambridge was under the influence of Peter Ramus but the Ramist system of thought appeared to have been of small consequence to Hall.[72] Among his earliest publications were a series of poems, elegies and pastorals, none of which have survived. His reputation was first made with a series of satires published in 1597 and 1598 under the collective title of *Satires Virgidemiarum, Sixe Bookes*. From 1601-1608, Hall enjoyed the patronage of the wife and family of Sir Robert Drury at Halstead, during which time he composed and published the first book of his meditations, *Occasional Meditations (Meditatiunculae Subitaneae),* which consisted of a hundred reflections, almost all of them being one-paragraph reflections on the religious implications of natural phenomena, the substance of which can be gleaned from such titles as "Upon the Sight of a Gliding Star"[73] or "Upon The Sound of a Cracked Bell."[74] It was a literary form that he also explored in *The Art of Divine Meditation*, published in 1633. (It was written earlier over an extended period of time.) The difference between the two books is that *Occasional Meditations* are subjects upon which one can meditate as compared to *The Art of Divine Meditation,* which is largely instructional. Both sets of meditations attracted the attention of Henry, Prince of Wales, son of James I, who asked Hall to preach at court and was sufficiently impressed to offer Hall patronage and a

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[70] Frank Livingstone Huntley, *Bishop Joseph Hall and Protestant Meditation in 17th Century England* (Binghampton, N.Y.: Center for Medieval and Renaissance Studies, 1981), 1.

[71] Ibid., 5-6.

[72] Ibid., 89.

[73] Joseph Hall, "Occasional Meditations," in *Bishop Joseph Hall and Protestant Meditations*, ed. Frank Livingstone Huntley (Binghampton, New York: Center for Medieval and Early Renaissance studies, 1981),125.

[74] Ibid., 151.

chaplaincy at court in 1608.[75] After turning down two prebends, Hall ultimately took up residence as the vicar of Waltham Abbey where he remained for the next eight years and where he wrote several works including *Solomon's Divine Arts* (1608), which consists of short exegetical extensions on the biblical books of *Proverbs, Ecclesiastes* and *Song of Songs*. All of them are concerned with themes of justice, providence, temperance, politics and oeconomics. In each instance, Hall used biblical text as the authority for his conclusions. The content itself, however, is somewhat ordinary and sermonlike, consisting almost entirely of proverbial wisdom, such as,

> He that findeth a wife findeth a good thing,
> and receiveth favor of the Lord: who must
> therefore behave himself...wisely as the guide
> of her youth: as the heade to which shee is
> a crowne.[76]

Solomon's Divine Arts was followed by *Characters of Vices and Virtues* (1609), a compendium on appropriate Christian conduct.

Hall first became a controversial figure when he participated in an exchange of letters concerning separatism, and in particular, the Brownist movement.[77] The Brownists opposed three of the basic principles of the Church of England to which Hall was committed. The first was the nature of prelacy and the right of the king to impose forms of belief and modes of worship on the faithful: the Brownists held that only Christ was king. The second Brownist objection was a combination of two factors: one was the inadequacy of much of the English Church clergy and the other was that according to the

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[75] T. F. Kinloch, *The Life and Works of Joseph Hall.* (London: Staples, 1951), 24

[76] Joseph Hall, *Solomon's Divine Arts* (London: 1609, Facsimile edition, Cleveland, Ohio: Pilgrims Press, 1991), 148 .

[77] Named after Robert Browne (died 1633). The Brownists were one of the early Cambridge separatist movements. Among their beliefs were that the church did not necessarily have to be nationwide; that magistrates hold office only at the behest of the people; and they denied by implication the doctrine of a priesthood of all believers. There is some question that Browne may or may not have been a member of the movement named after him.

law any man that didn't attend church could be fined, which the Brownists found entirely unfair.[78] The third contention was that the Brownists objected to many of the English church's ceremonies on the basis that they were Romish.[79] Hall sent a letter to two principals of the movement claiming that "as Ringleaders of the Late Separation,"[80] they had done injury to the church. He dedicated the letter to his patron, Henry, Prince of Wales.

John Robinson, minister of the Brownist congregation to whom the letter was addressed, replied with *Answer to a Censorious Epistle.* In return, Hall published a pamphlet entitled *A Common Apology for the Church of England against the unjust challenges of the over-just sect commonly called Brownists.*(1610) Hall framed his argument in terms of conscience saying that Christians cannot do what they ought not.[81]

Prince Henry died in 1612, at which time Hall preached the funeral sermon to the prince's household, which apparently impressed James I. At this time, the King was trying to introduce additional ritual to the Episcopalian liturgy, particularly in Scotland. Hall was ordered by the king to write a defense of the five points of ceremony[82] and to go to Scotland with the King and preach the new order.[83] Shortly before leaving, James nominated Hall to the deanery of Worcester. In 1618, James sent several theologians to attend the Synod of Dort, with Hall among them. He gave them specific instructions to

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[78] Kinloch, *Life and Works of Joseph Hall,* 147.

[79] Horton Davies, *Worship and Theology in England,* (Grand Rapids, Mich: William B Erdmans Publishing Co .1996), 336-37.

[80] Kinloch, *Works of Joseph Hall,* 144.

[81] Ibid., 147.

[82] These were points of ritual covering the celebration of the Eucharist, baptism and accepting Pentecost and Ascension as being equal to Christmas and Easter.

[83] Huntley, *Joseph Hall,* 103.

avoid the Latin language so that their minds might be clear. [84] Hall remained at Dort only a short time because of ill health, but he attempted to apply the conciliatory principles of the *via media* to the problem of Arminianism. Despite the King, he did preach a Latin sermon at Dort. It later became the treatise, *Via Media, the Way of Peace in the Five Busy Articles Commonly Known by the Name of Arminius.* (1622)[85]

After James' death, Hall made a smooth transition to the favor of Charles I, seemingly because his position on the Romish controversy met with the approval of both Charles and Archbishop Laud. The influence of Rome had been an ongoing controversy since the earliest days of the English Reformation. Two concepts were in opposition to one another. On the one hand, the Reformation looked backward to the Catholic church for the purpose of maintaining an ecclesiastical presence that was meant to replicate the primitive church of the Apostles, and on the other, the English church wanted to make the break with Rome as visible as possible. Toward that end, some clerics developed the notion of a visible and an invisible church.[86] The visible church was the High Church and the invisible was Calvin's invisibility of the elect. The ultimate purpose was to recover the Catholic faith on Protestant terms and to do so by restoring, as McAdoo points out, "a rational balance between the intense concentration on infallible authority before the Reformation and a middle road between the acceptance of authority and personal liberties after."[87] Robert Sanderson explained the Church of England's position on the break between Rome and England as being

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[84] Kinloch, *Works of Joseph Hall,* 29.

[85] Richard A. Muller, "Joseph Hall as Rhetor, Theologian and Exegete: His Contribution to the History of Interpretation," in Joseph Hall, *Solomon's Divine Arts*, (Cleveland: The Pilgrim Press, 1991), 14.

[86] McAdoo, *Caroline Moral Theology,* 5

[87] Ibid.

> with so much prudence and moderation
> that the world might see, by what was laid aside,
> that she [the Church of England] acknowledged
> no subjection to the See of Rome; and by what
> was retained, that she did not recede from the
> Church of Rome.[88]

Joseph Hall, in his treatise *The Old Religion* (1627), declared his position on the matter. He defended episcopacy on historical grounds, citing a continuity from biblical times to the present and including the Catholic Church. He further observed that the Church of England had emerged from the Catholic Church and was still part of it. However, the Catholic Church had become corrupt, and the Church of England had purged itself of such corruption. Thus, it was beholden on the English church to denounce the errors of the Roman church and to do so without denying the Catholicity of the English Church.[89]

> That the Latine or Westerne Church subject
> to the Romish tyrannie (unto the very times of *Luther*)
> was a true church in which a saving profession of
> the truth of Christ was found, and wherin *Luther*
> himself received his Christianity, ordination, and
> power of ministerie...and if since that time it bee
> fouly corrupted...will some man say, Is the Romane
> Church at this day no part of the Church of God?
> Surely as Augustine noteth that the societies of
> heretickes , in that they retaine the profession of
> many parts of heavenly truth...bringeth forth children
> unto God.[90]

Additionally, Hall declared the visibility of the Roman Church and rejected the concept of the invisibility of the elect. He claimed that the Roman Catholic church, while abhorrent, was nonetheless part of the universal church catholic, as was the Church of

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[88] Robert Sanderson, "Preface" in *XXXV Sermons, 1587-1663* (London: Thomas Hodgkin, 1681. Wing/S637. Arber's Term Cat. I/445. Copy from Henry Huntington Library and Art Gallery), np.

[89] Huntley, *Joseph Hall,* 112-13.

England.[91] His argument was partly based on the notion of a separation between the Church and the Pope.

> *Junius,* distinguishing betwixt the Church and the Papacie determines the Church of Rome to be a truely living (though sicke) Church, wherof the Papacie is the disesase, marring the health, threatening her life...The Popish Church in that it hath in it, that which pertaines to the definition of a Church, is a Church.[92]

Thus he appeared to be arguing from two points of view: One, that the Roman church had been supplanted by the Reform church and two, that it was nonetheless a valid institution in itself. It was an argument certain to displease the Puritans who believed that to admit that the Roman Church was in any way a church was to legitimize the Popish clergy in the Church of England. Hall's position on the visibility of the Roman church led his attackers to claim that he believed Rome was the only true church,[93] a not unreasonable conclusion, since it was a theme that Hall repeated several times later in his life and did so ambiguously, never quite making his position fully clear. In fact, the following quotation comes from a second, amended edition of *The Olde Religion*, in which Hall added *An Apologetical advertisement to the Reader* for the purpose of clarifying his stance, "in more plausible language concerning the Roman Church," on the visible and invisible church.

> I yeeld the Church of Rome a true visible Church; sound no less; then, as if I had sayd, the Church of Rome wherein the harsh noyse of a mis-construed phrase offends their eare, and breeds their quarrell...for this seems to be a true-beleeving church; or part of the mysticall body

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[90] Joseph Hall, *The Olde Religion* (London: Nathaniell Butter and Richard Hawkins, 1628), 202-204

[91]. Muller, " Hall as Rhetor," 14-15.

[92] Hall, *Olde Religion*, 204 5.

[93] Huntley, *Joseph Hall,* 113.

> of Christ...far wide from my words or thoughts...
> Wherefore serves this Booke but to evince the manifold corruptions of that foule Church? That shee is truly visible, abates nothing of her abhominations...*visible*, referres to outward profession...of Christianity and an heriticall, Apostatical, Anti-Christian Synagogue in respect of doctrine and practice.[94]

In the *Advertisement,* he cites the writings of William Perkins as authority for his own and concludes the *Advertisement* with a statement that says that the Anglican church is also a true visible church.

> Neither think to goe away with an idle misprison: Wee are a true visible church, what neede we more? why should we wish to be other than wee are? Alas poore souls...Ye may bee of a true visible Church and yet never the nearer to heaven.[95]

This was not quite enough. The *Advertisement* did not stop the attacks on his position and he was obliged to amplify his stance once again with *The Reconciler, An Epistle Pacificatory of the seeming Differences of Opinion Concerning the True Being and Visibility of the Roman Church* (1629) in which he explained his use of language.[96] This too was published in a second edition with an "enlargement" to further explain his position. It was, however, to modest avail since the issue cropped up again later in his life.

While these arguments were going on, Hall was consecrated in 1627 to the see of Exeter. It was there that Hall became involved in the Smectymnuus controversy in which, again, he was obliged to continuously publish amplifications of his original words. The Smectymnuus controversy has long since fallen into obscurity but, at the time, it

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[94] Hall, *Olde Religion*, 192 194.

[95] Ibid., 215. Hall's spellings are inconsistent and the above quotations reflect his spellings.

[96] Huntley, *Joseph Hall,* 113.

consisted of two years of roiling anger that might be called a war of pamphlets. The basic issue was prelacy and whether or not authority was inherent in the ecclesiastical hierarchy. The conformists, of course, were on the side of prelacy and they acknowledged an apostolic succession based on the authority of Scripture. The Puritans denied both. In the late 1630s, several Puritan divines had called for a national assembly for the purpose of reorganizing the church and possibly abolishing prelacy. Hall's fundamental argument against this lay in two quarters: 1) that Divine Right established the authority for episcopacy and 2) prelacy had been divinely established within the primitive church.[97] Toward that end, and at the request of Archbishop Laud, he wrote *Episcopacy of Divine Right* in 1640. (It was substantially rewritten and edited by Laud.) Hall defended the existing ecclesiastical hierarchy and the liturgy.

> Episcopacie, such as you have renounced...is
> not only an holy, and lawfull, but a divine institution;
> and therefore cannot be abdicated, without a
> manifest violation of God's Ordinance.[98]...the form which the
> Apostles set and ordained for the governing of the church [was
> intended]...for the continuance and succession for ever.[99]

The *Episcopacy of Divine Right* set the stage for the Smectymnuus controversy,[100] which came into flower when Hall wrote a second treatise on the subject called *An Humble remonstrance to the High Court of Parliament by a dutiful Sonne of the Church* (1640). This treatise, perhaps more than any of Hall's writings hitherto, spelled out Hall's message to a heavily Puritan parliament to maintain the conformist status quo. He emphasized two issues, liturgy and prelacy.

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[97] William Haller, *The Rise of Puritanism* (New York: Harper, 1958), 329.

[98] Joseph Hall, *Episcopacie by Divine Right,* (London: printed by R. B. for Nathaniell Butter, 1640.), 27

[99] Ibid., 32-33.

[100] Haller, *Rise of Puritanism,* 329.

> The liturgie of the Church of England hath been
> hitherto esteemed sacred, reverently used by holy
> Martyrs, daily frequented by devout Protestants...
> confirmed by the edicts of religious Princes,
> and by your own Parliamentary Acts...yet now
> begins to complain of scorn at home.[101]

In the matter of prelacy, he used the same argument he used in the *Episcopacie of Divine Right,* that is, the apostles set a precedent which held true to the seventeenth century.

> If our Bishops challenge any other spirituall power,
> then was by Apostolique Authority delegated unto,
> and required of *Timothy* and *Titus*...let them be
> disclaimed as usurpers, and if we doe not shew,
> out of genuine and undeniable writings of these holy men...
> a clear and received distinction both of the names and
> officers of the Bishops, Presbyters, and Deacons, as three distinct
> callings...Let this claimed Heirarchy be for ever hooted out of the
> Church.[102]

Five Puritan theologians, among them Milton's former tutor Thomas Young, writing under the pen name of Smectymnuus (it was a combination of the five theologian's initials) attacked Hall with a pamphlet entitled *Answer to An Humble Remonstrance.[103]* In addition to the five theologians that made up Smectymuus, there was also the representative of Scotland, Alexander Henderson, who had written *The Unlawfulness and Danger of Limited Prelacie* and Robert Baillie who also had written a treatise with the same title as Henderson's. Hall responded with *A Defense of the Humble Remonstrance against the frivolous and false exception of Smectymnuus* which

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[101] Joseph Hall, *An Humble Remonstrance to the High Court of Parliament by a dutifull Sonne of the Church,* (London: Printed by M. F. for Nathaniel Butter, 1640), 9-10

[102] Ibid., 23-24.

[103] Huntley, *Joseph Hall,* 118-119.

essentially repeated the history of early apostolic succession, but this time with a measure of sarcasm.[104]

> Brethren, while you desire to seem godly,
> learn to be lesse malicious. In the meane time,
> God blesse all good men from such charity and
> our sacred Monarchy from such friends.[105]

This brought on a further attack, the *Answer to the Vindication of Smectymnuus,* to which Hall responded with *A Short Answer to the Tedious Vindication.* Hall was supported in print by James Ussher, Archbishop of Armagh, but he was also attacked by John Milton,who wrote five treatises on the subject, including *Of Reformation Touching Church Discipline* and *Animadversions upon the Remonstrants Defense against Smectymnuus.*[106] To all extents and purposes this argument should have ended here, but there is a curious postscript to the controversy. A long, anonymous treatise called *A Modest Confutation* suddenly appeared in print in 1642. It defended Hall and his position on prelacy and the liturgy. Milton assumed it was written by Hall. In heated response, Milton wrote *An Apology against a Pamphlet call'd A Modest Confutation of the Animadversions upon the Remonstrant Smectymnuus*. Frank Livingstone Huntley argues that the anonymous author of *A Modest Confutation* was the Rev. Robert Dunkin of Cornwall, who had previously published a treatise against Milton.[107] Taken together, there was a total of eleven publications that were exchanged concerning the Smectymnuus Controversy.

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[104] Ibid., 119.

[105] Joseph Hall, *A Defense of the Humble Remonstrance against the frivolous and false exceptions of Smectymnuus,* (London: Nathaniel Butter , 1641), 5

[106] Huntley, *Joseph Hall,* 119.

[107] Ibid., 127 ff.

Hall's positions in support of prelacy and maintaining the liturgy plus his conciliatory position toward the Puritans were stances that he had maintained long before the Smectymnuus controversy and as early as the Romish controversy. His tolerance for the Puritans made him seem to favor orthodoxy above conformity. Throughout the 1630s, his commitment to *via media* engendered the kinds of problems that came with any middle-of-the-road position. In this instance, Hall appeared to support both an arguable, moderate Calvinism and high church conformity, which raised doubts at Canterbury: Throughout the decade, Archbishop Laud's spies tracked him. "Three times, he confesses, he was on his knees before Charles I," in response to what he called "misinformers" and threatened to abdicate his benefice at Exeter if it didn't stop.[108] In a series of letters documented by Kenneth Fincham and Peter Lake, Hall appeared to favor an "established strand of conformist thought much at odds with the Laudianism currently in control of the Church."[109] Hall also claimed that Puritan conformity was largely "external conformity,"[110] and that he, Hall, accepted or rejected rites, ceremonies and the hierarchical values of the church in terms of the earlier Jacobean standards of conformity. This meant that although he was against separatism, he was nonetheless tolerant of both the external conformity of Puritanism and Laudian prelatical values. His stance was essentially one of mild compromise. For example, in 1633-34, he stated no public objections to the *Book of Sports*,[111] but neither did he urge the reading of it in his diocese. Similarly regarding the adoption of a communion table with rail and altar: There is no

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[108] Ibid., 117.

[109] Kenneth Fincham and Peter Lake, " Popularity, Pelacy and Puritanism in the 1630s: Joseph Hall Explains Himself," *English Historical Review* CXI (Sept. 1996): 865.

[110] Ibid., 869.

indication that Hall subscribed to Laud's dictum on maintaining the beauty of holiness. There appears to be little love lost between Laud and Hall. Hall had traveled to London on numerous occasions in the 1630s and he had almost never preached at court. He rarely sat on the tribunal although he was a member of the High Commission.[112] It raises questions of why Hall acquiesced when Laud rewrote and edited *Episcopacy by Divine Right.*

From 1598 to 1602, Hall wrote some sixty-seven works that were published during his lifetime and after.[113] Of those works, only two, C*ases of Conscience practically resolved* (1574-1656), and *Resolutions and decisions of divers practicall cases of conscience in continuous use amongst men* (1574-1656) were actually works of casuistry and they largely duplicate each other in several sections. Nonetheless, he regarded himself as a casuist. In the preface to *Resolutions and decisions...*he wrote

> *Very necessary for their Information and Direction...*
> Of all Divinity, that part is most useful which
> determines Cases of Conscience; and of all
> cases of Conscience, the Practicall are
> most useful.[114]

Compared to the prolixity of men like Baxter and Perkins, Hall was restrained. In total, Hall compiled only 43 cases of conscience, 40 in *Resolutions and Decisions of Divers Practical Cases of Conscience* and an additional work containing three cases which may have been written as an addendum to *Resolutions and Decisions*, called *Three*

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[111] The *Book of Sports* was a compendium of entertainment and sporting activities that could be performed on Sundays. An earlier *Book of Sports* had been issued by James I. Both were attacked by the Puritans.

[112] Fincham and Lake, "Popularity, Prelacy, and Puritanism, 873, 876.

[113] Kinloch, *Works of Joseph Hall,* 203-206.

[114] Joseph Hall, *Resolutions and Decisions of Divers Practicall Cases of Conscience in continual use amongst men,* (London, Printed by M. F. for Nathaniel Butter, 1649. Wing (2nd ed.) / H406. Thomason/E1256[1], Copy from British Library), Preface, n.p.

Additional Cases. The three additional cases are not added on to any of the editions listed in *The Short Title Catalogue,* but they can be found in Volume II of the twelve-volume *Collected Works,* edited by Peter Hall and published in 1837 by Oxford. There is, of course, the possibility that they are not by Joseph Hall. Hall did, however, write two short works in the same style as *Resolutions and Decisions* concerning oaths and covenants: *The Lawfulnes and Unlawfulnes of an Oath or Covenant* (1643) and *Seven Irrefragable Propositions Concerning Oaths* (1639). Both works "serve to rectify the conscience of any reasonable man."[115] Both are discussed in chapter four.

Unlike Perkins, Ames, Baxter and Taylor, Hall's range of cases were essentially limited. In effect, he lived up to the quotation above that the cases must be practical. Most of his cases concentrate on domestic and social categories rather than political. In *Resolutions and Decisions,* he uses four categories, 1) *Cases of Profit and Trafique*, 2) *Cases of Life and Liberty*, 3) *Cases of Piety and Religion*, and 4) *Cases Matrimoniall.* He then breaks each category, or what he calls a "Decade," down into 10 actual cases, most of which are short discussions of fundamental principles supported by biblical authority, which he offers to the reader "as probable advise to the simpler sort of Christians; and as a matter of grave censure to the learned."[116]

Hall's casuistry begins in the workplace, asking such questions as whether it is lawful to charge interest on money lent, or if the seller of goods has to state its damages, or whether or not one can purchase stolen goods -- to name three out of the ten propositions that make up the "First Decade." In all instances, his answers are structured

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[115] Joseph Hall, *The Lawfulnes and Unlawfulnes of an Oath or Covenant* (Oxford: [i.e. London] Printed by Leonard Litchfield, [i.e. Miles Flesher] 1643. Wing (2nd ed.) / H388: Madan, II, 1448/ E.67 [20]: Thomason/ E.67[21] Copy from British Library), Title Page

[116] Hall, *Resolutions and Decisions,* Preface, n.p.

around speculative conditions, such as, in the question of interest on monies lent, Hall wonders, who is asking for the money, whether they are poor, what the laws both civil and ecclesiastical say, and what other uses can one make of the money in question. The first thirteen pages of his answer appears to be a "no" on the basis of biblical prohibitions of usury, but Hall was, after all, a casuist, and the function of casuistry was not to tell his subjects if they could or couldn't do something, but to help them do it within the bounds of a right-thinking conscience. Toward that end he introduces the notion of Christian charity.

> Shortly for the guidance of our either caution, or liberty in the matter of borrowing, and lending, the only Cynosure is our Charity, for in all humane and civil acts of Commerce, it is a sure rule.[117]

Hall makes a remarkable leap of thought in which he establishes a parameter for the charging of interest. In twentieth-century language he essentially says business is business but be charitable; God understands.

> That whatsoever is not a violation of charity cannot be unlawfull...And as Charity must be your rule, so yourself must be the rule of your charity. Look what you could with to be done to you by others, doe but the same to others, you cannot be guilty. The maximes of Trafique are almost infinite; only Charity (but ever inseparable from Justice) must make the application of them; That will teach you that every increase by loan of money is not usurarie...if you can find out a way to advance your stock, that may be free from oppression, and extortion...you need not feare... Surely it must needs be a great weaknes to think that the same God who requires mercy and favor in lending, will

[117] Ibid., 12.

> allow us to be cruel in selling.[118]

Hall was concerned with policy and justice when he wrote about conscience and the law. Conscience for Hall was synonymous with an act of God and therefor conscience became the agent through which he determined the casuistry of obedience to magistracy. In the *Third Decade, Case VI, Whether the lawes of men doe bind the Conscience, and how far we are tied to their obedience,* Hall says

> To binde the conscience is to make it guilty of a
> sin in doing an act forbidden, or omitting an act
> injoyned as in it self such: or making that act in it self an
> acceptable service to God, which is commanded by
> men. Thus humane laws cannot binde the conscience:
> It is God only...Princes and Churches may make laws
> for the outward man; but they can no more
> binde the heart, than they can make it.[119]

Taken at face value, Hall has written an invitation to civil anarchy. He is saying that civil law does not obligate conscience. He also contradicts the doctrine of Divine Right. He is saying that only God can make laws, not the magistrate, a dangerous statement to which he adds a caveat of justice.

> The lawes of men therefore doe not, ought not,
> cannot bind your conscience, as of themselves;
> but if they be just they bind you in conscience
> to obedience.[120]

With that Hall backs up and recounts the biblical authority for obedience to magistracy and draws a path between

> ...awe, and duty, which they ow[e] to Sovraignty,

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[118] Ibid., 13-16.

[119] Note: Quotations from *Resolutions and Decisions of Divers Practicall Cases of Conscience in continual use amongst men* come from two separate editions, which are not fully duplicated.. Except for the pagination and page size, both are almost entirely similar. This quotation comes from Joseph Hall, *Resolutions and Decisions of Divers Practicall Cases of Conscience in continual use amongst men,* London: Printed by R. Hodgkinson and J. Grismond, 1654. pp. 211-12. Wing / H409, Copy from University of Illinois (Urbana-Champaign Campus.)

[120] Ibid., 213.

> and know and resolve to obey God in men, and
> men for God...You see then how requisite it is,
> that you walk in a middle way betwixt that excessive
> power, which flattering Casuists have been
> wont to give to Popes, Emperours, Kings and Princes...
> and a lawless neglect of lawful authority.[121]

As he did with Christian charity, Hall makes a casuistic leap of thought, that stretches moral obligation somewhat beyond Scripture. At the end of the case of conscience, he introduces the notion that a breach of law incurs a penalty. He quotes Jean Gerson as saying that there is "an obedience, if not of the person, yet of the purse,"[122] and concludes the case with

> Some things are forbidden because they are justly
> offensive...other[s] are only offensive because they are
> forbidden...if our own important occasions shall
> enforce us to transgress a penall law, without any affront to
> authority or scandall to others, our submission to the penalty frees
> us from a sinfull disobedience.[123]

In the end, he extends the moral obligation from the absolute of obedience to magistracy is obedience to God to pay the penalty and go your way, but within reason.

In November 1641, Hall was translated from Exeter to the See of Norwich, but it was an uncomfortable station. What would become the English Civil War was taking shape; crowds filled the streets and demonstrated against Laud and the prelacy system, crying, "Down with bishops!"[124] By the end of December, bishops were brought before the bar of the House of Lords and by the 30th of December were committed to the Tower. Hall's autobiographical treatise, *Hard Measure,* recounts his and other bishop's hardships

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[121] Ibid., 215.

[122] Ibid., 217.

[123] Ibid., 218-219.

[124] Kinloch, *Works of Joseph Hall,* 35.

at the time. Finally, the see was removed from his jurisdiction and Hall retired in penury to the town of Norwich, where he died in 1656.[125]

WILLIAM AMES (1576-1633)

William Ames was part of William Perkins' Puritan circle at Christ's College, Cambridge and was himself a devoted follower of Perkins. Ames was the son of Puritan parents from Ipswich and in 1587 went to Cambridge where Perkins held a teaching fellowship. Perkins became Ames' tutor and later a personal friend. Ames gained his Bachelor's degree in 1607 and was offered a teaching fellowship similar to Perkins'.[126] Ames, whose vision of Puritanism was a more austere one than that of Perkins, declined the honor on the grounds that he would not wear vestments or make the sign of the cross on ceremonial occasions.[127] It reflected an uncompromising attitude that marked the tenor of his life. In 1609, he preached a sermon denouncing the heathenish debauchery attending the feast of St. Thomas in which he censured dice games, card playing and matters of carnality that were associated with the twelve days of Christmas. He came afoul of Britain's vice-chancellor and high church authorities, who suspended him from exercising all ecclesiastical functions. He was later called as pastor of Colchester but the bishop, George Abbot, refused the ordination.[128] One possible reason Abbot may have refused the ordination was that Ames had already preached at Colchester without Abbot's permission and faced a possible prison term. In 1610, he voluntarily chose exile and was

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[125] Ibid., 35-37.

[126] John D. Eusden, "Introduction" in William Ames, *The Marrow of Theology.* Ed and trans., John D. Eusden (Boston: Pilgrim, 1968), 3 ff.

[127] Lindsley, "Conscience and Casuistry," 174.

[128] Ibid., 175.

secretly spirited from Gravesend across the North Sea to the Netherlands, where he spent the rest of his life.[129] At this time there was a large community of Englishmen operating out of the Netherlands. They consisted of merchant adventurers who had been involved in the prosperous English-Dutch trade, English military advisors who had gone abroad to aid the Dutch in their altercations with Spain, and, among others, the remains of the Marian exiles who found acceptance in a country that traditionally valued tolerance. Nonetheless, Ames drew the unwanted attentions of James I and Archbishop Bancroft, both of whom were at that time embarked on a series of persecutions against the Puritans. With egregious timing, Ames translated the book, *English Puritanism* by William Bradshaw, an outspoken treatise criticizing the state church. Furthermore, Ames was instrumental in having *English Puritanism* published outside of the country and Bancroft wrote disparagingly against Ames.[130]

Ames, more than his mentor William Perkins, was a radical thinker, but like Perkins, he was in some ways a moderate in that he supported the ideals of a strong inclusive church.[131] Also, like Perkins, he was not a Separatist. William Haller cites Ames, along with William Bridge, Sidrach Simpson, Jeremiah Burroughs and Philip Nye, as the "intellectual fathers of independency."[132] Ames' basic position on the Puritan church was that it should function as an independent congregation within the Church of England. This was not, however, a position calculated to make friends. On one side of the issue stood Canterbury, which was neither about to relinquish power nor willing to permit a growing radical faction within its own ranks. On the other were those who wanted and

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[129] Eusden, "Introduction" in Ames, *Marrow,* 4.

[130] Lindsley, "Conscience and Casuistry," 175.

[131] John Spurr, *English Puritanism: 1603-1689* (New York: St. Martin's Press, 1998), 62-63.

some of whom indeed got total separation as Congregationalist and Quaker sectaries.[133]

In 1611, Ames became chaplain to the commander of the English military forces in the Hague, where he stayed until 1619, during which time he got involved in the Arminian controversy. The Netherlands was the center of European Arminianism and Ames stirred up emotions by opposing the Arminian or Remonstrant church, as it was known. The word "Arminian" was derived from Jacobus Arminius, although the term itself was coined by the Puritans and held to mean "sacramentalist, ceremonial, vestiarian and ritualist."[134] Arminianism was committed to the Erastian position of supporting the power of magistracy over the established church, an idea that appealed to James I and made inroads into England. Jacobean Arminians were committed to a belief in free will and permitted a greater freedom of worship than majority conformist doctrine allowed. This in turn placed them in theoretical opposition to the predominant Protestant theological systems of the time.[135] The seminal event of early Arminianism was the 1618 Synod of Dort in which Presbyterian nationalists met for a discussion of the Covenant Theologies adopted by the Dutch Reformed Church. A number of doctrinal arguments broke out concerning the supralapsarians and the infralapsarians. James I sent his own delegation to the Synod, which included the casuist Joseph Hall, a conforming Calvinist.

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[132] Haller, *Rise of Puritanism,* 79.

[133] Spurr, *English Puritanism*, 62-64.

[134] Rosalie L. Colie, *Light and Enlightenment: A Study of the Cambridge Platonists and the Dutch Arminians,* (Cambridge: Cambridge University Press), 15.

[135] Ibid., 11.

The Arminians were condemned as heretical by the Calvinists because Arminianism contradicted Calvinist teachings on predestination, in favor of grace freely given through the sacraments.[136] Arminians became targets for persecution from the Calvinist classis in Holland. A leading Arminian minister, Jan van Oldenbarneveldt, was hung from the scaffold and the philosopher Hugo Grotius was imprisoned. The rest of the Arminians were driven to exile. They were, however, tolerated by the Jacobean establishment as a bulwark against the radical Puritans. In fact, Arminius himself had argued his theology against that of the Puritan casuist William Perkins by way of rival pamphlets. Perkins issued *De Praedestinationis Modo et Ordine et de Amplificatione Gratiae Divinae,* published in London in 1598, and Arminius responded with *Examen modesti libelli quem...G. Perkins edidit...de Praedestinationis modo et ordine,* published in Leiden in 1612.[137] However, by the reign of Charles I, Arminianism had triumphed in England and after 1625, it was the Arminian prelates of the English church who held ecclesiastical power, often with the support of independents such as John Goodwin and Henry Hammond.[138] After the Interregnum, men like Lucius Cary Lord Falkland, William Chillingworth and John Hales, all of whom had remained quiet during the 1650s surfaced later among the members of the Great Tew Circle and the Cambridge Platonists. Before that, however, while living in the Netherlands, Ames challenged the Arminian minister in Rotterdam, Nicholas Grevinckhoven, to a public debate,[139] after which Grevinckhoven published a refutation of Ames' writings on redemption and election.

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[136] Kenneth Fincham, "Introduction" in *The Early Stuart Church* (Stanford: Stanford University Press, 1996), 3.

[137] Colie, *Light and Enlightenment,* 14.

[138] Ibid., 21.

[139] Eusden, "Introduction" to *Marrow*, 6.

Ames in turn published a refutation of Grevinckhoven's refutation.[140] The works which were originally published in Latin were later translated into Dutch and English and altogether substantially contributed to Ames' reputation in England and abroad.[141]

In 1618 when European and English Protestants called the Synod of Dort (1618-1619), Ames went to Dort to serve as a paid advisor to the moderator. As a statement of their position, the Arminians had drafted an anti-Calvinist treatise, unofficially known as the *Remonstrance for the States of Holland and West Friesland,* which was based on five points: "Unconditional election, limited atonement, divine grace as the only cause of salvation, the irresistibility of grace, and the perseverance of the saints."[142] Ames published a successful refutation of the Remonstrance that took him ten years to finish but that, at the time when he first began writing, contributed to the Synod's condemnation of Arminianism. In 1619, Ames attempted, upon the advise of friends, to join the University of Leyden, teaching practical divinity, ethics and Hebrew exegesis, but the appointment was blocked by the English Ambassador to Holland. Ames had better fortune at Franeker. On the basis of his reputation at Dort, he was invited to join the faculty of the University of Franeker, in Friesland. Here, too, an attempt was made to block the appointment but it failed. Ames remained at Franeker from 1622 until 1633 and there wrote most of the works that made his reputation.[143]

William Ames' literary output was slim compared to the writings of Perkins and the massive outpourings of Baxter and Taylor. The *English Short Title Catalog* lists 42 entries for the writings of Ames, as compared to 252 for Perkins and 531 for Baxter. Of

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[140] Ibid.

[141] Lee W. Gibbs, "Introduction" in William Ames, *Technometry* (Phila: University of Pennsylvania Press, 1979), 7.

[142] Ibid., 8.

the Ames oeuvre, only one book, *Conscience with the Power and the Cases Therof*; a translation of *De Conscientia, et Eius Iure vel Casibus* (1630), was consistently casuistical in nature and entirely devoted to the systematic exposition of cases of conscience. However, the one book that "held sway as a clear, persuasive expression of Puritan belief and practice"[144] for a century and a half was *The Marrow of Sacred Divinity Drawn out of the Holy Scriptures and the Interpreters thereof, and brought into Method,* which in later translations from the Latin became the more manageable *The Marrow of Theology.* It was first published in 1623 in Latin, as *Medulla Theologica*. It was republished in seventeen editions in the seventeenth century alone.[145]

Marrow, which concerns itself in part with casuistry, was based on a series of lectures on Calvinist doctrine which Ames offered to the merchant scions of Leyden from 1620 to 1622.[146] It was published in Latin and went through twelve editions. The book also became the central text for New England Protestants when Jonathan Edwards found a copy of the 1634 edition.[147] *Marrow* foreshadows Ames' other major work, *Conscience with the Power and Cases Thereof,* which Ames declared as being the second part of *The Marrow of Theology* and a fuller explanation of his earlier work.[148] *Conscience with the Power* "established the general formulation of Puritan case divinity throughout the seventeenth century,"[149] both in Europe and the New World. Despite the multiple printings and the seeming acclaim, Ames, as with Perkins, had no contemporaneous, full,

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[143] Ibid.,. 9-13.

[144] Eusden, "Introduction" in Ames, *Marrow,* 1.

[145] Lindsley, "Conscience and Casuistry," 176.

[146] Eusden, "Introduction" in Ames, *Marrow*, 1.

[147] Gibbs, "Introduction" in Ames, *Technometry,* 6.

[148] Keith Sprunger, *The Learned Doctor William Ames,* (Urbana, Ill: University of Illinois Press, 1972), 167.

book-length biographies written about them. There are, however, two short contemporaneous biographies of Ames. The first was written by Matthew Nethenus, a theology teacher at the University of Utrecht. It was written in Latin and took the form of an introductory preface to Ames' five-volume work on Latin script. It was published in Amsterdam in 1685, some fifty years after his death. The second was written by John Quick and was part of a series of late seventeenth-century biographies called *Icones Sacre Anglicanae.* At this writing, it has never been published and is in the Dr. Williams' Library (Gordon Square, London) collection.[150]

Among Ames' works are *Bellarminus Enervatus* (1638), a treatise contradicting the writings of the Jesuit Cardinal Bellarmine, and *A Fresh Suit Against Human Ceremonies in God's Worship* (1610), published posthumously.) Its stated purpose is to give English Protestants arguments to use against their opponents.[151] Two other works are *Theses Logicae,* a group of over 300 theses (The count is actually 363, but some of the theses have questionable attributions and some were published posthumously) and an unexpected work on the philosophy of art called *Technometry* (1633). *Technometry* was written in two versions, one of which is arguably attributed to one of Ames' students.[152] On the face of it, *Technometry* appears to be an apologia for the arts, but is in essence a highly personal elaboration on the philosophy of art which begins with a short description of the work: "Technometry, which adequately circumscribes the Boundaries and the

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[149] Gibbs, "Introduction" in Ames, *Technometry,* 11.

[150] Gibbs, "The Life and Works of William Ames" in Ames, *Technometry, 3*

[151] Lindsley, "Conscience and Casuistry," 177.

[152] The word *Technometry* is a Latin transliteration of the Greek word for "art," "skill" or "craft" which is *τέχνη*, along with *μέτρου* which is Greek for "measure" or "survey". Thus *Technometry* can be translated as a "survey of art" which in turn may also be translated as the "theory of art." For further elucidation, see Gibbs, "The Major Sources of Technometry" in Ames, *Technometry,* 18.

Ends of all the Arts and of every individual Art."[153] He goes on to describe a systematic structure on how the arts can be used.[154]

Ames, like his other colleagues among the Cambridge Puritans, appeared to have come under the influence of Peter Ramus both in content and as a constructionist. While there is some doubt of the extent to which Perkins was a Ramist, there is little question but that Ramus strongly influenced Ames,[155] particularly in *Technometry* and the *Theses Logicae.* Both works were part of a posthumous volume headed *Philosophemata* or *Philosophical Treatises* (1651), which also included four other works: *Alia Technometria, Disputatio theologica adversus metaphysicam, Disputatio theologica de Perfectione SS. Scripturae* and *Demonstratio Logicae Verae.* The entire collection of the six works were structured around the Ramist method and some contained theoretical material on the subject.[156] Both Ames and Ramus used the word "technologia" in their writings.[157] Gibbs points out that Ames, like Ramus, drew upon the works of Socrates, Plato and the Greek and Roman Stoics who, in this case, saw one of the functions of art as being a "shortcut to comprehensive knowledge."[158] Ramus used the Ciceronian definition of art as an enhancement to the utilitarian and practical aspect of life, as did Ames. In *Technometry*, Ames reflects this:

> *Thesis* 10. It is held by others that mind and will are the object of art, and that the guidance or direction of both mind and will is the end of art. But they speak less accurately when they go on to say that the mind is directed in

[153] Ames, *Technometry,* 93.

[154] Lindsley, "Conscience and Casuistry," 186.

[155] Ibid., 185.

[156] Ibid.

[157] Gibbs, "Introduction" in Ames, *Technometry,* 19-21.

[158] Ibid., 19.

> cognition and that the will is directed in action. For it is clear that cognition and action are directed principally and objectively, but the mind and will are directed only subjectively insofar as cognition and action are rooted in them.[159]

In other words, the nature of art is to direct the mind and the will toward action, not a far remove from practical divinity. That Ames valued Ramism is apparent from the passage in the second chapter of Book Two of *Marrow,* in which he says that Peter Ramus is "the greatest master of the arts...no less pious than prudent."[160] John Eusden makes the point that Ames was attracted to Ramus because they shared a commitment to Calvin and that Ramus was almost as much of an influence on Ames as he was on Perkins.[161] Ramus had been one of the first exponents of the French Reformed tradition which stressed instruction and practical theology.[162] In the same passage where Ames lauds Ramist thought on art, he also supports the intellectual connection between himself and Ramus by quoting Ramus' *An Oration by the French Belgian Peter Ramus...*

> If I could wish for what I wanted, I would rather that philosophy were taught to children out of the Gospel by a learned theologian of proved character than out of Aristotle by a philosopher...a child will learn that the beginning of blessedness lies in man; that the end of blessedness lies in man; that all virtues are within man's power...[163]

Ames shared a threefold connection with both Ramus and Perkins on the subject of virtue. Perkins saw virtue as man standing in the image of God, Ramus saw it as an extension of human nature. Ames saw it, like Ramus, as a function of the revealed will

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[159] Ames, *Technometry,* 94-95.

[160] Ames, *Marrow,* 226.

[161] Eusden, "Introduction" to *Marrow*, 38.

[162] Ibid.

[163] Ames, *Marrow,* 226-227.

of God: "There can be no other teaching of the virtues than theology which brings the whole revealed will of God to our reason, will and life."[164] For Ames, virtue is also an element of grace.

> The same habit which is called virtue in that it inclines toward God...is also called a gift for it is given by God and inspired by the Holy Spirit. And it is called grace because it is freely bestowed on us...[165]

He further constructs all of his cases of conscience in *Conscience with the Power and the Cases Therof* in the form of Ramist dialectics. All five books are written in a question and answer format. In Book Four, Chapter Four, for example, Ames asks "Who is to be accounted as an Heretique?"[166] He gives five sets of answers, ranging from a definition of the word as being of Greek origin and signifying that it describes a man who tells some part of the truth while telling a lie, to someone who pretends piety but espouses "pernicious error."[167] Each answer emerges from a premise expressed in the prior answer. He then goes on to question four categories of heretics asking the same question four times but of a different subject. "Whether are Papists Heretiques?...Anabaptists?...Arminians?... and Lutherans?"[168] All four are heretics but each may be modified by some element of truth in their heresy. Ames' position is conservative but mitigated. His concluding question is syllogistic in style: "Whether are Heretiques to be punished by the civil Magistrate?"[169] He answers, as he does all of the other sets of responses, with a syllogism and, as had been with Perkins, a criterion, to wit,

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[164] Ibid., 226.

[165] Ibid., 227.

[166] Ames, *Conscience with the power,* IV, iv, 9.

[167] Ibid., IV, iv, 10.

[168] Ibid., IV, iv, 10-12.

[169] Ibid., IV, iv, 12.

The job of the Civil Magistrate is to "oppose themselves to the kingdomme of darknesse."[170] Thus he establishes the criterion. The logic of the case is based on the idea that Heretics are the consequence of the kingdom of darkness. Therefore heretics are to be restrained by the magistrate. "And if they be manifestly blasphemous...may suffer capital punishment." [171] He concludes the case by citing as authority Leviticus 24:15-16.[172]

In the three books that make up William Perkins' *The Whole Treatise of Cases of Conscience,* Perkins, it was noted above, divided his cases into three categories: Man alone, man in relationship to God, and man in society. Ames divided the five volumes that make up *Conscience with the Power and Cases Thereof* into almost the same categories. The first volume defines conscience; the second concerns man's fate or man's relationship to God; the third and forth books also concern man's relationship to god in terms of obedience and duty; and the fifth book is man in society. The *Marrow of Theology* is entirely different from *Conscience with the Power.* It is more of an academic textbook on how people should think about God. It is divided into two books: The first talks about theology, God, sin, Christology, and the components of Protestantism like predestination, justification and sanctification in dry, straightforward terms, similar to a contemporary how-to book. The second book is concerned with how people can observe what is in the first book. The second is slightly more narrative in style, like a working text.

[170] Ibid.

[171] Ibid.

[172] Leviticus 24:15. Whoever curse his God shall bear his sin. Leviticus 24:16. He who blasphemes in the name of the Lord shall be put to death. RSV

Of particular importance is that he argues a reformed political position on the subject of "Divine Sovereignty." Far more than Perkins, Ames saw reasons of state in terms of Divine Sovereignty.[173] He argued the idea that policy was a function of the ordaining power of God and God's governing power supplanted kingly notions of Divine Right.

> Government is the power whereby God directs
> and leads all his creatures to their proper end.
> Ps. 29:10, *The Lord sits as king forever.*[174]

His thinking reflected the prevailing Puritan view, which held that faith in the rule of God was absolute whereas the claims of absolutism by James I and Charles I were neither absolute nor unlimited.[175] This further extended to all institutions of society and government, which for Ames depended for their authority on the rule of God. Thus, in *Conscience with the Power Thereof,* the power of the individual and the rights of the individual have to be accepted in terms of Divine Sovereignty, not as a consequence of political power. This meant that, for Ames, the king could not exert power over common law courts, parliament or the clergy and, in turn, those same institutions held no power over one another. They existed largely as functional divisions of individual domains of power.[176]

> The government of things is rightly God's.
> For things could never attain the ends for which they
> were created unless governed by the same power
> which created them....Common government is God's
> direction of all things in a similar manner.
> To such government belongs, first, the law of
> nature common to all things which is a participation

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[173] Ames uses the term "Divine Sovereignty" frequently throughout *The Marrow of Theology.*

[174] Ames, *Marrow,* 109.

[175] Eusden, "Introduction" to *Marrow*, 24.

[176] Ibid., 25.

> of the divine law and will...[177]

Like Perkins, Ames is concerned with developing a theology of justice, and for similar reasons. It defined his reasons of state. Unlike Perkins, who was concerned to a large degree with the arguments of magistracy versus civil law, Ames had already clarified his stance on this issue by ascribing the power of institutions to Divine Sovereignty. In *On Justice* in *Conscienc*e *with the Power and Cases Thereof,* he sets up a complex case of conscience concerned with the intrinsic nature of justice.[178] He moves from a metaphorical stance to what ultimately becomes a realistic, and in his words, practical doctrine of intention as the path to judgment. Toward that end, he defines justice as being of two qualities. The first is "intrinsical and immediate" and the second is "extrinsical and mediate."[179] He illustrates this by describing a city in time of war and stating that there are two functions of a closed gate. The first is to keep the enemy out (intrinsic and immediate) and the second is to keep the inhabitants in and safe (extrinsic and mediate.)[180] He then takes both definitions and gives them practical, political meanings. "Intrinsical and immediate" becomes "Legal Justice." "Extrinsical and mediate" becomes *Epieikeia*[181] or Aequity.[182] Legal Justice means hewing to the literal letter of the law and considering "only the immediate end,"[183] while *Epieikeia* or Equity is

> a moderating of strict law...[which] does truly

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[177] Ames, *Marrow,*109.

[178] Ames, *Conscience with the power,* V, ii, 110.

[179] Ibid., V, ii, 111.

[180] Ibid..

[181] In the original 1634 translation from the Latin, Greek words are spelled transliterally.

[182] Ames spells "Aequity" in a contemporaneous manner, but for ease of reading, it will be changed to "equity."

[183] Ames, *Conscience with the power,* V, 111.

> participate of the Nature of Justice. Legal Justice taken strictly considers the words just as they are written but equity considers the end, scope and intention of the law, so has more law in it than Legal Justice strictly taken.[184]

Again, as with Perkins and Ramus, Ames defines his terms, sets forth a syllogism in which the major premises are presented as a question, and arrives at a conclusion. In this case of conscience the question posed is, "Whether justice be rightly defined to be a perpetual or constant intent of giving every man his due?"[185] In twentieth-century language: Is there a consistent rule that can be applied to all cases of judgment or "Whether justice hath always some respect to another?"[186] Both questions lead to similar conclusions that essentially support Ames' basic contention about justice, which is that in meting out justice the intent of the law has to be recognized as well as the intent of the crime. He rails against lawyers who process justice literally. He makes the statement that even though they understand the extenuating conditions of justice as having moderating characteristics, they nonetheless emphasize the exactitude of the law.

> Those lawyers who maintain a rigid defeating justice do it *miserably*: and contradict themselves because justice is in every way...Right....which is the object of it, and they themselves allow three objects of right, *viz.* to live honesly, to have hurt none and to give every man his due. Nonetheless they define justice by only one of those acts, to give every man his right or due.[187]

He asks a third question which seeks an alternative definition with the intention of arriving at a way to make judgments. "What is the difference between Distributive and

[184] Ibid.

[185] Ibid., 109.

[186] Ibid., 110.

[187] Ibid.

Commutative justice?"[188] He answers by defining "distributive" as moving from the whole to the part, and "commutative" as moving from part to part. In terms of his division of justice, distributive means the letter of the law and commutative means *Epieikeia* or Equity.[189] The fourth and fifth questions mean to resolve the problem of making judgments. For Ames, the settling of rewards are a complicated, difficult matter and should hew as close to the exactitude of the law as possible but punishment, on the other hand, even though it is a response to "iniquity," must be given with due consideration.

> *Quest.* To which of the two species do
> Rewarding and Punishing belong?[190]
> *A*. The conferring of these rewards which are freely
> given according to due proportion belong to Distributive
> justice but the collation of those rewards which might be
> exacted, for some services performed, as out of
> condigne merits doth properly belong to the
> Commutative justice because in this case the
> proportion of equity, between that which is bestowed,
> and which is received, is still considered.
> But Punishing, in regard it alwaies deals about some iniquity
> offered, that it may be punished with due and answerable
> punishments. It therefor belongs to the Commutative
> rather than the Distributive justice.[191]

He moves from there to a practical resolution.

> *Quest.* What is the difference between Civill
> and Criminal justice?[192]
> *A*. Civill justice in its punishing doth principally
> aime at the injustice of the thing, but criminal
> justice...doth principally aime at the Injustice
> of the Person...Injustice is comprehended only in
> the things done...[and] the intent of the Doer...
> that Injustice is to be termed Civill. If the

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[188] Ibid., 110.

[189] Ibid., 112.

[190] Ibid.

[191] Ibid., 112 – 113.

[192] Ibid., 113.

> intention is to be found unjust, there is a crime to be punished...If crime is the object it is called criminal.[193]

Ames gave casuistry the doctrine of intention and defined Protestant justice as having to account for circumstance. Although he recognized the letter of the law, he found its rigid literalness to be an inadequate basis for pronouncing judgment.

ROBERT SANDERSON 1587-1663

In 1678, fifteen years after Robert Sanderson's death, Izaak Walton, a royalist, [194] published a book of short biographies, *The Lives of John Donne, Sir Henry Wooten, Richard Hooker, George Herbert and Robert Sanderson*. The first edition was published in 1640 and Walton added *Lives* with succeeding editions, not inserting Sanderson until 1678. Walton described Sanderson as a man of self-effacing reticence, a combination of "meekness and primitive innocence"[195] whose

> abilities and behavior were such, as procur'd him both love and reverence from the whole Society; there being no exception against him for any faults, but a sorrow for the infirmities of his being too timorous and bashful...[196]

It was one of many such worshipful descriptions that appear to be more of an encomium than a biographical description. However, it should be noted that timorous and bashful though Sanderson might have been, he was courageous enough to reject the Solemn League and Covenant in 1643, the consequence of which was that he was ousted from his

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[193] Ibid.

[194] Izaak Walton, *The Lives of John Donne, Sir Henry Wooten, Richard Hooker, George Herbert & Robert Sanderson,* (London: Metheun, 1895.) Walton doesn't say that he is a royalist but his language does. He refers to Laud and Strafford as having been, "formerly murthered by this wicked Parliament." Throughout the *Lives,* Walton praises the King and makes sarcastic remarks about the Long Parliament.

[195] Ibid., 288.

[196] Ibid., 238.

divinity professorship at Oxford.[197] He was later seized and taken hostage in exchange for a Puritan minister by the name of Robert Clark.[198]

Robert Sanderson was a conforming Calvinist and, like Walton, a royalist. He associated himself with the Elizabethan Settlement in ecclesiastical policy, as promulgated by Whitgift, Bancroft and Laud, and was an apologist for episcopacy and conformity.[199] Among his important works on the subject is *Episcopacy not Prejudicial to Regal Power*, written during the period of the Long Parliament by special command of the King but not published until 1661.[200] (It may be presumed that it was written for Charles I, that by the time it was finished and later printed, it was dedicated to Charles II.) The book defines Sanderson's position on episcopacy in which the King's power emanates from both the Oath of Supremacy and legal precedents, which in turn, is coincident with the God-given power of Divine Right.

> Whereas in the Oath of Supremacy, the supreme power Ecclesiastical is acknowledged to be in the King alone; and by the statute of I. Eliz. all jurisdictions and preeminencies Spiritual and Ecclesiastical within the Realm of England as restored to the crown...forever united and annexed...the Bishops claiming their power and jurisdiction to belong unto them as of divine right, seemeth to be a manifest violation of the said Oath...For whatever power is of divine right, is immediately derived from God, and dependeth not upon any earthly King or Potentate whatsoever as superior there unto.[201]

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[197] George Lewis, *Robert Sanderon: Chaplain tp King Charles I, Regius Professor at Oxford and Bishop of Lincoln* (London: S.P.C.K., 1924), 99-100.

[198] Walton, *Lives,* 267.

[199] J. Sears McGee, *The Godly Man in Stuart England* (New Haven: Yale University Press, 1976), 11.

[200] Lewis, *Sanderson*, XIII.

[201] Robert Sanderson, *Episcopacy (As established by the Law in England) Not Prejudical to Regal Power* (London: R. Norton, 1661), 5.

Like Jeremy Taylor, Sanderson maintained his ecclesiology through the Interregnum but when the Restoration took effect, he leaned somewhat toward a Latitudinarian position.[202] As mentioned above, he rejected the Solemn League and Covenant, also the Negative and Engagement Oaths, but did subscribe to the et Cetera Oath. In each of the instances in which he rejected an oath, he found that it violated aspects of his conscience.[203] (All three oaths will be discussed at length in the fourth chapter.) Peter Lake, however, makes the case that Sanderson's theology was largely Calvinist.[204] Sanderson's notion of salvation was one in which "everything was attributed to God and nothing to man."[205] Lake cites Sanderson as subscribing to the orthodox Calvinist view that the free election of God is unaltered by the motives of humankind and it is God's sustaining grace that prevents mankind from falling into sin.[206]

Although Sanderson was a conforming Calvinist and Taylor was an anti-Calvinist, there were similarities between their lives. Both were appointed by Laud as Chaplains-in-Ordinary to Charles I. Walton says that Laud had known Sanderson at Oxford and told the King, that

> there was one Mr. Sanderson, an obscure countrey minister that was of such sincereity, and so excellent in all Casuistical learning, that he desir'd his Majesty would make him his chaplain.[207]

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[202] McGee, *Godly Man*, 11.

[203] Lewis, *Sanderson*, 99-104.

[204] Peter G. Lake, "Serving God," 81-116.

[205] Ibid., 82.

[206] Ibid., 82-83.

[207] Walton, *Lives*, 249

Taylor and Sanderson were both also bishops of important dioceses, Taylor of Down and Connor, and Sanderson of Lincoln. Both were casuists who compiled compendia of cases of conscience. Both were prolific writers but in the case of Sanderson, his casuistical, as apart from his theological, works consisted of only two volumes, *Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford* (1660), and *Nine Cases of Conscience occasionally determined* (1678), the latter comparatively short, as opposed to Taylor's *Ductor Dubitantium* which took up four massive volumes. Both suffered during the Civil War and the Interregnum and both regained prominence after 1660. Sanderson, however, suffered great penury during the Interregnum and was financially assisted by Robert Boyle[208] and dedicated his book, *Several Cases of Conscience,* to Boyle, perhaps in thanks.[209] Sanderson's fortunes improved with the Restoration when he presented the congratulatory address from Lincoln to the King.[210] One month later he was reinstated to his professorship at Oxford and consecrated bishop of Lincoln. Three years later, he died on January 29, 1663.[211]

Walton claims that Sanderson's book *Several Cases of Conscience* was written at the behest of Charles I. It appears, as per Walton, that Sanderson attended the King throughout much of his stay on the Isle of Wight and during Sanderson's last attendance the King suggested that Sanderson

> betake himself to the writings [of] Cases of Conscience for the good of Posterity. To which Sanderson's answer was, That he was now grown old and unfit to write Cases of Conscience...[the King's reply was] No young man

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[208] Lewis, *Sanderson,* XII.

[209] Sanderson, *Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford*, (London: Theo. Leach, 1660), 3rd page, n.p.

[210] Lewis, *Sanderson,* XII.

[211] Walton, *Lives,* 285. It should be noted that Walton has Sanderson dying in 1662.

was fit to be a judge or write Cases of Conscience.[212]

As noted, Sanderson wrote two books of cases of conscience. The first, *Several Cases of Conscience,* is a 350-page compilation consisting of ten lectures on the obligations that conscience imposes on human beings. Additionally he wrote sermons, essays, poems and philosophy. The greatest portion of Sanderson's writings were theological and, of that, the largest number are compilations of sermons. The first of the compilations of sermons was *Ten Sermons* started in 1630. It became *Twelve Sermons* by 1632 and had grown to *Thirty-six Sermons* by 1689. His two major philosophical works were *Logicae Artis Compendium* written in 1615 but frst published anonymously in 1618. It was reprinted in eleven editions.[213] *De Obligatione Conscientiae* was published in 1660. Of particular interest to this dissertation and discussed in the next chapter is *De Juramento* (1646), It consists of seven lectures *On the Obligation of an Oath* and is said to have been translated from the Latin, when in manuscript form, by Charles I during his incarceration on the Isle of Wight.[214]

Many of Sanderson's writings, and particularly his casuistical writings were published posthumously. His *Nine Cases of Conscience occasionally determined* (1678) were like his compilation of sermons. They were first written as *Sixe Cases of Conscience occasionally determined* and later, as new ones were added, successive editions were written and the name of each title was changed to reflect the number of the new cases. The previous cases were duplicated in each new edition. The casuistic style of *Nine Cases* is purely practical in that each case deals with very ordinary situations (for

[212] Walton, *Lives,* 255.

[213] Lewis, *Sanderson,* XIII.

[214] Walton, *Lives,* 353.

seventeenth-century England, that is) that posed a moral dilemma. They cover such instances as marriage to a recusant, military life, scandal, the taking of rash vows and other dilemmas that require moral guidance. (*The Case of Marriage to A Recusant* was cited in chapter one.) Walton describes them as having first existed as a correspondence between Sanderson and

> ...many that apply'd themselves to him for Resolution of Cases of Conscience; some known to him, many not, some requiring satisfaction by Conference, others by Letters...[that have been preserv'd and printed for the benefit of Posterity...[215]

Several Cases of Conscience differs from *Nine Cases* in that *Several Cases* is a systematic compilation of theoretical situations, much as in the work of Taylor and Perkins. The book is thematically divided into two parts: the first defines conscience and the obligations it imposes on human conduct and the second, the obligation human laws make on conscience. In *Several Cases,* Sanderson defines his concept of conscience as follows:

> Conscience is a faculty, or a habit of the practical understanding, by which the mind of Man doth by the discourse of reason apply that light by which he is indued[216] to his particular moral Actions.[217]

Sanderson, for whom Aquinas was an authority, is indebted to the Thomist definition of synteresis, which was a twofold definition of conscience in which conscience was a function of the intellect, an idea which Sanderson embraces.[218] Sanderson, however, was not alone in that thought. Reflecting that same notion, that conscience resides in the

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[215] Ibid., 268-269.

[216] Variant of "endue."

[217] Sanderson, *Several Cases of Conscience Discussed,* 3.

[218] Lewis, *Sanderson*, 112, n1.

connative part of the mind, MacAdoo points out that for most Caroline casuists conscience was indeed a function of the practical intellect.[219] In the tradition of Thomist theology, Sanderson posits that conscience is made up of two parts: *Synteresis*, which is the notion that an understanding of moral principle is indigenous to human beings,[220] and *Syneidesis*, which is the process by which we judge an act in terms of good or evil. *Synteresis* was a medieval concept that, according to Robert A. Greene, was reborn in the seventeenth century and held several meanings, including "natural instinct" and "the spirit of man,"[221] a term that Sanderson uses below. In *Several Cases of Conscience,* Sanderson claims that *synteresis* is often substituted for *syneidesis* or Conscience."[222] Conscience, he says,

> is taken for the knowledge of that first universal principle known by the light of Nature or Revelation... As if a man should say, my conscience dictates to me that no unjust thing should be done. The word Synteresis which is a *guiltlesse conversation of one's self*, is often used for Synedesis or conscience, but improperly...when indeed between Synteresis and Conscience so properly called, there is no little difference...Synteresis is...about Good and Evill, from whence conclusions can be deduced...Conscience is the whole practical discourse of the mind from the first beginning to the last conclusion...as above.[223]

Sanderson further breaks down the idea of conscience into several parts, saying that conscience can be looked at three ways: subjectively, formally and effectively.

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[219] McAdoo, *Caroline Moral Theology,* 66.

[220] Ibid., 113.

[221] Robert A. Greene, "Synderesis, the Spark of Conscience, in the English Renaissance," *Journal of the History of Ideas,* April-June 1991 (52), 209-211.

[222] Ibid., 15.

[223] Sanderson, *Several Cases of Conscience Discussed*, 15.

> First, Subjectively, for the intellective, practical power, as when we say that the Law of Nature is written in the heart of conscience. Secondly, Formally for the Habit pertaining to that *potentia* and informing it; In the same sense, making mention of a person notoriously wicked, we say he is a man of no conscience, and that he hath either thrown off or lost all conscience. Thirdly, Effectively, for any actual motion, exercise, or operation of that Habit; as when a man saith that he is conscious of this or that fact.[224]

Thus, like his contemporaries, Sanderson suggests that conscience is a habit or faculty of the practical intellect that is coterminous with the laws of nature and comes into play when an action is being considered. Sanderson also contends that conscience is science in the sense that conscience is knowledge.[225] He makes the claim that he can "frame the whole discourse of conscience so as to consist of two Syllogisms"[226] in which the conclusion of the first syllogism is the major premise of the second, Peter Ramus style, although there is no indication that Sanderson was a follower of Ramism. To Sanderson, these two syllogisms present a logic that can be applied to any case of conscience.

> Everything that is unjust is to be eschewed.
> Every Theft is unjust, therefore
> Every Theft is to be eschewed.[227]

The second syllogism is

> All Theft is to be eschewed.
> This which is now propounded to me to be done is
> a theft, therefore it is to be eschewed.[228]

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[224] Ibid., 12-13.

[225] Lewis, *Sanderson*, 116.

[226] Sanderson, *Several Cases of Conscience Discussed* , 14.

[227] Ibid.

[228] Ibid.

Just change the name of the vices, he claims and the pattern of logic still works out.[229]

In *Several Cases of Conscience,* Sanderson traces the history of conscience by searching for the Hebrew equivalent of the word "conscience" in the Old Testament and does not find it. "In all the Old Testament there is not found a Hebrew word, which precisely, and peculiarly doth signyfie Conscience," he says.[230] He concludes, however, that the word "conscience" in the Old Testament is "signified" by two words: The first is "heart" and the second is the "spirit of man."[231] As an illustration of the way heart can be used in place of conscience he cites Proverbs 4:4, "Keep they heart with all diligence," and adds the comment that it is ; "as if he [Solomon] should have said, let every one have a diligent care of his own Conscience."[232] Sanderson presumes that Solomon means conscience when he says "heart" in the proverb above. He makes the same presumption about John 1:3 where again he substitutes conscience for heart.

"If our heart condemneth us not," [233] can be read as meaning "if our Conscience doth condemn us not," he claims.[234] With that he introduces the concept of the Court of Conscience. He sees conscience as possibly condemning and therefore akin to a tribunal of justice.

> It being the proper office of the conscience to condemn, or not to condemn the guilty person standing before the Tribunal of Justice...The conscience is the heart's consciousness.[235]

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[229] Ibid.

[230] Ibid., 3.

[231] Ibid.

[232] Ibid.

[233] Sanderson is paraphrasing 1 John 3:20.

[234] Sanderson, *Several Cases of Conscience Discussed*, 4.

[235] Ibid., 3.

Jeremy Taylor as noted above and William Ames also interpreted conscience as having properties that either condemned or condoned, as in a Court of Conscience but in this case subject to the rules of natural and civil law. [236] The notion of conscience operating as a tribunal is further reminiscent of both Paul and Aquinas, for both of whom, as argued in the first chapter, conscience functioned as a witness. To the English casuists conscience accuses and condemns, excuses and condones.[237]

Sanderson does the same with "spirit of man." He cites Proverbs 18:14, "The Spirit of man will sustain his infirmity...but a broken spirit who can endure?" Sanderson interprets this as

> ...a man of a sound and unstained conscience will endure with as much courage as patience whatsoever calamities shall befall him, but an afflicted and guilty conscience is a burden insupportable.[238]

As he did in the exegesis of the word "heart," he moves from the Old Testament to the new, in this case citing 1 Corinthians 11, "What man knoweth the things of a man, but the Spirit of man which is in him." He then adds, "That is his own conscience."[239]

Like Taylor, Sanderson was a tutiorist, although in Sanderson's case his tutiorism was uncompromisingly rigorist . He believed, as did most Caroline casuists, that in tutiorism the resolution of a case of conscience would be self-revealing. That in most instances the safest resolution would be self-evident. In those instances where the safest resolution was not self-evident, the problem was of sufficient consequence to warrant the

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[236] McAdoo, *Caroline Moral Theology,* 40 ff.

[237] Wood, *English Casuistical Divinity,* 70.

[238] Sanderson, *Several Cases of Conscience Discussed*, 4.

[239] Ibid.

external guidance of a minister or learned man.[240] Taylor distinguishes between the lawfulness of a revealed resolution and expediency by suggesting that in the case of expediency, the individual should have some sense of his own judgment and choose the safest solution.[241] The safest solution, however, is inevitably the lawful one. In the second half of *Several Cases of Conscience,* Sanderson, as did all of the seventeenth-century casuists who shared a debt to Aquinas, [242] wrestled with the nature of what is a lawful solution when taking into account Thomist principles of tripartite law which emanate from God and carry unmitigated authority.

> God's law governs the universe by his providence...
> Since all things are ordered to the Divine Goodness...
> God who is that Goodness...must be the one who
> governs all things.[243]

In other words. Aquinas holds that eternal law is of divine inspiration and the foundation for both natural law and human law. Man as a rational being automatically partakes of eternal law and is subject to natural law. Since God created the universe, all things in the universe are comprised of elements of natural law, to which human beings are subject.[244] "Such participation in the eternal law by rational creatures is called natural law and "[245] out of natural law comes human law. Aquinas sums it up with

> By the natural law human nature participates
> in the eternal law in proportion to the capacity of
> human nature. But man needs to be directed to his
> supernatural end in a higher way. Hence there is an

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[240] Wood, *English Casuistical Divinity,* 55.

[241] McAdoo, *Caroline Moral Theology,* 95.

[242] Wood, *English Casuistical Divinity,* 79-80.

[243] Thomas Aquinas, "Summa Contra Gentiles" in *St. Thomas Aquinas on Politics and Ethics.* Ed., Paul Sigmund (New York: W. W. Norton, 1988), 10.

[244] Ibid., 46.

[245] Ibid.

> additional law given by God through which man shares more perfectly in the eternal law. [246]

Thus human law is God-given. In *De Obligatione Conscientiae,* Sanderson writes that God gave to brute and inanimate creatures a natural instinct to act in accord with their nature. In the same way, "a sort of natural law is imposed" on man and proportioned to the nature of a rational creature.[247] Sanderson here is reflecting a medieval notion that goes back to the writings of the Roman *jurisconsult* Domitus Ulpianus (d. 223), that natural law is not specific to humankind but is common to all animals.[248] Sanderson describes natural law as a light of the mind that was damaged by the Fall, although less damaged than man's other faculties. What's left, says Wood, paraphrasing Sanderson, are certain primary universal principles which have the authority of law and are retained in the synteresis.[249] Sanderson's concern for the relationship between eternal and natural law, which he sees as a human being's primary obligation, indicates a particular concern with the obligations of human law which he views as humankind's secondary obligation.[250] Ultimately, for Sanderson, eternal law and the, "Law of Nature, which consisteth of certain practical Principles known by themselves is called the Law of God written in our hearts,"[251] which leaves little room for choice, With human law the opposite is true.

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[246] Ibid., 47.

[247] Wood, *English Casuistical Divinity,* 82.

[248] Robert A, Greene, "Instinct of Nature: Natural Law, Synderesis, and the Moral Sense," *Journal of the History of Ideas*, 58 (April 1997): 173-198.

[249] Wood, *English Casuistical Divinity,* 83.

[250] Sanderson, *Several Cases of Conscience Discussed,* 149.

[251] Ibid., 148.

Human law offers an additional set of choices beyond the law of nature, but human law poses infinite complexities that tax theological reason. Sanderson defines human law by paraphrasing Aquinas: "It is the ordination of Reason to a common good promulgated by him who hath the care of the Commonality."[252] He views human law as being both public and private. Those who promulgate laws are parents, masters, and magistrates along with those people who are imbued with public authority. Legitimate power, both public and private, is "constituted of God,"[253] which to Sanderson means that the obligation of human law is linked to the power of the lawgiver. He uses the words "oblige the conscience" continuously throughout the *Several Cases of Conscience;* it means, to bind a subject to obedience or risk mortal sin.[254]

> The obligative power of it [human law] is grounded on the Will, and the power of the Lawgiver, so that to speak properly , the Law itself doth not bind so effectively, as the Will and Power of the Lawgiver...[255]

From that quotation, it would appear that the power of the lawgiver is always absolute but, in fact, it is not. Sanderson's casuistry finds its way around the authority of the absolute lawgiver. If laws are unjust, he says, they do not oblige the subject to obedience except under such circumstances as the words of the law be perfectly and correctly understood and there is no possible misunderstanding.[256] On the surface, that is a shocking statement for a Calvinist to make: It validates resistance to unjust laws. As a result, he is forced to move away from the stance of liberty of conscience and distinguish

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[252] Ibid.

[253] Ibid., 151.

[254] Ibid., 152-53.

[255] Ibid.,. 153.

[256] Ibid., 154.

instead between the law itself and the person who "commands" the law. He cites an instance in which a prince, exercising gratuitous tyranny, commands a subject to do something that is unjust but nonetheless lawful. The subject is obliged to obey the prince. Why? Because "...injustice doth hold altogether on the part of the *party commanding*, and not of the thing commanded."[257] What's important here is that the subject, if he obeys, is not being asked to commit a sin, because the onus of sin falls on the prince. Sanderson says, "...whatsoever the subject could perform without sin, he is bound, if commanded to perform by the Duty of obedience.[258]

In *Several Cases of Conscience* Sanderson goes one step further and asks, If conscience obligates the individual, then do human laws obligate conscience if they are commanded by a person without lawful authority, such as a king who is not the rightful heir to the throne.[259] That appears to be a highly speculative question but in 1647, when this case of conscience was written, one of the most powerful persons in England was Oliver Cromwell. He was not yet Lord Protector and the government was largely being directed by Parliament. However, Sanderson was at Oxford and Charles I was being held prisoner in Carisbrook Castle, while the heir to the throne was in exile. The hypothesis raises two moral questions: One, what was a subject's obligation to obey a magistrate that may have been unlawful and two, how far was the subject obligated to follow the law of a magistrate who was in possession of the kingdom by force? Sanderson's answer is:

> ...in an Hereditary Kingdom, where the right is doubtful, it is the part of a good citizen...to obey him as his lawful Prince who is in present possession

[257] Ibid., 155.

[258] Ibid., 156.

[259] Ibid., 162 & 167 .

of the Sovereign Command.[260]

Sanderson supports his contention with historical examples: The kingdom of Portugal after the death of King Sebastian; the six contenders for the throne of Scotland after the death of King Alexander; and the families of York and Lancaster.[261] Sanderson concludes that in doubtful cases, the safe decision is the one that favors the possessor, even if the subject has taken an oath of allegiance to the former magistrate. In other words, how does one justify having taken an oath to support Charles I and later obey Oliver Cromwell?

> A good Citizen may not only lawfully obey the Laws of him who governs *de facto*, and not *de jure*... but according to the conditions of human affairs, there may be such an exigent of necessity...that he may be judged to fail...if he doth not do it.[262]

For Sanderson, possession of the throne, even possession by force, is almost always the overriding consideration, although the Prince or King

> hath attained to that power by Evil Arts, is nevertheless to be esteemed by the Citizen as his lawful Prince, and by the obligation of his Conscience is accordingly bound to obey him.[263]

Not to obey the magistrate is excusable only in the instance that it is evident that there is someone else whose claim to sovereignty is stronger than that of the usurper. Sanderson supports his conclusion historically and biblically by citing Roman emperors and kings of Israel who attained their crowns by violence and injustice. He also cites instances where the hereditary lines were exhausted. How can a subject maintain loyalty to the heir to a kingdom and at the same time swear an oath of allegiance to a usurper? Sanderson

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[260] Ibid., 167 .

[261] Ibid.

[262] Ibid., 168 .

[263] Ibid., 165 .

appears to wrestle with the question of how to reconcile his own contention that the citizen must obey "Laws made by one who hath no lawful power," even though such laws "do not oblige in conscience."[264] He finds his answer in the content of community. A subject is not supposed to gratify the usurper, but to serve the community.[265] Thus, Sanderson concludes that the *de facto* sovereign, whether just or unjust possessor of the kingdom, must be obeyed for the sake and safety of society.

JEREMY TAYLOR (1613-1667)

Jeremy Taylor was a Royalist, an anti-Calvinist and a defender of Church of England episcopacy. He was a favorite of Archbishop Laud and spent two years as Chaplain to Charles I. On November 5, 1638, Taylor preached a Gunpowder Plot anniversary sermon at St. Mary's in Oxford, which he dedicated to Laud.[266] It was a fiercely anti-Papist sermon in which the political point of the speech, taken from Luke 9:54,[267] consisted of a long indictment of recusancy as being treasonable, plus an approbation of the Elizabethan penal legislation, in which Taylor argued, somewhat curiously, that no one was executed for simply being a Catholic nor penalized for recusancy.[268] He went on to criticize Christ's Apostles for wanting to destroy their enemies through violence and then likened the Roman Church to the Apostles for the same offense. The sermon was in all likelihood meant to create controversy and separate Taylor from any suspicion of leanings toward Rome. Indeed, according to Anthony

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[264] Ibid., 168.

[265] Lewis, *Sanderson: Chaplain,* 153.

[266] C.J. Stranks, *The Life and Writings of Jeremy Taylor,* (London: S. P. C. K., 1952), 47.

[267] Luke 9:54. And when his disciples James and John saw it, they said, "Lord do you want us to bid fire come down from heaven and consume them?" [Samaritans] RSV

[268] Stranks, *Writings of Jeremy Taylor,* 47.

Wood,[269] after the sermon most Romanists had nothing to do with Taylor again.[270] Throughout the last half of the sermon, Taylor expounded on regicide, pointing out that popes have the ability to depose kings and thus, the monarch who is no longer king is an ordinary man who can be executed or placed under interdiction.

> The pope by his order to spirituals may take away
> Kingdomes upon more pretenses than actuall heresy...
> It is the doctrine of the great Aquinas. The Pope
> (saith he) by his Spirituall power may dispose of the Temporalities
> of all the Christians of the World...
> The words are plain that he may do it for his own ends...
> and thus (to be sure) he did actually with Frederick Barbarossa,
> John of Navarre...and our own King John.[271]

In 1638, with Parliamentarian sentiments raging against the King, Taylor's implications of danger were obvious and certainly prescient. Shortly after delivering the sermon, Laud was instrumental in having Taylor appointed as one of the King's chaplains-in-ordinary.[272] That same year Taylor was given, also possibly at the behest of Laud, the rectory of Uppingham in Rutland, which functioned largely as a residential estate instead of a working prebend, to which he returned after periodic trips to London. It was at this time, declared Wood, that Taylor became interested in casuistry.[273] By 1639, he left Uppingham, and in 1642 he joined King Charles whom he followed for the next two years. During the war he was captured by the Parliamentary forces at Cardigan Castle and imprisoned. However, he was soon released, possibly because of the intervention of the Earl of Carbery. After his release, Taylor settled with his family close

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[269] Anthony Wood was contemporaneous with Taylor and wrote archival and religious works. He is best remembered for *Athenae Oxonienses,* which is a history of the writers and bishops who went to Oxford from 1500-1691.

[270] Stranks, *Writings of Jeremy Taylor,* 47.

[271] Jeremy Taylor, *A Sermon Preached in Saint Marie's Church of Oxford,* Oxford: 1638 (Amsterdam N. Y: Da Capo Press, Published in Facsimile, 1971), 47

[272] Stranks, *Writings of Jeremy Taylor,* 49.

to Lord and Lady Carbery at Golden Grove during which time he wrote two of the three major works of his life, *Holy Living* (1650) and *Holy Dying*(1651). The other major work, written later was the massive four-volume book of casuistry *Ductor Dubitantium or The Rule of Conscience,* the only work that he designates as consisting entirely of case divinity.[274] The time spent at Golden Grove was a productive period in which Taylor wrote numerous lessor books, sermons, letters, treatises and devotional tracts and major works, including important sermons like *Upon the Anniversary of the Gunpowder-Treason* (1638), *A Discourse of the Liberty of Prophesying* (1646), *Unam Necessarium or the Doctrine of Repentance* (1655) and the King's *Funeral Sermon* (1650) which were all dedicated to Frances, Countess of Carbery.

At the same time, while the Puritan Commonwealth was in effect, he made trips to London where he preached in secret, at his peril, to small congregations of conformists and Loyalists.[275] In 1657, he was offered the position of assistant lecturer at Lisburn in Ulster by Lord Conway, a resident of Ireland, where Taylor brought his family. However, he was persecuted by the Presbyterians and put under open arrest. [276] He escaped and in 1660 returned to England to supervise the publishing of *Ductor Dubitantium or The Rule of Conscience*. In England, his fortunes under Charles II took a brief, but positive turn. The king appointed him Bishop of Down and Conner, benefices that brought him prosperity, but again he suffered criticism from the Presbyterian faction who "denounced

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[273] Stanwood, "General Introduction" in Taylor, *Holy Living,* I, xvii.

[274] Jeremy Taylor, *Ductor Dubitantium* in *The Whole Works of the Right Rev. Jeremy Taylor, D. D.,* eds. Right Rev. Reginald Heber, D. D. and the Rev. Charles page Eden, M. A., 10 vols. (London: Longman, Green, Roberts and Green, et al, 1864), IX: v.

[275] Logan Pearsall Smith, "Introduction" in *The Golden Grove: Selected Passages from the Sermons and Writings of Jeremy Taylor* (Oxford: Clarendon Press, 1958), xvi-xvii.

[276] Stanwood, "General Introduction" in Taylor, *Holy Living,* I. xxix

him as an Arminian, a Socianian, and a Papist."[277] In return he used his recourse to Restoration law and denounced his opponents, ultimately sending them to prison, exile or, at the very least, dispossessing them of their benefices. In 1667, he died.[278]

Before his death in 1660, he published the four books of *Ductor Dubitantium or The Rule of Conscience*, a massive work of English Protestant casuistry consisting of over 1,300 full-sized, densely packed pages of cases of conscience, dedicated to Charles II. Its size and convoluted thought processes make *Ductor Dubitantium* a daunting assignment for any but the dedicated scholar. It is a work that has long since enjoyed an undisturbed oblivion, although at the time Taylor wrote the work, he believed that because it was his biggest book, it would become his most famous.[279] He regarded *Ductor Dubitantium* as his major work on casuistry but at the same time claimed that it was a new kind of moral theology.

> ...he who reads my book will not expect this book
> to be a collective body of particular cases of
> conscience; for I find they are infinite and my
> life is not so...I therefor resolved upon another way,
> which although no man before me hath trod in
> writing cases of conscience...I took my pattern
> from Tribonianus the lawyer, who out of the laws
> of the old Romans collected some choice rules which
> give answer to very many cases that happen....
> I intend here to offer the world a general instrument
> of moral theology.[280]

That said, like his contemporaries, Taylor defined conscience in the same way that the medieval theologians did, that is that man is born knowing God's laws and conscience is an attribute of God.

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[277] Smith, "Introduction" in *Golden Grove,* xviii.

[278] Stanwood, "General Introduction" to *Holy Living and Holy Dying, ,* I. xxxiii.

[279] Wood, *English Casuistical Divinity,* 44.

> God governs the world by several attributes...It was well said by S. Bernard...'conscience is the brightness and splendour of the eternal light, a spotless mirror of the divine majesty, and the image of the goodness of God'...Titanius said, 'conscience is God unto us.'[281]

Where Taylor differs from other casuists is in the scope of his definition, which is so broad that almost every action is an act of conscience. *Ductor Dubitantium* is organized, as its subtitle, *The Rule of Conscience* implies, into rules and Rule I sets up Taylor's paradigm of conscience.

> Conscience is the mind of a man governed by a rule, and measured by the proportions of good and evil, in order to practice; viz., to conduct all our relations, and all our intercourse between God, our neighbors, and ourselves; that is in all moral actions.[282]

In Rule II Taylor breaks conscience down into its component parts. Conscience, he says, is to testify or bear witness and as such is practical knowledge "...and in this sense, "conscience is a practical memory," which, as with Aquinas, is located in the faculty of understanding "and make[s] the understanding to be conscience...so the actions of our life recorded in the memory...change the memory also into conscience." [283]

However, Taylor voices a great deal of careful concern over the dictates of an erroneous conscience which he describes as follows: "An erroneous conscience commands us to do what we ought to omit, or to omit what we ought to do, or to do it otherwise that we should."[284] That noted, his position appears to be that when due consideration is given to the dictates of conscience, it must always be followed, whether

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[280] Jeremy Taylor, *Whole Works*, IX: xix.

[281] Ibid., IX, 3.

[282] Ibid.

[283] Ibid., IX: 17.

[284] McAdoo, *Caroline Moral Theology,* 85n.

or not conscience is in error.[285] He is explicit on the steps to be followed to avoid mistaking the dictates of expedience as being a rationale for an act of conscience.

> Be careful that prejudice or passion,
> fancy and affection, error or illusion, be not
> mistaken for conscience...because conscience
> is the religious understanding...[men] think
> that some sacredness or authority passes upon
> their passion or design, if they call it conscience...
> Conscience is like a king whose power and authority
> is regular, whatsoever counsel he follows. If error
> or passion dictates, the king is misinformed,
> but the inferiors are bound to obey; and we may no
> more disobey our conscience...than we may disobey
> our king.[286]

An important issue, one that typifies English Protestant Casuistry, as opposed to Roman Catholic casuistry, is the problem of probabalism: Choosing between more than one directive of conscience, particularly if they are opposed to each other. As discussed in chapter two, English Protestant casuistry differed in many respects from Catholic casuistry, but nowhere more than in the issue of a doubting conscience. When a moral issue has more than one possible resolution, one of two choices can be made: "Probabalism" or "Probabiliorism." Probabalism assumes that in the event a choice must be made, the casuist can follow the least probable direction. In other words, so long as it exists, a path of least resistance. On the other hand, probabiliorism, directs that the casuist take the direction which is closest to religious and civil law. If the conflict involves sin, the course that must be followed is that which is least likely to involve the individual in a sin. Jesuits were seen by Protestant casuists as subscribing to the course of probabalism while Protestants themselves subscribed to probabiliorism. Jeremy Taylor, in discussing

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[285] Wood, *English Casuistical Divinity,* 72.

[286] Taylor, *Whole Works,* IX: 36.

the problems of a doubting conscience, comes firmly down on the side of probabiliorism. He sets up his paradigm by defining a probable conscience as an imperfect agreement to an uncertain proposition in which more than one equitable resolution is possible: "...for a doubtful conscience considers the probabilities on both sides and...cannot choose...but probably does."[287] He sees the instrument of that choice as being the intervention of the will and as had been stated, Taylor located conscience in the connative intelligence, not the will. He points out that in the sure conscience the will "cannot interpose" itself, but in the probable conscience, there is room to make a motivated choice or rather a choice guided by personal motivation instead of one based on "proper reason,"[288] which is ultimately unsafe. "Of two opinions equally probable, upon the account of their proper reasons, one may be safer than another."[289]

One of the means by which the casuist can choose between two probabilities is by the "accumulation of many probabilities operating the same persuasion,"[290] or put more clearly, recognizing the common thread that binds different probabilities of a similar nature. He illustrates his theory with a twenty-two page case history, "proving that the religion of Jesus Christ is from God."[291] From Taylor's point of view, the casuist has to be able to prove his case through practical application.

> An opinion that is speculatively probable is not always practically the same...For a speculation considers the nature of things abstractedly from circumstances physically or metaphysically, and yet when it comes to be reduced to practice, what

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[287] Wood, *English Casuistical Divinity*, 150.

[288] Ibid.

[289] Taylor, *Whole Works,* IX: 181.

[290] Ibid., IX: 156 ff.

[291] Ibid.

> in the head was innocent will upon the hand become troublesome and criminal.[292]

To further illustrate his position, he gives a number of instances, including one in which a man heard something stirring in the bush and thought that it was probably a wild beast. He shot at it and unexpectedly killed a man. The consequence of the man's action based on probability links speculation to injustice.[293] Speculation, Taylor writes, invites the interference of the will and the will can determine understanding. Similarly with other extrinsic matters. In a situation where there are two equally probable opinions, "the last determination is to be made by accidents, circumstances, and collateral inducements,"[294] because, as Taylor states,

> ...of all the external motives that can have influence in the determination of a sentence between two probabilities, a relation to piety is the greatest. He that chooses this because it is most pious, chooses his opinion out of consideration, and by the inducement of the love of God.[295]

What Taylor is saying is, in a case of doubting probabilities, one must make the choice that would most likely engender God's love. In the end, the only considerations are Divine and Civil law except in cases of "great necessity and great charity."[296] However, cases of necessity and charity become extrinsic factors mostly under those circumstances where a probable opinion is slender. Taylor uses a case of conscience, a convoluted one to be sure, to support his point. A man is contracted to marry a woman who, while on her way to him, was captured at sea by Turkish pirates, deflowered and

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[292] Ibid.

[293] Ibid., IX: 183.

[294] Ibid., IX: 189.

[295] Ibid., IX: 190-191.

[296] Ibid.

supposedly killed. The man marries another woman and after some years, the new wife found out that the original intended bride was still alive which meant that the "second" wife was not his wife but the original intended bride was the man's legitimate wife. One day a sailor appears and tell the woman that the original intended bride had recently died. Thus the question arose: Was a new marriage contract necessary? Taylor said yes. But there was a second, a contrary opinion which was affirmed by an authority who said that under some circumstances a contract could be signed by only one of the parties. Even so, Taylor still demanded a regular, two-party marriage contract because "a slender probability ought not to govern her." However, the husband had grown to dislike his wife and she believed he would take the opportunity to refuse to sign and throw her out. Therefore, Taylor revised his opinion and agreed to the slender probability, which said that the consent of one was sufficient. Thus the case was resolved on behalf of an innocent marriage and the legitimization of children,[297] this being the choice that was most pious. Fundamentally, Taylor abhorred a doubting conscience and in almost all cases, with exceptions made for the "ignorant and vulgar people" for whom "it is best to let them alone, and let them be divided,"[298] still a resolution must be reached.

> ...a doubt is a disease in conscience, like an
> irresolution in action....the immediate cure is
> not to choose right, that is the remedy of an erring conscience...the
> remedy is determination and to this
> effect whatsoever is sufficient may be chosen and used.[299]

In other words, it is more important to make a choice than not to make choice just because it may not be the right choice. But where compromise is involved, such as in the

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[297] Ibid., IX: 195-196.

[298] Ibid., IX: 201.

[299] Ibid., IX: 194.

matrimonial contract example above, the predominant goal of a resolution is safety from sin and safety from civil law.

> When it so happens that the conscience is doubtful
> and perplexed, [in choosing between two known laws]
> and that in this sad conjunction of evil
> and weak thoughts, it seems unavoidable but that one
> must be chosen and we may then incline to that which hath least
> danger and least mischief...And this advise was given by the
> Chancellor of Paris...no sin is to be chosen
> when both can be avoided, but when they cannot
> the least is to be suffered.[300]

The danger he is talking about is the dual danger of violating God's law and committing a sin or violating civil law and endangering individual liberty. In either case the person is bound to obedience. Thus the casuist must aim for safety because God's law or civil law is inviolable. Theoretically, to opt for safety is tutiorism. [301]

Tutiorism, as discussed in the life and thought of Sanderson above, takes probabiliorism one step further: It is an argument favoring individual liberty, as differentiated from law, which means that the judgment must be either certain or the *most* probable of all possible opinions. In a case of doubt, it is the absolutely safest choice that can be made to insure peace of soul, salvation and truth.[302] Tutiorism obligates the casuist to avoid any decision against which any case can be made.[303] Thomas Wood points out that it would be an error to assume that the English casuists necessarily embraced a strict tutiorist position since the word that describes tutiorism is "safer" and "safer" is ambiguous. "Safer," he says, can be understood as giving the benefit of the doubt always to the law, in contrast to when "safer" means there are more probabilities on the side of

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[300] Ibid., I, 250.

[301] Wood, *English Casuistical Divinity,* 74.

[302] Jonsen & Toulmin, *Abuse of Casuistry,* 241.

liberty.[304] The tutiorist position is ultimately inflexible as opposed to most constructions of casuistry in which the ability to stretch a moral obligation beyond the rigors of unbending law prevails. Finally though, Taylor is a casuist and in *Ductor Dubitantium* he stresses that when in doubt, the safer part is to be chosen; however, he also states that this rule includes a mitigating component. The rule, he says, is

> to be understood to be good advise but not
> necessary in all cases. For when the contrary
> opinion is the more probable, and this the more safe,
> to do this is a prudent compliance.[305]

It was mentioned above that *Ductor Dubitantium* consisted of four dense volumes, the first of which was devoted to rules of conscience. The second and third volumes concern Divine Law and Human Law, respectively and the fourth covers the nature and causes of good and evil. Reading Book II, it is clear that Taylor viewed Divine Law as the law of Jesus Christ, but, before that, he devoted about a hundred pages to the law of nature with which he starts Rule I of Book II, and it is worth considering briefly because it too expresses Taylor's feeling about a doubtful conscience. He writes that

> The law of nature is the universal law of the world,
> or the law of mankind, concerning common necessities
> to which we are inclined by nature, invited by consent,
> prompted by reason, but is bound upon us only by
> the command of God.[306]

Certain though that sounds, Taylor is dubious and expresses the notion that natural law is usually misinterpreted and confused by "divines and lawyers" because the "right of nature

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[303] Ibid., 260.

[304] Wood, *English Casuistical Divinity,* 75.

[305] Taylor, *Whole Works,* IX, 228.

[306] Ibid.,, IX: 279.

or *jus naturae* is no law, and the law of nature is no natural right," but is instead, with its passions, appetites and instincts, little more than an excuse to do what one pleases.[307] Since, as noted in the introduction, so much of English casuistry is indebted to medieval thought, it is valuable to briefly compare Taylor's context of divine and natural law to Aquinas'. Concerning natural law, Taylor's definition above in part modifies Aquinas's definition of natural law, which is that rational creatures under divine providence

> participate in eternal reason in that they have a natural inclination to their proper actions and ends. Such participation in eternal law by rational creatures is called natural law.[308]

Taylor argues instead that this natural inclination represents ordinary human instinct, comparable to beasts, and is a propensity, but not a law. It is unreasonable, he claims

> to exact of beasts the obliquity of their actions because they have no reason; it is therefor as unreasonable to make the law of nature to be something common to them and us.[309]

He further hypothesizes that reason of itself is by no means a support of the laws of nature, because reason is a flawed attribute. Cicero may have contended that right reason, as Taylor quotes him, is common to everyone and in everyone the same and that that commonality is the law of nature, but Taylor differs, saying, "Right reason is the instrument of using the law of nature," which, with conscience leads us to make wrong choices or the willingness to obey an "obliging power."[310] Taylor goes on to argue that Cicero's contention of reason is flawed because he cites certain kinds of brutish behavior

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[307] Ibid., IX: 279-80.

[308] Thomas Aquinas, , "The Treatise on Law" in *St. Thomas Aquinas on Politics and Ethics,* ed., Paul Sigmund (New York: W. W. Norton, 1988), 48.

[309] Taylor, *Whole Works,* IX: 285.

[310] Ibid.,, IX: 292-293

that occurred under the auspices of reason. Taylor concludes his argument by tying the law of nature to civil law and the Gospel and saying that it is the law of God given to bring mankind closer to perfection.[311] Thus, the direction Taylor is moving toward is clear: Conscience emanates from God; the gospel promulgates the law of nature; the gospel is the Word and the Word is Jesus Christ incarnate and the revealed law of Christ is the only understanding of the law of nature.[312]

RICHARD BAXTER (1615-1691)

Richard Baxter spent the greater part his life as a self-described nonconformist. He held strong Calvinist convictions, and his writings emphasized behavioral matters relating to a Christian's place in a tripartite universe of church, family and state with the emphasis on a person's ethical and moral obligation to all three. His position reflects the "ultimate aim of Puritan Casuistical Divinity [which is] not merely to determine the degree of guilt or innocence involved in a particular course of action but to guide individuals..." in their relationship to God.[313] Baxter's casuistical writings such as *A Christian Directory* (1673) as opposed to his political writings, such as *A Treatise of Episcopacy* (1640) are, compared to Perkins and Ames, not as concerned with political matters or reasons of state. Further, he is not a Ramist. The form of his casuistry does not take the shape of a syllogism, but instead asks a question and answers it. Baxter organized his material by deconstructing the subject matter and analyzing it in small, organized increments. For example, in Part I, Chapter VII, his paragraph headings are; *Directions for the Government of the Passions* followed by *Directions against all sinful*

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[311] McAdoo, *Caroline Moral Theology,* 39.

[312] Ibid., 39-40.

passions in general followed *by Directions against sinful Love of Creatures*, etc.[314] Each is a small step from the previous "direction.". Following each heading are the actual "Directions," as Baxter calls them, which further breaks down each topic and advises on their conscience-directed qualities.

Baxter lived from 1615-1691 and the extraordinary range of his life encompassed the English Civil War, Interregnum, Restoration, downfall of James II and the advent of William and Mary. He not only lived through them, but was intimately connected to almost every event, often at his peril. He spanned the period that Christopher Hill described as "the greatest upheaval that has yet occurred in Britain."[315] Perkins, by comparison, died in 1602 and developed his theology entirely under the reign of Elizabeth I; Ames, who lived till 1633, was a victim of Jacobean oppression and spent his mature and most productive years in exile. Baxter's long and eventful life was played out against the events of his time and those events shaped his casuistry.

Both Perkins and Ames held clearly specified political commitments, whereas Baxter, while committed to Puritan ideals, maintained moderate political and religious positions that bought him few friends on either side and charges of betrayal and insincerity from both.[316] In his autobiography, the *Reliquiae Baxterianae,* Baxter talks about some of the earlier events of the English Civil War and says, " I make no doubt that both parties were to blame (As it commonly falleth out in most wars and contentions),

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[313] Norman Clifford, "Casuistical Divinity in English Puritanism during the Seventeenth Century" (Ph.D. diss., University of London, 1957), 95.

[314] Baxter, *Christian Directory* ,273 274.

[315] Christopher Hill, *The World Turned Upside Down* (New York: Viking Press, 1972), 10.

[316] Geoffrey Nuttall, *Richard Baxter* (London: Thomas Nelson and Sons Ltd., 1965), 31.

and I will not be he that shall justify either of them."[317] That said, he goes on to advise that, "Subjects should adhere to that party which most secured the welfare of the nation...I thought it a great sin for men that were able to defend their country to be neuters."[318] Thus, while he could argue both sides of an issue, to his detriment he could also make unpopular choices. In 1638-40 Baxter was disturbed by the controversy between conformity and nonconformity, but after studying the controversy chose nonconformity. In doing so he rejected episcopacy after the *et cetera* oath was passed.

> ...a new oath which was made by the Convocation, commonly called the *Et cetera* oath, for it was to swear us all *That we would never consent to the alteration of the present government of the Church by archbishops, bishops, deans, archdeacons, etc....* This put me upon deeper thoughts on the point of Episcopacy, and the English frame of church government...I was much satisfied that the English diocesan frame was guilty of the corruption of churches and ministry... which was imposed on us for the unalterable subjecting of us to diocesans, was a chief means to alienate me and many others...[319]

In 1641, when he was 26 years old, he was invited to become preacher in the conservative Puritan parish ministry of Kidderminster, where he spent most of the next nineteen years. The first two letters inviting him was signed by fourteen middle-class layman, representative of a larger group,[320] "in whose independent spirit and initiative much of the strength of Puritanism lay."[321] While there, he organized an association of ministers made up of Presbyterians, Episcopals and Separatists for the purpose of

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[317] Richard Baxter, *The Autobiography of Richard Baxter, being the Reliquiae Baxterianae*, ed., J. M. Lloyd Thomas, (London: J.M. Dent & Sons, Ltd. N. D.), 36-37

[318] Ibid., 37.

[319] Ibid., 19.

[320] Nuttall, *Baxter*, 24.

[321] Ibid.

improving their ministries. Once the Civil War broke out, he temporarily left Kidderminster and, after the Battle of Naseby, became chaplain to Colonel Whalley's regiment in the Parliamentary army, largely because he was concerned that there was religious corruption in the ranks.

> When the court news-book told the world
> of the swarms of Anabaptists in our armies,
> we thought it had been a mere lie because
> it was not so with us...But when I came...among
> Cromwell's soldiers, I found things I never dreamt of .
> I heard plotting heads very hot upon that which
> intimated their intention to subvert both church
> and state...self-conceited, hot-headed sectaries
> had got into the highest places...When I informed
> myself of the state of the army...I was loth to leave
> my studies and friends...to go into an army so
> contrary to my judgment but I thought the public
> good commanded me.[322]

In going to Whalley, Baxter had turned down Oliver Cromwell's request for him to accept a chaplaincy[323] to the Ironsides, which hardly endeared him to the future Great Protector.[324] "As soon as I came to the army, Oliver Cromwell coldly bid me welcome, and never spake one word to me more," Baxter wrote.[325] Baxter again came in conflict with Cromwell, as he relates in his autobiography, by disputing him on the subject of liberty of conscience.

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[322] Baxter, *Reliquiae Baxterianae*, 50-51.

[323] Nuttall, *Baxter*, 36.

[324] "The Ironsides" was the term used for the Cavalry division of Cromwell's army.

[325] Baxter, *Reliquiae Baxterianae*, 52.

> Though I came not near Cromwell, his designs were visible . The Lord-General suffered him to govern...and to choose almost all the officers of the army...so that by degrees he headed the greatest part of the army with Anabaptists, Antinomians, Seekers or Separatists at best; and all these he tied together by the point of liberty of conscience.[326]

Despite his position on liberty of conscience, Baxter was a nonconformist but not a separatist. Throughout his autobiographical writings and many of his tracts, he is critical of sectaries and separatists, as in the above quotation. His stance on reasons of state is largely Calvinist, in that he believed in the inviolability of the magistrate, but only so far.[327]

> I was always satisfied that the Authority and Person of the King were inviolable...I never thought the Parliament blameless...I was always satisfied that the dividers of the king and parliament were the traitors, whoever they were; and that the division tended to be the dissolution of the government.[328]

After the Civil War, he returned to Kidderminster where he stayed till the Restoration. In 1660 he went to London where he continued to preach until 1662, when the Act of Uniformity took affect, at which point he left his post early.[329] One of the main affects of the Act was that it restricted employment in churches, schools and universities to conformists only. It also restricted the holding of government positions. Further, it demanded that all dissenters take the English church sacraments. Its full effect can only be evaluated when it is considered alongside the Five Mile Act, the Conventicle's Act and the Clarendon Code which taken together were a blanket of

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[326] Ibid., 56.

[327] Nuttall, *Baxter,* 31.

[328] Baxter, *Reliquiae Baxteriana*, 36.

[329] Alexander Balloch Grosart, *Dictionary of National Biography*, eds., Leslie Stephen and Sir Sydney Lee, (London: Oxford University Press), Vol. 1, 1355.

oppression over all sectarian movements. For many Puritans, however, the Act of Uniformity was an outcome of the Convocation which had passed several declarations, but few so despised as a new, altered version of the *Book of Common Prayer.* The act passed in Parliament in April 1662 and became law in August, some four months later.[330] Baxter is particularly poignant in describing the effects of the act.

> When the Act of Uniformity was passed,
> it gave all the ministers who could not conform
> no longer than till Bartholomew Day, August 24, 1662,
> and then they must be cast out...I had no place but
> only that I preached twice a week at other
> men's congregations...When Bartholomew Day came,
> about one thousand eight hundred or two thousand
> ministers were silenced and cast out. Hundreds of
> able ministers, with their wives and children, had
> neither house nor bread...the people's poverty was
> so great that they were not much able to relieve their
> ministers...Some of them thought that it was their
> duty to preach publicly in the streets...not to cease their
> work through fear of men, till they lay in jails.
> Others thought that a continued endeavor...would be
> more serviceable to their church than one or two sermons
> and a jail.[331]

From this point forward, Baxter's life was haunted by oppression stemming from the policies of the Crown. There was an inherent irony in that he had played a public role in bringing about the Restoration which produced the Act of Uniformity. Like most Presbyterians, he had joined the Cavaliers, certainly not the episcopal party, in supporting the Restoration.[332] Although still a Puritan, he preached before the House of Commons the day before Parliament voted on the Restoration. He remained in England to welcome

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[330] Spurr, *English Puritanism,* 130.

[331] Baxter, *Reliquiae Baxterianae*, 175-6.

[332] Morgan, *Nonconformity*, 61.

the king. On May 10, 1660, Baxter preached at St. Paul's Cross.[333] It was an unusual sermon for the occasion and may well indicate Baxter's attraction to irony as a means of communication. The sermon was based on Christ's admonition to his disciples to rejoice only if your name is written in heaven. Baxter interprets that as, don't rejoice only because of the return of the monarchy, but rejoice if your names are written in heaven. He wrote:

> Rejoice if your names are written in Heaven for this
> is a Divine, a pure, a profitable and warrantable joy.
> When God his minister rebuke your Mirth, it is not
> the Holy Mirth that they rebuke but your dreaming mirth.[334]

Baxter was appointed to be one of the King's chaplains and took a prominent part in the Savoy conference.[335] Specifically for the occasion, he wrote an extended directive called *The Reformed Liturgy,* which according to Frederick J. Powicke reflected the liturgy that Baxter practiced at Kidderminster.[336]

Like Ames he was concerned with "things indifferent." Earlier, in the 1640s, Baxter drew a distinction between adiaphora and what seemed to be creeping papalism.[337] In *The Saints Everlasting Rest* (1650), Baxter warned against the proclivities of the people for the ceremonial symbols associated with the Roman church.[338]

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[333] Richard Baxter, *Right Rejoicing or the Nature and Order of Rational Warrantable Joy* (London: N.D., Wing 2nd ed., 1994/B1377: Thomason/ E. 1025 [II]. British Library), 1.

[334] Ibid., 17.

[335] The Act of Uniformity had made the *Book of Common Prayer* mandatory and one of the purposes of the Savoy Conference was to adjust the liturgy and make it more acceptable to Puritans.

[336] Frederick J. Powicke, *A Life of the Reverend Richard Baxter* (London: Jonathan Cape, 1924), 95.

[337] Morgan, *Nonconformity*, 196.

[338] Judith Maltby, "'By This Book': Parishioners, the Prayer Book and the Established Church," in *The Early Stuart Church,* ed., Kenneth Fincham (Stanford: Stanford University Press, 1993), 136.

> The profane, ungodly, presumptuous multitude...are as zealous for crosses and surplices, processions...the observation of holidays...the bowing at the naming of the word Jesus...the receiving of the sacrament...upon their knees...as if eternal life consisted in them.[339]

Later, in *A Christian Directory,* Baxter asks the question in its practical application and arrives at a similarly practical answer.

> *May one offer his child to be baptized, with the sign of the cross, or the use of chrism, the white garment, milk and honey...?*
> He must not offer his child to be so baptized...But when he cannot lawfully have better...he must offer his child... because baptism is God's ordinance...and the sin is the minister's and not his...[340] Whether [those ceremonies] were then sinful in themselves...I determine not...Whilst at this door those numerous and unlawful ceremonies have entered...and turned too much of God's worship into imagery, shadows and pompous shows.[341]

After the Act of Uniformity passed, Baxter retired to Middlesex where he continued preaching and was taken to prison for violating the Conventicles Act. He produced a habeas corpus and was freed.[342] In 1672, Charles II withdrew preaching licenses from nonconformists and Baxter was taken to prison again for supposedly preaching against the government.[343] In 1680, he was taken to prison for a third time, but was immediately returned home because of failing health and his books were temporarily taken from him. In 1684, he was taken into the sessions house three times and forced to pay a bond of £400.[344] By far the most brutal event of his later years was

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339 Richard Baxter, *The Saints Everlasting Rest* (London: T. Underhill and F. Tyton, 1650), 342, 344.

340 Baxter, *Christian Directory,* 1, 663.

341 Ibid., , 1, 664.

342 Grosart, *National Biography*, I, 1355.

343 Ibid.

344 Ibid,

his encounter with Chief Justice Sir George Jeffreys.[345] Baxter was charged with libeling the church in his *Paraphrase on the New Testament*, one of his lesser and more conventional works, based on the *Epistle to the Romans.*Jeffreys loathed Baxter, who by this time was a sick old man of 70 years with less than four years left to live. The Reverend William Orme says that Jeffreys was rude beyond call. Among his remarks were that "Baxter was an enemy to the name...the office and persons of the Bishops... he is a conceited fanatical dog...."[346] Baxter was fined 500 marks and remanded to prison till the money was paid. He remained in prison for 18 months, until the government remitted the fine and released him. The record of the trial comes from Edmund Calamy, contemporaneous editor of the *Reliquiae Baxterianae*, where it appears in an addendum to the book.[347] The *Reliquiae Baxterianae* ends abruptly in 1685 and the trial took place in May of the same year. Thus, there is nothing available on what Baxter said and thought on the matter.

Baxter himself was a prodigious writer and the *English Short Title Catalogue* has 531 listings, many of which are reprinted editions. The greatest number of them were written after the Interregnum. Of all the casuists in this dissertation, there appears to be more information available on the life of Richard Baxter than on any of the others, largely, it would seem, because he produced a detailed autobiography, *Reliquiae Baxterianae: or Mr. Richard Baxter's Narrative of the Most Memorable Passages of his Life and Times*. It provides an abundant cache of detail about the events of his life. The

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[345] Nuttall, *Baxter,* 109-110. The spelling of Jeffreys name appears differently in different works. I am using the spelling provided by J. M. Lloyd Thomas, in the appendix of the *Reliquiae Baxterianae.*

[346] William Orme, Rev., *The Life and Times of Richard Baxter: with a Critical Examination of His Writings*, 2 vols., (London: James Duncan, 1830), 457-60.

[347] Baxter, *Reliquiae Baxterianae*, 261.

original autobiography was not in the form of a straightforward text but rather a collection of autobiographical writings, jottings and notes which Baxter turned over to a friend, the Rev. Matthew Sylvester, who organized them into a formal autobiography that was published after Baxter's death in 1696.[348] This was one of two existing versions. The Sylvester edition was later "abridged" and published again in 1702 by Edmund Calamy, the grandson of the Edmund Calamy mentioned above as a personal friend in Baxter's writings. It is the Calamy version that serves as the main primary source for much of the information about Baxter's life and also serves as the foundation for all of the biographies of Baxter until the twentieth century when new letters and manuscripts became available. Calamy's so-called abridgment was not an abridgment in the modern sense of the word, but rather was a series of additions that were made in the name of clarity, although Calamy uses the word "abridgment" on the frontispiece.[349] Thus the book is not a shortened version of the Sylvester work.

Along with the *Reliquiae Baxterianae,* Baxter also wrote autobiographical poems, pamphlets, published sermons, religious tracts and a group of "paraphrases" which were exegetical interpretations of biblical books such as *Psalms,* and *Epistle to the Romans*. He also wrote several influential theological works, among them *The Saint's Everlasting Rest* 1650), a daunting, "844 large quarto pages long, which, despite its size, was reprinted

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[348] J. M. Lloyd Thomas, "Introduction" in *Reliquiae Baxterianae*, xxx.

[349] Ibid., ix ff..

annually."[350] Despite the enormous scope of his work, there were few writings which Baxter himself declared to be casuistical writings, other than the one main work, *A Christian Directory*. It is monumental in scope, a *summa* of cases of conscience which he started writing in 1654. *A Christian Directory* is a nine-hundred page-plus document (in a six point, nineteenth-century typeface.) Within the same period he also wrote the much shorter *A Holy Commonwealth*, published in 1659. The 1659 edition is the only edition available today. It is an unfinished work that abruptly ends after nine chapters and continues instead on an entirely different tack, entitled *Meditations*, a work which concerns the dissolution of the Richard Cromwell Protectorate.[351]

Baxter saw politics on theocratic terms. He stated his positions on policy in both *A Holy Commonwealth* and *A Christian Directory* and they are like reading detailed blueprints for a theocracy which, although repetitious to a fault, are surprisingly reminiscent of a utopian tract. This is not a surprising observation since he wrote *A Holy Commonwealth* as a response to James Harrington's *Oceana* which he detested because he thought it was anti-clerical, in favor of democracy, and allegedly popish.[352] Baxter maintained an almost bitter opposition to the controversial and growing issue of popular sovereignty,[353] the notion that the people grant the magistrate the gift of rule. As mentioned above, Baxter was a nonconformist but not a separatist and he lived in a time when England was rent by radical religious movements such as the Levellers, Ranters,

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[350] J. I. Packer, "Introducing 'A Christian Directory'" in Richard Baxter, *The Practical Works of Richard Baxter,* 4 vols., Facsimile of 1846 edition. (Morgan, Pa: Soli Deo Gloria Publications), np.

[351] Richard Schlatter, *Richard Baxter and Puritan Politics* (New Brunswick, N. J: Rutgers University Press, 1957), 68.

[352] Lamont, *Baxter...Millennium*, 327.

[353] The issue of popular sovereignty, in which the populace participates in the selection of the ruler and influences the nature of rule, was a burgeoning, growing set of issues which Christopher Hill covers in *The World Turned Upside Down.*

Fifth Monarchists, Familists, Seekers, Quakers and Anabaptists, most of whom were trying to redefine an hierarchical society along more democratic principles.[354] He was concerned, as was also noted above, about a similar list of sectaries that made up Cromwell's army. Schlatter, who discusses Baxter's rejection of the lower classes as rabble and the ruling class as dissolute,[355] also optimistically sees Baxter as a possible "steppingstone between the old and the new in political theory"[356] on the basis that Baxter later mitigated his position and allowed for some popular participation. However, although Baxter altered his position to some extent as he grew older, he steered clear of the modernizing forces of Hobbes, Hooker and Milton.[357] It was a sentiment Baxter voiced often. In *A Christian Directory* he said:

> Though God has not made a universal determination
> for any sort of government against the rest, yet ordinarily
> monarchy is accounted better than aristocracy,
> and aristocracy better than democracy.[358]

Baxter was almost inflexible in his belief that the authority to rule was given by God only, that genuine power does not emerge from the people who were, after all, wicked and sinful and could hardly be expected to grant the authority to rule.[359] In *Memorandums to Civil Rulers for the Interest of Christ, the Church, and Men's Salvation,* a section in *A Christian Directory*, he admonishes magistracy:

> Remember that your power is from God...You are
> his ministers, and can have no power except it be

[354] Hill, *World Upside Down*, 11.

[355] Richard Schlatter, *Richard Baxter and Puritan Politics* (New Brunswick, N. J: Rutgers University Press, 1957), 31.

[356] Ibid., 38.

[357] Ibid., 73.

[358] Baxter, *Christian Directory,* 1, 745.

[359] Schlatter, *Baxter...Puritan Politics,* 28.

> given you from above...as constables are your officers and subjects...so you are the officers and subjects of God.[360]

Further down, he says,

> A private man may not usurp the magistrates' power, or do any act which is proper to his office, nor yet may he break his laws, for the avenging of himself; he may use no other means than the law of God and his sovereign do allow him.[361]

To him, popular sovereignty was a subversive doctrine that extended throughout the hierarchies of life, whether that be the lower economic classes, the "profane multitude...hostile to ministers and to all religion"[362] or women. In the case of women, for example, he believed that a woman had the right to chose her husband but God gave the husband the right to rule over his wife:

> God hath already determined what authority the husband shall have over the wife, the wife by choosing him to be her husband, giveth him not his power, but only chooseth the man, to whom God giveth it...[363]

Baxter is saying that the wife does not empower her husband by choosing him but it is similar to when a town elects a mayor, an image he uses further down in the quotation, it only "nominates" him. The right to rule is a franchise of the king,[364] emanating from God and among the mayor's duties is to "force them to submit to holy doctrine."[365]

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[360] Baxter, *Christian Directory,* 1, 741.

[361] Ibid., 1, 787.

[362] Hill, *World Upside Down*, 83.

[363] Baxter, *Christian Directory,* 1, 745.

[364] Schlatter, *Baxter...Puritan Politics,* 29. Schlatter is, here paraphrasing Baxter. The original appears in *A Christian Directory,* 744-5. The expression "nominates" is Baxter's.

[365] Ibid., 116.

Baxter sees sin in the same absolutist terms he saw politics. Unlike Ames, for whom sin is moderated by intention and circumstance, Baxter is less forgiving. Similar to Aquinas and the medieval tradition, Baxter appears to believe that people are born knowing God's law and that all sin is a voluntary –and voluntary is the key word here—violation of what one already knows God expects of them. There are rarely any moderating factors.

> The most holy and righteous Governor of the world hath...given us free-will, that no man can be forced to sin against his will; it is not sin, of it be not (positively or privately) voluntary.[366]

Thus, conscience was to Baxter almost what it was to Perkins and Ames: One was born knowing right from wrong and the knowledge came directly from God, which meant for Baxter that acting against conscience was usually an act of sin unless the conscience leads the person astray.

> *Quest*. II But is it not every man's duty to obey his conscience?
> *Answ*. No: It is no man's duty to obey his conscience in an error, when it contradicteth the command of God.
> *Quest.* III But is it not a sin for a man to go against his conscience?
> *Answ*. Yes: Not because conscience hath any authority to make laws for you; but because interpretatively you go against God.
>
> *Quest*. VI. Seeing no man that erreth doth know or think that he erreth, (for that is a contradiction) how can I lay by that opinion or strive against it which I take to be the truth.
> *Answ*. It is your sin, that you take a falsehood to be the truth.[367]

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[366] Baxter, *Christian Directory,* 28.

[367] Ibid., 116. I have reversed the first two propositions in order to follow the directions of the previous paragraph.

Where Ames operated under a system that moved from offense to forgiveness and possibly redemption, Baxter has instead minutely broken down what seems to be a canon of human behavior and expressed it in terms of Divine Law. Baxter provided what neither Perkins nor Ames did and that was a casuistry that guided the reader through the highly complex structure of a Christian life directed entirely toward salvation and election. While Perkins and Ames certainly covered similar ground, it was Baxter who provided the almost excruciating details of what a conscience-directed life warranted.

CASUISTIC USES OF BIBLICAL AND SECULAR AUTHORITIES.

Throughout this study much has been made of the fact that the foundation of English Protestant casuistry rests on a base of scriptural authority. In almost all cases of conscience the casuist constructs his argument by matching reason to scripture. He chooses a biblical passage that enhances a rational argument with the elements of revelation. Although the Bible was but one of many sources of moral authority, either human or divine, there was none greater than the Bible. Nonetheless a paradox exists, according to Isabel Rivers, in which conflicts of religious and moral authority can also be resolved thorough the offices of rightly employed language. Additionally, she notes that the sources of human and divine authority were also "variously defined as reason, light of nature, common notions, conscience, grace, the Spirit, tradition, and human learning."[368] Jeremy Taylor described moral authority first as scriptural and then as tradition or reason. In the preface to *Ductor Dubitantium,* Taylor said that his declarations do not rest on arbitrary opinions and mere ecclesiastical jurisdictions: "I affirm nothing but upon grounds of Scripture, or universal tradition, or right reason...."[369] Richard Baxter said that he saw authority entirely in terms of Scripture. In the "Advertisement" to *A Christian Directory,* he posed a question, asking why all of his writings relied on Scripture? He answered with: "I think that as all good commentaries, and sermons, and systems of theology, are in Scripture, so is the Directory here

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[368] Isabel Rivers, *Reason, Grace and Sentiment: A Study of the Language of Religion and Ethics in England, 1660-1780* (Cambridge: Cambridge University Press, 1991) , 5.

[369] Taylor, *Whole Works*, 10: 73.

given..."[370] (Baxter's reference to sermons should be noted since in that instance as well, Scripture is the authority and provides the structure of a sermon.) However, in *A Christian Directory*, Baxter also relies on human authority as well, citing the early church fathers, Greek and Roman philosophers and contemporaneous theologians as authority.

Although moral authority came from sources other than the Bible, it was the Bible that laid claim to the writings of most of the casuists. They all saw Scripture as infallible and perfect. In William Ames' *Theological Discussion on the Perfection of Holy Scripture* there are long sections that reflect the then prevailing Reformed assertion that the Bible is an object of perfection and its infallibility is the consequence of God having provided revelation to biblical writers.[371] It seemed then important to partake in that perfection through work and study, and according to Ames, to know the original language in which the Bible was written.[372] The ideal of infallibility was only one condition of faith but Ames, like most Puritan casuists, understood that, infallible or not, Scripture alone was not sufficient to solve all problems.[373] William Perkins emphasized the authority of Scripture and said he was confident of the validity of his work so long as he was using arguments derived from the Bible.[374] To Perkins, infallibility was assured because the authority of the Bible proceeded from the Holy Spirit. "The Scripture is the word of God written in a language fit for the church by men immediately called to be the clerks or secretaries of the Holy Ghost."[375] Perkins' quotation is of course immediately

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[370] Baxter, *Christian Directory*, 5.

[371] John D. Eusdan, "Introduction" to William Ames, *The Marrow of Theology: William Ames 1536-1633* (Boston: Pilgrim, 1968), 61-62.

[372] Ibid., 62.

[373] Clifford, "Casuistical Divinity in English Puritanism:, 77-78.

[374] Ian Breward, "Introduction" to *The Work of William Perkins* (Berkshire, England: Sutton Courtenay, 1970), 39.

[375] William Perkins, "The Art of Prophesying," in *Work of William Perkins,* 334.

followed by a biblical citation, "2 Pet. 1:21."[376] Like Perkins, Richard Baxter drew confidence from Scripture but in his case there were the issues of the certainty of faith and the sufficiency of Scripture.

> My certainty of the Deity is greater than my certainty of the Christian Faith; my certainty of the Christian Faith in its essentials is greater than my certainty of the perfection and infallibility of all the Holy Scriptures; my certainty of that is greater than my certainty of the meaning of particular texts....[377]

Although Baxter places biblical authority, meaning the Bible as God's word, within a hierarchy of certainties, it was to most Puritans the ultimate religious authority and the standard against which all religious endeavor was measured. Expounded either verbally as in sermons or visually as in theological tracts, its effect was more dramatic when preached but carried greater authority when written.[378] The written word was the measure of spiritual experience. Written, it enhanced the faith of John Bunyan, who spoke for the radical Puritan belief in the inviolability of Scripture, when he cited John 10:35, "The Scripture cannot be broken,"[379] It is a precept that he repeats several times in *Grace Abounding to the Chief of Sinners.* In one such instance he wrote: "Whatever comfort and peace I thought I might have from the word of the promise of life, yet unless there could be found in my refreshment a concurrence and agreement in the Scriptures, let me think what I will thereof, and hold it never so fast, I should find no such thing at

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[376] 2 Peter 1:21. For the prophesy came not in old time by the will of Man: but holy men of God spake as they were moved by the Holy Ghost. KJV

[377] Baxter, *Reliquiae Baxterianae*, 111.

[378] Spurr, *English Puritanism 1603-1689,* 171.

[379] John 10:35. If he called them Gods, unto whom the word of God came and the Scripture cannot be broken; KJV. The RSV has it, "The Scripture cannot be set aide" and refers to God's word that Jesus has been sent as the Messiah.

the end *for the Scripture cannot be broken."*[380] In other words, Scripture was an inalienable truth. Almost all seventeenth-century theologians, certainly the Protestant casuists, punctuated their writings with references to biblical chapter and verse. Some, like Robert Sanderson wrote simple marginal citations for the purpose of directing the reader to an appropriate biblical citation that gave authority or clarification to a point he was making. Others, like William Perkins punctuated the text at the end of paragraphs with one or two citations.

Thus, the purpose of this section is to measure the extent to which Perkins, Hall, Ames, Sanderson, Taylor and Baxter depended upon Scripture to give their work the authority of what they knew to be God's word. This section also intends to show which books of the Bible and, in some instances, which sections of those books carried the greatest authority. Further, this inquiry intends to show how much casuistry depended upon the Bible to validate its own debate and at the same time demonstrate what scriptural references were preferred. Additionally, this inquiry will go beyond biblical authority and look at the casuists' non-scriptural citations for the purpose of measuring religious and secular influence on casuistic discourse, asking such questions as how did casuistry use people like Aquinas, Augustine, Chrysostom, Cicero and Seneca to strengthen their debate. Further this section will ask who among the religious and secular persons had the greatest impact on casuistic thought. The method of measuring each casuist's use of biblical citations of authority has been to count them. One major work of casuistry by each casuist has been annotated by counting the frequency with which each book of the Bible has been cited. The procedure has been to collate each author's

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[380] John Bunyan, *Grace Abounding to the Chief of Sinners*. Ed. W. R. Owen (London: Penguin Books, 1957), 50-51. Also cited in Spurr, *English Puritanism*, 172.

references and determine the number of times that, for example, William Perkins cites a chapter and verse from Exodus or Revelation. The number of citations have been added and entered appropriately on the charts below.

Apparently, this is the first time that anyone has attempted to measure the many ways that casuistry, which depended on the Bible for decision-making precedent, also used the Bible as a resource for the solving of moral dilemmas. The only other study of a similar nature is "The Use of the Bible in Jeremy Taylor's Works," by Sara Herndon. It is a New York University Ph.D dissertation submitted in 1946. It differs from the study at hand by concentrating entirely on the writings of Taylor as opposed to this dissertation which measures the casuistical writings of six casuists and offers three charts of scriptural authority drawn for the purposes of comparing each individual casuist's source of authority. This dissertation focuses on casuistry in relation to political event and its ensuing affect on theological doctrine, while the Herndon inquiry focuses on Taylor's biblical scholarship, his process of interpretation and his approach to doctrine and morality.

Looked at from a collective point of view, the three charts below may well indicate trends of biblical awareness among seventeenth-century Protestant clergymen other than casuists. The three charts themselves contain all of the books of the Bible divided into Old and New Testament and the Apocrypha. Taken together they indicate the extent to which certain books of the Bible served as sources of authority for individual casuists. The names of the casuists run across the top and the books of the Bible run down the left hand side where, say the number 49 is entered in the column below Perkins on the line marked Exodus, that means that in the book *The Whole*

Treatise of the Cases of Conscience, Perkins used citations from Exodus 49 times. Similarly with Hall, Ames, Sanderson, Taylor, and Baxter. The far right column totals the number of citations from each book of the Bible; the bottom line tells how many total citations were used by each casuist. The sum total of citations collated was 7,709.

	Perkins	Hall	Ames	Sanderson	Taylor	Baxter	**Total**
OLD TESTAMENT							
Gen	66	13	47	1	7	31	165
Exod	49	7	35	1	9	16	117
Lev	11	8	21	0	13	25	78
Num	11	4	17	2	3	15	52
Deut	19	12	68	0	10	47	156
Joshua	2	0	2	0	0	2	6
Judges	8	2	10	3	4	6	33
Ruth	0	0	1	0	0	0	1
1 Sam	26	5	28	3	10	12	84
2 Sam	23	7	79	0	6	8	123
1 Kings	11	2	15	0	4	17	49
2 Kings	13	3	2	0	0	17	35
1 Chron	1	3	10	0	3	5	22
2 Chron	11	1	11	0	0	14	37
Ezra	3	0	0	0	0	0	3
Nehemiah	9	2	5	0	0	6	22
Esther	3	0	0	0	0	1	4
Job	18	7	20	0	1	33	79
Psalms	109	8	126	2	10	387	642
Prov.	38	11	148	2	14	255	468
Eccles	14	4	29	1	5	51	104
Song of Songs	2	0	0		0	3	5
Isaiah	21	4	66	0	16	123	230
Jeremiah	12	1	48	0	11	50	122
Lamentations	1	0	5	0	0	8	14
Ezekiel	4	2	16	0	3	31	56
Daniel	25	0	9	0	2	28	64
Hosea	1	1	9		0	17	28
Joel	4	0	0		0	6	10
Amos	2	0	5	0	0	6	13
Obadiah	0	0	0		0	1	1
Jonah	0	0	0		0	1	1
Micah	1	0	4		0	4	9
Nahum	0	0	0		0	1	1
Habakkuk	4	0	1	0	0	4	9
Zephaniah	2	0	0		0	3	5
Haggai	0	0	6	0	0	1	7
Zechariah	4	1	4		0	4	13
Malachi	4	3	5	1	5	10	28
TOTAL	**532**	**111**	**852**	**16**	**136**	**1249**	**2896**

1a. Numerical Analysis of Biblical Resources in Casuistical Writing. Old Testament.

	Perkins	Hall	Ames	Sanderson	Taylor	Baxter	**Total**
APOCHRYPHA							
1 Esdras							
2 Esdras							
Tobit							
Judith							
Rest of Est.							
Wisdom of Sol.							
Ecclus				1	10	12	23
Baruch							
Let. Jer.							
Song of Three							
Dan. & Sus							
Dan. & Bel							
Prayer of Manas							
1 Maccabees							
2 Maccabees							
TOTAL	**0**	**0**	**0**	**1**	**10**	**12**	**23**

1b. Numerical Analysis of Biblical Resources in Casuistical Writing. Apocrypha.

	Perkins	Hall	Ames	Sanderson	Taylor	Baxter	**Total**
NEW TESTAMENT							
Matthew	103	6	143	7	41	205	505
Mark	13	6	18	0	8	30	75
Luke	62	2	85	3	30	172	354
John	44	4	109	1	23	187	368
Acts	76	4	97	0	39	98	314
Romans	99	4	185	12	39	203	542
1 Corinthians	60	10	146	15	58	137	426
2 Corinthians	31	2	88	0	8	106	235
Galatians	28	4	40	0	9	73	154
Ephesians	35	1	89	2	3	105	235
Philippians	16	0	44	0	7	58	125
Colossians	14	1	51	1	5	48	120
1 Thessalonians	7	1	106	2	1	31	148
2 Thessalonians	6	0	27	0	1	32	66
1 Timothy	46	3	61	0	13	62	185
2 Timothy	6	1	27	0	4	35	73
Titus	4	1	18	0	5	26	54
Philemon	0	0	0	1	0	4	5
Hebrews	29	4	105	1	27	114	280
James	18	2	40	1	11	68	140
1 Peter	19	3	74	0	6	83	185
2 Peter	8	0	12	0	0	28	48
1 John	19	0	27	0	14	56	116
2 John	0	1	3	0	0	2	6
3 John	0	0	0	0	0	0	0
Jude	0	0	0	0	0	15	15
Revelation	10	3	29	1	6	57	106
TOTAL	**753**	**63**	**1624**	**47**	**358**	**2035**	**4880**
GRAND TOTAL	**1285**	**174**	**2476**	**64**	**504**	**3296**	**7799**

1c. Numerical Analysis of Biblical Resources in Casuistical Writing. New Testament.

Each casuist has his own way of recording the citations. As noted above, some put them in the margins, others work them into the text and still others end sentences with one or more citations. They are largely consistent in the ways they list the citations. They use standard abbreviations, not significantly different from those in use today. Each single reference was counted once. References such as Gen. 14:15, 17, 19. were counted as three references; citations such as Gen. 14:1-4 were counted as a single run-on reference because that seemed to be the author's intent. Similarly with references like Psalm 18, where there were no verses indicated, it was assumed that the author intended the entire Psalm to be the source of authority and it was counted as one citation. Dedicatories, advertisements, non-paginated prefaces, tables of contents and title pages were not counted. It is likely that a tabulation consisting of almost 8, 000 references counted by hand will contain omissions and errors. However, conclusions based on that large a sampling are inevitably sound.

The six casuists listed at the top of the chart are represented by one book. In each instance, the volume selected represents one of the author's most important work of casuistry, as discussed in the second chapter. In the case of William Perkins, the book that was combed for references was *The Whole Treatise of the Cases of Conscience, Distinguished into Three Books. The Whole Treatise of the Cases of Conscience* was one of the earliest compilations of cases of conscience. In the introduction, Perkins outlines the theoretical basis of casuistry in generalized terms and then provides categories of moral virtue which he illuminates by citing specific cases. The edition that was used was a facsimile of the original Cambridge edition of 1606. It contains 635 pages with 32 lines to a page and an average of 7.7 words per line, or a total of 156, 464 words in the entire

document. There were a total of 1,285 citations. (2+ per page or .8% of the words.) The book itself was published with a "Table of Texts of Scripture," which was incomplete and did not include many of the citations in the margins. Thus it was only marginally useful as a check for accuracy. Perkins made references to scriptural authority in two ways: His page is divided by a vertical line between text and margin. The margin contains notes and biblical citations. Perkins also includes citations in the text in which he often quotes the verse cited.

The second book looked at was Joseph Hall's *Resolutions and Decisions of Diverse Practical Cases of Conscience in continuall Life amongst men.* The edition used was a computer-generated hard copy of the first edition published in 1649 and is a reproduction of an edition currently in the British Library By comparison to the works of Baxter and Taylor, it is a relatively short work. It contains 499 relatively small sized pages, consisting of 23 lines per page with an average of 5.6 words per line which add up to a total of some 64,271 words. From that was culled a total of 174 scriptural references. (27% of the words or .35 per page.) Like Perkins, Hall also separated the text from the margin with a vertical line and placed scriptural references in the margins, rarely incorporating them into the text. He occasionally refers to biblical figures in the text as part of the narrative, not as authority, and does not supply chapter and verse. Of all the compilations of cases of conscience, Hall along with Sanderson's appear to be the most practical. Hall deals in cases of excessive profit, life, liberty, piety, religion and matrimony. He offers theoretical advice directed toward general moral perplexities. He illustrates his resolutions with specific cases, seemingly taken from life.

William Ames' *Conscience with the Power and Cases thereof* relies on the authority of Scripture more than any other casuist. Where Perkins and Hall content themselves with marginal references or, in Perkins' case, a single reference at the end of a paragraph, Ames can have as many as 30 to 35 citations on one page. He often puts a reference after every sentence and in some instances four or five references after a single sentence. He also has long passages that go on for several pages without any scriptural references. *Conscience with the Power and Cases thereof* is of similar size to Perkins' *Whole Treatise of the Cases of Conscience* but deals in all five sections, called "bookes," with five aspects of human conscience: The definition of conscience, the general state of humankind, obedience, duty toward God and duty toward society. Within each of these categories Ames deconstructs the relationship of conscience and moral attributes, such as lying, taking vows, and praying for others. It is a practical work in that, like Hall, Ames often talks about general matters such as religion, faith, heresy, war, and charity. The copy of *Conscience with the Power and Cases thereof* used for this study was a computer-generated, hard copy replica of the 1643 edition. The edition has 298 pages containing 39 lines per page. There is an average number of 10.1 words per line, including biblical citations adding up to 117,382 words for the whole book. From that there were 2,477 citations noted. (2% of the words or 8.2 per page.) Compare that to Perkins who produced 1,285 citations in 635 pages. Perkins wrote more than double the number of pages, yet produced slightly more than half the references. (54%.)

Robert Sanderson, by comparison to the other casuists, hardly used biblical references at all. In his *Eight Cases of Conscience,* he presents straightforward, mostly ordinary text book cases of conscience that were compiled from actual cases he had

resolved. One such is "The Case of the Unlawful Love" in which a man falls in love with his best friend's wife. *Eight Cases of Conscience* also includes the important "The Case of the Engagement," which is cited in detail in the next chapter, where Sanderson counsels an acquaintance on the lawfulness or unlawfulness of subscribing to the Engagement Oath. What's striking is how few times Sanderson seeks affirmation of his thinking by way of biblical authority. However, in Sanderson's work many of the cases are in the form of a letter with the salutation "Dear Sir." Such seemingly personal correspondence does not lend itself to statements citing biblical authority. Further, *Eight Cases of Conscience* was published posthumously and one might speculate that had Sanderson edited the text before publication, he might have added biblical references. That is, however, only speculation since in looking at three of his works, *Reasons of the present judgement of the University of Oxford, concerning the Solemn League and Covenant*, *The Negative Oath* and *The Ordinances concerning Discipline and Worship*, the reader is hard-pressed to find any reference to written authority other than civil authority. Nonetheless, *Eight Cases of Conscience* does have 64 references to scriptural authority. However the whole work is only 192 pages in which there are 28 lines to a page and an average of 7.5 words per line. The entire work is only 40,320 words. (.16% of words or .3 per page.) The edition used was a computer-generated, hard copy replica of the edition published in 1678, currently in the Union Theological Seminary Library.

The fifth work studied for this section was Volume One, *The Rule of Conscience,* of Jeremy Taylor's extensive two-volume work of casuistry, *Ductor Dubitantium.* It was published as four volumes in 1660, but later bound into two volumes with the first volume entirely devoted to the casuistry of conscience and the second volume entirely to

law. The edition used was the ten-volume *Whole Works of the Right Rev. Jeremy Taylor, D.D.*, with a general introduction by the Right Rev. Reginald Heber and edited by the Rev. Charles Page Eden, published from 1847-1854. It was collated from a four-volume edition published from 1660 to 1696. The first volume of *Ductor Dubitantium* consists of 704 pages containing some 367,276 words in which there was an average of 11.1 words per line with there being 47 lines to a page. Relatively, he appears to have been cautious in his use of biblical citations, of which there were a comparatively spare 504. (.13% of words or .7 per page.) Taylor used scriptural references in several ways, but unlike most of the casuists other than Baxter, Taylor's references are mostly in the form of footnotes. He also uses references narratively. When he does, he makes allusions to such authority as "Saint Paul" or "Saint Luke" without chapter and verse. However, the edition cited contains a "Table of Texts of Scripture" for Taylor's entire works and in all instances a reference with chapter and verse was provided. *Ductor Dubitantium* or *The Rule of Conscience* mirrors the work of Perkins in that it presents its cases of conscience in a systematized theoretical manner, concentrating on such subjects as "probable conscience," "erroneous conscience," "doubtful conscience" and "scrupulous conscience." Taylor like the other casuists, made the Bible function as collateral argument, to support his ideas, illustrate them and give depth to their meaning.[381]

By far the longest, most complex work is Richard Baxter's *A Christian Directory*, written in 1657. It consists of four volumes, totaling over 900 pages and close to 1.5-million words. The four volumes are "Christian Ethics," "Christian Economics," "Christian Ecclesiastics," and "Christian Politics." This section analyzed the first

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[381] Sara Herndon, "The Use of the Bible in Jeremy Taylor's Works." (Ph.D., diss. New York University, 1944), 238.

volume, "Christian Ethics." "Christian Ethics" is 394 pages, of which each individual page is 71 lines long with two columns to the page with an average of 9.8 words per line, coming to a total of approximately 571,458 words.

Baxter is not sparing in his use of scriptural authority. Of the monumental half-million words in "Christian Ethics," there are 3,296 citations (There are 8+ per page or 5% more that Hall, Sanderson or Taylor), which , while more than any of the other casuists other than Ames is not a lot considering the size of the work. He does, however, write multiple pages without citing any references whatsoever. The edition used is from a series entitled *The Practical Works of Richard Baxter* that comprises four volumes, including the first volume, *A Christian Directory*. It is a facsimile of the 1846 edition, originally published in London by George Virtue with a contemporary introduction by J. J. Packer. Baxter refers to his work in the table of contents as "a sum of practical theology and cases of conscience." Like Perkins and Taylor his work is largely theoretical and systematic. There are several different kinds of chapters. Some are made up entirely of "Directions" to which Baxter assigns a number and title like, "1. Direction against all sinful passions," or " 4. Directions against all sinful mirth." Other chapters contain questions and answers and still others are made up of lengthy theological commentary. Some sections of certain chapters are labeled "cases of conscience" in which he gives theoretical, abstract examples of cases of conscience. Many chapters contain all four forms.

The charts above illustrate several obvious, and some surprising, conclusions. The six casuists used the New Testament more than the Old, even though the Old Testament is several times longer than the New Testament. There were 2,970 citations from the Old

Testament as opposed to 4,880 from the New. Of those New Testament citations, and including the Old Testament as well, the greatest number of references from any one group were drawn from the Pauline epistles.

Of that group, the Letter to the Romans and 1 Corinthians appeared more frequently than any other epistles. Romans was cited as authority 542 times and the largest number of citations was to Romans 13, the chapter which preaches obedience to the state. Richard Baxter, for example who cited Romans 203 times, referred to chapter 13 of Romans, 19 times, most frequently to verses 10-14, the final four verses of the chapter. (Verse 10 starts with "Love your neighbor as yourself." and 13 and 14 admonish against debauchery.) Baxter cites the passage as authority to strengthen his own directive to control lust.[382] Romans 13 is one of two chapters which appear a significant number of times.

The other chapter cited with unusual frequency was 1 Corinthians which was referred to 427 times. The largest number of references appears to be to chapter 11, in which verses 2-16 counsel that women are to keep their heads covered and wear veils. Verses 17-34 follow and concern the proper way to celebrate the Lord's Supper. William Perkins cites 1 Corinthians 60 times, nine of them referring to chapter 11. It would do well to look at a specific example of how he handles scriptural authority. In this case he cites 1 Cor: 11.13.14 and Zeph 1: 9 to resolve a dilemma of attire. He asks the question:

> If a man see a fashion used in other countries, he may not take it up here and use it?
> *Ans.* He may not. For God hath threatened to visit all such, as *are clothed with strange apparell.* Zeph 1. 9. And Paul taxeth it as a great disorder in the Church of Corinth...that men went in *long haire* and women went *uncovered*. 1 Cor. 11.13.14.[383]

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[382] Baxter, *Christian Directory,* 279.

[383] Perkins, *Whole Treatise of the Cases of Conscience,* Facsimile edition , 569.

The two most frequently cited books of the Old Testament are Psalms and Proverbs. Surprisingly, Psalms is cited 642 times, more than any other book of the Bible, including both New and Old Testaments. However, it should be noted that of those 642 citations, 387 of them came out of Richard Baxter's *A Christian Directory.* No single Psalm appears to dominate the list. The two single Psalms that seem to be cited with some small measure of frequency in both Perkins and Ames appear to be Psalm 19, a hymn that praises God's handiwork, and Psalm 119, an extremely long meditation on the law, consisting of 176 verses. (Its extraordinary length is due to the fact that it is written in the form of an acrostic with eight verses for each of the twenty-two letters of the Hebrew alphabet.)[384] William Ames cites Psalm 119.6[385] as authority for his writing on sanctification and it is quoted here as an example of the way Ames uses multiple citations to establish authority.

> The third Question, what are the signes of true sanctification. *Ans.*1. A reformation of all the powers, and faculties of the whole man, 1 *Thess. 5.23.* 2. A respect to all of the Commandments of God, *Psal.* 119.6. *James* 2.10.[386]

Proverbs was cited 468 times and, again, the numbers are askew because of the size of Baxter's *A Christian Directory*, which refers to Proverbs 255 times. There seems to be an even distribution of chapter and verse with no particular chapter outstanding. Taylor, for example, cites Proverbs only fourteen times but mentions Chapter 18 four

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[384] New English Bible with the Apocrypha: Oxford Study Edition. Eds., Samuel Sandmel, Jack Suggs and Arnold Tkacik (New York: Oxford University Press, 1972), 655.

[385] Psalm 119.6. I shall never be put to shame if I fix my eyes on they commandment. KJV

[386] William Ames, *Conscience with the Power and Cases thereof, Divided into Five Bookes.* (London: I Rothwell, T. Slater, L. Blacklock, 1643), 2:27.

times,[387] but Sanderson names Proverbs only twice, neither of which is chapter 18. Baxter, on the other hand refers to Proverbs 255 times and as noted above cites Chapter 18 some four times. Few conclusions can be drawn. Instead, it is valuable to look at the way Taylor uses Proverbs, which can be summed up as reflexively. In a section discussing conscience and prudence, Taylor, who presents most of his indications of scriptural authority as footnotes says, "It is not good to receive the person of a wicked man, thereby to overthrow the righteous in his cause,"[388] after which he cites Proverbs 18:5, which is almost word for word the same sentence.[389]

The third most frequently cited book of the Old Testament was Isaiah from which 280 references were gathered. Since Isaiah is associated with the Christian messianic prophesy, it was anticipated to have been an important source of Old Testament authority. However, the general distribution of citations cover all three sections that make up the Book of Isaiah: Isaiah, Second Isaiah and Trito-Isaiah. Most of the 280 citations come from what is generally considered to be First Isaiah, chapters 1-39. However, other sections were named as well as well. Baxter, Ames and Perkins, for example included references from both Second Isaiah and Trito-Isaiah. Ames by comparison made 66 references to Isaiah and used all three books. In the example below, chosen because it is typical of the way Ames cited biblical authority he used seven citations on one page and all seven come from the three books with the majority coming from Trito-Isaiah. The seven references support Ames' resolution to a case of conscience structured around the idea of how to deal with the conscience of a believer

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[387] Proverbs 18. Teaches that trust in God is more dependable than trust in wealth.

[388] Taylor, *Whole Works,* 9:120

[389] Proverbs 18:5. It is not good to accept the person of the wicked, to overthrow the righteous in judgment. KJV

who deserts God spiritually and suffers anxiety.[390] Ames' answer is eight-fold, among which are that the "best of God's servants" have defected, defections are sensory not real, our own sins may be the reasons for the desertion of God, and God waits but he will show mercy.[391] Ames' scriptural authority is Isaiah, 49:15-16,[392] 54: 7-8,[393] 57:20,[394] 57:21,[395] 8:17,[396] 64.7,[397] and 30.18.[398]

For the most part, the prophets as a group were not seen to be important sources. Besides Isaiah only Jeremiah, which was cited 122 times is referenced with some frequency. Ezra, Jonah, Haggai, Habbakuk, Zephaniah, Nahum, Micah and Obadiah were barely mentioned at all. They each had less than ten citations, with many of them like Nahum and Obadaiah, having only one citation apiece, in both instances by Baxter. Jonah was also cited only once. Of somewhat greater importance to the casuists were the books of Daniel, Hosea, Nehemiah and Malachi, each of which were cited at least 25 times or more with the citations, for the most part, evenly distributed among the casuists except for Sanderson, who ignored almost all of the prophets.

Since the books of the Apocrypha are not considered canonical, although they are treated with respect by Protestants, it was not expected that many references would be made and indeed they were not. However, surprisingly, there were 27 references to the

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[390] Ames, *Conscience with the Power*, 2:46.

[391] Ibid.

[392] Isaiah 49: 15-16, Can a woman forget her suckling child...I cannot forget thee. KJV

[393] Isaiah 54: 7-8. For a small moment I have forsaken thee...KJV

[394] Isaiah 57: 20. But the wicked are like the troubled sea...KJV

[395] Isaiah 57:21. There is no peace, saith my God to the wicked. KJV

[396] Isaiah 8:17. And I will wait upon the Lord that hideth his face...KJV

[397] Isaiah 64:7. And there is none that calleth upon thy name that stirreth up himself to take hold of thee. KJV

[398] Isaiah 30:18. And therefor will the Lord wait...KJV

Apocrypha and all of them were to Ecclesiasticus or The Wisdom of Jesus Son of Sirach, a wisdom book in the tradition of Proverbs. Three casuists, Baxter, Taylor and Sanderson, used Ecclesiasticus as a source of biblical authority. Taylor, whose use of biblical citation is usually circumspect, referred to Ecclesiasticus ten times. In almost every instance, rather than only a footnote consisting of chapter and verse, he also quoted or referred to Ben Sirach directly. Writing about the neglect of children Taylor says, " the excellent precept of the Son of Sirach, Let not the reverence of any man cause thee to sin..."[399] Ecclus. 4:22.[400] In another instance he writes,"...excellent are those words of Ben Sirach, Make no tarrying to turn unto the Lord.'"[401] It should be noted that Taylor also made three references to 1 Maccabees and one reference to 2 Maccabees not used as scriptural authority but as explanation of supposed historical fact. Thus, they were not counted but do appear in Taylor's Tables of Texts.

It is worthwhile comparing the distribution of references in the New Testament to the Old. In the Old Testament, there are thirteen books that had less than ten citations, although there are no books that had not been referred to at least once. In the New Testament there are only two books, 2 John and Philemon, that were referred to under ten times and one book, 3 John, that had not been referred to by any of the casuists. However, it should be noted that 3 John is only three paragraphs long and does little else than ask the recipient to provide hospitality for a visitor.

Interestingly, Perkins cited Psalms 109 times and Ames, 126, but Taylor, whose *Ductor Dubitantium* is the second longest work of the six, referred to Psalms only 10

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[399] Taylor, *Whole Works,* 9: 523.

[400] Ecclus. 4:22. Refrain not to speak when there is occasion to do good....KJV

[401] Taylor, *Whole Works,* 9: 672.

times. In considering Psalms, it is also worth looking at Song of Songs which was used as references 104 times, evenly distributed by the six theologians. The only number of citations in the New Testament that comes close to matching Psalms is the Gospel of Matthew, which was cited 505, times, again most often by Baxter who used it more than any other casuist: 205 times. The Gospel of Matthew was cited more than any other book in the New Testament. No particular passage appears more than any other. Of the three Synoptic Gospels Luke is referred to 354 times but Mark, meager by comparison, provides only 75 sources of authority. The Book of John, however, provides 368 citations, making it as important to the casuists as Luke. Again, Baxter uses John significantly more than any other casuist, 187 times.

Of the first five books of the Old Testament, Genesis, as expected, produced the largest number of citations with 165, followed by Deuteronomy with 156. Exodus was the third most important source of authority of that group and perhaps should be considered in tandem with Genesis. The two together provided a significant 282 references.

Most of the casuists also used non-biblical sources of authority. That included a surprisingly wide range of material, both non-Christian, such as the Greek and Roman writers and philosophers, and Christian, like the early church fathers. The casuists also drew upon the Christian writers of the Middle Ages such as Aquinas, Bonaventure and Abelard and many others. Baxter, who frequently quoted medieval theologians also quoted his own contemporary theologians. Each casuist produced surprises, whether it was Sanderson, who in the entire *Eight Cases of Conscience* used only one non-biblical authority, or Taylor, who cited nine Greek and Roman poets and playwrights from

Euripides to Homer. One unexpected twist was that both Hall and Baxter cited a surprising number of Jesuits, some numerous times. Hall for example, often drew upon the work of Leonardus Lessius and Baxter frequently referred to Jose dé Acosta. The two categories that elicited the greatest number of references were the early church fathers and the Greek and Roman philosophers. In all of these references, certain people appear in at least three or more of the casuist's lists of names. Among them are Aristotle, Augustine, Cicero, Josephus, Pliny, Plutarch, Seneca, and Tertullian.

The total number of non-biblical authors cited by all six casuists was 319. Taken together they produced 985 references. Each of the casuists used non-biblical authority differently. Of them all, Taylor stands out because he used them as freely as he used sources of scriptural authority, certainly as compared to the size of the book being culled. He also delved deepest into the non-Christian world. Perkins, Ames and Hall were conservative in their use of non-biblical citations. Perkins used a mere nine authors and Ames used only 10. Hall used 21. Since casuistry is essentially a form of theological argument, it falls to Baxter and Taylor, who because of their extensive use of non-biblical sources, to indicate the directions of secular thought that paralleled theological argument. This inquiry will look at each casuists' sources of non-biblical authority and show the predominant direction of their secular reasoning. Toward that end, it is worth looking at a number of different, actual uses of non-biblical authority, taken directly from the casuist's text.

William Perkins, like Sanderson, Ames and Hall, rarely used non-biblical sources as authority and those few that he did were, compared to the other casuists, conventional and contained few surprises. In *The Whole Treatise of the Cases of Conscience*, which

was the book examined for this report, he makes reference to only nine authors: Ambrose, Augustine, Cyrill, Eusebius, Josephus, who is the only author he cites twice, Pliny, Plutarch, Tacitus and Tertullian. Four of them are historians and he uses them to confirm historical events. He does, however, make reference to decretum from Pope Gregory[402] and another from the council of Trent, both on the subject of matrimony. In the last book of *Whole Treatise,* he countermands the Roman Catholic doctrine of spiritual kin. He asks if there is such a thing as spiritual kindred based on baptism and is it an impediment to marriage.[403] He claims that the papists think so and cites both rulings in the margin, although he does not quote or paraphrase them. He cites the decretum as reinforcement of what the Catholics think. Later in the book Perkins makes use of Tertullian as authority rather than paraphrasing him. In a section of *Whole Treatise,* he discusses the problem of being dissatisfied with the way one's body looks and the desire to make improvements (presumably using cosmetics.) After establishing the fact that dissatisfaction with one's God-given body is a sin, he says that "*Tertullian* in his booke *de habitu mulierū*, calls such persons, *the Devills handmaides.*"[404] When he cites Josephus and Pliny, which he does on the same page, they are both used (although not quoted) to corroborate that there had been an amphitheater in Rome "the two parts of which were supported by two hinges and yet was so large that it contained the whole people of Rome."[405] To the seventeenth-century reader, that would surely have needed substantiation from someone who may have been there.

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[402] Perkins does not cite the number.

[403] Perkins, *Whole Treatise,* 322-323.

[404] Ibid., 578.

[405] Ibid., 246.

In the matter of non-scriptural authority, Joseph Hall follows the pattern of Perkins. He uses authority with caution and reserve. In *Resolutions and Decision of Divers Practicall Cases of Conscience,* he lists eight authors for a mere twenty-one citations of non-scriptural references and of that twenty-one, seven are attributable to the Jesuit theologian, Leonardus Lessius. (1564-1623.) Lessius was a mystic and a dogmatist whose writings covered predestination, free will, grace and the problem of holy Scriptures by divine inspiration.[406] In one instance of the way Hall uses Lessius as authority, Hall questions if it is lawful to entreat the devil, whether out of either curiosity, vanity or to help others. Hall arrives at the conclusion that to have intercourse with the devil "is but venall at the most." He quotes Lessius, (in both Latin and English) as saying: "It is lawful to move the Devill in words to cease from hurting, so that it be not done by way of deprecation, or in a friendly compliance, but by way of indignation."[407] Throughout *Resolutions and Decisions,* Lessius provides the standard for dealing with cases of conscience emerging from supernatural events. In a different cause, Hall cites Cicero twice, once in connection with selling faulty goods wherein he cites Cicero's account in *De Officiis* of the fraudulent bargain between Canius and Phythius. The second time, he cites Cicero in passing when he uses the phrase "heathen Sages" and names Cicero, Diogenes and Antipater as examples.[408] Among the important authors, Hall cites as non-scriptural authority are Pope Alexander,[409] Aristotle (the *Ethics*),

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[406] M.W.F. Stone and T. Van Houdt, "Probabalism and its Methods: Leonardus Lessius and his Contribution to the Development of Jesuit Casuistry," *Ephemerides Theologicae Lovanienses,* 82 (1999): 359-394.

[407] Hall, *Resolutions and Decisions,* 218-219

[408] Ibid., 53-60, 25. Cicero's story of Canius and Pythius is a long one in which Pythius sets up Canius to buy a garden which apparently has fishing facilities. Pythius lies about the quantity of fish that comes out of the facility and Canius buys the garden; Canius is disappointed and Pythius is punished.

[409] Perkins does not cite the number.

Augustine, Cajetan, Pope Gregory, Pliny, Seneca , Dominique à Soto, Tertullian and Laurentius Valla, plus others of lesser achievement. The list is dominated by theologians.

Unlike the abundance with which he cites scriptural authority, Ames uses extra-biblical references the way Perkins and Hall do, sparingly. In the entire *Conscience with the Power and Cases Thereof*, he makes only ten references to non-biblical persons. He refers to Augustine twice, the most he accords any one authority. In the section on oaths, he paraphrases Augustine's criticisms of the Manicheans, saying they had no scruples.[410] Later, in a section on contracts, he cites Augustine parenthetically "(as Augustine observes)." In another part of the book he writes about the value of accepting one's duties. In that instance he uses two authorities. One is Lactantius, the fourth-century Christian apologist, whom Ames quotes as saying "Take care that you doe not doe to another which you would not willingly have done to your self." In the same paragraph he quotes the third-century Roman Emperor Alexander Severus, who appeared to have proclaimed knowledge he learned from the Jews, although he doesn't say what that knowledge is.[411] Sometimes Ames uses multiple authorities to substantiate a doctrine. On the subject of knowing and not knowing something, Ames states that Christ, as a man, was ignorant of judgment day or at least did not know by a natural, innate knowledge. He supports his contention by citing six authorities: Athanasius, Basileus,[412] Basil,[413] Nazianzen, Theodorus, Cyrill "and the whole sixt Synod, as the Jesuits among themselves do confess."[414] Then again, when using scriptural authority, he often strung together eight,

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[410] Ames, *Conscience with the Power*, 4:50, 5:236.

[411] Ibid., V:105.

[412] Third-century saint of Amasea.

[413] Basil, elected pope in 461,

[414] Ames, *Conscience with the Power*, 5:276.

ten and twelve citations. Ames also uses authority as a negative reference. He called down Cajetan, Jansenius, Maldonate and Tolet as having mistranslated sections of the Bible.[415]

Izaak Walton describes Robert Sanderson as a classicist, saying that he could "repeat all of the *Odes* of Horace, all of Tully's *Offices,* and much of Juvenal and Persius, without book."[416] Yet Robert Sanderson did not use any non-Biblical references in *Eight Cases of Conscience* except for one reference to a moral essay on clemency by Seneca. It is placed in the margin in the chapter called, "The Case of the Engagement," next to Sanderson's plea for prudence where Sanderson writes: " So as they may have but any tolerable kind of assurance from them in the mean time, of living quietly and peaceably under them."[417] However, it should be noted, as it was in the section on scriptural authority, that the nature of *Eight Cases of Conscience* being in the form of letter and direct person-to-person communication doesn't lend itself to the uses of authority.

Jeremy Taylor's list of non-biblical sources cited in *Ductor Dubitantium* is almost as extensive as his biblical references. Of all the casuists, he produced the largest number of non-biblical citations: 760. The total number of authors represented is 235. Taylor claimed that he always wanted to return to the plain words of Scripture when confronted by controversy but, taken together,[418] the list of sources is indicative of an extraordinarily broad humanist erudition that includes the plays of Euripides, histories of Herodotus, the works of the early church fathers, and the Stoics, including Seneca and Cicero, to name a

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[415] Ibid., 5:277.

[416] Walton, *Lives,* 274.

[417] Robert Sanderson, *Eight Cases of Conscience* (London: H. Brome. J. Wright, and C. Wilkinson, 1678), 109.

[418] Herndon, "Uses of the Bible," 238.

few. It emphasizes two groups of thought: The early church fathers and classical Greek and Roman writers and philosophers.

The following is a list of sources and the number of times they were consulted by Taylor. In order to make it manageable, it is broken down into six categories: Early Church fathers, Greek and Roman Poets and Playwrights, Greek and Roman philosophers, early historians, general selections and miscellaneous. Most of the general selection have at least four citations to an author, although some with less than four who seemed to be of particular interest as a source on conscience were also included. The miscellaneous consists of authors and sources who are least known and who provided less than four, mostly one, citation per source. Taken together the list indicates an idealized level of seventeenth-century education.

From the breakout it is clear that the predominant influence on Taylor were the early Christian fathers of the church. Of the total number of references, the largest portion by far were the patristic sources. From a selection of 17 authors, Taylor made 239 citations. Of that group, the most important influence is Augustine. Taylor cites Augustine 60 times and it is the largest number of citations. Twenty-seven are from *De Trinitate* alone. Further, he quotes Augustine in both the original Latin and English. He tends to use Augustine as a narrative quote, fitting in with the subject matter. On the subject of idolatry, he quotes Augustine as providing the definition of idolatry: "He that gives that to an image which is due to God is an idolater."[419] The following are among the patristic writers, Taylor cites. Athanasius (7), Augustine, (60), Basil, (15), Bede, (1) Chrysostom (19), and Clement of Alexandria (19), of which the largest group of

[419] Taylor, *Whole Works,* 9: 436. The numbers that follow in parenthesis are the numbers of quotations cited by Taylor and similarly below, by Baxter.

citations, twelve, come from the Stromboli epistles. Other patristic writers cited are: Cyprian (5), Jerome (24), Ignatius, (3), Irenaeus (11), Justin Martyr (13), Lucian (6), Gregory Nazianzen (4), Gregory of Nyssa (5), Origen (15), Polycarp, (1), and Tertullian (31).

The collection of references from Greek and Roman playwrights and poets consist of the major classical writers of the time. It reads like a twentieth-century Great Books program and it is remarkable that Taylor is familiar with humanist material on this scale. From a group of 15 authors, Taylor arrives at 82 citations. They include Aristophanes (1) Menander (2), Sophocles (1), and Euripides (7). The seven citations come from Euripides' *Andromache, Hecuba, Hippolites* and the *Orestia*The final classical playwright is Plautus (5). Among the poets Taylor cites are Apuleius (1) Catullus(2), Horace (4) Lucan (3), and Homer, both *The Iliad* (3) and the *Odyssey* (4). Additionally he names Juvenal (11), Ovid (21), and Virgil (10), of which eight citations come from the *Aeneid*. Pliny (7), is also cited. This group of references show, among other characteristics, how Taylor finds Christianity in non-Christian writers, essentially pagan writers. Writing about the rules of conscience, he cites Euripides in both the original Greek and an English translation as saying of conscience, "This is, so Euripides calls it, 'all the rule that teaches us good or evil.'"[420] The following 117 references come from 14 sources of authority and are among the Greek and Roman philosophers to whom Taylor refers at least four or more times. Those who are cited three or fewer times are grouped under general selections, below. However, in some instances where there are only one or two citations, they are included because the writer is important or else an unexpected

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[420] Ibid., 9:13.

choice. Clearly the most important philosopher cited and one of the most important of any of Taylor's sources was Cicero who was cited 29 times. Aristotle (18), Cato (1), Cicero (29), Demosthenes (2), Diogenes (6), Lucretius (5), Macrobius (3), Plato (5), Philo (3), Plutarch (16), Quintillian (2), Seneca (21), of which almost half come from the letters, Socrates (5)[421] and Xenophon (1) are also included.

As an example of how Taylor uses the Roman philosophers as authority, there is a unique juxtaposition in the section on probability, in which Taylor rejects probabalism and supports his rejection with a quote from Cicero, translated from the Latin. He has Cicero saying, "For probability is not in the thing properly, for everything is true or false in itself, and even false things may have the face or likeness of truth..."[422] In another instance, on the same subject of probability, Taylor states that nothing probable can be seen as a science and have mathematical certainty. His authority here is Aristotle's *Nicomachean Ethics* which he translates from the Greek as: "Science is of those things which can be demonstrated, but prudence (and conscience) of things which are thus, or may be otherwise."[423]

Taylor also depends on 7 ancient historians for authority from whom he cites 37 references. Among those whom he cites are Eusebius (4), Josephus (4), Livy (3), Dio Cassius (6), Herodotus (4), Suetonius (6), and Tacitus (10).

The following group of 25 authors representing 81 sources of authority is drawn from various categories, including Christian and Jewish theologians of the Middle Ages, kings, popes and other personages all quoted at least four times by Taylor. Also included

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[421] Although Socrates did no writing and Taylor quotes him without specifying the source, the references have not been changed but left as Taylor cited them.

[422] Taylor, *Whole Works,* 9:178.

are authorities who have been cited less than four times but are of special interest because of their unexpected appearance among Taylor's citations. It also includes authors that fit into the above categories but are of lesser interest. Ambrose (2), Avicenna (1), Roger Bacon (1), Bellarmine (6), Bernard, S. (10), Boethius (1), Cajetan (1) Calvin (1) Charlemagne (1), Dionysius the Aeropagite (2), Epiphanius (7), Rabbi Eliezer (1), Gerson (2), Gregory VII (2), Heraclites[424] (1), Hesiod[425] (4), Justinian (10), Lactantius[426] (7), Maimonides (3), Occam (1) Petrarch (1), John Selden[427] (5), Suidas[428] (4), Lorenzo Valla (3), and Polydor Virgil, (4).

There are an additional 157 authors that account for 204 individual citations that have been categorized as "miscellaneous." They are sources that provided four or fewer citations and most of them share a certain obscurity, like Paul Fagius (1), and Falvius Billius (1).

Richard Baxter, like Jeremy Taylor, also used non-scriptural authority generously but in relationship to the size of the text under study appears to have used his citations with caution. Like Taylor, his sources of authority, both biblical and non-biblical appear as footnotes and rarely as part of the text. Where Baxter parts from Taylor is in his footnotes which are almost all in Latin, although the text is in English. Baxter also draws his most important citations from unexpected sources. The most frequently cited source

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[423] Ibid., 9:51.

[424] Early Greek philosopher (dates unknown). Famous for saying, "The only constant is change." He left behind fragments of his work,

[425] Early Greek Poet c. 700 BCE.

[426] Fourth-century Christian apologist.

[427] Seventeenth-century legalist.

[428] Tenth-century Catholic encyclopedist who wrote the first important Greek lexicon.

in the first book of *A Christian Directory* is Diogenes Laertius[429] whom he cites 44 times. It would appear that rather than citing philosophers such as Socrates, Aristotle and Thales, among others, as primary sources, Baxter mostly used the secondary source of Laertius to strengthen his points. The second somewhat surprising group of citations are from Jesuit writers, particularly Jose dé Acosta.[430] Acosta, whom Baxter refers to as " Acosta the Jesuit"[431] and in another citation as "the honest Jesuit Acosta"[432] is mentioned 21 times. The total number of citations are 224. They come from 57 authors, many of whom are similar to those used by other casuists, such as Ambrose, Augustine, Cicero, Tertullian, and Plutarch, among others. They fall into groups similar to the groupings in Taylor such as the church fathers, philosophers, historians, and miscellaneous.

Where Taylor emphasizes the patristic sources, Baxter is surprisingly spare. Among those that figure prominently are Augustine (6), Basil (1), Chrysostom (4), Clement of Alexandria (3), Didymus[433] (6), Gregory[434] (1), and Tertullian (2). Of the six citations of Augustine, one is within the text itself where, in a discussion of sin and holiness, Baxter says, "I know Augustin is oft alleged as saying *Bonum est ut malum fiat.* But sin and punishment must be distinguished."[435] Futher into the book he sites Chrysostom as an authority on gluttony. Chrysostom enforces Baxter's argument against

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[429] Diogenes Laertius was a third-century philosopher who wrote a 10-volume, *Lives of the Philosophers,* that included Socrates, Zerone, Aristotle, Plato and Thales, among many others.

[430] Jose dé Acosta (1540-1600) was a Jesuit priest who was sent to Peru and catalogued his experience doing evangelical work among the Indians in a number of books, among the most prominent being the *Historia natural y moral de las Indias* and *De Natura Novi Orbis.*

[431] Baxter, *Christian Directory,* 15.

[432] Ibid., 178.

[433] Fourth-century blind ascetic who ran the catechetical school of Alexandria.

[434] Baxter does not say which Gregory.

[435] Baxter, *Christian Directory*, 163.

gluttony. Baxter says, " Chrysostom saith the difference betwixt famine and excess is that famine kills men sooner...excess doth putrefy and consume them by long and painful sickness."[436]

Baxter also cites medieval and Reformation theologians and writers, including: Erasmus (2), whom he quotes, in conjunction with the subject of idle chatter, as saying that the Spartans banished an orator for saying that he could talk all day on any subject.[437] Others are: Acosta (21), Ambrose (1), Anselm (1), Aquinas (1), Arminius (1), Hincmar of Reims[438] (1), Ficino (1), Gildas[439] (1), Malancthon (1), Thaulerus[440] (5) and Victor Uticensus[441] (8)

Of the Greek and Roman historians, poets and philosophers, the ones most frequently cited besides Laertius are Cicero with 21 references and Seneca with 17. Among the references to Cicero is a statement about fear of God. Baxter says of Cicero that he was afraid "to speak what he knew of the unity of the Eternal God, the Maker of all."[442] The following are among the Greek and Roman writers cited by Baxter. Aristedes (1), Aristotle (4), Cato (4), Cicero (21), Diogenes (1), Dionysius (1), Horace (1), Laertius (44), Ovid (1), Pliny (3), Plutarch (1), Pythagorus (1), Sallust (1), Seneca (17), Socrates[443] (8), the Stoics (2), Theophrastus (1), and Xenophon (1)

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[436] Ibid., 312.

[437] Ibid., 362.

[438] Ninth-century Archbishop of Reims.

[439] Sixth-century historian.

[440] Johannes Thaulerus, seventeenth-century theologian.

[441] Seventeenth-century theologian who wrote a history of the African church.

[442] Baxter, *Christian Directory,* 8.

[443] Baxter does not say from where the Socratic references come.

The following sources are a general selection of writers and theologians that, except for Petrarch lived within a century of Baxter, including Francis Bacon (8), who is quoted in a number of places. One such citation involves a witty response by Bacon to Baxter's commentaries on good work: Bacon says "'Sell all and give to the poor and follow me.' But sell not all, except thou follow me: that is, except thou have a vocation, in which thou mayest do as much good with little means, as with great."[444] Other persons are Thomas Barlow (1), Henry Hammond (2), George Herbert (1), and Petrarch (20) Additionally there are some 16 authors representing a total of 20 citations who fall into a miscellaneous category. They are mostly obscure figures like Bucholzer and Galiardus who each represent 2 citations or less.

It would seem that English Protestant casuistry is inseparable from authority, whether that be biblical or non-biblical. Cases of conscience rest on the grounds of biblical precedent consisting in large measure of the Pauline epistles, particularly the Letter to the Romans, the First and Second Letters of Paul to the Corinthians and A Letter to the Hebrews. Of the Synoptic Gospels, casuistry is mainly indebted to Matthew, and Luke and the Gospel According to John. The predominant influence of the Old Testament on casuistry come from Psalms and Proverbs and the prophet Isaiah.

It would further appear that non-biblical authority, while in all instances, far less important to casuistical debate than the New Testament, nonetheless provides a crucial measure of strength. Non-biblical authority falls into four generalized categories: Early church fathers, Greek and Roman Philosophers, medieval and Reformation theologians and lesser influences such as theologians who wrote and preached concurrently with the

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[444] Baxter, *Christian Directory,* 113.

casuists. The dominant group of authorities is the early fathers of the church. However, the classical writers of early Greek and Rome were seen as almost as authoritative as the church fathers, especially if the poets and playwrights are included.

Clearly casuistic argument draws strength from authority.

CHAPTER FOUR

SEVENTEENTH-CENTURY OATH-TAKING: HISTORICAL CONTEXT

Oaths, vows and subscriptions, tendered bareheaded before God, were the agents of obedience that bound the English people of the sixteenth and seventeenth centuries to every aspect of their state, church and community. It was a promise made before God that, if broken, evoked the sins of blasphemy, perjury, scandal and, in some instances, heresy, in many instances, treason. Ultimately, the dire consequences were prison, loss of livelihood, ostracism, death and surely damnation. The sixteenth and seventeenth centuries were described by Perez Zagorin as the age in which the English state used oaths and subscriptions as compulsory tests of belief and obedience. They were seen as one of the bonds that held society together. Their use as "testimonials of conformity" was then relatively new and were executed more through fear of punishment than voluntarily.[1]

The historical trajectory of oath-taking contains two suppositions. The first is that oaths had the power to compel the conscience into action and the second, that oaths had the power to create obligations where none had previously existed. As such, the oath which in earlier times existed as "a primary mode of proof" was, by the seventeenth century, among the more powerful bonds that shaped and held society together.[2] Thus, oaths comprised a social function that was both useful to the maintenance of the political system and was, at the same time, problematical. They were useful in that they affirmed a

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[1] Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Cambridge, Mass; Harvard University Press, 1990), 224-225.

[2] John Spurr, "A Profane History of the Early Modern Oath," in *Transactions of the Royal Historical Society*. Sixth Series, No. 11 (Cambridge: Cambridge University Press, 2001), 40.

political understanding that membership in a community entailed some form of voluntary consent to the accepted order. They were problematical because the act of swearing suggested that the subject possessed the moral and political authority to resist the strictures of the state while at the same time being a responsible member of the political community.[3] It was the highest obligation of conscience a person could make and to Sir Edward Coke, the act of taking an oath was a bond of such sacred importance that the power to administer it was only granted by common law or statute.[4] In fact, the acceptance of an oath within the confines of a state ordered act of conscience presupposed the guarantee of moral and political compliance and conformity. David Martin Jones argues that the sworn understanding of the legal and moral limits of political obligation gave rise to a "casuistical character of debate about moral obligation" that could be seen as a distinctly "British political idiom of self-enactment and self-disclosure,"[5] not unlike the way Thomas Hobbes accepted oath-taking.

For Hobbes, an oath was the extension of a social covenant which he defined in terms of trust.

> In all Contracts where there is trust, the promise of him that is trusted, is called a *Covenant*...Promises therefore, upon consideration of reciprocal benefits are Covenants and signes of the will."[6]

He describes various aspects of covenants and their social function and then adds,

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[3] David Martin Jones, *Conscience and Allegiance in Seventeenth Century England: The Political Significance of Oaths and Engagements* (Rochester, N. Y: University of Rochester Press, 1999), 1.

[4] John Spurr, " 'The Strongest Bond of Conscience": Oaths and the Limits of Tolerance in Early Modern England," in *Contexts of Conscience in Early Modern Europe, 1500-1700* eds., Harald E. Braun and Edward Vallance (New York, Palgrave Macmillan, 2004), 151.

[5] Jones, *Conscience and Allegiance,* 3.

[6] Thomas Hobbes, *De Corpore Politico. Or The Elements of Law, Moral and Politick* (London: Printed by T.R. for J. Ridley, 1652), 13. Wing (2nd ed.) / H2221. Copy from the Bodleian Library.

> An oath is a clause annexed to a promise, containing a Renuntiation of God's mercy by him that promiseth, in case he perform not as far as is lawfull and possible for him to doe. And this appeareth by the words which make the Essence of the Oath, *so help me God*.[7]

Robert Boyle, who consulted Gilbert Burnet and Edward Stillingfleet, both bishops who practiced casuistry, on oath taking which he regarded with so much apprehension that in 1680 he declined the presidency of the Royal Society on the grounds that it required swearing an oath. Boyle was concerned that obligations were established even when making spontaneous promises.[8]

This chapter and the next will be devoted to oath-taking. This chapter will cover seventeenth century oath-taking in its historical context. The next will cover specific oaths tendered during the twenty years from the English Civil War to the Restoration. Specifically, this chapter will contain a brief history of oath-taking intended to show how the biblical and medieval forms of sworn allegiance and fealty to the church and state shaped similar social functions in seventeenth–century England and at the same time show how the Protestant casuistic community responded to the social and religious pressures generated by a nation in the throes of a civil war followed by a theocratic commonwealth. The next chapter will concentrate on four specific oaths, the Solemn League and Covenant, Negative, Engagement, and Et Cetera Oaths, all of which had generated casuistical argument from Robert Sanderson, Jeremy Taylor and Richard Baxter. It will present material showing how and why all three casuists responded to particular oaths. Their response will also show that the second generation of casuists that

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[7] Ibid., 16-17.

[8] Michael Hunter, *Robert Boyle: Scrupulosity and Science* (Rochester, N. Y.: Boydel, 2000), 76, 82.

followed Perkins, Ames and Hall maintained a cautious balance between personal conscience, national welfare, non-resistance to authority and personal safety, which came about because of the shift in the nature of power from authority by divine right and inheritance to authority by possession.[9] Both chapters will concentrate on the years between 1640 and 1660 because both the nature of casuistic discourse and the function of oath-taking changed significantly after the Restoration when the Declaration of Breda (1660), the Act of Uniformity (1661) and the Declarations of Indulgence (1662, 1672) presaged a continuing struggle for toleration. Further, a new generation of casuists including such as Gilbert Burnet, Bishop of Sarum, were emerging with new standards influenced by the advent of groups like the Latitudinarians and the Great Tew Circle. The earlier casuists, such as Perkins, Ames, and Hall had died. Sanderson, Taylor and Baxter, however, were still producing important works.

Casuistry arises out of the problem of predestination and oath-taking arises out of political intention, a distinction that could easily be applied to the division between Puritans and the Church of England party. As was pointed out in the first chapter, historical discourse on casuistry in the first half of the twentieth century largely centered around the writings of three historians, H. R. McAdoo, Kenneth Kirk and Thomas Wood. Both Kirk and McAdoo were Church of England bishops and archbishops respectively, who, along with Wood, held the view that casuistry was largely an Anglican construction.[10] Writers such as Norman Clifford and Arthur William Lindsley,

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[9] Camille Wells Slights, *The Casuistical Tradition in Shakespeare, Donne, Herbert and Milton* (Princeton: Princeton University Press, 1981), 3.

[10] Kenneth E. Kirk, *Conscience and its Problems: An Introduction to Casuistry* (London: Longmans Green and Company, 1927.), xi; H. R. McAdoo, *The Structure of Caroline Moral Theology* (London: Longmans Green and Company, 1949.), 1; and Thomas Wood, *English Casuistical Divinity During the 17th Century: With Special Reference to Jeremy Taylor* (London: Longmans Green and Company, 1952.), xiii.

who came after McAdoo, Kirk and Wood, tended to see the beginnings of English Protestant casuistry as a Puritan construction,[11] one in which the demands of the state came into conflict with the obligations of personal conscience, a notion substantiated in this dissertation. However, those few writings on the subject that have emerged in the last twenty years tended to look at casuistry from either a political or ecclesiastical, rather than a denominational point of view and have explored, as does this dissertation, the social contexts of moral systems such as oaths, vows and subscriptions. Thus, among the secondary source materials on oath-taking to which this dissertation is indebted are the works of three recently published historians, David Martin Jones, John Spurr and Edward Vallance. Of the three, David Martin Jones comes closest in context to reflecting the underlying themes of this dissertation and will be discussed at length. Jones traces the evolution of the language of oaths from the eleventh to the eighteenth century. He shares with this dissertation the belief that oath-taking was an essential component in maintaining the conscience-driven obedience that was unique to English society and was the crucial link between subject and government. All three historians agree with Christopher Hill that oaths preserved human society and pervaded all aspects of the maintenance of order: the work of ministers and public officers, and the relationships between kings and subjects and between lords and tenants. Oaths were used to clear people's names in civil cases, achieve justice in criminal causes and identify insidious plots against the state.[12] Oaths pervaded every aspect of everyday life and Jones, Spurr and Vallance are also concerned with the proliferation of oaths from the Civil War until

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[11] Norman Clifford, "Casuistical Divinity in English Puritanism During the 17th century: Its origins, Development & Significance," Ph.D. diss., University of London, 1957. 1 ff. and Arthur William Lindsley, "Conscience and Casuistry in the English Puritan Concept of Reformation," Ph.D., diss., University of Pittsburgh, 1982, 3-6.

[12] Christopher Hill, *Society and Puritanism in Pre-Revolutionary England* (New York: Shocken Books, 1964), 371.

after the Restoration, with Spurr arguing that their heedless frequency diminished their power, while Vallance argues that it wasn't necessarily the frequency of oath-taking that was the problem but that the means of resolving conflicts of conscience had shifted and changed. Jones acknowledges that because of proliferation there was a dissolution in the language of oaths but that they maintained their strength as tests of loyalty throughout the eighteenth century to the present day.

Both Spurr and Jones discuss the history of oath-taking. Spurr looks at it from a profane point of view, meaning that he analyzes the components of the sacred oath in secular terms[13] and examines the nature of unlawful and profane oath-taking as a form of social behavior. He contends that seventeenth-century moral values were influenced by the Puritan rejection of profane swearing and perjury in the 1640s and 1650s.[14] Vallance concentrates on two oaths, the Engagement Oath and Oath of Allegiance to William and Mary, arguing that they were similar in content and consequence. He also argues that the debate concerning both oaths were shaped by Royalist, High Church Party writers. All three writers lean toward a secular understanding of the casuistry of oath-taking, a notion which this dissertation rejects in favor of the idea that the response to the demands of monarchic loyalty was essentially religious in content and propounded by Protestant clergymen of both Puritan and conformist persuasions, although for the fulfillment of different doctrines.

David Martin Jones traces the history of oath-taking from its function in the middle ages as an instrument of liege to its function as a test of loyalty to the state in the sixteenth and seventeenth centuries. His contention is twofold: First, that in the sixteenth

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[13] John Spurr, "Perjury, Profanity and Politics," *The Seventeenth Century,* 3:1 (Spring, 1993), 38-39.

and seventeenth centuries oath-taking was essential to the conduct of society and second, although oath-taking proliferated to the point of abuse and was, in part, replaced by contracted-for services and social interest, it remains a crucial link between government and society to the present day. As an example, he points out that in present-day England, those who refuse to take the oath of allegiance to the Queen of England will be refused "access to the House of Commons and the privileges it confers."[15] Jones argues against some contemporary historians who write about the seventeenth century. He says that they have often reduced the state oath to a "feudal hangover," whose "practical utility withers away by the century's end." He thinks that, instead, they should see the state oath as a continuing means of insuring loyalty to the crown.[16] He disagrees with the contention that by the eighteenth century the state oath had given way to the notion that individual and political obligation had become "market-friendly" and was more often based on legal contract and social interest than the structures of conscience. Such thinking, he argues contradicts the work of historians "who have identified a link between the values attached to the developing Protestant conscience and the spirit of capitalism...[and who have] asserted the continuity of British institutional history and the conservative and traditionalist character of its moral and political development."[17] State oaths have

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[14] Ibid., 32.

[15] David Martin Jones, *Conscience and Allegiance in Seventeenth Century England: The Political Significance of Oaths and Engagements* (Rochester, N.Y., University of Rochester Press, 1999.), 1

[16] Ibid., 4.

[17] Ibid., 5.

continued , in part, "to define the allegiance of subject" to monarch.[18]

He also contends that the continuity of the state oath gave rise to an exclusively British political idiom. He writes that, "The rightly-ordered conscience constrained by state oaths constituted a moral and legal guarantor of political conformity," and that an "English understanding of the legal and moral limits of political obligation first arose, and stimulated the development of a distinctive moral and political character..."[19] He adds that "State oaths and their bonds came to be understood in terms of English common law and Protestant casuistry."[20] The relationship of oath-taking to common law goes back to the notion of an ancient constitution and the precedent of common law which, to a certain degree, defined the boundaries of the political nation, as did oath-swearing jury members, parish officials, yeoman, aristocracy and gentry[21] whose qualifications for rank, "rested on an unstated, broadly consensual agreement to maintain and uphold the common law and ancient constitution of the realm."[22] Oaths also placed an emphasis on conscience and provoked interest in its nature and sphere of operation. This in turn gave rise to the "efflorescence of a moral theology or casuistry devoted to conscience and the cases that affected it."[23] Taken together, common law and casuistry constituted a "tacit dimension" in which the distinctive character of English political thought was understood. This tacit dimension had been hitherto neglected because of the "rationalist and universalistic assumptions that underlie much contemporary political thought of a liberal provenance,"

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[18] Ibid., 6.

[19] Ibid., 3.

[20] Ibid.

[21] Ibid., 65.

[22] Ibid., 66.

[23] Ibid., 76.

and the "teleological determinism that informs, at least covertly," the evolution of British political institutions.[24] Essentially, Jones is saying that moral action is rationally defined without regard to particular "local cultural attachments" and that moral and political institutions are committed to benevolence and justice,[25] an idea that places conscience at the center of ethics. He believes, however, that making conscience the center of ethics is reductionist. The abstract principles of liberty, rights and justice are reduced to a simplistic "triumph...of universalistic ideological possibilities."[26]

Jones also says that there is a tendency on the parts of contemporary historians who write about oath-taking in the seventeenth century "to dwell on a highly specific historical context" and miss innovations that took place at the same time, such as changes in the political vocabulary.[27] He theorizes that a vocabulary of oath-taking emerged during the late seventeenth century that was seen by twentieth-century historians as ambiguous. He says it was a shift in language that was attributable to casuistry, a "mode of understanding" which replaced an existing ambiguity.[28] For the most part, Jones defines casuistry in much the same manner as does this dissertation, a conscience-centered form of moral theology which seeks to extend the terms and limits of a moral obligation. However, where he differs from this dissertation is in saying he will look at casuistry in "distinctively non-ideological terms."[29] He appears to believe that a casuistic dimension evolved that was not based on a code of rules or system of principles but

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[24] Ibid., 3

[25] Ibid.

[26] Ibid., 4.

[27] Ibid.

[28] Ibid.

[29] Ibid.

instead on a "vernacular language" that governed "the idiom of conscience and the varieties of moral grammar it makes possible."[30] This dissertation differs from Jones in that it emphasizes the theology of casuistry and sees casuistry and the language of casuistry not as emerging from a cohesive political ideal but instead as a system for applying moral principles and codes of rules that come into conflict with political ideology. Throughout much of his writing, Jones stresses the secular aspects of casuistry and this dissertation emphasizes the religious.

In the first chapter, Jones shows how feudal oaths of homage were used and how they evolved from a feudal devise to a Christianized, church-empowered institution.[31] Jones explores the history of feudal oath-taking, particularly the Coronation Oath, and shows how it "defined the obligation of the ruler to the ruled."[32] He traces forms of oath-taking from the medieval Feudal Oath of Liege (c. 1086) to the Abjuration Oath of 1702 and examines the shifts and changes in language and form, suggesting that the traditional feudal obligation that held significance as both a coronation oath and "the constitutional implication of the theory of the king's two bodies"[33] had, by the seventeenth century, been replaced by the state or loyalty oath. Jones contends that by the sixteenth and seventeenth centuries two factors were at work. First, the language of oaths had taken on a character of greater precision and explicitness, a function of the developing judicial system of the state, and second, there was resistance from a wide-range of religious and

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[30] Ibid., 10.

[31] Ibid., 16,

[32] Ibid., 17.

[33] Ibid., 11.

political persuasions,[34] particularly the Puritans or "radical Presbyterians" and "Counter-Reformation Jesuitry," who contested the state's franchise of conscience.[35]

Jones' sums up the changes in oath-taking brought about by the Tudor and Stuart monarchies as having "increased the political authority and exacerbated the political insecurity of the godly prince."[36] Among the changes he cites are an "awareness of the turmoil caused by resistance to authority" and thus, the importance of obedience. Jones makes the point that if the extended social order and hierarchy were to be maintained, it could only be accomplished by "inculcating an awareness of the vital importance of obedience in the minds of its subjects." Otherwise the Crown would have had to have "a large army or effective police force at its disposal,"[37] which it did not. Oaths filled the gap that lack of enforcement capability left behind. The state oath became one of the few practical and familiar means of testing loyalty that the crown could bring to its subjects who knew and understood the power of oath-taking from both its provenance in common law and its practice, also in common law, in which oaths were used to empanel juries and appoint local officials.[38]

Most oaths after 1534 were, at least in some measure, directed against Catholics who were seen "as objects of suspicion and latent disloyalty."[39] Two oaths that had been introduced prior to 1534 stated that English subjects, accepting the Act of Succession, had "a natural allegiance to the King" and a "spiritual allegiance to the universal church

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[34] Ibid., 15.

[35] Ibid., 40.

[36] Ibid., 12.

[37] Ibid., 31.

[38] Ibid.

[39] Ibid., 281.

and its head the pope." After 1534, an attachment to the Act of Succession called for the crown's subjects to recognize the supremacy of the king in spiritual matters and the pope as a usurper of kingly sovereignty.[40] (Both matters are discussed below.) The consequence for the Catholic conscience, especially during the Elizabethan era, precipitated the "evolution of a political conception of conscience."[41] By the Elizabethan period oaths served several functions, one of which was to promote anti-Catholic legislation in response to threats from the papacy, supported by militant Jesuits dismissing the monarch's claims to spiritual and temporal supremacy. It was the concerted campaign of Jesuits to "repudiate the idea of an exclusive loyalty due to the person of the hereditary monarch that exacerbated the problem of allegiance" and forced the government to "extend its views on the state oath." [42] The establishment of Elizabeth's authority over church and state brought about an extension of the jurisdiction of the oath by Parliament in which the charges for continued resistance was high treason. The Treason statute itself had been expanded to include terms and penalties for rejecting state oaths.[43] As for the Catholics themselves, for the most part they walked a middle of the road line, often refusing both the claims of the papacy and the spiritual claims of the crown.[44] Nonetheless, Catholics engendered suspicions of disloyalty and in 1606, in the wake of the Gunpowder Plot, James I promulgated a new oath of allegiance which was intended to separate the loyal Catholics from insurgents.[45] (The Jacobean Oath of

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[40] Ibid.

[41] Ibid., 35.

[42] Ibid., 42.

[43] Ibid., 41.

[44] Ibid., 43.

[45] Ibid.

Allegiance, discussed below makes up a substantial portion of this chapter.) As with recusants, the Puritans also walked a line in the middle of the road but it was a different road. On the one hand Puritans favored stronger bonds of loyalty in the face of Jesuit aggression, but on the other, anxious about the conservative nature of conformity, sought a church settlement that consisted of greater reform. "The authority of the word came to replace the *consensus fidelium.*"[46] It intensified the sensitivities of individual conscience to oaths, vows and covenants. Further, "the notably millennial flavor of English Puritanism" illuminated the contradictions between the state oath and conscience.[47]

Jones concludes that the institution of allegiance, which was the binding societal force in the chain of power that went from monarchy to church to government to subject, was centered around the state oath, and that new oaths, which reflected the political insecurities of the Tudor-Stuart monarchies, were promulgated for the purpose of showing subjects their duties to the government and toward that end, harsh laws, such as the newly articulated Treason Law, were enacted as penalties for disloyalty.[48] He also concludes that the state oath led to what he calls state casuistry. State casuistry appears to be a means by which the state articulates its rationale for the tender of state oaths, and state casuists, as Jones calls them, are those that appear to have participated in the conformist policies of the state.[49] One such state casuist is Jeremy Taylor, who was an ardent Royalist.[50] Another is John Donne and there is an important example of state-directed casuistry below in the detailed examination of Donne's *Pseudo Martyr,* which is

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[46] Ibid., 53.

[47] Ibid., 56.

[48] Ibid., 60.

[49] Ibid., 64.

[50] Ibid., 90 ff.

an extensive apologia for the Jacobean Oath of Allegiance. What links it to the state is that it was written at the request of King James I. Jones contends that from the late sixteenth century until before the Civil War, "an official interpretation of law and casuistry evolved to support the state oath"[51] and that it reflected the growing insecurity of the Crown.

When Jones talks about casuistry, he appears to divide it into two forms: State casuistry as described above and a public form of casuistry in which he says that the subject would make a choice on probabalist grounds.[52] Casuistry, he claims, "set the rules for the conduct of the Civil War debate about the bond of political oaths..."[53] Further, the casuistic method held no confusing ideology nor did it "intimate a rational plan to newly remodel the state" but sought instead to resolve a case by standards of law, morality and precedent."[54] Although this dissertation agrees with Jones on the primacy of law, morality and precedent as casuistic concerns, its thesis argues that casuistry operates largely as a theological model for the resolutions of moral conflict. It claims that almost all case divinity is based on Scripture and administered in almost all instances by a cleric. Jones contends that an "Anglican understanding"[55] of oaths prevailed after 1660. The Restoration brought about a politically concerned nation whose activities and ideals reflected a newly restored and politically active conformist state church that reached deep into the eighteenth century.[56] Nonetheless, Jones argues, by the beginning of the

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[51] Ibid., 102.

[52] Ibid., 105.

[53] Ibid., 112.

[54] Ibid.

[55] Ibid., 12.

[56] Ibid., 171.

seventeenth century the notion of owed obligation to the monarch, "in conscience and law," was commonplace and the performance of lawfully imposed oaths presumed the possibility of a unified body politic. The number of state oaths, however, increased as the threats from Catholic and Puritan extremists increased, and the positive consequence of that proliferation was that a "structure of allegiance had been consolidated in both morality and law."[57] It created an uniquely English, indissoluble body politic held together by a conscience-directed moral and legal bond.[58]

John Spurr analyzes oath-taking in Early Modern England as an instrument of justice that had the "practical effect" of binding an individual's conscience to the directives of society.[59] In contrast to Jones, the power of conscience, Spurr contends, was insufficient to guarantee obedience and order, but oath-taking in tandem with conscience could. Reform theology taught that the soul was the "sacrosanct organ of a human being's relationship with God"[60] and laymen were encouraged to examine their consciences with the intention of finding out whether or not their consciences were informed in righteousness or sin.[61] For Puritans it was a sin to act against conscience, but conscience, "transformed by divine action," meant "liberty of conscience," and "freedom from the slavery of sin:"[62] Liberty of conscience was an arguable matter in which nonconformists could claim justification for open dissent[63] and the claims of conscience were seen by

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[57] Ibid., 103.

[58] Ibid., 60.

[59] John Spurr, "The Strongest Bond of Conscience: Oaths and the Limits of Tolerance in Early Modern England" in *Contexts of Conscience in Europe, 1500-1700,* eds., Harald E. Braun and Edward Vallance (New York: Palgrave Macmillan, 2004), 151.

[60] Ibid., 152.

[61] Ibid.

[62] Ibid.

[63] Ibid., 154.

magistracy as "inherently destabilizing." Conscience came into conflict with civil obedience and could not guarantee political or religious order or unity. The mechanism that was more powerful than conscience and could forge a stronger bond between an individual and society was the oath, which had rules and obligations that were familiar, unquestioned and founded in scripture.[64] Oaths, Spurr claims, could invade conscience and the taker of an oath could be made to repudiate a belief. Thus, one of the functions of oaths, Spurr concludes, was to gain leverage on the inviolability of conscience.[65]

Like profanity, perjury was an expression of contempt for oath-taking. It presented a self-defeating dilemma. On the one hand the social system relied on the bonding power of oaths and on the other "abused the name of God." It indicated a marked ambivalence about the power of oaths. Spurr's stated thesis is that "profane swearing, false swearing and swearing in the law courts" reflected a waning belief in the "awesomeness" of oath-taking.[66] He identifies two sets of attitudes. The first is carried by those who still believed that an oath had binding force, such as authoritarian and magistracy figures, in which case oaths were of sufficient power to "retain their utility," and second, those who wanted to avoid perjury but had scant interest beyond that.[67] Still, oath-taking persisted throughout the seventeenth and eighteenth centuries when, it is Spurr's impression, oaths were taken with greater seriousness during the Hanoverian rule than during the Restoration.[68]

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[64] Ibid., 156.

[65] Ibid., 161, 165.

[66] Ibid., 31-32.

[67] John Spurr, "A Profane History of Early Modern Oaths" in *Transactions of the Royal Historical Society* (Cambridge: Cambridge University Press, 2001), 45-46.

[68] Ibid., 46-47.

In recounting the history of oath-taking, Spurr describes an evolution in the history of belief in the power of oath-taking from being a once near universal "primal symbol of religion" to a fading system in which societies acquired a "more rational means of guaranteeing performance and truth."[69] He argues that the evolution of oaths makes three assumptions. The first presumes that oaths were a binding component of conscience and functioned as a force by which certain social systems were held together. The second is that oaths presume an "obligation where none had previously existed" and compelled trust and faith even in the face of rational evidence to the contrary. The third, assumption is that belief in the power of oaths "is an index of religious belief" and that, by the Restoration, there was a declining fear of retribution as a consequence of breaking one's oath which reflected a declining belief in the notion of God as an intercessor in human affairs.[70] Spurr concludes that there are two paths to take in writing a history of oath-taking. The first is to look at oaths as "pragmatically justifiable" because they have the power to bind, at least for some people, some of the time; the second is that there was a declining trust in the sanctity of oath-taking. He also suggests a third path: "to essay a profane rather than a reverential history," as indicated above, which means that oath-taking is viewed as a form of behavior outside of the Christian paradigm.[71] This opens such questions as the validity of oaths taken by people of opposing religions, such as Jew and Christian or Christian and infidel, and whether or not the transaction is of transcendent authority. Spurr cites Christian divines who declare that indeed such oaths were valid for several reasons, among them being that Jews and Muslims were sworn in

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[69] Ibid., 39-40.

[70] Ibid., 40.

[71] Ibid., 41

Christian courts on their own holy books and also that the process of swearing invokes God.[72]

Spurr also looks at the formal components of an oath and states that they are acts of speech that are often enhanced by ritual such as kissing a holy book, gestures such as holding up the right hand or in the case of oaths of fealty, kneeling, and the handling of inanimate objects such as relics and holy books.[73] On the human levels oaths bind "covenanting communities" by modifying the relationship between two or more members of the community who are involved in a single process such as marriage, maintaining justice or law enforcement. It is when they come into dispute that they create a rift between people.[74] Spurr creates a catalogue of profane and religious oath-taking, enumerating the many kinds of oaths that have developed over the last thousand years, including medieval oaths that were inherited from Roman Law, oaths sworn by rulers and the constitutional oaths that assured allegiance in England with the ad hoc oath contained in Henry VIII's Act of Succession, the Elizabethan Act of Supremacy and the Jacobean Oath of Allegiance being early attempts to obligate subjects to rulers through the oath-taking process,[75] an argument similar to the one Jones makes above. (All three are further discussed in detail below.)

Compared to David Martin Jones and John Spurr, Edward Vallance has produced a smaller oeuvre, but one of no less significance, certainly to this dissertation. He compares two oaths: the Engagement Oath of loyalty to the English Republic (1649) and

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[72] Ibid., 42.

[73] Ibid., 44-45.

[74] Ibid., 47.

[75] Ibid., 50.

the oath of allegiance to William and Mary (1709), which had important similarities.[76] Their importance to this dissertation is that the Engagement oath is discussed in detail in the next chapter and the oath of Allegiance to William and Mary, which was included in the Declaration of Right, is an example of the post-Restoration changes in the language of oath-taking discussed by David Martin Jones above. Both oaths engendered arguments in which casuistry provided the "formal language of oath-taking dispute."[77] However, Vallance contends that after 1689 casuistry was challenged as the agent of political debate and by 1709 was no longer a central focus in resolving oath-related disputes, although there was no decline in the emergence of new oaths. In fact, Vallance notes that during the Parliamentary session of 1695-1696, there were forty acts passed of which twenty called for swearing.[78]

The issue that marks the William and Mary oath was that the swearer acknowledged that the Monarchs were the "rightful and Lawful" rulers of England, a contention that had not been written into any of the prior oaths of allegiance. The consequence was a flurry of pamphlets about the lawfulness of the oath. The contention at hand was between William and Mary as *de facto* rulers and James II as king *de jure.* This raised many concerns such as divine right of providence versus constitutional legality, the extent of one's obligation to a *de facto* power, and a resurgence in the importance of non-secular argument in resolving political dispute.[79] Among the parallels between the Engagement Oath and the Oath of Allegiance to William and Mary was that

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[76] Edward Vallance, "The Decline of Conscience as a Political Guide: William Higden's *View of the English Constitution*" (1709) in *Contexts of Conscience in Early Modern Europe, 1500-1700,* eds., Harald F. Braun, and Edward Vallance (New York: Palgrave Macmillan, 2004), 67.

[77] Ibid.

[78] Ibid.

both oaths took place in an unstable political climate. Another was that although the clergy at the time of William and Mary claimed to have had no precedent to guide them in their decision, Vallance points out that in the Engagement Oath, High Church clergymen had to face swearing an oath of loyalty to a Commonwealth without a king or prelacy,[80] also a *de facto* rule. Vallance says that several historians that had examined the Engagement Oath and its contemporaneous debate, concentrated on the duty of obedience to *de facto* powers. But Vallance contends that the debate concentrated on the nature of the oath and the question of whether or not the oath presupposed contradictory sworn promises and, if so, was it lawful.[81] Anglicans, as Vallance refers to non-Presbyterians, were concerned that the Engagement Oath conflicted with the oaths of allegiance and loyalty that had already been sworn and which in fact had been oaths of loyalty to the King's successors as well. Presbyterians were concerned because the Engagement clashed with the provisions of the Solemn League and Covenant, as discussed below, in which they were duty bound to defend the King's person and authority. Vallance, who had examined the responses of Anglican divines, argues that the debate at the time was as much concerned with "the obligations of Oaths and Covenants on the conscience,"[82] as it was on the issue of *de facto* power. Vallance concludes that it was the pamphlets circulating at the time that talked about *de facto* power as a "legitimating power of divine

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[79] Ibid., 68-69.

[80] Ibid., 69.

[81] Edward Vallance, "Oaths, Casuistry, and Equivocation: Anglican Responses to the Engagement Controversy," *The Historical Journal* 44,1 (2001), 59.

[82] Ibid., 60.

providence or the duty of obedience to powers in possession" that provided the spark for the ensuing debate.[83]

Vallance also takes up the issues of equivocation and mental reservation and comes to the conclusion, as does this dissertation, that while they were condemned by Protestant casuists, they nonetheless adapted equivocation for their own use. However, they rejected mental reservation outright. Vallance makes the point that Anglican casuists condemned the use of equivocation in public, but held a more accommodating approach in private.[84] So did Puritan casuists: both Baxter, a nonconformist, and Sanderson, a moderate Calvinist condemned equivocation but in the end, in situations that were circumstantial and prudential, made their accommodations with it even in their public writings. John Dury, for example, believed that it was "possible to make equivocal subscriptions to the Engagement."[85] Vallance argues against the notion that shifting political attitudes toward conscience, held by Spurr and Jones, diluted the power of oath-taking. He points out that sermons stressing the obligations of oaths remained a forceful way to secure allegiance well into the Hanoverian dynasty when the numbers of oaths had increased. Instead, he suggests, the means to resolve dilemmas had changed. Debate was dominated by pamphlets and casuistic reasoning continued to exist but was informed by common sense. Counsel was based on legal rather than casuistic argument and conscience was questioned as the "governing principle of political behavior."[86]

Taken together, it would appear that oath-taking had traveled a fairly straight line from the medieval oaths of fealty to the seventeenth-century oaths of allegiance. What

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[83] Ibid., 77.

[84] Ibid., 60

[85] Ibid., 77.

had changed was not so much the form an oath took but the nature and explicitness of its language. Further, belief in the bonding powers of oaths, and the constraints of conscience on the individual to honor an oath, waned toward the end of the seventeenth century, as oaths and vows proliferated. For a time, casuistry, until its eclipse, became the language of dispute.

This dissertation differs from Jones, Vallance and Spurr in that it concentrates on casuistry's reaction to oath-taking by isolating individual theological responses to the extremes of monarchic allegiance. Using their own words wherever possible this writer hopes to shed light on how Sanderson, Taylor and Baxter used godliness and religious doctrine to meliorate political exigency.

Almost every one of the casuists discussed herein wrote works on oath-taking. To a certain degree, their casuistical discourse emerged out of the need to maintain an "oath-bound political community," which is what Jones calls early modern England, where oath-taking was, on the one hand, a means of insuring order, obedience and the stability of the state and on the other, a problematical obligation in which the state intruded on individual conscience.[87] William Perkins has a chapter on oath-taking in *Whole Treatise of the Cases of Conscience*, William Ames discusses oath-taking in both *The Marrow of Theology* and *Conscience with the Power and the Cases thereof*, and Joseph Hall wrote a tract called *The Lawfulnes and Unlawfulnes of an Oath or Covenant*. Richard Baxter dealt with oaths largely in terms of maintaining his stance on nonconformity, although he also has descriptions of oaths and admonitions as to their lawfulness in *A Christian Directory*. Robert Sanderson wrote a major work, *De Juramento: Seven Lectures*

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[86] Ibid., 81.

Concerning the Obligation of Promissory Oathes and a case of conscience entitled *The Case of the Engagement Oath*, discussed at length in the next chapter, in which he argues against the taking of the Engagement Oath. The casuist who wrote the least on oath-taking was Jeremy Taylor, although what he had to say was important. He referred to it in his sermons and occasionally in other works, but it is worthwhile noting that of all the six casuists, only Taylor was a committed, anti-Calvin conformist; all the others were to a certain extent Puritans or moderate Calvinists. All six share a deeply rooted belief in nonresistance to magistracy. In those instances where they resist oath-taking, it is always on the grounds of conscience, as will be delineated in this and the next chapter. For now, it is important to look at how some of them defined oaths.

William Perkins defines an oath as "a religious and necessary confirmation of things doubtful, by calling on God, to be a witness of truth, and revenger of falsehood."[88] It is a simple definition that serves as a basic but incomplete standard. Jeremy Taylor speaks of oaths as being of either one or two kinds, promissory or assertive (which Taylor calls "assertory.") He defines a promissory oath as synonymous with vows. They are oaths containing promises which are "forbidden to Christians, unless they be made to God or God's vicegerent."[89] The assertory oath is not synonymous with a vow but is close in spirit to a vow. It is not forbidden because it takes place in a fixed period of time and is subject to judgment, meaning the oath will be resolved.[90] William Ames sees oaths as an alternative to chance. He says, "There are two kinds of petition to be used on occasion

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[87] Jones, *Conscience and Allegiance*, 8, 21-23.

[88] William Perkins, "The Whole Treatise of Cases of Conscience," in *William Perkins, English Puritanist*, ed., Thomas F. Merrill (Nieuwkoop, Netherlands: B. De Graaf, 1966), 127.

[89] Jeremy Taylor, "Life of Chirst" in *Whole Works of the Right Rev. Jeremy Taylor, D. D.,* 10 vols. ed., Reginald Heber, and Rev. Charles Eden (London: 1847-1854.), II, 425.

which were introduced because of man's weakness: oaths and lots."[91] Like Taylor, Ames also says that an oath can be "assertive or promissory." An assertive oath to Ames means that it is not binding but rather confirms the truth of what has been sworn and a promissory oath relates to a future matter "in which an element of threat is contained."[92] Robert Sanderson's definition is closer in spirit to William Perkins "An Oath is a religious act, by which God is called to witness for the confirmation of some matter in doubt."[93] From there on, he deconstructs the definition in minute terms. At first glance, their differences seem to be wide ranging; when weighed against the biblical concept of an oath, the differences seem slight. Both kinds of oaths, promissory and assertive appear in the Hebrew Bible. The most common shared element between the three casuists is that almost all sixteenth-and seventeenth-century oaths are grounded in scripture since they inevitably call on God as witness. It is therefore worthwhile looking at how biblical oaths were constructed.

Tony Cartledge defines oaths in the Hebrew Bible as consisting of a promise which is supported by a curse that is to be carried out by either the deity or king whose name is invoked. Oath statements appear to be conditional, he adds; however, it is the curse, not the promise that is conditional.[94] In other words, there is an implied "if" inherent in an Old Testament oath which corresponds to Perkins' "things doubtful," that essentially says, the oath can fail, in which case the punishment for failure is determined

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[90] Ibid., 426.

[91] William Ames, *The Marrow of Theology,* ed., John Eusden, (Boston: Pilgrim Press, 1968), 267.

[92] Ibid., 268.

[93] Robert Sanderson, *De Juramento: Seven Lectures Concerning the Obligation of Promissory Oathes* (London: Printed for Humphrey Moseley, Octavian Pulleyn and Andrew Crook, 1655), 5-6.

[94] Tony W. Cartledge, *Vows in the Hebrew Bible and the Ancient Near East* (Sheffield, U.K: Journal for the Study of the Old Testament Supplement Series 147: Sheffield Academic Press, 1992), 15.

by the wrath of God, the King or whosoever may have been invoked. The element of threat also informs Ames' definition of an oath. He writes that not to fulfill an oath "is a most grievous sin, and such as God, will in a singular manner avenge."[95] The basic form of an oath in the Hebrew Bible consists of two parts, that which is promised and the penalty incurred for the failure to realize the promise. In Psalm 132: 1-5, for example, the psalmist recounts how King David promised he would build a house for God and swore not to sleep until he fulfilled his promise. The promise is to build a house for God and the penalty for failure is that David will never sleep again. The second form of oath-taking in the Hebrew Bible is the assertive oath which, itself has several forms. One form is where a majestic figure makes a promise wherein the binding characteristics of the oath is implied but not stated outright. It is not an oath but it has the qualities of an oath because the oath-taker, who is either God or the King, is that of whom there is none higher, thereby making a broken promise unthinkable.[96] For example, in the above Psalm, God asserts that if David's sons keep God's covenant, they will sit on David's throne forever. God, in this instance, doesn't have to swear. There is no doubt that God keeps his promises. The assertive oath also takes a second, reverse form, in which the swearer asserts something to the God knowing that if the assertion is broken, the consequences will be dire. For example: Joshua 24:1-28, the second address of Joshua at Shechem, Joshua leads the consenting tribes in an oath of fidelity to Yahweh and spells out the dire

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[95] William Ames, *The Substance of Christian Religion or, A plain and earlie Draft of the Christian Catechisme* (London: T Mabb for Thomas Davies, 1659), 226-227.

[96] Cartledge, *Vows in the Hebrew Bible,* 15.

consequences of apostasy, which is that God will turn away from the Israelites and consume them.[97]

In early modern Europe, oaths, vows and, often subscriptions, were seen as interchangeable. However, in the Hebrew Bible the differences are that an oath, as noted above, is largely a promise with a curse attached that contains a conditional response and a vow is when a promise is made to induce the grantor, either king or deity, to fulfill a petition. In the Hebrew Bible vows are deals made with God. They tend to be, arguably conditional, as opposed to modern vows which reject the notion of bargaining with God.[98] A vivid example of a deal being made with God is in Judges 11:30-40, in which Jephthah vows to make a human sacrifice to the Lord if the Lord will grant him victory over the Ammonites. The sacrifice would be the first person he met on returning home. God "accepted" the deal and the first person he met when returning home was his daughter.[99] Subscriptions are somewhat different: They are the acts of formally declaring belief in and allegiance to certain tenets such as the Thirty-nine Articles or the Liturgy as it is declared in the Book of Common Prayer.[100] These were recorded declarations, which carried the weight of law and were made mostly by clergy, teachers, doctors, physicians and midwives. They were kept in registers called Subscription Books. Each book was kept by one scribe and held recordings of deeds and other documents, including pictures and diagrams, along with the political and religious subscriptions.[101]

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[97] Norman K. Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel, 1250-1050 B.C.E.* (Maryknoll, N.Y: Orbis Books, 1979.), 134.

[98] Cartledge, *Vows in the Hebrew Bible,* 16-17.

[99] Gottwald, *Tribes of Yahweh,* 138.

[100] E. H. Carter, *The Norwich Subscription Books: A Study of the Subscription Books of the Diocese of Norwich 1637-1800.* (London: Thomas Nelson & Sons LTD, 1937), xv.

[101] Ibid., xv-xvi.

Those scriptural forms of oath-taking, in which God's wrath came into play if the oath was broken, lasted, from the New Testament era to pre-Reformation Europe in much the same ways they originally appeared in the bible. However, during the Middle Ages two developments transformed the nature of oath-taking. First was the evolution of Christianity, in which the church assumed a measure of responsibility for the implementation of an oath, and second was feudalism in which forms of homage based on fealty oaths defined certain social relationships.[102] By the twelfth century, a second religious ritual was imposed on the fealty oath, in which a new vassal put his hand on the bible and swore loyalty to his master. Taken together, the oaths of fealty and loyalty came to be understood as a commitment of allegiance. However it worked two ways. In return for the fealty oath, the magistrate took, or had already taken, a Coronation oath which defined his duties to those he ruled. By the Carolingian period, it was Christianized and combined into the body of ritual that defined feudal relationships. After 1066 all subject-master oaths were taken by all subjects over twelve years old.[103] By the twelfth century the Coronation oath as tendered by Henry II articulated, among other concepts, the idea that certain public rights and state properties were inalienable.[104] (The Coronation Oath as Henry II understood it was not officially enacted into law until 1689 for the Coronation of William of Orange.[105]) The ritual of anointment further enhanced

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[102] Jones, *Conscience and Allegiance*, 16.

[103] Ibid., 16-18.

[104] Ernst H. Kantorowicz, *The King's Two Bodies; A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957), 167.

[105] Joel H. Wiener, ed., *Great Britain: The Lion at Home* (New York: Chelsea House, 1974), 14-15.

the Coronation oath by suggesting that, although the king held his throne by inheritance, the element of divine right existed as well.[106]

However, the English Reformation irrevocably altered the Coronation Oath and other oath-taking systems when Henry VIII, claiming God's sanction, became supreme head of the English Church and promulgated the theory that all crown servants and subjects were obligated to render unqualified allegiance to the King's supremacy over church and state. They further formally rejected the jurisdiction of the Pope over the universal church, which raised questions about the lawfulness of oath-taking. Thus, in an effort to show that such obligations were both lawful and constitutional, the Tudor crown servants attempted to modify the Coronation Ritual by adding words to the effect that Henry was accountable only to God. Additionally they modified the wording to minimize the need for popular consent. [107] By the time the Stuarts came into power, officials, supposedly at the behest of Archbishop Laud, tried to change the existing wording of the Coronation Oath again. The new wording negated the King's promise to keep the laws his subjects "have chosen," and substituted instead that the King will keep the laws they already "have."[108]

In the next chapter, both Robert Sanderson and Jeremy Taylor are cited as making references to the Henrician oaths as being still binding over a hundred years later and will use that obligation to justify rejecting both the Engagement and the Et Cetera oaths. The Henrician Act of Supremacy (1534) was embedded in the Act of Succession and as G. R. Elton points out, among other provisions it established broad standards for

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[106] Kantorowicz, *King's Two Bodies*, 46 ff.

[107] Jones, *Conscience and Allegiance,* 24-26.

[108] Ibid., 26.

treason. Treason, which had been defined as "intent expressed in deeds" was shifted to "intent expressed in words," a context that strengthened the original treason law of 1352.[109] The inherent principles underlining the Act of Succession were already developed in common law. However, the 1534 oath was the first oath to explore the nature and requirements of a subject's obligation of allegiance[110] and to include the phrase "every one of the King's subjects" as a directive of who should take the oath. It read:

> ...every one of the King's subjects...shall observe, keep, maintain and defend this Act and the whole contents, and effects thereof, and all other Acts and Statutes made since the beginning of this present Parliament in confirmation, or...for anything therein contained.[111]

The wording of the Oath of Supremacy is interesting; although the Oath of Succession was compulsory, the Oath of Supremacy was not. It demanded that all office-holders take the oath but not all subjects. Prior to 1536, few officeholders other than the clergy took the oath.[112] The salient clause in the oath is

> ...ye shall never consent nor agree that the Bishop of Rome shall practice, exercise or have any manner of authority, jurisdiction or power within this realm or any other of the King's dominions...and take the King's Majesty to be the only Supreme Head in earth of the Church of England.[113]

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[109] G. R. Elton, *England Under the Tudors*, 3rd ed. (London: Routledge, 1991), 136.

[110] Jones, *Conscience and Allegiance,* 31,n.

[111] Gee, Henry and William John Hardy, ed., *Documents Illustrative of English Church History* (New York: Macmillan, 1896), 232-243. Hanover Historical Texts Project. Posted online by Reluca Preotu and edited by Jonathan Perry, 2001.

[112] Jones, *Conscience and Allegiance*, 270.

[113] Ibid., 271.

The statute and the oath were eventually summarized and published in 1536 and spelled out its strictures "against papal authority," all of which helped to eventually destroy the Pope's power in England.[114]

The Tudor and Stuart monarchies were set up to exercise authority but for the fact that they lacked both military and financial resources.[115] This led to the problems of enforcing obedience to the broader distinctions of religious and political supremacy and at the same time to be assured of the loyalty the king claimed by divine right.[116] Such assurance was not to be entirely theirs. There was visible opposition to the attack on the Pope during Henry's reign because there were fears of papal retaliation on the parts of merchants and burgesses in the cloth trade, which was indirectly controlled by the Pope. There was also dissatisfaction in Parliament with Henry's choice of Anne Boleyn as his second wife. Parliament also resisted the King's demands for money. Other opposition came from those like Sir Thomas More and the Nun of Kent whose consciences interfered with their acceptance of the King's prerogatives .[117] Similar opposition is indicated during Elizabeth I's reign by the Babington Conspiracy in 1586. The conspiracy was an aborted plot in which Catholic loyalists, whom John Donne described as a suicidal death squad bent on destroying the state, tried to replace Elizabeth with

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[114] Elton, *England Under the Tudors*, 136

[115] Jones, *Conscience and Allegiance,* 28.

[116] Ibid., 29.

[117] Elton, *England Under the Tudors*, 137-138. The Nun of Kent, or the Holy Maid as she was also known was a servant girl, by the name of Elizabeth Barton who suffered from epilepsy and visions. She came under the influence of a monk, Dr. Edward Bocking who used her visions to denounce the Crown's religious and political policies. Barton and her followers were executed.

Mary Stuart.[118] Later, opposition to James I came in the form of the Gunpowder Plot which gave rise to the controversial Jacobean Oath of Allegiance, discussed below.

That said, it should be noted that most subjects readily accepted the new authorities of Henry VIII without cavil. From the 1530s forward, the state oath took form and effect and, as Jones notes, the "refusal of a loyalty oath was tantamount to an admission of treasonable intent"...and the devise of an oath took on familiar characteristics because it was already a "widely established common-law practice [used] to empanel juries and appoint local officials."[119]

It would appear, then, that by the seventeenth century, oath-taking was seen as a sacred act that, if violated, invoked a punishing God. But that was not the way it was always seen. and by way of contrast to the ideals of Coke and Hobbes, it is worthwhile looking briefly at an anonymous writer who wrote a tract entitled *Perjury the National Sin* (1690) and complained that

> ...the Constitution of our government is such, that Oaths are imposed upon us for every slight and trivial account, and according to the prevalency of custome, easily taken, and as easily broken; and by this means solemn perjury is become a common sin.[120]

Perjury was rampant in the seventeenth century. It was a time when oaths of all kinds were prevalent: allegiance, religion, office-holding, courts, business and hordes of lesser swearings functioned as assurances of honesty. However, there were two primary kinds of perjury: the disdain for truthfulness in oath-taking and forswearing oaths of loyalty. As

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[118] Olga L. Valbuena, *Subjects to the King's Divorce: Equivocation, Infidelity, and Resistance in Early Modern England* (Bloomington, Ind: Indiana University Press, 2003), 26.

[119] Jones, *Conscience and Allegiance,* 31.

[120] Annoymous, *Perjury the National Sin* (London: Randall Taylor, 1689), 6. Wing / P1540; Arber's Term Cat. II / 303. Copy from Cambridge University Library.

an offense punishable in the royal courts, perjury had first become an offense in 1563 and was specified as such in the Common Law around 1613.

It should further be understood that, inevitably, all instances of oath-taking involved conscience. John Spurr describes the difference between conscience and an oath as conscience being an internal obligation and an oath the external, visible affirmation of that obligation. Oaths were a necessary tool in a social system that controlled allegiance, office-holding and ethical behavior, without either a police force or a standing army. They, in part, preserved the institutions of magistracy and the church.[121] Swearing an oath was to ask God to witness one's obligation to the Crown and, at the same time, the Church. These were often conflicting systems in which individuals might not know how best to avoid sin and still honor their obligations. Toward that end, Edward Vallance notes, they turned to the English Protestant casuists who shared an aversion to "rash swearing and perjury"[122] and for whom the process of oath-taking was defined in Jeremiah 4:2.[123] The Jeremiah verse describes three elements, justice, judgment and truth, as being the necessary components of oath-taking. These same three elements set the boundaries and established the rules for almost all oath-taking in reformed England.[124] They will continually crop up in the writings of the six casuists as standards for resolving cases of conscience regarding oath-taking.

Two factors had to be taken into consideration for an oath to fulfill Jeremiah's and the seventeenth-century casuist's conditions of justice. First, the oath-taker had to believe

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[121] John Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 151.

[122] Vallance, "Oaths, Casuistry, and Equivocation," 61.

[123] Jeremiah 4:2. And thou shalt swear, The Lord liveth, in truth, in judgment and in righteousness; and the nations shall bless themselves in him, and in him shall they glory. KJV

[124] Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 156.

that the subject being sworn to was lawful, and second, believe that swearing an oath was not itself a violation of the third commandment, which forbade taking God's name in vain. There are other admonitions against swearing in the Bible as well. Among them there are the above-mentioned third commandment and Matthew 5:34. Ames deals with both admonitions in *Conscience and the Power thereof*. In the section entitled *Of an Oath,* he asks the question, "*Whether an Oath be lawful for Christians?"* [125] His answer is based on two fundamental principles of oath-taking that address both questions. The first looks at the basic nature of an oath and states "If it were intrinsically evill, it should never have been lawfull." The second, which recognizes that oaths were indeed taken in the Old Testament despite the third commandment, states that if it was lawful under the Old Testament, "it was of morall right, which pertains to Christians as well as to Iewes."[126] The implicit issues in both instances are the third commandment which Ames says "is not broken in that manner, but onley by forswearing."[127] He also cites James 5:12[128] as authority.

More important, he quotes the warning that "Christ forbids to swear at all,"[129] which comes from Matthew 5:34, as noted above, wherein people are admonished not to swear, either by heaven because it is the throne of God, by earth because it is His footstool or by Jerusalem because it is the city of King David, or by the hair on one's head because one cannot change it from white to black. On the surface, Matthew seems

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[125] William Ames, *Conscience with the Power and Cases thereof* (London: I Rothwwell, T. Slater & I Blacklock, 1643), Bk. IV, 48.

[126] Ibid.

[127] Ibid.

[128] James 5:12. But above all things my brethren swear not, neither by heaven, neither by the earth, neither by any other oath, but let your yea be yes, and your nea, nea; lest ye fall into condemnation. KJV

[129] Ames, *Conscience with the Power,* V, 48.

conclusive. However, Ames is a casuist and one of the techniques of casuistry is to interpret scripture literally, which he does, and concludes that Christ "simply forbids those formes of swearing which he there nameth."[130] In other words, all swearing other than by heaven, earth, Jerusalem or the hair on one's head, is acceptable. Additionally, he says, "...there are laudable examples of the use of Oaths in the New testament." He cites 2 Corinthians, 1:23[131] and Apocalypse 10:6."[132] From these, he concludes that it is lawful for Christians to take oaths. However, the issue of justice is not satisfied if the subject of the oath is unlawful or led the oath-taker to commit a sin. In that instance the evil oath should not be kept on the principle that a broken oath was only one sin but keeping it was two.[133]

> An Oath to commit any sinne, or to neglect any duty , doth not only not binde, because an evill thing can receive no force from an Oath; but if it be kept, it increaseth the guilt, because then two sinnes are committed; one of that kinde which the fact considered in itself is of; and the other against religion...and abuse of the name of God, as an evill purpose is confirmed by the authority of God.[134]

Ames saw oath taking as a post-lapsarian necessity:

> Oaths were necessary after the fall, because man lost by sin both the credit due to his simple witness and that due to the witness of others...The weakness of man in his failure to give credit to the witness of others is so great that it was in a way necessary for God to demean himself by confirming his testimonies in the form of an oath.[135]

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[130] Ibid.

[131] 2 Corinthians, 1:23. Moreover, I call God for a record on my soul, that to spare you I come not as yet unto Corinth. KJV.

[132] Revelation, 10:6. And swear by him that liveth for ever and ever, who created heaven, and the things that therein are, and the earth, and the things that therein are, and the sea, and the things which are therein, that there should be time no longer. KJV.

[133] Vallance, "Oaths, Casuistry and Equivocation," 61.

[134] Ames, *Conscience with the Power,* V, 55.

[135] Ames, *Marrow of Theology,* 267.

Ames also writes extensively about the third commandment in *The Substance of the Christian Religion*. However, in this instance his essential concern is with the words "taking the name of the Lord thy God in vain" and what they signify. He says that "...by taking God's name in vain, all abuse of sacred things is understood."[136] He goes on to admonish the reader with a long list of "grievous sins" that accompany taking God's name in vain. As for oath-taking itself, he emphasizes God's vengeance if the oath-taker deceives God by failing to fulfill the swearer's promise. To Ames it is as if, "God is in this, as it were mocked...God's worship is turned into a stage-play."[137] He also sees oath-taking in Hebrew Bible terms: An oath consists of two parts: the promise and the curse.

> Because in an Oath we bind our selves not onely to man, or our party on earth, but also unto God, and for the most part of our own accord, and where otherwaies we needed not put our souls under the wrath and curse of God and his fearful vengeance, if we should deceive.[138]

The subject of whether or not it was lawful for Christians to take oaths occupied almost every one of the casuists besides Ames. Robert Sanderson treated oath-taking in two extensive works, *De Juramento: seven lectures concerning the obligation of promissory oaths*, a 271-page book solely on oath-taking which, according to the frontispiece, was translated by Charles I,[139] and *A Case of the Engagement Oath*, both of which are covered in greater detail below and in the next chapter. He says little about the justice of an oath but much about its lawfulness. In the beginning of *De Juramento*, he says that swearing an oath was lawful because it was

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[136] Ames, *Substance of Christian Religion*, 223.

[137] Ibid., 227.

[138] Ibid., 226-227.

[139] Sanderson, *De Juramento*, Frontispiece.

> a religious Act [that] is manifest, first by the authority of Scripture, Deut. 6.13 which says, *Thou shalt fear the Lord thy God, and serve him, and swear by his name*...Secondly it is manifest by the consent of all nations, as led by one light of nature, the religion of an oath hath been ever held most sacred...Thirdly, it is manifest from most evident Reason: because an Oath tends to the honor of God as being an acknowledgment of his truth, wisdome, justice, and divine power.[140]

He concludes the book with several statements regarding lawfulness, one of which is much in the spirit of Ames in which he calls upon the Hebrew Bible precedent for oath-taking.

> The godly Patriarchs sware; Controversies were determined by oath according to the Institution of *Moses* in the Law; the Prophets prescribed the condition of oathes to be observed. Nor can any just reason be rendered, why this should be lawfull for the pious under the Old, and not for the faithful under the New Testament.[141]

In 1643, Joseph Hall published a short tract entitled *The Lawfulnes and unlawfulnes of an Oath or Covenant, set down in short Propositions agreeable to the Law of God and man, and may serve to rectify the conscience of any reasonable man*...the contents of which consisted of *Seven irrefragable[142] Propositions concerning Oaths and Covenants,*[143] a dedicatory to the King, two additional propositions concerning church government and a *Corollarie.* Of the seven propositions, the second proposition makes a direct reference to Jeremiah 4:2, stating that a "*lawfull Oath* not attended with *Truth, Justice*and

[140] Ibid., 6-7.

[141] Ibid., 258.

[142] Irrefragable means, "cannot be broken."

[143] Joseph Hall, *The Lawfulnes and Unlawfulnes of an Oath or Covenant* (Oxford: [i.e. London] Printed by Leonard Litchfield, [i.e. Miles Flesher] 1643 Wing (2nd ed.) /H388: Madan II 1448/ E.67 [20]: Thomason/ E. 67 [21] Copy from British Library), 1.

Judgement" cannot be sworn or undertaken.[144] Hall says that a promissory oath may not "prejudice another man's right" and that "No *Prejudice* of another man's right can be so dangerous and sinfull, as that prejudice which is done to the right of publique and *Soveraigne Authority.*"[145] He is further concerned with sovereign authority in the fifth proposition where he defines what he means by prejudice.

> The right of *Soveraigne Authority* is highly prejudiced, when private subjects *incroach* upon it; and shall, upon suspicion of the disavowed intentions, or actions of *their Princes,* combine, and binde themselves to enact, establish or alter any matters concerning *Religion* without (and therefore much more if against) the authority of their *Lawfull Soveraign.*[146]

He concludes his seven irrefragable propositions with admonitions against forced oaths and a warning against trying to make a second oath contradict a first oath that had been lawfully imposed. The two additional propositions concerning church government that complete the contents of his tract make a brief defense of prelacy, in which Hall says that no man since Christ and the apostles can show a national church that has not been governed by bishops or "show any *Lay-Presbyter* that ever was in the *whole Christian Church,* until this present Age."[147] The dedicatory to Charles I is a touching statement in which Hall talks about how his heart bleeds at the "*wofull* Divisions" in the kingdom.[148] In what may be a reference to the tensions of his times, he says, "God forbid that any of

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[144] Ibid.

[145] Ibid., 2.

[146] Ibid., 2-3.

[147] Ibid., 6

[148] Ibid., A3.

us should be weary of our happiness: and be drawne to doe any act that may (before all the world) pour shame upon our holy profession."[149] He was writing in 1643.

As is apparent, the rules for taking an oath were plain, unambiguous and based on scripture. It was founded in Jeremiah 4:2 and constrained by the third commandment calling for not taking the name of God in vain. Oath-taking had no power or faculty in itself to bind one's conscience but only the authority of God's word.[150] However, an oath taken in truth might also have engendered elements of ambiguity. Protestants charged Catholics, particularly Jesuits, with using ambiguity as a tool for lying when taking an oath. Jesuit casuistry regarded lying as sinful but at the same time it developed two doctrines of equivocation, the first in which a word or expression had ambiguous meanings[151] and the second, mental reservation, in which a false statement was spoken aloud that was at variance with the unspoken intent of the oath-taker who mentally made the true statement.[152] It was somewhat like telling a lie but crossing one's fingers behind one's back so it wouldn't count. Equivocation allowed that there was more than one meaning to a statement. Mental reservation presumed that there were two kinds of statements; the one spoken and the other in the mind of the speaker.[153]

Equivocation and mental reservation contradicted the Protestant dictum that oaths should be expressed in understandable language and the swearer had to know the extent

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[149] Ibid., A5.

[150] Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 156.

[151] Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry* (Los Angeles: University of Californian Press, 1988), 208.

[152] Johann P. Sommerville, "The 'new art of lying': equivocation, mental reservation and casuistry" in *Conscience and Casuistry in Early Modern Europe,* ed., Edmund Leites (Cambridge: Cambridge University Press, 1988), 173-174.

[153] Vallance, "Oaths, Casuistry and Equivocation," 62.

and sense of his obligation.[154] Equivocation and mental reservation came into practice among sixteenth-and seventeenth-century Catholic recusants who were coerced to take the Oaths of Allegiance[155] but, at the same time, they did not want to abjure the authority of the Pope or commit perjury. Both forms of dissembling were seen as laxist excesses by Blaise Pascal, who cited them to severe critical affect in his book *Provincial Letters*, discussed in the second chapter. Equivocation and mental reservation came into full use among both Catholics and Protestants in the seventeenth century when the Jacobean Oath of Allegiance was seemingly created for the purpose of exposing Catholics who had been involved in the Gunpowder Plot. The issues of mental reservation and equivocation were then largely Catholic issues, but some fifty years later when Parliament imposed the Engagement Oath, which called for allegiance to a Commonwealth without a King or House of Lords, they became Protestant issues. Loyalists and conformists to the deposed and beheaded King had to swear a new and conflicting subscription.[156] As they had similarly eschewed Jesuitical probabalism, Protestant clergymen turned away from mental reservation but used verbal equivocations with dual meanings, although it was condemned, either in full or in part by most casuists. In *A Christian Directory*, Richard Baxter goes along with aspects of mental reservation insofar as one makes a promise to God, whether verbally or mentally, it must be kept, but it would be best to avoid making the promise entirely. In the section entitled "Christian Ethics" he asks:

> *Quest* VI. Whether all mental reservation be unlawful?

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[154] Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 156.

[155] Aside from the Oath of Allegiance to James I, there had been a prior oath tendered by Elizabeth I. There was no conflict here because James was the Queen's lawful successor. Conflict existed largely for recusants.

[156] Jonsen and Toulmin, *Abuse of Casuistry*, 210-211.

> *Answ.* If the expressed words be a lie, the mental reservation will not make them justifiable as a truth. But if the expressed words of themselves be true, then the mental reservation may be lawful, when it is no more than a concealment of part of the truth, in a case where we are not bound to reveal it.[157]

He directs his attention to the matter on a more practical level again in the section entitled *Christian Politics.*

> *Quest* XVII. Doth an inward promise of the mind, not expressed, oblige?
> *Answ.* In a vow to God it doth; and if you intend it as an assertion obliging you in point of veracity, it doth so oblige you that you must lie. But it is no contract, nor giveth any man a title to what you tacitly thought of.[158]

He is somewhat less flexible on equivocation although he makes allowances for certain types of threatening situations such as being coerced into taking an oath by tyrants or thieves.

> *Quest.* V. Is all equivocation unlawful?
> *Answ.* There is an equivocating that is really lying...but there is a use of equivocal words which is lawful and necessary...1- When our equivocal sense is well understood by our hearers...2- When the equivocal sense is the most usual and obvious, and if it be not understood, it is the hearer's fault or extraordinary dulness...3- When a robber or usurping tyrant...shall seek to insnare my life by questions, I may lawfully answer him in such doubtful words, as purposely are intended to deceive him.[159]

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[157] Richard Baxter, *A Christian Directory* (Morgan, Pa: Soli Deo Gloria Publications), 361.

[158] Ibid., 831.

[159] Ibid.

Baxter, however, was an exception and few Protestant casuists sanctioned the use of mental reservation and equivocation.[160] Ames, for example says "*Mentall Equivocation* cannot be used in an Othe without a grievous Sinne....mentall Equivocation is a direct and manifest lye."[161] William Perkins, who reiterates Jeremiah 4:2 with "He that will take an Oath by the name of God must sweare *in truth, in judgement, and in righteousness*,"[162] also rejects forms of mental reservation and equivocation on the basis that it contradicts Jeremiah's dictum that an oath must be made in truth. Perkins sees mental reservation and equivocation as dissembling: "...we must know, that there is a double truth; the one, *of the things spoken*: the other, *of the mind* wherein it is conceived."[163] He defines judgment as "prudence or wisdome" requiring discretion and an awareness of five points:

> the thing in question...the nature of the oath...the minde and true meaning of him that sweareth...the particular circumstances of time, place and persons, when, where, and before whome, he sweareth...[and] the event or issue of the oath.[164]

Perkins defined justice as consisting of "two things. First that the point to be confirmed, be lawfull" so that it "may stand with pietie, and charity," and second, "that the occasions of taking the oath, be also just."[165] He cites four circumstances under which the "occasions of taking the oath" is just.

> When it may favor God's glorie [and] proove some doctrine of salvation, in whole or in part...When it

[160] Vallance, Oaths, Casuistry and Equivocation," 63.

[161] Ames, *Conscience with the Power,* V, 51.

[162] Perkins, " Whole Treatise" in *English Puritanist*, 140.

[163] Ibid.

[164] Ibid.

[165] Ibid., 141.

> may tende to the furtherance of brotherly love; or to the preservation of our neighbour's life, goods, or good name...when one sweares to maintaine his owne good name, goods, or life...when the magistrate doth extract it, by order of justice.[166]

Finally, Perkins repeats his admonition against mental reservation and equivocation.

> He which takes an oath...must swear according to the minde and meaning, of the Magistrate who exacts the oath, and not according to his owne private intent...he must not swear ambiguously...so as the words of his mouth, may be agreeable with that, which he conceiveth in his heart.[167]

He then defines mental reservation as a "popish" practice which occurs in times of danger, although even then not acceptable.

By contrast, Robert Sanderson makes little out of mental reservation and equivocation as being specific possible doctrines, but he does deal with ambiguity which he defines similarly to mental reservation in which the oath-taker "desireth only that the words be sworn, leaving it unto the judgement of the party swearing, to take them in what sense he pleaseth." [168] His response to ambiguity is clearly negative and he says that such an oath should be refused. He cites three instances, clearly reflective of the Jeremiah conditions of justice, truth and judgment, in which oaths should be refused, the first being simply that the oath-taker is accepting a falsehood. The second is that the oath-taker is entitled to the security of understanding the oath he is taking and the third is that a false oath would be a scandal and set a snare of falsehoods for all concerned.[169] He asks that the language of an oath be as specific as possible but that there also be a reasonably wide

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[166] Ibid.

[167] Ibid., 141-142.

[168] Sanderson, *De Juramento,* 211.

[169] Ibid., 212.

latitude of understanding. As an example, he uses the Oath of Supremacy, which he sees as "obligatory." The Oath of Supremacy had to be enacted, he writes, because the language of the Pope's claim to spiritual supremacy was too general and not specific.

> ...The cause of an oath was particular, yet the words are generall. For example, *Papall usurpation* was the cause of the oath of *Royall Supremacy,* he arrogating unto himself the exercise of Supreme Jusrisdiction *in spiritualibus*, throughout his Kingdome. I answer, such an oath is obligatory, according to the expresse words in the utmost latitude.[170]

It would seem that oaths in the seventeenth century functioned in tandem with individual conscience and, if an oath violated conscience, either wholly or in part, it was an unlawful oath and in effect, a commission of perjury. David Martin Jones avers that prior to the Reformation the issue of conscience was superseded by issues of honor and faith but with the Reformation and the "Christianization of the feudal bond of allegiance" there was a shift in the relationship between the master and the oath-taker. A "political conception of conscience, and its relationship to law and casuistry" as practiced in early-modern Europe emerged in England from "the Catholic problem," specifically militant Jesuitry, which posed a threat to the stability of church and state.[171] That this was a prevalent concern is indicated by Donne who, referring to certain Jesuit books, wrote that that they "abounded with trayterous and seditious *Aphorismes*...which exceeded all degrees of irreligion and inhumanity."[172] Olga Valbuena argues that by the end of the Elizabethan and beginning of the Jacobean periods, the English state's assault on the Roman church led to charges of heresy, tyranny and forfeiture of loyalties by the Pope on

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[170] Ibid., 214.

[171] Jones, *Conscience and Allegiance*, 35 ff.

[172] John Donne, *Pseudo-Martyr* (Delmar, N.Y: Scholars' Facsimile & Reprints, 1974), 354.

the basis that Elizabeth and James, by demanding compulsory agreement to a document that minimized Papal jurisdiction, had diminished the source of their subject's grace and salvation. The conflict divided the Jesuits who weighed the "efficacy of martyrdom" against those "casuistical texts [that] evaluated irreconcilable obligations" and which to the Jesuits, represented "temporal obligation to authority [that] outweighed the individual dissenting conscience...."[173] In other words, the Jesuits saw one of several choices, martyrdom or "Nicodemism, equivocation, and mental reservation," facing Catholics who were at variance with the Elizabethan Settlement doctrine of a free conscience, but the compulsory acceptance of the state religion.[174] It was, however, as difficult a set of choices for Catholics as it was for Protestants, to accept the idea that the mouth said one thing and the conscience another.[175]

There were all manner of oaths and vows, including commercial, legal and administrative, in which God was called to witness the transaction but for the most part the oaths that concerned casuistry were oaths of political and religious loyalty. The two oaths discussed above-- the oath embedded in Henry VIII's Act of Succession (1534), which provided for the succession of the crown to his and Anne Boleyn's children but which also reiterated the Act of Supremacy and proclaimed that his subjects, if called upon, had to swear an oath to recognize the act as well as the King's supremacy, and Elizabeth I's Oath of Supremacy (1559), which declared her, as it had declared her father, to be the only supreme governor of the Church of England-- set the tone and determined

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[173] Valbuena, *Subjects to the King's Divorce,* 27.

[174] Ibid. Nicodemism is named after Nicodemus, the Jewish ruler who came to Jesus at night in secret. (John 3:1-21.) In 16th century England it referred to a Catholic who pretended to be a conformist and, to avoid persecution, concealed his Catholicism: In the case of Protestants it referred to those Protestants who, for similar reasons, concealed their religion when living in another country.

[175] Zagorin, *Ways of Lying*, 151 152.

the nature of Jacobean oath-taking.[176] Moreover, both oaths influenced later subscriptions under James I, Charles I and Charles II. Although it was not couched in the form of an oath, it should be noted that in the same year of Elizabeth's Oath of Supremacy, 1559, Parliament also reenacted the Act of Uniformity, which instituted clerical vestments, crucifixes, church music and the like along with a revised edition of the second *Book of Common Prayer.* (It had first been enacted earlier under Edward VI and repealed under Mary I.) An actual oath had not been written into the act, but it made provisions for an offender to suffer severe penalties if the ceremonial aspects of the act was not carried out. It specified that the persons "lay and clerical" would have to "answer before God," which was tantamount to taking an oath.[177] The second Act of Uniformity and the third reenactment of the Act during the Restoration, provided a century-long basis for conflict between the Puritans and the Conformists. In opposition to the act, for example, Richard Baxter wrote several tracts including *The Defense of the Nonconformists Plea for Peace, or, An Account of the Matter of their Nonconformity*[178] and *The English Nonconformity as Under King Charles II and King James II. Truly Stated and Argued,*[179] as discussed in the previous chapter. Similarly, the Jacobean Oath of Allegiance (1606) was a basis for Catholic-Conformist, and later Puritan-Conformist conflict throughout the remainder of the seventeenth century.

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[176] Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 157.

[177] Gee, and Hardy, *Documents Illustrative of English Church History*, 458-467.

[178] Richard Baxter, *The Defense of the Nonconformists Plea for Peace, or, An Account of the Matter of their Nonconformity* (London: Printed for Benjamin Alsop, 1680), Passim. Wing/B 1238. Copy from the Bodleian Library.

[179] Richard Baxter, *The English Nonconformity as Under King Charles II and King James II. Truly Stated and Argued* (London: 1689), Passim. Wing/B 1259. Arber's Term cat./ II 247. Copy from the British Library.

The Jacobean Oath of Allegiance (1606) was a controversial document that enjoyed European-wide argument and resembled the Elizabethan and Henrician oaths in that all three called for a repudiation of the power of the papacy and gave rise to a troubled and troubling recusancy. It also brought forth numerous references and in some instances writings from the casuistical community. It is an important chapter in the discussion of casuistry on the basis that those who declined the oath did so as a matter of conscience.[180] Thus, it is valuable to look at the history of the Jacobean Oath of Allegiance and following that, John Donne's *Pseudo-Martyr*, a major contemporaneous work on the Oath. The oath was the target of assault from Jesuits and Puritans alike and its defense provided a casuistical frame of reference which served to set a standard for oath-taking throughout the seventeenth and first half of the eighteenth centuries.[181] The Oath asked all Catholics to swear that James VI and I

> is the lawful King of this Realme...and that the *Pope* neither of himselfe, nor by any authority of the Church or Sea of *Rome*...hath any power or authority to depose the King....And I doe further swear, That I doe from my heart abhorre, detest and abiure as impious and Hereticall, this damnable doctrine and position, that Princes which be excommunicated or deprived by the *Pope*, may be deposed or murthered by their Subjects...[182]

The crucial aspect of the oath is that it directed all Catholics to full religious conformity.[183]

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[180] Slights, *Casuistical Tradition*, 144 145.

[181] Jones, *Conscience and Allegiance,* 12.

[182] James I, King of England, *The Political Works of King James I*, with an Introduction by Charles Howard McIlwain (Cambridge: Cambridge University Press, 1918), 73.

[183] M.C. Questier, " Loyalty, Religion and State Power in Early Modern England: English Romanism and the Jacobean Oath of Allegiance," *The Historical Journal,* 40, 2 (1997): 321.

Variations on the seventeenth-century oath of allegiance had been in existence in England since the eleventh century and bound all subjects from the age of twelve years[184] The Jacobean Oath of Allegiance precipitated a bitter, decades-long controversy grounded in historical argument. It was seen by some contemporaneous writers as part of a continuum harking back to the ancient oaths of feudal fealty.[185] The anonymous author of *The Present Case Stated or The OATHS of Allegiance and Supremacy no Badges of Slavery* (1689) draws a trajectory from the oaths of fealty which he sees as models for the Henrician and Elizabethan oaths of Supremacy to the Jacobean Oath of Allegiance. After discussing the Oath of Supremacy, the anonymous author turns to the Elizabethan Oath of Supremacy and writes

> So that the *Oath of Supremacy* did but enforce the Ancient *Oath of Fealty,* with an acknowledgment of the Queen's Supreme Authority in *Ecclesiastical* Causes and things, as well as *Temporal,* and a renunciation of all *Foreign* Jurisdictions; so the *Oath of Allegiance* does but enforce the same *Old Oath of Fealty,* by obliging the subjects of *England* expressly to disowne any Lawful Authority in the *Pope* or *See of Rome* to dispose, invade or annoy the King.[186]

The author supports his argument by saying that he will "begin with a very Ancient Precident in the Kingdom of the *West-Saxons*" and discusses the oaths of allegiance taken to such kings as Cudred, Siegbert and others, including William the Conqueror and John.[187]

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[184] Valbuena, *Subjects to the King's Divorce*, 22.

[185] Anonymous, *The Present Case STATED: or, the OATHS of Allegiance AND Supremacy no Badges of Slavery* (London: Printed for R. Baldwin, 1689), 8. Wing / P3237. Copy from Union Theological Seminary. It should be noted that although the publication date is 1689, the author makes clear that he is discussing the Jacobean Oath of Allegiance on Page 5. It is in all likelihood a later edition.

[186] Ibid.

[187] Ibid. 5 ff.

The Jacobean oath was instituted in 1606 after the incident of the Gunpowder Conspiracy and reworked again in 1609. It further exacerbated tensions between James I and the Pope which had been aggravated by the Gunpowder Plot in 1605 when government authorities uncovered a secret plan to blow up the Houses of Parliament, including James, the Queen and his first son.[188] Among the purposes of the Oath of Allegiance was to separate the conspirators from the loyal Catholics, by formally calling for their civil obedience and willingness to repudiate the supremacy of the Pope over the King.[189] Essentially, James was calling for a secular rather than religious allegiance, however, he was also questioning the spiritual authority of the Church of Rome and assuming that such authority was his right.[190] C.H. McIlwain called the oath,

> ...the mightiest renewal of the old quarrel between church and state under the changed conditions imposed by the rise of national states and the schisms which the Reformation had produced.[191]

However, rather than simply considering the enactment of the oath as a response to the Gunpowder affair on the parts of members of a Puritan parliament, McIlwain also suggests that there were two other causes. The first was James' views on church and state in which he believed that the magistrate is the supreme governor of both. Second was the influence on James of two courtiers, Robert Cecil, Earl of Salisbury, and Richard Bancroft, Archbishop of Canterbury (1597-1604). Both men supported an anti-Spanish policy on the basis that the daughter of Philip II had a theoretical claim to the English

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[188] Valbuena, *Subjects to the King's Divorce,* 40.

[189] Kenneth Fincham and Peter Lake, "The Ecclesiastical Policies of James I and Charles I" in *The Early Stuart Church: 1603-1642,* ed., Kenneth Fincham (Stanford, Ca.: Stanford University Press, 1993), 29.

[190] Francis Jacques Sypher, "Introduction" to John Donne, *Pseudo-Martyr* (Delmar, N.Y: Scholars' Facsimile & Reprints, 1974), 1 (np.)

[191] Charles H. MacIlwain, "Introduction" to James I, King of England, *The Political Works of King James I* (Cambridge: Cambridge University Press, 1918), lvi.

throne which, in turn engendered an unremitting anti-Catholic sentiment. It also fed into the virulent anti-papal policy that went back to the reign of Elizabeth I.[192]

The controversy surrounding the Oath of Allegiance was, in part, a consequence of the fact that it was so large an intrusion on individual conscience.[193] The basic conflict in the oath was a choice for Catholics between heresy and resistance to magistracy. If Catholics took the oath they could be branded by the Roman church as schismatics or heretics for swearing fidelity to a potentially excommunicated King; if they refused they could theoretically be accused of treason by the English state and executed.[194] M.C. Questier suggests that the Jacobean Oath of Allegiance should be understood as "an essay in the exercise of state power" that engendered destructive consequences for the dissenting Roman Catholic community and it, rather than being a simple call for Roman allegiance, was a mechanism for controlling a nonconformist faction within the state.[195] From its inception, the oath was a component in the Jacobean conformity system that intended to impose financial hardships on those of the recusant community who failed to attend the national church on a regular basis. It reinforced anti-recusant legislation and aided the Jacobean bureaucracy's efforts to enforce that legislation.[196] This despite that some historians see the Catholic dissenters as a moderate group and the Oath of Allegiance as little more than an accommodation to the regime, also moderate in character.[197] Questier however argues that the Catholic faction, while for the most part

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[192] Ibid., xlx-lvi.

[193] Spurr, "Strongest Bond of Conscience" in *Contexts of Conscience*, 157.

[194] Valbuena, *Subjects to the King's Divorce*, 22.

[195] Questier, " Loyalty, Religion and State Power," 311.

[196] Valbuena, *Subjects to the King's Divorce,* 24.

[197] Fincham and Lake, "Ecclesiastical Policies," 29.

temperate and loyal, had the potential for violence as the Gunpowder Plot indicated and that James' policy was seemingly tolerant only because it lacked the administrative systems to effectively impose its will on the Catholics. Questier's contention is that the Oath was "the most destructive anti-Romish act of state since the Elizabethan Restoration and"[198] that it was the king's intent, which was ultimately successful, to sow dissension among the clergy and the Jesuits.[199] Eventually, the Oath divided not only the pro-papal clergy but the loyalist clergy as well. Along with the repudiation of the Pope's authority, Catholic clergy interpreted the oath as giving James the power to determine doctrine although Protestant clergy believed his authority was over the church's temporal existence only. However, the ideological basis of the Oath was derived from the doctrine that the authority of majesty was supreme in both spiritual and temporal realms.[200] The oath also had a subcontext that divided families. The subsequent Act for Administration of the Oath of Allegiance and the Reformation of Married Women Recusants (1610) conferred authority on the husband as the determining factor in a family's compliance. Further, the husbands of recalcitrant wives and their children from the age of nine forward were fined and barred from holding public office.[201]

The controversy surrounding the oath was precipitated by the Pope and taken up by the King. Pope Paul V published two papal Breves, the first in 1606 admonishing Catholics to, among other considerations, "abstaine from taking this and like

[198] Questier, "Loyalty, Religion and State Power," 318.

[199] Ibid., 312-314.

[200] Ibid., 321.

[201] Valbuena, *Subjects to the King's Divorce,* 24

Oathes...[even though]...you will cheerfully under-goe all kinde of cruell torments,"[202] to which James replied, also among other points, that the Pope was "sowing seeds of ielousie between me and my Popish Subjects."[203] The English Archpriest George Blackwell, head of the Catholics in England since 1598 to whom the Breve was also sent, withheld the Pope's Breve from his people. A second Breve was issued in 1607, again commanding Catholics to not take the oath. As it happened, Blackwell had been captured and detained by the law in 1607 and had taken the oath and agreed to its acceptance by other Catholics.[204] James published both Breves, his responses, and the correspondence between Blackwell and the Jesuit Cardinal Bellarmine[205] under the full title, *Triplici Nodo, Triplex Cuneus, or An Apologie for the Oath of Allegiance. against the two Breves of Pope Paulus Quintus and the Late Letter of Cardinal Bellarmine to G. Blackwell the Arch-Priest of London*, in which James made several references to Blackwell's sanctioning of the Oath. In the Bellarmine letter, the Cardinal articulated the theory that the pope's power was indirect, which meant that there should be a separation between the spiritual and secular aspects of kingship. This was not acceptable to the Catholic left which rejected temporal powers although it was accepted by the Jesuits. The doctrine also included that it was the right and duty of a pope to depose an heretical king and, in turn, to absolve the king's subjects from their Oath of Allegiance. In that case, the pope could marshal an army and enforce the judgment by foreign invasion, a doctrine that had already, albeit ineffectively, been put forth in 1533 in the Papal bull excommunicating

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[202] James I, *Political Works,* 74. Both papal Breves appear in the *Political Works,* translated from the Latin with their respective responses by the King, under the chapter heading of "An Apologie for the Oath of Allegiance."

[203] Ibid., 72.

[204] Valbuena, *Subjects to the King's Divorce* , 58.

[205] MacIlwain, "Introduction" to *James I,* lx

Henry VIII and again in 1570 in the papal bull deposing Elizabeth I.[206] Bellarmine also added that that there was no reason that the

> Authoritie of the head of the Church in *England,* may bee transferred from the successour of *S. Peter*, to the Successour of King *Henry the Eight:* For that which is pretended of the danger of the Kings life...For it was never heard of from the Church's infancie untill this day, that euer any *Pope* did command, that any Prince, though an Heretique...should be murdered...[207]

James' answer to Bellarmine was that Bellarmine was sowing sedition among those who had already taken the Oath.

> ...to finde out a mischiefe for our Catholikes heere, he hath found it in this: that now when many Catholikes haue taken the Oath...the Arch-priest himselfe, without compunction... shall not now onely be bound to refuse the profession of their naturall Allegiance to their Soueraigne...but they must now renounce and forsweare their profession of obedience alreadie sworne...Cardinall Bellarmine, must adde his talent to this good worke, by blowing the bellows of sedition.[208]

From the *Apologie* forward, a flurry of books , letters and correspondence on the subject of the Oath followed. Bellarmine again responded to James. A new edition of the *Apologie* was published in 1609 accompanied by a long tract by James, entitled *Premonition to All Most Mightie Monarch, Kings, Free Princes and States of Christendome*, which warned against the loss of authority and temporal powers. Almost every Catholic theologian of note, including the faculty of the University of Paris, joined the controversy and by 1609, important Protestant theologians and academics like Launcelot Andrewes and William Barlow had also written books and pamphlets on the

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[206] Ibid., xlix –xlx.

[207] James I, *Political Works,* 82 83.

[208] Ibid., 81-82.

controversy. As McIlwain notes, writing an apologia defending the oath became a means of achieving "ecclesiastical or academic preferment."[209]

Such was in all likelihood the case for John Donne who, as Izaak Walton relates had been hoping that King James would confer upon him "some secular employment - to which his education had apted him."[210] Seemingly toward that end, Donne wrote *Pseudo-Martyr*, an apology for the Oath of Allegiance. Arguable though it may be, *Pseudo-Martyr* is among the seminal, contemporaneous, casuistical works on oath-taking in the seventeenth century. It consists of 435 pages of conscience-centered detail, defending the King's right to demand the Oath of Allegiance from his subjects. It is also one of Donne's two existing works of casuistry.[211] According to Walton, the King spoke to Donne about the many arguments

> that concerned the oath of supremacy and allegiance...his majesty commanded him to bestow some time in drawing the arguments into a method, and then to write his answers to them; and, having done that not to send, but be his own messenger and bring them to him.[212]

On the basis of the book, the King decided, as he had on previous occasions, to deny Donne the secular employment he always wanted but encouraged him to join the ministry. Donne did and was granted the Dean of St. Paul's.[213] It is important to look at *Pseudo-Martyr* in detail because it synthesizes many of the arguments against the Oath of Allegiance and attempts to counter them with conscience-related resolutions.

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[209] MacIlwain, "Introduction" to *James I,* lx-lix.

[210] Izaak Walton, *The Lives of John Donne, Henry Wotton, Mr. Richard Hooker, Mr. George Herbert and Dr., Robert Sanderson* (London: Methuen and Co., 1895), 21. Similarly, most biographies of Donne bear out Walton, in that Donne kept trying to obtain a preferment from James I but failed. See: Edmund Gosse, *The Life and Letters of John Donne*, 2 vols. (London: Riverside Press, 1899.)

[211] Slights, *Casuistical Tradition*, 144

[212] Walton, *Lives,* 20.

Francis Sypher argues that Donne's title, *Pseudo-Martyr,* which means false witness, is a reference to a quotation from Paul; 1 Corinthians 15:15[214] and indeed Donne uses a marginal cross reference to the biblical chapter when he writes,

> Saint Paul saith of himself, *I die daily...He merited the Crowne of Martyrdom. a thousand times in his purpose and disposition,, and was slain for God a thousand times.*[215]

The words "false witness" also appear in Matthew, Mark and Luke in the plausible, prophetic contexts of not bearing false witness. Donne makes an allusion to Mark in the same paragraph.

> And the Persecutions are not onley part of the Martyrdome, but they are part of the reward: For S. Marke...expresses Christ thus: *No man shall forsake anything for my sake, but he shall receive a hundred folde now at this present, house...So that Christ promises a reward but not to take away the persecution.*[216]

However, Donne argues his own idea of false martyrdom in chapter seven, somewhat speciously, that since the King had offered mercy to those taking the oath, dying for not taking the Oath meant dying for not accepting the King's mercy. He says,

> Since some of you, at your executions...have added this to your comfort, and glory of Martyrdome, *That because the King's mercie hath beene offred you, if you would take the Oath, therefore you die for refusing the same.*[217]

In the same paragraph Donne claims that the refusal to take the oath is an act of treason.

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[213] Ibid., 21.

[214] Donne, *Pseudo-Martyr* 5 (np.) The biblical quotation is: Yea and we are found false witness of God; because we have testified of God that he raised up Christ; who he raised not up, if so be that the dead rise not. KJV

[215] Ibid., 7.

[216] Ibid.

[217] Ibid., 202.

Slights argues that *Pseudo-Martyr* is one of two of Donne's existing works of casuistry, the other being *Biathanatos*, which holds the notion that suicide can be judged as either sinful or acceptable. In the instance of *Pseudo-Martyr* she sees it as a work of casuistry because Donne defends the Oath of Allegiance almost entirely in terms of conscience. It is also a political discussion centered on conscience.[218] Donne was himself born into a Catholic family and knew of various relations who had been imprisoned and possibly tortured, including his forebear Sir Thomas More.[219] The Romanist propaganda of martyrdom and the undercurrents of resistance to a Protestant King that certainly had an affect on his childhood, escaped him as an adult and he emerged as a bearer of scorn for things Roman.[220] Despite that he says he was,

> ...derived from such a flocke and race, as, I beleeve, no family...hath endured and suffered more in their persons and fortunes, for obeying the Teachers of Roman Doctrine, that it hath done.[221]

Donne grounds his defense on the degree of authority that Papal Breves carry and shows how the language of the oath neither counters the Pope's, *"Spiritual Iurisdiction"* nor usurps his *"Spiritual right, either by prejudicating his future definition, or offending any former decree."*[222] The heart of Donne's argument appears to lie in Chapter 12, the final chapter before the conclusion.

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[218] Slights, *Casuistical Tradition,* 144-145.

[219] Sir Thomas More was the uncle of John Donne's grandmother. See: Olga Valbuena, *Subjects to King's Divorce,* 22.

[220] Valbuena, *Subjects to the King's Divorce,* 62.

[221] Donne, *Pseudo-Martyr,* np. 1st page of the *Advertisement to the Reader.*

[222] Donne, *Pseudo-Martyr,* 347.

> All the substance of the *oath* is virtually comprehended in the first proposition, *That King James is lawfull King of all these Dominions*; The rest are but declarations, and branches...from that roote. And as that *Catholique* which hath sworne or assented, that*Paul the fift* , is Pope canonically elected, hath implicitly confessed, that no man can divest or despoil him of spiritual jurisdiction, which God hath deposed in him, nor of those temporall estates, which by just title his predecessors professed...so that subject which swears King *James* to bee his true and lawful King, obliges himself therein to all obedience... For if a king be a king upon this condition, that the Pope may upon such cause as seems just to him, depose him, the king is no more a *Souveraigne*, then if his people might depose him, or a Neighbor king might depose him.[223]

Throughout *Pseudo-Martyr*, Donne attacks the Jesuits. He criticizes their reliance on relics which he claims fosters a culture of false martyrdom.[224] He further accuses Jesuit casuistry of being an agent of false martyrdom causing men to suffer and die.

> *That in the Roman Church the Iesuites exceed all others, in their Constitutions and practice, in all those points, which beget or cherish this corrupt desire for false-Martyrdom...*[225]

In the same chapter, to which the above is the heading, he accuses the Jesuits of practicing a false moral divinity but, possibly in recognition of his own use of casuistic thought, he notes that casuistry goes back further than the Jesuits. Stating that the doctrine of the Jesuits is to do the Pope's will, thus making them "the enemies to the dignitie of all Princes,"[226] Donne writes

> How fast this infection works in them...it appears evidentially, that there are extant more Authors of that one Order, that have written of...the Iurisdiction of Princes than of all the rest, since their beginning. For their *Casuists*,

[223] Ibid., 357-358.

[224] Valbuena, *Subjects to the King's Divorce,* 62.

[225] Donne, *Pseudo-Martyr*, 119.

[226] Ibid., 143.

> which handle *Morall Divinitie*, and waigh and measure sinne (which for all that perplexitie, we may not condemne too hastily, since in purest Antiquitie there are lively impresions of such a custome in the Church, to examine with some curiositie the circumstances , by which sinnes were aggravated or diminished) doe not only abound in Number, especially of the *Spanish* Nation, but have filled their bookes with such questions are these, *How Princes have their Iurisdicion, How they may become Tyrants, What is lawfull to a private man in such a case,* and of like seditous nature.[227]

Supporting her argument of *Pseudo-Martyr* as being one of Donne's two works on casuistry, Slights makes the point that Donne questions the use of probabalism as a justification for taking the Oath of Allegiance. Toward that end, Donne quotes one of the Roman Summists, whom he identifies as Carbo.

> *There is no matter so waighty, wherein it is not lawfull for me to follow an opinion that is probable, though I leave the opinion which is more probable: yea though it concerne the right of another person:* as in our case of obedience to the *King* or *Pope* and then wheresoever I may lawfully follow an opinion to mine advantage, if I will leave that opinion with danger of my life or notorious losse, I am guilty of all the damage I suffer...the reasons *Carbo* builds this doctrine of following a *probable* opinion and leaving a more *probable*, which are, *That no man is bound...by necessitie as by Counsell:* And that this Doctrine...*delivers godly men, from the case and solicitude of searching out, which is the more probable opinion,* shew evidently, that these Rules give no infallible direction to the conscience, and yet in this matter of obedience, considering the first native certaintie of subjection to the King, and then the damages by the refusall to sweare it, they encline much more to strengthen that civill obedience, than that other obedience which is plainly enough claimed, by the forbidding of this Oath.[228]

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[227] Ibid., 144.

[228] Donne, *Pseudo-Martyr,* 230-231.

Supported by scripture and natural law, Donne's argument that if a lawful sovereign could be stripped of his sovereignty it would diminish the majesty of all kings, is strong, however, his argument in favor of Catholics taking the Oath is unconvincing. It is a complicated argument that is based on the Protestant notion that the

> authority which is imagined to be in the Pope, as he is Spiritual Prince, of the Monarchy of the Church...first, because the Doctrine itself is not certaine, nor presented as a matter of faith...there is no Definition of the Church which would make it so.[229]

Further, Donne reiterates that there is nothing heretical for Catholics in taking the oath and that using heresy as an excuse is breaking the law.

> The *Imperiall* Law layes an imputation upon that man... that he is as guilty as be, which breakes the law. For he which picks a quarrell with a law, by pretence of an ambiguous word, declares that he would faine escape the obligation thereof.[230]

Donne's book appeared to have gone largely unnoticed when written, except by Walton, who does not talk about the book's contents. Considering the enormity of the controversy, and King James' favorable reaction, it elicited surprisingly few responses. In 1610, John Boys, Dean of Canterbury, mentioned it briefly in the *Exposition of the Dominicall Epistles and Gospels Vsed in our English Liturgie,* and in 1613, Thomas Fitzherbert, a Catholic writer commented on some of its passages in *A Supplement to the Discussion of M. D. Barlowes Answer to the Iudgement of a Catholicke Englishman* as did a few other Catholics of the period.[231]

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[229] Ibid., 246-247.

[230] Ibid., 384.

[231] Sypher, "Introduction" to John Donne, *Pseudo-Martyr*, 6 (np.)

The Catholic reaction to oaths of allegiance was embedded in the past. Elliot Rose suggests that the notion of Catholic Rebellion as being a real possibility died with the execution of Mary, Queen of Scots but the fear of papal encroachment on English soil harks back to Henry VIII's Oath of Supremacy and ensuing policies of *praemunire*. It was still the case in the reigns of Elizabeth and James. In the last decades of Elizabeth's reign, prosecution although rarely attempted, was nonetheless an ever-present danger that lasted until James I came to the throne and with his accession came high hopes for Catholic toleration and indeed the hopes were justified but the reality was disappointing.[232] James, although the son of Mary Stuart, had been a tolerant king in Scotland; the Pope had not tried to excommunicate or depose him as had been the case with Henry and Elizabeth; and he needed to maintain a policy of peace with Spain. Still, recusancy laws carried fines and new laws were made that entailed fines for missing communion. To be a seminary priest was to risk treason although few executions for such took place and if a young lady wanted to become a nun, it was difficult but possible.[233] In all, it was a tolerable existence for which a Catholic paid his fines and lived with his neighbors against a background of impending danger and an Oath of Allegiance, that for the most part appeared to contain a measure of moderation although how moderate was open to question. [234]

Many English lay Catholics ignored papal pressures and took the oath but others, particularly a group of influential Jesuits, as M. C. Questier points out, reacted violently

[232] Elliot Rose, *Cases of Conscience: Alternatives open to Recusants and Puritans under Elizabeth I and James I* (Cambridge: Cambridge University Press, 1975), 52-55.

[233] Ibid., 55-56.

against it, seeing it as an intolerable invasion of conscience and causing a damaging rift in the recusant community.[235] James, as noted above claimed that the oath was meant to separate the moderate Catholics from the radicals, however, those who were listed as radicals included the Catholic clergy and lay apostates from Protestantism.[236] In the end, however, James' policy produced scant change in the lives of English Catholics. Fines for recusancy were still exacted on many Catholics who had taken the oath. With the consent of the King, a drive against recusancy took place after the assassination of Henry IV of France in 1610. Most telling though, was the fact that there were numerous crypto-Catholics at James' court, and it was clear that high preferments were available to those that conformed.[237] Their presence confirms Questier's theory that the wording of the oath was "meant to point Roman Catholics toward full religious conformity."[238]

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[234] Ibid., 56-57.

[235] Questier, "Loyalty, Religion and State Power, 313.

[236] Ibid., 318.

[237] Fincham and Lake, "Ecclesiastical Policies." 29.

[238] Questier, "Loyalty, Religion and State Power, 321.

CHAPTER FIVE.

CASUISTRY AND OATH-TAKING FROM 1640-1660.

The general, ethical structure of moral obligation arising from oaths and vows had barely changed from the days of the Stoics to the seventeenth century. Where it did change was in the details. In the third book of Cicero's *De Officiis,* Cicero argued that the duty to honor an oath is absolute and that no benefit can accrue to justify breaking an oath. For Cicero, God was not an issue, and fear of divine punishment was of less importance than the societal implications of mistrustful relations between subject and governor.[1] By the seventeenth century, God and fear of divine retribution were urgent issues, but of almost equal importance for English casuistry was the notion that there was an almost equal obligation on the parts of some casuists to preserve the welfare of the state and its government.[2] It is the central focus of the argument that John Dury, a casuist of strong Calvinist leanings, used to convince resisters to take the Engagement oath of 1650, further detailed below.[3]

Throughout the seventeenth century in England, both the clergy and laity found themselves faced with inordinate demands to take an oath, a pledge of allegiance or vow of loyalty to king, country or church. From the early 1640s to the end of the decade, they were offered the Et Cetera Oath, which called for not consenting to any alteration in the existing episcopacy; the Negative Oath in which the King's subjects were sworn to not

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[1] Cicero, Marcus Tullius, *Cicero, De Officiis*, 21 vols. trans., Walter Miller, (Cambridge: Harvard University Press [Loeb Classical Library Latin Authors] 1913), III, 51-57, 99-113.

[2] David Martin Jones, *Conscience and Allegiance in Seventeenth Century England: The Political Significance of Oaths and Engagements* (Rochester, N.Y.: University of Rochester Press, 1999), 2-3.

[3] John Dury, *Considerations Concerning the Present Engagement: Whether it may lawfully be entered into; Yea or No?* (London: 1649), Passim.

aid the King in his fight against Parliament; the Solemn League and Covenant which tried to establish religious unity through a Presbyterian form of church government and the Engagement Oath which asked for loyalty to a Commonwealth without King or Commons. Citing a letter from Thomas Washbourne to Robert Sanderson regarding the Engagement Oath, Camille Wells Slights suggests that during the 1650s a new dimension of political theory emerged in England in which both hereditary right and popular consent gave way to the possession of power. She notes that the theory was proposed by three divines: Anthony Ascham, author of *A Discourse: Wherein is Examined what is particularly Lawfull during the Confusions and Revolutions of Government* (1649); Francis Rous, author of *Psalms Translated into English Metre* (1646), former Provost of Eton and MP from 1625-1650; and John Dury, who wrote three counter-rebuttals to objections to the Engagement Oath. Their concern was to "justify the status quo and prevent further civil turmoil."[4]

For the moment, however, the fundamental argument was that indeed the government had power and it was therefore the subject's duty to obey. The power of government presupposed the obligation of its subject's obedience in exchange for the performance of essential functions in their lives. In turn, government was entitled to the protection of its claim to sovereignty. In other words, authority emerged from power and possession and replaced authority based on precedent. This opened the question, from where does authority come. Anthony Ascham answers with

> the people must be contented with those governors,
> into whose full posession, it is our destiny to fall...
> We are bound to owne Princes so long as it pleases
> God to give them the power to command us, and when

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[4] Camille Wells Slights, *The Casuistical Tradition* (Princeton: Princeton University Press, 1981), 46.

> we see others possest of their powers, we may then say, that The King of Kings hath chang'd our Vice-Roys.[5]

It would appear that when the king loses absolute power, the reality must be acknowledged that he has also lost his subjects' allegiance, if for no other reason than by act of providence. In the end, however, for all English casuists, oaths that were political and ecclesiastical in nature largely posed two considerations: The first was to what extent did a subscription bind the subscriber and the second, to what degree should the fear of losing one's benefice, from which a clergyman can also do a measure of good, or of suffering physical harm warrant agreeing to an ill-gotten oath.

The years of the English Civil War and the period that led up to it were years in which religious and political controversy called for fundamental justifications of shifting patterns of moral thought. Issues of oaths and vows and the extents to which they were binding were of concern to the English casuists. Richard Baxter for example, wrote about oaths in *A Christian Directory.* Robert Sanderson, at the instigation of Thomas Washbourne wrote a rebuttal to the Engagement Oath, *The Case of the Engagement*, discussed in detail below, in which he argues the political implications of the oath, uses historical and scriptural references as supporting evidence, and accounts for Godliness as a necessary, ubiquitous component in both the argument and its resolution. Sanderson also wrote an important work on the subject of Episcopacy, which he defends on the basis that the Henrician and Elizabethan Oaths of Supremacy are continuously and historically binding. Jeremy Taylor wrote a parallel work on the same subject under similar circumstances, which is discussed below along with Sanderson's work. Much of the

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[5] Ascham, Anthony, *Of the Confessions and Resolutions of Goverment* [sic] *wherein is examine how farre a man can lawfully conforme to the powers and commands of those who with various successes hold kingdomesdivided by civill*

writings of the casuists discussed from here on in emphasize their theological concerns but do so against a background of political coercion, meaning that the controversies for them were religious arguments, but they were also forced to participate in contemporaneous political events that were the consequences of swearing an oath.

Most of this chapter will deal with casuistry from 1640-60 and emphasize the controversies of episcopacy, prelacy, and the Book of Common Prayer within the framework of four oaths: The Negative Oath, Solemn League and Covenant, Et Cetera Oath and the Engagement Oath. That is not to say that casuistry and oath-taking were not issues after the Restoration. Indeed they were. However, almost all of the casuists other than Richard Baxter had already completed their major writings by 1660 and the nature of casuistry, as discussed in chapter two, took a radical turn toward increasing toleration on both the parts of the state and church. This chapter will concentrate on the writings of Robert Sanderson, Jeremy Taylor, Richard Baxter and John Dury, one of the lesser Puritan casuists (discussed in the second chapter), all of whom were writing between 1640-60, and some like Baxter into the 1690s. They were all directly affected by the political events of the period. Dury, a non-conforming Puritan and a member of the Dedham classis, is included for purposes of contrast. His writings, *Considerations Concerning the present Engagement whether It may lawfully be entered into; Yea or No?* (1649) and *Objections Against The Taking of the Engagement Answered or Some scruples of Conscience. which a godly Minister in Lancashire did entertain against the taking of the Engagement* (1650) were in support of the Engagement Oath, as opposed to Sanderson who rejected the oath. Richard Baxter wrote about oaths in *A Christian*

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or foraigne warres...(London: Printed by W. Wilson, 1649), 99. Also cited in: Camille Wells Slights, *The Casuistical Tradition*, Princeton: Princeton University Press, 1981. p. 47.

Directory, which was started in 1654 but refers back to the 1640s, and also in *A Treatise of Episcopacy,* which was published in 1680 but concerns events of the 1640s. This chapter will discuss Sanderson in greater detail than the other casuists because of his extensive writings on oaths and vows. Sanderson was interested not only in specific oaths but also in the moral implications of oath-taking and the function and nature of oaths in a social context. In light of this, Sanderson will also be used as a point of comparison to Taylor, Dury and Baxter.

Sanderson wrote *De Juramento*, which appears to be the only complete casuistical work entirely dedicated to oath-taking. He also wrote *The Case of the Engagement*, a case of conscience based on correspondence between Sanderson and Thomas Washbourne, Vicar of Dumbleton, concerning the Engagement Oath. In addition, Sanderson wrote *Episcopacy (As established by Law in England Not Prejudicial to Regal Power)*, published in 1661, which was, as the title page notes, *A Treatise Written in the Time of the Long Parliament.* It involved the breaking of an oath already taken. Sanderson, as has been pointed out in the second chapter, was politically a conformist, who defended divine right and non-resistance to magistracy but was theologically a Calvinist.[6]

His life, as discussed in the third chapter, was affected by the Negative Oath (1642), Solemn League and Covenant (1644), and Engagement Oath (1650), all of which he rejected. In 1642, the year of the Negative Oath, Sanderson was appointed Regius Professor of Divinity at Oxford. However, the troubles of the early years of the Civil War reached Oxford and Sanderson did not perform any of his duties until 1646 and then only for a short time, since he refused the Solemn League and Covenant. In 1648 he suffered

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[6] Peter G. Lake, "Serving God and the Times: The Calvinist Conformity of Robert Sanderson." *Journal of British Studies* 27:2 (April, 1988): 81 ff.

the consequences of rejecting the Solemn League and Covenant and was removed from his chair. At the same time he lost his living as rector of Boothby Paynell. Before that, however, in 1642, according to Izaak Walton, the King had been taken prisoner and was on the Isle of Wight, Laud had been beheaded (murdered, in Walton's words) and Parliament, in the absence of Royalist power, sent the Negative Oath and Solemn League and Covenant to its subjects, giving them only a limited time in which to take the oath or be treated as spies. Sanderson registers his dismay with

> ...and I know not what more, to be taken by the
> Doctor of the Chair [Sanderson] and all Heads of Houses...
> were all to take these oaths by a fixed day, and
> those that did not, to abandon their colledge and
> the university too, within 24 hours after the
> beating of a Drum; for if they remain'd longer,
> they were to be preceded against as spies.[7]

Sanderson posits two theses, which appear with constancy throughout his writings on the Negative Oath and the Solemn League and Covenant, that appear to him to be inherent in the nature of oath-taking. The first is that political oaths have historical precedents that can go back as far as Magna Carta in making their claims on contemporaneous consciences, and the second is that a political oath must be an act of Parliament for it to be a legal oath.

Although they were separated by two years, the Negative Oath (1645) and the Solemn League and Covenant (1643) were seemingly independent parts of the same oath. They were printed at the same time in 1647, some three years after the Negative Oath was offered and one year after taking the Covenant was required. However, Sanderson treats both, along with the Ordinances, as a unified interdependent work. The Negative

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[7] Izaak Walton, *The Lives of John Donne, Sir Henry Wotton, Richard Hooker, George Herbert & Robert Sanderson.* (London: Metheun, 1895), 253.

Oath simply said that the recipient swears to *not*, either directly or indirectly, aid the King in the war or in his cause against Parliament, nor to raise any forces without the consent of both Houses of Parliament. In addition, the recipient also had to swear to submit to the power and protection of Parliament and that he had no designs to prejudice any proceedings.[8] Sanderson's answer is surprisingly short and to the point. He refuses the Negative Oath for two reasons: 1) It would cause him to forfeit the liberty which he has already sworn to preserve, and 2) he was not obligated to accept an "oath not established by Act of Parliament without abjuring our national Allegiance, and violating the Oaths of Supremacy and Allegiance by us formerly taken."[9] As for the clause in the Negative Oath that states, "I, A. B., do swear from my heart that I will not directly nor indirectly adhere unto or willingly assist the King in this war..."[10] Sanderson replies that there cannot be more than one power in force and that it is unlikely to be the "two Houses of Parliament."[11]

The Solemn League and Covenant, however, was a far more important document and one to which Sanderson gave more attention, most likely because the implications of its contents reached deeply into the roots of episcopacy. It paved the road to Commonwealth. The Solemn League and Covenant was arguably the seminal document of the English Civil War and one that finally and irrevocably appeared to separate the Royalists from the Puritans. It isolated the Presbyterians from non-Presbyterian Puritans

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[8] Paraphrased from the Oath itself which is printed in Robert Sanderson's pamphlet, *REASONS of the present Judgement of the University of Oxford concerning The Solemne League and Covenant. The Negative Oath. The Ordinances concerning Discipline and Worship.* ([London s. n.]1647), NP.

[9] Robert Sanderson, *Reasons of the Present Judgement...* ([London s. n.]1647), 31.

[10] Samuel Rawson Gardiner, *The Constitutional Documents of the Puritan Revolution: 1625-1660* (Oxford: Clarendon Press, 1906), 289.

[11] Sanderson, *Reasons of the Present Judgement*, 31.

because the document was centered around the Presbyterian structure of church government.[12] Parliament had issued it the year before its losses at the battles of Cropredy Bridge and Lostwitheil in 1644, an indication that Parliament needed Scotland's help in its struggle with Charles I.[13] The document called for everyone above the age of eighteen to swear to uphold it. It was further ordered that a copy be displayed in all churches. It is a complex document consisting of seven covenants that call for the preservation of the Reformed Religion in the Church of Scotland and to make the liturgy uniform in Scotland, England and Ireland.[14] The second clause, which is at the heart of the Covenant, at least for Sanderson, instructs the oath-taker to

> endeavor the extirpation of Popery, Prelacy (that is, Church Government by Archbishops, Bishops, their Chancellors, Commissaries, Dean, Dean and Chapters, and all other Ecclesiastical Officers...[15]

In other words, no episcopate and with it no book of Common Prayer. In his criticism of the oath, Sanderson singled out one clause, situated in the preface, that imposed penalties for not subscribing to the Covenant. Sanderson reminded his readers that the nature of a covenant was mutuality.

> ...a covenant; which being a contract implyeth a (a) *voluntary mutual consent* of the contractors; whereun men are to be induced by persuasions, not compelled by power.[16]

He objects to being forced to take the oath and uses the same two streams of reasoning he used in the case of the Negative Oath, which were that he was first, bound by covenant to

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[12] Conrad Russell, *The Causes of the English Civil War* (Oxford: Clarendon Press, 1990), 22, 31.

[13] Barry Coward, *The Stuart Age: England 1603-1714* (London: Longman, 1994), 213.

[14] Gardiner, *Constitutional Documents,* 267.

[15] Sanderson, *Reasons of the Present Judgement*, n.p. The complete text of the *Solemn League and Covenant* is cited as an unpaginated addendum to *Reasons of the Present Judgement...*

[16] Ibid., 3.

preserve his liberty and second, could not be compelled to accept an oath unless it was an actual act of Parliament. However, in this instance he also cites as authority the Petition of Right,[17] a ploy in which he throws an act of Parliament back into the laps of Parliament.

> Without betraying the Liberty, which by our protestation we are bound, and in the third Article of this Covenant must swear, with our lives and fortunes to preserve.
> To which Liberty, the imposition of a new oath, other than is established by Act of Parliament is expressed in the Petition of Right, and by the Lords and Commons in their Declarations acknowledged to be contrary.[18]

In other words, the Petition of Right is being seen by Sanderson as an act of Parliament that preserves liberty. The Petition of Right does not contain an oath but it does trace its authority back to "The Great Charter of the Liberties of England" and a statute of similar content enacted by Parliament during the reign of Edward III.[19] Citing from the Petition of Right itself, Sanderson writes: "It is declared that the King cannot compell men to be sworn without an Act of Parliament."[20] In the 1647 edition of *Reasons of the Present Judgement*, near the above passage, there are several annotations along the margins of the text that appear to be handwritten. Among then is the following copy:

> Whereas many of them have had an oath administered

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[17] The Petition of Right (1628) was enacted at a time when Charles I was involved in the "Five Knights" Case which was a test case in the King's Bench in which the King claimed the prerogative to imprison those who refused to pay forced loans. The King's Bench judges found that Charles did not have the right to imprison people simply for reasons of state but that he could, this one time, incarcerate the Five Knights who refused to pay. Commons wanted Charles to acknowledge the illegality of forced loans as being taxation without Parliamentary consent. Parliament saw the situation as martial law and imprisonment without trial. They wanted the King to sign a Petition of Right abjuring forced loans. Added to this was the fact that Charles had permitted Sir Robert Heath to falsify the record of judgment in favor of the King's right to imprison people. Charles signed the Petition of Right and in return the Commons passed a subsidy bill. For greater detail, see Barry Coward, *The Stuart Age: England 1603-1714,* (London: Longman, 1995), 162-4.

[18] Sanderson, *Reasons of the Present Judgement*, 3.

[19] Gardiner, *Constitutional Documents,* 66.

[20] Sanderson, *Reasons of the Present Judgement*, 3.

> unto them not warrantable by the Laws and Statutes of this Realm, they doe humbly pray that no man hereafter be compelled to take such an oath...[21]

The bulk of Sanderson's response to the Covenant is devoted to the second clause, cited in part above, which asked to "endeavor the extirpation of Popery, Prelacy" and the church hierarchy. He seems to fix his answers with the words "endeavor the extirpation" used as a leitmotif.[22] Throughout his defense he uses it over and over again, keying each of his arguments to that phrase. He begins by asking why a church government born without violence and turmoil and that had been the "envy of the world,"[23] needed to be extirpated since no reason for this was given in the Solemn League and Covenant and indeed, Sanderson says, the Covenant is given without telling the takers why they are subscribing to the Oath. As for the extirpation of episcopal government, he goes back to the traditional argument of the present episcopate as heir to the apostolic tradition (a thesis that Richard Baxter passionately countermands in *A Treatise of Episcopacy* discussed below), granting that, at the least, "Episcopal Aristocracy"[24] had a "juster" claim to being a divine institution

> than that of the Papal Monarchy...Presbyterian Democracy...and that of the Independents by Particular Congregation or Gathered Churches.[25]

He connects the present church to the past by stating that the present church was a

> universal, uninterrupted, unquestioned succession in all the Churches of God...throughout the whole world for fifteen hundred years...from which antiquity

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[21] Ibid., 3.

[22] Ibid., n. p.

[23] Ibid.

[24] Ibid., 8.

[25] Ibid.

> and continuance, we have just come to fear that to endeavor the extirpation thereof,
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> 1, Would give such advantage to the papists... that we should not be able to wipe off the aspersion.[26]

He further cites, as precedent, the Thirty-nine Articles, which confirmed the book of order (Article 36). Sanderson also wondered how the laying of hands on those who entered the ministry could be rescinded. How are we to "lay on our hands to root them up, and cannot tell for what."[27] He asks how it is possible for the holders of ecclesiastical titles, which represent their livelihoods and which were sanctioned in the Thirty-nine Articles, to be expected to bind themselves by an oath to extirpate themselves and their own estates. Further, he wants to know if this extraordinary change in government might not just bring with it greater inconveniences than if left alone. Besides, he adds, it has been declared by sundry Acts of Parliament

> that the Holy Church of England was founded in the state of Prelacy within the Realm of England. We dare not by endeavoring the extirpation of Prelacy strike at the very foundation...and thereby cooperate toward the ruine of this famous church.[28]

Sanderson makes several other points as well. Among them are that the clergy and some citizenry have already taken oaths and vows to the present government and the new government has no way to absolve them. Thus, anyone taking the oath would be subject to the sin of double perjury. He gets to the end of his criticism of Covenant II by stating that the government of the realm is a

> most excellent construction...we understand not how it can become us to desire or endeavor the extirpation of that government which we conceive incomparably

[26] Ibid., 8-9.

[27] Ibid.,. 10.

[28] Ibid., 11.

> of all other the most agreeable...In so much as King James would often say that his long experience had taught him, *No Bishop; no King*.[29]

The Solemn League and Covenant was a bitter pill for some members of the clergy to swallow. It cost them their livelihoods and security, as it did Sanderson's. However, for all that, the Engagement Oath (1650) was to some even more controversial. An engagement is an oath of loyalty that is designed to test and unify support for a particular Parliament (in this instance, the Rump.)[30] The Engagement Oath, passed by the Rump Parliament, called for all males over the age of eighteen to swear obedience to the Commonwealth as it was then established without a king or the House of Lords. It imposed an oath of allegiance that stated: "I do declare and promise, that I will be true and faithful to the Commonwealth of England, as it is now Established, without a King or House of Lords."[31] As the Solemn League and Covenant had been a bold step, almost a coup d'etat, the Engagement was a bill that reflected a measure of panic on the parts of Parliament. The Engagement oath was enacted on January 2, 1650; Charles I had been executed on December 30, 1649, three days before and his death had left England and Scotland uneasy. The Engagement called for obedience to a system without a King and House of Lords when, actually, neither was legally abolished until the following March, although the vote had been taken on the 6th and 7th of February. At the same time, Parliament was concerned about negotiations going on between the heir to the throne, Charles II, and the Scots. The actual Act declaring England a Commonwealth was not

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[29] Ibid., 13.

[30] Jones, *Conscience and Allegiance*, 115.

[31] C.H. Firth and R.S. Raitt, eds., *Acts and Ordinances of the Interregnum, 1642-1660,* 3 vols., (London: H. M. Stationary, 1911), II: 325.

passed until the middle of the following May, 1650.[32] The oath was further refused by many of the Presbyterian hierarchy[33] who had opposed the execution of the King (even though they had been a factor in his downfall.) The new government found little favor with much of the Presbyterian hierarchy and they were not all in favor of legitimizing the Commonwealth.[34] Robert Sanderson wrote one of his most important casuistical works *The Case of the Engagement* against it.[35]

Sanderson dealt with the Engagement Oath as an extended form of case divinity. He makes two points, among others, that demonstrate his casuistical leanings. The first is that a political oath of allegiance is binding even though the king may be deposed and the second is his acceptance of equivocation under certain circumstances, such as the intention of an oath being unlawful. The case of conscience came about as follows: Thomas Washbourne, the Anglican vicar of Dumbleton near Tewkesbury, was unable to decide whether or not to take the Engagement Oath. He was married with five or six children, and the consequences of his refusal might have meant the loss of his livelihood. Washbourne, as Sanderson recounts it, expressed confusion with the way the Engagement Oath was worded and implied that there were several ways in which the Oath could be understood. For example, was it a promise or an oath? Did the oath have more than one meaning? Could it be taken as interpreted by the individual or as interpreted by the Imposer?[36] Does the individual have to ask the "imposer" for the oath's

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[32] Coward, *Stuart Age,* 245.

[33] George Lewis, *Robert Sanderson: Chaplain to King Charles the First, Regius Professor of Divinity, Oxford and Bishop of Lincoln* (London: S.P.C.K., 1924), 101.

[34] Ibid.

[35] Slights, *Casuistical Tradition,* 46ff.

[36] Sanderson uses the terms "Imposer" and "Promiser" throughout his answer and they will thus be used here.

meaning before he subscribes?[37] The last two questions are essentially asking for permission to employ one of the Jesuit techniques of casuistry, mental reservation, which Sanderson addresses later in the case. Washbourne stated that he would abide by Sanderson's advice as to whether or not to subscribe to the oath.[38] On 20 December, 1650, Sanderson replied with a long, carefully worded letter, which was later posthumously published as *The Case of the Engagement*[39] in his volume of casuistic writings *Nine Cases of Conscience: Occasionally Determined by The late Reverend Father in God, Robert Sanderson, Lord Bishop of Lincoln*.

At the time, Sanderson may have been well-known for his work on oath-taking, *De Juramenti Promissorii Obligatione*, which is mentioned above, and was originally a series of lectures he delivered at Oxford in 1646. The structure of this particular case, however, is somewhat different in format from Sanderson's other cases. It does not start with a recapitulation of the Oath or with Washbourne's letter, but rather goes directly to the subject matter which Sanderson addresses almost entirely within the framework of conscience. Washbourne asked eight questions, which Sanderson answered but with hesitation, as is evident below, since he may have been concerned that almost any answer he gave would condemn him and he has already been deprived of one benefice and spent time in prison.[40] He weighs his own conscience with

> how I should be looked upon by those who have
> all power in their hands, not as a refuser only, but

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[37] Lewis, *Sanderson*, 102.

[38] Ibid.,

[39] It should be noted here that despite Sanderson's request that none of his works be published after his death, the *Eighte Cases*, indeed were.

[40] Robert Sanderson, *Nine Cases of Conscience* (London: Printed for H. Brome, J. Wright and C. Wilkinson, 1678), 88.It should be noted that there is both an *Eight Cases of Conscience* and a *Nine*...The first eight cases are the same in both books.

> a dissuader also...if I should allow it in any case lawful, which ill use would certainly be made thereof by multitudes of people...[41]

The first question, which can be gleaned from his answer, appears to have been, what is the nature of allegiance. Sanderson answers that allegiance is a function of natural law and intrinsic to the relationship between subject and government: "Its bond is perpetual and indispensable."[42] However, Sanderson notes that earlier oaths such as the Act of Supremacy remain in effect, even if the king is no longer in power.[43]

The second question regards ambiguity of language. It opens the subjects of mental reservation and equivocation.

> Whether or no, the words of the Engagement will reasonably bear such a construction, as to the understanding of a rational and conscientious man, may seem consistent with his bounden duty and Allegiance to his lawful Sovereign?[44]

In other words, does the language of the oath have an alternative meaning that does not negate allegiance to the king? Sanderson makes his position clear. He states that all language is ambiguous and many who have subscribed to the Oath,

> would not so have done, if they had not been persuaded the words might be understood in some such qualified sense, as might stand with the duty of Allegiance to the King.[45]

Sanderson takes two digressions in his answer. The first is a parenthetical remark in which he doubts the depth of learning and depth of conscience of Presbyterians, and the

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[41] Ibid.

[42] Sanderson, *Nine Cases of Conscience,* 91.

[43] Ibid., 89-93.

[44] Ibid., 93-94.

[45] Ibid.., 94.

other is when he puts to rest a rumor that the King had given permission to shift loyalties from the Monarchy to the Commonwealth.[46]

> ...it is strongly reported and believed, that the King hath given way to the taking of the Engagement, rather than his good subjects lose their Estates...Which, as it is a clear evidence, that the King, and they who are about him, to advise him, do not so conceive of the words of the Engagement.[47]

The third question settles the subject of mental reservation. It asks whether the subscriber to the oath may take the oath in

> its own sense or is bound to take it in the Imposer's sense...[and if it is] necessary or expedient before he subscribe, to ask those that require his subscription, in what sense they require him to subscribe it?[48]

Sanderson clearly takes this question to be about mental reservation and equivocation, both of which are functions in Jesuit casuistry which Sanderson abhors and calls "impudent" and a "gross conceit,"[49] by which thousands, he says, have cheated themselves into perjury. If such latitude were admitted in oaths or promises or other obligations, he points out there would be no possible way for people to understand one another. Nonetheless, it behooves the Imposer to make his meaning clear and if, by intention, he does not, the Promiser (so-called by Sanderson) may take the option that binds him least.[50] On the surface, this would appear that Sanderson had embraced probabalism but for the fact that he asks the promiser to find out the intention of the

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[46] Ibid., 94-95.

[47] Ibid., 95.

[48] Ibid., 95-96.

[49] Ibid., 96.

[50] Ibid., 97.

imposer before interpreting his words -- although he leaves room for maneuvering. In the instance that an oath has more than one meaning, Sanderson replies, that

> ...in such case it is not necessary nor always expedient...for the Promiser before he give faith, to demand of the Imposer, whether of the two is his meaning. But he may by the rule of Prudence, and that (for ought I see) without violation of any Law of Conscience, make his just advantage of that ambiguity, and take it in the same sense which shall bind *to the less.*

However, equivocation works both ways and Sanderson warns of "cunning men" who may purposely mislead the promiser for their own "secret" ends. In that case, it is acceptable to interpret the oath in a manner that will fulfill the promiser's own interest, since the imposer has certainly fulfilled his own self-interest.[51]

In bringing the discussion to a close, Sanderson determines to find out for himself what kinds of different constructions can be made of the original Engagement Oath and what are the probable meanings intended by the imposers. Although deconstruction is a twentieth-century technique of textual analysis, Sanderson deconstructs the oath word by word, in an effort to determine its meaning. For example:

> In the words *as it is now established, & c.* which may be understood either by way of approbation of what hath been done by way of abolishing Kingly Government and the House of Peers, and placing all Authority and Power within this Realm in the House of Commons.... Or else [is it understood] as a clause simply and barely reciting what manner of Government it is this Nation *de facto*

[51] Ibid., 99-101.

> is now under; viz. A Government by the Commons only, without either King or House of Lords.[52]

Sanderson reconstructs the oath two ways, giving Washbourne a choice of how to interpret the language. The first acknowledges the sovereign power of the nation under the House of Commons. The second, says Sanderson, is made up of the same words, but states that Washbourne is subject to the supreme power exercised by the House of Commons which he promises not to contrive against and "will do what every good member of a Common-wealth ought to do for the safety of my Country and preservation of Civil Society therein."[53] Both interpretations end up saying the same thing, but the second gives Washbourne a reason to soften his qualms of conscience. In the final section of the *Case of the Engagement*, Sanderson includes several choices for dealing with the potentially unlawful nature of the oath: It would be unconscionable to accept the oath with the intention of breaking it; it would be a sin to take the oath if the person taking it thought it was unlawful and, last, the taking of the Engagement Oath is a sin if the person taking it believes that it did not represent his true national allegiance. Finally, Sanderson declares the conditions under which subscription to the oath is acceptable which consist of the most probable and liberal choices:

> That if any man after a serious desire of informing himself as rightly as he can, what are the duties of his Allegiance on the one side, and what is most probably the meaning intended by the words of the Engagement on the other side, shall find himself well satisfied in this persuasion, that the performance in the mean time of what is required by the Engagement so understood, is no way contrary (for anything he can discern for the present) to his bounden Allegiance, so long as he is under such a force, as that he cannot exercise it, and likewise, that whensoever that force is so removed from him,

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[52] Ibid., 104.

[53] Ibid., 105.

> or he from under it , as that he hath power to act according to his Allegiance, the Obligation of the Engagement of itself determineth and expireth: and out of these considerations, rather than suffer extreme prejudice in his Person and Estate, or necessary Relations, shall subscribe the Engagement, since his own heart condemneth him not, neither will I.[54]

By way of opposition, it is valuable to look at English casuists who supported the Engagement Oath, interpreted its language as being lawful and ultimately recommended subscription. In 1649 and again in 1650, John Dury (1596-1680) wrote three treatises on the subject of the Engagement Oath. Two of them appeared to have been written in 1649 although the first, *Just Re-Proposals to Humble Proposals or An impartiall Consideration of, and Answer unto, the humble Proposals, which are printed in the name of sundry Learned and Pious Divines, concerning the Engagement which the Parliament hath order to be taken*, is dated January 7, 1650, crossed out and redated by hand, January 15, 1649. *Re-Proposals to Humble Proposals* states that it intends to answer two questions. The first is how far the Engagement is "agreeable to Reason, to Christianity, and to Policie,"[55] and the second is how he may ease the minds of those taking the oath and show that, the State will ultimately give satisfaction."[56] The second treatise entitled *Considerations Concerning the present Engagement whether It may lawfully be entered into; Yea or No?* and dated November 27, 1649, is the more substantive work of the two and offers more detail on Dury's theology of obligation to magistracy. It was supposedly "Written at the desire of a friend."[57] (The friend is unnamed.) The third treatise is called

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[54] Ibid., 111.

[55] John Dury, *Just Re-Proposals to Humble Proposals or An impartiall Consideration of, and Answer unto, the humble Proposals, which are printed in the name of sundry Learned and Pious Divines, concerning the Engagement which the Parliament hath order to be taken*. (London: Richard Wodenothe, 1649), frontispiece.

[56] Dury, Re-Proposals to Humble Proposals, 2.

[57] Dury, *Considerations Concerning the Present* Engagement, Frontispiece.

Objections Against The Taking of the Engagement Answered or Some scruples of Conscience. which a godly Minister in Lancashire did entertain against the taking of the Engagement. (1650) The third treatise, as gleaned from the letter attached to the tract, was a response to a minister in Lancaster who asked Dury to clarify some of the points in *Considerations Concerning the present Engagement* (1650).[58] Dury was a Puritan Divine[59] and casuist who wrote works on case divinity and left behind individual cases of conscience but no full books of cases of conscience. He is the author of a distinguished ecclesiastical oeuvre that included one of the earliest books on how to structure a library, called *The Reformed School* (1651), and also *A Case of Conscience: whether it be lawful to admit Jews into a Christian Commonwealth* (1656).[60] Reading Dury presents an opportunity to look at traditional Puritan politics and his theology of oath-taking. It also raises the question of why was Dury able to accept the Engagement Oath when men like Saderson and Baxter refused the oath on grounds of conflict of conscience. Even though Dury disapproved of the oath he was, what Quentin Skinner referred to as, "passively obedient to the Commonwealth government...by invoking the authority of Calvin."[61] In 1645, Dury who had been traveling abroad on the mission of Protestant reunion, returned home, took the Covenant and published a *de facto* defense of the Commonwealth, *A Case of Conscience Resolved* in which he advanced the Genevan premise that private citizens should not interfere in matters of state, even if the

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[58] John Dury, *Objections Against the Taking of the Engagement Answered* (London: Richard Wodenothe, 1650), A2.

[59] Margaret Sampson, "Laxity and Liberty" in *Conscience and Casuistry in Early Modern Europe*, ed., E. Leites (Cambridge: Cambridge University Press, 1988), 111.

[60] Norman Clifford, *Casuistical Divinity in English Puritanism during the 17th Century: Its Origins, Development and Significance,* Ph.D. diss., University of London, 1957, 29-31.

[61] Quentin Skinner, "Conquest and Consent" in *The Interregnum.* Ed. G. E. Aylmer (London: Macmillan, 1974), 81.

legitimacy of the rule is questionable. The *Institutes* teach, and Dury echoes its doctrine, that the rights of superior powers are not to be judged by ordinary citizens.[62]

The important difference between Dury and Sanderson is that Dury believed that because the King misused his trust, he forfeited the prerogatives of the Oath of Allegiance. Thus, as demonstrated below, Dury interpreted the Engagement oath by shifting the focus away from the clause specifying the absence of King and Commons and instead emphasized being true and faithful to the English nation, with the concept of a unified nation being paramount. He addressed the *Considerations Concerning the present Engagement* to an anonymous person who claimed to have three doubts about the Engagement. The first was whether or not the Oath of Allegiance and the National Covenant were still binding and if so how could one take the Engagement. The second was whether or not the Engagement usurped the crown and if so, is the present power lawful. The third was whether or not one of the consequences of the Engagement was that it opposed the rightful heir to the throne and prevented him from ever taking it.[63]

All three answers appear to be founded on the question of the King's trust. To the first question, which asks if the Oath of Allegiance and the National Covenant[64] are still binding and contradictory to the Engagement, he answers that the trust of the king establishes an obligation to which the king and his heirs are bound by oath.[65]

> The obligations of King and Subjects are Mutuall, and must stand and fall together...as you were sworn to

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[62] Ibid.

[63] Dury, *Considerations Concerning the Present Engagement*, 1.

[64] The National Covenant was also known as the Scotch Covenant. It was drawn up in February 1638 and denounced the canons and the prayer book. It did not mention episcopacy. In November of 1638, Scotland abolished episcopacy.

[65] Dury, *Considerations Concerning the Present Engagement*, 2.

> the King, so he was sworn to you...If then he be found unfaithfull to his trust, you are *ipso facto*, absolved from your Allegiance unto him;[66]

The answer is in direct contrast to Sanderson who saw an oath taken to the king as binding even though the king was deposed. Dury uses the National Covenant to establish the authority of Parliament and the Oath of Allegiance as being an obligation to Parliament since it is a representative body.

> The oath of Allegiance therefore was bottomed [sic] upon the Laws, which the Representatives of the Nation in Parl. had chosen to be observed concerning their Religion... which he [Charles I] refractorily either casting off...in such a way that no trust could be given him.... the Parliament did actually lay him aside...from which time forward he was no more an object of your Oath of Allegiance, but to be lookt upon as a privat man....The present Engagement, which you think is contradictory to this Oath and to the Nationall Covenant, then you are to look well to it that you be not mistaken.[67]

The second question concerns lawfulness and usurpation. Dury presumes the oath-taker thinks that by taking the oath he is an "accessory: to "a power unlawfully usurped."[68] Dury's answer, which harks back to Divine Right of Magistracy, states that he does not see where God allows humankind to meddle in the process of choosing their superiors. As further evidence Dury cites Romans 13.1[69] and says, "Nor doth God allow in the Word, those whom he has made Subjects to Superior Powers, to take upon them to judge of the Rights & titles of those that are over them."[70] There are several seeming

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[66] Ibid., 2-3.

[67] Ibid., 4.

[68] Ibid., 1.

[69] Romans 13.1: Let every person be subject to the sovereign authorities. For there is no authority except from God. KJV

[70] Dury, *Considerations Concerning the Present Engagement*, 13.

contradictions here. On the one hand, he gave more weight to the sovereignty of Parliament than to the King, on the basis that Parliament was a representative body. On the other hand he is also arguing that sovereignty is a function of God, not man, meaning that he is arguing divine right. In the end, however, he chooses the collective notion of nationhood as being greater than divine right. He establishes the subjects' obligation to the nation and their duty to protect the present government when he elaborates on his answer to the question of being an "accessory" to usurpation if the subject takes the oath.

> That the Engagement being a duty, just to be required from the present Powers to their Subjects; with the performance of which, there is no protection due unto them; and necessary to be performed by all, that will not profess themselves delirious to overthrow the perfect safety and publique welfare of the nation.[71]

Apparently, Dury believes that the government protects its subjects and in return the subjects must protect the government, whether or not they are in sympathy with its political structure. Because it is a duty, the subject, he says, is not an "accessory." As for the third question, which asks if the Engagement opposes "the lawfull Heir of the Crowne and the right Constitutions of the Parliaments,"[72] Dury appears to bristle with contempt. He contends that the answers to the first two questions answers the third and,

> If in the two former you will be well satisfied concerning that which is your duty, I cannot see how in this last you can be much further scrupled....[In the event] that you are preingaged, and from which you cannot recede...those be[ing] only seeming inconveniences...then I cannot imagine that you will think it lawful for you to dispute your [personal] interest toward the universal good of the Common-wealth for any particular engagement, though never so strong otherwise... [73]

[71] Ibid., 18.

[72] Ibid., A2-2.

[73] Ibid., 20.

Ultimately Dury resolves his argument in terms of God's will.

> Therefore God who takes and gives the Rights of Government by the putting of one into the actual possession of a ruling power, and by the taking of the same power away from another, to fulfill his own councell and judgements over this people...[74]

Dury's argument was a slim one in which providence provided a high-minded rationale for the existence of the hated Rump Parliament, from where the Oath emanated. John M. Wallace argues that during the middle years of the Interregnum prevalent "providential" thought on the parts of loyalists willing to shift allegiance from king to parliament was founded on the notion that the losses of the King were attributable to God favoring the Puritan cause, that the revolution "had a just title to rule by right of providence."[75] Prior to Dury, Francis Rous, a respected Presbyterian, made a statement accepting the Engagement Oath that was as influential as Dury's. Rous, who had joined the Independent party shortly before the King's execution, wrote a pamphlet titled *The Lawfulnes of Obeying the Present Government.* His argument held that biblical, secular Greek and Roman and forms of contemporaneous authority supported the lawfulness of obedience but questioned the lawfulness of a change in government. His pamphlet also held the unspoken charge that the new government had no title.[76]

Ultimately, the Engagement was repealed, partially on November 4, 1654 and wholly on January 19, 1654. Wallace speculates that there were some 72 pamphlets and

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[74] Ibid., 22.

[75] John M. Wallace, "The Engagement Controversy 1649-1652: An Annotated List of Pamphlets." *Bulletin of the New York Public Library* 68 (1964): 384,

[76] Ibid., 385, 390.

tracts published between 1649 and 1652 arguing the validity of the oath and that the fervor of that debate may have resulted in the Oath's repeal.[77]

The Engagement Oath called for a Commonwealth without a bishop, king, or Book of Common Prayer and, by default, a church without an episcopate. It was a religious system long in coming. As early as November 1640, the Long Parliament had set up a committee for the purpose of abolishing episcopacy root and branch.[78] In 1643, they enacted the Solemn League and Covenant, an anti-Royalist oath, which tried to establish religious unity through a Presbyterian form of church government and the text of the oath itself called for swearing "with our hands lifted up to the most high God."[79] A few months later on September 7, 1642, the Presbyterian party in the House of Commons passed a resolution to abolish all bishops. The act was immediately ratified by the House of Lords.[80] Both Robert Sanderson and Jeremy Taylor wrote books defending episcopacy. Taylor wrote *Episcopacy Asserted*, shorthand for its much longer full title, [81] and Sanderson wrote *Episcopacy (As established by Law in England Not Prejudicial to Regal Power.) Episcopacy Asserted* was published at the end of 1642 and *Episcopacy* in 1637. To bring the issue into historical perspective, it should be noted that Archbishop Laud who had been Taylor's patron, had been impeached by the Long Parliament in

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[77] Ibid., 387.

[78] Claire Cross, "The Church in England 1646-1660" in *The Interregnum: The Quest for Settlement 1646-1660*, ed., G. E. Aylmer (London: Macmillan Press, Ltd., 1972.), 100.

[79] Gardiner, *Constitutional Documents*, 267 ff.

[80] Cross, "Church in England" in *Interregnum,* 101-103.

[81] Reginald Heber, "The Life of Jeremy Taylor, D.D.," in Jeremy Taylor, *Whole Works,* ed. Right Rev. Reginald Heber & revised and corrected by the Rev Charles Page Eden, London: Longman, Green, et. al. 1894. 1: xxiii. *Episcopacy Assisted* appears to have several titles. In the Heber-Eden collected works of Jeremy Taylor, the full title of the 1642 edition is *Of the sacred Order and Offices of Episcopacy by Divine Institution, Apostolic Tradition and Catholic Practice together with their Titles of Honor, Secular Employment, Manner of Election, Delegation of their Power and other Appendent Questions Asserted against the Aerians, and Acephali, New and Old.* In the same edition, the

1640, and by 1642 had already been imprisoned in the Tower for two years. His successor, not as archbishop but as Comptroller of the King's Household, was Sir Christopher Hatton, who in turn extended his patronage to Taylor.[82] Both Taylor and Sanderson responded to the situation and wrote books on the subject of episcopacy from different points of view but both supported an apostolic church hierarchy. Both wrote their treatises at the behest of King Charles I. Taylor was reputed to have been among the first supporters of the King at Oxford where he joined him, at which time the King commanded Taylor to write a work on the subject of Episcopacy which would countermand the dictates of the Presbyterian party.[83] Sanderson was Chaplain to the King at Holdenby and was also asked by the King to write a treatise, also supporting episcopacy. Taylor, as noted in the third chapter, was theologically a high church conformist and politically a royalist and Sanderson, as discussed in the same chapter, was theologically a moderate Calvinist but also politically, a royalist. Taylor's *Episcopacy Asserted* was a 220-page, densely packed manuscript and Sanderson's *Episcopacy* a 227-page manuscript in large type. *Episcopacy*was p ublished in 1661 but, as the title page notes, it was *A Treatise Written in the Time of the Long Parliament, By Special Command of the Late KING.* Sanderson supplies two dates in the dedicatory. The first refers to the time when the King asked him to write the treatise, "which was in August MDCXLVII" (1647) and the second is at the closing of the dedicatory letter which is

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page listing seventeenth century editions, and on all the page headings, the work is referred to as *Episcopacy Asserted.* Taylor himself refers to it as his *Discourse on Episcopacy.*

[82] Ibid., 1: xxiii.

[83] Ibid.

dated "LONDON, August 10. MDCLXI."[84] (1661) That said, the dedicatory was written, "When the Army had gotten the King into their own custody out of the hands of those that had long holden him in durance at Holdenby. He describes the King's captivity and the reasons the King wanted him to write *Episcopacy.*

> They made a show of much good toward him... Amongst other the pompous civilities, wherewith (the better to cloak their hypocrisie) they entertained him; It was their pleasure to vouchsafe him the attendance of some of his own chaplains...four of us of his own naming, with the Clerk of his Closet were suffered to wait upon him...[85]

Taylor's argument for episcopacy is based on the biblical precedent of apostolic succession; Sanderson's argument is based on the continuing historic legality of oaths of fidelity. For example, an oath of allegiance taken at the time of Henry VIII was binding during the reign of Charles I. In fact, as discussed below, Sanderson's fundamental argument in favor of episcopacy is rooted in the soil of previously taken oaths. The issue at hand, however, was an act of the Commons, not an oath demanding assent (the oath had already been taken as part of the Solemn League and Covenant), but what makes Sanderson's *Episcopacy* germane to the subject of oath -taking is that obedience to the act, which was, in effect obedience to the law, required the breaking of two existing oaths, the Henrician Oath of Succession and the Elizabethan Oath of Supremacy. Sanderson argues the power of precedence, wherein an oath of fidelity taken during the reign of Henry VIII was still in effect during the reign of Charles I. He says that he

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[84] Robert Sanderson, *Episcopacy (as established by Law in England Not Prejudicial to Regal Power),* (London: R. Norton, 1661) n.p. The dates appear on pages a. 3 and A. 5 respectively. This manuscript is in four parts: Dedication, Proclamation, Certificate and the treatise itself. The pagination of this manuscript is thus in four different sections. The Dedicatory starts with page 1 but with the letter "A" preceding the number, Neither the Certificate nor the Proclamation are paginated. The treatise itself uses regular pagination starting with page 1.

[85] Ibid., A.2.

bases his case on three objections to the abolition of an episcopate. The first is that divines assert "the Sovereign Ecclesiatical power of Kings." The second is that members of the "Anti-Prelatical party...want to enlarge their own power by lessening the Kings,"[86] and the third is

> Whereas, in the *Oath of Supremacy* the supreme power *Ecclesiatical* is acknowledged to be in the *King alone;* and by *the Statute of 1.Eliz.* all jurisdictions and preeminencies Spiritual and Ecclesiastical within the Realm of England are *restored to the crown* as the ancient right thereof...[and] the *Bishops* claiming their *power* and *Jurisdiction* to belong to them *as of divine right*.[87]

It would appear that Charles had been long concerned with Episcopacy and the shape it had taken when, as Sanderson says, the

> Bishops within this Realm, which (whether out of their good-will to him, or their no-good-will to the Church, I am not able to say) they had endeavored to represent unto him, as not a little derogatory to the REGAL AUTHORITY, as well in the point of Supremacy... His Majesty said further that he did not believe the Church-Government by Bishops as it was by Law established in this realm, to be prejudicial to his Crown; and that he was in his own judgement fully satisfied concerning the same...[88]

Sanderson clarifies the King's position in the Proclamation which precedes the treatise. First, he says, the King believes that the archbishops and bishops of the realm have usurped his royal prerogative. They have been, the King believes, conducting legal and ecclesiastical procedures such as citations, suspensions, and excommunications in the ecclesiastical courts in their own names and not in the King's name or under his Seal of Arms, or holding a patent under the Great Seal of England. They are operating under

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[86] Ibid., 3

[87] Ibid., 5.

[88] Ibid., A. 2-3.

their own authority in violation of the Statutes of the Realm as had been decided by "his Majesties high Court of Star Chamber, the Twelfth day of June last."[89] Second, the King believes that his judges[90] concurred with the prelates and agreed with them that neither the patent nor the seal was necessary to conduct an ecclesiastical procedure and pronounce a sentence. Additionally, Charles I, after having sought counsel, wanted

> ...a publick declaration...made known to all his Subjects...the unjust and scandalous imputation of invading... his Royal prerogative, as to settle the minds and stop the mouths of all unquiet Spirits that for the future they presume not to censure his Ecclesiastical Courts...And hereof his Majesty admonisheth all his Subjects to take warning as they shall answer the contrary at their peril.[91]

The Proclamation was dated as being given at the Court of Lyndhurst on August 18, in the "13th year of his Majesties reign" or 1638, possibly one year after the judges filed their certificate concerning Ecclesiastical Jurisdiction, dated July 1, 1637. The sum of the sections of *Episcopacy* appears to be written in quasi-legal language and modeled on a legal brief in four parts: Dedicatory, Proclamation and Judges Certificate as three "exhibits" and the treatise itself as the defense.

Sanderson's defense of episcopacy begins with a clarification of the issues which are of two persuasions.

> First, that the opinion which maintaineth the *Jus divinum of Episcopacy* is destructive of the regal power. And second, that Episcopal Jurisdiction, as it was exercised *before* [Italics mine] and at the beginning of this present Parliament, was derogatory from the honour

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[89] Ibid., n.p.

[90] The judges in question were Joseph Bramstone, Joseph Finch, Humphrey Davenport, William Jones, Joseph Dinham, Richard Hutton, Gorge Croke, Thomas Trevor, George Vernon, Robert Berkley, Francis Crawley and Richard Weston. The names are affixed to the legal certificate which is included in the text of *Episcopacy.*

[91] Sanderson, *Episcopacy as established by Law in England*., n.p.

> of the King, and prejudicial to the just Rights and Prerogatives of his Crown.[92]

Thus the issues are: 1) If a prelate claims divine right, it diminishes the power of the king and 2) if a prelate exercises legal ecclesiastical authority in place of the king, then he is usurping the king's prerogatives. On the face of it, it would seem that the King's position is clear and obviously has merit. However, there is a key word in the above quotation: *before*. "Before" refers to a series of statutes that gave and took away kingly prerogatives and therefore the two issues stated above embrace a third: Were the King's prerogatives in effect in the 1640s? The following is the sequence of events that affected the King's prerogatives, all of which come from Sanderson's text.

Henry VIII enacted the Act of Supremacy, which abrogated the power of the Pope in England. With the Act of Supremacy as a foundation, Edward VI enacted a statute in which all ecclesiastical processes had to be enacted in the King's name and carry the King's seals. When Mary Tudor ascended the throne, she repealed the statute of Edward VI, restored the power of the Pope, and reduced the ecclesiastical functions of the monarch. When Elizabeth I came to power

> all jurisdictions and preeminencies Spiritual and Ecclesiastical within the Realm of England are restored to the Crown as the ancient right thereof, and forever united and annexed thereunto.[93]

That said, she neither reenacted the original statute of Edward VI nor repealed the Statute of Mary, that would have in turn reinstated the statute of Edward. According to Sanderson, because the statute of Edward had never been reinstated, meaning re-sworn,

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[92] Ibid., 5.

[93] Ibid.

"none of those that followed ever went about to revive it,"[94] and the Bishops could claim that their power and jurisdictions still existed and "belonged to them as of divine right...."[95] Thus, for Sanderson there is a secondary consideration: The divine right of bishops. This in turn raises the question of whether or not a king confers elements of divine right to the bishop when he appoints the bishop. Sanderson replied that divine right only came directly from God and not an earthly king and the bishops therefore had no real claim. As for the statute of Edward VI, Sanderson claimed it was in actuality repealed and once it had been repealed, it

> hath ever since so continued during the Raigns
> of the said Queen, of Queen Elizabeth, of K. James,
> and of his Majesty that now is until this present
> Parliament without any alteration or interruption.[96]

In other words, the oath inherent in the Act of Supremacy was still binding. Sanderson's thinking seems to be based on the fact that none of the monarchs that followed Mary had reinstated the statute and therefore, Sanderson says, the Bishops held power as they claimed, but he disagreed that they held it by divine right. He also questioned the entire notion of divine right as a basis for ecclesiastical power. How does a bishop know if his title is, as Sanderson asks, "good," since "*Jus divinum* is in the last result no more than a meer verbal nicety,"[97] one which means different things to different people. In a different context, Jeremy Taylor, as is discussed below, made apostolic precedence the center of his argument in favor of a Conformist Episcopacy, but Sanderson saw it as a lesser point in his argument against divine right. He says that if divine right is to be accepted, there

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[94] Ibid., 80-81.

[95] Ibid., 5.

[96] Ibid., 9.

[97] Ibid., 13.

must be a divine precept which, for example, can be an apostolic institution or practice, and although the word apostolic is, in his words, "ambiguous," it is of "great use in avoiding mistakes" and entangling men's "consciences in unnecessary scruples."[98] Nonetheless, the Church of England, he points out, is in its "larger signification" an apostolic institution, since the Government is established by divine right.[99]

Sanderson's strongest argument against the charge that the statute of Edward VI had been repealed, however, was his claim that the statute of Edward VI was still in effect even though it was repealed because it was repealed by Mary Tudor and she was a "professed Papist' who had also restored the "Popish Religion." England was now a Protestant country under a Protestant Monarch and, as a result, Mary's repeal was not in effect because it should not be honored.

> ...the repealing of the Statute of *primo Edw, 6.* and the reception of the former usage insuing thereupon, ought not to be alleaged, by the Bishops or to sway with any Protestant: inasmuch as that repeal was made by *Queen Mary*, who was a professed Papist... [and who] restored also the whole *Popish Religion.*[100]

Sanderson also understands that Mary Tudor had to do what she did and Elizabeth I would in turn not be overly concerned because

> by the principles of her religion [Mary] could do no less than repeal that statute and a Protestant Princess without prejudice to the principles of her religion might continue that repeal.[101]

The original statute of Edward came about, says Sanderson, for the purpose of

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[98] Ibid., 15.

[99] Ibid., 17.

[100] Ibid., 9 –10.

[101] Ibid., 105.

"the further abolishing of popery and the perfection of the Reformation begun by his [Edward's] father."[102] Moreover, the statute called for the use of the King's name as an indication of his ecclesiastical supremacy and not the use of the Bishop's name without even the seal. Furthermore, Sanderson says that it was implicit in the statute of Edward that all similar statutes which had preceded it were invalid and that included the old custom in which Bishops used their own names, a custom which was deemed popish "or otherwise derogatory to the King's Supremacy."[103] In some instances, however, Bishops did get to use their own names: The Archbishop of Canterbury and lesser prelates could use their own names to grant faculties, dispensations, collations, Letters of Order and inductions of benefices. Sanderson concludes his defense of Caroline episcopacy with a petition to establish why reviving the statute of Edward VI was entirely "a needless thing."[104] Part of his concluding argument is a history of the Kings of England going back to Henry I and showing how each king had some form of episcopacy over which they had ultimate power and how they were "secured against all danger that may accrue to their Regal Power from Episcopal Jurisdiction as it hath been anciently and of later times exercised in this Realm:[105] Taylor makes a small stab in the direction of the former kings of England. In the dedication to *Episcopacy Asserted*, he gives the bishops credit for having helped the Kings of England rule. "The bishops were able by their great learning and wisdom to give assistance to the king's affairs...for the most glorious issues of divine benison upon this kingdom was conveyed by bishops."[106]

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[102] Ibid., 81.

[103] Ibid., 105.

[104] Ibid., 112.

[105] Ibid., 113.

[106] Taylor "Episcopacy Assisted" in *Whole Works*, 5: 12.

The significant difference between Taylor, the high church conformist, and Sanderson, the moderate Calvinist, is that Sanderson brings episcopacy down from the context of apostolic succession and into the sixteenth and seventeenth centuries as opposed to Taylor's argument that seventeenth-century episcopacy rests largely on apostolic succession. In a marginal note in *Episcopacy Asserted*, Taylor lays the foundation of his argument with "For the apostle and the bishop are all one in name and person." [107] Furthermore, Taylor points out that they don't have to have to be in a direct line from the original apostles. Taylor cites the apostle James as evidence. He was not among the "number of the twelve, but he was the bishop of Jerusalem" and yet Paul called him an apostle.[108] Taylor takes the context of the apostle and bishop as being one and the same and finds support for his belief in the writings of Irenaeus, Tertullian, Cyprian and other early church fathers, along with martyrs and groups of authority figures such as Peter, Simeon and Polycarp, who confirm that the apostles themselves "in pursuance of the divine institution...did ordain bishops in several churches,"[109] the implication being that apostolic succession goes through the institution, not the individual. The remainder of the book concerns the mechanics of episcopacy, such as its limits of jurisdictions, appointments and licenses , rather than oath-taking. Unlike Sanderson, Taylor did not write expositions on particular acts of Parliament that required vows, oath-taking or accepting a subscription, but he concerned himself with the ethics of oath-taking on the basis that all humanity is under oath to God. In his controversial

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[107] Ibid., 5: 21.

[108] Ibid.

[109] Ibid., 5: 40-66.

sermon, *The Invalidity of a Late or Death-Bed Repentence* (1651), he sees his sworn obligation in political terms.

> God hath made a covenant with us that we must give up ourselves, bodies and souls, not a dying, but 'a living' and healthful 'sacrifice.'...We have taken the sacramental oath, like that of the old Roman militia...[110]

Taylor's imagery often uses military terms, such as, "keep our station" and hold on to "our military girdle."[111] Much of Taylor's works were either sermons or written in response to contemporaneous events. Just as *Episcopacy Asserted* was written in response to the abolition of the episcopate, Taylor wrote many of his works in response to the political events of his time. For example, Taylor stated that oaths to the civil magistrate were lawful because they helped secure the blessings of civil peace.[112] In his two-volume work of casuistry, *Holy Living* and *Holy Dying*, in a section on the duties and obligations of the King and "Lawgivers," Taylor explains his theology of civil oaths.

> Princes must not multiply publick Oathes without great, eminent, and violent necessity, lest the security of the king become a snare to the people, and they become false when they see themselves suspected, or impatient when they are violently held fast; but the greater and more useful caution is upon things than upon persons and if the security of kings can be obtained otherwise, it is better that Oathes should be the last refuge, and when nothing else can be sufficient.[113]

As had been discussed in the third chapter, Taylor's best-known work, *The Rule and Exercises of Holy Living* (1650) and its companion volume *Holy Dying* (1651) discussed the three issues of episcopacy, the Book of Common Prayer and prayer *ex tempore*. All

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[110] Taylor "The Invalidity of a Late or Death-Bed Repentance" in *Whole Works*, 4: 401.

[111] Ibid.

[112] Jones, *Conscience and Allegiance*, 97.

three had required subscriptions that, among others promissory vows, exacerbated the concerns of Church of England conformists during the Interregnum.[114] By the time *Holy Living* was published, both Laud and the King had been executed and there were almost no English Church preachers in the nation's pulpits. Reginald Askew states that Taylor had written *Holy Living* as a "devotional guidebook" to solve "the practical problem" of a persecuted peoples' need for a substantive text to replace the destroyed ecclesiastical structures of "Bishop, Vicar, Church [and] Prayer Book."[115] Of this there may be a small measure of doubt, but not of Taylor's grief at the destruction of the church he had willingly sworn to uphold. The following is an excerpt from his writings at Golden Grove where he lived during the late 1640s and which was published in 1658 in *A Collection of Offices.*

> We have not only felt the evils of intestine Warre, but God hath smitten us in our spirit...snuffed our lamp so near, that it is almost extinguished and the sacred fire was put into a hole of the earth...
> It may be so again...when men will consider the invaluable loss that is consequent, and the danger of sin that is appendant to the destroying such forms of discipline and devotion in which God was purely worshipped, and the Church was edified, and the people instructed in great degree of piety, knowledge and devotion.[116]

The notion that *Holy Living* was written for the purpose of providing a surrogate devotional tract that was complete in itself and could have substituted for the liturgy and

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[113] Jeremy Taylor, ed., P.G. Stanwood, *Holy Living* (Oxford: Clarendon Press, 1989), 151.

[114] Cross, "Church in England" in *Interregum*, 99 ff.

[115] Reginal Askew, *Muskets and Altars: Jeremy Taylor and the Last of the Anglicans* (London: Mowbray, 1997), 1-2.

[116] Jeremy Taylor, ed. Logan Pearsall Smith, *The Golden Grove: Selected Passages from the Writings and Sermons of Jeremy Taylor* (Oxford: Oxford University Press, 1930), 5-6.

the Book of Common Prayer is apparent from the subtitle of *Holy Living*: "Prayers containing the whole duty of A Christian and the parts of Devotion fitted to all Occasions and furnished for all necessities."[117] In the dedication to *Holy Living*, which was to his patron Richard Lord Vaughn, Earl of Carbery, Taylor is audacious in his description of the devastation wreaked by the Commonwealth and clear in his intention to fill the void left by Parliament.

> I have lived to see Religion painted upon Banners, and thrust out of Churches...and covered with the skins of Beasts...and God to be worshipped not as he is the *Father of our Lord Jesus*...nor as *the God of Peace*...but he is owned now as the *Lord of Hosts,* which title he was pleased to lay aside when The Kingdom of the Gospel was preached by the Prince of peace. But when Religion puts on armor and God is not acknowledged by his New Testament titles, Religion may have in it the power of the sword but not the power of Godliness.[118]

Taylor goes on to describe the contemporaneous condition as martyrdom and then states what appears to be his mission in writing *Holy Living* for

> ...those few people who have no other plot in their religion but to serve God and save their soules, do want such assistances of ghostly counsel as may serve their emergent needs and assist their endeavours in the aquist of vertues, and relieve their dangers when they are tempted to sinne and death, I thought I had reasons enough inviting me to draw into one body those advises... and that the rules for the conduct of soules might be committed to a Book which they might always have; since they could not always have a prophet...[119]

In the section entitled *Cautions for making vows*, he gives eight rules for making vows which he describes as "an act of prayer...we make vows to God in such cases in which we

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[117] Taylor, *Holy Living*, 3.

[118] Ibid., 5-6.

[119] Ibid., 5.

have great need and great danger."[120] Among the cautions are that the vows be lawful, useful to religion or charity, and important, not trifling. Also among the cautions are vows that appear to reflect the demand for change made by the subscriptions of civil and religious change. Among them are,

> That it [an oath] be in an uncommanded instance, that is that it be *something,* or *in some manner,* or *in some degree* to which formerly wee were not obliged, or which wee might have omitted without sinne.[121]

The fifth, seventh and eighth cautions are equally pertinent..

> 5. That it bee done with prudence, that is that it be safe in all the circumstances of person lest we beg a blessing and fall into a snare...7. Let not young beginners in Religion enlarge their hearts and strengthen their liberty by vowes of long continuance...Vowes of single actions are safest...8. Let no action which is a matter of question and dispute in Religion, ever become the matter of a vow.[122]

Among the things that Taylor is saying are that the oath-taker will sin if he breaks a prior oath, that oaths not cover a long period of time and, finally, if the vow is a matter of dispute, don't take it. Since this was written during the Engagement controversy, it is worth looking at the Engagement Oath and ascertaining if Taylor's statement has contemporaneous relevance. The Engagement Oath required the breaking of the Jacobean Oath of Allegiance. It was a command not a voluntary act; it does not specify duration; it is not directed toward one single political or religious issue but covers several issues; and it has engendered religious dispute. Taylor, as a former bishop of the Church of England

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[120] Ibid., 217.

[121] Ibid.

[122] Ibid.

had taken the Jacobean Oath of Allegiance and would have been in a state of sin if he had taken the Engagement Oath.

Holy Living, while intending to fill the void of a dismantled church, was almost by definition, written in response to the political happenings of the time, the seminal event of which, for all Protestants and certainly for Royalist Protestants such as Taylor, was the execution of Charles I.[123] As was discussed in the previous chapter, the issue of swearing allegiance is bound together with the issue of obedience to magistracy. For Taylor, there are degrees of obedience, particularly obedience of the will and obedience of the understanding. The will largely concerns obligatory obedience to human laws but obedience to understanding presumes that law is created out of reason, a notion that does not give it precedence. Duty to God takes precedence over

> wisdome or reasonableness of the Law...For when he [the wisest Man] hath given up his understanding to his Prince and Prelate, provided that his duty to God be secured by a precedent search, hath also... secured his obedience to Man.[124]

In *Holy Living*, Taylor goes to great pains to establish and state a position of non-resistance to authority at a time when the definitions of what constituted kingly authority were shifting and changing. Taylor's posture, albeit traditional and conservative, was nonetheless politically subversive. Taylor defines the relationship between the king and oath-taking. First, he subscribes to the traditional Pauline definition of obedience to Magistracy and cites several of the Pauline epistles including the letters to the Romans, Phillipians, Hebrews, Titus and 2 Corinthians, which adds up to a position of

> We must obey all humane laws appointed and

[123] Askew, *Muskets and Altars*, 1-2.

[124] Taylor, *Holy Living*, 149.

> constituted by lawful Authority, that is, of the supreme power, according to the constitution of the place in which we live: All laws which are not against the law of God.[125]

Second, Taylor, like Sanderson, was clear about the king's obligation to honor his own vows. In the section entitled "On Supreme Civil Powers and their Laws in Special" in the second volume of *Ductor Dubitantium*, Taylor says:

> Whatever the prince has sworn to, to all that he is obliged, not only as a single person but as a king, for; although he be above the laws, yet he is not above himself, nor above his oath, because he is under God: and cannot dispense with his oath...[126]

While Taylor has clearly stated the responsibility of the king to his oath, in the end he aligns kingly power with God.

> Consider that all authority descends from God and our Superiors bear the image of the Divine Power... By obedience we are made a society...distinguished from herds of Beasts and heaps of Flyes...[127] *Rebellion is as the sin of Witchcraft*...thousands have been damned merely for following their own will...[128]

Richard Baxter's theology of oath-taking is difficult to generalize, all the more so in examining the oaths he turned down. He held a midway position on the controversy between prelacy and Presbyterian-Puritanism and in his autobiography, *The Reliquiae Baxterianae*, he presents himself as a "moderate Episcopalian" who often functioned as a

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[125] Ibid., 143.

[126] Taylor, "Sermons" in *Whole Works*, 10: 178.

[127] Taylor, *Holy* Living, 146.

[128] Ibid., 147.

"chief spokesman of the Presbyterians."[129] He shared a limited sympathy toward Presbyterian views of Church Government and held a limited tolerance for Episcopalianism, as it existed in the Church of England. He took a compromised stance in the controversy between Calvinism and Arminianism in that he was neither a strict Arminianist nor party-line Calvinist, but he supported both the Synod of Dort, which was anti-Arminian, and the Westminster Assembly, which was pro-Presbyterian.[130] His inclination was toward the development of a unified, comprehensive national church, which he cobbled from elements of episcopacy and Presbyterianism.[131] He called himself a Nonconformist,[132] although it was a moderate form of Nonconformity. He declined the Solemn League and Covenant, the Negative Oath and the Engagement Oath. In 1640, he declined to subscribe to the Et Cetera Oath, of which he wrote at length in *A Treatise of Episcopacy.*

Several seemingly disparate factors, such as his childhood, his theology of oath-taking as expressed in his major work, *A Christian Directory*, and his nonconformity, all of which will be discussed below, come together as a unified whole in *A Treatise of Episcopacy*, which he wrote, late in life, in 1671 to explain why he had rejected the Et Cetera Oath, which meant that by definition he had also rejected English and Roman episcopacy. Among the reasons that Baxter claimed he rejected episcopacy and embraced Nonconformity was his disaffection for the state of the clergy during his childhood and adolescence. Judging from the fact that he wrote about it at least twice, his

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[129] J. M. Lloyd Thomas, "Introduction," in *The Autobiography of Richard Baxter being The Religuiae Baxterianae* (New York: E.P. Dutton, 1925), xix.

[130] Irvonwy Morgan, *The Nonconformity of Richard Baxter* (London: The Epworth Press, 1946), 77.

[131] Ibid., 50

[132] Richard Baxter, *A Treatise of Episcopacy*, (London: Printed for Neville Simmons and Thomas Simmons, 1681.)

childhood experiences appeared to have influenced his attitude toward the Church of England. He describes his childhood in both *The Reliquiae Baxterianae* and again in *A Treatise of Episcopacy.* In the first chapter of *The Reliquiae Baxterianae*, which is headed, "Incompetent clergy and drunken teachers..." he writes

> In the village where I was born there were four readers...ignorant men, and two of them immoral in their lives...there was a reader of about eighty years of age that never preached, and had two churches about twenty miles distant...These were the schoolmasters of my youth...who read Common Prayer on Sundays and Holy-Days, and taught school and tippled on the weekends, and whipped the boys when they were drunk, so that we changed them very oft.[133]

While Baxter by 1671 had to some extent reformed his negative childhood impression of the English clergy, he still held a measure of skepticism as evidenced by his inclusion of his childhood memories in the preface to *A Treatise of Episcopacy*.[134]In the introduction to *A Treatise of Episcopacy* he describes his early years again and says that his education was first offered by

> eight men, of whom only two preached once a month and the rest were but Readers of the Liturgie...after that I fell into the hands of a Teacher...that reviled Puritanes: and after that I fell into the happier acquaintance of three ancient Divines, that were then called Conformable Puritanes...[later I met] some Nonconformists...men of such Honesty and Peace...,[135]

which may, in part, account for his Nonconformity, since he also says,

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[133] Richard Baxter, *The Autobiography of Richard Baxter being The Religuiae Baxterianae*, ed., J. M. Lloyd Thomas, (New York: E.P. Dutton, 1925), 3-4.

[134] Baxter, *Treatise of Episcopacy,* A2.

[135] Ibid., 1-2

> ...as soon as I was ordained, I removed into a Countrey where there were some Nonconformists, some few of them Learned Ministers...And the *Nonconformable Minsters* there, were men of much Holiness and Peace...[136]

For Richard Baxter, the seminal dictate of an oath was that those who had subscribed to it had best keep it.[137] He opposed almost all of the oaths and subscriptions that were offered by Parliament during the period from 1640-50. He publicly opposed the Solemn League and Covenant on the grounds that Parliament "did it without the King's authority" and incurred the antagonism of the Presbyterian clergy. Furthermore, he says that he prevented Kidderminster and Worcester, where he was Minister of the Gospel, from taking it and from later subscribing to the Engagement Oath.[138] In *A Christian Directory,* Baxter devotes Chapter Five of Part Three, entitled *Christian Ecclesiastics*, to the subject of oaths and vows in which he describes his theology of oath-taking, some of which signals why he had been reluctant to subscribe to oaths that did not meet his standards of prudence and rationality. First, like Sanderson and Taylor, he says that a vow is a promise made to God but he also takes pains to enumerate what it is not, such as an assertion or resolution. Taking an oath is the rational act of a rational human being, he says.

> Whereas some casuists make deliberation necessary, it must be understood that to the being [the person taking the vow] a vow [requires] so much deliberation ...as may make it a rational human act, it must be an act of reason.[139]

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[136] Ibid.

[137] Richard Baxter, *A Christian Directory* (Morgan, Pa., Soli Deo Gloria Publications, 2000), 564.

[138] Baxter, *Religuiae Baxterianae*, 64.

[139] Baxter, *Christian Directory*, 564.

The key word in the above quotation is "deliberation." A vow must be made with deliberation. Without deliberation, "a vow is a rash vow but not no vow."[140] Further, a vow is always voluntary; even if someone is holding a sword to your breast, it is an act of choice.

> When we say it must be a voluntary act, the *meaning* is not that it must be totally and absolutely voluntary, without any fear and threatening to induce us to it but only...that is it is an act of choice, by a free agent.[141]

Thus, Baxter establishes oath-taking as the sole responsibility of the swearer, eschewing political exigency as he has done throughout his own life. He sees an oath as a double obligation-- one is the duty to God and the other is to keep the vow. In that matter, Baxter is critical of other casuists. "Hence you may see what to think of the common determination of casuists concerning vows materially sinful, when they say a man is not obliged to keep them."[142] As with Sanderson and Taylor, making a vow to commit a sinful act is of itself a sin and demands both the refusal to commit the act and repentance; however, at the same time, breaking a vow, even a wrongful vow, is also a sin.[143] Unlike Taylor or Sanderson, Baxter makes little allowance for justifiable equivocation, not in his casuistry, as noted in the third chapter, but certainly in the matter of oath-taking. In that instance he see equivocation as perjury. "They that swear or vow with a secret reserve, that rather than they will be ruined by keeping it, they will break it, are habitually and reputatively perjured persons, even before they break it."[144] Baxter calls perjury heinous.

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[140] Ibid.

[141] Ibid.

[142] Ibid., 565.

[143] Ibid.

[144] Ibid., 570.

> He that appealeth to his judgment by an oath and doth this in falsehood, doth show that either he believeth not that there is a God or that he believeth not that he is the righteous Governor of the world...You invite God to plague you, as if you bid him do his worst.[145]

Baxter makes a direct reference to equivocation and mental reservation by quoting Sanderson's *De Juramento*: "An oath is to be taken and interpreted strictly...Sanderson saith...not as excluding an equitable interpretation, but as excluding an interpretation corrupted by partiality."[146]

In *A Christian Directory* Baxter set up instruction for individual conduct regarding political oaths. First, one may not vow to do anything unlawful without the governor's consent. However, if it is something lawful and the governor forbids it, then one can indeed vow to do it. In the case where oaths are commanded by usurpers that do not have the authority to impose them, they must be declined because taking the oath confirms the usurper in his sin. In the case of usurpers, no obedience is owed them even if they may have limited authority over a subject. Baxter is referring to the example of a constable who has some authority over an individual's conduct but not the authority to administer an oath. He concludes his comments with the admonition to again "consult with God and know that it is not against his will,"[147] nor is harmful.

> To make a vow lawful, besides the goodness of the thing which we vow, there must be a rational discernible probability, that the act of vowing it will probably do more good than hurt.[148]

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[145] Ibid., 569.

[146] Ibid., 573.

[147] Ibid., 568

[148] Ibid., 567.

The remainder of Baxter's chapter on oaths and vow is devoted to the numerous instances of particular oaths and vows that concern an individual's daily life, supplemented with cases of conscience styled in question-and-answer form. Throughout this section of *A Christian Directory*, Baxter quotes and makes reference to works by Robert Sanderson.

As already noted, Baxter refused most of the political oaths of the 1640s. However, despite the fact that his oeuvre ran into thousands of pages and he was at the mercy of political events, explicit polemics concerning actual events occupied a lesser portion of his writings than did theology, recognizing, of course that the division is difficult to draw since theology and politics overlapped, as they certainly did in his book on the Et Cetera oath. Baxter's *A Treatise of Episcopacy* is a 107-page book and was first published in 1680, although written, according to the title page, in 1671 and "Meditated in the Year 1640, when the *Et Cetera* Oath was imposed...by the importunity of our Superiours, who demand the Reasons of our Nonconformity."[149] *A Treatise of Episcopacy* came about through a correspondence between Baxter and a Mr. Henry Dodwell, who had read Baxter's anti-episcopal *Book of Concord*. Dodwell had, according to Baxter, written a schismatic volume in which he

> degradeth, unchurcheth, if not unchristianeth, so many of the Protestants as having no Sacraments, no Covenant rights, no salvation but sinning against the Holy Ghost; and all for want of a Ministerey derived from an uninterrupted succession of Episcopal Ordination from the Apostles...I say the necessity of Publishing my Treatise which contained more than an Answer to him.[150]

[149] Baxter, *Treatise of Episcopacy,* n.p., title page.

[150] Ibid., n.p., pages 4-5

The Et Cetera Oath emerged out of the Congregation of Bishops, led by Archbishop Laud, who published seventeen canons which asked for the support of the government of the Church of England with an Oath that called for unquestioning allegiance to the Church of England and its rules and regulations, including a subscription to the Book of Common Prayer.[151] The oath read in part,

> I...do swear that I do approve of the Doctrine, and Discipline, or Government of the Church of England as concerning all things necessary to Salvation----Nor will I ever give my CONSENT to alter the government of the Church by Arch-Bishops, Bishops, Deans and Arch-Deacons, et cetera, as it stands now established...[152]

Essentially the oath calls for the clergy to swear to an implicit faith in something unknown at the time, meaning something which the church at some future date may or may not declare to be true, Baxter says in the Preface. As a consequence, he lists some ten considerations one must make before accepting or rejecting the oath. He starts with the objection that the oath was divisive, as had been the Scotch oath and the Bishop's oath before that. His second objection is that he believed that " the whole frame of the present Church Government was about to be fixed, as by an Oath of Allegiance..."[153] His next concern is the meaning of the words "Et Cetera" and where that left such persons as "Lay chancellous, [sic] Officials, Surrogates, Registers, Proctors, Advocates:"[154] Were they to be part of the established Government? His fourth concern was that the King and

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[151] Paul Chang-Ha Lim, *In Pursuit of Purity, Unity and Liberty: Richard Baxter's Ecclesiology in its Seventeenth Century Context* (Boston: Brill, 2004), 105.

[152] Baxter, *Treatise of Episcopacy*, second page. The text of the oath is taken directly from the second page of the preface to *A Treatise of Episcopacy* which is unnumbered. It matches the text of the oath except for the word CONSENT being capitalized. For the complete text see, William Laud, *The Works of William Laud,* 7 vols. (Oxford: Parker Society, 1847-60), 5:623.

[153] Ibid.,, n.p., third page of Preface.

[154] Ibid.

Parliament could "set up a Bishop in every corporation." They could also remove the higher titles like Archbishops and Deans. Baxter claims to have asked them if they intended such and "few denied it," he says. Next, he asked himself whether or not he would disobey, if indeed they did make those changes. (He does not say whether or not he would.) The sixth objection was that what may be imposed on the clergy may next be imposed on the laity. He further objected to the fact that he had to swear, which meant that he invoked Divine Law and it could not be revoked by Man's Law. His other concern was his fear of being cast out of the ministry if he refused the oath.[155]

Baxter saw the oath as raising the issue of adiaphora, or things indifferent. As noted in the second chapter, ceremonial conformity that makes up adiaphora was a controversial issue for Puritans and Nonconformists, and Baxter, while not entirely objecting to all ceremonial conformity, was prompted to rekindle his objections to adiaphora.[156] In *The Reliquiae Baxteriana* Baxter points out that he had already come to terms with ceremonial conformity before the Et Cetera oath had been imposed.

> Kneeling I thought lawful...The surplice I more doubted of; but more inclined to think it lawful...The ring in marriage I made no scruple about. The cross in baptism I thought Dr. Ames proved unlawful...A form of prayer and liturgy I judged to be lawful, and in some cases lawfully imposed; our liturgy in particular I judged to have much disorder and defectiveness in it.[157]

He concludes by saying that he personally never once made use, whether he approved or not, of the ceremonial elements.[158]

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[155] Ibid.

[156] Lim, *In Pursuit of Purity,* 153.

[157] Baxter, *Religuiae Baxterianae*, 17.

[158] Ibid.

It was said above that Baxter could not be categorized at this stage in his life as either a traditional Presbyterian or a radical Puritan, and certainly not a conforming Episcopalian. As discussed in the third chapter, he characterized himself as a nonconformist, a designation that is at odds in examining his views of prelatical organization. He posits an ecclesiastical structure similar to episcopacy, with similar titles but altered functions. In the preface to *A Treatise of Episcopacy* he offers his thoughts on how the church should be organized because he has been accused of speaking against episcopacy and his accusers claimed that he was a man of "deceitful scorn."

> Mr. Baxter would have as many Bishops as Parishes, and a Pope in every Parish, when men think one in a diocess too much: When every ignorant rash Priest shall be the Master of all the Parish, and you have no remedy against his Tyranny; what a brave reformation will this be.[159]

Baxter countered the charges with a program of fourteen points for the creation of a clerical hierarchy that is based on liberty of choice, an idealized system of episcopacy that opposed the existing system and reinforced his rejection of the Et Cetera Oath. It is based on the notion of a non-centralized church in which limited authority would be conferred on elected diocesan priest-administrators. They would in turn be responsible to either a bishop or archbishop, with all titles being at the behest of the people, meaning that they would be chosen by the congregates. Baxter is against any concentration of ecclesiastical power in one individual, such as the pope or king, because it is ineffectual and in terms of pastoral care, impersonal. A "Pope is a Monarch or Governor of the world and a Diocesan of a multitude of Parishes," but, he says, one man is able to guide one school, hospital or family better than having to guide "a hundred or thousand,

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[159] Baxter, *Treatise of Episcopacy,* n.p., sixth page of Preface.

without any true Master of a Family, School, Colledge, etc., under him"[160] Moreover, he adds that a parish pastor would not

> have any forcing power by Fines, Mulct, Imprisonment, etc. But only to prevaile so farr as his management of Divine authority on mens Consciences can prevail: And we would not have Magistrates punish men meerly because they stand excommunicate, or they tell not the clergy that they repent. True excommunication is a heavy punishment fitted to its proper use, and not to be corrupted by the force of the sword, but to operate by itself.[161]

He would have no man appointed as pastor of a church without the people's consent, "no more than a physician would be forced on the sick."[162] He adds, seemingly skeptical of his own beliefs,

> And yet we believe that the Magistrate may constrain Atheists, Infidels, and such as refuse all proper Church Communion, to hear Gods word Preached, and make all the Parish allow the Teacher his tythes due by law: But he may force no man to Receive the great gift of the Body and Blood of Christ or pardon delivered and sealed by Baptism.[163]

With that, he eliminated elements of ceremonial conformity. In spite of what appears to be a modified Presbyterian order of church structure, he still affirms the existence of episcopal authority. In the sixth section he writes:

> And if a Church-Pastor do displease the Church, and the main body of them do withdraw their consent, we would not have any man continue their Pastor while they consent not, but disclaim him.

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[160] Ibid., n.p., seventh page of Preface.

[161] Ibid.

[162] Ibid.

[163] Ibid.

> Though in case of need the Rulers may continue him in his benefice.[164]

Baxter calls for synods of neighboring parishes to whom every pastor would give an account of his ministry and be subject to the synod's vote on possible irregularities. Bishops, Baxter points out, may be head of the synod but, Baxter cautions, only if they manage their offices by pastoral skill, "we would submit." He defines pastoral skill as "pastoral power" and advises that they reflect the apostles in their willingness to instruct "junior pastors." In that instance, they may be raised to archbishops and if the King helps them accumulate wealth, honor and a place in Parliament," whether we like it or not, we shall peaceably submit, and obey them as magistrates."[165] He concludes his answer to his critics by agreeing to hold the "Magistrate the only Governor by the sword" over men and pastors. "Judge now whether we set up Popes or Tyrants," he says.[166]

The complete text of *A Treatise of Episcopacy* appears to reflect, to some extent, the fourteen points he made in answer to the critical commentary above. In the text, which reads like a legal brief, he reiterates his claim that one prelate could not guide thousands of men. He analyses the church structure office by office with the intent of drawing a distinction between a mitigated prelacy and the existing structure. "It being not Episcopacy in General but (the Popish and) the *English* Species of Prelacy, which our Judgments cannot approve and which we cannot swear to as approvers."[167] His argument is further based on a list of generalized ecclesiastical statistics:

> ...in *England* there are 26 or 27 Bishopricks: of which two are Archbishops...nine thousand seven hundred and twenty-five Parish

[164] Ibid., n.p., eighth page of Preface.

[165] Ibid., n. p., ninth page of Preface.

[166] Ibid., n.p., tenth page of Preface.

[167] Ibid.

> Churches, but now many more. In the Diocese that I live in (Lincoln) there is above 1000 or 1100...[There are] some 50000 persons, (some say much more) some about 30000, some about 20000 &c...[168]

He makes the point again that so large a population is not manageable by one person. Speaking of bishops and archbishops, he analyses what they now do, what their powers are and what he thinks their powers should be, and the expectations of the diocese. This is followed by a chapter in which Baxter writes the history of the rise of diocesan prelacy, a long, multi-page treatise that starts with the apostolic structure of the early church and ends in the seventeenth century, painting a picture in which apostolic succession gave rise to heresy while sects and denominations maneuvered for positions of primacy.

> And most of all this, in prosecution of that Controversie , which Christ decided so long ago, *viz. Who should be greatest. It was not Religion saith Socrates, that the two* Arian *sects, of* Marinus *and* Agapius *was about but Primacy: They strove which of them should be the chief: wherefore many Clergy-men under the jurisdiction of these Bishops, perceiving the ambition, the rancour and the malice of these proud prelates, forsook them.*[169]

Unlike Taylor, Baxter argues against the idea of an apostolic succession[170] and concludes by passionately asking

> And having shewed how the Bishops of the Flock came to be Bishops of Bishops, and how they grew from a Pastoral Office to a pompous denomination mostly secular and how Bishops of single Churches , did grow to be the Bishops of multitudes of Churches turned into one Diocesan Church of another species, we shall leave it to those who are wise and impartial, to judge whether a true Reformation must retrieve them...what satisfying proof any man can give that

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[168] Ibid., 5.

[169] Ibid. 26.

[170] Ibid., 11 ff.

> in a line of 1500 Years, that it is the right point that he has chosen.[171]

Chapter Four discusses nonconformity. Although it was written 30 years after it was "meditated upon," Baxter is in all likelihood making a contemporaneous statement of personal pain because he heads the chapter *The Judgement of those Nonconformists, (now silenced) who in 1660 addressed themselves to King Charles the Second for Concord in the matter of Church –Government...*[172] In 1661 he presented a Nonconformist revision of the Prayer Book at the Savoy Conference, the consequence of which was that a year later he was refused permission to return to Kidderminster as curate. He relates the history of nonconformity beginning with the "Fall of Man" and concludes that he has given the public, "a truer description of the Judgment of the present Nonconformists...than the extremes and freaks of a few Sectaries would have all men to receive."[173]

In the same chapter, he lays the groundwork for increased responsibilities for pastors, again in line with his argument regarding pastors as having manageable parishes. He begins with the arrival of Christ after the Fall, to whom, he says, is delivered all things including Nature itself which becomes part of Christ's Law. The Office of Magistracy is under Christ, derived from him and dependent on him. The Office of Sacred Ministry, however, is a function of Grace "and less of Natural Origin."[174] Those who occupy the title and the office should be ministers of the Gospel and administrators of institutional worship and church discipline. Some of that work is also to be shared with

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[171] Ibid., 27.

[172] Ibid., 28.

[173] Ibid., 44.

[174] Ibid., 28-29.

the Christian Magistrate,[175] since much of the work of the Office of Sacred Ministry pertains to God's Law of Nature:

> as that he may be called a Magistrate, though he be not a Christian Magistrate. But he is (at least) less fitly called a minister or Priest of God, who shall only teach the Law of Nature and guide an Assembly in meer Natural Worship[176]

Baxter adds an additional dimension to his argument with the introduction of Mosaic law. He questions the founding of "Mosaical Magistry"[177] either in nature,

> or in any Revelation expounding the Law of Nature, we may under the Gospel fetch proofs thence for the Christian Magistrates Authority and Obligation; yet we can fetch no Model of a Gospel Ministry...Because the Law of Moses is abrogate and indeed never did bind the Gentiles. Therefore though Christ's be now the Head and Fountain of Power... yet he did not institute a new Office of Magistracy, but add new Laws to rule by as part of their Rule of Government... but a ministry he did institute a-new...[178]

Baxter was an anomaly during the Civil War years and after. He opposed the Solemn League and Covenant and offended the Presbyterians; he opposed the Engagement and offended the Independents; he spoke against the Regicides at the risk of his life; and he supported the return of the monarchy, was awarded the bishopric of Hereford which he declined. In the end, his rejection of the Et Cetera Oath resulted in a highly idealized plan for a new kind of episcopate that unified almost all of the

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[175] It would appear that the term "Christian Magistrate" may be synonymous with Archbishop.

[176] Baxter, *Treatise of Episcopacy,* 29.

[177] Ibid.

ecclesiastical elements that were in conflict during the Civil War and would have made the oaths he rejected unnecessary.

[178] Ibid.

CHAPTER SIX

SUMMARY AND CONCLUSION

The object of "English Protestant Casuistry: with Special Emphasis on Conscience and Oath-taking" is to examine the institution of casuistry in seventeenth-century England and assess its affect on the religious and political directives that produced moral conflict but, at the same time, were essential to the maintenance of an ordered society. The understanding of these political obligations was a singularity, unique to England in which conscience, constrained by state oaths constituted the moral and legal assurance of religious and political conformity. It also contributed to the schism between the Puritan and High Church factions in which the Puritans stressed political obligations and the High Church was concerned with social and domestic obligations. Among the contentions of this inquiry were that, despite the arguments of twentieth-century Church of England bishops, English Protestant casuistry was almost entirely a Puritan construction. It emerged against a background in which allegiance-driven, state sponsored religious coercion clashed with specialized theological principles that characterized (often moderate) parties of dissent. Among the functions of Puritan-centered Protestant casuistry was to reconcile the fractious elements of dissent such as individual conscience, allegiance to the state and, overriding most other concerns, the inherent difficulties that came with swearing an oath with God as witness. Therefor the title of this inquiry is "English Protestant Casuistry: with Special Emphasis on Conscience and Oath-taking"

This study defined casuistry as cases of conscience, a systematic way in which people resolved conflicts of conscience for the purpose of maintaining religious freedom

in the face of institutionalized coercion. It argued against the conventional notion that casuistry consisted of a series of intellectual set pieces developed for the purpose of avoiding moral obligation and offers instead the contention that recognized Protestant casuistry as a heartfelt response to predestinarian concerns and anxiety over election and salvation. William Perkins, for instance, concerned with anxiety over salvation, wrote *A Case of Conscience, the greatest that ever was: How man may know whether he be the Child of God or no* in which he explored whether or not right conscience was a moral justification of election.[1] Keeping in mind predestinarian concerns, this dissertation concentrates on the theology of case divinity, emphasizing grace, ecclesiology, and scriptural authority. It further uses the political instrument of oath-taking as a venue for demonstrating the need for a Protestant casuistry and showing that as oath-taking changed and developed, casuistry reflected those changes and developments, and as oath-taking lost its mantle of awe, casuistry waned and temporarily disappeared.

Concentrating on the works of six prominent clergymen, William Perkins, Joseph Hall, William Ames, Robert Sanderson, Jeremy Taylor and Richard Baxter, along with a lesser group of clergy and lay men who practiced casuistry, John Dury, Thomas Hobbes, John Donne and John Sharp, this study makes the point that English Protestant casuistry flourished for over a hundred years, from the last decades of the Elizabethan reign to the middle of the eighteenth century. It further contends that during that time, casuistry influenced, and on occasion dominated, English theological discourse for three reasons. The first was that most of the casuists produced a vast and unique body of literature made up of theological works including compilations of cases of conscience that were

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[1] William Perkins, *A Case of Conscience the Greatest that ever was: How man may know whether he be The Child of God or no* (London: 1626), passim.

accessible to the ecclesiastical establishment and the public at large. Further, most of those writings were translated into French, Dutch, and German, and republished in numerous editions both in England and abroad. The second was that all of the people in this study who practiced casuistry were also prominent theologians, all of whom participated in the highest echelons of clerical and academic life, some holding important benefices, often with close connections to the crown. Joseph Hall, for example, was the Bishop of Exeter and later Norwich; Robert Sanderson spent two years as the Bishop of Lincoln; Jeremy Taylor was the Bishop of Down and later of Connor. Many of them were also appointed to political groups and committees from where they could exercise political power. For example, Robert Sanderson was one of twenty delegates that drew up the Oxford Manifesto,[2] and John Dury and Thomas Barlow, two lesser figures, advised Oliver Cromwell on the re-admittance of Jews to England.[3] The third reason that casuistry was influential was that it produced a secondary discourse in which the casuists and their writings were written about, rebutted, and confirmed by other writers of the time. Men like Thomas Fuller[4] Robert Boyle,[5] Daniel Defoe,[6] and Izaak Walton[7] wrote about casuistry and contributed to its recognition as a valuable branch of theological study.

This inquiry also asks how a casuist was defined and how he differed from most clergymen. The basic answer was that he defined himself. Somewhere in his writings,

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[2] Izaak Walton, *The Lives of Donne, Wooten, Hooker, Herbert and Sanderson* (London: Metheun, 1895), 254.

[3] Camille Wells Slights, *The Casuistical Tradition* (Princeton: Princeton University Press, 1981), 60-61.

[4] Ibid., xviii.

[5] Ibid., 62n.

[6] See George Starr, *Defoe and Casuistry* (Princeton: Princeton University Press, 1971).

[7] See Walton, *Lives,* 231 ff.

each one of the six casuists selected for this study identified himself as a casuist or his work as casuistic in nature. Additionally, in this study a unifying standard was set for each of them, which was that they participated in three aspects of casuistry. First, each casuist resolved individual cases of conscience through individual counseling; second, each one recorded his cases and compiled them into books of cases of conscience and third, each one offered theological commentary on the cases, which commentary, in almost all instances, was based on scriptural precedent. Taken together, the three activities, counseling, compiling the cases and theological commentary defined the process of English Protestant casuistry, in a way that is unique to this dissertation.

The claim is made in the introduction to this work that all casuistry was indivisible in context from conscience and, indeed, casuistry is synonymous with cases of conscience. Thus, the first chapter is a brief history of conscience in which it is claimed that the earliest notion of conscience as we understand it today, was a Christian construction with antecedents in Aristotelian and Roman Stoic thought.[8] The idea of conscience as a faculty of the soul or an understanding of certain moral or ethical principles as being a binding force upon which conduct and action is predicated is entirely a Christian thesis. It does not appear in the Old and Inter-Testamental literature of the Hebrews, whose spiritual accountability was dictated by the tenets of tribal nationalism. For Jews then, and now, the God-subject relationship was an innate consequence of covenant theology, grounded in the unquestioning dogma of obedient response.[9] There is no Hebrew word for the Latin *conscientia,* nor does it exist in

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[8] Albert R. Jonsen and Steven Toulmin, *Abuse of Casuistry* (Berkeley, Ca.: University of California Press, 1988), 78.

[9] Jacob Neusner, *Judaism: The Evidence of the Mishnah* (Chicago: Chicago University Press, 1981), 86-90.

Sanskrit, Chinese or Japanese.[10] The argument that conscience is a Christian construction is also unique to this dissertation.

The Epistles of Paul, particularly Romans and 1 Corinthians, bear a strong influence on the way conscience was defined in the seventeenth century. Thomas Wood made the case for Paul having defined and constructed the idea of conscience as having a context of moral Christian behavior[11] and cited Romans 12:1 as an example of the power of conscience.[12] The impact of Paul on the theology of conscience is also demonstrated in chapter three where this dissertation establishes scriptural authority that sustains the discourse of the six casuists-- a project not attempted before this inquiry -- and Paul is the predominate source of that authority. The index to the Heber-Eden edition of Jeremy Taylor's works shows 20 columns of citations from the entire Old Testament and nine columns for the three Synoptic Gospels, but it shows an overwhelming 38 columns of citations taken from the Pauline Epistles. Of those 38 columns, five columns cite texts from Romans and another five from 1 Corinthians. The Eerdmans Analytical Concordance to the Revised Standard Version of the Bible bears this out. It contains 30 references to the word "conscience;" two are in the Acts of the Apostles and the rest are in the Epistles.[13]

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[10] Andrew, *Conscience and its Critics*, Protestant Conscience: *Enlightenment Reason and Modern Subjectivity* (Torontp: University of Toronto Press, 2001), 12.

[11] Thomas Wood, *English Casuistical Divinity During the Seventeenth Century* (London: S.P.C.K., 1952), x.

[12] Ibid. Romans 12:1. I appeal to you therefore, brethren, by the mercies of God, to present your bodies as a living sacrifice, holy and acceptable to God...Do not be conformed to this world but be transformed by the renewal of your mind...

[13] *Eerdmans Analytical Concordance to the Revised Standard Version of the Bible*, compiled by Richard E. Whitaker (Grand Rapids: Mich., 1990), 205.

It is shown in this study that the language of conscience was largely determined by Saint Jerome and provided a syntax upon which the language of casuistry was built.[14] The key word that begins with Jerome and used throughout the middle ages until the seventeenth century is *synteresis.* Jerome used it in place of *conscientia*. He defined *synteresis* as a spark of conscience (*scintilla conscientiae*). Robert A. Greene says that *synteresis* has several layers of meaning given to it by various theologians. Among them, he cites Peter Lombard who made the first important translation of Jerome's definition of conscience, mentioning it in his *Sentences* (1152),[15] but ignored the expression *scintilla conscientiae* and substituted *scintilla rationis*, which Greene says came from Augustine's *The City of God,*[16] in which the soul holds onto a "spark of its power."[17] By the seventeenth century, s*ynteresis* referred to the part of conscience thatfunctioned as the storehouse of moral law as well as the innate belief that human beings were born knowing God's law, the doctrine by which every action is judged and by which sin, defined by the Puritan casuist, William Perkins, as "a want of conformitie to the Law of God," is also identified.[18] *Conscientia* is the inner voice that passes judgment but it also recognizes virtuous behavior. *Synteresis*, by contrast, produces the apprehension of sin.[19]

To the medieval and early modern Christian the two elements, conscience and sin, were of one piece. A violated conscience led to sin which in turn led to damnation. A

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[14] Michael Baylor, *Action and Person*, *Conscience in Late Scholasticism and the Young Luther.* (Leiden: Brill, 1977), 26.

[15] Robert A. Greene, "Synderesis, the Spark of Conscience, in the English Renaissance." 52 (April-June 1991) :2, 197.

[16] Ibid., 199.

[17] Ibid., 199.

[18] William Perkins, *The Works of that Famous and Worthy Minister of Christ...Mr. William Perkins*, 3 vols. (London: 1612-1613), II: 3.

[19] Baylor, *Action and Person*, 26.

right conscience led to salvation.[20] Both premises raised such questions as what constituted sin and where did the responsibility for an individual's sin rest. Peter Abelard, for example, said that there was no sin unless it was a sin against conscience.[21] For Abelard, the issue was also the nature of sin. Was a sin committed unknowingly still a sin? Similarly, if one was forced to commit a sin against one's will, was it still a sin? The answer, to some degree, was that if there was no sin except against conscience, then one's conscience foretold the commission of a sin and it was therefore presumed an absolute obligation to follow conscience.[22] Thomas Aquinas believed that conscience was a product of rational thought and therefore infallible. He believed that conscience was embedded in the tripartite division of eternal law: God's law, natural law and civil law.[23] He defined eternal law as the rational governance of everything on the part of God and natural law as the means by which rational human beings participated in God's law.[24] He equated *synteresis* with natural law and believed it was innate. Civil law, or human law, was a fallible, uncertain product of human judgment that emerged from natural law.[25] Conscience, a product of reason was, finally for Aquinas an inner voice of accusation and judgment, a premise that was among the major influences on Perkins,[26] Taylor,[27] and

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[20] John S. Wilks, *The Idea of Conscience in Renaissance Tragedy* (London: Routledge, 1990), 36.

[21] Abelard, *Ethica*, Ed, E.D. Luscombe (Oxford: Clarendon, 1971), 54.

[22] Ibid., 27.

[23] Baylor, *Action and Person*, 54.

[24] Thomas Aquinas, *St. Thomas Aquinas on Politics and Ethics.* Ed. and trans. Paul E. Sigmund. (New York: Norton, 1988), 46

[25] Wood, *English Casuistical Divinity*, xviii.

[26] William Perkins. "A Discourse of Conscience," in *William Perkins, English Puritanist*, ed., Thomas F. Merrill (Nieuwkoop, Netherlands: B. De Graaf, 1966), 11.

[27] Jeremy Taylor, *Ductor Dubitantium* in *The Whole Works of the Right Rev. Jeremy Taylor, D. D.,* eds. Right Rev. Reginald Heber, D. D. and the Rev. Charles page Eden, M. A., 10 vols. (London: Longman, Green, Roberts and Green, et al, 1864), 9: 5, 6.

Baxter.[28] Martin Luther and John Calvin were both indebted to Aquinas. Calvin was concerned to a far greater degree with conscience than was Luther. Luther cared about the problems of an erroneous conscience, the mistakes that people might make in understanding the inner voice of *synteresis* or what he called *gewissen*.[29] He used the example of the heretic who follows his conscience and dies for his heresy. Calvin, however, made three important points that frequently appeared in the theological commentary of Protestant cases of conscience: (1) that conscience was an instrument of God's judgment,[30] (2) that obedience to magistracy reflected humankind's obedience to God,[31] and (3) that although humankind was corrupt and had to strive to fulfill God's law, men had to understand that it was an unattainable ideal.[32] This study showed that it was Calvin's understanding of conscience that probably informed all six casuists.

Calvin also agreed with the Roman Stoic idea that conscience is a voice with witnesses. "Conscience is a thousand witnesses...,"[33] he writes and Perkins follows with a similar description of conscience being a voice witnessed by God. "Conscience bears witnesse of our thoughts, of our affections, of our outward actions." [34] Thus the principle that to act against conscience was sinful was a cornerstone of the Pauline-Scholastic-

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[28] Richard Baxter, *The Autobiography of Richard Baxter being the Reliquiae Baxterinae*, ed., J. M. Lloyd Thomas,(London: J. M. Dent & Sons, 1931), 9.

[29] Steven E. Ozment, *Homo Spiritualis* (Leiden: E. J. Brill, 1969), 145.

[30] William J. Bouwsma, *Calvin: Sixteenth Century Portrait* (New York: Oxford University Press, 1988), 41.

[31] E. William Monter, *Calvin's Geneva* (New York: John Wiley & Sons, Inc., 1967), 101.

[32] François Wendel, *Calvin: Origin and Development of his Religious Thought,* trans. Philip Mairet (Grand Rapids, Mich: Baker Books, 1997), 163.

[33] John Calvin, *The Institutes of The Christian Religion*, ed., John T. McNeill, 2 vols. (Phila: The Westminster Press, 1960), 1: 184. The quotation is cited in Calvin's *Institutes* as being from Quintilian's *Institutes of Orator*,. V. xi. 41.

[34] Perkins, "Discourse on Conscience," 9.

Calvinist position on the authority of conscience and as this dissertation contends, it is largely taken up by radical Puritan factions.

Among the other contentions of this dissertation is that the popularity of casuistry affected important changes in the secular notion of moral obligation and conscience and that these changes were reflected in the social context of seventeenth-century England. As conscience was defined by the Scholastics and absorbed by the reform church, it became a central preoccupation for concerned Christians with the need to affirm right-reasoned moral conduct. As such it took on a social context in which people needed and wanted to hear casuistical argument. This dissertation put together conscience and casuistry in its social context as elements of a discourse that had four outlets: playhouses, public sermons, private associations of clergymen, and clergymen who privately consulted with individuals regarding moral doubt. Three of those outlets, playhouses, sermons and private counseling, were open to most citizens, (Although the playhouses were off-limits to Puritans, they could, and certainly did, attend sermons.) The fourth, private associations were open to selected members only.

The plays of Shakespeare, Marlowe and the Jacobean revenge plays dealt, even when they were comedies, with sin. Conscience was almost always the point around which conflict revolved. It was "proof" that God played a part in life's dramas. Conscience in Milton's*Paradise Lost* , for example, was an element in the spiritual battle between God's law on one side and natural law on the other,[35] which implied that conscience and free will, a notion abhorrent to Protestants, were at war. The same theme was also the central focus of Shakespeare's *Richard III,* in which Richard's fate was a

[35] Slights, *Casuistical Tradition*, 255 256.

consequence of unrestrained free will. All four plays of Christopher Marlowe touched on conscience, as symbolic of God's providence and also free will. Marlowe argued that the consequences of free will and an erroneous conscience led the Christian to inevitable damnation, a belief that he shared with William Perkins, who wrote "The more free the will is, the greater is the sinne...for the will cannot be constrained."[36] Shakespeare writes about conscience more than any other English Renaissance playwright. Shakespeare uses the word conscience more than 112 times throughout his plays;[37] in *Hamlet* alone he uses the word conscience eight times.[38] Following Shakespeare and Marlowe were the Jacobean tragedians like John Ford (1586-c. 1640), John Webster (fl. 1602-1624), and Thomas Middleton (c. 1570-1627), whose works, concentrated on plots revolving around moral choice, however theirs was a darker vision, characterized by pessimism and depending on violence as the deciding factor of moral choice.[39]

The culture of the playhouse and the culture of homiletics were not as far apart in the seventeenth century as they are today. Like the playhouses, sermons were available to the public, in every church on Sundays and holidays and on a regular basis during the week. They were the focus of Puritan spiritual life but were, nonetheless, open to all religious groups. Sermons traded on the dire warnings of religious admonition and imminent prophesy. They played out an eschatological drama that led to the end-time battle in which the forces of Christ triumphed over the anti-Christ.[40] Sermons were also

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[36] William Perkins, "The Whose Treatise of Cases of Conscience" in *William Perkins, English Puritanist* (Nieuwkoop, Netherlands: B. De Graaf, 1966), 95.

[37] John Bartlett, *A Complete Concordance, Verbal Index to Words, Phrases and Passages in the Dramatic Works of Shakespeare* (New York: St. Martin's Press, 1966.)

[38] Andrew, *Conscience and its Critics*, 37.

[39] Robert Ornstein, *The Moral Vision of Jacobean Tragedy* (Madison, Wis.: University of Wisconsin Press, 1960), 3-4

[40] Barry Coward, *The Stuart Age: England* 1603-1714 (London: Longman, 1995), 82.

published in collected volumes as well as in inexpensive chapbooks thatwere sold door -to-door by itinerant peddlers. Richard Baxter claimed to have been converted by a sermon thathis parents purchased from a door-to-door peddler.[41] All sermons were centered on a verse of scripture, much as they are today, and few, if any, were presented as cases of conscience nor were many based on conscience alone. Rather conscience figured as either the consequence of behavior or a rationale for action. Conscience was also the medium of admonition and formed the core of casuistical argument. Baxter talks about how neighbors met once a week, when they repeated the sermon of the day and discussed any doubts that they may have had. At the same time they discussed related cases of conscience, of which he says, "I resolved their doubts."[42]

In addition to individual clergymen who delivered sermons, regular meetings of ministerial and citizen groups were formed for the purpose of discussing moral, ethical and scriptural questions in which issues of conscience were an inherent characteristic. Although not available to the general public, the group kept records of their meetings and their resolutions of cases of conscience became public knowledge. In that sense, they were part of the social context. One such group called a "classis" was made up of Puritan ministers and wealthy businessmen. The classis in Dedham kept minutes of its proceedings, which were later published as *The Minute Book of the Dedham Classis: 1582-1590. The Minute Book* testified to the wide range of topics under discussion from the Book of Common Prayer to specific cases of conscience. By the end of the sixteenth century the classes evolved into formal conferences, such as the group organized by

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[41] Richard Baxter, *Reliquiae Baxterianae, or Richard Baxter's narrative of the memorable passages of his life and times,* 1696, ed., J. M. Lloyd Thomas (New York: J. M. Dent & Sons, 1931) 3-4.

[42] Ibid., 83.

Samuel Clarke in Cheshire which met for a day of discussion every three weeks, "at all the richer men's houses."[43] It was an opportunity for a clergyman to discuss the casuistic principles of a case of conscience in relative privacy before taking his participation public. To a certain degree the classis shaped Puritan casuistry.

As noted above, this dissertation concludes that seventeenth-century Protestant casuistry was a construction of the Puritan faction within the Church of England and was a new, somewhat subversive understanding of conscience that attempted to reconcile anxiety over election with an individual's obligation to the state. It had been articulated by John Calvin[44] and later reiterated by William Perkins, for whom anxiety over election was a gift that came with God's grace. Perkins saw casuistry as both the revealed solution to the problem of assurance of election and a means by which to relieve the intense pressure of that gift.[45] With that as its foundation, this inquiry contends that the need for a literature of conscience was demanding enough to produce the vast array of casuistic manuals written by Perkins, Hall, Ames, Sanderson, Taylor and Baxter. From its beginnings, Puritan casuistry tried to meet the needs of groups like the Classis, who wanted to produce a reordering of Calvin's Discipline, a theology in which all members of the community conducted their affairs according to scriptural tenets so that a person might be eligible for participation in a metaphorical Lord's Supper.[46]

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[43] John Spurr, *English Puritanism: 1603-1689* (New York: St. Martin's Press, 1998), 36.

[44] William J.Bouwsma, *John Calvin: A Sixteenth Century Portrait* (New York: Oxford University Press, 1988), 32.

[45] Keith Thomas, "Cases of Conscience" in *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer,* eds., John Morrill, Paul Slack, and Daniel Woolf (Oxford: Clarendon Press, 1993), 34.

[46] Norman Clifford, "Casuistical Divinity in English Puritanism during the 17th Century: Its Origins, Development and Significance" (Ph.D. diss., University of London, 1957), 14.

This dissertation looks at the history of casuistry to explain how the Puritans developed their doctrines and proposes that the history of casuistry consists of four stages starting in the thirteenth century and ending with its decline in the eighteenth. The first stage was in response to the advent of compulsory private confession which was decreed by the Fourth Lateran Council in 1215. Private confession posed four problems. What to confess, how to confess, how to hear confession and the appropriate penance.[47] Apparently there was a need for a systematic, consistent, universal codification of sins that could be used as a standard by which to mete out individual penance.[48] One solution to the problem already existed. These were the Irish penitentials, the personal writings of priests, abbots and bishops called *Liber Poenitentials* or books of penance. They contained instruction on how to hear confession and how to administer the penance to be prescribed for sin and with the inception of a casuistry of sin linked to auricular confession. By 1215, a new generation of *Liber Poenitentials* was being written.

The second stage took place in the Tridentine period when the newer penitentials were reinterpreted and refined by the Jesuits. The importance of the second stage and the Jesuit manuals of penance is that they identified the concept of probability or probabilism. Probabalism is the theory that when a problem or conflict occurs there is often more than one solution to the problem. In a case of moral perplexity, any choice of a solution to a problem should have the element of probability, that is, the option selected can be supported by authoritative arguments and the judgments of reputable authorities.[49]

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[47] John T. McNeill and Helena Gardner, *The Medieval Handbooks of Penance: A Translation of the Principle Libri Poenitentialis and Selections from Related Documents* (New York: Columbia University Press, 1938), 7-8

[48] Ibid., 7.

[49] M.W.F. Stone, "The Origins of Probabalism in Late Scholastic Moral Thought: A Prolegomenon to Further Study," *Recherches de Théologie et Philosophie médiévales,* 58 (2000), 116n.

Some choices are "safer" to make than others because they are further removed from sin. Jesuit casuistry often made the least probable choice because it was the most efficient. Probabilism was the defining aspect of Jesuit casuistry and was the reason the Protestant casuists claimed to reject Jesuitical casuistry. English casuistry made the most probable choice or, in other words, the choice farthest removed from sin. The English Protestant choice is the doctrine of "probabiliorism."

The third stage happened at Cambridge in the 1590s when William Perkins and William Ames took Jesuitical thought and adapted it to Protestant purposes. Perkins was the father of English Protestant casuistry and was the first English Protestant theologian to examine and publish cases of conscience on a systematic basis, notably*The Whole Treatises of the Cases of Conscience* .[50] He was a Calvinist clergyman of the Church of England and held radical Puritan sympathies. To both Perkins and Ames, Catholic casuistry was a rebirth of pastoral concern for the needs of the faithful. Ames made a statement to the effect that it was time to go down to the Philistines and look at what the Jesuits had done and adapt it for themselves.[51] The Protestants co-opted the system and altered it radically. They rejected probabalism in favor of probabiliorism.[52] They lauded Christian liberty of conscience rather than canon law. They based their casuistry on the authority of scripture, not the authority of the priest or magistrate. Their casuistry was conscience-directed and scripture-centered. It was also based on the teachings of Peter

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[50] Perez Zagorin, *Ways of Lying: Dissimulation, Persecution and Conformity in Early Modern Europe* (Harvard University Press), 235.

[51] William Ames, *Conscience with the Power and Cases Thereof,* (1639. STC ,2nd ed.,/552. Copy from Cambridge University Library.), 3.

[52] Wood, *English Casuistical Divinity*, xviii.

Ramus in which the case of conscience took the form of a syllogism, one logical proposition flowing from another.

The fourth stage was the decline of casuistry. Starting in the 1660s, casuistry supposedly entered a long stage of slow decline after the publication of Blaise Pascal's *Provincial Letters,* which was a devastating attack on casuistry, from which, some scholars say, casuistry never recovered.[53] Pascal largely attacked Jesuit casuistry and probabalism, but it appeared to stain all casuistry with the taint of rationalism and accommodation. This study, however, concludes that while the criticism of casuistry in *Provincial Letters* was in all likelihood damaging in the 1650's when it was published, it had little long-range affect. Some of the most important works of casuistry were published long after Pascal and sold in numerous successive editions. They included Taylor's *Ductor Dubitantium*, published in 1660, Sanderson's *Nine Cases of Conscience,* which was published earlier but reprinted until 1685, and Sanderson's *De Obligatione conscientiae preelectiones, decem* continuously reprinted until 1676. Baxter's *A Christian Directory* was first printed in 1673. From then until his death in 1691, he published most of his major works, such as *The Judgment of Non-Conformists about the Difference Between Grace and Morality,* published in 1676.

This inquiry argues that more important than Pascal or its attendant notion that casuistry was accommodation is that the Restoration brought about a radical shift from a Calvinist-centered theology based on the predestinarian thesis of a humankind born into sin to an Arminian-influenced Church of England theology that believed God's grace was available to all. It added up to the belief that human nature alone was the source of human

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[53] Slights, *Casuistical Tradition,* 9; Jonsen and Toulmin, *Abuse of Casuistry,* 250.

action rather than it being a "cooperation of human nature and divine grace."[54] To a large degree this idea separated ethics from religion,[55] and the resolution of a conflicted conscience moved from the purview of the church into the realm of social approval. At the same time Latitudinarian groups like the Cambridge Platonists and the Great Tew Circle were preaching a new British moralism in which grace, repentance, and original sin were part of an increasingly tolerant, reasoned English Protestant piety.[56] Thus tolerance and secularism were redefining conscience as being an ethical response to public approbation and away from its characteristics of being God-centered and innate.[57] It was a new British moralism that looked to human reason instead of scripture to resolve moral perplexity. All of these shifts, taken together, transformed casuistry from a theological force into an element of ethics.

Among the contents that separate this study from other works on casuistry, and makes it unique, is the emphasis on oath-taking as the agent of casuistical inquiry. Oaths performed a social function that was useful to the society at large because it could make demands on a individual's conscience and create obligations, usually of allegiance, where none had previously existed. Oaths were "proof" of loyalty to magistracy and to a degree held society together.[58] They affirmed a political understanding that membership in a community entailed some form of voluntary consent to the accepted order, but they also

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[54] Isabel Rivers, *Reason Grace and Sentiment: A Studyof the Language of Religion and Ethics in England, 1660 -1780* (Cambridge: Cambridge University Press, 1991), 1.

[55] Ibid.

[56] W. M. Spellman, *The Latitudinarians and the Church of England, 1660-1700* (Athens, Ga: University of Georgia Press, 1993) 3.

[57] Andrew, *Conscience and its Critics,* 79 ff.

[58] John Spurr, "A Profane History of the Early Modern Oath," in *Transactions of the Royal Historical Society*. Sixth Series, No. 11 (Cambridge: Cambridge University Press, 2001), 40.

implied an individual's right to resist.[59] All of the casuists wrote about oath-taking. William Perkins has a chapter in *Whole Treatise of the Cases of Conscience*, William Ames discusses it in *Conscience with the Power and the Cases thereof* and Joseph Hall wrote a tract called *The Lawfulnes and Unlawfulnes of an Oath or Covenant*. Richard Baxter dealt with oaths in *A Christian Directory*. Robert Sanderson wrote *De Juramento: Seven Lectures Concerning the Obligation of Promissory Oathes* and *The Case of the Engagement Oath*. Jeremy Taylor wrote about oaths the least but talks about them in his sermons. All six share a deeply rooted belief in nonresistance to magistracy.

This study traces the history of oath-taking from biblical times, when an oath consisted of a promise and a curse witnessed by God, to the ninth-century Coronation oath, which first articulated the idea that certain public rights and state properties were inalienable.[60] The Coronation oath, although it never became law until the accession of William III, served as the model for all oaths of allegiance until the seventeenth century when the controversial Jacobean Oath of Allegiance was enacted. The Jacobean Oath of Allegiance was rooted in the Henrician Oath of Succession and the Elizabethan Oath of Allegiance. Henry VIII changed the nature of what had been the Coronation Oath when he enacted the Oath of Succession in which the Act of Supremacy was embedded. The Act of Supremacy made Henry the supreme head of the English Church and his subjects were obligated to render unqualified recognition of the King's supremacy over church and state and at the same time formally reject the jurisdiction of the Pope over the

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[59] David Martin Jones, *Conscience and Allegiance in Seventeenth Century England: The Political Significance of Oaths and Engagements* (Rochester, N. Y.: University of Rochester Press, 1999), 1.

[60] Ernst H. Kantorowicz, *The King's Two Bodies; A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957), 167.

universal church.[61] This was followed by the Elizabethan Oath of Supremacy that, for the most-part, mirrored her father's Oath of Succession and Act of Supremacy. In 1606, James I added another dimension to the Act of Supremacy when he enacted the Jacobean Oath of Allegiance. The oath asked all Catholics to swear that James VI and I was the lawful king and to repudiate any power the pope had to depose the king and in so doing repudiate any power the pope had in England.[62] The crucial aspect of the oath is that it directed all Catholics to adopt full religious conformity and deny the pope's supremacy over them.[63] It was a controversial document that enjoyed Europe-wide controversy and resembled the Elizabethan and Henrician oaths in that all three called for a repudiation of the power of the papacy and gave rise to a troubled and troubling recusancy. It is an important chapter in any discussion of casuistry because those who declined the oath did so as a matter of conscience[64] and it was considered to be an act of treason.

Its urgency was confirmed by John Donne who wrote one of his two existing casuistic works, *Pseudo-Martyr,* based entirely on the oath. The oath was instituted after the Gunpowder Plot and was intended to identify loyal Catholics [65] but exacerbated tensions between the King and the Pope instead. As the oath was worded, it appeared that James was calling for secular rather than religious allegiance; however, he was also questioning the spiritual authority of the Church of Rome and assuming that such

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[61] G. R. Elton, *England Under the Tudors*, 3rd ed. (London: Routledge, 1991), 136.

[62] James I, King of England, *The Political Works of King James I*, with an Introduction by Charles Howard McIlwain (Cambridge: Cambridge University Press, 1918), 73.

[63] Questier, "Loyalty, Religion and State Power, in Early Modern England: English Romanism and the Jacobean Oath of Allegiance." *Historical Journal* 40.2 (1997): 321.

[64] Slights, *Casuistical Tradition*, 144 145.

[65] Kenneth Fincham and Peter Lake, "The Ecclesiastical Policies of James I and Charles I" in *The Early Stuart Church: 1603-1642*, ed., Kenneth Fincham (Stanford, Ca: Stanford University Press, 1993), 29.

authority was his due.[66] According to Izaak Walton, in an effort to accommodate the surrounding controversy, James suggested that Donne write a work defending the oath.[67] It is a long, complex work in which Donne makes several points. The overriding one is that so long as a pope has the power to depose a king, then the king is no more a sovereign than if his people or another king also had the right to depose him.[68] It is a powerful argument, one which implies that the pope's power to depose James diminishes all kings. His secondary argument exonerating all Catholics who take the oath is not quite as strong. It is based on the idea that the doctrine which empowers the pope is imaginary and that no written doctrine exists within the church that confers such power.[69] Hence, there is nothing heretical, as Catholics claimed, in taking the oath; they were using heresy as an excuse to break the law.[70]

From the Civil War to the Restoration, there were four oaths that affected the casuists' lives and give contemporary scholars a chance to glimpse the artful balance that casuists maintained between conscience and comfort: The Et Cetera Oath which tried to prevent changes in the structure of episcopacy, the Negative Oath which forbade aiding the King in his fight against Parliament, the Solemn League and Covenant which tried to establish a Presbyterian kind of government throughout Great Britain, and the Engagement Oath which tried to establish a commonwealth without a King or House of Commons, and by default, a church without an episcopacy. All four came into conflict with oaths of allegiance sworn in the past. Modern scholarly thought suggests that there

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[66] Francis Jacques Sypher, "Introduction" to John Donne, *Pseudo-Martyr* (Delmar, N.Y: Scholars' Facsimile & Reprints, 1974), 1 (np.)

[67] Walton, *Lives*, 20.

[68] John Donne, *Pseudo-Martyr,* (New York: Delmar Scholars Facsimiles & Reprints, 1974), 357-358.

[69] Ibid., 246-247.

was a shift in the nature of sovereignty away from hereditary right and toward the possession of power:[71] essentially *De Facto* rule as opposed to *De Iure.* To the casuists it was a practical issue. They had to ascertain the extent to which a subscription bound the subscriber or face the choice of accepting an ill-begotten oath or refusing the oath and losing one's benefice.

Robert Sanderson's resolution to the problem of the Engagement Oath is typical of the intricacies of thought that came into play in dealing with swearing. Before refusing the Engagement Oath, Sanderson refused the Solemn League and Covenant for the reason, among others that the definition of a covenant was that it implied a mutual acceptance of the agreement on the parts of both parties.[72] He also believed, although it wasn't applicable to the Solemn League and Covenant but was applicable to the Engagement Oath that an oath of allegiance had to have an historical precedent to be legitimate and at the same time had to be an act of Parliament. In the case of the Engagement Oath, there was no historical precedent and it was not an act of the Commons. Not so the Engagement Oath. In "The Case of the Engagement" in *Eight Cases of Conscience,* Sanderson, on behalf of a friend, Thomas Washbourne, analyses the language of the oath and takes it apart word for word for the purpose of arriving at its probable meaning. When he reconstructs the oath he arrives at a resolution. In a prior oath of allegiance, the oath-taker had sworn to accept the supreme powers of the House of Commons and also to preserve the safety of his country and the "civil society

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[70] Ibid., 384.

[71] Slights, *Casuistical Tradition*, 46.

[72] Sanderson, *Reasons of the Present Judgement*, n.p. (3). The complete text of the *Solemn League and Covenant* is cited as an unpaginated addendum to *Reasons of the Present Judgement*

therein."[73] If Washbourne believed that taking the Engagement Oath helped to preserve the safety of his country, he could take the oath without violating his prior vows. Sanderson, however, asks for three caveats. The oath-taker must not intend to break the oath, he must believe that it is lawful, and it must represent his true national allegiance.[74] Since the Engagement would have done away with episcopacy, both Sanderson and Taylor wrote books defending episcopacy, both of which were based on the notion of an apostolic hierarchy. Taylor argued that there was a precedent of apostolic succession. Sanderson argued that there was an historic precedent to oaths of fidelity and that precedent had supported an episcopacy.

One of the most important parts of this dissertation is the section on "Casuistic Uses of Biblical and Secular Authorities." The section represented the first time that any historian had attempted to measure the degree to which casuistry used biblical and secular authority. It answers two questions: How dependent were Protestant casuists on Scripture to give authority to their debate and which scriptural references were more important than others. The section also asked the same questions of religious and secular persons. Who were the predominate sources of authority from, for example, the early Christian fathers or the Greek and Roman philosophers, that strengthened casuistic argument. Almost 7,800 citations from the Bible and an additional 985 from religious and secular sources were collated from six books of casuistry, one by each casuist. Each reference to either a biblical chapter and verse or a quotation from an historical figure was noted and counted and although the conclusions are varied, the following are among the fundamental findings. The predominate source of casuistic authority came from the

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[73] Robert Sanderson, *Eight Cases of Conscience* (London: H. Brome, J Wright amd C. Wilkinson, 1678), 105.

New Testament and are the Pauline Epistles. Of them the Epistle cited more often than any other is the letter to the Romans. This was followed by 1 Corinthians and the letter to the Hebrews. The most important of the Gospels was Matthew, followed by Luke and then John. In the Old Testament, the most cited authorities were the Psalms and Proverbs followed by Isaiah.

The non-biblical authorities were grouped into early church fathers, Greek and Roman philosophers, Greek and Roman poets and playwrights, ancient historians, medieval and Reformation theologians, contemporaneous persons and miscellaneous. Early church fathers were cited more than any other group, followed by Greek and Roman philosophers. Augustine and Chrysostum were cited more than any other of the early church fathers and Cicero and Seneca dominated the Greek and Roman philosophers. Most of the Greek and Roman poets and playwrights and ancient historian were cited by Taylor. The remaining categories were unevenly distributed, not lending themselves to generalities but conclusions made on the basis of particular casuists.

Criticisms of casuistry are, in sum, that it is an outmoded system of moral quibbling made up of minutiae like pebbles of moral choice. It is the intent of this dissertation to show that those pebbles made up a rock-solid wall that in effect, casuistry is the platform upon which contemporary applied ethics firmly stands, providing the boundaries within which the best answers to difficult moral problems are found. It still survives today as a strategy for making moral choice, although mostly without the distinctions of being secular or religious. Ask any medical ethicist.

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[74] Ibid, 111.

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