Nature, Grace and Religious Liberty in Restoration England

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Abbreviations

EHR	English Historical Review
HJ	Historical Journal
HLQ	Huntingdon Library Quarterly
JEH	Journal of Ecclesiastical History
JHI	Journal of the History of Ideas
ODNB	Oxford Dictionary of National Biography
ST	Aquinas, Thomas, *Summa Theologia*

Short Abstract

This thesis demonstrates the importance of scholastic philosophy and natural law to the theory of religious uniformity and toleration in Seventeenth-Century England. Some of the most influential apologetic tracts produced by the Church of England, including Richard Hooker's *Laws of Ecclesiastical Polity*, Robert Sanderson's *Ten lectures on humane conscience* and Samuel Parker *A discourse of ecclesiastical politie* are examined and are shown to belong to a common Anglican tradition which emphasized aspects of scholastic natural law theory in order to refute pleas for ceremonial diversity and liberty of conscience. The relationship of these ideas to those of Hobbes and Locke are also explored.

Studies of Seventeenth-Century ideas about conformity and toleration have often stressed the reverence people showed the individual conscience, and the weight they attributed to the examples of the magistrates of Israel and Judah. Yet arguments for and against uniformity and toleration might instead resolve themselves into disputes about the role of natural law within society, or the power of human laws over the conscience. In this the debate about religious uniformity could acquire a very philosophical and sometimes theological tone. Important but technical questions about moral obligation, metaphysics and theology are demonstrated to have played an important role in shaping perceptions of magisterial power over religion.

These ideas are traced back to their roots in scholastic philosophy and the *Summa* of Aquinas. Scholastic theories about conscience, law, the virtues, human action and the distinction between nature and grace are shown to have animated certain of the Church's more influential apologists and their dissenting opponents. The kind of discourse surrounding toleration and liberty of conscience is thus shown to be very different than sometimes supposed. Perceptions of civil and ecclesiastical power were governed by a set of ideas and concerns that have hitherto not featured prominently in the literature about the development of religious toleration.

Long Abstract

This thesis demonstrates the importance of scholastic philosophy and natural law to the theory of religious uniformity and toleration in Seventeenth-Century England. It examines some of the major texts written to address the closely connected problems of religious uniformity and toleration in late Seventeenth-Century England. It argues that Seventeenth-Century thought about religious uniformity was governed, in certain cases, by a set of concerns about conscience, indifferency, divine law and the distinction between nature and grace (or revelation).

Its focus is upon justifications for, and arguments against ceremonial conformity. Toleration might be demanded by groups whose objections to the state Church were very fundamental, like the Quakers, but many pleas for religious liberty were made by doctrinally conservative Presbyterians and Independents who disagreed with specific aspects of the Church's worship, and wanted either a relaxation in the terms of conformity or limited toleration outside the national Church. Since the days of Elizabeth the Church's ceremonies and liturgy had been under attack for being unreformed and potentially popish. A particular kind of discourse about these indifferent matters, or the *adiaphora*, as they were known, developed and this discourse is the principal subject of this study. However, *adiaphorist* discourse overlapped with more general pleas for religious toleration and both issues are addressed.

One of the central arguments of this study is that the justifications of uniformity were shaped by a set of issues and concepts derived from scholastic philosophy and natural law theory. The *Summa* of Aquinas is predominantly used to explicate these ideas as Aquinas was the most frequently sourced and quoted scholastic author by the relevant Seventeenth-Century writers. The enduring influence of scholastic ideas about human action, divine law and the distinction between nature and grace is demonstrated throughout the study. It is suggested that Aquinas's descriptions of conscience, natural and supernatural law, human law and indifferency were his most important bequest to the Seventeenth-Century theory of uniformity. These concepts are explained, and their

use in the writings of late Sixteenth and Seventeenth-Century casuists demonstrated. It is shown that the idea of conscience possessed by many prominent casuists was essentially Aquinas's as was the popular account of how human laws were derived from the law of nature.

Aquinas's influence on justifications of conformity in the Restoration owed much to earlier Anglican apologists. Late Sixteenth and early Seventeenth-Century apologists are examined in detail at the beginning of the study because the divines of the Restoration period, when discussing the reasons for religious uniformity, tended to adhere closely to the arguments of their predecessors. The importance of Richard Hooker's *Of the Laws of ecclesiastical Polity* (1593) is stressed. Hooker, it is argued, passed to his Seventeenth-Century followers a version of conformist apologetic which was reliant upon scholastic philosophy and natural law theory, and which understood nonconformity to be based on an epistemological mistake about the respective jurisdictions of the spheres of nature and revelation. The idea that the Church could be defended by a proper explication of the roles of nature and grace in Christian life is the central theme throughout the study. The following chapters examine the ways in which this argument was continued and adapted throughout the Seventeenth Century by Hooker's successors.

The influence of Hooker and scholastic philosophy on the Church's casuistry and its arguments against nonconformity is demonstrated through a study of two of the most important Caroline divines, Robert Sanderson, bishop of Lincoln, and Jeremy Taylor, bishop of Down and Connor. Sanderson's *Ten lectures* on humane conscience are given sustained attention. They are found to showcase very strongly the influence of Aquinas and the concepts of scholastic philosophy upon Anglican apologetic. Sanderson constructed a defence of the Church around his interpretations of a variety of issues raised in the *Summa*, such as the definition of conscience and the nature of human law. The similarities between Sanderson's ideas about natural law, and those of Aquinas and Hooker are demonstrated. It is argued that Sanderson used ideas to show that the Church's

ceremonies could be justified on the basis of the law of nature, and did not need to be sanctioned by revelation.

Sanderson also made questions about the nature of human law central to the Church's justification of its worship. Sanderson differed from Hooker in paying more attention to the idea of human law, and to the circumstances in which human law could be said to oblige the conscience. On account of Sanderson, ideas about human law came to prominence in the apologetic of the Restoration Church. Questions about the power of the civil magistrate to annex supernatural penalties to laws were known to have provoked a substantial debate in the European scholastic tradition. The problems surrounding the idea of human law stemmed from confusion as to whether human laws obliged if they promoted the common good, or if they obliged simply in virtue of representing the will of the magistrate. This issue had been discussed by Aquinas and Sanderson was following Aquinas's account of the problem closely. The Reformation critique of the Catholic Church made people wary of according power over the conscience to the magistrate. However, the *Ten lectures* assumed human laws obliged in virtue of the will of the civil ruler. This idea became central to an authoritarian reading of the power of the magistrate over the conscience which Sanderson deployed to prove dissent was sinful.

Jeremy Taylor addressed many of the same themes and issue as did Sanderson. Taylor, a well-known advocate of toleration, presented a more liberal view of natural and human law than Sanderson, adopting positions about human law less favourable to the imposition of conformity. Taylor saw the law of nature differently to Hooker and Sanderson at a metaphysical level. For Taylor the differences between the natural law and the supernatural law were not as clear as they had been for Hooker and Sanderson. Taylor's views about the ultimate foundations of natural law made it difficult for him to accept Hooker and Sanderson's argument for conformity from natural law.

The metaphysical foundations of the natural and the supernatural law, usually thought to be God's nature and God's will, respectively, are an important theme in this study. Taylor eroded the

differences between natural and supernatural law by stressing the dependence of all law on the divine will and by separating the natural law from the divine nature. This position is attributed both to Taylor's moralist theology and to his reading of Hugo Grotius's work on natural law.

Edward Stillingfleet, later bishop of Worcester, was a continuator, in the Restoration period, of the argument from reason of Hooker and Sanderson. Stillingfleet hoped to solve the nation's disputes about the appropriate form of Church government by elevating the law of nature above the law of revelation. Stillingfleet is found to have gone further than Hooker and Sanderson in stressing the importance of natural law to the Church and his work came near to suggesting the Church was a natural society, deriving its legitimacy from reason, rather than revelation. Stillingfleet's work showed that emphasizing natural law in a defence of the Church accorded the magistrate full power over the religious life of the state. In addition Stillingfleet adhered to a view of natural law which placed a very clear distinction between the metaphysical foundations of the natural and revealed law. It is argued that this reinforces the point that the metaphysical foundations of natural law were important in the Anglican argument against dissent.

The role of nature and grace in the theory of uniformity and toleration is also explored from the nonconformist perspective. The idea that religious difficulties could be solved by a proper understanding of the authority of nature and grace was primarily an Anglican idea a number of conservative Independents, usually with connections to the Cromwellian regime, found invoking nature and grace useful in arguing for a limited form of toleration, both in the 1640s and after the Restoration. Specifically, these writers wanted to preserve the idea that the state should promote morals, and even save souls, but did not want the state to be involved in regulating worship or minor points of doctrine. This argument led to religious toleration being justified by an appeal to the supernatural realm. Writers like Charles Wolseley are shown to have founded the right to religious toleration in the human need for supernatural knowledge and grace, while conceding that the

magistrate had power over all affairs pertaining to the law of nature. In this way, the theory of limited toleration came to depend on the division between the natural and the supernatural realm.

The Anglican counterattack against this argument for toleration is then explicated. It is suggested that the infamous Church apologist Samuel Parker, writing in the Restoration period, presented a version of Hooker's argument for conformity from nature, but attempted to subvert Wolseley's argument for toleration in the process. Parker accepted the premise of the conservative Independent argument, which was that the magistrate had power over all matters natural, but none over supernatural affairs. In response to Wolseley, Parker presented an account of Christianity which made Christianity identical to the law of nature. Parker thus eliminated the supernatural sphere altogether, and with it the right to toleration. It is shown that Parker's argument was a version of the case made against dissent by Hooker and Sanderson but that Parker's contribution to that tradition was more expressly theological.

Parker's argument against dissent shows the influence theological ideas could have upon the debate about toleration, and the ways in which questions about religious uniformity could become questions about the nature of Christianity and the Christian life. Parker's reduction of Christianity to natural law is demonstrated to be in accord with his theological milieu and with opinion in the Church. Parker's ideas are shown to derive from three connected but distinct strands of theological opinion: latitudinarianism, Arminianism and moralism. It is argued that combined these beliefs allowed Parker to present a version of Christianity in which the religion had been reduced to natural law. A study of Parker demonstrates how, at times, the argument about toleration could become strongly theological and entail deep questions about salvation and the nature of Christianity.

The ways in which metaphysical and theological concerns could predominate in a debate about religious uniformity is further highlighted through an examination of the response to Parker from John Owen and Robert Ferguson, two nonconformist Calvinists. Owen and Ferguson were critical of Parker's reliance on natural law, which they associated with pagan philosophy. It is

suggested that although this attitude conforms to some historical opinion about the Calvinist view of reason and natural law, Owen and Ferguson agreed with Parker in almost all respects about the law of nature, and were prepared to use ideas from the *Summa* to illustrate their positions. Their defence of toleration consisted of an attempt to prove the existence of a supernatural sphere. They rejected, from a Calvinist perspective, Parker's theological views about salvation and emphasized the dependence of worship on the divine will.

The final chapter details the engagement of John Locke with the elements of the Anglican tradition of apologetic associated with scholastic philosophy and natural law. It is argued that Locke's reading in Anglican apologetic, and of Sanderson in particular, is a neglected aspect of the evolution of his thought about religious toleration. Locke's interest in the roles of the law of nature and of grace in the debate about toleration is also documented. It is shown that Locke's earliest works on toleration, the *Two Tracts on Government*, were thoroughly dependent on Sanderson's *Ten lectures*, and that Locke was in accord with Sanderson in all respects, with only one exception. Locke's conviction that conscience could not be coerced is rightly seen as being central to his justification for toleration and it is present even in the *Tracts*. It is argued that Locke's emphasis on the inviolable nature of conscience, and his belief laws against dissent had to be capable of altering religious opinions, created a fundamental inconsistency in his early approach to the question of toleration. Sanderson's argument was not compatible with the idea, derived originally from Augustine, that penal laws had to be able to reform the offender. Locke tried to solve the problem, initially, by stressing the dependence of certain sorts of belief upon supernatural aid but was eventually driven to support for toleration on account of the difficulties of his position.

Locke's interest in Sanderson's arguments, throughout his career, is highlighted through an examination of Locke's views about human law. Locke eventually explicitly rejected Sanderson's views in the 1670s about the power of human law in the conscience, after originally endorsing them.

Locke saw questions about the role of the state, and the magistrate's relationship to the law of nature, lying behind Sanderson's views about human law.

The state's relationship to the law of nature was an issue addressed by Aquinas in the *Summa*. Aquinas had endorsed the idea that the magistrate was to promote virtue, and thus presented a specific view of the state's purpose, giving it a care over the immortal soul. Sanderson adopted Aquinas's vision. Taylor, on the other hand, had a complex argument about the state's relationship to people's supernatural end. Taylor separated the state from the salvation of souls as a fundamental level, but argued the state had spiritual ends in practice. It is suggested that this dispute about the state purpose, and its relationship to the ultimate supernatural end of human beings was very significant and could lie at the heart of certain theories of toleration. It is argued that for conservative Independents like Wolseley, preserving the duty of the state to promote virtue was an important reason for founding the right to religious toleration in the supernatural sphere. Locke, it is argued, thought uncoupling the state from a care of souls was of great importance to the argument in favour of toleration.

Introduction

Justifying religious uniformity and the persecution of the religiously heterodox was a major preoccupation of some of the Church of England's finest minds in the Seventeenth Century. Powerful defences of religious toleration and liberty of conscience were written in response to them. Writers favourable to toleration are seen to have stressed the uncertainty inherent in all religious authority, the reverence which ought to be accorded the individual conscience and the example of the early Church. Yet the arguments of their opponents in the Church have always been accorded less attention, as have their sources, sometimes seen simply as a mixture of St. Augustine (354-430) and the Old Testament.[1] This study argues for the importance of scholastic philosophy and natural law theory in the Anglican justification of religious uniformity. The theory of uniformity, it is suggested, was often rather more complicated and philosophical than has been supposed. This study focuses on the significance of ideas about conscience, grace and natural law to the debate and argues that some divines, in order to determine whether ceremonial uniformity ought to be imposed, were asking deep questions about human nature, happiness and the theologically vexatious issue of the relationship between nature and grace.

The sources for these complex arguments about religious liberty lay in scholastic philosophy and the influence of Aquinas (1225-1274), and also partly in natural law theory and theology. Although this aspect of the Seventeenth-Century debate about religious toleration has hitherto been underexplored, it was very noticeable in a number of prominent works on the subject, such as Richard Hooker's (1554-1600) *Of the Laws of Ecclesiastical Polity* (1593-1597), Robert Sanderson's (1587-1663) *Ten lectures on human conscience* (1660) and Samuel Parker's *A discourse of ecclesiastical politie*, (London 1669). This work aims to explore this aspect of the development of religious toleration, and in the process illuminate the connections between philosophy, natural law theory and theology on the one hand and practical politics on the other.

[1] J. Coffey, *Persecution and Toleration in Protestant England, 1558-1689*, (Harlow, 2000), pp. 21-41.

The classic study of the evolution of ideas about religious freedom is Jordan's four volume *The Development of Religious Toleration in England* (1932), a brilliant and complex study of an array of thinkers who defended liberty of conscience. Jordan did not generally address the arguments of those opposed to toleration, and partly assimilated defences of conformity, from men like Richard Hooker, into the narrative of the development of tolerance. Consequently, Jordan was eager to overlook the aspects of Anglican theory which supported persecution.[2] More recent historiography has emphasized the variety of justifications used by Anglicans to urge the enforcement of the penal laws and the maintenance of the state Church. There has been a sense that the Church's apologists were pragmatic in their arguments against dissent. In Marshall's monumental survey of the intellectual context of Locke's theory of toleration the chapter on intolerance in Restoration England is almost exclusively concerned with arguments of a pragmatic and prudential nature against liberty of conscience.[3] It is true that Restoration authors were very concerned that religious strife would bring about social and political disorder. However, historians like John Spurr, Mark Goldie and John Coffey have realized that the Church often expressed its desire for religious uniformity and social harmony by using theological arguments, as well as prudential ones.

John Spurr has emphasized the Church's horror at the spiritual sin of schism, of which they held the nonconformists guilty. Separating from the parish congregations of the national Church was held to be a violation of a Pauline injunction which might hinder the Church's ability to bestow divine grace on its members.[4] Mark Goldie had distinguished between political and Erastian arguments for persecution in the Restoration period, and a more genuinely theological case, which he argues was premised on the ideas of St. Augustine about the use of force as a pedagogical tool. Penal laws, it was suggested, could compel men and women to reconsider erroneous opinions, thus changing their minds and saving their souls. Goldie correctly sees this argument as developing in the 1670s and

[2] W. Jordan, *The development of religious toleration in England*, i, (London, 1932), pp. 222-232.
[3] J. Marshall, *John Locke, Toleration and Early Enlightenment Culture: Religious Intolerance and Arguments for Religious Toleration in Early Modern and 'Early Enlightenment Europe*, (Cambridge, 2006) pp. 440-466.
[4] J. Spurr, 'Schism and the Restoration Church,' *JEH*, 41, (1990), pp. 408-424.

1680s.[5] Ever present in the debate were the contrasting examples provided by the Jewish state of the *Old Testament*, and the early Church described in the New Testament. The actions of the Jewish priests and kings, it was held, were illustrative of the law of nature, which commanded that basic religious tenets be enforced. This was a claim sometimes countered with the suggestion that the validity of the Jewish example had been cancelled by the atonement of Christ, and that the example of the early Church, which was not connected to the state, ought to take precedence. Many of these points are also well rehearsed in Coffey's *Persecution and Toleration in Protestant England, 1558-1689* (2000).[6]

This study argues that a crucial theological and philosophical element in the Church's justification of conformity has been overlooked. Complicated ideas, often derived from scholastic texts and authors, about conscience, human law and the relationship between reason and revelation, also played a prominent part in the Church's justification of its religious monopoly, and in the nonconformist attack against it. The nation's religious divisions were of course a social and political problem. Concerns for public tranquillity and political security were very important. Yet the danger to peace and harmony was seen to emanate from a lack of ceremonial uniformity. Dissent from the Church's rites and ceremonies was sometimes thought to be derived from an erroneous understanding of the nature and structure of the divine laws. Therefore, explaining the way human laws obliged the conscience, and delineating the respective spheres of authority possessed by the natural and revealed laws, could show the nonconformists the error of their ways and secure the peace of nation.

Scholastic ideas about conscience and human law played a very prominent role in some of the principal texts which defended the Church, as did natural law theory. Scholasticism itself was both a method and a corpus of texts and ideas. It was prevalent in the universities at the beginning

[5] M. Goldie, 'The Theory of Religious Intolerance in Restoration England,' in, eds, O. Grell, J. Israel, N. Tyacke, *From Persecution to Toleration: The Glorious Revolution and Religion in England*, (London, 1991).
[6] J. Coffey, *Persecution and Toleration in Protestant England*, pp. 21-41.

of the Seventeenth-Century and remained so throughout much of the period. As a consequence it needs to be taken seriously as an influence upon the thought and method of the Church's apologists and their opponents. Scholasticism depended on certain forms of intellectual activity, such as lectures and disputations which involved questions and subdivisions. It also relied upon specific ideas and texts. Aquinas, in the *Summa Theologica*, along with other medieval scholastics, used Aristotelian categories of substance, form and cause to describe human morals and actions. The *Summa* itself represented a complex scheme for thinking about human nature and behaviour. Those who studied it would imbibe Aquinas's teleological mode of thought, and his careful distinctions between nature and grace. The enduring influence of the scholastic method is showcased by Thomas Barlow (1609-1691), a Calvinist conformist, who held a variety of prominent university posts during the Seventeenth Century. Barlow delivered a series of lectures on metaphysics in scholastic form in the 1630s and recommended his students study Aquinas's ideas on natural law. His reading lists for his students also included texts on the history of medieval scholasticism. The prominent Restoration nonconformist Richard Baxter (1615-1691) produced arguments riddled with scholastic terms and like Barlow recommended Aquinas and histories of scholasticism to his readers.[7]

The influence of scholasticism and of Thomist natural law theory on Anglican divinity has been documented by Henry McAdoo and to a degree by William Spellman. McAdoo's *The Structure of Caroline Theology* (1949) examined the views of the Church's major casuists, principally Robert Sanderson and Jeremy Taylor (1613-1667), about natural law, conscience and the nature of moral acts. McAdoo believed that Sanderson and Taylor were heavily indebted to Aquinas and other scholastics for their theories of law, action and conscience. McAdoo also thought that Aquinas's natural law theory contributed to the creation of a distinct Anglican *via media* in theological method,

[7] T. Barlow, *The genuine remains of bishop Barlow*, (London, 1692), pp. 1-6, 10-15, 480-535; W. Costello, *The Scholastic Curriculum: The Curriculum at Seventeenth Century Cambridge*, (London, 1959), pp. 121-122.

and he traced the influence of Aquinas's views on law through to the later Seventeenth Century.[8] A Church of Ireland clergyman who rose to be Archbishop of Dublin in 1977, McAdoo was interested in Caroline theology because he believed it was important for its criticisms of post-Tridentine Catholic casuistry and its emphasis on moral repentance, something he thought would have relevance in the modern day. Understandably, the Church's use of scholastic philosophy and natural law theory to disparage Seventeenth Century dissent did not greatly interest him.[9] Yet many of the scholastic ideas in Caroline theology which McAdoo explicated were of central importance to the Anglican defence of the Church against dissent, and played a role in the evolution of thought about religious toleration. In particular, Aquinas's ideas about human law, and its relationship to the conscience, were greatly influential in the Church's justification of itself. In the early chapters we will see that ideas about human law, and its ability to oblige the conscience formed the core of the Anglican argument against dissent.

Aquinas's ideas on natural law, discussed by McAdoo, were also influential in the Church's battle against nonconformity but the significance of the law of nature to the Seventeenth-Century debate on religious toleration has never been examined in depth. The role of reason and natural law in Church government is one of the central themes of this study. For a variety of reasons, a small but influential number of writers, on both sides of the debate, came to believe that natural law, and the boundary between nature and revelation (or grace) was of great importance to the justification or refutation of uniformity and toleration. Many of the chapters trace the progress of an argument for conformity originally made by the Elizabethan Richard Hooker. In book one of the famous *Of the Laws of Ecclesiastical Polity*, Hooker suggested that questions about uniformity and toleration were really questions about the respective spheres of authority of nature and revelation (or 'grace').[10]

[8] H. McAdoo, *The Structure of Caroline Moral Theology*, (London, 1949), pp. 17-40; *The Spirit of Anglicanism*: *a survey of Anglican theological method in the seventeenth century*, (London, 1965), pp. 156-158, 182-187; W. M. Spellman, *The Latitudinarians and the Church of England, 1660-1700*, (Athens, 1993), pp. 63-65, 91-92.
[9] Kenneth Milne, 'Henry McAdoo,' *ODNB*.
[10] R. Hooker, *Of the Laws of Ecclesiastical Polity*, i, ed J. Dent, (London, 1907), pp. 147-150.

Historians are aware this kind of argument was made by Hooker, but here it is suggested that it was continued in the Restoration period.

A sense that the Church could be defended by elevating the importance of natural law and reason in human life was common to a number of prominent Anglican texts. This meant that the question of uniformity and toleration came to revolve around an epistemological issue about the uses of different types of knowledge in politics and ecclesiology. It will be argued (in chapter two) that Robert Sanderson, bishop of Lincoln, and one of the Church's most influential casuists, believed that conformity could be upheld by an appreciation of the role of reason and natural law. Later chapters deal with the ways in which two prominent Restoration apologists, Edward Stillingfleet (1635-1699), bishop of Worcester and Samuel Parker (1640-1688), bishop of Oxford, argued for conformity by stressing the importance of natural law and the power of the magistrate over it.

Seventeenth-Century authors were interested in a number of issues with regard to natural law, and this study suggests ways in which those issues could affect politics and ecclesiology. Questions surrounded the manner of the law's propagation, its metaphysical origin, the distinction between natural and positive law and its significance, and the way in which the law of nature came to oblige the conscience. Natural law thinking was still governed by Aristotelian teleology, and by Aquinas's account of divine law in the *Summa*, although Jon Parkin has also stressed the contribution of Stoic ideas. There were also more recent influences upon English natural law thinking. The works of the Thomist revival of the Sixteenth Century were read in England, and divines quoted Francisco Suarez (1548-1617) and Cardinal Cajetan (1469-1534). From the Protestant side Hugo Grotius (1583-1645), John Selden (1584-1654) and Thomas Hobbes (1588-1679) were all influential.

There are few comprehensive accounts of English natural law theory in the Seventeenth Century. Jon Parkin's *Science, Religion and Politics* (1999) provides the best account of the sources and problems Seventeenth Century natural law theorists confronted. Parkin argues that English Protestant thinking about natural law revolved around an attempt to solve the problem of moral

obligation by connecting the natural law to the divine will. Natural knowledge was useful for constructing ethical systems, but men needed to have reason to believe God actually willed the law. There had to be a way to show that the conclusions of reasons were divine commands, but preferably without relying on God's will being revealed supernaturally (as this would compromise the status of the law as natural).[11] Here it is suggested that the question of the law's metaphysical foundation could have important implications for politics and ecclesiology, as well as ethical theory. Supernatural duties were often distinguished from natural ones in virtue of being derived from God's will alone. Laws founded in reason and nature had different properties to those which depended solely on God's will and divines who followed in the footsteps of Hooker made these facts relevant to the debate about toleration.

This study also touches on the relationship between Calvinism and natural law. Traditionally Calvin and his heirs are thought to have had a troubled relationship with natural law theory and with aspects of scholasticism. A number of the Church's opponents who argued for toleration were strong Calvinists and might therefore be thought to have had pessimistic views about the utility of natural law. However, the idea that Calvinist pessimism undermined natural law theory has fallen out of favour. For historians like John McNeil and Torrance Kirby, reformed Protestant natural law theory did not differ noticeably from the views of the medieval scholastics. The work of David vanDrunen and Stephen Grabill has rehabilitated the idea of a reformed, Calvinist natural law theory in the Seventeenth Century. Calvin, they stress, was not necessarily a voluntarist, and had a more expansive view of the uses of natural law than Karl Barth and others allowed.[12] In this study we will see that Calvinists and their theological opponents did tend to agree in practice about natural law,

[11] J. Parkin, *Science, Religion and Politics in Restoration England: Richard Cumberland's De Legibus Naturae*, (Woodbridge, 1999), pp. 56-60.
[12] J. McNeill, 'Natural Law in the Teaching of the Reformers,' *The Journal of Religion*, 26, (1946), pp. 168-182; S. Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics*, (Cambridge, 2006), pp. 1-69; D. van Drunen, Natural Law and the Two Kingdoms, (Cambridge, 2010), pp. 4-5. P. Helm, *John Calvin's Ideas*, (Oxford, 2004).

but that some Calvinist authors nevertheless preserved a hostility towards natural reason in principle if not always in practice.

The centrality certain divines accorded to the law of nature in their defence of the Church could also transform the debate on toleration into a theological discussion about the role of reason in religion. The Anglican apologists Edward Stillingfleet and Samuel Parker, following Hooker, both made arguments in favour of uniformity on the basis of their understanding of the place of natural law in religion. For Parker, the issue of toleration depended upon understanding the nature of the boundaries between 'morality' (nature) and grace. In Parker's case this understanding was expressly theological. Parker infamously argued that Christianity was essentially identical to the law of nature, because grace (which he associated with the law of revelation) did not exist.[13] It is suggested that theological ideas about salvation lay behind this view, and that these ideas led Parker's opponents, to defend toleration on theological grounds. Justifying persecution, or defending toleration, came to involve determining the exact role of the law of nature within religion, and the relationship between reason and revelation. This was a question to be settled on theological grounds. In the Seventeenth Century mainstream theological discussion was bound up with questions about nature and grace, to a degree, because of the struggle between the Calvinists and the Arminians. It is argued that this conflict could inform the debate about toleration.

Nicholas Tyacke's *Anti-Calvinists* (1987) and Stephen Hampton's *Anti-Arminians* (2008) address the tensions in the Church throughout the Seventeenth Century between those divines who adhered to a theology giving more weight to the sovereignty of God and those who favoured human agency.[14] Isabel Rivers' *Reason, Grace and Sentiment* (1991) explores how this conflict affected theological language in practice. For Rivers there developed two parallel theological languages in the Restoration period, the largely Arminian language of reason (associated with natural law) and the

[13] S. Parker, *A discourse of ecclesiastical politie*, (London, 1669), p. 70.
[14] N. Tyacke, *Anti-Calvinists: The Rise of English Arminianism c. 1590-1640*, (Oxford, 1987); S. Hampton, *Anti-Arminians: The Anglican Reformed Tradition from Charles II to George I*, (Oxford, 2008).

language of grace (associated with doctrinal Calvinism). The language of reason and nature is connected, by Rivers, to a moderate faction within the Seventeenth-Century Church, the latitudinarians, a set of influential Cambridge divines taught by the Platonists, who are considered to have been in favour of watering down the terms of Church communion in order to bring about comprehension.[15]

Latitudinarianism has drawn a great deal of attention from historians of late Seventeenth-Century England. Martin Griffin and William Spellman have both emphasized the interest prominent latitudinarians like John Tillotson (1630-1694) had in discussing the relationship between nature and revelation (or grace). The motivation for the stress on reason and nature is held to be fear of social collapse and disorder. It is thought that people hoped to counter the enthusiasm of the dissenters, and the lawless of the antinomians, with a strong statement of practical, perspicuous morality.[16] Sometimes the latitudinarian interest in reason and nature is seen as a precursor to deism and as possessing similarities to Socinian viewpoints. Yet for Griffin and Spellman it is important to understand that the latitudinarians, although interested in reason and natural law, were perfectly orthodox Christians. Spellman stresses the debt of the latitudinarians to scholasticism and to Aquinas. Nevertheless, for Griffin, the naturalism of the latitudinarians could lead them to describe religion in a way which made it identical to practical morality and subordinated the atonement to natural religion.[17]

The language of reason in theology, and the latitudinarian tendency with which it is associated are important in this study because two of the Restoration Church's most important apologists were latitudinarians and held classic latitudinarian positions about reason and nature (certainly by the definition used by Rivers and Griffin). These authors were Edward Stillingfleet and

[15] I. Rivers, *Reason, Grace and Sentiment*: *A study of the language of religion and ethics in England 1660-1780*, i, (London, 1991), pp. 5-24, 59-88; R. Cragg, *From Puritanism to the Age of Reason*, (Cambridge, 1950), pp. 60-64; H. McAdoo, *The Spirit of Anglicanism*, pp. 156-200.
[16] M. Watts, *The Dissenters: from the Reformation to the French Revolution*, (Oxford, 1978), p. 110.
[17] W. M. Spellman, *The Latitudinarians and the Church of England, 1660-1700*, (Athens, 1993), pp. 56-58, 86-88. M. Griffin, *Latitudinarianism in the Seventeenth-Century Church of England*, (Brill, 1992), pp. 128-132.

Samuel Parker. Stillingfleet and Parker's contribution to the debate about uniformity is relatively well known, but their ideas about uniformity have not been examined in light of their latitudinarian beliefs about reason, nature and grace. Here it will be argued that both Stillingfleet and Parker, albeit in different ways, saw the distinction between nature, on the one hand, and revelation and grace on the other, as being central to politics, ecclesiology and the Church's struggle with dissent. It will be stressed how their latitudinarian views about nature and grace informed their arguments against toleration.

Premising arguments for and against uniformity upon concepts like nature and grace, as Stillingfleet and Parker did, could cause the debate about religious liberty to become explicitly theological in tone. This was partly so because latitudinarianism was connected to an overlapping but distinct theological tendency in the Church: moralism. Like latitudinarians, moralists were often motivated by a fear of the social dislocation and immorality that might be caused by Calvinist teaching. In this study we will see that the latitudinarian emphasis on nature and reason was associated, theologically, with the implications moralism had for natural law. Under a moralist theology, the distinctions between the law of nature and Christianity could appear to break down. Unlike the broad and vague idea of latitudinarianism, moralism was a specific theological theory revolving around a revision of the traditional Protestant view of salvation in favour of a scheme where good works played a larger role.[18] We will see that moralism allowed divines to think about the relationship between Christianity and natural law in new ways and even to amalgamate Christianity with the law of nature. As the question of religious liberty was so bound up with the idea of natural law, bringing natural law closer to Christianity, or moving it further away, could have profound effects upon arguments for and against religious liberty.

[18] C. Allison, *The Rise of Moralism: The Proclamation of the Gospel from Hooker to Baxter*, (Vancouver, 1966), pp. 192-212.

The Church of England's apologists were not alone in believing that the issues of uniformity and toleration could be resolved through a discussion of natural law. Chapter five examines a group of conservative Independents who produced justifications of toleration based on the importance of the law of nature. This study suggests reasons why the law of nature was considered important in resolving questions about toleration and its limits. The belief that magisterial power was specifically connected to natural law is continually encountered. There were practical reasons for people to ground magisterial power over religion in the law of nature. During the Civil War and after conservative Independents found they wanted toleration in ceremonial matters but wished the state to enforce fundamental Christian beliefs and practices. Founding the power of the magistrate in the law of nature, and assigning beliefs to be tolerated to a revealed supernatural sphere, became a way to defend this position. The magistrate was thus assumed to have a power over all matters which could be comprehended under the law of nature. It will be shown that it was scholastic natural law theory that connected the magistrate to the law of nature. In scholastic natural law theory, the human law of the magistrate was said to be derived from the law of nature.[19]

The position one took about the relationship between magistrate and natural law profoundly affected one's position on uniformity, toleration and the purpose of the state. This study suggests that conflicts about the proper role of the state were often seen in terms of the state's connection with the natural law. Separating the magistrate from his role as enforcer of the natural law produced a state concerned only with outward peace and tranquillity, while tying the state to the law of nature produced a magistrate concerned with the promotion of virtue. The relevance of this for the justification of toleration is made clear in chapter eight, where John Locke's views on natural law and toleration are examined.

The importance of natural law also stemmed from the way in which the request for liberty of conscience was connected to revelation, grace and supernatural knowledge. Work on the

[19] *ST*, Iae IIae, q. 97, a. 1.

justifications for toleration during the Civil War by Davis and others has stressed that the desire for liberty was often inspired by the need to be more faithful and obedient to God.[20] This study suggests that this impulse made revelation, or grace, relevant to the debate about toleration because it was assumed individuals would not disagree about matters which could be known through reason and natural law, but required freedom to obey God, in their own way, about matters which had to be communicated supernaturally. We will see that a number of writers felt that the human need for revelation and grace formed the foundation for the argument in favour of liberty of conscience.

Seventeenth-Century writers had a clear sense that human abilities and knowledge could be divided between natural and supernatural realms. Relatively few discussed how this worked in practice but as ever the scholastic inheritance was important. Divines compelled to consider concepts such as nature, grace and revelation often invoked the authority of Aquinas. If they did not, they often used language close to that of the *Summa* when discussing the subject. Here a brief summary of Aquinas's views on nature and grace will be provided, and then the terminology with which Seventeenth-Century divines discussed the subject will be examined.

For Aquinas all beings needed to be moved by God (the first mover) before they could proceed to the acts and ends proper to their forms. Every form only possessed potential for a certain act and end commensurate with its nature, and so could only perform other acts when something else was superadded, just as water only boils when heated by fire. For Aquinas, man, when moved my God, could apprehend certain truths through his natural light, without any superadded help. However, to know higher truths, and to attain his final end, union with God through the beatific vision, he needed the superadded knowledge and strength known as grace.[21] Aquinas described grace as a quality of the soul, infused into men and women to enable them to achieve their supernatural ends. Grace was necessary both in the age of innocence and after it. Prior to the fall

[20] J. Davis, 'Religion and the Struggle for Freedom in the English Revolution,' 31, *HJ*, (1992), pp. 507-530; J. Coffey, 'Puritanism and Liberty Revisited: The Case for Toleration in the English Revolution,' *HJ*, 41, (1998), pp. 961-985.
[21] *ST*, Iae IIae, q. 5, a. 5; N. Abercrombie, *The Origins of Jansenism*, (London, 1936), pp. 61-86.

men and women had needed grace because their final end, the beatific vision, was supernatural. After the fall the situation was the same, except that now men and women also lacked the ability to do the natural good commensurate with their natures.[22] Aquinas knew that virtue and grace were sometimes said to be the same thing, a view asserted in the Seventeenth-Century England by Samuel Parker (as we shall see). This Aquinas himself denied, arguing that virtue pertained to perfecting one's nature, while graces allowed people to partake in a higher nature (the divine nature). Aquinas distinguished natural virtues, which could be acquired naturally, (or infused by grace) from theological virtues, which derived solely from grace. The theological virtues were those of faith, hope and charity, and actions directed towards the highest end, God, had to proceed from the infused principle of charity. Aquinas explained that it was possible for heathens to perform the actions of the natural law in their substance, but that only through charity could people perform the actions of the law in the proper mode of acting.[23]

Aquinas's views were not uncontentious. Aquinas's Sixteenth-Century commentator, Cardinal Cajetan, prompted controversy by insisting that Aquinas held that fallen men and women retained their natural desire and capacity for union with God. As human beings were supplied with grace both before and after the fall (if they were saved, or in receipt of common grace) there was also a question about the possibility of humans existing in a state of pure nature. In the state of pure nature the human race had not become corrupted by the fall, but was also not gifted with supernatural aid.[24] In Seventeenth-Century England some divines did consider what a human being deprived of grace but not necessarily fallen might look like. Divines like Jeremy Taylor pondered this question and his answer possessed some relevance for his political theory.[25]

However, despite controversy about the meaning of grace and supernature, it was usually accepted that men and women could only acquire certain types of knowledge, perform specific acts

[22] *ST,* Iae IIae, q. 109, a. 1-2, q. 110, a. 1-3.
[23] *Ibid*, q. 110, a. 1-3.
[24] F. Kerr, *After Aquinas: Versions of Thomism*, (Oxford, 2002), pp. 134-136.
[25] J. Taylor, *Ductor dubitantium*, (London, 1671), p. 562.

and achieve certain ends with the aid of grace and revelation, and that these beliefs, acts and ends could be called supernatural.[26] Contemporary authors used all of these terms and defined them in the ways described, although not everyone who made use of these concepts necessarily denoted them by the names given here.[27] It was possible to speak of supernaturally imparted or infused knowledge without speaking of revelation or grace. However, as this was how other authors referred to these concepts, revelation and grace have been used as descriptors where appropriate. All represented something above the natural, either with regard to knowledge or power and ability.

Revelation denoted knowledge imparted to human beings in a non-natural way, i.e. a supernatural way. It was contrasted to natural knowledge which was often referred to as reason, and which could be discerned without revelation.[28] It was also possible for natural truths to be revealed supernaturally, and this is what people believed had happened with the Ten Commandments, which were thought to be a statement of natural law. However, some truths could only be known supernaturally, like the mystery of the Trinity, and therefore required revelation.

Grace had a number of different meanings, but the most common meaning of grace, and the most important for this study, was that of infused supernatural aid, designed to remedy people's fallen natures and enable men and women to have faith and to perform good works. John Owen (1616-1683), one of the most important Calvinist divines of the later Seventeenth Century, defined grace in this sense as 'the actual supplies of Assistance and Ability given to Believers, so to enable them to every Duty in particular, which in the Gospel is required of them.'[29] Graces also denoted virtuous actions and these were so named because they were inspired by grace. Moreover, the term also referred to God's offer of forgiveness to sinners, and his imputation of righteousness to the

[26] R. Baxter, *The Judgment of the Nonconformists about the difference between Grace and Morality*, (London, 1676), pp. 10-12; R. Ferguson, *A sober enquiry into the nature, measure and principal of moral virtue*, (London, 1673), pp. 214-215.
[27] J. Burroughes, *Irenicum*, (London, 1645), pp. 30-32.
[28] J. Spurr, ''Rational Religion'' in Restoration England,' *JHI*, 49, (1988), pp. 563-585.
[29] J. Owen, *Truth and Innocence Vindicated*, (London, 1669), p. 193.

believing Christian.[30] Some writers, like Samuel Parker, were very explicit in saying that they believed arguments for toleration depended on grace but other writers appealed to supernatural knowledge and power to justify toleration without using the words revelation or grace.[31]

The word moral, or morality, was frequently associated with nature and the natural, and therefore implied a distinction from those matters which were supernatural. This was probably because the natural law revealed in the Old Testament was often called the moral law. As natural law was usually thought to be an unchanging law (as we shall see) a moral duty could also sometimes imply an immutable duty, in distinction to a positive duty.[32] However, moral actions could also be defined as free, rational actions, and did not have to be associated with natural actions. Morality and supernature were thus sometimes, but not always opposed.

The principal focus of this study is on the Restoration period, during which time there were continual calls for various measures of toleration and comprehension. However, given the nature of the Anglican arguments under scrutiny earlier writers must be discussed at length. It was a characteristic feature of the Church's arguments that they were, in large part, recycled from the successive struggles with earlier nonconformist protests. Most of the Church's polemical resources in the Restoration period were therefore derived from debates which had taken place prior to 1660. The Church's response to the criticism levelled at it by the Elizabethan Presbyterian movement, conditioned Anglican apologetic until the 1670s and beyond. The objections of the leaders of this movement to the Church were revived by later nonconformist divines as the Seventeenth Century progressed and the Church's apologists frequently looked to their early Elizabethan forebears for guidance. There was thus a continuity to the Church's defence of uniformity and persecution from the days of Elizabeth I to the passage of the Toleration Act of 1689.

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[30] J. Owen, *Truth and Innocence*, pp. 192-194.
[31] S. Parker, *A discourse of ecclesiastical politie*, p. 71.
[32] R. Baxter, *The Judgment of Nonconformists*, p. 7. W. Saller, *An Appendix to a book intitled the Unchangeable Morality of the Seventh Day Sabbath*, (London, 1671), p. 5; T. Grantham, *The Seventh Day Sabbath Ceased as Ceremonial*, (London, 1667), p. 1.

However, the stresses of the mid-century conflict fractured the national Church and created a unique religious and social problem for the Restoration regime. The country saw the growth of sects and of a conservative Congregationalism, often inspired by returning separatists from the United Provinces who had been opposed to the Church's ceremonies. After the collapse of the royalist cause many parish priests compromised with the new governments, and obeyed their injunctions not to use the Prayer Book. Many divines took up livings from which recalcitrant royalists had been ejected, without episcopal ordination. Re-establishing the Church of England on as broad a basis as it had previously enjoyed proved impossible in the face of these new divisions. In 1662, an Act of Uniformity was passed requiring episcopal ordination and assent to the Prayer Book. A thousand of ministers were ejected from their livings for failing to signal their assent to the edifice of the restored Church.[33]

These ministers had a variety of complaints and difficulties, which the authorities would only go so far in accommodating. The restored Church and state thus faced a permanent religious schism in the nation, with the parish congregations of the national Church operating side by side with illicit conventicles and congregations.[34] These divisions were believed liable to herald a return to civil strife if left unchecked and the Church saw itself as essential to national unity. However, not everyone agreed that ceremonial conformity was necessary to preserving the peace. Moreover, the monarch could not always be depended upon to support the Church, partly because of a desire to aid the English Roman Catholics, and also owing to the sense that diverse religious groups competing for the royal favour would enhance the power of the crown. The Church was thus in need of an able theoretical defence which encompassed both practical and theological concerns.

The first three chapters examine the Church's arguments on conscience, human law and natural law that were made prior to the Restoration period, and focus particularly on the Church's

[33] J. Coffey, *Persecution and Toleration*, p. 168.
[34] J. Spurr, 'The Church of England, Comprehension and the Toleration Act of 1689,' 104, *EHR*, (1989), pp. 927-946; M. Watts, *The Dissenters*, pp. 220-224.

two greatest casuists, Robert Sanderson and Jeremy Taylor. In later chapters the focus moves to the period following the Restoration. Much has been written about the justifications for persecution but the importance of scholastic ideas about conscience and law, as well as the centrality of the law of nature in the arguments of many writers, has hitherto been overlooked. These ideas, often technical, philosophical and sometimes theological, were prevalent in many of the major texts on uniformity and toleration in the period and consequently deserve analysis. They illustrate the connections between politics, scholastic philosophy and natural law theory and show how important many believed the division in human knowledge between reason and revelation was to society.

Chapter One: The Fundamentals of Anglican Apologetic.

This chapter serves as an introduction to the influence of scholastic philosophy and natural law theory, upon the Church's argument against dissent. In the tradition of conformist writing one of the most important philosophical contributions was Richard Hooker's *Of the Laws of Ecclesiastical Polity*. The first book of the *Laws* was a treatise of philosophical theology, remarkable for its defence of the rites and ceremonies of the Church through the use of scholastic ideas (particularly Aquinas's) about human action and natural law. In time Hooker's ideas came to exercise great influence over subsequent apologists. Hooker can be credited with beginning the tendency to think about the problems of uniformity and toleration in terms of natural theory. The first half of the chapter examines Hooker's argument for conformity from natural law, and his emphasis upon the proper roles of reason and revelation within ecclesiastical life. The second half of the chapter addresses a number of other scholastic concepts, like indifferency and conscience. As we shall see in later chapters, these were crucial concepts for many Anglican apologists who were influenced by Hooker. Although Hooker did refer to indifferency and conscience, his successors focused on them to a greater degree.

Hooker was prompted to write the *Laws* because of the exchange between John Whitgift (1530-1604), future archbishop of Canterbury (and at the time dean of Lincoln Cathedral), and Thomas Cartwright (1534-1603). In 1570 Cartwright, then the Lady Margaret Professor of Divinity at Cambridge University, gave a series of lectures arguing that Presbyterianism was the only scripturally valid form of Church government. This struck at the heart of the Elizabethan Church, which was governed by bishops.[35] Following this, in 1572, two Puritans, John Field (1544-1588) and Thomas Wilcox (1549-1608), published *An Admonition to the Parliament*, a comprehensive Puritan attack on the forms and structure of the Elizabethan Church. The *Admonition* criticized the national Church for

[35] H. Porter, *Reformation and Reaction in Tudor Cambridge*, (London, 1958), p. 140; N. Sykes, *Old Priest and New Presbyter*, (Cambridge, 1956), p. 48.

deviating from the pure word of God and attacked the Church's forms and ceremonies as Popish and scandalous. John Whitgift wrote a response which was then answered by Cartwright. The further exchange between Cartwright and Whitgift has come to be known as the Admonition controversy.[36]

Cartwright hoped for a Church purged of unscriptural ceremonies and institutions, while Whitgift used his strong Calvinism to suggest that the visible Church could never achieve such perfection. In addressing Cartwright's belief that the forms and ceremonies of the Church were scandalous and sinful, Whitgift emphasized the indifferency of the forms and ceremonies and the power of the magistrate over religion founded in divine law. Whitgift believed it was obvious that religious worship required an authority to determine matters such as questions of time, place and posture which were not ordained by the scriptures themselves. Yet for Cartwright, the Church's determination of these things opened the door to Popish corruption and represented a failure to build the true Church of God on earth.[37] Whitgift's stand on the indifferent nature of the contested forms and ceremonies became key to Anglican apologetic.

Hooker's *Laws* were meant as a contribution to this debate between Whitgift and Cartwright. A mild and irenic personality, Hooker had been ordained in 1581 and had received appointments at Oxford University, and a prestigious position as Master of the London Temple. Difficulties with England's nonconformist movement had rudely intruded, and Hooker had been engaged in a dispute for over a year with Walter Travers (1548-1635), a published advocate of the Presbyterian form of Church government.[38] Hooker decided to write a more comprehensive and philosophical defence of the Church of England than Whitgift, beginning from first principles.

Hooker's *Laws* has always been recognized as being of great significance for Anglican ecclesiology but there is disagreement about the nature of that significance. Traditionally Hooker's

[36] T. Cartwright, *The second replie of Thomas Cartwright: agaynst Maister Doctor Whitgiftes second answer, touching the Churche discipline*, (London, 1575), p. 59.
[37] P. Lake, *Anglicans and Puritans*, (London, 1988), pp. 20-46.
[38] L. Gibbs, 'Life of Hooker,' in, *A Companion to Richard Hooker*, ed T. Kirby (Brill, 2008), p. 10-12.

argument against Puritan nonconformity has been viewed as the beginning of a distinct Anglican theological *via media* between the Church of Rome, and its emphasis on tradition, and the Puritan disparagement of reason.[39] Hooker, so the argument goes, moved away from a traditional reformed definition of the Church, towards a more Catholic view, thereby breaking ranks with the impeccably Calvinist Whitgift. A recent version of this theory is present in the work of Peter Lake. Lake sees Hooker as a kind of proto-Laudian figure, dedicated to the Church's ceremonies in a way that earlier conformists were not, and sceptical of various elements in Calvinist theology.[40] However, Hooker's followers in the Church, like Robert Sanderson, did not necessarily share these proto-Laudian views, sometimes being strong Calvinists and possessing little interest in ceremony for its own sake.

Hooker's real innovation was to move discussion of natural law to the heart of the Church's justification of itself against nonconformity. This has been recognized by Henry McAdoo and Peter Munz. In McAdoo's studies of Anglicanism, Hooker is presented as the originator of a distinctive Anglican theological method centred on Aquinas's natural law theory.[41] Munz has also argued that Aquinas's ideas about natural law were of overriding importance for Hooker in structuring his case against dissent. He pointed out how closely Hooker's account of reason and law followed Aquinas's description of the law of nature in the *Summa* and was, in some ways, a summary of key elements of Aquinas's philosophy.[42] Hooker can be seen as part of a European revival in Thomist philosophy, a movement which included prominent scholastic authors such as Francisco Vitoria (1483-1546), Cardinal Cajetan (who produced an influential commentary on the *Summa*) and Francisco Suarez.[43]

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[39] L. Gibbs, 'Richard Hooker's via Media Doctrine of Scripture and Tradition,' *Harvard Theological Review*, 95, (2002), pp. 227-235; D. MacCulloch, 'Richard Hooker's Reputation,' *EHR*, 117, (2002), pp. 773-812.
[40] P. Lake, *Anglicans and Puritans*, pp. 145-229.
[41] H. McAdoo, The Spirit of Anglicanism, pp. 156-158.
[42] P. Munz, *The Place of Hooker in the History of Thought*, (London, 1952), pp. 19-45; R. Almasy, 'The Purpose of Richard Hooker's Polemic,' *Journal of the History of Ideas*, 39, (1978), pp. 251-270.
[43] F. Vitoria, *Political Writings*, eds A. Pagden and J. Lawrance, (Cambridge, 1991), pp. 162-198; A. Brett, *Changes of State: Nature and the Limits of the City in early modern Natural Law*, (Woodstock, 2011), pp. 144-148; Q. Skinner, *The Foundations of Modern political Thought: The Age of Reformation*, ii, (Cambridge, 1978), pp. 135-184.

Yet despite the significance of Hooker's use of natural law theory, few historians other than Munz have explained why natural law was so important for Hooker.

For Munz, Hooker saw Puritanism as animated by the Augustinianism of Bonaventure (1221-1274), which entailed a denial that there could be a sphere of life revolving around reason. In Hooker's mind, Puritan objections to the Church's government and forms of worship were based on an erroneous contempt for reason, and an unwarranted elevation of the role of revelation. Puritan nonconformity was thus ultimately premised upon an epistemological mistake about the respective spheres of authority possessed by nature and revelation. In Munz's argument, Hooker believed that this mistake could be exposed by a restatement of Aquinas's ideas about human nature and natural law. Although no Puritan had made a philosophical case against the Church premised on an explicit attack upon natural law, Hooker clearly saw natural law as the antidote to the hostility to reason Puritanism seemed to entail. Munz's view of Hooker's purposes in engaging with Aquinas is correct.[44]

In this study, Hooker's argument for conformity from reason and natural law is very important. Hooker's philosophical argument for conformity tied the Anglican defence of uniformity to natural law theory, scholastic philosophy and concern about the distinction between nature and grace. Hooker suggested that the question of conformity ultimately resolved itself into a discussion about the spheres of authority over human life possessed by the two laws of nature and revelation. Later chapters will explore the works of divines who followed in Hooker's footsteps in making this argument. This chapter now examines Aquinas's views on natural law, and the way Hooker used them to formulate an argument against dissent in detail.

In the *Summa* Aquinas argued that law was a dictate of practical reason emanating from the ruler of a community and directed to the common good. Laws were described as a rule and measure

[44] P. Munz, *Hooker in the History of Thought*, pp. 12-14, 36-48, 56.

of actions.[45] Aquinas's vision of divine law was hierarchical and Platonic. The highest law, called the eternal law, was the type, or idea, of the created law governed universe in the mind of God. All created beings participated in the eternal law and from the eternal law all other laws emanated.[46] Animals and human beings participated in the eternal law through the natural law. All creatures were directed to their ends by the natural law, but human beings also participated in the eternal law through reason. Through reason the law of nature directed human beings to their proper end, and the actions it prescribed were the virtues.[47] The law of nature was composed of primary and secondary precepts. The first sort were fundamental axioms, such as 'good is to be done, evil avoided.' These laws never changed, but secondary precepts, which were more specific derivations of the first precepts, might vary depending on time and place. The fall, and the effect of sin, had contrived to blot out from the mind of man some of the secondary precepts of the law, but had not erased the fundamental axioms of natural law.[48]

Just as the law of nature emanated from the eternal law, so too did human laws emanate from the law of nature. All human laws had to be just, but laws were only just if they were in accord with reason, and the first rule of reason was the law of nature. Human laws were necessary to specify the general precepts of the law of nature. The law of nature prohibited murder, but it was the responsibility of human legislators to define murder and accord it an appropriate punishment.[49] Human beings also required a divine law, which emanated, like the law of nature, from the eternal law. For Aquinas man's highest end was happiness, or the perfect good, which was the vision of the divine essence.[50] The law of nature only directed to temporal, earthly happiness and so a supernatural divine law was required. This was the new law, or the law of grace. Delivered in the New Testament there were two parts to the supernatural law. The chief element in the new law was

[45] *ST*, Ia IIae, q. 90, a. 1-2.
[46] *Ibid*, q. 93, a. 1-3.
[47] *Ibid*, q. 94, a. 1-4.
[48] *Ibid*, q. 94, a. 5-6.
[49] *Ibid*, q. 95, a. 1-2.
[50] *Ibid*, q. 2, a. 8, q. 5, a. 5.

the grace of the Holy Spirit, bestowed inwardly, and the second element the teachings of faith and other commandments. The new law could change from place to place because grace might be distributed unevenly.[51]

Aquinas made a distinction between unchangeable natural law, based upon reason, and potentially mutable positive divine law derived from the divine will. According to Aquinas 'Divine law commands certain things because they are good, and forbids others because they are evil, while others are good because they are prescribed, and others evil because they are forbidden.'[52] All natural law was commanded because it was good, and in accord with reason. However, some aspects of revealed law were only good because they had been commanded, like the ceremonial and judicial precepts of the Old Testament, and had no foundation in the dictates of natural reason. This was why Christians could set aside the ceremonial and judicial precepts, but not the natural precepts delivered in the Decalogue, which contained all the principles of the natural law.

As we have seen, Hooker was convinced nonconformity was premised upon an erroneous exclusion of reason and natural law, from the realm of ecclesiastical affairs. He hoped an accurate statement of the structure of divine law, based on the *Summa*, could upgrade the status of the sphere of reason in human affairs, thereby obviating the Presbyterian insistence that ecclesiastical matters could only be regulated by the scriptures. Law Hooker defined as, 'That which doth assign unto each thing the kind, which doth moderate the force and power, that which doth appoint the form and measure, of working …'[53] The issue, Hooker noted, in the first book of the *Laws*, was the quality of the Church's laws, and to vindicate them, 'it behoveth the very foundation and root, the highest wellspring and fountain of them to be discovered.' That foundation was the, 'law which giveth life unto all the rest … namely the law whereby the Eternal himself doth work.'[54] Hooker proceeded to describe the hierarchy of divine law found in the *Summa*, proceeding from the eternal

[51] *ST*, Ia IIae, q. 106, a. 1.
[52] *ST*, IIa IIae, q. 57, a. 2.
[53] R. Hooker, *Laws*, p. 150.
[54] *Ibid*, pp. 149-151.

law (of which there were two kinds), through to its emanations: the natural law, the angelic law, the rational law and human laws.[55]

Like Aquinas, Hooker believed the law of nature applied both to beasts and humans, but that only humans participated in the law through voluntary action and reason. 'the natural measure whereby to judge our doings,' argued Hooker, 'is the sentence of Reason …'[56] The law of nature as followed by humankind Hooker called the law of reason. Following the dictates of reason was righteous and brought human beings into conformity with nature, defying them brought ruin. 'Good doth follow unto all things by observing the course of their nature,' opined Hooker, 'and on the contrary side evil by not observing it.'[57] The law directed human beings to preserve themselves and then to perfect themselves by affecting a resemblance to the divine attributes they were able to imitate.[58] Human laws were derived from the law of reason, which gave the authority to make law for the good of the community to political societies as a whole. The diversity of human conditions meant human laws would differ from place to place, in contrast to the law of reason, which was everywhere the same. Human laws were of two kinds: mixed and human. Mixed laws represented the writing into human laws of the precepts of the law of reason but merely human laws could pertain to, 'any thing which reason doth but probably teach to be fit and convenient …'[59]

Hooker finally progressed to a discussion of supernatural law. Hooker believed that originally the rational (or natural) law had been the only law known to man. Before the fall human hopes for happiness and salvation had all been centred on fulfilment of the terms of the natural law. Hooker thought that human beings desired their ultimate end, the beatific vision, naturally.[60] Nature suggested this was to be achieved through works. According to Hooker, 'Our natural means therefore unto blessedness are our works; nor is it possible that Nature should ever find any other

[55] R. Hooker, *Laws*, pp. 150-162
[56] *Ibid*, p. 181.
[57] *Ibid*, p. 186.
[58] *Ibid*, p. 164.
[59] *Ibid*, p. 197.
[60] *Ibid*, p. 204, 212.

way to salvation than only this.'[61] The law of nature had once been an adequate rule of human duty, and one that was able to bring about salvation. This suggested that natural law and religion were coterminous before the fall, given that the law of nature had been the original route to beatitude. However, owing to displacement of the rational law from its role in human salvation, salvation now came about purely through fulfilment of the new law, and not by the means reason itself suggested. 'Man,' argued Hooker, 'hath received from heaven a law to teach him how that which is desired naturally must now be supernaturally attained.'[62] The scriptures revealed the supernatural virtues necessary to happiness, the 'Faith, Hope and Charity, without which there can be no salvation.'[63] The scriptures also clarified the obscure reaches of the Law of nature. Like Aquinas, Hooker thought the principal truths of the natural law were still self-evident, but urged that sin had darkened people's abilities to understand natural duty in all its particulars. The supernatural revealed law thus existed to remedy the deficiency the law of nature was subject to following the fall. Hooker's description of the supernatural law stressed the voluntary nature of that law. Revelation was 'by the voluntary appointment of God besides the course of nature, to rectify nature's obliquity withal.'[64]

The ultimate purpose of Hooker's restatement of Aquinas's scholastic theory of law was to vindicate the use of reason and natural law in religious affairs. Hooker hoped to overcome the Puritan suspicion of reason by emphasising the ultimate unity of laws in the one eternal law of reason. The derivation of natural and revealed law from the same source gave the natural and revealed laws equal status, as emanations from divine reason. In the end both types of laws, natural and revealed, represented the divine reason. As Hooker assumed that the nonconformists objected to any provision being made in worship unless it was directly sanctioned by the scriptures, elevating the law of nature provided an alternative source of authority.[65] Ultimately Hooker was suggesting

[61] R. Hooker*, Laws*, pp. 206-207.
[62] *Ibid*, p. 212.
[63] *Ibid*, p. 209.
[64] *Ibid*, p. 210.
[65] P. Munz, *The Place of Hooker*, p. 32-34; T. Kirby, 'Reason and Law,' *A Companion to Richard Hooker*, eds T. Kirby, (Brill, 2008), pp. 251-271.

that certain types of Protestant dissent from the established religion rested on false epistemological premises and that a proper understanding of the relationship between reason and revelation could correct this.

However, Hooker was not just interested in justifying the use of reason, and the law with which it was associated. Hooker also believed that an accurate understanding of the nature and properties of supernatural law diminished the importance of revealed knowledge and disproved claims that any particular form of Church government had been instituted by divine right. Hooker identified all supernatural laws with positive laws, saying, 'Laws that concern supernatural duties are all positive.'[66] Hooker had the same ideas about positive (supernatural) law, and its distinction from natural law as Aquinas. According to Hooker, divine laws possessed two different foundations; some were based on the law of reason, others were not. The former kind of law commanded things which were good in themselves and eternally so; the latter only made certain things good in virtue of commanding them and, consequently, did not constitute binding laws forever. For Hooker, natural truths were such that 'the world hath always been acquainted with them.'[67] Natural law was thus an unchanging immutable law, in contrast to the positive law, which had been promulgated following the fall and was based on nothing more than will. Hooker affirmed that 'Laws natural do always bind ...' in contrast to 'laws positive [which do] not ...'[68]

For Hooker, this distinction between the natural and the positive law became important in elevating the usefulness of the natural law over the supernatural, revealed law. For Hooker, supernatural duties pertained to things like the sacraments and the form of Church government. Hooker argued that the fact supernatural duties were all positive, and therefore potentially mutable, undermined the arguments of Presbyterians like Thomas Cartwright. For Hooker, even if the scriptures did appear to point towards a certain form of Church government, that form of

[66] R. Hooker, *Laws*, p. 220.
[67] *Ibid*, p. 182.
[68] *ibid*, p. 220.

government could still be changed in accordance with reason under certain circumstances, because supernatural laws, being all positive, did not bind eternally. For Hooker, divine positive laws did not necessarily apply forever. According to Hooker, 'The nature of every law must be judged of by the end for which it was made, and by the aptness of things prescribed therein to the same end.'[69] For Hooker, laws were 'instruments to rule by,' and it did not follow that just because God had, at one time, ordained a particular law, it was always to continue in use.[70] Should there be a supernatural law which was not necessary for a given time or place, human reason could frame more suitable laws in accordance with the law of nature.

The mutability of the supernatural revealed law thus worked against the nonconformists. No one (or very few) would ever say that the natural law could be subject to alteration. Yet supernatural law, being positive and voluntary, could not provide firm assurances of its eternal relevance. Given its mutability, Hooker believed there had to be very clear evidence any piece of revelation was really intended as an eternally obliging law. Hooker's analysis made it doubtful that the warrant produced for a Presbyterian form of government, by Cartwright and others, really constituted an immutable divine law by which the Church ought to be governed. Therefore, grounding a Church polity on the words of the scripture was futile. Hooker was promoting a view where reason, and human government, had great power to alter laws and ceremonies. As magisterial power was connected to reason and natural law, Hooker's argument enhanced the power of the state against its religious opponents, and weakened the justifications for religious nonconformity.[71]

Hooker's argument also implied that the bishops did not hold their positions by divine right, a view which was sufficiently unpopular among the Church's divines for Hooker's argument from law not to be repeated often in its entirety. Yet Hooker's argument from law did attract critics and adherents throughout the Seventeenth Century.[72] The Scottish Presbyterian Samuel Rutherford

[69] R. Hooker*, Laws*, p. 328.
[70] *Ibid*, p. 330.
[71] *Ibid*, p. 328-330.
[72] N. Sykes, *Old Priest and New Presbyter*, p. 31.

(1600-1661) felt compelled to include a refutation of Hooker's account of law in his monumental defence of Presbyterianism *The divine right of church-government and excommunication* (1646).[73] Conformists themselves did not reiterate Hooker's argument with great frequency, but a few very prominent Anglican divines did follow him in suggesting nonconformity rested on a misunderstanding of the relationship between nature and grace. These divines included Robert Sanderson, Edward Stillingfleet and Samuel Parker. In 1647 Robert Sanderson, the Regius Professor of Divinity, gave a series of lectures in Oxford which were published as *De Obligatione Conscientiae*. In the lectures Sanderson adhered closely to the *Summa*, making an argument about the role of natural law in religion very similar to Hooker's.[74] The sense that England's religious troubles could be solved if the relationship between reason and revelation was properly understood was also present in Edward Stillingfleet's *Irenicum* (1659) and in Samuel Parker's *A discourse of Ecclesiastical Politie* (1670). They shared Hooker and Sanderson's conviction that epistemological confusion about the proper spheres of authority possessed by God's different laws lay at the heart of the country's religious problems.[75] As we shall see in later chapters, their ideas would make the concept of natural law, and its place within religion, of great importance to the question of uniformity and toleration in the Restoration period.

Indifferency, Acts of Worship and Scandal

Ultimately Hooker and his followers thought expanding the scope of the law of nature empowered the civil and ecclesiastical authorities to lawfully prescribe circumstances of worship and forms of Church government. Crucial to their case was another scholastic concept: indifferency. Indifferent actions were created by the presence of the various divine laws, both natural and revealed, and described all those actions which were neither commanded nor forbidden by the divine laws. The Church claimed its controversial ceremonies, such as the sign of the cross in baptism

[73] S. Rutherford, *The divine right of church-government*, (London, 1646). pp. 72-77, 100-107.
[74] R. Sanderson, *Ten lectures*, p. 124.
[75] S. Parker, *A discourse*, p. 86; E. Stillingfleet, *Irenicum*, (London, 1662), pp. 10-15.

and the use of the surplice, were merely indifferent circumstances attendant on acts of worship. As such, they claimed, these ceremonies did not affect the nature of worship, nor did they need authorisation in the scriptures.[76]

Hooker himself made use of the phrase 'indifferent' with some frequency, as had Whitgift before him, although he proffered no analysis of the concept itself, simply using it to describe matters, 'not commanded nor forbidden in the Scripture …'[77] However, as was the case with natural law, indifferency was an idea analysed in the scholastic tradition and in the *Summa*. Aquinas had discussed the nature of human actions in the *Prima Pars Secundae* and his analysis was still influential in the Seventeenth-Century. People still categorized the different components of their actions in Aquinas's terms, speaking of acts, objects, means, circumstances and species. Aquinas had suggested acts could be indifferent, and thus good nor evil, in two ways. It could be the case that a given act did not have for its object something in the order of reason. For Aquinas, picking up a straw, walking, or eating, were not actions associated with a rational nature, and were not therefore moral or immoral. Secondly, it was possible to imagine a certain act was partly good and partly bad, in the way someone with a mild illness was still to an extent healthy. However, Aquinas also suggested that indifferent acts were essentially hypothetical notions; no act was truly indifferent as all possessed circumstances which made them good or bad.[78]

Hooker did not discuss indifferency in philosophical terms but others did. Generally conformists required a strong concept of indifferency to work with, while it might suit nonconformist opponents of the Church to reject the category altogether. In 1605 the Puritan William Bradshaw (1570-1618) included a detailed analysis of indifferency in *English Puritanisme*, one of the most influential books of the early Puritan movement. Bradshaw restated Aquinas's definition of indifferency, arguing that an act was indifferent if its nature rested in an equilibrium

[76] H. Jeanes, *The second part of The nature of scholastical divinity*, (London, 1660), pp.1-10.
[77] R. Hooker, *Laws*, p. 376.
[78] *ST*, Ia IIae, q. 18, a. 8-11.

between extremes. Good and evil were known by God's various laws and indifferent acts were mid-way between good and evil. Moral indifferency, averred Bradshaw, resulted when an act was not, 'repugnant to the law of nature, reason or law supernatural …'[79] However, Bradshaw denied that the Church's ceremonies could ever be indifferent, urging that every part of worship was either moral or typical, effectively ruling out any space for purely human institutions.

In the mid-Seventeenth Century one of the most well-known critics of the idea of indifferency was the Parliamentarian general and religious Independent Robert Greville, Lord Brooke (1607-1643). A 'noted gross sectary' before the war, Brooke had had a broad education, studying in France and the United Provinces.[80] He became a well-known proponent of the idea no action could ever be indifferent. Brooke's philosophical treatise, *The Nature of Truth* (1641) criticized the Church's forms and ceremonies on the basis of a Platonic belief in the ultimate unity inherent in the universe.[81] A later book, *A Discourse opening the Nature of Episcopacy* (1641) was a direct attack on the Church's hierarchy and on its belief in indifferent actions in worship. Brooke argued that even if certain acts were not directly commanded or forbidden, it was the case people always had a better or worse option when they made a choice, so no action was ever indifferent in practice. Indifferency, for Brooke, was always the product of ignorance, and he therefore denied to the Church any power to legislate concerning purported matters of indifferency.[82]

Brooke was very forcefully criticized by Robert Sanderson in *De Obligatione Conscientiae* and by Edward Stillingfleet in the *Irenicum*. The philosophical arguments of men like Brooke were dangerous because they removed the sphere of indifferency, and thereby diminished the power of the state and Church. For conformist apologists, like Sanderson, magisterial control over all matters of indifferency was the foundation of the Church's defence against nonconformity.[83] In his *Irenicum*

[79] W. Bradshaw, *English Puritanisme*, (London, 1605), p. 27.
[80] Ann Hughes, 'Robert Greville,' *ODNB*.
[81] R. Brooke, *The nature of truth its unity and union with the soule*, (London, 1641), *passim*.
[82] R. Brooke, *A Discourse opening the Nature of Episcopacy*, (London, 1641), pp. 19-32.
[83] R. Sanderson, *Ten lectures*, p. 223; R. Sanderson, *xiv sermons*, (London, 1664), pp. 34-35.

Edward Stillingfleet repeated much of Hooker's argument from natural law but also included a critique of Brooke's ideas on indifferency. For Stillingfleet, Brooke erred in thinking (like Aquinas) that indifferent acts had to be conceived of as a medium between good and evil. Stillingfleet argued indifferency was really the product of a medium of abnegation, rather than of participation. Indifferent acts did not partake of good and evil (as Aquinas thought), like purple partook of red and blue. Rather, they represented a space left by the absence of any divine commands and were not acts mixed between good and evil. Brooke's argument that no act could ever be truly indifferent was thus flawed. Consequently, men and women were at perfect liberty to do or forbear with regard to any action not commanded or forbidden by the divine laws.[84]

Usually it was accepted that the concept of indifferency had some meaning. Sanderson thought everyone agreed some acts were indifferent in the species, which was Aquinas's position. Henry Jeanes (1611-1662) strongly denied the conformist charge that Puritan writers like Bradshaw and William Ames (1576-1633) had argued that nothing at all could be indifferent.[85] Yet disagreement flowed from the fact people could not agree if the ceremonies of the Book of Common Prayer, such as bowing at the name of Jesus, or wearing the surplice, were indifferent. The difficulties often turned on whether or not the ceremonies were parts of worship or whether they were only circumstances pertaining to acts of worship. Fitting the contested ceremonies into the scholastic schema of acts, objects, ends and circumstances was not always easy. The Church's position was that the ceremonies were only circumstances. For the nonconformists such a distinction was not always convincing.[86]

Deciding whether the ceremonies were acts of worship proper, or merely circumstances, was important because of the widespread conviction, shared by both sides of the debate, that no act of worship could ever be legitimate unless prescribed by revelation. The Puritan conviction that

[84] E. Stillingfleet, *Irenicum*, pp. 44-45.
[85] H. Jeanes, *The nature of scholasticall divinity*, p. 1-2.
[86] J. Ball, *A friendly trial of the grounds tending to separation*, (London, 1640), p. 26, 50.

everything not of faith was sin was thought to be true, in specific circumstances, by the conformists as well. At the time the nature of worship was explicated with the aid of the scholastic tradition and the *Summa* of Aquinas. In itself, worship was a natural duty, but Seventeenth Century divines were convinced specific acts of worship depended on supernatural revelation.[87] For some, this made laws about worship very different to laws about moral and civil duties. Aquinas's theory of law suggested human laws were specifications of the general precepts of the law of nature. It was widely believed worship, while a natural duty, could not be specified in the same way by human laws.[88]

Therefore actual acts of divine worship could not be legislated for. Human magistrates were allowed power only over the circumstances of those acts. For Edward Stillingfleet, author of the *Irenicum*, acts of divine worship were only valid if they flowed directly from revelation. For Stillingfleet, 'in immediate positive acts of worship towards God … nothing is lawful any further than it is founded upon a divine command. I speak not of circumstances belonging to acts of worship, but whatever is looked upon as a part of divine worship.[89]' Robert Sanderson, who subscribed to Hooker's basic argument, also set the 'substantials of Gods worship' apart from the authority of the magistrate. In Sanderson's opinion direct acts of worship were connected to revelation and grace, and so belonged to a kind of supernatural realm beyond the natural powers of the magistrate. According to Sanderson, the 'works of grace and worship or supernatural truths,' were outside of the remit of the civil ruler.[90] On this Anglican and dissenter agreed, until the publication of Samuel Parker's *A discourse of ecclesiastical politie* in which, for the sake of defending uniformity and persecution, the connection between worship and revelation was denied.[91]

[87] *ST,* IIa IIae, q. 81, a. 1-5.
[88] T. Morton, *A defence of the innocencie of the three ceremonies of the Church of England*, (London 1619), pp. 27-47; E. Stillingfleet, *Irenicum*, p. 39; S. Rutherford, *The divine right of church-government*, p. 127; J. Williams, *The case of indifferent things used in the worship of God*, (London, 1683), p. 27.
[89] E. Stillingfleet, *Irenicum*, p. 6.
[90] R. Sanderson, *xiv sermons*, p. 77.
[91] S. Parker, *A discourse*, p. 100.

The nonconformists, of course, frequently tried to prove that the Church's ceremonies were acts of worship. Bradshaw's colleague, William Ames, provided an account of divine worship designed to show that the ceremonies were part of divine worship itself (and thus illegitimate). Ames argued that human ordinances about worship were only truly indifferent if failure to adhere to them necessarily led to disorder and indecency, and therefore to a breach of scriptural commands. For Ames this meant that the civil magistrate had very little authority to command indifferent things in worship. Any provision about indifferent matters in worship had to be absolutely necessary before imposing it could be justified.[92] Ames's critique was carried forward by later nonconformists. For Independents like Philip Nye (1595-1672) and John Owen, the Church's imposition of forms and ceremonies amounted to creating new acts of divine worship. Like Bradshaw and Ames, Nye and Owen assumed all acts of divine worship had to be expressly commanded, because of the intimate connection between worship and revelation.[93] They argued that each congregation should be allowed to determine its indifferent circumstances of worship.

For many nonconformists the fact the Church's ceremonies intruded into the sphere of divine worship was of vital importance in justifying their dissent. However, nonconformity also took its stand against the Church on a number of other grounds. Even if it were granted that the ceremonies of the Prayer Book were not illegitimate intrusions into divine worship, it remained the case that Christians had good reasons, in conscience, to disobey the laws of Church and state. One such reason was the problem of scandal. Scandal was a concern originally derived from the Pauline epistles, but were heightened, in the minds of the nonconformists, by the memory of the Protestant struggle against the Church of Rome. St. Paul had argued, famously, that stronger Christians had a duty to abstain from behaviour which offended their weak brethren. Paul thus created a duty for Christians to abstain from behaviour that was objectively without sin if some among their brethren,

[92] W. Ames, *A reply to Dr Mortons general Defence of the three nocent ceremonies*, (London, 1622), p. 3
[93] J. Owen, *An enquiry into the original, nature, institution, power, order and communion of evangelical churches*, (London, 1681), p. 21; P. Nye, *Beames of former light*, (London, 1660), p. 1.

misapprehended the same behaviour as sinful. In the *Laws* Hooker addressed the question of scandal very directly, calling it, 'the weightiest exception,' to the ceremonies. Scandal occurred, Hooker noted, when people were, 'moved, led, and provoked unto sin …'[94] Hooker knew the most common reason to cite scandal was because the ceremonies and forms of the Church, some of which were relics of the country's Catholic past, were thought to be Popish. No one, Hooker averred, thought the ceremonies were evil in themselves. However, their origin in the Church of Rome was thought to render them scandalous.

Scandal necessarily pertained to matters which were indifferent. This was because, logically, it was only correct to abstain from something, on account of the scandal it might cause to weak brethren, if the thing in question was not already forbidden. If it were the case the thing in question was already forbidden, and so sinful, scandal hardly needed to be invoked, and it also could not be invoked if the thing to be abstained from was actually commanded by the divine law. Scandal was thus a consideration that only operated in the sphere of indifferent affairs, and prohibited nothing in particular, save what 'weak brethren,' at any one time, thought was sinful.[95] If scandal was allowed to stand, it moved out of the sphere of indifference almost anything a weak, or doubting conscience disliked, and obliged those who knew the matter in question not to be sinful to abstain from it. Scandal thus privileged the subjective conscience over the objective rule of conscience. In this way, it undermined the power of the civil and ecclesiastical authorities to impose uniformity in worship.

Conscience

Concerns about law and scandal often came to be discussed within the scholastic language of conscience because conscience was the faculty which informed men and women of the potential

[94] R. Hooker, *Laws*, p. 406.
[95] E. Stillingfleet, *Irenicum*, p. 55-56; R. Baxter, *An apology for the nonconformists ministry*, (London, 1681), pp. 48-52; T. Tomkins, *The modern pleas for comprehension, toleration, and the taking away the obligation to the renouncing of the covenant*, (London, 1675), pp. 29-34; S. Clarke, *Of scandal together with a consideration of the nature of Christian liberty and things indifferent*, (London, 1680), p. 5-12; J. Durham, *The dying man's testament to the Church of Scotland, or, A treatise concerning scandal divided into four parts*, (Edinburgh, 1680).

sinfulness of their actions. For writers on both sides of the argument, proving their opponents were leading people into sin was central to their purposes. Hooker himself did not talk about conscience often, nor did he define it in scholastic terms, but he did link the idea to the divine laws in the section on human laws. Hooker spoke of the manner in which laws bound the conscience, arguing people 'stood bound in the conscience to do as the Law of Reason teacheth …'[96] Hooker's aim in the *Laws* was to persuade the nonconformists that the Church's ceremonies were legitimate in light of God's laws. For other writers Hooker's arguments could be expressed in a different way using the concept of conscience and the ideas associated with it.

The concept of conscience bequeathed to Seventeenth Century English casuists, and used by Ames and Sanderson, was still predominantly that which had belonged to Aquinas. Historians writing about Seventeenth-Century English ideas about conscience have correctly stressed the dependence on the medieval scholastic model.[97] The standard medieval view of conscience, stated by Aquinas and others, described conscience as a part of the understanding which brought particular human acts before a general moral rule, thereby judging those acts. This basic definition of conscience, expressed in the scholastic terminology of Aquinas, was to be found in many of the Seventeenth Century casuists. Sanderson's *Ten lectures*, Ames's five books on conscience, and Rutherford's book on liberty of conscience relied on scholastic ideas and terminology as, to a lesser extent, did Jeremy Taylor's *Ductor dubitantium* (1660). On the other hand Henry Hammond (1605-1660) and John Sharp (1645-1714) mostly tried to avoid scholastic terminology in their books about conscience.[98]

For Aquinas, and his followers, the essence of conscience was a process whereby individual human acts, either past, present or future, were evaluated in terms of their conformity to God's law. Knowledge of God's laws was said to lay an obligation, in conscience, on the individual, to adhere to

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[96] R. Hooker, *Laws*, p. 197.
[97] M. Baylor, *Action and Person: Conscience in Late Scholasticism and the Young Luther*, (Brill, 1977), p. 33. H. McAdoo, *The Structure of Caroline Moral Theology*, p. 66.
[98] S. Rutherford, *A free disputation*, p. 4; Ames, *Conscience*, pp. 1-10; R. Sanderson, *Ten lectures*, p. 35; H, Hammond, *Of conscience*, (London, 1645), p. 2; J. Sharp, *A Discourse on conscience*, (London, 1681), pp. 1-10; J. Taylor, *Ductor dubitantium*, pp. 1-4.

those laws. This supposed the mind had a general moral rule with which to judge by. This rule was usually identified as the synteresis, which was, roughly, the precepts of the law of nature enhanced by revelation. In Aquinas's particular formulation, (which was not universal) the conscience was an act of the understanding through which human actions were brought before a general moral rule, that general moral rule being an innate habit, the synteresis.[99]

The conscience was said to be bound when it apprehended that God had made a law that men and women were obliged to follow. All agreed that it was men and women's subjective sense of what God's laws were which bound the conscience. The conscience, it was held, could err and people could become convinced a certain action was God's will when it was not. This type of conscience was known as the erroneous conscience. Following Aquinas, casuists like Ames, Rutherford, Taylor, Sanderson and Sharp all agreed that the erroneous conscience had to be followed on pain of sin. However, they were also convinced that sincerity was ultimately no excuse for sin, and held that people would be culpable before God for adhering to their erroneous consciences just as they would be for defying them. This meant someone with an erroneous conscience was in a difficult position, because they committed sin both if they adhered to it and if they did not.[100] For Philip Abrams, modern editor of Locke's *Two Tracts*, the admission that people were held to the subjective judgments of the conscience represented a flaw in the Anglican argument against dissent. Even if casuists could show, through an examination of natural law and indifferency, that Anglican worship was not sinful, they still had to accept that some dissenters might be conscientiously bound to separate because they erroneously believed otherwise.[101]

All agreed that only God could bind the conscience because only God had the power to attach supernatural penalties to a law. Human rulers could create physical punishments to enforce

[99] *ST*, Ia IIae, q. 97, a. 12.
[100] H. Hammond, *Of conscience*, p. 4 J. Sharp, *A Discourse of Conscience*, pp. 22-25; S. Rutherford, *A free disputation*, p. 6; R. Sanderson, *xiv sermons*, p. 86.
[101] J. Locke, *Two Tracts on Government*, ed., P. Abrams, (Cambridge, 1967), p. 44.

their laws, but the conscience was not associated with physical penalties.[102] This meant only laws which came directly from God bound the conscience in the first instance. Conformist writers like Samuel Parker were often alleged to have endorsed the Popish doctrine of direct magisterial control over the conscience when they argued people were obliged to obey the Church's laws.[103] However, Aquinas himself had acknowledged that there could be laws which affected the conscience aside from God's own laws. Most casuists agreed with him.[104] In the Seventeenth Century laws which bound the conscience and yet were not part of the divine laws themselves were sometimes known as improper binders of conscience. The law of scandal was one example, as were human laws and oaths.

The phrase 'improper binder of conscience' was used in one of the earliest books to be published on the subject of conscience in the Seventeenth Century. *A Discourse of conscience* (1594) by the Puritan William Perkins (1558-1602), of Cambridge University, went into great detail about the improper binders of conscience. Perkins was the mentor of William Ames, and although himself a conformist had great sympathy with those disaffected by the Church's rites and ceremonies. Perkins claimed he wrote *A Discourse of conscience* chiefly, 'to confute the pillars of the Popish Church …'[105] Perkins thought Catholic opinions about the power of human laws to bind the conscience were erroneous and destructive of Christian liberty. Perkins stressed that only God's own laws bound the conscience directly, yet he admitted that the conscience could become bound indirectly in various ways. These other means of generating conscientious obligation Perkins called the 'improper binders' of conscience. These improper binders of conscience were sometimes listed by casuists as human law, oaths and scandal. These improper binders could never counteract a

[102] J. Taylor, *Ductor dubitantium*, p. 430.
[103] J. Owen, *Truth and Innocence*, pp. 104-106.
[104] *ST*, Ia IIae, q. 96, a. 4.
[105] W. Perkins, *A discourse of conscience*, (London, 1594), p. 41.

divine law, but underneath the obligation produced by the divine laws, they still bound men and women to obedience on pain of sin.[106]

The idea of the improper binder was often at the heart of the conformist case. Conformist apologists, like Robert Sanderson and Samuel Parker recognized that nonconformist concerns about scandal could constitute an obligation for them which they would have to obey. However, Anglicans insisted that scandal was outranked by other improper binders of the conscience, most notably by human laws. This meant that far from it being sinful to obey the Church, as the nonconformists supposed, it was actually sinful to defy the Church, since its laws bound the conscience before the consideration of scandal. Writers like Sanderson, Locke and Parker laid great stress on this point, producing hierarchies of 'improper binders' designed to show how human law outranked concern over scandal.[107] Many conformist books and tracts, like Sanderson's *Ten lectures*, focused on the human law and its power over the conscience. The need to obey human authority had always been part of the Anglican case but as we shall in the next chapter, Robert Sanderson made this much more explicit, by combatting dissent primarily through a discussion of human law.

Conclusion

At the heart of the Church's defence were a series of philosophical questions, many of them grounded in the *Summa* of Aquinas and other scholastic treatises, about natural law, indifferency, conscience and human law. Justifying uniformity and toleration therefore often depended upon intricate philosophical knowledge about the nature of indifferent acts, conscience and the relationship between natural and revealed law. In the following chapters we shall explore the ideas about natural law, human law and indifferency held by prominent Church apologists and dissenters and the ways in which those ideas were used to justify, or to decry, uniformity.

[106] W. Perkins, *A discourse of conscience*, pp. 49-56; J. Bradshaw, *A moderate short discourse concerning tenderness of conscience*, (London, 1663), p. 16.
[107] R. Sanderson, *Ten lectures*, p. 111; S. Parker, *A discourse*, p. 25; T. Tomkins, *The inconveniencies of toleration*, (London, 1668), p. 10.

Chapter Two: Robert Sanderson, Scholasticism, Natural Law and Conscience

Robert Sanderson was one of the Church's most respected casuists in the latter half of the Seventeenth Century and an adherent to Hooker's method of defending conformity. In his *De Obligatione Conscientiae*, or, *Ten lectures on human conscience*, as they were known in English, Sanderson employed scholastic philosophy, in particular the *Summa* of Aquinas, to show that nonconformity was the product of philosophical errors about the nature of conscience and the proper spheres of authority possessed by reason, revelation and human law. This chapter explores Sanderson's scholastic defence of conformity. It begins with Sanderson's analysis of conscience, and then proceeds to the crux of his argument, the nature of divine law and the power over the conscience of human law. It concludes by examining Sanderson's influence over conformist writers.

Sanderson's *Ten lectures* illustrate very clearly how dependent the Anglican argument for uniformity could be on scholastic methods and ideas. In character the *Ten lectures* were thoroughly scholastic and were planned as a series of doubts and resolutions. The material in lectures five through to nine dealt with human law and was arranged according to the Aristotelian scheme of causes; Sanderson addressed the material, formal, efficient and final ends of law.[108] The first lecture comprised the most in depth and technical account of conscience, in terms of scholastic faculty psychology, in Seventeenth-Century England. The lectures were peppered with the Aristotelian categories of genus, species, object and end, and the terms of scholastic faculty psychology: power, habit and act.[109] Aquinas's influence was felt throughout, and often Sanderson was effectively rehearsing and commenting on Aquinas's discussion in the *Summa*.

Historians have not linked Sanderson's scholasticism, and his close adherence to the views of Aquinas, with his defence of the Church. Peter Lake has used Sanderson, a doctrinal Calvinist, to demonstrate the close alignment of doctrinal and moral views between early Seventeenth Century

[108] R. Sanderson, *Ten lectures*, p. 237.
[109] *Ibid*, pp. 2-17, 19-21.

Puritans and conformists. For Lake, Sanderson's Calvinist conformity owed nothing to an appreciation of the benefits of ceremonialism but rather to a thoroughly Whitgiftian defence of the authority of the Church's civil and ecclesiastical rulers.[110] Although this is certainly true, Sanderson's ideas on human authority were actually rather more intricate than Whitgift's. On the other hand Henry McAdoo has, of course, recognised Sanderson's scholasticism and his debt to Aquinas. In *The Structure of Caroline Moral Theology* McAdoo showed that Sanderson's descriptions of conscience, moral action and natural law paralleled those of the *Summa*. McAdoo portrayed Sanderson as one of the principal conveyers of Hooker's interest in scholastic natural law theory to later Anglican writers.[111] However, McAdoo did not address the political and ecclesiastical concerns which animated Sanderson. Yet in *De Obligatione* Sanderson was interested in Aquinas's ideas about law because he wished to defend the Anglican Church against the nonconformist attack on its rites and ceremonies.

The *Ten lectures* were delivered in the divinity schools the year after the surrender of Oxford, the former royalist Capital. At the time Sanderson was Regius Professor of Divinity at the university, although this was not a post he would hold for much longer. Originally a fellow of Lincoln College, Sanderson had been well known for his academic achievement, publishing his logic lectures, the *logicae artis compendium*, in 1615. They were so well regarded that Sanderson's biographer, Izaak Walton (1593-1683), claimed the *logicae artis* had become standard reading in the universities by the 1660s.[112] Sanderson had left the university in 1619 and had assumed a living in rural Lincolnshire. Installed at first in unhealthy Wibberton Sanderson contrived to move to Boothby Pagnell where he remained throughout the 1630s and most of the 1640s. His living was near Boston and his resentment of the nonconformists may have been sharpened by the activities of the

[110] P. Lake, 'Serving God and the Times: The Calvinist Conformity of Robert Sanderson,' 27, *Journal of British Studies*, (1988), pp. 81-116; S. McGee, 'Robert Sanderson,' *ODNB*.
[111] H. McAdoo, *The Structure of Caroline Moral Theology*, pp. 27-37, 68-72; H. McAdoo, *The Spirit of Anglicanism*, pp. 157, 182.
[112] R. Sanderson, *XXXV Sermons*, (London, 1681), p. 6.

separatist minister John Cotton in the town.[113] However, Sanderson retained connections, both to William Laud (1573-1645) and to the king, becoming a royal chaplain in 1631. At the beginning of the troubles Laud delegated to him the task of drawing up a compromise ecclesiastical settlement with the Puritan opposition, although this met with no result. Sanderson was appointed Regius Professor of Divinity soon after, in 1642 but, because of the war and fear for his property in Lincolnshire he took until 1646 to actually assume his post.[114]

By the time Sanderson arrived in Oxford, royalist power was in a state of collapse. The university was largely unscathed by the war, but Parliament was taking measures to bring it to heel. Francis Cheynell (1608-1665), a former fellow of Merton ejected for anti-Laudianism, had been dispatched to bring about a godly reformation in the city. Parliament was making a number of demands upon the members of the university: requiring everyone to subscribe to the Solemn League and Covenant, accept the Presbyterian Directory of Worship and renounce the Church's long contested rites and ceremonies. As Professor of Divinity, Sanderson wrote part of the university's rejection of Parliament's demands published as *Reasons of the present judgement of the University of Oxford* (1647). In the judgment Sanderson defended the episcopal form of government against the Covenant's demand it be renounced, and asserted the members of the university were still obliged, in conscience, to observe the laws of the king.[115]

It was in this context that Sanderson delivered the *Ten lectures*. He wanted both to vindicate the structure of the decaying Caroline state, but also to offer suggestions about how royalists could uphold their conscience in a nation now controlled by usurpers. The *lectures* were a powerful defence of the rites and ceremonies of an embattled Church. Sanderson laid the blame for the present troubles on the nonconformist critique of the nation's ceremonial uniformity. Sanderson

[113] R. Sanderson, *XXXV Sermons*, p. 10; S. McGee 'Robert Sanderson,' *ODNB*; P. Lake, 'Serving God and the Times,' pp. 81-116.
[114] S. McGee, 'Robert Sanderson,' *ODNB*.
[115] R. Sanderson, *XXXV Sermons*, p. 19; *Reasons of the present judgement of the University of Oxford concerning the Solemne League and Covenant*, (Oxford?, 1647), pp. 7-14.

thus connected the arguments of the Parliamentary critics of Laud to the old Presbyterian and separatist arguments of Cartwright and Ames. Sanderson pointed to the proliferation of sects in the country and the army as the ultimate proof of where the arguments against the Church's indifferent ceremonies would lead.[116] Sanderson believed a thorough analysis of human duty could show where the nation had gone wrong.

Sanderson's lectures were constructed around two central concepts, conscience and law, particularly human law. Overwhelmingly Sanderson's analysis of these concepts was heavily dependent on the *Summa*, and Aquinas was quoted with some frequency, although Sanderson was not afraid to modify (and misrepresent) Aquinas when he felt it necessary. Sanderson focused primarily on people's objections to the Church's rites and ceremonies, believing them to be the principal thing at issue, but he did discuss more secular matters as well. Sanderson's principal argument was that men and women would be punished, supernaturally, for all disobedience to the human laws of rightful rulers, unless those rulers crossed the divine laws of God. If men had understood their duties to their rulers, and not been confused by erroneous views about the nature of liberty of conscience, or the power of human law over the conscience, the disasters which had befallen the country might have been avoided.

This chapter examines Sanderson's arguments against nonconformity in the order in which they appear in the lectures. Initially we examine Sanderson's suggestion that the request for liberty of conscience was confused. Then Sanderson's views about natural and human law are discussed. The crux of Sanderson's argument in the lectures pertained to the nature of law. Sanderson both restated a version of Hooker's view that nonconformity was based on a mistake about the respective authorities enjoyed by rational and revealed law, and developed his own argument against dissent from the nature of human law. Sanderson's ideas, which were essentially Aquinas's, about the

[116] R. Sanderson, *Ten lectures*, p. 232.

purpose of the state are also explored. Finally this chapter examines the impact of Sanderson's ideas in the Restoration period.

Liberty of Conscience

In lecture one Sanderson provided a thorough analysis of the concept of conscience itself, in the terms of scholastic philosophy, and in lecture six Sanderson used his scholastic understanding of conscience to argue against the plea for liberty of conscience. In Sanderson's opinion, when conscience was described properly, according to the definitions drawn from Aquinas and other philosophers, the idea that the Church oppressed conscience, and removed its liberty, could be seen to be frivolous.

Sanderson was aware that a number of attacks on the Church had begun to make use of the phrase 'liberty of conscience.' Liberty of conscience could mean a number of distinct things, but often the argument included the idea that conscience, as a faculty of the understanding, was owed certain privileges in virtue of its properties. Conscience was sometimes described as God's special seat in the human mind.[117] To use force to coerce people to adhere to beliefs they did not hold, or to perform practices they did not agree with, was to usurp the authority of God. Psychologically people also connected the conscience to the understanding, not the will. Force, it was believed, could have no effect on the understanding, and so human laws were not suitable to govern it. In 1672 the Presbyterian nonconformist John Humfrey (1621-1719), one of Sanderson's critics, restated this basic argument. Humfrey argued that liberty ought to be accorded to nonconformists, in matters of religious practice, because the magistrate could not alter the understanding. Humfrey argued that the magistrate 'must have power … to make us change our judgement of that thing, and judge otherwise …'[118] Such an argument is usually taken to be one of the central ideas of John Locke's

[117] Anon, *The true magistrate, or The magistrates duty*, (London, 1659) p. 10; H. Robinson, *Liberty of conscience: or The sole means to obtaine peace and truth*, (London, 1643), pp. 3-4; T. Whitfield, *A discourse of liberty of conscience*, pp. 1-3.
[118] J. Humfrey, *The authority of the magistrate about religion discussed*, (London, 1672), p. 42.

famous *Letter concerning Toleration*.[119] In the *Ten lectures* Sanderson described the argument as follows; 'the Consciences of Men are free, and ought to be so, which Liberty no Humane power can, or may infringe.'[120] Sanderson thought people were arguing from the nature of the conscience, to a right to be free of external force and imposition in religious matters. In Sanderson's view, a proper appreciation of the meaning of conscience could dispel this argument: liberty of conscience did not mean what people believed it meant.

Lecture one of the *Ten lectures* provided the most thorough discussion of the nature of conscience in English casuistry in the Seventeenth Century. Sanderson proceeded by way of a commentary on the issues Aquinas had raised about conscience in the *Summa* and employed scholastic terminology and faculty psychology.[121] Sanderson carefully scrutinized the nature of conscience according to its genus, species, object and end and engaged in the well-known scholastic debate about its status within the understanding as a power, habit or act (Sanderson disagreed with Aquinas, and urged that conscience was a habit). Sanderson's own definition of conscience was, 'a faculty, or a habit of the practical understanding, by which the mind of man doth by the discourse of reason apply that light with which he is indued to his particular moral actions.[122]' Crucially, for his purposes, Sanderson also addressed the question of the conscience's placement with regard to the two great faculties of the soul: the intellect and the will.

In Aquinas's thought, the intellect and will were the two powers or faculties of the rational soul. They were distinct powers, but intimately related. The intellect was the faculty of the soul which apprehended and understood truths. The will, on the other hand, was the elective faculty, which made choices and was the source of moral activity. The will was the seat of freedom.[123] Aquinas's model of the relationship between intellect and will was still in use in the Seventeenth

[119] J. Waldron, 'Locke: toleration and the rationality of persecution,' in Susan Mendus ed, *Justifying Toleration: Conceptual and Historical Perspectives*, (Cambridge, 1988) pp. 61-86.
[120] R. Sanderson, *Ten lectures*, p. 200.
[121] *Ibid*, pp. 2-33.
[122] *Ibid*, p. 3, 15, 19.
[123] D. Gallagher, 'The Will and Its Acts,' in *The Ethics of Aquinas*, ed. Stephen Pope, (Georgetown, 2002), p. 69.

Century.[124] In Aquinas's view the will and the intellect were both causes of the activity of the other. The intellect could determine a course of action, and present the action recommended by that deliberation to the will. The will, in turn, could cause the intellect to consider a given object or action, suspend its activity altogether, or refuse the course of action recommended. These acts of the will were known as freedom of exercise and freedom of specification.[125] Aquinas clearly assigned conscience to the intellect.[126] However, Aquinas was also clear that conscience dealt with knowledge related to moral action, and moral action was the province of the will. Aquinas therefore placed conscience in the practical, as opposed to the speculative intellect. The practical intellect took some operation, or action, as its object, while the speculative intellect dealt with truth.[127] Thus, although the conscience was clearly located in the intellect, it was obviously intimately connected to the faculty of moral action, the will.

Aquinas's judgment on these issues carried the most weight within the tradition of writing on conscience. In the Seventeenth Century, English and Scottish writers on conscience were clearly aware of disputes amongst the medieval schoolmen about the placement of conscience in relation to the intellect and will, but nearly always sided with Aquinas. Sanderson's discussion in the *Ten Lectures* left little room for considering the conscience to be associated with the will. He noted a debate among the medieval schoolmen about the proper placement of conscience in respect of the understanding and the will. According to Sanderson, 'There is a great controversie amongst the schoolmen; whether the Conscience doth pertain to the Intellect or the Will, or unto both…[128] For Sanderson, conscience was seated in the practical intellect, which was the second cognitive power, distinct both from the speculative intellect (the pure cognitive power) and the appetitive power. The conscience, (as part of the practical intellect), was in Sanderson's words, 'seated in the middle, and

[124] W. Ames, *Conscience with the power and cases thereof*, (1639) pp. 22-25.
[125] O'Connor, *Aquinas and Natural Law*, (London, 1967), pp. 50-52.
[126] *ST, Ia*, q. 79, a. 13.
[127] *ST, Ia*, q. 79, a. 11.
[128] R. Sanderson, *Ten Lectures*, p. 25.

according to the Custom of things intermedial, doth in some part accord with either of the Extremes, and in some part doth differ from them …'[129] Conscience was thus placed firmly in the understanding, and kept distinct from the will, but its relationship with action was acknowledged and used to distinguish it from the purely speculative part of the understanding.

In the *Ten lectures* Sanderson used his description of the nature of conscience to refute pleas for religious liberty. Sanderson believed that, 'liberty of conscience' taken literally according to the definitions of scholastic philosophy, did not mean freedom of religious practice. Conscience was separate from the will, and it was the will that was the seat of liberty. Requesting freedom for the conscience, when the scholastic definition of conscience was born in mind, therefore implied a liberty of thought, but not necessarily of action. It was therefore a question exactly what 'liberty of conscience' actually meant. How could conscience be free? As conscience was part of the intellect, Sanderson thought the liberty conscience ought to possess could only be an intellectual liberty. In lectures five and six Sanderson proposed that liberty of conscience ought to refer to a kind of freedom of thought in a very literal sense. Crucially, this liberty was one that was not currently being taken away by the state and Church.[130] To accept Sanderson's view of the real meaning of 'liberty of conscience' meant that demands for religious freedom had to be dropped, or else rephrased in such a way as to exclude an emphasis on 'liberty of conscience.'

In lecture six Sanderson explained that if a human law was promulgated by the magistrate, with the intention it should bind the conscience, liberty of conscience was removed if and only if the magistrate claimed falsely that he or she was putting into human law a law which was of divine origin. Liberty of conscience was thus a liberty from false apprehensions. To illustrate the nature of the liberty he was talking about more fully, Sanderson argued that the precepts of any human law could be considered in regard to the Aristotelian schema of causes by which he was also ordering his

[129] R. Sanderson, *Ten lectures*, p. 25.
[130] *Ibid*, pp. 200-202.

lectures. Laws, said Sanderson, invoking the categories of scholastic causality, had a material and a formal cause. The material cause represented the matter, or stuff out of which something was made. In the case of laws, the material cause pertained to the content of the law, which could be either necessary (already a divine law) or indifferent (not determined by divine law, but by human law). The formal cause, on the other hand, described the pattern or the idea that made a given object what it was. In the case of a law, according to Sanderson, the formal cause represented all the elements which made a law a law. These were proper promulgation, equity and authority.[131] For Sanderson, a human lawgiver never restricted liberty of the conscience by means of the formal cause of his laws. The formal cause simply represented the authority of the magistrate to make law and thus did not require anyone to perceive the matter of the law any differently from the way they ought to. However, if a law was wrongly said to be materially obliging, the freedom of the conscience was endangered. As Sanderson explained:

> if the Law-giver should therefore intend an obligation, or impose on the subject a necessity of obeying, from giving the Precept of his Law taken materially, that is, from the necessity of the thing itself which is precepted, which notwithstanding the truth of the thing was not necessary to do before the law was made, he in that very fact should lay a force upon the conscience of the subject, which should be repugnant to the liberty of it.[132]

Yet, if the law only obliged in formal sense, liberty of conscience was not violated.

> But if he [the law-giver] should derive his Obligation from the giving the precept of this Law taken formally, that is from the legitimate Authority with which he himself is invested … the inward Liberty of Conscience remaineth injuried and intire …[133]

[131] R. Sanderson, *Ten lectures*, p. 213.
[132] *Ibid*, p. 200.
[133] *Ibid*, p. 200.

Sanderson explained the reason for his view came from distinguishing the conscience, as part of the understanding, from the will. Sanderson argued:

> an Act of the will cannot prejudice liberty of Conscience, as an Act of the Judgment doth, for the Act of the Will doth follow the dictates of the Conscience as the effect followeth its cause, but the Act of the Judgment doth precede the Dictates as the cause goeth before its effect …[134]

As conscience pertained to thought and judgment, and was distinct from the will, its liberty could only be intellectual. Thought could only be rendered unfree by false thought, never by actions. Sanderson's version of liberty of conscience as an intellectual liberty was thus premised on a close reading of the scholastic definition of conscience, which separated conscience from will and placed it in the intellect. Sanderson's argument flowed logically from his philosophy of conscience, which was drawn in great part from Aquinas. Even though both Aquinas and Sanderson recognized that conscience was connected to action (and located in the practical, not the speculative judgment) they divorced it from the will, which was the real seat of liberty. As a result a rather more obscure version of liberty had to found for the conscience, and one which was much more restrictive in practice.

Sanderson on Natural Law

Impressive as Sanderson's argument from the nature of conscience might be, it was unlikely to prove very convincing to nonconformists. The nonconformists believed that the Church and state had no right to impose indifferent rites and ceremonies upon them, and frequently thought they were bound in conscience not to give scandal to weak brethren by performing or endorsing the offensive rites. Like Hooker, Sanderson thought the nonconformist position was based on a mistake about the nature of the divine laws and that an exploration of law, and especially of natural law, was needed to inform people about the true extent of their duties.

[134] R. Sanderson, *Ten lectures*, p. 202.

Lectures four through to nine of the *Ten lectures* were devoted to various questions about law. Lecture four dealt with the relationship between the law of nature and revelation, while lectures five to nine focused on human law, which derived its obligation from natural law. In lecture four Sanderson presented his own variation of Hooker's argument in the early books of the *Laws*, arguing that nonconformists misunderstood the role of natural law in religious life, and exalted revelation unduly. In lectures five and six, Sanderson developed his own argument from the power of human law as an improper binder of conscience, before turning to discuss how far the state should enforce the law of nature in lecture nine.

Like Hooker, Sanderson thought that understanding the relationship between natural law and reason, on the one hand, and revelation on the other, was of overriding political importance. In lecture four Sanderson attributed the 'most grievous calamities which have a long time afflicted the church of Christ,' to a 'misunderstanding of the perfection of the holy scriptures.'[135] Some divines had determined, lamented Sanderson, to claim everything not authorised by the word of God was an error and to purge the Church of all indifferent rites and ceremonies. One absurd opinion had bred one hundred more, and now, Sanderson complained, the country was possessed by 'an Anabaptistical fury … everyday it swells, and doth more and more inlarge itself by bringing into the world new monsters of opinion.[136]' For Sanderson, the chief error which had led to the present unhappy situation was a confusion about the respective spheres of natural law and revelation. Like Hooker, Sanderson thought the Church's critics attributed too much weight to revelation and too little to reason in ecclesiastical affairs.

To outline the nature of the nonconformist mistake, Sanderson first put forward his views on the law of nature. Like Hooker, Sanderson hoped to provide an account of the law of nature and its relationship with the supernatural law which would elevate the role of reason in ecclesiastical

[135] R. Sanderson, *Ten lectures*, p. 123.
[136] *Ibid*, p. 124.

matters. As with Hooker's *Laws*, Sanderson's description of natural law in the *Ten lectures* owed a great deal to the *Summa* of Aquinas, although he did not cite Aquinas directly in lecture four (Sanderson's quotations were from Cicero and the Greek fathers).[137] The law of nature was known by an innate light from the time of creation and was a derivation of the eternal law, which was in the mind of God.[138] The law was derived from the natural instincts of creatures, all of which were inclined to do whatever was congruous to their natures. Therefore man was under the same law as the animals, but also a higher law appropriate to a rational nature.[139] Like Aquinas, Sanderson described the law of nature in terms of primary and secondary precepts. The law consisted of many practical principles that were all reducible to one precept that commanded the doing of good and the eschewing of evil.[140] The other precepts were like conclusions derived from the first precept as a premise. Although the fall had greatly damaged and obscured the light of nature Sanderson, like Aquinas, averred the primary principles of the law of nature had not been effaced from the mind of man. [141]

Sanderson aimed to show, like Hooker, that natural law was a valid source of authority in organizing the Church, alongside revelation. To prove the validity of natural law in ecclesiastical matters, Sanderson argued that the scriptures themselves could not be understood without knowledge derived from the law of nature. Excluding natural law and reason from the governance of the Church, on the grounds the Church ought only to be governed by revelation was therefore absurd and self-defeating. [142]

Sanderson showed the dependence of the scriptures on the law of nature by thinking about the different types of obligations scriptural laws were thought to impose, and by arguing that only through natural knowledge could people know which laws imposed which type of obligation. In

[137] R. Sanderson*, Ten lectures*, p. 135. H. McAdoo, *The Structure of Caroline Moral Theology*, pp. 29-30
[138] *Ibid*, p. 131; *ST,* Ia IIae, q. 93, a.3.
[139] *Ibid*, p. 131; *ST,* Ia IIae, q. 90, a. 2.
[140] *Ibid*, p. 133; *ST*, Ia IIae, q. 94, a. 2.
[141] *Ibid*, pp. 132-136; ST Ia IIae, q. 94, a. 4, 6.
[142] *Ibid*, p. 125.

lecture four Sanderson explained that the scriptures were full of various types of commands: moral, ceremonial and judiciall; some were intended to apply to one people in particular, others to oblige all of mankind for all time. Sanderson reasoned that unless people already knew which precepts were natural and moral, and so perpetual, there was no way to make sense of human duties on the evidence of the scriptures alone. According to Sanderson, because of the various types of law in the scripture, some:

> induring only for a time, and other of perpetual obligation … if there were not some other rule, besides the Scriptures, for the discerning of moral from ritual precepts and of things temporary from perpetual and of things peculiar from common, the Conscience would oftentimes labour in a Labyrinth of doubts, and not know which way to turn …[143]

Yet people did differentiate the perpetual moral precepts from the ceremonial. For Sanderson, the only explanation for this ability was the strength and utility of reason, and the law of nature. According to Sanderson, 'there can certainly be no other reason be given,' for the ability to distinguish moral from ceremonial precepts, 'but that it proceedeth from the Judgment of reason and prudence, which being excluded, obligatory precepts cannot so be known from those which are not obligatory …'[144] Consequently the scriptures could never be the adequate rule of conscience because the knowledge they imparted was incomplete without the addition of the moral precepts of the natural law. The Church's critics were thus possessed of false ideas about the perfection of the scriptures as a rule for the conscience.

Sanderson's discussion of the sources of law was intended to affirm the role of reason and natural law in informing men and women of their conscientious duties. For Sanderson, the importance of reason as a law for the conscience opened the way for the Church and state to make laws for the indifferent circumstances of worship. The human laws, which prescribed the Church's

[143] R. Sanderson, *Ten lectures*, pp. 121-122.
[144] *Ibid*, p. 123.

rites and ceremonies, derived from the law of nature, therefore vindicating the power of reason and nature in ecclesiastical affairs was the first step in justifying the Church's controversial provisions for worship.

Sanderson and Human Law

Sanderson took this argument against nonconformity, based upon law, one step further than Hooker by focusing on the nature of human law. The need to obey authority had always been central to the Anglican case against nonconformity but writers like Hooker had not analysed the nature of human law and its connection to conscience in great detail. Sanderson argued that when the relationship between conscience and human law was properly understood, the nonconformist argument would be undone. In Sanderson's hands the Church's defence thus came to revolve around the philosophy of law and of human law in particular.

Sanderson's interest in the nature of human law was not unique. People were very aware of the views of scholastic authors, and of Reformed Protestant divines on the subject and the framework for a discussion of human law, in Seventeenth-Century England, was still largely provided by Aquinas's comments on the subject. However, the way human law bound the conscience was frequently raised because it was a point of contention between the Roman Catholic Church and its Protestant opponents. Protestant reformers like John Calvin, held the Catholic Church to have tyrannized over the conscience by falsely positing that adherence to its own inventions obliged on pain of sin. The papists were thought to hold that ecclesiastical laws could bind the conscience directly. Refuting false Catholic doctrine was the primary aim of much Protestant discussion of human law and Protestants had to be careful they did not appear to espouse the Catholic position.[145] In the *Ten lectures* Sanderson quoted many of the usual authorities on human law and claimed to have refuted the Catholic pretences to dominion over the conscience. Yet his main

[145] J. Calvin, *Institutes of the Christian Religion*, ed. J. McNeill, trans F. Battles, (London, 1960), pp. 1179-1182; W. Perkins, *A Discourse of conscience*, p. 38.

purpose in discussing human law was not to attack the Catholic Church but to defend the ceremonies of the Church of England.

In the *Ten lectures* Sanderson's principal argument against nonconformity was that human laws were an improper binder of the conscience which outranked all other binders. The obligation to avoid giving scandal, or abide by an oath was, in Sanderson's mind, always superseded by the will of a lawful magistrate. In the fourth lecture Sanderson provided a hierarchy of binders of conscience, ordering all improper binders under the direct binders (the divine laws of God). For Sanderson, human laws obliged before oaths and oaths obliged before scandal because justice had to be privileged above charity. Sanderson suggested that to privilege scandal above a concern for human law, was to place charity above justice, and was like robbing a hospital to fund an orphanage.[146] Sanderson was convinced that human laws bound the conscience in all circumstances saving when they crossed the divine laws. Unless the Church's ceremonies were directly sinful, nonconformity would incur eternal punishment.

Sanderson knew this was denied by the Church's opponents, who often denied human laws did bind the conscience, especially in matters concerning religion. [147] Sanderson attacked the innovators who he saw denying all power over the conscience to human law-makers. Sanderson was especially vehement against these 'stoicized' men who, 'to make way for a wild Reformation for which they so much contend … take away from the world all indifferency, ...[148]' This was a reference to Robert Greville, Lord Brooke, 'a Layman, and one of the peers of the Land … now dead,' whose *A Discourse opening the Nature of Episcopacy* had expanded upon Aquinas's sense that no specific act was ever indifferent. Sanderson believed the attractions of such an excessive view had receded but he bemoaned the fact it was increasingly popular to assert the state had no power to make laws about indifferent matters with regard to religion. According to Sanderson, all over the nation, 'a

[146] R. Sanderson, *Ten lectures*, p.111
[147] *Ibid*, p. 178.
[148] *Ibid,* p. 223.

great number of innovators who would take away from men a power of making all rites and ceremonies,' had sprung up.[149] One of the texts Sanderson had in mind may have been Samuel Rutherford's treatise on church government, *The divine right of church-government*.[150] In the *Ten lectures* Sanderson argued that no plausible reason could be given why laws in civil matters should bind the conscience, but laws in ecclesiastical matters should not. The argument from scandal, argued Sanderson, applied to both civil, natural matters, and to those pertaining to worship. Therefore, either the absurd position of Brooke had to be endorsed, or the power of the state to legislate for the indifferent ceremonies had to be granted.[151]

For Sanderson, and for Anglican apologists who followed him, disobedience to the human laws which obliged the conscience came to constitute the heart of the charge against dissent. However, the relationship between conscience and human law was a complicated issue and Sanderson's ideas were not unproblematic. Sanderson was influenced, once again, by the discussion of Aquinas in the *Summa*, but in one crucial respect he felt he had to depart from Aquinas's views in order to uphold the argument for conformity.

In his discussion of human law in the *Prima Pars Secundae* Aquinas laid down an influential view, both of the nature of human law, and of the relationship between conscience and human law. Aquinas investigated human law under questions ninety-five to ninety-seven in the section on law, discussing the nature of human law, as well as its power and mutability. Aquinas's analysis was usually thought to be sensible and moderate. It was not believed he gave too much power over the conscience to the human ruler and he did not, in the opinion of Protestants, countenance the false claims of the Papacy. For Aquinas human laws were necessary, both to check wickedness and

[149] R. Sanderson, *Ten lectures*, p. 226.
[150] S. Rutherford, *The divine right of church-government*, pp. 92.
[151] R. Sanderson, *Ten lectures*, pp. 226-234.

depravity, and to make men virtuous through the coercive inculcation of good habits.[152] Their end was the good of the state and the fostering of religion.[153]

For Aquinas it was initially doubtful if human laws could bind the conscience, because conscience was the court of God not man. However, for Aquinas, human laws could bind the conscience, providing it was acknowledged that it was God himself who bound the laws of the magistrate on the consciences of men and women.[154]Aquinas suggested that the source of all human law was therefore a divine law, the law of nature. Just as the natural and supernatural law were emanations from the eternal law, so human law found its source in the natural law. For Aquinas human laws necessarily had to be just and this was only possible if they were in accord with right reason, the first rule of which was the law of nature.

Yet Aquinas knew human laws varied, and not every human law could be directly derived from the law of nature. Sometimes human laws were only specifications of general precepts. Aquinas did not say a great deal about the ways natural law could be specified, but he had in mind the diverse ways in which human laws defined and chose to punish crimes like murder and theft. Providing human laws were really proper derivations of the law of nature, they could be said to bind the conscience in virtue of that fact. However, because human laws only bound if they were proper derivations of the law of nature there were consequently limitations upon the kind of law which could oblige the conscience. For divines concerned with the questions of authority, and nonconformity, this was the crucial part of Aquinas's analysis. To be able to enact binding laws, the lawgiver had to possess proper authority, but beyond that his laws had to reflect God's purposes in the natural law. Therefore, only laws which filled certain requirements of justice bound the conscience.[155]

[152] *ST,* Ia IIae, q. 95, a. 1.
[153] *Ibid*, q. 95, a. 4.
[154] *Ibid*, q. 96, a 4.
[155] *Ibid*, q. 95, a. 1; q. 96, a. 4, 6.

In Aquinas's view, to be just and binding upon the conscience, a law needed to have the correct final end. For a human lawgiver the final end of law was the common good of the community. Burdensome laws, which did not advance the common good were therefore not binding in conscience. Moreover, Aquinas suggested, the law could only possess a just form if the means adopted to pursue the common good were equitable. Principally this meant that burdens or impositions instituted by the law had to be distributed equally. For Aquinas, the will of the lawgiver was therefore a necessary but not sufficient condition for a human law to bind the conscience. The law itself had to promote the correct end in the correct way before it became obligatory.

This doctrine created space between laws which were unjust because they were sinful, in the sense of being opposed to an explicit divine law, and those which were just. Aquinas himself anticipated a situation where it might be possible to fulfil a law without sin, even if the law itself was unjust and useless to the commonwealth. Aquinas suggested that even if a law were unjust, it might still oblige the conscience, if disobeying it brought about scandal or disturbance. The good of society sometimes necessitated people adhere to certain types of unjust law on pain of sin.[156] The connection Aquinas made between the obligatory scope of human law and the common good would have important repercussions for those who followed him.

Sanderson's views on human law were close to Aquinas's. Sanderson referenced Aquinas directly three times at the beginning of lecture five while discussing the definition of human law. In one case he quoted Aquinas's definition of law as 'an ordinance of reason for the common good promulgated by him with a care for the community.'[157] Sanderson also used Aquinas's account of the derivation of human law from natural law. 'Humane Laws,' Sanderson argued, 'if they are just, are nothing else but Relicts of the Law of God, that is, particular determinations of the general Rules … [of] the Law of Nature.[158] Like Aquinas, Sanderson thought laws were a necessary restraint on the

[156] *ST,* Ia IIae, q. 96, a. 4, 6.
[157] R. Sanderson, *Ten lectures*, p. 151; *ST,* Ia IIae, q. 90, a. 4.
[158] *Ibid*, pp. 180-181, 206, 313-315.

wicked, in addition to being necessary to inculcate virtue in the citizenry. In the *Ten lectures* Sanderson thus set out to defend Aquinas's idea that human laws bound the conscience, in order to show that dissent from the Church's laws was sinful. However, Sanderson also felt he had to disagree with Aquinas's view about the connection between human laws and the common good. In Sanderson's mind, Aquinas's view that human laws were just (and so binding) only if they promoted the common good countenanced dissent.

English Casuistry and the Common Good

Sanderson was troubled by Aquinas's views on the connection between human law and the common good because the idea that human laws obliged the conscience only if they promoted the common good was embraced most strongly by those casuists favourable to dissent. Seventeenth-Century English doctrine on the power of human law over conscience tended to be either very close to the position of Aquinas, or at least vague enough to permit people to consider themselves exempt in conscience from what they saw as unprofitable laws.

Writers with Puritan and Presbyterian sympathies usually limited the magistrate's ability to bind the conscience to the promotion of the common good. In *A Discourse of conscience* (1596), William Perkins made it clear that the fact a law did not violate a divine precept was only one aspect of the definition of a just law. There was a more positive requirement too, namely that the law maintained peace and promoted the common good. Perkins argued that laws only bound the conscience, 'so farre forth as they are agreeable to God's word, serve for the common good, stand with good order, and hinder not liberty of conscience.' Like Aquinas, Perkins stressed that conscience bound men and women to do nothing harmful to the authority of the magistrate, and to accept whatever punishments might result on account of their disobedience.[159] Later writers would describe this kind of obedience as passive obedience. Conscience mandated that men and women

[159] W. Perkins, *A Discourse of Conscience*, pp. 42-65; J. Coolidge, *The Pauline Renaissance in England: Puritanism and the Bible*, (London, 1670), p. 60.

always uphold the power of the magistrate, but not that they adhere to every one of his laws. Ames likewise argued human laws could only bind the conscience if they 'urge or declare the Divine,' suggesting, 'and the reason is because such Lawes, in that respect doe partake the nature, and force of the Divine Law.' Any other human law, Ames insisted, might not incur mortal sin were it violated, because it might be unjust, or only partially just, with respect to its final end. [160]

The Church's own casuists were far from being rigorous asserters of the obligatory force of human law. Two of the most prominent divines to discuss the issue before Sanderson were the bishop of Derry, George Downame (d. 1634) and the bishop of Norwich, Joseph Hall (1574-1656). Downame argued the magistrate had no right to oblige his subjects to laws which did not serve the common good.[161] Of all the discussions of the obligatory force of human law, and of the implications of Aquinas's analysis, the clearest was probably contained in Richard Field's (1561-1616) monumental defence of the Church of England, *Of the Church*, which was first published in 1606. Field was an Anglican clergyman and a much praised disputant who wrote his defence of the Church to confute Roman Catholic assaults against its legitimacy. As part of his critique of erroneous Catholic traditions, Field turned to a discussion of human law.[162]

For Field, if human law had the power to bind the conscience then the magistrate had the ability to create new sins. In Field's opinion this was unacceptable, and would represent a usurpation, by human rulers, of a power rightly belonging to God alone. Field therefore determined that human laws had no power to bind the conscience. A human law could only bind if it simply reiterated a divine law, or made an obvious deduction from the law of nature. To illustrate his point Field divided human laws into three categories. Human laws that commanded sinful action Field assumed would be considered binding by no one. Human laws which promoted the common good had to be obeyed, on pain of mortal sin, because defying them would be to behave contrary to the

[160] W. Ames, *Conscience with the power and cases thereof*, (London, 1643) pp. 166-167.
[161] G. Downame, *The Christians freedome*, (London, 1635), pp. 102-120; J. Hall. *Resolutions and decisions of divers practical cases of conscience*, (London, 1649), pp.277-287.
[162] V. Wilkins, 'Richard Field,' *ODNB*.

law of nature. At this point Field drew out Aquinas's implication that there was a category of law where a human law commanded something which, although not directly sinful, did not conduce to the common good. Field named this the grievous law. Field argued that a grievous law did not oblige the conscience, except in the sense that disobedience to it could not turn into resistance or rebellion. Therefore, for Field, it was the pursuit of the common good which bound the conscience, and not the will of the legislator.[163]

On Field's theory the power of human law over the conscience could be seen as quite weak. The subjects could judge for themselves whether any given law furthered the common good. There was thus no guarantee that breaking the magistrate's laws, in civil or religious affairs, would incur the penalties attendant upon sin. This created a problem for the argument of someone like Sanderson. For Sanderson, justifying the rites and ceremonies of the Church depended on being able to show nonconformists sinned by defying human laws.

Sanderson on the Obligation of Human Laws

One of the primary purposes of Sanderson's lectures was therefore to counter the opinion that human laws did not oblige the conscience unless a given law was seen to promote the common good. Sanderson was convinced that the subject ought to draw his or her conscientious duties not from an apprehension of the common good but from the will of the magistrate. Sanderson did not mean to imply that the will of the magistrate could bind the conscience to a human law which went against divine law. His argument was directed against the category of law Field had called grievous. A grievous law was distinguished by the fact that it could not be called sinful to obey but merely did not conduce to the common good. On Field's theory (which appears to have been the most popular account of the obligatory scope of human law prior to Sanderson) the subject was not bound to such a law in conscience.[164] Yet Sanderson judged that giving such a law the ability to bind the conscience

[163] R. Field, *Of the Church*, (London, 1606), pp. 397-400.
[164] *Ibid*, p. 398.

was of fundamental importance to the peace of state and Church.[165] In order to defend the state and Church Sanderson thus went against the opinion not only of Field, Perkins and Ames but also of Aquinas.

For Sanderson, the authority of human law was founded on the will of the lawgiver, and not the utility of the law. In lecture nine Sanderson addressed the issue of the grievous law. On Field's theory, which was close to the view of Aquinas, such a law did not oblige, because people were only obliged to obey laws on account of the law possessing a correct final end, which was the promotion of the common good. In Sanderson's view, however:

> Suppose that a Law be made not only with an evil intention, but unprofitable to the publick, nay in some sense obnoxious, yet the subject is bound to obey it, provided it be made by Just Authority, and the matter of the Law, or thing commanded, be such that it may be done without sin: The reason is, because every man ought to be careful and diligent in the performance of that which belongs to his own part, and not too scrupulous of what concerns another … If a Law-giver shall be wanting in his duty, what is that to you …[166]

The laws of men were thus bound on the citizens by God regardless of their efficacy in regard to the final end. The scope for individual judgment of the magistrate's actions was thus diminished. Consequently, magisterial power was nearly always attended with supernatural penalties. Active, rather than merely passive obedience, was constantly required. Laws regulating merchandise or agriculture became sinful to disobey, as did university statutes, as Sanderson reminded his students. As a result, men and women stood in greater danger of incurring sin, and were obliged to adhere to laws that they thought did not fulfil the ends of magisterial authority.

Like Aquinas, Sanderson did limit human laws which bound the conscience to those laws which were just. However, Sanderson's idea of when a law was just was very different to that of

[165] R. Sanderson, *Ten lectures*, pp. 156-158.
[166] *Ibid*, p. 322.

Aquinas. For Aquinas, a just law served the common good. Sanderson, on the other hand, argued that a law could be just in a positive sense but also in a purely negative sense. A law might be positively just because it fulfilled the final end of law, the common good, in an equitable way. However, a law might be only negatively just. A negatively just law merely prescribed an act which it had not been sinful to perform before the law's promulgation. A law which failed to promote the common good could thus still be a just law, because all that was required for a just law in a negative sense was that the law did not command sin.[167] Sanderson agreed that the magistrate's laws ought to promote the common good, in an equitable fashion, but he argued that whether a law upheld the common good or not did not affect the conscientious obligations of the subject, because a law which did not serve the common good could still be just in a negative sense. A law which did not serve the common good was probably sinful for the magistrate to promote, but this was no concern of his subjects.

This was a very different image of magisterial authority than that held by Perkins or Field. It was a vision of magisterial power over the conscience which offered no way out for the nonconformist apologist. Human laws, and their obligatory force in the conscience, reigned supreme over all indifferent affairs. Human laws outranked all improper binders of conscience, bound in religious as well as civil affairs and did not oblige in virtue of a connection to the common good. The apprehensions and opinions of the subject only mattered when the laws could be seen to very clearly breach the divine laws. Nonconformity was therefore sinful, and people were obliged in conscience to adhere to the rites and ceremonies prescribed by the Church.

The Final End of Law: Defining the Common Good

In the *Ten lectures* Sanderson also thought about the nature of the common good itself. Sanderson's discussion, once again, was heavily dependent on the *Summa*. Aquinas had asked whether, in pursuit of the common good which human law was supposed to promote, the

[167] R. Sanderson*, Ten lectures*, p. 157.

magistrate was required to promote all the virtues of the natural law, and prohibit all the vices.[168] The nature of the ultimate end of human law (the common good) was an important question in the Seventeenth-Century debate about religious toleration. The position one took concerning the scope of the magistrate's authority over the law of nature defined one's view of the essential purpose of the state. The debate about liberty of conscience which broke out in the 1640s, and to which *De Obligatione* can be seen as a contribution, was conditioned by different views about the end of the state. Sanderson raised the issue explicitly in the *Ten lectures* when discussing the various reasons nonconformists had for denying the magistrate a power to make laws in matters of religious indifference. One of their reasons, according to Sanderson, was that the state had for its end only temporal, earthly felicity, and so lacked the ability to legislate for anything which possessed a supernatural end (like religious worship).[169]

Disagreement about whether the state had an eternal end had a long tradition. In the scholastic tradition, and in the ethical writings of Aristotle, there were two conflicting views about the purpose of the state. Aristotle had bequeathed to Aquinas a view of the state as a community intended to cultivate human moral perfection.[170] For Aristotle happiness (or eudaimonia) was achieved through the practice of all the virtues, and the moral virtues were intimately bound up with civic life. The state was thus intended to enable human beings to live well, and achieve their final end: virtue. The state thus had a concern for morality and religion (which was partly natural) for their own sake. The suppression of false religion, and the persecution of dissent, could follow very logically from this interpretation of the magistrate's role.[171] However, there was also a more limited view of the state. The state could be more restricted in its purposes, and might have to justify religious persecution in different ways. If the state, rather than encouraging virtue for the sake of

[168] *ST*, Ia, IIae, q. 96, a. 1-2.
[169] R. Sanderson, *Ten lectures*, p. 240.
[170] M. Kempshall, *The Common Good in Late Medieval Thought*, (Oxford, 1999), p. 24.
[171] H. Grotius, *Of the authority of the highest powers about sacred things*, trans C. Barksdale, (London, 1651), pp. 10-14.

virtue, encouraged virtue only in so far as it served the public peace, then religious uniformity also would have to serve the end of promoting public peace. Many divines might have no difficulty justifying religious persecution on such grounds, but they would be required to formulate their argument in a certain way.

In the *Summa* Aquinas had argued that the state was supposed to promote the life of virtue. Quoting Aristotle, he maintained that it ought to be the lawgiver's intention to lead the citizens to virtue. The state itself could not be good unless all of its parts were good, therefore a virtuous citizenry was necessary for a good state. People could be improved morally by being habituated into the practice of the virtue. Initially this could be brought about through fear of the law. Eventually people would develop virtuous habits (acquired virtue) and this might prepare them for the reception of infused virtue (gracious aid).[172] The state was thus a moral pedagogue, and a community for virtuous living and moral improvement. However, Aquinas then struck a pessimistic note and departed from Aristotle's image of human perfectibility.[173] Human laws were not meant to prohibit all the vices, or command all the virtues, because laws should be in keeping with the condition of those upon whom they were imposed. The law had to take human sinfulness into account and most people were not capable of a thorough practice of the virtues. Human laws could thus only proscribe certain sins, and encourage certain virtues.

In the course of describing which virtues and vices came under the ambit of the law, Aquinas hinted at the view of the magistrate which saw him or her only as an enforcer of outward peace and tranquillity. Aquinas noted that because not all virtues could be made law due to human sinfulness, the magistrate would usually confine himself to legislating on matters that were of importance for peace and security. Therefore, for Aquinas, although the magistrate did have a concern for virtue for its own sake, he was more often to be found legislating solely for the sake of temporal peace and

[172] *ST, Ia IIae*, q. 92, a. 1 q. 96, a. 2, 3.
[173] M. Kempshall, *The Common Good*, p. 123.

safety.[174] Aquinas confused some of his readers at this point. The crucial aspect of his discussion was that the magistrate's control over the virtues of the natural law was limited only by the concern that legislating to promote virtue too comprehensively would be counterproductive. Aquinas did not set any further qualification on the type of virtue or vice the magistrate was able to legislate about. The civil ruler thus had unfettered control over all virtues and vices for the purpose of promoting good behaviour.[175]

In lecture nine of the *Ten lectures* Sanderson addressed the final end of human laws and followed the structure and themes of Aquinas's discussion closely. His exploration of this issue essentially amounted to a reiteration of Aquinas's views on the civil ruler's duties with regard to the virtues and vices of the law of nature. Sanderson asked, 'whether a Law-maker be obliged, if possibly he can effect it, to command all the acts, and offices of all Virtues, and to forbid all Sins of whatsoever nature they are …'[176] Sanderson thought the ruler was so obliged. Like Aquinas, Sanderson did not conceive of the state as an organization purely designed for peace, or temporal tranquillity.

Sanderson, like Aquinas, reasoned that the common good was best served through the promotion of each individual's good. The common good of the state was thus conceived of as an aggregate of virtuous individual acts. According to Sanderson, 'there is nothing more conducing to the proper end of the law, which is the common good, than as much as possibly may be, that all the citizens may be good, and none of them evil.'[177] For this reason, according to Sanderson, the magistrate, 'is bound to use his utmost Indeavour that his citizens be all of them good men.'[178] Sanderson's view was fortified by the words of the Apostle Paul in the scriptures. The magistrate was said to be the people's minister for 'good,' and this 'good' was, said Sanderson, spoken

[174] *ST, Ia IIae*, q. 96, a. 2.
[175] F. Vitoria, *Political Writings*, pp. 164-166.
[176] R. Sanderson, *Ten Lectures*, p. 315.
[177] *Ibid*, p. 315.
[178] *Ibid,* p. 317.

indefinitely, and so had to refer to all kinds of good, and not merely the good of peace, or outward felicity.

Sanderson also followed Aquinas in arguing that the power of the magistrate extended over all of the virtues, and was checked, not by a vision of the state that made peace and security the magistrate's only concern, but because human beings were too sinful to all be made virtuous at once. If the law prescribed all the virtues, and proscribed all the vices, sinful human beings would not be able to keep the laws. There was also the fact that, according to Sanderson, there were so many virtues and vices, if they were all subject to law, 'the very multitude of Laws would be a burthern to the Commonwealth not to be endured.'[179]

The magistrate's power over virtue and vice was also limited in another way. Sanderson also emphasized that the magisterial remit over the virtues of the law of nature was purely external. Although the magistrate had a duty to make men good and command virtue (and religion) some aspects of these things were internal and so beyond his power. According to Sanderson certain acts, such as 'the freer acts of the will,' as well as 'the intention of the heart and mind' were purely internal, while other acts of the will were external.[180] For Sanderson it is was important to see only the latter had ever been passed into the charge of the human magistrate by God.

> Almighty God hath only permitted the Magistrate the Government of the external man, and hath reserved to himself alone the knowledge and Judgment of inward actions, and the inspection into the heart of man.[181]

Yet Sanderson did not feel these fact obviated the magistrate's control over virtue. Rather, they merely served as an acknowledgement that the magistrate was limited in the degree to which he could promote the common good. Sanderson's view of the common good thus resembled

[179] R. Sanderson, *Ten Lectures*, p. 319.
[180] *Ibid*, p. 317.
[181] *Ibid*, p. 317.

Aquinas's Aristotelian vision of the state as a community which pursued virtue, while mindful of the limitations of human nature. Laws would usually be made to further peace and tranquillity, yet this did not mean magisterial power was limited to such ends; it encompassed human happiness itself, so far as external means could promote it. Sanderson was explicit about the type of activities the magistrate's role as a moral pedagogue meant he ought to promote. Sanderson included in this list of activities the outward worship of God, in addition to control over preventing certain religious offences, like idolatry. For Sanderson, the regulation of outward worship was not just a way of enforcing the peace. It was a means of achieving the common good by promoting outward observance of the natural law among the people.[182]

Sanderson's own experiences of rural Lincolnshire may have informed his views about this issue, as he was a strong proponent of the moral economy and a critic of various landlord practices he thought immoral, like enclosure and rack renting. At the same time, he feared lest overzealous Puritans place too much emphasis on the outward display of virtue and godliness, arguing that cards and stage plays were not in themselves immoral.[183] Sanderson's vision of the end of the state was significant in the debate about liberty of conscience. As we shall see in later chapters, there was strong disagreement within the Anglican camp about the true end of the state. Jeremy Taylor's views were not in accord with Sanderson's, and were more difficult to use in a defence of religious persecution. For a number of Independent writers in the 1640s, and in the Restoration period, Sanderson's vision of the state as moral pedagogue was influential in prompting them to investigate the importance of reason and revelation, and nature and grace, to the case for liberty of conscience.

The *Ten lectures* in the Restoration period

Although Sanderson's ideas were unusual among English casuists before the Civil War and Interregnum, his lectures were read widely in the reign of Charles II and his more controversial

[182] R. Sanderson, *Ten Lectures*, p. 316.
[183] P. Lake, 'Serving God and the Times,' p. 81-116.

notions were adopted by the Church's apologists in the 1660s. The *De Obligatione* were translated and published in English in 1660 as the *Ten lectures on human conscience* and further editions were produced throughout the reign of king Charles II. In the Restoration period Sanderson's biographer, Izaak Walton, spoke in reverential tones of the lectures, declaring them 'a complete standard for the resolution of the most material doubts in that part of Casuistical Divinity.'[184] Walton was not alone in his commendation. Bishop Thomas Barlow regarded Sanderson as having set the standard for the resolution of doubts with regard to oaths and human laws.[185]

In the Restoration period the ideas that Sanderson put forward in the *Ten lectures* created a framework in which discussion about uniformity and toleration took place. Although the influence of Sanderson will become apparent in the following chapters, in this final section we will examine some of the ways in which conformists adopted the arguments of the *Ten lectures* in the years after the Restoration. After 1660 a number of clerical apologists came to stress Sanderson's belief that human laws bound the subject on account of the magistrate's will, rather than the common good.

In the Restoration period there was a clear reason why Sanderson's ideas on human law were popular. The failure to reach a comprehensive settlement in 1661-1662 left large numbers of moderate Presbyterians outside of the established Church.[186] There were many reasons why someone of moderate Presbyterian inclination might not wish to conform but most did not entail the belief that Anglican worship was itself sinful. Instead the parish services were said to be only inconvenient, or to scandalize weaker brethren. Anglicans following Sanderson therefore understood their nonconformist foes to be suggesting that conformity was only grievous, rather than sinful. They were therefore eager to point out that unless the will of the magistrate did not bind the conscience, dissenters had to recognize that their actions were sinful.[187]

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[184] R. Sanderson, *XXXV Sermons*, p. 19
[185] T. Barlow, *The genuine remains*, pp. 46-47
[186] J. Spurr, *Restoration Church*, pp. 42-44.
[187] T. Tomkins, *The modern pleas for comprehension,* p. 31; S. Patrick, *A friendly debate*, (London, 1669), pp. 81-84; R. Perrinchief, *Samaratinism*, (London, 1664), pp. 51-52.

The Anglican perception that dissent was based upon the belief that the Clarendon Code was grievous, but not actually sinful, was stated by many writers, in exasperated tones. For Benjamin Calamy (1646-1686):

> It hath been often observed concerning our Dissenting Brethren, that when they are urged to mention any one thing required of the People in the Public Worship of God in our Parish Churches, Judged by them absolutely sinful, on account of which their separation is necessary, and consequently justifiable, they … put us off with some inconveniencies, inexpendiences, or corruptions …[188]

Francis Fullwood (d. 1693), an Erastian Calvinist, devoted to civil power and the national Church, made the same point in *The Case of the Times Discussed* (1683).[189] Fullwood set out to discover the 'latent principle' upon which nonconformists supported their consciences because Fullwood was convinced most of the nonconforming ministers did not think attendance at parish worship was really sinful. In the end Fullwood argued that the objection against the parish services was not being sustained on account of sin, but on the grounds of the 'bare inconveniency.' In 'their Opinion,' he professed, the services were, 'not sinful, but Inconvenient,' only. For Fullwood this resolved the whole dispute into the following question, which he promised, at the front of his book, he would determine. That question was, 'how fare are we bound to Obey, when we are not Satisfied that Lawes are for our Good?' The need to determine this question in the magistrate's favour had run throughout Sanderson's *Ten lectures*.

In Fullwood's *The Case of the Times* Sanderson's position was rigorously affirmed. Fullwood argued that people had been led into mistaking the true scope of obedience owed to the laws of the magistrate through an erroneous interpretation of the scriptural assertion that the power of the magistrate was for the good of the citizen. It had been assumed, Fullwood noted, that this limited

[188] B. Calamy, *Some Considerations About the Case of Scandal*, (London, 1683), p. 1.
[189] Mark Goldie 'Francis Fullwood,' *ODNB*.

the magistrate's power to the promotion of the common good. However, the scriptures really affirmed that the authority of the magistrate in general was for the promotion of good, not that the magistrate was limited to what his subjects thought might be the common good.[190] The same point was made by the Anglican apologist William Assheton (1642-1711), in a tract entitled *The Cases of Scandal and Persecution* (1674) which was dedicated to Archbishop Gilbert Sheldon (1598-1677). Assheton acknowledged Sanderson as his main influence throughout the pamphlet and argued that all human laws bound the conscience even if inconvenient.[191] The infamous Anglican apologist Samuel Parker, who followed Sanderson's ideas closely, also insisted that all human laws bound the conscience unless they were clearly sinful.[192] Simon Patrick (1626-1707), the future bishop of Gloucester, believed Sanderson's view of the obligatory force of human laws was crucial in the fight against dissent. Patrick's engagement with the issue came in his notorious *Friendly Debates*, published in the 1660s. Patrick pointed towards Sanderson's ninth lecture as a proof of his position. The idea that dissent was justifiable because the religious settlement was composed of noxious or grievous laws was dismissed on the basis that the subject's conscientious obligations were nothing to do with his or her apprehensions of the common good.[193]

Nonconformists understood the logic of the Anglican argument, and they identified the influence of Sanderson upon it. Samuel Clarke's (1626-1701) book on scandal, *Of Scandal* (1681) was intended as a vindication of nonconformity, and compromised a critique of almost all the arguments against dissent laid out in the *Ten lectures*. Clarke cited nonconformist writers like Bradshaw and Rutherford, and specifically criticized Sanderson for saying there was no difference in the civil and ecclesiastical jurisdictions of the magistrate. Moreover, Clarke insisted human laws only bound in virtue of commanding the common good, quoting Aquinas on the subject.[194]

[190] F. Fullwood, *The Case of the Times*, (London, 1683), pp. 54-55.
[191] W. Assheton, *The Cases of Scandal and Persecution*, (London, 1974), pp. 6-6, 55-56, 62-63.
[192] S. Parker, *A defence and continuation*, pp. 272-275.
[193] S. Patrick, *An appendix to the third part of The friendly debate*, (London, 1670), pp. 183-213.
[194] S. Clarke, *Of Scandal*, (London, 1681), pp. 26-34.

John Humfrey provided the most thorough critique of Sanderson's views about the connection between human laws and the common good. Humfrey was one of the many ministers ejected at St. Bartholomew's day, in August 1662, although he was a very moderate Presbyterian who had come close to conforming. Humfrey was greatly disturbed by the thought his opposition to the laws might incur mortal sin. In 1671 he wrote *The obligation of human laws discussed* in order to exculpate himself and other conformists from the charge of sin. [195]Humfrey identified Robert Sanderson as the principal casuist opposed to his view that the common good was the ultimate foundation of obligation to human laws. Humfrey cited Ames, Rutherford and Sanderson's Anglican colleague Jeremy Taylor in support of his own position, and suggested Sanderson had been inconsistent in uncoupling the obligatory force of human law from the common good.[196] To make his point Humfrey compared the power of the magistrate in civil and religious affairs to that of a minister. Just as the minister's preaching was only obligatory if it was good divinity and consonant to the word of God, so the magistrate's laws only obliged, in conscience, if they ordered what was already recognized as being for the good of all.[197]

Sanderson's scholastic critique of liberty of conscience was also popular among Anglican apologists, and it disturbed dissenters. Three writers to make use of Sanderson's argument were John Locke, Edward Stillingfleet and Samuel Parker. John Locke repeated the crux of Sanderson's argument at the end of his Second *Tract on Government*. According to Locke, a human law which only obliged the conscience formally did not remove its liberty because conscience was part of the understanding, not the will. A human law, according to Locke, 'does not remove its [conscience's] liberty since to be obeyed it requires the assent of the will only. It does not require the assent of the judgment that it has any necessity in itself.'[198] An identical position was adopted by the young Church apologist, Edward Stillingfleet in the *Irenicum*. Stillingfleet directly sourced his argument

[195] E. Vernon, 'John Humfrey,' *ODNB*.
[196] J. Humfrey. *The Obligation of Human Laws discussed*, p. 24.
[197] *Ibid*, pp. 17-28.
[198] J. Locke, *Political Essays*, ed Mark Goldie, (Cambridge, 1997), p. 77.

from the relevant section of Sanderson's *Ten Lectures*. Like Sanderson, Stillingfleet suggested that requesting 'liberty of conscience' lacked sense, because conscience could never be deprived of liberty by the magistrate, given that conscience was purely a faculty of judgment.[199] Samuel Parker's *A discourse of* e*cclesiastical politie* repeated Sanderson and Stillingfleet's points. Freedom of conscience was lauded as a purely 'intellectual kingdom,' that the magistrate could not touch, and which was totally distinct from external actions. Liberty, for Parker, meant 'impartial use of the understanding' which judged about matters of good and evil and enjoyed freedom in all 'speculations.'[200]

The power of Sanderson's argument was demonstrated when one leading nonconformist apologist attempted to move the scholastic language of conscience in a direction more suited to dissenting purposes. John Owen, Samuel Parker's great rival, responded to Sanderson's argument, as set forth by Parker in *A discourse of ecclesiastical politie*, by attempting to draw conscience away from the definition that had been provided by Aquinas. Owen's strategy was to argue that the practical understanding could, in certain circumstances, be viewed as part of the will. Owen suggested, 'what some suppose to be the ultimate determination of the practical understanding, is indeed an Act of Will.'[201] As the final determination of the practical understanding represented the final judgment of conscience, Owen was asserting that it was impossible to distinguish the final dictate of the conscience from the will. This was not a doctrine that found much support in the writings of any Seventeenth Century casuist.

Conclusion

Sanderson's case against nonconformity, in the *Ten lectures*, depended substantially on his reading of Aquinas and his interest in scholastic philosophy and natural law theory. The *Ten lectures* represent the thorough application of scholastic ideas about natural law, human law and conscience

[199] E. Stillingfleet, *Irenicum*, p. 36.
[200] S. Parker, *A discourse*, pp. 89-93.
[201] J. Owen, *Truth and Innocence*, p. 252

to the Church's apologetic. Owing to the influence of Sanderson, and the new circumstances of the Restoration, these ideas assumed an important role in men's understanding of the arguments for and against conformity and toleration.

Sanderson was also important because he sustained the distinctive argument of Hooker. Sanderson reasserted a version of Hooker's philosophical argument against nonconformity from natural law. Nonconformity, for Sanderson, was unjustified because it was based on a mistake about the roles of reason and revelation in politics and Church government. For Sanderson, the country's religious difficulties were traceable, at a philosophical level, to an epistemological error about the usefulness of revelation and a false sense of the limits of reason and natural law. Sanderson's use of Aquinas's theory of law to make this point bequeathed to later writers, like Stillingfleet and Parker, the same sense that an investigation of natural law could solve the country's religious divisions.

Sanderson's use of Aquinas, and scholastic ideas about human law, conscience and the role of the state, favoured an authoritarian view of magisterial power. Although critical of the false pretensions to power over the conscience of the Catholic Church, Sanderson's analysis of human law, and liberty of conscience, left little space for men and women to follow their own reasoning about the magistrate's orders without falling into sin. For Sanderson, the individual conscience and its judgment was vital but was to be exercised within very narrow limits. Only a strong conviction that the magistrate was transgressing the boundaries set by the divine laws could ever justify disobedience.

Chapter Three: Jeremy Taylor and the Theory of Law

Alongside Robert Sanderson, Jeremy Taylor was the Church of England's most prolific casuist in the Seventeenth Century and he addressed many of the same questions about natural and human law. Taylor's writings on conscience, human and natural law were contained in *Ductor dubitantium*, a monumental work of casuistry, structured, like the *Ten lectures*, around conscience and law. However, Taylor came to rather different and more liberal conclusions and his work illustrates the tensions and divisions within the Anglican tradition about the theoretical justification for uniformity. A study of the role of scholastic philosophy and natural theory in the debate about uniformity would not be complete without an examination of Taylor's arguments.

Ductor dubitantium was a sprawling work, and many of its arguments and themes spoke to Taylor's concerns under the Interregnum. Taylor worked on *Ductor dubitantium* from the mid-1650s and had the book published in 1660, with further versions following throughout the Restoration period. At the time Taylor, a former royalist chaplain, split his time between Wales and London, where he illegally held banned Prayer Book services. In many ways a more vigorous adherent to the king's cause than Sanderson, Taylor always refused to compromise his devotion to the Anglican service (and the king's laws) by altering the liturgy and his belief in *iure divino* episcopacy was also stronger than Sanderson's.[202] Taylor published two books on episcopacy, one at the beginning of the 1640s entitled *Of the sacred order, and offices of episcopacy, by divine institution* (1642), and another *Clerus Domini* (1651), in the 1650s. Taylor considered episcopacy directly ordained by Christ as a necessary bulwark against schism and heresy and condemned the view, found in Hooker, that human prudence could alter the form of Church government if it was thought necessary.[203] *Ductor*

[202] John Spurr, 'Jeremy Taylor,' *ODNB*.
[203] J. Taylor, *Of the sacred order, and offices of episcopacy, by divine institution*, (London, 1642), pp.1-9. J. Taylor, *Clerus Domini, or, A discourse of the divine institution, necessity, sacredness, and separation of the office ministerial*, (London, 1651).

dubitantium expressly defended bishops and this difference of opinion with Sanderson is important when considering their divergent views about Hooker's argument from natural law.

The 1640s and 1650s were an unhappy time for Taylor, with the Church in ruins, and he and his colleagues forced to hold services in secret. The destruction and dislocation caused by the civil war, and the spread of the sects, particularly the antinomians, caused Taylor profound concern. Attributing some part of the troubles to the absence of sincere godliness, Taylor blamed the Calvinist doctrines of predestination and reprobation, and became a strong proponent of what has become known as holy living theology, or moralism.[204] Taylor's theology has been explicated by Charles Allison in *The Rise of Moralism* (1966). Taylor's theological focus was upon the need for repentance through works of charity and godly behaviour. According to Taylor, unless Christians excelled in practical holiness, their chances of salvation were tenuous. Allison saw Taylor's early moralist work about salvation and repentance, *The Unam Necessarium* (1655), as paving the way for the ethical treatise which became *Ductor dubitanitum*.[205] *Ductor dubitantium* was profoundly influenced by Taylor's desire to promote a kind of Christianity which called men and women to more rigorous forms of moral conduct. In *Ductor dubitantium*, Taylor criticized what he took to be aspects of Catholic casuistry which were too legalistic and tolerant of moral failure. He attacked the Catholic distinction between mortal and venial sins and the notion of probabilism, both of which he saw as contributing to an unduly lenient version of Christian duty.[206] As we shall see, Taylor's ideas about natural law were affected by his moralism and this, among other factors, would render his beliefs about the law of nature incompatible with the arguments of Hooker and Sanderson.

Taylor's interest in moralism led him into doctrinal heterodoxy. In the 1650s, when he lived in Wales and London, Taylor acquired a reputation as a heterodox religious thinker because he took his criticism of Calvinism close to Pelagianism. Taylor frequently defended his unorthodox

[204] J. Taylor, *Deus justificatus*, (London, 1656), pp.1-5, 68-70.
[205] C. Allison, *The Rise of Moralism*, pp. 63-95.
[206] H. McAdoo, *The Structure of Caroline Moral Theology*, pp 8-11. J. Taylor, *Ductor dubitantium*, pp. 117-123, 432.

theological positions in print. His book on repentance, *Unam Necessarium*, elaborated on his new soteriological position, and *Deus Justificatus* attacked the Calvinist understanding of salvation. Taylor had a strong belief in the centrality of human free-will to salvation, and he rejected the conventional view of original sin, adopting an alternative position close to that of the continental Remonstrants and Socinians.[207] Taylor's beliefs were unpopular within the ranks of his own colleagues. Sanderson himself bemoaned the fact Taylor's views were not able to be repressed.[208]

Taylor himself was not favourable to the repression of religious opinions on theological grounds, a stance he would maintain throughout his defence of the Anglican Church and state in *Ductor dubitantium*. Taylor's opinions about religious toleration were expressed in the most famous Anglican plea for liberty of conscience, *Liberty of Prophesying* (1647). On account of *Liberty of Prophesying* Taylor has acquired a reputation as a genuine advocate of religious toleration. In Jordan's entry on Taylor, in *The development of religious toleration in England*, Taylor's views are drawn almost solely from *Liberty of Prophesying*, on the basis of which he is hailed as the foremost Anglican proponent of religious liberty.[209]

In *Liberty of Prophesying* Taylor justified his plea for tolerance by dismissing all religious authorities as inadequate guides in theological affairs and, with qualifications, by praising the powers of individual reason. Taylor was convinced that there was no inherent value in having the right beliefs and that intellectual errors in matters of theology did not necessarily deserve punishment. [210] Taylor was thus against persecution for specifically religious reasons, such as punishing heresy or saving souls. Yet Taylor did believe in the suppression of certain theological doctrines if they harmed the peace, and also hoped the magistrate would bring about uniformity in

[207] J. Taylor, *Unam Necessarium*,(London, 1655), pp. 1-39, 361-427. J. Taylor, *Deus Justificatus*, pp. 27-39, 101. S. Mortimer, *Reason and Religion*, pp. 140-142.
[208] J. Tulloch, *Rational Theology*, i, p. 363.
[209] W. Jordan, *The development of religious toleration in England*, pp. 378-409.
[210] J. Taylor, *Theologia eklektike, or, A Discourse of The Liberty of Prophesying*, (London, 1647) pp. 18-59, 125-161, 183-203.

worship. In *Ductor dubitantium* Taylor would develop these arguments while still affirming his belief that force could not be used for religious or spiritual reasons.

Ductor dubitantium

Ductor dubitantium was a long and complex work, written to promote a more comprehensive ethical and theological point of view than Sanderson's *Ten lectures*. In *Ductor dubitantium* Taylor hoped above all to produce a guide to Christian ethics from a moralist perspective. Taylor did not engage with Sanderson directly, although he had likely read the *Ten lectures*. Yet Taylor did address many of the same issues as Sanderson, and his writing on human law was, like Sanderson's, influenced by Aquinas (*Ductor dubitantium* was peppered with scholastic references), although not to the same degree. Taylor divided *Ductor dubitantium* into four books. The first dealt with conscience itself. Like Sanderson, Taylor was interested in defining conscience, and, like other casuists, he defined a large number of types of conscience, such as the doubting or scrupulous conscience, and the erroneous conscience.[211] The second volume was concerned with natural and Christian law and the relationship between them. The third volume dealt specifically with human law while the fourth and final volume discussed human actions, and the nature of freedom. [212]The focus of the rest of this chapter is on the second and third books, where Taylor elucidated his doctrine of law. Taylor's ideas about natural and revealed law will be examined first and then his ideas on human law will be explored.

Taylor had very different ideas about the law of nature, and its relationship to the revealed law, than did Sanderson. This has been correctly noted by McAdoo, who convincingly argued that Taylor represents a departure from the Thomistic rationalism of Hooker and Sanderson in favour of a more voluntarist vision of law dependent on revelation. The consequences, suggested McAdoo, were that Taylor fused nature with supernature and was in danger of suggesting only Christians

[211] J. Taylor, *Ductor dubitantium*, pp. 75-163.
[212] *Ibid*, pp. 167-210.

could apprehend the law of nature.[213] Taylor's natural law theory has also been linked to the Erastian English lawyer John Selden, whose pessimistic views on the ability of reason to reveal genuine laws Taylor shared.[214] However, Taylor was also strongly influenced by Hugo Grotius. Grotius's views about natural law, perhaps unintentionally, cast doubt on the idea that there could be a sharp distinction between natural and positive (supernatural) law. Just such a distinction had, of course, been critical to the arguments of Hooker and Sanderson, and by rejecting it Taylor arrived at a very different theory of law.

Grotius's ideas about natural and divine positive law were set out most fully in *De iure belli ac pacis* (1625), a treatise on natural law and the laws of war.[215] Grotius's *De iure belli ac pacis* had important things to say about the metaphysical foundations of natural and revealed law, and English writers like Nathaniel Culverwell (1619-1651) engaged with them.[216] Like Aquinas, Grotius had a realist view of the law of nature. However, some Anglican divines thought he made the distinction between natural and positive law harder to draw. In *De iure belli ac pacis* Grotius argued that the essences of beings and their relations to each other created a kind of moral reality irrespective of the will of a lawgiver. Grotius defined the law of nature as a dictate of reason, and argued that it forbade things intrinsically unjust. Grotius argued that this set the law of nature apart from all positive laws, including the revealed law of God. According to Grotius, natural laws:

> are either binding or unlawful in themselves, and therefore necessarily understood to be commanded or forbidden by God. This mark distinguishes natural right, not only from human law, but from the law, which God himself has been pleased to reveal, called, by some, the voluntary divine right, which does not command or forbid things in themselves

[213] H. McAdoo, *The Structure of Caroline Moral Theology*, pp. 40-41.
[214] J. Parkin, *Science, Religion and Politics*, pp. 64-65.
[215] R. Tuck, 'Grotius and Selden,' eds J. Burns and M. Goldie, *The Cambridge History of Political Thought 1450-1700*, (Cambridge, 1991), pp. 499-529.
[216] N. Culverwel, *An elegant and learned discourse*, (London, 1652).

either binding or unlawful, but makes them unlawful by its prohibition, and binding by its command.[217]

For Grotius the things forbidden by the natural law had a foundation in a metaphysical reality which transcended even the will of the creator. To ordain a law contrary to this metaphysical reality had the nature of a contradiction. The dictates of the law of nature were, for this reason, eternal. According to Grotius, 'the Law of Nature is so unalterable, that it cannot be changed even by God himself.' The voluntary positive law, in contrast, precisely because it lacked a foundation in the divine nature, and the substances and essences of things, could be changed.[218] Yet Grotius complicated this theory, in a way which suggested the boundary between natural and positive law was not so easy to draw, by creating a sense in which the moral law was alterable. In *De iure belli* Grotius denied that the law of the gospel was just a restatement of the law of nature, which he knew many people assumed. Certain moral duties, argued Grotius, had been given only to Christians. Grotius argued, 'it will not be necessary to assume, as many do, that the Gospel contains nothing more than the law of nature, except the rules of faith and the Sacraments: an assumption, which in its general acceptation is by no means true.' Grotius instanced divorce and polygamy as examples of practices Christians were compelled to abstain from, but which could not be known as sinful under the law of nature. He also argued that laying down one's life for others was a command of the gospel to Christians, but not a law of nature. Grotius thus set up a distinction between the precepts of the moral law revealed by reason and by Moses, and the moral law expounded by Christ.[219]

For divines, especially among the reformed, this was controversial, because the Law of Moses, and especially the Decalogue, was regarded as a perfect system of moral law. Moreover, although Grotius wanted Christians held to higher moral standards than Jews, his theory appeared to contradict his picture of the metaphysical foundations of the law. If the 'new' precepts of the

[217] H. Grotius, *The Rights of War and Peace*, trans A. C. Campbell, (Cambridge, 1901), p. 21.
[218] *Ibid*, p. 22, 25, 28, 36
[219] *Ibid*, pp. 40-41; S. Mortimer, *Reason and Religion*, p. 122.

gospel concerned matters of real right and wrong they surely ought to have been of eternal duration and universal extent. Arguing they were not originally part of the law of nature suggested that the law of nature actually did change and was not universal. In the 1640s and into the Restoration period, a number of divines followed Grotius's line of thought about new precepts. The most prominent were Henry Hammond, Thomas Tenison (1636-1715) and, crucially, Jeremy Taylor.[220]

Taylor rejected the idea that the Decalogue had represented the whole of the law of nature, and insisted that the natural law was incomplete until the coming of Christ. In Taylor's opinion Christ had brought entirely new laws for Christians and obliged men and women to higher instances of virtue.[221] The royalist Taylor thought that the right of self-defence, sometimes used to justify resistance against the king by the Parliamentarians, was originally permitted and legitimized by natural law, only to be abrogated by Christ and replaced with the duty of non-resistance.[222] Taylor's principal reason for holding this view was likely his moralism. Taylor hoped to encourage his readers to a more holy life by stressing how much more perfect and rigorous the revealed law of Christ was to the law they believed that they apprehended through reason. Taylor appealed to his readers not to look outside of the scriptures, and the *New Testament* in particular, for moral guidance.

As a consequence of this teaching, much of the section on law in *Ductor dubitantium* was taken up with illustrating how to interpret the Christian law. There were certain cases where the gospels appeared to provide no directions and people might be inclined to depend on the law of nature. The rules of war were one such case. The law of nature, in the absence of effective scriptural warrant, might be thought to provide moral rules. However, instead of saying that war was regulated by natural law, Taylor urged that Christian law forbade war and only allowed men to use their natural right (which was distinct from law) to self-defence in certain cases.[223] Other sections in

[220] H. Hammond, *A Practicall Catechisme*, (Oxford, 1645), pp. 158-160; S. Mortimer, *Reason and Religion*, pp. 123-126; T. Tenison, *The creed of Mr. Hobbes examined*, (London, 1670) pp. 137 -142, 181; S. Mortimer, *Reason and Religion*, pp. 142-144.
[221] J. Taylor, *Ductor dubitantium*, p. 250.
[222] *Ibid*, p. 541; S. Mortimer, *Reason and Religion*, pp. 89-104.
[223] *Ibid*, 288-290.

Ductor dubitantium discussed how Christ's commandments and examples were to be interpreted in such a way as to allow the whole of human duty to be derived from the scriptures.[224]

However, unlike Grotius, Taylor was not prepared to wave away the problem that the theory of new moral precepts created for the metaphysical foundations of natural law. If promulgation was essential to a law (and Taylor thought it was) then it appeared that the moral law was not always complete but had been expanded and changed upon the coming of Christ. This in turn implied that the natural law was not eternal and unchanging. In *Ductor dubitantium* Taylor criticized Grotius for maintaining that natural law was eternal and unchanging. For Taylor the law was ever changing, some old precepts had been repealed, and some new ones had been added.[225]

In *Ductor dubitantium* Taylor tried to reconcile his belief in new moral precepts with the eternity and immutability reason and natural law were supposed to possess. Taylor took it as his task to demonstrate how a law could be natural, and based on immutable attributes and essences, and yet, at the same time, be mutable. In the process Taylor hoped to draw natural law and Christianity closer together and to elide the distinction between natural and supernatural law, which had been so central to Hooker's attack on *iure divino* arguments. To achieve this, Taylor attacked the vision of natural law which stressed the intimate connection of the law to the divine essence, and which contrasted natural law to a positive revealed law that pertained solely to God's will. This idea, and its implication for the distinction between natural and positive law, was usually encapsulated in the statement that natural laws were commanded because they were right, while positive laws were right because they were commanded. Taylor, citing the nominalist William of Occam (1287-1347), called this a weak distinction.[226]

For Taylor, the laws which were usually regarded as distinct and termed natural and positive were not as different as people supposed. Taylor believed that the root of his opponents' error was

[224] J. *Taylor, Ductor dubitantium*, p. 340-344.
[225] *Ibid*, pp. 238-239.
[226] *Ibid*, p. 242.

the idea that the natural law was 'prime and eternal.' According to Taylor only some aspects of natural law had been promulgated from the creation of the world, while others had been decreed later, so it was not accurate to say the law of nature was 'prime and eternal.' This was so because all law was ultimately based on the divine will, and as this could change, so could the law. According to Taylor, 'Everything is good or bad according as it is commanded or forbidden by God and no otherwise … law must be made by a superior.'[227] In Taylor's opinion the fact that all laws were primarily the product of God's will uncoupled the law of nature from the unchanging essences and relations which had traditionally explained its mutability.

Yet, if Taylor thought the law of nature was inconstant and mutable, did this imply he thought natural law was based solely on will? Taylor wanted to emphasize the divine will and revelation as much as he could, but he did not actually wish to deny that natural law was based on, as he described it, the 'fundamental relations between God and us, and between man and man, and the necessities of our nature.'[228] Taylor reconciled the idea of natural law as representative of something real, in both divine and human natures, with his voluntarism, by distinguishing between a set of natural and eternal propositions or rules, and the natural laws themselves. For Taylor, propositions such as 'good is to be followed,' or 'God is to be honoured,' which might be thought to constitute natural laws, were really only the foundations of the natural law, not natural laws themselves.

Thus the foundational precepts of natural law did represent dictates emanating from essences and natural relations, which writers like Grotius had supposed stood behind the law of nature.[229] However, Taylor separated these foundational precepts from natural laws themselves, so that the idea of the law as mutable and solely dependent on the divine will could be preserved. Taylor argued that the foundational precepts were not laws, and were very general, thus requiring

[227] J. Taylor, *Ductor dubitantium*, p. 242.
[228] *Ibid*, p. 237.
[229] *Ibid*, p. 241.

God's to actually specify how they applied. This process created natural law. Only in this way, thought Taylor, could the metaphysical distinction between natural and revealed law be broken down, and the natural and Christian law become one.[230]

Taylor, in response to Grotius, thus went some way towards eroding the idea that the foundation of natural law, in immutable essences and relations, set the law of nature apart from the revealed law. For Taylor, all law should be seen as the product of will alone. Emphasizing the foundation of natural law in eternal right and wrong created two separate sets of laws, with different properties, requiring the Christian law to be super induced upon the natural. On Taylor's theory, the distinction between natural and positive revealed law was thus harder to discern. The great implication of Taylor's theory, for Christian life, was that the natural law was revealed finally and perfectly in the New Testament. Taylor affirmed that the purpose of his chapter on natural law, in *Ductor dubitantium*, was to persuade people to look no further than the bible for an accurate summary of the law of nature.[231] Natural and Christian law were, therefore, the same thing.

Jeremy Taylor did the most to reconcile the Grotian theory of law to a coherent metaphysical picture of the divine laws. Yet, in the process, Taylor compromised part of the logic behind Richard Hooker's defence of the Church against nonconformity, which had depended on a very rigid demarcation between natural and supernatural law. Taylor's belief that the scriptures alone were a trustworthy guide in all matters pertaining both to Christian faith and manners heightened the importance of revelation in human conduct and lessened that of reason. Taylor's theories led him to stress the uncertainty in demonstrating the existence of natural laws beyond a few prime precepts.[232] The consequence of these doctrines was a sharp disagreement with Sanderson and his argument for conformity.

[230] J. Taylor, *Ductor dubitantium*, p. 236.
[231] *Ibid*, p. 242.
[232] *Ibid*, p. 281.

For Sanderson, natural law, and reason, had complemented the scriptures, and showed which revealed laws were of eternal relevance, thereby complicating the nonconformist insistence on the sufficiency of a scriptural warrant for Church ceremonies. However, because in Taylor's mind the law of nature was more mutable, and was only properly revealed and made knowable in the New Testament, it was not so clear why it was necessary to use reason in the governance of the Church. Consequently, in *Ductor dubitantium* Taylor rejected Sanderson's principle about the role of reason in guiding the conscience saying, 'it will be found unreasonable to expound the precepts of the Religion by the former measure of nature while she was less perfect, less instructed …'[233]

Taylor did not completely deny that there was a division between eternal moral laws, knowable through nature, and positive laws revealed in the scriptures. Taylor, like Sanderson, did agree that some scriptural laws were eternal and founded in nature and that others were purely positive, possessing no foundations in nature and flowing instead from God's 'empire.'[234] However, Taylor's theory implied that natural law was so unclear without the scriptures that reason did not inform people, with any certainty, which laws were eternal and which positive. Taylor therefore made the distinction between natural and positive law harder to draw in practice and it was not clear, on his theory, whether reason was useful in showing which scriptural laws were immutable and which were not. Taylor certainly thought that there was no use for the law of nature in moral matters, calling the scriptures a fully sufficient guide for the conscience in both faith and manners. Sanderson had only claimed the scriptures were adequate for matters of faith alone. Taylor's views about natural and Christian law thus conflicted with Sanderson's argument for the necessity of the use of reason in ecclesiastical matters.

They also conflicted with Hooker's argument from reason and nature in the *Laws*. On Taylor's theory Hooker's argument for the mutability of the Church's form of government was more

[233] J. Taylor, *Ductor dubitantium*, p. 182.
[234] *Ibid*, pp. 279-281.

difficult make, because the distinction between natural and positive law was less clear. This did not overly concern Taylor. Taylor believed that the divine mandate for episcopal government existed in the highest form possible as a direct scriptural command. Although *Ductor dubitantium* was concerned to vindicate the power of the magistrate over the Churc,h Taylor never suggested that the magistrate (or the Church leadership as a whole) had any right to alter the Church's government.[235] This represented a rejection of the argument of Hooker but was consistent with Taylor's vision of law.

As we have seen, on Hooker's view of law the mandate for episcopacy was potentially mutable, on account of its derivation from God's will alone. On Taylor's theory, in contrast, it was not clear whether the scriptural command on behalf of episcopacy might not rank as part of the law of nature itself. As Taylor set some distance between the foundational precepts of the law, and the natural laws themselves, it was not easy it was to discern whether a particular law reflected reason or not. For Taylor, reason did not make any specific natural law necessary because all natural laws were, in a way, positive institutions. As all natural laws were only specifications of general rational precepts, people's ability to determine which laws proceeded from the divine will alone would be lessened.

In this way, metaphysical ideas about the foundations of divine law could underpin important political and ecclesiological theories. Taylor's attempt to think through the consequences of Grotius's views on the law of nature led to him to an account of the metaphysical foundations of law hostile to Hooker's argument in the *Laws* and Sanderson's in the *Ten lectures*. This worked well for Taylor, in so far as he was a strong defender of the divine right of bishops, but it also meant he could not make Sanderson's argument in favour of the ceremonies. Both Hooker and Sanderson had, in various ways, identified the error of nonconformity as the claim that all religious actions had to be

[235] J. Taylor, *Ductor dubitantium*, p. 579.

justified by revelation. If dissent did depend on an illegitimate elevation of the role of revelation, Taylor was falling into the same trap.

Human Law in Ductor Dubitantium

Taylor followed his discussion of natural and Christian law with an examination of human law. Taylor wanted his readers to understand their duty to their rulers, both civil and ecclesiastical. Taylor's discussion of human law was of course much more wide ranging than Sanderson's, because Taylor intended *Ductor dubitantium* to be a comprehensive guide to ethics. *Ductor dubitantium* included a long summary of all the arguments for and against the power of human law in the conscience. Taylor noted that the objections differed slightly depending on whether civil or ecclesiastical law was under discussion. However, the main objection was always that it was inappropriate for human authorities to be able to create sins, as this accorded them a power which was rightfully God's. 'If,' Taylor summarized, 'humane laws do bind the conscience, then it is put into the power of men to save or damn his brother …'[236] According such a power to human laws therefore had to be avoided, 'lest we teach as doctrines the commandments of men.[237]' Introducing as tenets of faith matters which were not part of God's own law was one of the principal Protestant objections to the Catholic Church. In *Ductor dubitantium* Taylor himself inveighed against the Catholic doctrine of tradition, arguing that the scriptures were the sole rule of faith and manners.[238] However, in the end, Taylor felt the arguments for the binding force of human law in the conscience were more powerful. For Taylor:

> Humane Laws are one moiety of the Rule and measure of Conscience, and that we are bound to obey our lawful superiors in what they command, it is naturally consequent to this, that we acknowledge the conscience bound, and that in Humane Laws as well as divine …[239]

[236] J. Taylor, *Ductor dubitantium*, p. 428.
[237] *Ibid*, p. 428.
[238] *Ibid*, pp. 359-366.
[239] *Ibid,* p. 427.

Taylor acknowledged an alternative view which argued human laws were backed only by earthly sanctions. However, Taylor urged that it was necessary for the peace of the community that everyone acknowledge that the magistrate's laws were supported by supernatural torments, as well as physical punishments.[240] Taylor feared that if laws were not seen to be supported by supernatural penalties then fear of the sword alone would have to maintain the peace. Taylor felt this was insufficient because people would not be afraid to break the law in private. Taylor averred that, 'a law that is made without intention to bind the conscience is no law at all …'[241] To support his argument Taylor employed Aquinas's theory about human laws being specifications of the law of nature. The 'whole matter' could be settled if people understood that even laws against theft and murder, usually agreed to be binding in conscience, were themselves in practice human laws. Taylor argued:

> The laws of man do so certainly bind the conscience, that they have a power of limiting and declaring, and making the particular to become the laws of God. For though the Divine Law forbids murder, yet the law of man declares concerning the particular, that it is, or it is not murder, and by such declaration, by such leave or prohibition respectively makes it so. In Spain, if a wronged husband or father kill the deprehended adulteress, it is no murder, in England it is …[242]

Indeed, it was vain to suppose, as Taylor assumed many did, that the natural law could ever be implemented without mediation by human authorities. If it could be, human laws would never change and would be the same all over the world. Moreover, the bible confirmed that human lawgivers derived their authority from God and so their laws bound in virtue of that fact, rather than through any inherent authority within themselves. Taylor therefore declared that the magistrate had the power to legislate about all matters indifferent, both civil and ecclesiastical.

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[240] J. Taylor*, Ductor dubitantium*, p. 428.
[241] *Ibid*, p. 431.
[242] *Ibid*, p. 430.

Like Sanderson, Taylor seemed especially aware of a long tradition of commentary on the subject of human law and its power in the conscience, citing the diverse opinions of numerous medieval scholastics and Protestant reformers. Taylor and Sanderson agreed about human laws, and their power and scope over the conscience far more than they disagreed. Taylor endorsed Sanderson's view that human laws did bind in conscience and granted the power to make human law about indifferent matters to the civil magistrate alone, arguing that the Church itself only had the ability to declare existing divine laws.[243] Taylor affirmed that the magistrate had an equal power over matters of indifferency civil and ecclesiastical, being limited in the exercise of his authority only by the natural and divine laws of God.[244]

However, although Taylor agreed with Sanderson that human laws bound the conscience he notably dissented from the main argument of the *Ten lectures* concerning the obligatory scope of human law. As we have seen, in the *Summa*, Aquinas had limited the obligation upon the conscience to obey human law to laws which promoted the common good. Sanderson's *Ten lectures* had disputed this principle. Yet Taylor adhered very closely to Aquinas's analysis of the relationship between the obligatory force of human law and the common good, urging that no law bound the conscience except those which promoted the common good.

For Taylor, the magistrate was empowered by God for the good of the public and beyond the promotion of the common good his power did not extend. Any law which did not respect the common good was therefore unjust. Taylor explained that it was the duty of the prince to 'do all things justly, and to do all things for the benefit of the people …' 'This,' he argued, 'is the limit of a Princes power so far as he relates to the Conscience. For beyond this the Conscience is not bound.[245]' Like Aquinas, Taylor urged that a law which tried to promote the common good via inequitable contributions did not bind the conscience. Such laws were to be suffered by the subject,

[243] J. Taylor, *Ductor dubitantium*, p. 570.
[244] *Ibid*, p. 567-569.
[245] *Ibid*, p. 451.

who had no right to rebel, but the laws did not become sinful to forbear.[246] In such cases, Taylor argued, 'the Conscience is at liberty.' For Taylor 'all such things as are against the good of the subjects, the law itself declares to be no law.'[247] Taylor was careful to ensure people did not set aside the claims of authority lightly. He suggested a mildly grievous law ought to be thought to bind out of respect for authority.[248] However, for Taylor, ultimately, laws in matters of indifferency could be judged, by the subject, in virtue of the degree to which they conduced to the common good. Taylor instanced the Catholic Church's command that priests put aside their wives, which he knew Suarez had criticized.[249] This left the door open to the objection that the contested ceremonies, while not sinful, were grievous, and so failed to bind in conscience.

Sanderson's approach, in the *Ten lectures*, had been very different. For Sanderson, although an unjust law did not bind, the law had to be unjust in a very absolute sense, such that it was actually directly contrary to a divine law, before it did not oblige in conscience. This meant that no law made about a matter previously indifferent could ever fail to bind. Taylor's understanding of an unjust law was therefore not as sharp as Sanderson's and any law that someone judged grievous and inequitable might not bind the conscience. Ultimately this principle could lead to the legitimization of dissent, or so Sanderson had feared. Taylor did not intend his views to legitimize dissent from the Church of England, yet his doctrine gave support to nonconformity because he allowed more space for the individual to determine whether or not the magistrate was really acting in the best interests of the public. Taylor did not avail himself of the benefits of these principles during the Interregnum, as he was among those who refused to alter the Prayer Book services to comply with the wishes of Parliament (a usurping power in his mind). Yet in the Restoration period the friction between Sanderson and Taylor about the obligatory force of human law was noted by nonconformists. John Humfrey pitted the authority of Taylor against that of Sanderson in his *The Obligation of Human*

[246] J. Taylor, *Ductor dubitantium*, pp. 450-451.
[247] *Ibid*, p. 460.
[248] *Ibid*, p.452.
[249] *Ibid*, pp. 452-453.

Laws discussed, pointing out that Sanderson stood alone with his doctrine, against all the other great casuists (he cited Samuel Rutherford) including his fellow Anglicans.[250]

The Final End of Human Law in Ductor Dubitantium

Like Sanderson, Taylor also addressed the purpose of magisterial power, asking whether the state was for purely temporal ends, or for the promotion of virtue and the good of the soul. In practice Taylor agreed with Sanderson that the state had to promote virtue and religion. However, his theory suggested that this was primarily for pragmatic reasons. He also argued that the end of the state by nature was peace and tranquillity, not virtue and the good of the soul. Taylor's argument was quite theoretical and in places theological. He tried to determine the state's purpose, and relationship between the state and natural law by considering the ways in which people were connected to their ultimate spiritual end.

Taylor set out his views about the relationship between the state and the law of nature after his discussion of human law in *Ductor dubitantium*. Taylor feared that admitting civil government had spiritual and eternal ends might countenance those who wished to elevate spiritual power over temporal. At the same time, Taylor was convinced that the magistrate needed to control religion in order to maintain his authority, and to secure order and peace.

A king bereft of control over religion, argued Taylor, was shorn of half of his power. Religion possessed the greatest influence upon the character and morals of the nation and no one could hope to rule who did not regulate religion. 'The care of religion,' Taylor opined, 'must belong to the supreme magistrate, because Religion is the greatest instrument of political happiness.'[251] Taylor advised the magistrate to forbid beliefs liable to debauch morals or disturb the peace, instancing stoicism, and the idea that God was the author of sin. New religions ought also to be prohibited, because, 'to introduce a new religion with fierceness and zeal would cause disturbances and

[250] J. Humfrey, *The Obligation of Human Laws discussed*, pp. 25-26.
[251] J. Taylor, *Ductor dubitantium*, p. 547.

commotions in the Commonwealth; and none are so sharp, so dangerous and intestine as those which are stirred by religion.'[252] Taylor's principal justification for the magistrate's authority over spiritual matters therefore pertained to the great importance of religion in securing temporal peace, and not to the need to save souls or to promote the true faith.

Indeed, Taylor insisted that the true religion needed no help from the magistrate, because no magistrate could, 'hinder the intentions of God in the effects of religion and the events of souls.' The state's control over religion was thus not about caring for souls. Taylor averred that, 'religion being a spiritual thing can stand alone,' and, 'thrives as well in a storm and persecution as in sun-shine.' Religion belonged to the understanding, and the understanding was impervious to the sword.[253] Taylor was convinced that the 'whole purpose and proper end of the government … [is] for temporal felicity.'[254] It would thus appear that Taylor disagreed with Sanderson, who, as we have seen, maintained that the state was designed to lead the people to virtue (although he too believed the magistrate could not affect religious belief). However, despite justifying magisterial control of religion in a pragmatic way, Taylor did nevertheless demand both that magistrates assume a care for their subject's souls and that they should promote virtue and prohibit vice.

The king, according to Taylor, had a duty to govern religion in the interest of God. Citing one of St. Augustine's famous letters to Boniface, Taylor argued the king was to enjoin righteousness throughout the land, and to throw down heathen places of worship.[255] Moreover, Taylor actually did think, like Sanderson, that magistrates ought to impose Christian duties by force. Taylor argued that;

> Christian Princes are to secure by laws, what men will not do by choice … not only in things relating to public peace and the interest of the Republick, but in immediate matters of

[252] J. Taylor, *Ductor dubitantium*, p. 550.
[253] *Ibid*, pp. 573-574.
[254] *Ibid*, p. 573.
[255] *Ibid*, p 548.

religion: such as are laws against swearing, against Blasphemy, against drunkenness and fornication and the like …

Yet Taylor also acknowledged these things could not be justified on the grounds of upholding the public peace, admitting they were matters, 'in which the interest of souls is concerned, but not the interest of public peace …'[256] In Taylor's mind a concern for the peace did not provide the magistrate with a power over the natural law and its virtues and vices, because that implied a concern for souls as well as bodies, and a concern for souls had nothing to with preserving peace and promoting temporal felicity. How then did Taylor justify a vision of the common good involving the promotion of virtue for the sake of souls? After all, Taylor repeatedly insisted that the magistrate's power over religion was for the good of the state and that religion itself would not be harmed whatever the magistrate did.

Taylor had a complex explanation for his equivocation about the ends of state power. Taylor thought that by nature the state only aimed at temporal peace and tranquillity, but that by accident, and by God's positive decree, it came to acquire a duty to promote religion for its own sake. Taylor's discussion of this subject was given under the question, 'which are better, things Spiritual, or Temporal.' The problem, in Taylor's mind, was that man's ultimate end was supernatural and spiritual and this fact might be taken to suggest that spiritual powers, like the Pope and the Presbyters, should have power over rulers like the civil magistrate, whose ends were only temporal. 'When temporal life and eternal are compar'd,' Taylor pointed out, 'when the honour of God or the advantage of Man are set in opposition, when the salvation of a soul and the profit of trade are confronted, there is no peradventure but the temporal must give way to the spiritual.'[257] As the salvation of souls was the ultimate end, it was also the ultimate end of the state. However, Taylor was convinced this could not mean priests were able to place their concerns above those of kings.

[256] J. Taylor, *Ductor dubitantium*, p. 555.
[257] *Ibid*., p. 561.

Taylor argued that while the ultimate end of man was supernatural, this was not the ultimate end of the state by nature.

Naturally the state had its own end, in the promotion of temporal peace and prosperity. The fact it ministered to the spiritual end was not by nature, but by accident and positive decree. Taylor argued, 'this subordination,' of the state to the spiritual end:

> is not natural, or by the nature of the thing, but by the wise Oeconomy and disposition of God; who having appointed that … natural powers shall be heightened by grace, and shall pass into supernatural … hath by his own positive order dipos'd of temporal things and powers beyond their own intention.[258]

Governments did not by nature have supernatural ends, and therefore state and faith, 'do not naturally, but by accident, minister to each other.' Thus, purely temporal felicity was the natural purpose of human government. On temporal felicity Taylor wrote, 'though it may not be the last end of man, it may be the end of human government.'[259]

Taylor's belief that human government, by nature, did not possess a supernatural end may have owed something to Taylor's moralist and Arminian theology. In *Deus Justifiactus* and *Unam Necessarium* Taylor had argued that man's condition after the fall was not one of radical depravity, as Calvinists thought, but could actually be said to represent humanity's 'prime condition.' Consequently, Taylor did not view a human being stripped of the capacity to achieve a supernatural end as depraved or incapable.[260] Taylor argued that Adam and his posterity were, 'not spoiled by that sin … only his good was imperfect, it was natural and fell short of heaven … he could go no further than the design of his first nature.[261]' This allowed Taylor to think of man possessing a natural end and perfection, 'the design of his first nature,' distinct from his supernatural end. Taylor

[258] J. Taylor, *Ductor dubitantium*, p. 561.
[259] *Ibid*, p. 563.
[260] S. Mortimer, *Reason and Religion*, 137-144.
[261] J. Taylor, *Deus Justificatus*, p. 40.

believed that this made uncoupling earthly society from the eternal end, at least in the abstract, sensible. God's offer of salvation, through Christ, was thus about improving the human condition, rather than saving men and women from damnation.

Taylor's view that by nature human government was not concerned with a care for souls led him to stress that magisterial control over religion was primarily for the good of the state, and the temporal felicity of the citizen. In Taylor's mind a power over morals for the sake of souls was accidental, and created by God's positive decree. Taylor hoped that separating the state from promoting supernatural end in principle, if not in practice, went some way to heading off the challenge from Catholics and Presbyterians. Taylor's views about the purpose of the state are significant. Although the powers he gave to the magistrate did not differ from those accorded him by Sanderson, Taylor preserved a sense that the state's purpose was fundamentally about external temporal matters and not about virtue and the salvation of souls. Sanderson, in contrast, had suggested that the state was supposed to promote virtue, and was limited in pursuing this end only by the impracticality of trying to make bad people good.

Taylor's position presented opportunities for those inclined towards toleration. A policy of religious persecution justified on the grounds that religious deviancy led to disorder could be answered with purely prudential arguments. In the Restoration period, some writers became convinced that although the magistrate could control religion in order to uphold the peace, the specific provisions against orthodox Protestant dissent, encapsulated in the Clarendon Code, did not serve the end of civil peace. As we shall see in later chapters, writers like John Locke thought it was necessary to separate the state from the promotion of the law of nature, believing that if this was done toleration could be fought for on entirely prudential grounds, where its proponents were at an advantage. Taylor's formulation of the state's common good arguably left the foundations of the Anglican Church and state less secure than Sanderson's more expansive notion of the purposes of magisterial power.

Conclusion

Taylor discussed many of the same subjects as Hooker and Sanderson. In *Ductor dubitantium* he was interested in natural law, the relationship between nature and revelation, human law and the purpose of the state. For a variety of reasons, and despite many similarities with Sanderson, Taylor dissented from the key element of the defence of conformity outlined in the *Laws* and the *Ten lectures*. Taylor's ideas about the use of reason in moral affairs, and the metaphysical foundations of natural law were very different to those of Hooker and Sanderson, principally on account of Taylor's moralism and his debt to Grotius. *Ductor dubitantium* presented a view of law which made it much more difficult to espouse the argument that dissent was premised on an epistemological mistake about the respective roles of natural and revealed law in religious life. Taylor's views on human law were also at odds with the authoritarianism of the *Ten lectures*. In some respects Taylor was closer to Aquinas than Sanderson, but in others further away. Taylor's respect for the individual conscience, evident in *Liberty of Prophesying*, may have inclined him towards Aquinas's view that only laws serving the common good bound the conscience. On the other hand, Taylor's desire to defend the power of the civil magistrate over religious life led him to reject Sanderson's (and Aquinas's) view of the purposes of magisterial power, and argue that the state ought to govern religion, in the final analysis, for earthly secular reasons, and not for the salvation of souls.

Overall, Taylor's views about conscience and law were more liberal than Sanderson's and more favourable to dissent, a fact nonconformists themselves did not fail to discern. There is no evidence Taylor was responding to the *Ten lectures* and his disagreements with Sanderson were driven by a variety of diverse concerns. Taylor's moralism, his respect for the individual conscience and his desire to defend Anglican Erastianism were the principal causes of his differences with Sanderson.

Chapter Four: Stillingfleet and Natural Law

In previous chapters we have seen how ideas about reason and natural law could play an important role in the Anglican justification of uniformity. For divines like Hooker and Sanderson, understanding the boundaries between nature and supernature, and the different properties of natural and revealed law, was essential for the organization of public religious life. This chapter examines how the Anglican argument from natural law was continued in the Restoration period within the *Irenicum* of Edward Stillingfleet, the latitudinarian controversialist and future bishop of Worcester. Like Hooker, Stillingfleet thought the country's religious problems could be solved, and the Church justified, through a proper appreciation of the respective spheres of authority of reason and revelation. Writing on the eve of the Restoration, Stillingfleet proposed to investigate these spheres through an analysis of law and to prove that the civil magistrate had the right to determine Church government and ceremonies.

Along with Hooker's *Laws*, Sanderson's *Ten lectures* and *Ductor dubitantium* the *Irenicum* demonstrates how important ideas about the metaphysical foundations of natural and positive law could be to political and ecclesiological theory. Like Taylor, Stillingfleet had been influenced by Grotius. However, unlike Taylor, Stillingfleet was also determined to restate and develop Hooker's argument against divine right and consequently needed to reject the view of law which broke down the distinctions between natural and positive law.

Stillingfleet and the Irenicum

Stillingfleet was one of the Church's most prolific and learned controversialists throughout the Restoration period and the *Irenicum* was his earliest work. Stillingfleet's aim, throughout his long career, was to create a more comprehensive Church, and heal the rift between adherents to the restored Church and those moderate nonconformists whose disagreements with Anglican practices Stillingfleet believed to be minor. On account of this attitude Stillingfleet was praised by Richard Baxter as one of the moderate sort of Churchmen, and he was involved in many of the unsuccessful

comprehension proposals of the reign, alongside divines like John Tillotson and John Wilkins (1614-1672).[262]

Stillingfleet began work on the *Irenicum* before the Restoration, when the Church of England's bishops and its Book of Common Prayer were both prohibited. Educated at Cambridge and ordained by one of the Anglican Church's remaining bishops, Stillingfleet acquired a living as rector of Sutton in the last days of the Protectorate. The Protectorate presided over a national Church but had never enforced a monolithic Presbyterian system across the country, preferring to tolerate and support Independent congregations outside of the parochial structure under certain conditions.[263] Stillingfleet favoured the structure of the old Church but wanted national unity in worship above all. He wanted the congregations prohibited, and for all adherents to the idea of a national Church to set aside their differences and abide by whatever form of ecclesiastical government the magistrate chose.

Stillingfleet began writing the *Irenicum* before the king's return, and the book's proposals were therefore originally intended for the Cromwellian or Republican authorities. However, the restoration of the king and much of the old Anglican hierarchy made it more likely that there would be a reversion to a more comprehensive Church, and an end to the liberty of gathered Independent Churches. Stillingfleet hoped to use the *Irenicum* to provide an avenue for peace and reconciliation between the Episcopal and Presbyterian factions in the country, believing his work accorded with the king's intentions, publicized in the Declaration of Breda, to accord a great degree of latitude to tender consciences.[264]

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[262] R. Baxter, *Reliquiae Baxterianae*, ii, (London, 1696), p. 149, iii, pp. 156-158; J. Packer, *The Transformation of Anglicanism 1643-1660: with special reference to Henry Hammond*, (Manchester, 1969), p. 178; A, Thomas, 'Comprehension and toleration,' in, *From uniformity to unity*, eds G. Nuttal and O. Chadwick, (London, 1962) pp. 225-229.
[263] B. Coward, *The Cromwellian Protectorate*, (London, 2002), p. 59; J. Spurr, *Restoration Church*, pp. 2-18.
[264] J. Spurr, *Restoration Church*, pp. 30-32, 144.

Stillingfleet wanted a broad and comprehensive Church but always baulked at toleration. Therefore, in the *Irenicum*, Stillingfleet's main preoccupation was to undermine any source of division between the Episcopal and Presbyterian factions, while encouraging the prohibition of Independency and of all other sects.[265] Initially it did appear there could be an accommodation between the Presbyterians and the Anglicans. The Worcester House Declaration, issued by the king, declared that the restored Church would be governed by bishops and Presbyters in conjunction.[266] Stillingfleet hoped that moderate Episcopalians and Presbyterians could compromise on a reduced form of episcopacy and that a revision of the Prayer Book would be agreed to settle any outstanding scruples. In terms of finding an acceptable form of episcopacy Stillingfleet was pinning his hopes on the scheme for primitive episcopacy drawn up by bishop Ussher (1581-1656), a friend of Sanderson.[267] Prominent Presbyterians like Richard Baxter, were amenable to this, if only because the proposals were rather vague.[268] However, Stillingfleet also wanted people to be able to accept a settlement that did not go their way. Stillingfleet thought people should accept that it was ultimately best for the civil magistrate to have the final word on the national religion. Despite his opinion that everyone should submit to the decisions of the civil magistrate, Stillingfleet acquired a reputation for moderation on account of the *Irenicum* and had the sympathy of sections of the nonconformist community.

Due to his interest in religious harmony and comprehension, Stillingfleet is usually seen as an archetypal latitudinarian divine.[269] This makes the *Irenicum* significant, because although the latitudinarians are thought to have been favourable to dissenters in certain ways, they produced few works of ecclesiology that actually argued for a more tolerant or comprehensive Church. Stillingfleet's *Irenicum* can thus provide a valuable window into how latitudinarian concerns could be

[265] See R. Baxter, *Reliquiae Baxterianae*, pp. 144-146 for one account of the ecclesiastical factions at the time.
[266] J. Coffey, *Persecution and Toleration*, p. 167; J. Spurr, *Restoration Church*, p. 35.
[267] J. Ussher, *The reduction of episcopacie unto the form of synodical government received in the ancient church*, (London, 1660); J. Spurr, *Restoration Church*, pp. 26-27.
[268] R. Baxter, *Reliquiae Baxterianae*, p. 238.
[269] J. Marshall, 'The Ecclesiology of the Latitude-men 1660-1689: Stillingfleet, Tillotson and 'Hobbism', *JEH*, 36, (1985), pp. 407-427.

applied to the question of Church government. The connection between *Irenicum* and a distinct latitudinarian ecclesiology has been made before. Marshal has argued that *Irenicum* put forward a specifically latitudinarian ecclesiology, which was more compatible with comprehension than the high Church theory of many other divines.[270]

However, Marshal's analysis of Stillingfleet's ecclesiology did not address Stillingfleet's views about nature and revelation, even though latitudinarianism tends to be associated with an interest in reason, nature and natural law. In the view of historians like Isabel Rivers and Martin Griffin latitudinarians considered Christianity a primarily ethical, moral religion and described it in a language which drew it close to the law of nature.[271] In the *Irenicum*, ideas about natural law and reason were used to describe the more comprehensive Church the latitudinarians were trying to promote. Stillingfleet, in the hope of promoting civil peace, and national uniformity, tried to demonstrate that the Church could be governed and ordered through natural reason alone.

Nature and Revelation in *Irenicum*

Stillingfleet was convinced that examining the question of Church government in terms of a contrast between reason and revelation could show the way towards religious and social harmony. If people understood how little reliable knowledge about Church government could be derived from revelation, and how much could be discerned through natural reason, they could be persuaded to leave organizing national religious life to the magistrate, who drew his authority from the law of nature.

Stillingfleet's aim was thus to persuade his readers that the magistrate had unfettered authority, derived from the law of nature, over all indifferent affairs, both civil and ecclesiastical. Like Hooker and Sanderson, Stillingfleet discussed the notion of indifferency, criticizing Lord Brooke's

[270] J. Marshall, The Ecclesiology of the Latitude-men,' pp. 407-427.
[271] I. Rivers, *Reason, Grace and Sentiment*, pp. 78-88; G. Cragg, *From Puritanism to the Age of Reason*, pp. 64-65, 68-69; M. Griffin, *Latitudinarianism*, pp. 128-135.

dismissal of the category. Stillingfleet made use of some of the central arguments of the *Ten lectures* in favour of magisterial power over indifferent matters. He adhered to Sanderson's views about the obligatory force of human law in the conscience and to Sanderson's scholastic description of conscience, and the liberty it could be afforded.[272] Yet natural law, and his significance, was Stillingfleet's main focus. Through an examination of natural and revealed law, Stillingfleet hoped to place all indifferent affairs under the authority of the magistrate.

Stillingfleet divided the *Irenicum* into two parts according to the division of knowledge between nature and revelation. Part one, with six chapters, reviewed the evidence for the government of the Church from nature while part two examined scriptural and patristic evidence. In part one of the *Irenicum* Stillingfleet demonstrated his interest in the law of nature and his adherence to Hooker's form of argument. The first book of *Irenicum* was based on a study of the law of nature, and its place in human moral obligation. Stillingfleet initially defined natural law (and natural right) and then proceeded to demonstrate its provisions for Church government, and the degree of power it bequeathed to the magistrate. In the first chapter of part one Stillingfleet laid out a similar, if less elaborate, structure of divine laws to Hooker. Stillingfleet's reading in the natural law tradition was very wide; he quoted Hooker, Suarez, Grotius, Selden and others. [273]

Stillingfleet's essential thesis about natural law was very similar to Hooker's. Like Hooker, Stillingfleet used the idea of an emanation of natural law from an eternal law to argue for the validity of the law of nature in determining Church government. Natural law was as expressive of divine purposes as the revealed law, and there was no inherent reason a Church could not therefore be ordered according to natural law, as opposed to revealed law. On the natural law, Stillingfleet wrote, 'this law, if we respect the rise, extent and immutability of it may be call'd deservedly the Law of Nature, but if we look at the emanation, efflux and original of it, it is a Divine Law …' As such, the

[272] E. Stillingfleet, *Irenicum*, pp. 8-10, 39-40, 44, 50-54.
[273] *Ibid*, p. 28-29.

law of nature was, 'expressive of an eternal Law, and deduceth its obligation from thence.' Stillingfleet went on to make the point that all the divine laws, including natural law, equally reflected God's will.[274]

However, natural and revealed law, although originating from the same fountainhead, had different properties, and this fact could be used to elevate the importance of the natural law over and above the supernatural law. In both the *Irenicum* and his defence of the scriptures, *Origines Sacrae* (1662), Stillingfleet discoursed at length upon the relationship between natural law and the supernatural, revealed law. Once again Stillingfleet's ideas on the subject were close to those of Hooker. Like Hooker, Stillingfleet believed that in the state of innocence the precepts of the law of nature alone constituted human duty to God, and salvation at that time therefore depended solely on adherence to the natural law. [275] The natural law thus had a role of great importance in religion prior to the fall. Although God's decision to reward men and women with eternal life was purely voluntary, it was incongruous with God's nature, and human nature, for humankind to lose their eternal end. Eternal beatitude, through eventual union with God, was thus in accord with nature, even if it was not commanded by it. The supernatural law, which could only be known by revelation, became necessary following Adam's disobedience. Revelation, and positive divine law, were required to remedy the consequences of the fall.

As natural law had obliged humankind in the state of innocence, it was an older and more fundamental law than the law of revelation. For Stillingfleet, natural law was founded in moral reality, and the divine essence itself, unlike the supernatural law. To illustrate this point Stillingfleet made use of the common distinction between natural law and positive law. Natural law commanded what was already good, while the positive law made things good by commanding them. The law of nature, according to Stillingfleet, was premised both on God's divine nature and his will. Stillingfleet

[274] E. Stillingfleet, *Irenicum* p. 15.
[275] E. Stillingfleet, *Origines sacrae*, (London 1662), p. 361.

alleged that this explained the law's eternity, and its unchanging and immutable obligation. 'The Law of Nature,' urged Stillingfleet:

> bindes indispensably, as it depends not upon any arbitrary constitutions, but it is founded on the intrinsecal nature of good and evil in the things themselves, antecedently to any positive declarations of God's will. So that till the nature of good and evil be changed, that Law is unalterable as to its obligation.[276]

Like Hooker, Stillingfleet argued that all supernatural laws were positive laws (thus making supernatural law a subset of positive law). As supernatural law was positive law, supernatural law was purely based on will and lacked the properties possessed by the natural law. Moreover, supernatural law was inaccessible to human reason, and could only be known through revelation. Stillingfleet reinforced the distinction between natural and positive law through his theory of moral obligation. Stillingfleet subscribed to a form of voluntarism weaker than that of other writers. According to Stillingfleet, 'the sanction of this Law of Nature, as well as others [i.e. other types of divine law] depends upon the Will of God, and therefore the obligation must come from him.' Yet Stillingfleet's description of the causes of the law's obligatory power differed somewhat from the more usual formulation. For some writers, like Nathaniel Culverwel and John Locke, the will of God was the formal cause of all divine law, natural or positive. However, for Stillingfleet the formal cause of man's obedience to the natural law was, 'the conformity which the things commanded have to the divine nature and goodness.' The will of God was thus relegated to being the efficient cause of natural law, a view shared by the Cambridge Platonist Ralph Cudworth (1617-1688), from whom Stillingfleet's ideas were likely derived. [277]As Stillingfleet argued positive laws were based on will alone, it would follow that natural and positive laws differed formally, that is, in terms of what they actually were. Stillingfleet thus detected a very profound difference between natural and positive

[276] E. Stillingfleet, *Irenicum*, p. 14, 30.
[277] *Ibid*, p. 14-15; N. Culverwel, *An elegant and learned discourse*, p. 48; R. Cudworth, *A Treatise on Essential and Immutable Morality*, pp. 15-16; J. Locke, *Essays on the Law of Nature*, p. 185.

law in metaphysical terms. This doctrine served to enhance the importance of the natural law and its distinctiveness from positive law.

As we have seen there were resources in the natural law tradition which could reduce or eliminate the distance between the natural and supernatural law, and abolish Hooker's connection of supernatural law with positive law. Taylor's theory exemplified this tendency. Yet Stillingfleet's natural law theory, and his understanding of the relationship between the law of nature and Christianity, allowed him, like Hooker, to keep natural and positive law separate, at the metaphysical level. In part one of the *Irenicum* Stillingfleet rejected attempts to break down the division between natural and positive law.

Stillingfleet had read Grotius's views on natural law, and possibly Taylor's too, but he argued that Christ had brought no new moral duties, and denied that the law of nature could be said to change. Stillingfleet specifically included the duties and virtues of faith and repentance from dead works in the law of nature, something Taylor had hesitated to do unequivocally.[278] In Stillingfleet's view there was no moral duty required by the gospel that was not also required by the law of nature. Stillingfleet was thus uninterested in supporting a distinct supernatural sphere of authority by dividing human duties and virtues sharply between nature and supernature. Stillingfleet was therefore able to avoid the problems inherent in Grotius's theory, which had led divines like Taylor to try and break down the metaphysical barriers between the natural and the Christian law.

Stillingfleet's language, preoccupations and sources had a certain amount in common with Nathaniel Culverwell's in *An elegant and learned discourse of the light of nature* (1652) which, like the *Laws* and the *Irenicum*, tried to reconcile the claims of nature and reason with revelation, although it is impossible to determine whether Stillingfleet had actually read Culverwell. Culverwell was a fellow of Emmanuel College and a student of the Cambridge philosopher Benjamin Whichcote

[278] E. Stillingfleet, *Origines Sacrae*, p. 362.

(1609-1683) (usually associated with the Platonists).[279] *An elegant and learned* discourse shows clearly the influence of Aquinas (who was quoted frequently) but also of Grotius and of Spanish neo-scholastics like Suarez. Culverwell's vision of law, like that of Aquinas and Stillingfleet, was structured by the idea of laws emanating from an eternal law. All human laws, he averred, drew their strength from the natural law.[280] However, unlike Aquinas, Culverwell wanted to make the law of nature exclusive to moral agents, excluding animals, and cited Suarez, Grotius and John Selden in support of his opinion.

Culverwell's ideas about the metaphysical basis of natural law were similar to those of Hooker. However, Culverwell used language which owed more to the continental influence of Suarez and Grotius than to Hooker. Culverwell was concerned, as was Edward Stillingfleet, to determine the true source of moral obligation (this was not a concern which had animated Hooker). Culverwell believed, following Suarez and Grotius, that God's essence, and the nature and relations between creatures, made some actions genuinely wrong even in the absence of a law from God. Culverwell, following Suarez, cited the *odium dei* (the act of hating God) as an example. However, Culverwell rejected the idea that any essence could create obligations, saying that the view the formal cause of the natural law's obligation was the divine essence was erroneous.[281] As we have seen, Stillingfleet believed the opposite, as he had suggested the formal cause of the natural law's obligation was the divine nature. However, for Culverwell, only God's will could ever oblige. Culverwell drew the usual distinction between natural and positive law, arguing that the two differed because the law of nature derived from the divine nature as well as the divine will, and was consequently immutable and universal.[282]

The metaphysical basis of natural law, and the relationship of Christianity to the law of nature, were important issues for Stillingfleet, because his argument depended on a very rigid

[279] J. Parkin, *Science, Religion and Politics*, pp. 80-85.
[280] N. Culverwell, *An elegant and learned discourse*, pp. 26-28.
[281] *Ibid*, pp. 42-44.
[282] *Ibid*, p. 41.

demarcation between natural and supernatural law. In *Irenicum*, Stillingfleet made use of the distinctions between natural and positive law to repeat Hooker's argument against founding forms of Church government in divine right and revelation. As supernatural law was positive law, supernatural law was purely based on will and lacked properties possessed by the natural law. In part one of the *Irenicum* Stillingfleet used the differences between the metaphysical properties of natural and revealed supernatural law to accord the magistrate the power to determine the form of Church government. Like Hooker, Stillingfleet aimed to weaken the claims of supernatural, revealed law, on which the divine right claims of each form of Church government were based, by highlighting the mutability of positive law. Stillingfleet hoped this would allow the magistrate to impose whichever form of Church government he thought best and so bring about religious harmony.[283]

For Stillingfleet, as for Hooker, the difficulty with founding ecclesiastical society on supernatural law lay in the mutability of the supernatural positive law. It could not be assumed a command or a law revealed in the scriptures for a specific kind of Church government applied forever. As positive law was mutable, Stillingfleet believed there needed to be very express conditions attached to revelations before anyone could claim people were perpetually obliged to conform to them. According to Stillingfleet, 'positives [i.e. laws] being mutable and alterable in themselves, a bare Divine Command is not sufficient to make them immutable, unless there be likewise expressed that it is the will of God they should always continue.'[284] For Stillingfleet this meant that there were severe limitations to the use of positive law in ordering society. Indeed, only in very specific circumstances could a positive law actually oblige the Church for all time.

For Stillingfleet, in order for a revealed law to bind forever, God had to promulgate it very expressly, and either declare it perpetual, or ordain it for such mysterious ends that the reasons for it could never be discovered. Stillingfleet thought God had declared few positive laws perpetual,

[283] E. Stillingfleet, *Irenicum*, pp. 14-16.
[284] *Ibid*, p. 15-18.

apart from the two sacraments of baptism and Holy Communion. Moreover, Stillingfleet believed that the majority of the laws people claimed were revealed in the bible did not actually enjoy sufficient promulgation; they were more properly termed acts or examples. The separation between the twelve and the seventy disciples, usually cited in favour of episcopacy, was perhaps the most salient example. On account of the mutable nature of revealed instructions, it could not be assumed these acts and examples were binding laws, obligatory for all time. In Stillingfleet's mind such 'laws' only obliged if they could be shown to be moral or natural. [285] Therefore, although natural law could be assumed to be binding and perpetual without very express promulgation, all revealed supernatural knowledge ought usually assumed not to be.

Stillingfleet thus left little scope for scriptural acts, examples and 'laws' to provide binding guidance as to how the Church should be governed. This set Stillingfleet against the adherents of divine right claims. Among Stillingfleet's Presbyterian opponents, scriptural acts and examples were considered a more reliable guide to structuring the Church than the law of nature. A book written to combat Erastian claims from a Presbyterian perspective averred that in matters of Church government the 'Light of Nature in this case helps something; but the light of obligatory scripture examples helps more, as being more clear, distinct and particular.'[286] Later critics of Stillingfleet's argument suggested scriptural examples had to be assumed to be as obligatory as natural laws. Stillingfleet disagreed.[287] As scriptural instructions were potentially mutable revelations they were only worth paying attention to in very specific conditions. Therefore, for Stillingfleet, the usual positive injunctions brought forward in support of episcopacy, Presbytery, or Independency, did not constitute perpetually binding laws. Consequently neither episcopacy nor Presbyterianism could be said to be instituted by divine right. A correct appreciation of the kind of knowledge which could be

[285] E. Stillingfleet, *Irenicum*, pp. 18-24.
[286] Anon, *Jus divinum regiminis ecclesiastica, or, The divine right of Church government*, (London, 1647), p. 12.
[287] G. Rule, *An answer to Dr. Stillingfleet's Irenicum*, (London, 1680), pp. 13-18.

derived from the scriptures suggested the search for divinely ordained forms of Church organization was fruitless.

Stillingfleet went on to note that Church constitutions and ceremonies that were purely indifferent and human in origin could also be aid to enjoy a divine right. This was so because right had two meanings. According to Stillingfleet, 'there is a twofold [meaning of] right, either such whereby a man hath liberty and freedome by the Law to do any thing; or such whereby it becomes a mans necessary duty to do anything.'[288] Stillingfleet pointed out that any form of Church government could be said to be *iure divino*, providing that the kind of right being employed was that of a permissive right. Anything indifferent and so in accord with the law of nature, and not prohibited by positive law, could be said to possess the divine permission. Stillingfleet explained that men had parted with their ability to determine which indifferent things they would institute as laws when they entered civil society and undertook to obey the magistrate. The ability to institute a form of Church government under the permissive right now lay with the civil magistrate. Both episcopacy and Presbytery were permissible under the law of nature, and so could lawfully be used as forms of Church government, although Independency could not be, owing to the fact that nature required societies contain authorities to which their members could appeal.[289] Both forms of government, if instituted, enjoyed a *ius divinum*. Yet divine right, in the sense of a revealed law, did not exist for any kind of Church government.

In part two of the *Irenicum* Stillingfleet turned to an examination of patristic and traditional authorities, challenging claims that there had ever been a consensus in favour of episcopacy or Presbytery. The variable nature of positive law meant that it required very express promulgation in the gospels, and this had not been provided. Apostolic example could not alter this fact, but Stillingfleet knew that the example of the early Church carried enormous authority. Over hundreds

[288] E. Stillingfleet, *Irenicum*, p. 5.
[289] *Ibid*, pp. 8-10.

of pages, Stillingfleet exhaustively catalogued the evidence in favour of either episcopacy or Presbytery being derived from the Apostles or the early Church Fathers, and found it wanting. By his own logic this was not strictly necessary to his argument. The example of the Apostles, or the Church Fathers did not, in Stillingfleet's analysis, constitute binding revealed law. For, despite his interest in apostolic and patristic example, Stillingfleet did not base his views of the Church on early Christian history but on his ideas about reason and natural law.

The argument from law in part one of the *Irenicum* thus represented a sustained attempt to rework the paradigm of scripture, reason and authority in favour of reason. *Irenicum* contained the clearest restatement of Hooker's argument in favour of conformity from rational and natural law (made in the first book of the *Laws*) although Stillingfleet's argument was more clearly focused upon forms of Church government than Hooker's had been. The very rigid demarcation, upheld by Hooker and sharpened by Stillingfleet, between the properties possessed by natural law, on the one hand, and positive supernatural law, on the other, made this argument possible.

However, the *Irenicum's* interest in natural law did not actually end at a restatement of Hooker's argument. Stillingfleet also sought to show, in a way Hooker had not, how all essential elements of the Church could be determined naturally. This was an important point to make against nonconformists because it had been traditional to argue Christ would have not left his Church with less comprehensive instructions than Moses left the Hebrews. Suggesting natural law provided almost all the necessary instruction for organizing a Church removed the need to interrogate the scriptures for ecclesiastical rules because it could be shown God had provided these rules in another law. Stillingfleet wanted to demonstrate that almost all of the Church's institutions and forms of government could be determined through reason and natural law alone. In book one of the *Irenicum* Stillingfleet went into great detail about the mandate, in natural law, for almost all of the essential features of religious society. Stillingfleet's implicit claim was that the Church could be constructed as an almost purely natural society.

The idea that nature ordained that worship be organized and communal, and provided certain rules regulating it, was admittedly not unusual in itself. Most people agreed that worship itself was a natural duty. There was also broad agreement that certain aspects of Church government could be drawn from nature.[290] Yet Stillingfleet's interest in demonstrating the amount of knowledge which could be derived from nature about religious society made the *Irenicum* very distinctive. Few divines were willing to stress that natural knowledge was especially useful to the organization of worship as a whole, as that would be to deny the sufficiency of scripture in matters closely associated with human salvation.

In contrast, Stillingfleet's emphasis on the utility of reason was very expansive. Stillingfleet hoped his coverage of the natural foundations of ecclesiastical society was so comprehensive that there would be little reason to suppose that there was much necessity for positive revelation in matters of Church government. Stillingfleet used natural knowledge to illustrate that all the essential features of Church society could be derived from nature. Stillingfleet drew on pagan examples to illustrate how the law of nature prescribed various aspects of religious society. Stillingfleet thought collective human worship was a dictate of nature.[291] The pagan festivals of first fruit and their sacrifices proved some form of worship was natural.[292] Nature also required that religion be conducted in good order and that it was to be presided over by a special caste; priesthood was thus by nature.[293] The two sacraments themselves were of positive institution but that there should be a rite of initiation into religious society was strongly suggested by nature. All religious societies had had some form of discipline and punishment; Stillingfleet proved the power of excommunication from the example of the druids.[294] The Independent form of Church Stillingfleet declared unlawful by

[290] E. Stillingfleet, *Irenicum*, pp. 36-38.
[291] *Ibid*, pp. 72-74.
[292] *Ibid*, pp. 80-82, 98-100.
[293] *Ibid*, pp. 84-88, 90-92.
[294] *Ibid*, p. 108.

nature, although this was an argument also made by Presbyterians.[295] Schism, the religious crime usually seen as a spiritual sin, was explained by Stillingfleet in terms of natural law.[296]

Although any of these arguments may in themselves have been innocuous, presenting all of them together suggested that the Church was almost a purely natural society. A natural society was thought to be one derived from natural law, while a supernatural society was founded upon, and governed by, revelation. Although Stillingfleet did not actually make the claim that the Church was a purely natural society, his analysis within the *Irenicum* came close to this position. Stillingfleet's contemporaries held certain beliefs about what types of organization could constitute a society and in what circumstances a society could be described as natural. It was thought that societies must be presided over by a law-making power with the ability to inflict punishments. Stillingfleet's description of ecclesiastical society suggested that the Church's laws and punishments were all derived from the natural law, rather than the revealed law, and were dependent on the civil magistrate, whose powers Stillingfleet associated with nature. Consequently, it appears that Stillingfleet was accused of annihilating the Church as a supernatural society, founded upon revelation, and of melting it down into the state. In 1662 Stillingfleet had to publish an appendix to the *Irenicum*, dealing with the Church's power of excommunication, denying he thought the Church was a purely natural society, and affirming that it was founded upon positive revelation.[297]

The offending arguments about the nature of Church society, within the *Irenicum*, appear to have been drawn from Grotius's Erastian *De Imperio*. As we have seen, Stillingfleet had read *De jure belli* and had quoted Grotius's definition of natural law. However, he disagreed with the implications some had drawn from Grotius's views, and had refused to endorse the idea that Christ had brought new moral precepts. Stillingfleet's debt to Grotius is far more noticeable when *De Imperio*, rather than *de jure belli*, is examined. It was *De Imperio* which Stillingfleet quoted on the front of the

[295] E. Stillingfleet, *Irenicum*, pp. 126-132; Anon, *Jus divinum regiminis ecclesiastica*, pp. 11.
[296] *Ibid*, pp. 106-110.
[297] E. Stillingfleet, *A discourse concerning the power of excommunication in a Christian church, by way of appendix to the Irenicum*, (London, 1662), pp. 1-8.

Irenicum. *De Imperio* was a response to the disputes between the Calvinists and Remonstrants within the United Provinces and was a strongly Erastian defence of civil power in religious affairs. *De Imperio* enjoyed a certain degree of popularity among Anglican divines, eager to counter Catholic and Presbyterian arguments. It was first published in 1647, but was written much earlier in the 1610s when Grotius's Arminian faction was threatened and eager for the support of the state. An Anglican minister, Clement Barksdale (1609-1687) furnished the country with an English translation in the 1650s and the work became widely known.[298] Like the *Irenicum*, *De Imperio* was sometimes thought to call into question the idea that the Church was a society independent of the state. Grotius had argued the human magistrate had as much power in spiritual affairs as he had in civil matters, and he had denied that the clergy functioned as law-makers for the Church, or constituted its government.[299] Grotius's book had also covered a number of the issues raised in Sanderson's *Ten lectures*. Grotius's discussion of the ultimate end of the state was similar to Sanderson's and referenced Aquinas.[300]

In *Irenicum* Stillingfleet was especially attracted to Grotius's ideas about the nature of Church society, and its relationship with the state. Crucially, for Stillingfleet's purposes, Grotius urged that the Church, as a society, depended on the state for certain functions, such as law-making, essential to all societies. As we have seen, for Grotius the pastors of the Church were not law-makers. They possessed no powers of government, but only had the ability to declare existing divine laws. In *De Imperio* the Church was compared to a teacher or a doctor, who had authority to impart counsel to a ruler, but could not make law. The Church was thus not a real legislative power at all, and that made it questionable whether it was a real society if it was divorced from the state.[301] Grotius hinted it was possible to see the Church as a voluntary association, with some means to

[298] M. Barducci, 'Clement Barksdale, Translator of Grotius: Erastianism and Episcopacy in the English Church, 1651-1658,' 25, *The Seventeenth Century*, (2010), pp. 265-280.
[299] H. Grotius, *Of the authority of the highest*, pp. 64-66.
[300] *Ibid*, pp. 10-14; D. Nobbs, *Theocracy and Toleration: A Study in the Disputes of Dutch Calvinism 1600-1650*, (Cambridge, 1938), pp. 58-91.
[301] H. Grotius, *Of the authority of the highest powers*, pp. 59-70.

enforce collective decisions, but he distinguished this from a society possessing a proper lawmaker. The reason for this state of affairs, in Grotius's opinion, lay in the fact that the Church lacked the means of physical compulsion. For laws to be true laws, they needed to be attended with physical penalties. Therefore, because a Church lacked the ability to use physical compulsion it would never be a political society in a strong sense. Legislative power in human societies came through the law of nature, rather than the revealed law, because only under the law of nature was it possible to punish people with physical penalties. Consequently the civil magistrate was the Church's lawmaker.[302]

In the *Irenicum* Stillingfleet broadly adhered to this analysis. Like Grotius, Stillingfleet insisted that the Church had no capacity for making laws. The Church could declare existing divine law but could not make indifferent things obligatory to perform or forbear (this power was reserved to the civil magistrate). Stillingfleet thus distinguished the Church from an authoritative and 'architectonic' power (the magistracy), which could make new laws, calling it a declarative power, which only declared existing laws.[303] Like Grotius, Stillingfleet's reasoning for these claims was based on the idea that all law had to be annexed to punishment. For the voluntarist Stillingfleet all laws not only had to derive, in some way, from the will of the lawgiver, but that lawgiver also had to be capable of punishing his subjects for the breach of his laws. As the Church lacked physical coercive power it was incapable of making binding laws.[304] Excommunication, being a purely spiritual punishment, could not provide the Church with the authority of a lawmaker. Therefore only the civil magistrate could make laws for the Church, and this was to be done under the authority of the law of nature. For Stillingfleet's critics, the fact the Church possessed no effective law-making power brought into question its claim to be real society at all. That its legislator drew his power not from revelation but the law of nature suggested that the Church, as well as being hard to separate from the state, was also a natural society.

[302] D. Nobbs, *Theocracy and Toleration*, p. 68.
[303] E. Stillingfleet, *Irenicum*, p. 45.
[304] *Ibid*, pp. 48-50.

These charges against Stillingfleet do not appear to have been published (it is likely that they lay behind Stillingfleet's publication, in 1662, of the *Appendix*) at the time of *Irenicum's* initial publication but criticism became more direct in the 1680s. One of Stillingfleet's most articulate opponents was the high churchman and future non-juror Simon Lowth (1636-1720), who wrote *Of the Subject of Church Power* in 1685 as part of an attack on latitudinarians in the Church. Lowth focused on Stillingfleet's description of ecclesiastical society and criticized Stillingfleet's claim that a political society needed a power of physical punishment. Lowth identified this argument with both John Selden and the 'great Grotius' (who Lowth blamed for making the Church hated).[305] As Lowth explained, Stillingfleet, and his 'mentor' Grotius, believed that the Church only became a society when it was incorporated into the state by the magistrate. This was so, in Lowth's opinion, because for Grotius and Stillingfleet a real society had to have the power to punish, and no one but the civil ruler had the power to inflict physical punishment for transgression.[306] For Grotius and Stillingfleet, excommunication, the usual candidate for a specifically ecclesiastical punishment, could not really be regarded as a proper punishment because it was supernatural. Lowth thought that by insisting societies needed laws and punishments, but denying any non-natural punishment could exist, Stillingfleet and Grotius were denying that there could be a supernatural society at all. In response Lowth insisted that excommunication was a real punishment, such that it allowed the Church to be a society without the state, both before and after Constantine. For Lowth a supernatural power of punishment was perfectly comprehensible and not all coercion had to be natural.[307] The Church was thus a real political society, held together not by the civil magistrate but by its bishops, who were empowered by Christ both to make laws and hand down punishments in support of those laws

In the appendix to the *Irenicum*, written in 1662, Stillingfleet had vigorously denied that his theory led to the conclusions Lowth later drew from the work. In the appendix Stillingfleet claimed

[305] S. Lowth, *Of Church power*, (London, 1685), p. 197.
[306] *Ibid*, pp. 211-212.
[307] *Ibid*, pp. 30-31, 152.

that the Church was indeed a supernatural society, founded upon revelation and positive, rather than natural law. Yet the very fact Stillingfleet needed to make such arguments, in the appendix, showed that the *Irenicum* had at least appeared to shift the Church too much towards being a purely natural society. Stillingfleet had certainly detected unease amongst his fellow churchmen following the publication of *Irenicum* but there was no substantial backlash against his attack on the divine right of bishops. This situation did not endure, and in the 1680s, when another edition of *Irenicum* was printed, Stillingfleet's naturalism was called into question.

Conclusion

As of 1659, when the *Irenicum* was first published, Stillingfleet had gone further than anyone within the Church in trying to justify conformity through the appeal to nature. The nation's religious problems, Stillingfleet thought, could only be resolved if the sphere of revelation was pushed back and people recognized that the magistrate was empowered by natural law to bring about a settlement. To achieve this Stillingfleet had restated Hooker's argument for conformity from the mutability of revealed positive law, and cast doubt upon all forms of Church government that relied upon a supernatural warrant. The essential elements of Aquinas's natural law theory which had underpinned Hooker's argument, such as the derivation of natural law from eternal law, remained at the heart of *Irenicum*.

However, despite similarities there were a number of differences between Hooker and Sanderson, on the one hand, and Stillingfleet, on the other. Both the *Laws* and the *Ten lectures* had relied very explicitly on scholastic philosophy, and on the *Summa* in particular. Stillingfleet's debt to Aquinas was far less obvious. The teleological approach of the *Laws* was absent from the philosophy of the *Irenicum* and Stillingfleet did not quote Aquinas or comment on questions raised in the *Summa* like Sanderson had. Stillingfleet's influences, with regard to questions of natural law, were also rather more recent, including Grotius, Selden and (probably) Cudworth. *Irenicum* also went much further than Hooker and Sanderson in emphasizing the importance of natural law to the very

being of a Church. Stillingfleet's detailed description of all the aspects of Church organization which could be derived from the law of nature was unusual and his view of the Church, which was influenced by his reading of Grotius, more overtly naturalistic than that of Hooker and Sanderson.

Stillingfleet's arguments were dependent on there being a strong division, at a metaphysical level, between natural and positive law. As we have seen, in the Seventeenth Century there were resources in the natural law tradition which allowed this division to be denied or downplayed. In the *Irenicum* Stillingfleet rejected the idea that there were new Christian duties, or that the natural law could change, in order to enable the civil magistrate to determine matters of public worship and to bring about religious peace. Stillingfleet recognized that connecting aspects of public life, like worship, to the inscrutable divine will, restrained the ability of the magistrate to bring peace and order. Subjecting the public sphere (including the Church) to the immutable dictates of the divine nature, on the other hand, allowed religious uniformity, and peace, to be maintained. In the *Irenicum* Stillingfleet showed that by thinking about the properties of natural law, and the knowledge which could be derived from it, a strong natural sphere of magisterial authority could be created, which could uphold the peace and security of society.

Chapter Five: Charles Wolseley and Religious Liberty

In previous chapters we have seen that some Anglican writers thought an exploration of the importance of natural law, and the role of reason, could justify religious conformity and confute dissent. This chapter examines another aspects of the importance of natural law, and its distinction from the supernatural law, to the debate about toleration. Here it is argued that a number of writers came to see grounding a theory of toleration upon the distinction between nature and grace as useful and necessary. These writers were primarily religious Independents, who believed in a large degree of autonomy for individual Churches. They included Francis Rous (1580-1659), Jeremiah Burroughes (1601-1646), Philip Nye, John Owen (to a degree) and, above all, Sir Charles Wolseley (1629-1714). For Wolseley, liberty of conscience was a right consequent upon human depravity and the need for supernatural aid. By nature there was no right to religious liberty, but humankind's natural deficiency in religious matters could create such a right. Consequently the power of the magistrate in religious matters was bounded at the limits of the light of nature.

Initially this chapter suggests that there was a theoretical problem inherent in the argument for liberty of conscience that made founding toleration on the demarcation between nature and grace helpful. Recent work on the nature of requests for toleration in the 1640s and 1650s has stressed how many proponents of religious liberty wanted some form of godly discipline imposed throughout society.[308] Coffey and Davis have argued that Puritans could see liberty of conscience as the freedom to follow God's law more thoroughly. As a consequence, those requesting liberty of conscience could sometimes be stricter in terms of moral and religious discipline than writers supporting the authority of the state in ceremonial matters.[309] Writers like Owen and Wolseley did

[308] A. Zakai, 'Religious Toleration and Its enemies: The Independent Divines and the Issue of Toleration during the English Civil War,' *Albion*, 21, (1989), pp. 1-33.
[309] J. Davis, 'Against Formality: One Aspect of the English Revolution,' 3, *Transactions of the Royal Historical Society*, (1993), pp. 265-288; J. Davis, 'Religion and the Struggle for Freedom in the English Revolution,' 31, *HJ*, (1992), pp. 507-530; J. Coffey, 'Puritanism and Liberty Revisited: The Case for Toleration in the English Revolution,' *HJ*, 41, (1998), pp. 961-985; B. Worden, 'Toleration and the Cromwellian Protectorate,' in W.J. Sheils, ed, *Persecution and toleration*, (Oxford, 1984), pp. 199-233; J. Coffey, *Persecution and Toleration*, pp. 53-56; B. Coward, *The Cromwellian Protectorate*, p. 59.

call for the state to inculcate moral virtue among the citizenry, but found it hard to balance this request with their plea for liberty of conscience. This created the need to find a justification for a form of limited toleration. Granting the magistrate a power over the law of nature, and founding toleration on mankind's need for grace and revelation, was one important way writers tried to solve this problem.

This theoretical problem within the argument for religious liberty was first confronted in England in the 1640s. It was in that decade that some Independent writers began to suggest the argument for liberty of conscience based on the distinction between nature and grace. This chapter traces that argument through from the circumstances of the 1640s into the Restoration period. It concludes with an examination of the most thorough proponent of the view that the magistrate's power over religion was bounded at the limits of natural light: Sir Charles Wolseley.

The Theoretical Problem

Anglican apologists like Sanderson and Taylor had discussed the meaning of liberty of conscience, and the role of the state, in their works of casuistry and their writings suggested that there might be a theoretical problem with the argument for liberty of conscience. Toleration, in one form or another, was frequently requested on the grounds that the nature of conscience, as a faculty, demanded it. Yet Sanderson, and all other casuists, knew that conscience was an index of all human duties, both natural and supernatural. Therefore, asking for a freedom of outward action in matters of conscience did not just mean a freedom in certain areas of religious practice. It could mean a liberty for all matters of conscience. As a consequence, liberty of conscience threatened to enervate magisterial power altogether, precisely because it would have to include all matters of conscience under its purview. A number of prominent foes of religious toleration pointed out this problem.

John Locke's *First Tract* on Government (which was influenced by Sanderson's *Ten lectures*) argued that liberty of conscience, taken in the usual sense, ought to lead to complete exemption

from all magisterial authority.[310] Hooker's critic, the Presbyterian writer Samuel Rutherford made the same argument. In Rutherford's opinion any argument drawn from the nature of conscience, which asserted that the conscience had to be left at liberty, applied as well to murderers as it did to religious dissenters.[311] In the Restoration period, Anglican writers used the same argument. In his book, *Christian Loyalty* (1679), the Anglican conformist, and anti-resistance theorist William Falkner (d. 1682), stated the problem with brutal simplicity. Falkner noted that proponents of liberty of conscience argued that, 'every man hath a conscience … and that what he thus discerns to be his duty he ought to practice, and no man ought to hinder or restrain him: and the consequence of this is, that concerning the affairs of religion, he ought to be under no government …'[312] As Falkner pointed out, conscience informed people about all of their duties, whether those duties were to God, themselves, or their neighbour.[313] To demand that conscience be set at liberty therefore enervated all obedience to the magistrate, because it was obvious that people's consciences had to be restrained in civil matters in order for the state to function. Falkner complained that, 'they who make such use of such arguments [arguments for liberty of conscience] about matters of religion, will be ready to say concerning things civil,' that there had to be a, 'judge to interpose.'[314] In Falkner's mind there was no reason to favour a liberty in religious matters, while insisting other actions ought to be restrained by human authority.

Writers who favoured toleration for certain religious beliefs thus needed to find a reason why conscience ought to be restricted in some areas and not in others. Some found the answer by thinking about the purpose of the state, and asking whether the magistrate made laws only to promote an outward, earthly good, rather than a spiritual end. Falkner suggested that the nonconformist could respond to the dilemma he posed by saying that conscience sometimes

[310] J. Locke, *Political Essays*, p. 23.
[311] S. Rutherford, *A free disputation*, p. 54.
[312] W. Falkner, *Christian Loyalty*, (London, 1684), p. 274.
[313] *Ibid*, p. 276.
[314] *Ibid*, p. 276.

required restraint because men made mistakes about justice and infringed upon property.[315] Falkner was hinting that the state might be said to have a care for outward goods but not for matters pertaining to an eternal, supernatural end. A state only empowered to take care of outward goods could provide a rationale as to why only certain actions were subject to restraint. In this scenario conscience could be felt at liberty providing that people's beliefs and acts of worship did not threaten the peace. This position was adopted by a number of writers in favour of toleration, such as the Calvinist Roger Williams (1606-1683) and, in 1667, by John Locke himself, as well as by some authors who were in favour of national uniformity, like Jeremy Taylor.[316]

However, the alternative view of the state, espoused by Sanderson in *Ten lectures*, was popular. As we saw in the previous chapter, in the scholastic tradition the role of state with regard to the final end of the citizens had been discussed in terms of natural law. According to Aquinas, the magistrate was empowered to enforce the law of nature and had the right to prescribe all virtues and prohibit all vices, in order to make the citizens good. Even if people did not believe that force could convince anyone of a religious truth, they did still believe that the state ought to be a moral pedagogue, and have a concern for mankind's eternal end. This view was encapsulated, in popular discourse, by the claim that the magistrate was *custos utriusque tabulae*, or the guardian of the two tables. This phrase expressed the sense of Sanderson's argument that the magistrate controlled the natural law for the purposes of promoting the virtues prescribed by that law (as opposed to maintaining the peace).

The belief that the magistrate controlled the natural law was widespread and it was the prevalence of this argument which caused some writers in favour of religious liberty to emphasize the spheres of nature and grace. For men who subscribed to Sanderson's vision of the state, demarcating the boundary of the magistrate's authority at the limits of reason and natural light

[315] W. Falkner, *Christian Loyalty*, p. 275.
[316] J. Locke, *Political Essays*, p. 144; R. Williams, *The Bloody Tenent*, pp. 24-25; J. Taylor, *Ductor dubitantium*, p. 573.

could be very appealing. If the power of the magistrate was drawn at the boundary of natural light, then it might be possible to give the magistrate power over all natural matters of conscience, and yet restrict his authority in questions pertaining to supernatural duties. If this idea was accepted, then liberty of conscience did not have to lead to a freedom to perform all sorts of actions, as Locke, Rutherford and Falkner feared. At the same time, the purpose of the state did not need to be restricted to a concern for goods and bodies. The magistrate would still possess the power to promote the eternal end of man, and to impose virtue and repress vice. The right to liberty of conscience would thus depend on men and women having conscientious apprehensions that did not spring from natural light, but from revelation and grace.

Rous, Burroughes, Nye and Wolseley all used the separation between nature and grace to try and solve this theoretical problem. The distinction between nature and grace thus became very important for their argument. Initially their views were put forward in the context of the debate about liberty of conscience which began in the mid-1640s. It is to this debate which we will now turn.

Nature, Grace and the need for a Godly Society

The need to solve this theoretical difficulty by discussing nature and grace, was a problem with its roots in the conditions of the 1640s. In England the debate about liberty of conscience had begun in earnest in 1644. The country was still gripped by Civil War and Parliament's new alliance with the Scottish Presbyterians meant that there was pressure to arrive at a Presbyterian settlement, comprising the terms of the Solemn League and Covenant, in England. This worried those divines who desired more power and authority to be centred in local congregations. The publication of the *Apologeticall Narration* (1643), by a group of Independent divines, including Jeremiah Burroughes and Philip Nye, set the Presbyterian and Independent factions in the Assembly of Westminster Divines against each other.[317] In the *Apologeticall Narration* the Independents, who

[317] M. Watts, *The Dissenters,* p. 65, 99-101.

believed in a large degree of autonomy for individual Churches, asked that orthodox Protestants, who differed from the mainstream in small matters of worship or doctrine, should be left at liberty.[318] The differences in doctrinal matters between the Independents and the Presbyterians were very small but soon the disagreements in the country became more profound.

Owing to the break down in ecclesiastical authority, the number of sects was multiplying. Fearful conservatives, like the Presbyterian Thomas Edwards (1599-1648), catalogued the follies and debaucheries of the sects.[319] Presbyterians and Independents hoped, to varying degrees, that the reorganization of national religious life would not lead to religious and moral collapse but their fears were not allayed by the rise of a set of radical proponents of toleration. Led by the radical Independent John Goodwin (1594-1665), the leveller William Walwyn (1600-1681), and the infamous Calvinist Roger Williams, the radicals argued for a broader religious liberty than the authors of the *Apologeticall Narration* had been contemplating.[320] Williams demanded a toleration embracing pagans, Jews and Muslims, and Walwyn castigated the Independents of the *Apologeticall Narration* for deserting their more radical brethren in the face of the Presbyterians.[321] There thus emerged, roughly, three contending groups, divided about the proper scope of liberty of conscience. The Presbyterians, who desired a uniform national Church with no scope for any liberty outside of it, the Independents who, to varying degrees, wanted a limited toleration for orthodox Protestants, and the radicals, who desired a very broad toleration, usually only excluding atheists and sometimes blasphemers.

The law of nature was more important to this debate than has hitherto been realized. Historians have generally considered the debate to focus on scriptural passages, such as the parable

[318] T. Goodwin, *An apologeticall narration humbly submitted to the honourable Houses of Parliament*, (London, 1643), pp. 23-31; A. Zakai, 'Religious Toleration and Its Enemies,' pp. 4-6.
[319] J. Coffey, 'Puritanism and Liberty Revisited,' pp. 961-985; T. Edwards, *The first and second part of Gangraena*, (London, 1646).
[320] T. Goodwin, *Cretensis: or A briefe answer to an ulcerous treatise, lately published by Mr Thomas Edvvards, intituled Gangraena*, (London, 1646); R. Williams, *The Bloody Tenent, of Persecution, from Causes of Conscience*, (London, 1645).
[321] W. Walwyn, *The Compassionate Samaritane, the unbinding the Conscience*, (London, 1654).

of the Tares and the examples of the Jewish magistrates.[322] Polizzotto argues that from 1646 onwards, when the Presybterians deployed their champions: Thomas Edwards, George Gillespie (1613-1648) and Samuel Rutherford, the argument came to focus almost wholly on scriptural examples. The Presbyterians saw the example of Israel upholding their view that all religious deviancy of any kind ought to be punished, while the radicals pointed to the example of the New Testament.[323]

Yet just because scripture was called in to settle the disputes about liberty of conscience did not mean reason and the law of nature played no role. Indeed, natural law, and its relation to the magistrate, was actually at the heart of the debate. The commands of God to the Israelites might be revealed scriptural knowledge, but they did not legitimize persecution in virtue of that fact. Rather, the example of the Old Testament was only useful because the commands of the law, and the actions of the Jews against idolatry, blasphemy and religious deviancy, were part of the perpetual moral law.[324] One of the most prominent of the Presbyterian writers, Thomas Edwards, was at pains to make this clear in his attack on toleration, *The casting down of the last and strongest hold of Satan* (1647). Edwards argued throughout that the Jewish examples were merely representative of the law of nature. Magistrates had suppressed false worship and idolatry before the levitical and judiciall laws, and the reason behind the Old Testament laws was said to be eternal and immutable. Edwards argued, 'tis the dictate of nature, tis of the law of nature and all Nations to punish for violations in Religion as well as matters of life and goods.'[325] Edwards referred his readers to a brief summary of the leading authors in the natural law tradition, including Ames, Selden and Suarez, indicating agreement with the basic distinction between natural and positive law. The laws against religious deviancy were natural and necessary, he argued, and incapable of abrogation.[326]

[322] J. Coffey, *Persecution and Toleration*, pp. 30-32.
[323] C. Polizzotto, 'Liberty of conscience and the Whitehall Debates of 1648-9,' *JEH*, 26, (1975), pp. 72-74.
[324] G. Gillespie, *Wholesome Severity*, p. 5 Also Rutherford, *A free disputation*, pp. 177-180, pp. 194-196.
[325] T. Edwards, *The casting down of the last and strongest hold of Satan*, (London, 1647) p. 72.
[326] *Ibid*, p. 72.

The Presbyterians knew their attempt to ground persecution on natural law was contested by the radicals. Walwyn, Williams and others repeated a basic axiom held by many tolerationists about the law of nature. One of the law's principle commands, they said was the golden rule, or, 'do unto others as you would be done by.' As no one could desire to be persecuted if he or she were otherwise behaving peaceably, nature spoke against persecution. However, natural law could be written out of the picture in a more expressly theological way. Edwards, Rutherford and Gillespie were well aware of the argument. Edwards noted that the tolerationists claimed the Jewish laws against religious heterodoxy had been, 'abrogated by Christ, the things commanded in these laws belonging to the Jews only, but not to the Gentiles or the Christians …'[327] This abrogation was proven, in the eyes of men like Roger Williams, through typology, a form of biblical interpretation.

As a typologist Williams was interested in the relationship between the Old and New Testaments, viewing the Old Testament as foreshadowing, in a symbolic or allegorical way, many aspects of the New Testament. The New Testament, in turn, fulfilled the types and signs of the Old, superseding and negating them so that aspects of the old dispensation were no longer in effect.[328]According to Williams and his supporters, the intermixture in Israel of secular and ecclesiastical authority that formed the Jewish national Church constituted a foreshadowing of Christ's future spiritual kingdom. The fusion between Church and state in the Old Testament was therefore only an allegory, or a sign, of Christ's purely mystical kingdom which was spiritual without any admixture of the temporal. Physical coercive measures were thus unnecessary and constituted a denial of fulfilment of the Old Testaments' foreshadowing of Christ. This theological vision of the relationship between the two Testaments suggested that the examples of the Jewish magistrates had never been intended to showcase immutable natural laws. [329] William's *Bloody Tenent* thus divorced the magistrate from any control over the natural law and from control of society's morals.

[327] T. Edwards, *The casting down of the last and strongest hold of Satan*, p. 46.
[328] P. Zagorin, *Idea of Religious Toleration*, (Oxford, 2002), pp. 201-202.
[329] R. Williams, *The Bloody Tenent*, p. 130.

Williams argued that human law did not bind the conscience and that the state only had a concern for goods and bodies, not souls.[330]

Although it might appear that the debate between Presbyterians and their opponents focused solely on revealed knowledge, the question of liberty of conscience was deeply bound up with the law of nature and the magistrate's relationship to it. For all the prominence accorded to the Jewish example, the actions of the kings of Israel, according to the Presbyterians, were simply the best pieces of evidence for the dictate of nature. The natural law was thus of some significance in the early debate over liberty of conscience. However, the distinction between natural and supernatural knowledge was not at the heart of either the Presbyterian or radical arguments, and it was not used to defend religious freedom.

However, the emphasis placed on natural law could become the foundation of a middle ground between the extreme positions of the Presbyterians and the radicals. This argument worked by distinguishing the space controlled by the natural law from a supernatural sphere which provided the foundation for liberty of conscience. Such an argument, like that of the Presbyterians, founded the domain of the magistrate, and of authority over conscience, on nature, but it differed in one crucial respect. The Presbyterian writers did not consider that a natural power over religion ought to be bounded at the limits of natural knowledge. In their opinion a magistrate was empowered, under the law of nature, to enforce adherence to doctrines and forms of worship that could only be known supernaturally.[331]

Yet a number of other writers did make the assumption that a power over religion founded on natural law had rather pronounced limits owing to the restrictions of reason (the medium through which natural law was communicated). This doctrine, of a magisterial power over religion, founded in natural law, but restricted to matters which could be known naturally, proved capable of

[330] R. Williams, *The Bloody Tenent*, pp. 24-25, 36-39, 54, 61.
[331] S. Rutherford, *A free disputation*, p. 292, 305.

reconciling the dilemma posed by Falkner and Rutherford. In the 1640s the most prominent work to articulate this version of religious liberty was *The ancient bounds*, *or Liberty of conscience tenderly stated, modestly asserted, and mildly vindicated* (1645). *The ancient bounds* was published anonymously but the author was probably the Parliamentarian Francis Rous. Rous was John Pym's (1584-1643) stepbrother, a reformer and something of mystic, who was intensely critical of the Laudian regime. Rous was a member of Parliament from the 1620s onwards and took part in Parliamentary attacks against Arminianism. During the Civil War he was a member of the Westminster Assembly.[332] Although Rous is sometimes regarded as a strong Presbyterian, his published works consistently show him advocating a tolerance for disagreements on points of Christianity he deemed non-essential.[333] Rous later accommodated himself with the Cromwellian regime, being elected speaker of the Barebones Parliament.

From the beginning, *The ancient bounds* explicitly recognized that the question of religious liberty was bound up with mankind's dual knowledge of God. It began by stating that Christ possessed a two-fold kingdom in the conscience, founded in nature and supernature. According to Rous, 'Christ Jesus, whose is the kingdom … both in Nature and in grace hath … his great kingdome of the world … and also his special and peculiar kingdome the kingdom of Grace …'[334] *The ancient bounds* took nature and grace as its focus because Rous was aware that the various difficulties inherent in his plea for liberty of conscience made a discussion of nature and grace useful.

Initially Rous urged that as conscience was inviolable, and God's own seat in the human understanding, it ought to be left at liberty.[335] Yet Rous realized this left the individual too much liberty, given that conscience was an index of natural, in addition to religious, duties. At one point Rous suggested excluding from the very definition of conscience anything concerning the light of

[332] Colin Burrow, 'Francis Rous,' *ODNB*.
[333] J. Sears McGee, 'Francis Rous and 'scabby or itchy children': The Problem of Toleration in 1645,' *HLQ*, 67 (2004), pp. 401-422; S. Mortimer, *Reason and Religion*, pp. 186-188.
[334] *Ibid*., p. 1.
[335] F. Rous, *The ancient bounds*, *or Liberty of conscience tenderly stated, modestly asserted, and mildly vindicated*, (London, 1645), p. 2.

nature, so that conscience as a term pertained solely to religious affairs. Rous argued, 'if we keep but to this terme Conscience; first all vitious and scandalous practices, contrary to the light of nature, or manifest good of societies, are cut off, not to trouble us in this matter, as deriving themselves not from conscience, but a malignant will …'[336] However, Rous did not sustain this position. Elsewhere in *The ancient bounds* he was clear that conscience comprehended all natural and supernatural duties.[337]

Rous therefore needed to provide a reason why conscience should be at liberty in some matters and not in others. Arguing that the magistrate was confined to securing outward peace and tranquillity was not an option available to Rous because, like Sanderson, he wanted the magistrate to promote morality and religion. Rous argued that political society existed to promote the morals of the citizens, especially in so far as this made them more receptive to gospel truths. Rous argued that:

> the Magistrate helps the Ministry … by taking cognizance of all moral vices, and it is in their part not to commend onely, but to command a good moral conversation of their subjects ... Princes make vertue easie, while they both urge it with their example, and drive men to it by fear and punishment ...[338]

Some of these moral virtues and laws related specifically to religious affairs. Rous therefore turned to the division between nature and grace in order to defend a limited tolerance for orthodox Protestants, while supporting magisterial control over religion and morals. Rous went on to limit the magistrate's power at the boundary of the natural realm. For Rous, the magistrate could only go as far, 'as Nature carries the candle before him.'[339] In Rous's opinion a magistrate needed no special illumination, or gift of grace, to know that atheism and polytheism were wrong. As Rous explained, these matters were, 'that which a Heathens light should not tolerate, nature carrying so far ...'[340] The

[336] F. Rous, *The ancient bounds*, p. 2.
[337] *Ibid*, p. 1.
[338] *Ibid*, pp. 2, 6.
[339] *Ibid*, p. 7.
[340] *Ibid*, p. 7.

corollary was that the magistrate, while possessing a duty to curb vice, enforce moral duties, and guard the proper observance of the religious duties first table, could not interfere in purely supernatural matters. According to Rous, 'supernatural gifts, as illumination, speciall or common,' were required to enable men and women to have the right religious attitudes towards actions outside of the sphere of nature. Princes could command virtue, and the observance of the first table, but could not command religious actions in so far as those actions depended on grace. According to Rous, 'to make a man of this or that judgement or opinion; or faith, to make a man of this or that practise in Religion, may not be required by the Civil Magistrate; it may be perswaded, induced by exhortation, example ... and that's all ...'[341]

For Rous therefore, conscience itself did not rightfully possess a liberty: only the enlightened conscience of the man or women in the mystical supernatural kingdom of Christ did. The products of the enlightened conscience had to be set free from the power of the magistrate because his authority was founded in the natural kingdom. In this way Rous both avoided the problem thrown up by the idea that conscience was an index of both natural and supernatural duties, whilst still adhering to the notion of state as moral pedagogue. This solution was not wholly satisfactory for Rous because there were still some dangerous heretics in England, like the Arians and the Socinians, whose beliefs were not necessarily contrary to natural light. The Arian belief that the Son was inferior to the Father, and the Socinian denial of the divinity of Christ and vicarious redemption of mankind, represented attacks on specific supernatural doctrines, yet Rous wanted them prohibited. The way Rous tried to solve this problem showed the great weight Rous laid on the notion that coercion was confined to matters belonging to the natural kingdom. Rous argued that in Christian countries the belief in the orthodox Trinitarian view of Jesus was so frequently taught, that it ought

[341] F. Rous, *The ancient bounds*, p. 6.

to be regarded as a natural belief. Rous claimed that it became like a second kind of nature through education.[342]

Jeremiah Burroughes was another Independent who used the distinction between nature and grace to support the idea of a limited toleration for specific religious differences, while favouring regulation of the fundamentals of religion and the imposition of moral virtue. He had been a nonconformist in the early reign of Charles I but had migrated to Holland after losing his living. He returned at the beginning of the troubles to promote the independent cause and was one of the authors of the Independent *Apologeticall Narration*. He had tried hard to prevent the proposed system of Presbyterian control over individual churches. His writings on toleration, like *The ancient bounds*, therefore represent the voice of the Independent party.[343] In his work of 1646, *Irenicum*, Burroughes tried to create space for tolerance between Presbyterians and Independents by attacking what he saw as illegitimate grounds for divisions in the Church. However, Burroughes also believed that the Presbyterians had to be made to see that their demands for a strict uniformity were not reasonable, and were the cause of division.

Like Rous, Burroughes grounded his request for religious liberty on respect for conscience as a faculty, but he was aware of the dangers that setting conscience at liberty could bring. Burroughes did not want the power of the magistrate to protect peace and property to be enervated. He also thought, like Sanderson and Rous, that the magistrate had a duty to uphold the right religion and suppress offences against the first table as well as the second, as the guardian of the moral law. Like Rous, Burroughes made this idea compatible with the view that the magistrate ought not to intervene in specific disputes about ceremonies and Church worship by basing the civil ruler's power in nature, and the liberty desired by the Independents in supernature. In the *Irenicum* Burroughes talked of two great lights that God had created to rule men's apprehensions. The scriptures were like

[342] F. Rous, *The ancient bounds*, p. 8.
[343] Tom Webster, 'Jeremiah Burroughes,' *ODNB*; M. Watts, *The Dissenters*, pp. 64-65, 98-101.

the sun, and governed spiritual affairs, while the natural law was the moon, which regulated civil and natural matters.[344]

Burroughes defended magisterial control over basic aspects of religion by arguing that the power of the civil ruler over religious affairs was natural. Burroughes argued, 'It is the Dictate of Nature, that Magistrates should have some power in matters of Religion …'[345] According to Burroughes, the magistrate was only to remove evil in society if that evil was natural.[346] Burroughes argued that the 'power that God hath given the Magistrate is but for a natural help at the most, and therefore it can go no further then to help us in a natural way, to doe what we are able to doe by a natural power …'[347] Spiritual matters, for Burroughes, were beyond natural power, and could not be altered by physical force but only by supernatural grace. Unlike natural knowledge, supernatural knowledge, concerning spiritual matters, was highly variable, because God chose to enlighten some consciences and not others. According to Burroughes:

> as God causes his rain to fall upon one field, and not upon another: and as the wind blows where it lists, so are the workings of the spirit of God among men. Although he reveals to all his Saints whatsoever is necessary to Salvation, yet for other truths, a man of eminent parts shall know one, another of weaker shall know another …[348]

For Burroughes this variability of supernatural knowledge justified leaving orthodox Protestants liberty in certain matters of Church government and discipline as no one could claim clear and certain knowledge of disputed supernatural matters. Therefore, Burroughs, like Rous, argued that coercion in matters of religion could only be undertaken in the natural sphere, where everyone enjoyed, more or less, the same degree of knowledge.

[344] J. Burroughes, *Irenicum*, p. 97.
[345] *Ibid*, p. 23.
[346] *Ibid*, pp. 71-72.
[347] *Ibid*, p. 72.
[348] *Ibid*, p. 91.

The argument for a limited toleration based upon natural law was repeated in the Restoration period by two conservative Independents, Philip Nye and John Owen. Philip Nye, like Burroughes, was one of the authors of the *Apologeticall Narration*.[349] Nye was bitterly disappointed at the Restoration, when hopes for toleration for gathered churches were crushed. Like Rous and Burroughes, Nye's ideas about the proper limits of toleration involved nature and revelation. Nye thought orthodox Protestants who disagreed about Church government and minor matters of worship could tolerate each other, but ought to use force to uphold basic Protestant beliefs and promote morality in society. Nye's most detailed defence of limited toleration was made in *Beames of former light*, a response to the prospect of the prohibition of Independency in 1660.[350]

Beames was a plea for Christian charity in inessential matters of worship and Church government. Nye was well read in the debate between nonconformists and the Church's apologists, and he frequently referenced texts and writers from the very beginning of the controversy over set forms of worship and Church government. *Beames* quoted Thomas Cartwright, the Admonition, William Bradshaw and William Ames in support of its anti-formalism.[351] Nye also criticized Hooker and engaged with the philosophical aspects of the debate, discussing Aquinas's definition of indifferency.[352] Nye could not subscribe to the Book of Common Prayer because he objected to the principle of nationally determined forms of worship, believing that the concept impugned the sufficiency of the scriptures, and implied the legal forms were necessary to salvation. Yet Nye was also unequivocal that the magistrate ought to be seen as *custos utriusque tabulae* and, like Rous and Burroughes, believed that the magistrate ought to promote the moral law.[353] In order to defend the sort of toleration he wanted, Nye turned to the distinction between nature and revelation at the very beginning of *Beames*.

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[349] R. Paul, *The Assembly of the Lord: Politics and Religion in the Westminster Assembly*, (Edinburgh, 1985), p. 297.
[350] S. Mortimer, *Reason and Religion*, pp. 191-194.
[351] P. Nye, *Beames*, pp. 17, 23, 140-141.
[352] *Ibid*, pp. 36-37, 67.
[353] *Ibid*, p. 1.

Nye argued that the magistrate's power was bounded at the natural, and that because worship was so closely connected to revelation, there were aspects of religion that the magistrate had no control over. For Nye, this could be seen by considering the Ten Commandments themselves. Nye thought the magistrate, as guardian of the two tables, could enforce the whole moral law, but that he lacked the ability to specify the general precepts of the first table (which concerned religion) into actual laws. Therefore, although the magistrate could prohibit idolatry or atheism, he could not make laws about how God should be worshipped, beyond what could be very directly deduced from the first table. According to Nye:

> The Magistrate, whether Christian or Heathen … is custos utriosque tabula … Yet with this difference, in second Table duties, hee hath liberty to create or make Laws de novo, such as were never Laws or in being before he created them … But not so in duties of the first Table …[354]

Nye's remark about making laws *de novo* likely referred to the notion that human laws were specifications of the more general precepts of the law of nature. The idea came from Aquinas and was elaborated upon, in the Seventeenth Century, by casuists like Taylor. Taylor pointed out that while the natural law prohibited murder, it was up to the human magistrate to specify exactly what murder was, and what the punishment for it ought to be.[355] In *Beames*, Nye was arguing that the civil ruler could only make specific the general precepts of the second table. Therefore magistrate could not derive human laws from the precepts of the first table, which pertained to religious duties. For Nye this was because worship was too closely connected to revelation and the supernatural sphere. As Nye explained:

> all Laws necessary for the managing of the worship of God and his spiritual kingdome are from himself, who onley knows himself, and what will be for his honour and the edification

[354] P. Nye, *Beames*, p. 1-3.
[355] J. Taylor, *Ductor dubitantium*, p. 430.

> of his people, upon this account the Lord frequently in the Scripture giveth to Princes … not to adde too, nor take from his Law, or to the thing that seemeth good in their own eies, because though a Christian, yet hee [the magistrate] cannot so wel by his wisdom judge in matters of Piety what is sutable to God, as a Heathen can Judge in matters of Civility what is sutble to a man.[356]

Thus for Nye, although the worship of God was natural (and could therefore be enforced), the power of the magistrate over matters of worship was not equivalent to his control over other moral, or natural precepts. Matters of worship depended on revelation and were therefore specifically under the control of God's positive revealed law. For Nye, only laws derived from the second table could be legitimately instituted by human authorities. The limited liberty of conscience Nye desired was thus justified by the connection between matters of worship and the need for revelation. This allowed certain aspects of religion to be enforced, providing the magistrate did not trespass beyond the bounds of nature.

Like Nye and Burroughes, John Owen hoped that Independents and Presbyterians could settle their differences and agree to tolerate differences between orthodox Protestants in matters of worship and Church government. John Owen was not one of the authors of the *Apologeticall Narration* but he was a leading conservative Independent and one of the Cromwellian regime's most important religious leaders. In the 1640s Owen explained his position in *A Discourse on Toleration* in which he attacked Presbyterian arguments for persecution, arguing that the Presbyterians wrongly saw the Jewish provisions of the Old Testament against blasphemy and unbelief as legitimizing prosecution of heresy and diversity of opinion in Christian countries.[357]

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[356] P. Nye, *Beames*, pp. 2-3.

[357] J. Owen, *A sermon preached to the Honourable House of Commons … With a discourse about toleration, and the duty of the civill magistrate about religion, thereunto annexed*, (London, 1649), pp. 56-65; J. Owen, *Two questions concerning the power of the supream magistrate about religion, and the worship of God*, (London, 1659), pp. 1-7; S. Mortimer, *Reason and Religion*, pp. 220-222.

Following the Restoration, Owen lost his position at Oxford and considered emigration to America. He attended conventicles but in 1667, when the prospect of a relaxation of the Clarendon Code was on the horizon, Owen again put forward his plea for a latitude in the forms of church organization and worship called *Indulgence and Toleration considered*. The book was only short but represented a plea for the kind of national religious settlement Owen had presided over during the years of the Rump and the Protectorate. Owen sketched out the limits of tolerance by invoking the law of nature. Owen argued that ancient Israel had shown that different religious practices were to be tolerated, providing they did not breach the law of nature. Owen was hinting that natural law could provide some sort of demarcation between those actions and beliefs which were to be tolerated, and those which were not. [358]

Owen had cause to elaborate on the importance of nature when the argument of Rous and Burroughes was attacked by one of the Archbishop of Canterbury's chaplains, the infamous Samuel Parker, later to be bishop of Oxford. As we shall see in more detail in a later chapter, Parker suggested very explicitly that the argument about toleration revolved around the distinction between nature and grace. Parker denied outright that grace existed, and concluded that there were therefore no grounds for toleration.[359] Owen responded to Parker in *Truth and Innocence* and made a case similar to that of Rous and Burroughes in opposition to Parker. Like Rous and Burroughes, Owen thought the distinction between nature and revelation (or grace) was crucial for understanding where the boundaries of magisterial power lay in religious matters. Owen thought the light of nature provided objective public knowledge and so its dictates could be promoted by force. So certain was Owen of the veracity of the natural light that he suggested that it was impossible to make a mistake about matters pertaining to natural virtue. Owen argued:

[358] R. Greaves, 'John Owen' *ODNB*; J. Owen, *Indulgence and* Toleration, (London, 1667), pp. 8-10, 12-18.
[359] S. Parker, *A discourse*, pp. 70-72.

> to suppose a Supream Magistrate, a lawgiver, to mistake in these things [moral virtues], in Judging whether Justice, and Temperance, or Fortitude be Vertues or no, and that in their legislative capacity, is ridiculous. Neither Nero or Caligula were ever in danger of such a mis-adventure.[360]

For Owen, this was so because moral virtues depend, 'as to their Being and discovery on the light of Nature, and the dictates of that Reason which is common to all,' which he contrasted with matters depending on, 'pure revelation, which may be, and is variously apprehended.'[361] For Owen, natural knowledge was universal so it could govern the public sphere, while supernatural apprehensions had to be tolerated, owing to their variety. For Owen, divine worship and church government were located in the supernatural sphere and so were outside the power of the guardian of the two tables.

Yet although Owen defended, to a degree, the argument of Rous and Burroughes, he was somewhat equivocal as to whether the state ought to enforce virtue, or whether it was limited to simply maintaining the peace. In a number of his books on toleration, Owen was clear that the state ought to do more than maintain the peace; it also had to promote religion, specifically by repressing false and blasphemous doctrines and work for the spiritual good of the citizens.[362] However, in *Truth and Innocence* Owen did not adhere to this position, perhaps because he felt it countenanced his Anglican opponent.

Instead he endorsed the view of Taylor (and Williams) and argued that magisterial power did not pertain to man's ultimate end, or to any spiritual good, but only to the protection of goods and bodies. Rous and Burroughes had employed the demarcation between the natural and the supernatural in order to justify a latitude in worship alongside magisterial control over moral

[360] J. Owen, *Truth and Innocence*, p. 232.
[361] *Ibid*, p. 232.
[362] J. Owen, *Indulgence and Toleration*, pp. 1-10; J. Owen, *A sermon preached to the Honourable House of Commons*, p. 60, 76.

conduct. However, in *Truth and Innocence* Owen denied the magistrate was empowered to make the citizens good. He argued that:

> the Authority of the Magistrate over men, with reference unto Moral Vertue and Duty, doth not respect Vertue as Vertue, but hath some other consideration … the Power of the Magistrate in respect of Moral Vertues, is … as they relate to humane policy, which is concerned in the outward actings of them.[363]

Owen therefore concluded that the magistrate was master of the two tables, only, 'so far as humane society or public Tranquillity is concerned in them.'[364] As we have seen, Owen, like Taylor, was not consistent on this point. Owen was thus a less consistent advocate of the idea that the limits of toleration were bound up with the law of nature than other Independents, but, at the same time, he defended the argument and sometimes employed it himself.

Owen also stressed the intimate connection between worship and revelation in his critique of Hooker. Owen believed Hooker and his followers wrongly used reason to justify an encroachment by the magistrate on the supernatural sphere of worship. Although the power of the magistrate came from the law of nature, nature and reason could not provide a proper foundation on which to oblige people in most matters of eternal and spiritual concern.[365] On these grounds, Owen objected to the Anglican claim that the magistrate could make binding ecclesiastical laws. Founding such a power on nature, Owen believed, stretched the power of reason too far. Consequently the magistrate could only declare and enforce existing religious laws, drawn from the scriptures or from natural light. This was a vision similar to that of divines like Perkins, Ames and Rutherford, who tied the magistrate's power over religion to the promotion of the common good. It was the opposite

[363] J. Owen, *Truth and Innocence*, p. 238.
[364] *Ibid*, p. 239.
[365] J. Owen, *An enquiry into evangelical churches*, p. 21.

point of view to that of Erastians like Sanderson, who argued the magistrate could do more than enforce already existing laws.

Charles Wolseley

Owen only partially adhered to the argument of Rous and Burroughes, but in 1668 another Independent author clearly and boldly restated the idea that liberty of conscience was bound up with the demarcation between nature and grace. That author was Charles Wolseley. Charles Wolseley has not received much attention from historians interested in the development of the argument for religious liberty but he does feature briefly in De Krey's overview of dissenting cases for conscience in the Restoration period. De Krey distinguished Wolseley from a group of "Churchly dissenters' led by John Owen and Philip Nye arguing Nye and Owen wanted a bigger role for the magistrate than the more tolerant Wolseley. [366] However, Wolseley ought to be regarded as more significant than this. Wolseley's writing showed a strong awareness of the logical difficulties inherent in structuring an argument for toleration if too many of Sanderson's premises about conscience and natural law were assumed. Wolseley's way of solving these difficulties stressed that the boundaries of toleration depended on the demarcation between nature and supernature to a much greater degree than any other writer.

Wolseley's books defending liberty of conscience were published in the late 1660s as a contribution to the debate about toleration and comprehension which occurred at the end of the Second Dutch War.[367] Wolseley hailed from a Royalist family but had escaped embroilment in the Royalist cause on account of his youth and always appears to have held a positive view of religious liberty. Wolseley aligned himself with the Parliamentarian Independents, marrying into the family of the prominent Independent magnate Viscount Saye and Sele (1582-1662). Wolseley's rise was rapid,

[366] G. De Krey, 'Re-Thinking the Restoration: Dissenting Cases For Conscience 1667-1672,' 38, *HJ*, (1995) pp.53-83; See; R. Ashcraft, Revolutionary Politics and Locke's Two Treatises of Government, pp. 50-60; R Greave, " Let Truth Be Free;" John Bunyan and the Restoration Crisis of 1667-1673,' *Albion*, 28, (1996), pp. 587-605; J. Spurr, "Rational Religion" in Restoration England,' pp. 566-570.
[367] J. Coffey, *Persecution and Toleration*, pp. 171-172.

and he was a member of Cromwell's council of state at the age of twenty three. Wolseley thus entered public life in close alliance with forces friendly to some measure of religious freedom. Wolseley was socially conservative and played a role in the fall of the Barebones Parliament but he did prove himself a friend to religious toleration.[368] He was one of the critics of the Protectorate Parliament's decision to punish James Naylor (1618-1660), the Quaker leader, who was said to have blasphemously entered Bristol in imitation of Christ.[369]

However, at the Restoration Wolseley's political career came to an end. He was not in sympathy with the restored Church, or the emerging Clarendon code, and was said to be attending conventicles. In the early years of Charles II's reign there had been a wave of reaction throughout the country in favour of the return of the bishops and the Prayer Book. Many of the gentry saw the Church as a support for the old political order that had progressively collapsed throughout the wars and the Interregnum. As a result of this feeling the new settlement was rather more rigorous than the king and even some of his bishops had hoped or wished for. Over the course of the beginning of Charles II's reign Parliament passed a number of statutes that restricted legitimate worship to services conducted within the confines of the restored Prayer Book, and which punished by fines and imprisonment ministers and congregations who tried to evade these restrictions. Some nonconformists were bitterly disappointed, having held out hopes that the country's religious differences could have been settled. However, for those Independents and Congregationalists like Wolseley, who had never wanted a totally uniform national Church, the largely unsuccessful attempts to ameliorate the terms of conformity at the Savoy House Conference had never offered much prospect of relief.[370] Wolseley himself had withdrawn to his estates.

The opportunity for Wolseley to push for the 'liberty of conscience' he desired came in the mid-1660s. The repressive Church structure that had been restored on Charles II's return had been

[368] B. Coward, *The Cromwellian Protectorate*, (Manchester 2002), p. 103.
[369] Timothy Venning, 'Charles Wolseley', *ODNB*; B. Worden, *The Rump Parliament*, pp. 129-135; B. Coward, *The Cromwellian Protectorate*, pp. 82-85.
[370] J. Coffey, *Persecution and Toleration*, pp. 166-170.

presided over by the Cavalier Parliament, the earl of Clarendon and Gilbert Sheldon, who soon after the king's return became Archbishop of Canterbury. After the king's defeat in the Second Dutch war Clarendon was driven into exile and the members of the Cabal, unlike Clarendon, was not overly favourable to the current structure of the Church and state. The Duke of Buckingham in particular was known to favour a greater measure of toleration, as was Anthony Ashley Cooper (1621-1683), Locke's patron and like Wolseley, an ex-Cromwellian politician. Moves began to be made towards loosening the structure of Church and state.[371] Bills for comprehension and toleration, were prepared for Parliament's consideration. Certain members of the hierarchy, such as John Wilkins, bishop of Chester, went behind the back of Sheldon and made overtures to dissenting leaders.[372]

The debate about 'liberty of conscience' grew more intense and a number of books were published in favour of toleration and comprehension. John Owen and John Corbet (1619-1680) argued for a greater measure of toleration.[373] The Church responded with a campaign in Parliament and the press led by Sheldon and his chaplains.[374] Wolseley himself entered the debate with two works in favour of liberty of conscience, published in 1668. *Liberty of conscience the magistrates interest* (1668) made the pragmatic argument for religious toleration. Wolseley suggested the king could unite all British Protestants in an anti-Catholic front, and urged that he could bring about greater stability by playing off one religious group against another, rather than allowing the state to be dominated by the Church of England. Wolseley thus identified religious uniformity as a restraint on the power of the state. Wolseley's preference was thus for a return to a more Cromwellian system, but one where the Church of England itself was not prohibited.[375]

Wolseley's second and more substantial work was a theoretical justification of toleration. *Liberty of conscience upon its true and proper grounds asserted and vindicated* argued that liberty of

[371] J. Jones, *Charles II: Royal Politician*, (London, 1987), pp. 83-84.
[372] J. Parkin, *Science, Religion and Politics*, pp. 29-32; R. Perrinchief, *Samaritanism revised*, pp. 35-36.
[373] J. Corbet, *A discourse of the religion of England*, (London, 1667).
[374] T. Tomkins, *The inconveniencies of toleration*; R. Perrinchief, *Samaritanism revised and enlarged*, p. 58; S. Patrick, *Friendly Debate*, pp. 61-66, 108, 121-122.
[375] C. Wolseley, *Liberty of conscience the magistrates interest*, (London, 1668), pp. 1-12.

conscience had to be accorded to all religious groups as a matter of right, unless they defied the law of nature or threatened the state. However, Wolseley, like the Independents Rous and Burroughes still wanted the magistrate to be able to uphold good morals and to use force to promote certain aspects of religion. Such a position impelled Wolseley to explain and justify liberty of conscience through a supernatural sphere of knowledge and authority. In doing so Wolseley provided a clear and cogent answer to the dilemma posed by Falkner and Rutherford.

Like many other writers, Wolseley initially suggested religious toleration was necessary on account of the nature of conscience itself. As Rous had argued, conscience as a faculty possessed certain properties which implied a right to religious freedom. Wolseley's definition of conscience was close to the standard account espoused by writers like Sanderson, and Wolseley cited the Puritan William Ames's description of conscience. Conscience was centred in the understanding, and represented God's seat of government in the human soul. Like Aquinas, Sanderson, and most of the commentators on conscience, Wolseley believed an erroneous conscience had to be obeyed, making it always sinful to go against conscience.[376]

Wolseley suggested that the conscience's placement in the understanding, and its unchanging obligatory power, necessitated toleration. Persecution could produce no benefits because it could not change apprehensions and would only produce hypocrites. 'The truth is,' said Wolseley, 'that part of the soul, where faith and conscience is seated cannot be breached by any compulsion; and therefore force reaching but to outward practice there can be no other end of it, but to make us suffer ...'[377] Wolseley therefore concluded that no one ought to be impelled by force to believe any Christian truth, or perform any kind of Christian worship. Wolseley argued, 'no Prince, nor state, ought by force to compel Men to any part of the Doctrine, Worship, or Discipline of the Gospel.'[378] According to Wolseley 'the plainest truths of the Gospel ought not to be inforced upon

[376] C. Wolseley, *Liberty of Conscience upon its true and proper grounds asserted and vindicated*, (London, 1668) pp. 1-2.
[377] *Ibid,* p. 38.
[378] *Ibid*, p. 25.

men, much less those more doubtful and obscure, concerning Discipline and Order ...'[379] No one ought to be forced to adhere to a form of Church government of which they did not approve.

Yet there was a problem with this argument. Wolseley could only progress, logically, from a fact about conscience to the claim for toleration he made if conscience was concerned purely with Christian truth and duties. However, as we have seen, it was not the case that conscience was only an index of Christian gospel truths. Conscience reported on all of humankind's natural duties, in addition to purely Christian duties. Unless the state was limited to a concern for outward goods, arguing from the nature of conscience to a liberty in some specific matters was problematic. Yet Wolseley did not have the option of postulating a state that did not care for religion. Like Sanderson, Rous, Burroughes and Nye, Wolseley argued that the magistrate, under natural law, had a concern for the eternal good of his or her subjects. Wolseley argued that, 'The … Magistrate [is] to instruct his subjects in whatever he thinks for their eternal good ...'[380] This included, for instance, forcing attendance at religious gatherings. For Wolseley the state was a moral pedagogue, as Sanderson had urged, and had an end for its activity beyond facilitating temporal life. Consequently, arguing that actions which did not impact on the peace ought to be left at liberty would not be enough to resolve the question of why some matters of conscience could be coerced, and some could not be coerced.

Wolseley realized that tying the power of the magistrate to nature could solve his problem. Wolseley justified the magistrate's care for his subjects' souls by reference to the law of nature and became convinced that it was the dependence of the Christian religion on supernatural revelation which created an insuperable barrier to the magistrate's authority. In *Liberty of Conscience Upon its true and proper grounds* Wolseley tried to provide a justification for treating supernatural beliefs and actions differently to those which were associated with the light of nature. To achieve this Wolseley stressed the variability of supernatural knowledge in contrast to the universality of natural

[379] C. Wolseley, *Liberty of Conscience*, p. 51.
[380] *Ibid*, p. 47.

knowledge. Natural duties were known to everybody through reason and people did not require any special divine aid or spiritual assistance to understand the moral law properly. It could be safely assumed that everyone's apprehensions of the natural law should be the same. Wolseley argued that, 'All natural and moral relations, belong to men as men, only considered, and not as Christians, and are fully complete and perfect amongst mankind ... without any reference to any Persuasion in Religion, or qualification whatsoever ...'[381] Everyone could be assumed to have the knowledge and power to fulfil the natural law.

Supernatural knowledge, on the other hand, extended people's abilities to understand their spiritual good. Gospel truths were, 'such things as from the beginning of the world eye hath not seen nor ear heard, nor ever entered into any man's heart to conceive of.'[382] People's consciences relied on the special illumination of grace in order to properly apprehend supernatural duties. This was a gift from God, and in his power to withhold or bestow. Wolseley asked his readers to:

> Seriously ponder the wonderful variety there is in that inward divine illumination, afforded to men more or less, as God pleaseth, by which their judgements and consciences are in several measures settled and determined… have compassion upon men severally informed and persuaded … consider, God affordeth divine light severally to them, as he pleaseth. [383]

For Wolseley, these facts justified the power of the magistrate over natural duties, but limited his powers over people's supernatural duties. Wolseley assumed that the magistrate could only promote a civil or spiritual good which could be known universally and objectively. The magistrate had therefore to ground his laws on facts that ought to be perceived by all his subjects. He or she could not expect all the citizens to be able to follow their Christian supernatural duties, because these duties could only be fulfilled through knowledge and strength which was distributed unevenly. Wolseley believed that only supernatural inspiration made people aware of their

[381] C. Wolseley, *Liberty of Conscience*, p. 16, 38-9.
[382] *Ibid*, p. 26.
[383] *Ibid,* p. 26.

supernatural duties. Wolseley therefore concluded that the variability of supernatural knowledge meant, 'we should not force men, that are under the gospel, to anything they believe not for they are great strangers still to every further attainment of knowledge in the gospel till God be pleased to reveal it.'[384]

Wolseley was therefore arguing for toleration on the basis of what he had called, 'inward divine illumination.' As we have seen, Rous and Burroughes had made similar arguments. Burroughes in particular had made it clear that by inward illumination he did not mean knowledge of saving truths, but additional spiritual truths, possibly about matters like Church government. Burroughes had argued, 'he reveals to all his Saints whatsoever is necessary to Salvation, yet for other truths, a man of eminent parts shall know one, another of weaker shall know another …[385]' For some authors such statements could suggest 'enthusiasm,' a spiritual belief lacking rational demonstration, something denounced by Wolseley himself.[386] However, the idea that various gifts and abilities might be bestowed by the spirit, unevenly among believers, was not an unusual belief and was held, among others, by Robert Sanderson. Extraordinary abilities as a preacher, or exceptional faith, were readily attributed to the spirit. The diversity of gifts was emphasized in John Owen's *A discourse concerning the Holy Spirit* (1676). Owen acknowledged that sometimes spiritual gifts, or graces, as they could be called, caused division among Christian communities but argued that their purpose was to edify the Church.[387] This sense that believers had certain abilities bestowed upon them by the operation of the Holy Spirit stood behind the language employed in Wolseley's *Liberty of conscience*, and in the work of Rous and Burroughes.

Thus it was actually not true to say that the properties of conscience as a faculty justified toleration, even though this was how the argument was originally presented. As Wolseley subscribed to Sanderson's vision of the magistrate as a pedagogue in virtue, he had to allow that

[384] C. Wolseley*, Liberty of Conscience*, p. 26.
[385] J. Burroughes*, Irenicum*, p. 91.
[386] C. Wolseley, *The reasonableness of scripture-belief*, p. 83.
[387] J. Owen, *A discourse concerning the Holy Spirit*, pp. 2-6.

even in matters pertaining to people's spiritual and eternal good the state had a right to intervene. Liberty of conscience only existed as a right because supernatural knowledge and power needed to remedy human deficiency and edify the Church was distributed unevenly. There was no room for a liberty of conscience if the magistrate was founding his laws on the law of nature.

Wolseley elaborated upon his views about nature, revelation and grace in a later work entitled *The reasonableness of scripture-belief*. The book itself was an argument for the veracity of the bible and was not addressed to the subject of religious toleration but many of Wolseley's arguments in the work mirrored the ideas in *Liberty of conscience*. Wolseley's starting point, in *The reasonableness*, was the idea that proof of the bible's veracity had to be derived from natural light. For Wolseley inward supernatural illumination, although assuring the believer the bible was true, was essentially private and could not be used to construct an objective proof. Wolseley pointed out that, 'the blessed Spirit is not a common demonstrable Principle amongst Mankind, and so cannot be made use of against those that know no such testimony.'[388] Public proof of Christianity had to proceed on the basis of indemonstrable precepts known to all, and such precepts could only be natural, because only natural precepts were known universally.[389] The logic wasidenticalto Wolseley's argument in *Liberty of conscience*. Supernatural knowledge might be important to an individual but it was not publicly useful in the way natural knowledge was. Lacking universality, supernatural knowledgecould not be used in defence of religion, and could not support a policy of religious coercion either

Wolseley therefore believed that a vindication of the veracity of the bible had to originate from nature. The first proof of the bible's veracity would be the fact that it fulfilled a naturalneed for supernatural knowledge. If nature compelled humankind to an end which nature itself did not provide the means to fulfil, then revelation and supernature could beshown, by nature, to be

[388] C. Wolseley, *The reasonableness of scripture-belief*, p. 80.
[389] *Ibid*, p. 82.

necessary. In the *reasonableness* Wolseley affirmed that man'schief end was an eternal happiness, and that this was achieved via a communion with God which was desired naturally. According to Wolseley, 'Man is a creature designed by his own Faculties for a Converse with the Deity, and by Natural Obligation, Tends to an Intercourse with God.'[390] However, following the fall human nature was so altered that knowledge of this eternal end was all but lost, as was the power to achieve it. Revelation was thus necessary to allow humankind to achieve its natural end.[391] This argument for the veracity of the bible showed that man's ultimate eternal good was itself natural. This view stood behind Wolseley's insistence, in *Liberty of conscience*, that the magistrate could still have a concern for the souls of the subjects, and could use law to promote virtue. As man's ultimate good, was natural, then promoting it fell under the province of the law of nature.

The magistrate did not, therefore, lack responsibility for his subjects' final end but he did lack control over the means to those ends. For Wolseley the human need for supernatural aid and assistance meant that the practice of religion, but not the end of religion, was divorced from the natural sphere. The fall was responsible for this. Wolseley shared the belief of Hooker and Stillingfleet that before the fall religion had been natural both in regard of its ends and its means. Yet following the fall, Wolseley averred, 'the whole means of our recovery is supernatural.'[392] In *The reasonableness* Wolseley illustrated more clearly how the fall had moved the means to the eternal end out of the natural sphere through an analysis of religious worship.

According to Wolseley, following the fall, religious worship had to be governed very directly by revelation, and no longer fell under the law of nature. After the fall, all worship had to be connected to revelation because it now entailed propitiation for the forgiveness of sins.[393] Wolseley believed that it was impossible to know a form of worship was really successful in gaining forgiveness without revelation, because the forgiveness of sin, by God, was not part of the law of

[390] C. Wolseley, *The reasonableness of scripture-belief*, p. 128.
[391] *Ibid*, pp. 110-112.
[392] *Ibid*, p. 139.
[393] *Ibid*, p. 136.

nature but a voluntary act of God. Reason, Wolseley pointed out, did not communicate God's voluntary acts. Wolseley argued, 'No … external Mediums of Worship are founded in Reason, but all in Institution.' Even pagans had realized forms of worship could not be discerned by nature, and so had traditionally always claimed supernatural inspiration for their forms.[394] As Christian belief and worship involved repentance and hopefully forgiveness it depended on divine acts which were not part of the law of nature, but stood outside it. Therefore the magistrate, whose power was only natural, could have no control over worship. Similar arguments had been made by Nye and Owen, who had both contrasted the various apprehensions men might have about matters of worship, which depended upon revelation, with the clarity of the law of nature. Toleration was therefore justified not because the state lacked supernatural bliss as end, but because it was disabled as to the means. For Wolseley, therefore, toleration was a kind of theological right generated on account of the fall and human depravity.

Conclusion

Wolseley's argument represented a logical answer to the dilemma posed by Falkner and Rutherford. Conscience, strictly speaking, was an index of far too many important duties for an argument to ever progress from the nature of conscience to freedom of religious practice. Some means had to be found to restrict the kind of duties which ought to be left at liberty. If the state was supposed to have a concern for man's final end the demarcation between nature and supernature became a logical foundation for a doctrine of limited toleration. Wolseley posited that the right to liberty of conscience was dependent on a supernatural sphere, constituted by revelation and by supernatural aid (or grace).

Wolseley's argument had been made before, by Rous and Burroughes, and in some ways, by Nye and Owen. It was associated with conservative Independents, two of whom, Owen and Wolseley had had high status in the Cromwellian regime. Following Wolseley other writers

[394] C. Wolseley, *The reasonableness of scripture-belief*, pp. 130-134.

continued to draw the limits of toleration on the extent of the natural sphere.[395] In an era that wanted a justification for limited toleration between orthodox Protestants, but for the state to maintain the power to create a godly society, Wolseley's arguments were appealing. However, one consequence of this argument was to turn the debate about liberty of conscience into a discussion about the relationship between nature and supernature. As we shall see in the following chapter, one of the Church's leading apologists, Samuel Parker, believed that he could subvert Wolseley's argument by denying that grace existed.

[395] G. Care, *Liberty of conscience, asserted and vindicated by a learned country-gentleman*, (London, 1689), pp. 1-3, 9-10. T. Beverley, *The principles of Protestant truth and peace*, (London, 1683), pp. 45-79.

Chapter Six: Samuel Parker: Persecution and Natural Law

A year after Wolseley's *Liberty of conscience* was published there appeared a book justifying the persecution of dissent called *A discourse of ecclesiastical politie*. Its author, Samuel Parker, chaplain to Archbishop Sheldon, informed all of his readers that the nonconformists had no case because grace was only an imaginary thing. There is no definitive proof Parker had Wolseley in mind when he penned *A discourse*, but both his timing, and, as we shall see, his argument, suggested that he did. In this chapter we will examine how Parker challenged pleas to religious toleration through his analysis of the distinction between nature and grace. It will be argued that Parker belongs in the tradition of Hooker, in which dissent was held to depend on a mistake about the individual's position within the spheres of nature and grace. However, it will also be shown that Parker's reasons for holding this view differed from Hooker's, and depended on contemporary theological ideas.

Parker's participation in the debate about religious toleration is well known. Yet the ideas in *A discourse of ecclesiastical politie* have seldom been understood. Parker is traditionally seen as an authoritarian, almost Hobbesian, politique. Gordon Schochet has taken this furthest, branding Parker half way between Lambeth and Leviathan and averring that Parker 'basically had no theological position. He was much more concerned with political power and the preservation of stability than with religious principles.[396]'

Recently Jacqueline Rose and Jon Parkin have produced more nuanced accounts of Parker, with Rose stressing the connections between Parker's apologetic and that of the rest of the Church.[397] However, despite interest in Parker his unique contribution to the justification of religious

[396] G. Schochet, 'Samuel Parker, religious diversity and the ideology of persecution,' in R. Lund, ed., *The Margins of Orthodoxy: Heterodox Writing and Cultural Response*, 1660-1750 (Cambridge, 1995), p. 135; G. Schochet, 'Between Lambeth and Leviathan: Samuel Parker on the Church of England and political order,' in Q. Skinner and N. Phillipson, eds., *Political Discourse in Early Modern Britain*, (Cambridge, 1993) pp. 189-208; M. Goldie, 'The Theory of Religious Intolerance in Restoration England,' pp. 333-334.
[397] J. Rose, 'The Ecclesiastical Polity of Samuel Parker, *The Seventeenth Century*, 25, (2010), pp. 350-375; J. Parkin, *Science, Religion and Politics*, pp. 37-45; J. Parkin, 'Hobbism in the Later 1660s: Daniel Scargill and Samuel Parker,' *HJ*, 42, (1999), 85-108; J. Parkin, ''Liberty Transros'd': Andrew Marvell and Samuel Parker,' in W. Chernaik and M. Dzelzainis, eds, *Marvell and Liberty* (Basingstoke, 1999), pp. 269-289.

persecution has been neglected because the genuinely theological roots of his apologetic have remained utterly unknown. In this chapter we will see that, contrary to Schochet, Parker did develop an expressly theological argument for conformity.

Parker and *A discourse of ecclesiastical politie*.

Parker's fundamental hostility to dissent was rooted in his early spiritual experiences. Parker wrote *A discourse* in 1669, about nine years after leaving Oxford University, where, in his undergraduate days, Parker had been a Puritan himself. At Wadham College, which he had entered in 1656, he was a member of an ascetic group, called the 'grewellers,' on account of their diet. His prior education, at Northampton Grammar was likewise said to be Puritan and Presbyterian. After the Restoration, Parker turned against this lifestyle, and ever after he seems to have felt the outmost contempt and revulsion for it.[398] Nonconformist piety, Parker later alleged, was 'inward, and practical and experimental.' Dissenters indulged in empty spiritual exercises, and employed embarrassing phrases and descriptions of their religious experiences. Crucially, Parker believed these practices encouraged conceit and immorality as people allowed their opinions about their own godliness to blind them to the need for moral behaviour.[399] These attitudes coloured all of Parker's writings against nonconformity.

Parker claimed he owed his salvation from his erroneous spirituality to Ralph Bathurst (1619-1704), a fellow and later President of Trinity College. After Parker left Oxford he moved to London and published two short books dedicated to Bathurst in which he rehearsed some of his new ethical and theological principles. Having discarded his youthful Puritanism, Parker now held up pagan morality as superior to the ethics of his old religious compatriots. Christianity, Parker was now convinced, was about the promotion of a good nature and obedience to all the laws of God.[400]

[398] Jon Parkin 'Samuel Parker,' *ODNB*.
[399] S. Parker, *A discourse*, pp. 71-76; S. Parker, *A defence*, pp. 138-142, 307-311; S. Parker, *A reproof to the Rehearsal transprosed, in a discourse to its author*, (London, 1673), pp. 56-60.
[400] S. Parker, *A free and impartial censure of the Platonick philosophie*, (London, 1666), pp. 23-27.

Parker also assailed Calvin and predestination, urging that the justice of God could best be perceived through nature.[401] Under the influence of Bathurst Parker became a committed Anglican, and eventually found employment as one of archbishop Gilbert Sheldon's domestic chaplains in 1667.

Parker's dislike for the immorality he thought Puritan piety entailed convinced him that 'fanatics' and dissenters would plunge the country into war again, if left unchecked. Venner's Fifth Monarchist of 1661 rising preyed on Parker's mind in particular.[402] In the late 1660s the opportunity arose for Parker to blend his ideas about Christianity with his opposition to toleration and comprehension. Attempts to secure relief for nonconformists were made in 1667 following the fall of Clarendon. Sheldon displayed a certain degree of despondency about the Church's prospects, complained about a want of zeal for the penal laws among the magistrates. He was out of favour at court, admitting he had little influence.[403] He asked his chaplains to contribute their polemical skills to the debate, so Parker joined Thomas Tomkins (1637-1675) and George Stradling (1620-1688) in publishing attacks on nonconformity and exhortations to the gentry to enforce the penal laws.[404]

Parker's contribution to Sheldon's campaign, *A discourse of ecclesiastical politie*, was published in 1669, after a number of books about toleration and comprehension had already appeared, including Charles Wolseley's *Liberty of conscience*. Although *A discourse* became rather infamous for its intemperate language, with Parker calling nonconformists, 'wild,' 'brainsick' and a 'rabble,' in Parker's dismay at the lax enforcement of the penal laws one can detect the voice of Archbishop Sheldon himself.[405] Originally *A discourse* was answered by the great Calvinist nonconformist John Owen, in a book published in 1669 called *Truth and Innocence Vindicated*. It was in response to Owen that Parker wrote his defence of *A discourse*, entitled *A defence and continuation of ecclesiastical politie* (1671), which elaborated on his original arguments and revealed

[401] S. Parker, *An account of the nature and extent of the divine dominion and goodnesse*, (London, 1666), p. 18.
[402] S. Parker, *Bishop Parker's History of His Own Time*, trans T. Newlin, (London, 1726), pp. 11-13.
[403] MS Tanner, 44, fo 215.
[404] J. Spurr, *Restoration Church*, p. 48.
[405] MS Carte, 45, fo 151.

some of the theology behind them. Further responses to Parker were forthcoming, most famously at the hand of Andrew Marvell (1621-1678), but also from Owen's protégé Robert Ferguson (d. 1714) and the Presbyterian nonconformist John Humfrey.

Parker, and Sheldon's other chaplains, are held by Spurr to have argued their case principally on secular political terrain, and to have crafted their argument to suit lay concerns, on account of the need to win over Parliament and local magistrates to support for the penal laws.[406] To an extent this is true, but Parker's fears about the disorder that diversity in ceremonial arrangements could cause was genuine and was based on his own experiences as a pious Puritan. Parker repeatedly insisted that religious deviancy, especially of the Puritan kind, was ultimately more destructive of the state than immoral behaviour of a worldlier sort. 'The Vertues of the Godly,' warned Parker, 'are more pregnant with mischief and villany than the Vices of the wicked.' This was so because erroneous religious opinions, in the minds of their adherents, sanctified vices, leading people to 'seriously believe that they approve themselves to God by being refractory and irredeemable in their Fanatick Zeal.'[407] Immoral and profane people usually had no such delusions. To prevent the nation breaking down into feuding sects there was no answer but rigorous enforcement of the penal laws.[408] Like Jeremy Taylor in *Ductor dubitantium*, Parker pointed out that it was religion which had the greatest influence on a society's beliefs and morals. This meant the state could only fulfil its function, which was to promote peace and tranquillity, if the magistrate controlled religion. 'Unless,' argued Parker:

> Princes have power to bind their subjects to that religion that they apprehend most advantageous to the publique Peace and Tranquillity, and restrain those religious mistakes that tend to its subversion, they are no better than Statues and Images of Authority, and

[406] J. Spurr, *Restoration Church*, p. 48.
[407] S. Parker, *A discourse*, p. 17.
[408] *Ibid*, pp. 11-20.

want that part of their power which is most necessary to a right discharge of their government.[409]

Parker's account of the history of the early Church suggested religious zeal was so destructive a force that only coercion could maintain the unity of the Church. According to Parker, the only time the Church had survived without a coercive power was in the Apostolic Age, and then God himself had governed his Church directly, though miracles and infused supernatural aid.[410]

However, *A discourse* and *A defence* also made points about casuistry, philosophy and theology. Parker desired to prove that there was nothing sinful in adhering to the Church's form of worship, but that it was sinful to separate from the Church and to defy its laws. Parker's argument in this respect was a continuation of, and elaboration upon, principal themes in Anglican apologetic. Parker had certainly read *Ductor dubitantium*, although Sanderson's *Ten lectures* are the most likely source for many of Parker's views.[411] Parker identified the 'very Mystery of Puritanism' as the belief 'That nothing ought to be established in the Worship of God, but what is authorized by some Precept or Example in the Word of God …' Parker condemned this 'strangely wild and humoursom precept' and asserted the Anglican fundamental, laid out in the *Ten lectures* and *Ductor dubitantium*, that the magistrate had absolute power to make laws, both civil and ecclesiastical, over all matters left indifferent by the divine laws of nature and revelation.[412]

For Parker, like Sanderson, human laws and their power over the conscience were at the heart of the Church's case. Parker spent much of *A discourse* and *A defence* asserting the power of the magistrate, in conscience, above all other human authorities. Like Sanderson and Taylor, Parker argued that all human laws bound the conscience, quoting Taylor's opinion on the subject directly.[413]

[409] S. Parker, *A discourse*, p. 12.
[410] *Ibid*, pp. 30-40.
[411] J. Parkin, *Science, Religion and Politics*, pp. 38-40.
[412] S. Parker, *A discourse*, pp. 174-175.
[413] *Ibid*, pp. 59-60; J. Taylor, *Ductor dubitantium*, p. 431.

The Roman Catholic Church was principally responsible, in Parker's mind, for people's opposition to the obligatory force of human law. 'Our Church Dissenters,' complained Parker:

> Out of abhorrency to the Papal Tyranny and Usurpation upon mens understandings, never think the liberty of their conscience sufficiently secured, till they have shaken of all Subjection to Humane Authority: and because the Church of Rome by her unreasonable Impositions has invaded the Fundamental Liberties of mankind, they presently conclude all restraints against licentious Practices … under the hated name of Popery.

Yet, as Parker was at pains to point out, if the individual conscience was set against the law of the magistrate the state would fall, because there could not be two supreme powers in the land. People had to be made to see they were obliged, in conscience, to do everything the magistrate might command, unless he went against the express laws of God. Like Sanderson, Parker recognized that at the heart of this controversy was the nonconformist claim that certain 'improper binders of conscience,' like oaths, or the sin of scandal, overrode the obligation of men and women to obey the magistrate.[414] Parker, like Sanderson, was convinced human laws took precedence over all improper binders of conscience. Parker noted that the two divine laws of nature and revelation informed men and women of what was good and evil, but that some thought there were, 'other accessional Reasons of Good and Evil, that arise from the apprehensions of the Minds of Men concerning them.' One of these 'accessional Reasons' (Parker's term for an improper binder of conscience) was scandal and Parker averred, like Sanderson, that human laws outranked scandal as a binder of the conscience. For Parker, 'Commands of Authority abolish all the Pretences, and supersede all Obligations of Scandal.'[415] Parker also adopted Sanderson's definition of 'liberty of conscience' in order to refute nonconformist claims that human laws constricted the freedom of conscience.[416]

[414] S. Parker, *A discourse*, pp. 250-280.
[415] S. Parker, *A defence*, p. 235.
[416] S. Parker, *A discourse*, pp. 87-100; R. Sanderson, *Ten Lectures*, pp. 111.

Parker also made Sanderson's distinctive argument about the scope of the obligatory power of human law. Parker argued that subjects were only entitled to disobey human laws when the magistrate promulgated a law which was manifestly sinful and crossed a direct divine law. For Parker the magistrate was a fully authoritative law maker in all indifferent matters, and his laws obliged the subjects regardless of their opinions about whether those laws promoted the common good. [417] According to Parker, everything:

> left altogether indifferent and uncommanded by the Law of God, may in all various postures and turns and circumstances of Humane Affairs, prove sometimes beneficial, sometimes pernicious to the Commonwealth, and therefore the Supream Magistrate being appointed the Supreme Judge of the Publick Good, there is no remedy but they must fall under the Guidance of his Laws …[418]

Human law, Parker knew, derived from the law of nature, and so Parker paid great attention to upholding the natural law. He argued that magisterial power over religion was founded in nature, because magistrates had originally been priests, and still held most of the powers of chief priests, saving the right to administer the sacraments. Chapters four and five of *A discourse* were an attack on Thomas Hobbes's theory of natural law, which Parker linked to dissenting pleas for liberty of conscience.

Parker's basic methods of justifying the Church and countering dissent were thus similar to Sanderson's. Parker, like Sanderson, strove to prove that defying the Church's laws was sinful, while adhering to them was not and built his arguments on the concepts of conscience and law. However, while Parker was in the tradition of Anglican conformist apologetic, and drew his basic argument from Sanderson, *A discourse* was most notable for Parker's emphasis on natural law and its connection to Christianity, on which Parker based his distinctive argument for persecution. The

[417] S. Parker, *A discourse*, p. 261, pp. 296-297.
[418] S. Parker, *A defence*, p. 242.

conviction that a proper understanding of the respective spheres of nature and grace was crucial to a rejection of nonconformity was, of course, shared by Sanderson (and Hooker), but Parker's own variant of this argument was distinct, more radical and more specifically theological. This made his argument different from Sanderson's, as we shall see.

Parker, Natural Law and Christianity

From his discussion of human law in chapter one of *A discourse*, Parker progressed, in chapter two, to outline his views about the laws of nature and revelation. It was at this point that Parker's argument became genuinely radical. The essence of Parker's argument from natural and revealed law was that the magistrate could prescribe whatever rites and ceremonies he pleased because all the revealed and supernatural forms of religion, such as revelation or grace, were either strictly subordinate to the law of nature, or did not exist at all. In this way Parker's defence of conformity came to rest upon his views about the place of nature and natural law within Christianity, and his case was therefore ultimately theological. It is to an analysis of Parker's argument from natural law, and its roots in Seventeenth-Century Anglican theology, that we now turn.

It is likely that Parker had Charles Wolseley's *Liberty of conscience* in mind when he wrote the sections on natural law in *A discourse*. Parker published a book which was unusual for its emphasis on nature and grace only one year after Wolseley's book concerning the same theme had appeared. Admittedly Parker did not quote Wolseley, but he referred to very few authors directly. Assuming that Parker did intend his book as a response to Wolseley, *A discourse* takes the form of a subversion of the argument of *Liberty of conscience*. As we have seen in the last chapter, Wolseley argued the magistrate could impose upon his subjects' consciences providing that he did not trespass beyond the bounds of natural light into the realm of supernature. For Wolseley, the magistrate's power was limited with regard to supernatural affairs because grace and revealed knowledge was obscure and distributed unevenly. Parker appears to have been responding to this line of argument when he noted:

> that Popish Tenet of the darkness and obscurity of the holy scriptures … is the only Reason why the Duties instituted in the Gospel should be exempt from the power of the Civil Magistrate rather than those of a natural and moral Obligation, because one is perspicuous and the other is not …[419]

Parker's response to Wolseley was to redraw the boundaries between the natural and the supernatural. If it could be shown that Church government and ceremony were really in the natural sphere, or under the authority of the law of nature, then Wolseley would have to admit that the magistrate had the right, and perhaps the duty, to impose his views on his subjects by force. Parker thus believed that if Christian duties were all effectively natural, then on Wolseley's own premises, the magistrate would have to be conceded a complete control over all matters of worship, unless he directly crossed divine law. Parker originally made this argument in *A discourse of ecclesiastical politie* but summarized it in *A continuation and defence of ecclesiastical politie*. In *A defence* Parker spelt out his design to subvert the argument of Wolseley as follows. He argued:

> My design then in the next Chapter, [chapter two] ... was to draw a Parallel between matters of Religious Worship and Duties of Morality [duties of the natural law], and to remonstrate to the World how they are equally subject to the jurisdiction of the Civil Magistrate. And for a more ample Confirmation of this Argument, I gave such an intelligible account of the Nature and Design of Religion, as reduced all its parts and branches either to the Vertues or the Instruments of Moral Goodness. From whence I concluded, as I thought, fairly enough, That seeing Princes are allowed by the avowed Principles of all Mankind, a Sovereign Power in reference to Moral Vertues, that are the most material Duties of Religion, 'tis but reasonable they should be allowed at least the same Authority over the outward matters of Religious Worship, that are but Circumstances of Religion, or Instruments of Morality ...[420]

[419] S. Parker, *A defence*, p. 362.
[420] *Ibid*, pp. 303-4.

In other words, if it was accepted that the magistrate controlled the law of nature (or morality, as Parker put it) then providing Christianity was, fundamentally, just the law of nature, there were no grounds to argue people could claim exemption from the magistrate's authority with regard to religious worship. Independents, like Wolseley, had founded their justification of liberty of conscience on the idea that certain aspects of religious belief and worship were set apart from the natural law, through their participation in the supernatural domain. If religion could be described in such a way as to render the supernatural realm insignificant and subordinate to natural law, then the right to liberty of conscience could not be sustained. If the supernatural realm disappeared, Parker concluded, 'it must appear with a clear and irrisistible Evidence, That mens right to Liberty of Conscience is the same in both to all Cases, Niceties and Circumstances of things, and that they may as rationally challenge a freedom from the Laws of Justice as from those of Religion.'[421]

Therefore Parker's task in *A discourse*, and its continuation, was to melt Christianity down into the law of nature. To bring off his argument against nonconformity, Parker needed to show that the law of nature and Christianity were identical, on some fundamental level. To do this Parker needed to answer two questions: what is natural law, and what is Christianity? Parker focused on these questions in *A discourse* and its defences, and in his writings more generally. In *A discourse* and *A defence* he hoped to show, through an analysis of both natural law and the Christian religion, that natural law and Christianity were one and the same.

Parker believed that the law of nature was founded in the metaphysical absolute, the divine nature. As human nature was constituted in the way it was, certain relations had of necessity to obtain between God and man, and amongst human beings themselves. Natural law reflected metaphysically real right and wrong.[422] Parker averred that natural laws were, 'Rules of Good and Evil that are of an eternal and unchangeable Obligation,' because, '… the Reason … arises from a

[421] S. Parker, *A discourse*, p. 86.
[422] *Ibid*, p. 83 N. Culverwell, *An elegant and learned discourse*, pp. 42-45; R. Baxter, *Catholic Theology*, (London, 1675), p. 106; E. Fowler, *The principles and practices of certain moderate divines of the Church of England*, (London, 1670), pp. 216-222.

necessity and constitution of Nature.'[423] Natural law's foundation in immutable right and wrong bequeathed to the law of nature a particular connection to reason. Natural ideas about justice really reflected the perfections of the divine nature, and the justice whereby God himself acted.[424] This made the natural law very distinct from the positive law, which was based on God's inscrutable will and left no traces in nature. The essential precepts of the law of nature could be understood by acknowledging that the world had a creator, and that he willed men and women to fulfil some of their natural desires in an orderly way. For Parker, right reason demanded, 'mutual Aids of Love and Friendship,' between all men, because it was impossible to secure the happiness of all unless everyone aimed at the common good. Parker always described what men and women needed to do in the language of virtue and of virtue ethics. The law of nature dictated that everyone practice the virtues of benevolence, mercy, meekness and charity.

Parker believed that even in the present time a proper analysis of the purpose of religion would prove Christianity was fundamentally identical to the law of nature. In his critique of Platonism Parker had declared that Christianity's 'prime intendment' and its 'intrinsick and proper end …' was, 'to sweeten and refine our Natures.' Christ had come to promote mercifulness, meekness, charity and humility, and it was by practising these virtues that men and women elevated their own natures to the divine, a good nature being 'the fairest Character and Imitation of the Deity.'[425] *A discourse* and *A defence* expanded upon these ideas.

Chapter two of *A discourse* argued, in a very Aristotelian vein, that the end of religion was the practice of all the moral virtues of the natural law. Parker's argument was teleological and was structured around humankind's final end: happiness. Religion, according to Parker, had to promote the final end, human happiness, both in the present life and in the next. Men and women had their ultimate end in the perfection of their natures and the 'state of Glory and Immortality.' It was

[423] S. Parker, *A discourse*, p. 83.
[424] S. Parker, *An account*, p. 18.
[425] S. Parker, *A free and impartial censure*, pp. 24-26.

through the practice of the moral virtues of the law of nature that happiness was achieved.[426] Adherence to the law of nature thus fulfilled the end of religion: happiness. For Parker, this showed that, fundamentally, religion and natural law were the same thing. Parker summarized his argument as follows:

> The Precepts of the Moral Law are both perfective of our own Natures, and conducive to the Happiness of others; and the Practice of Vertue consists in living suitably to the Dictates of Reason and Nature … Moral Vertue … [has] the strongest and most necessary Influence upon the End of all Religion, viz, Man's Happiness 'tis not only its most material and useful Part, but the ultimate End of all its other Duties: And all true Religion can consist in nothing else but either the Practice of Vertue itself, or the use of these Means and Instruments that contribute to it.[427]

'All Religion,' Parker insisted, 'is either Vertue itself, or some of its instruments.'[428] Thus religion was nothing more than adherence to the law of nature. Natural law and Christianity were therefore identical and the contested rites and ceremonies were only the outward instruments of the natural virtues.

Parker's description of religion as natural law obviously raised questions about the fall and about the role of Christ. Parker realized that it was crucial for his argument to deny that either the fall, or the ministry and atonement of Christ, had brought about any great alteration in religion. To admit that human duty had been changed, since creation, would be to uncouple natural law and Christianity. This was so because there was a widespread acceptance that in the state of innocence, before the fall, the law of nature had formed the sum total of human duty. As we have seen, Hooker had argued that the works of the natural law were the means to salvation before the fall.[429]

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[426] S. Parker, *A discourse*, pp. 67-70; H. More, *An account of Virtue*, (London, 1690), pp. 2-16.
[427] *Ibid*, p. 68-69.
[428] *Ibid*, p. 71.
[429] R. Hooker, *Laws*, p. 206.

Stillingfleet made a similar argument, as did the Cambridge Platonist Benjamin Whichcote.[430] Calvinists also identified the natural law with the law in the state of innocence and Parker's great foe, John Owen, pointed out that Parker's view of religion was a scheme suited only for the state of innocence.[431] The law of nature could plausibly be said to be identical with religion in the state of innocence because natural law had originally been at the heart of the contract between God and man, and had comprised all of humanity's duties. For Parker, in the state of innocence, 'the whole duty of man consisted in the Practice of all these moral Vertues that arose from his natural Relation to God and man …'[432] Therefore, in order for religion to remain coterminous with natural law, religion had to remain identical between the state of innocence and the present day.

Parker's vision of Christianity was of an original natural religion, unbroken and continuous since creation. The effects of the fall had only made it more difficult for men and women to discharge their duties under the law, and remedying these defects was the reason for the Christian religion. Parker averred that:

> Then [before the fall] as now the whole duty of man consisted in the Practice of all these moral Vertues that arose from his natural Relation to God and man, so that all that is superinduced upon us since the Fall, is nothing but helps and contrivances to supply our natural defects … and restore us to a better ability to discharge these duties we stand engaged to by the Law of our Nature, and the design of our Creation.[433]

Parker argued that this meant that;

> the Christian Institution is not for the substance of it any new Religion, but only a more perfect digest of the Eternal Rules of Nature and Right Reason … it [Christianity] prescribes

[430] E. Stillingfleet, *Origines Sacrae*, p. 361; B. Whichcote, *Select Sermons*, (London, 1698), p. 62.
[431] D. vanDrunen, *Natural Law and the Two Kingdoms*, pp. 159-163; N. Lettinga, 'Covenant Theology Turned Upside Down: Henry Hammond and Caroline Anglican Moralism: 1643-1660,' *The Sixteenth Century Journal*, 24, (1993), pp. 653-669.
[432] S. Parker, *A defence*, p. 314.
[433] *Ibid*, p. 314.

> no new rules and proportions of Morality, and all its additions to the Eternal and Unchangeable Laws of Nature are but only means and Instruments to discover their Obligation, and improve their Practice in the World.[434]

Therefore the fall and the ministry of Christ did not change religion, in any fundamental way. The supernatural law, such as it existed, was only an instrument to aid the fulfilment of natural purposes. Parker worried, of course, that people would think Christians had other duties, alongside those of the natural law. Parker realized that if there were any duties, conducive to human happiness, which were not part of the moral law, his argument would be undone. Parker therefore insisted that there were no specifically religious, supernatural duties. All human duty to God was comprehended under the virtues of the natural law.[435]

Parker claimed that the whole process of salvation, usually thought to be supernatural, was really natural. In *A defence* Parker argued that the whole purpose of the ministry of Christ, and of the atonement, was to, 'restore us to a better ability to discharge the duties we stand engaged to by the Law of Nature, and the design of our Creation.'[436] The faith required by the gospel, explained Parker, was really natural, and so the reason for the atonement was also natural. Parker described faith as an act of moral worship, which happened to take a supernatural act, the atonement, as its object. Parker suggested, 'the reason of it [the atonement] is Natural, and relates to the Essential Truth and Goodness of God: upon his Declaration and Engagement, to accept the Sufferings of his Son as an Atonement and Satisfaction for the sins of the World.'[437]

Parker's account of religion avoided any talk of the instituted positive laws of religion. At the end of the second chapter when Parker described the ultimate foundations of law and religious duty, Parker only referred to 'Rules of Good and Evil that are of an eternal and unchangeable

[434] S. Parker, *A defence*, p. 316.
[435] S. Parker, *A discourse*, pp. 69-70.
[436] S. Parker, *A defence*, p. 314.
[437] *Ibid*, p. 323.

Obligation … the Reason [of which] … arises from a necessity and constitution of Nature.'[438] This described the foundation of the natural law in the divine nature and immutable essences of things, but not the revealed law on which it was supposed worship was based. For Parker, the revealed positive law was connected, as it had been for Hooker, to the fall, and the need to rectify the inadequacies of nature following that event. To give a broad and meaningful role to the positive law would imply the natural law was no longer the full index of religious duty.

Parker insisted that no right action towards God, such as worship, involved the exercise of a virtue which was not one of the natural virtues. At this point Parker might have been worried that acts of worship were not seen as natural because of their connection to revelation. He may also have had in mind the division between the natural and the theological virtues found in the *Summa* of Aquinas. Aquinas's demarcation of virtues into these categories was a point Parker's opponents would raise with him. To deal with these problems Parker suggested that worship, humanity's chief duty to God, was not a virtue in and of itself but was rather an extension of the more general virtue of gratitude. According to Parker:

> Devotion [worship] issues from the same vertuous Quality, that is the Principle of all other … Expressions of Gratitude; only those Acts of it that are terminate on God as their Objects, are styed Religious: and therefore Gratitude and Devotion are not divers Things, but only different names of the same Thing. Devotion being nothing else but the Vertue of Gratitude towards God.[439]

Having thus dealt with the threat of specifically religious duties, through a combination of virtue theory and the scholastic theory of acts, Parker turned to the problem of grace.

Grace worried Parker because writers like Wolseley had used the idea of a supernatural infusion of divine help to remove some religious matters from the control of the magistrate. In *A*

[438] S. Parker, *A discourse*, p. 83.
[439] *Ibid*, p. 70.

discourse Parker dismissed grace as a fantasy, demanding that someone should, 'give me any Notion of it [grace] distinct from all Morality...[440]' Parker thus appeared to deny that any supernatural infusion of aid existed, or was necessary. Grace, according to Parker, really only signified 'a virtuous temper of mind,' simply denoting 'Vertuous Qualities of the Soul.' Parker explained that grace still carried the connotations it did because, 'in the first ages of Christianity he [God] was pleased, out of his infinite concern for its [Christianity's] Propagation, in a miraculous Manner to inspire its Converts with all sorts of Vertue.'[441] Grace as an infusion of supernatural strength was thus confined to the first ages of the Church. At this point in *A discourse* Parker therefore appears to have endorsed Pelagianism, namely the view that human beings, in the strength of their own natures, could practise the virtues of the natural law and achieve happiness.

However, *A discourse* represents Parker's views on grace at their most extreme. His more sober commentary, in *A defence*, reveals that he was not a Pelagian. Parker's objection to grace was not theological, but social and political. Parker's discussion of grace in *A defence* made it clear that he did not want to deny the existence of infused supernatural aid (as he had appeared to, in *A discourse*). Rather Parker wanted to render grace incapable of playing any role in the public sphere. He identified the political difficulties following the beginning of the civil war with the idea that people could know they were directly inspired. Enthusiasm was an all-consuming danger.[442] Parker's ideas about grace therefore stressed above all that grace could never be noticeable, and that it worked only to promote virtue. Had the events of the Apostolic age not been known of, it would not have occurred to anyone to separate grace from the actions or virtues that it enabled. Currently the spirit only worked in tandem with human free-will, and did so in a way indistinguishable from the usual methods of reason and discourse.[443]

[440] S. Parker, *A discourse*, p. 71.
[441] *Ibid*, p. 71.
[442] S. Parker, *A defence*, pp. 330-331.
[443] *Ibid*, pp. 328-330.

Despite the qualifications Parker made about his views on grace in *A defence*, *A discourse* appeared to argue for the identity of natural law and Christianity by writing out grace from human affairs. Parker's argument for persecution thus represented a kind of Pelagian naturalism. Religion was ultimately about performing the virtues prescribed by natural law, and all forms and ceremonies were necessarily subordinate to that. There were no new moral duties, or other duties of any kind, brought by Christ, only aids and improvements to the existing and immutable natural laws. Grace was not discernible in human affairs and could not be seen, practically, to be distinct from morality. Religion was continuous before and after the fall because this event, which was usually thought to have removed the law of nature from the centre of human duty, had not brought about any alteration in religion. Therefore, Christianity and natural law were fundamentally identical. That meant that some duties people associated with Christianity, such as outward worship, were under the authority of the civil magistrate, who was *custos utriusque tabulae*.

The elision between natural law and Christianity, and the way Parker argued for it, was not something found explicitly in the works of his contemporaries. Yet, despite this, many of Parker's claims about the nature of religion were common amongst his colleagues, especially within the ranks of those belonging to the moralist or latitudinarian tendency. All of the arguments Parker made in favour of this position were drawn from his immediate theological milieu, especially the works of his Anglican colleagues. In the final section, we will examine Parker's theology, and its influences. This is not easy as Parker left few purely theological works, being primarily concerned with political questions, not theological ones. However, Parker's political vision was itself theological, and he did write a limited amount on his ideas on Christianity as a whole. The political theology of *A discourse* was the product of a number of related tendencies in the Church: latitudinarianism, Arminianism and moralism.

Parker and Theology

Parker's view of Christianity as a perfected version of the eternal law of nature, with moral conduct at its heart, was shared by several of his latitudinarian colleagues. As we have seen, historians have identified the latitudinarians with a specific vision of religion. Rivers argues prominent latitudinarians like John Tillotson, John Wilkins and Edward Fowler (1631-1714) saw Christianity as a rational religion, associated with the eternal law of nature and concerned with promoting human morality and happiness.[444] This tendency was of course very pronounced in Parker's *A discourse* and *A defence* but he was only taking the latitudinarian view of Christianity to extremes.

Parker's ideas about religion were especially close to those of John Tillotson and Edward Fowler. Tillotson was at the centre of the latitudinarian movement and became Archbishop of Canterbury following the revolution. Like Parker, he many have originally been a nonconformist but became convinced that Puritan religion promoted excessive spirituality and debauchery. In his sermons he warned that, 'many, who make a great profession of piety towards God, are very defective in Moral Duties … turbulent … peevish …'[445] The antidote, in Tillotson's mind, was to stress that Christianity was a religion of moral virtue in which the highest end was to raise human nature closer to the divine by good conduct. 'We must be Partakers of a Divine Nature,' argued Tillotson, 'in order to our Participation of the Divine Blessedness.'[446] Like Parker, Tillotson spoke of the aim of religion as the promotion of happiness, counselling that, 'Holiness and Happiness are not to be separated, the one being a Necessary Condition and Qualification for the other …'[447] Happiness was to be acquired through the practice of righteousness, which was a thorough observance of the law of God. By and large this was the law of nature, because positive duties were few. According to Tillotson, 'Christianity, as to the practical part of it … is nothing else but the religion of nature, or pure morality, save only praying and making all our addresses to God in the name, and through the

[444] I. Rivers, *Reason, Grace and Sentiment*, p. 87.
[445] J. Tillotson, *Of sincerity and constancy*, (London, 1700), p. 10.
[446] J. Tillotson, *Sixteen sermons on several subjects*, (London, 1700), p. 244.
[447] *Ibid*, p. 244.

mediation of our Saviour …'[448] The precepts of the gospel were thus only, 'in substance the Moral Law cleared and perfected.'[449] Tillotson's views about the differences between grace in the primitive age of Christianity, were it had been visible and powerful, and in the present age, where it worked unseen and in co-operation with the human will, were very similar to Parker's.[450]

Edward Fowler, author of one of the classic latitudinarian texts *Principles and Practices of Certain Moderate Divines of the Church of England* (1670) also put forward a view of Christianity almost identical to that of Parker's. Like Parker and Tillotson, Fowler had connections to Presbyterianism, and may have taken some time to conform in 1662. However, by 1670 he was an enemy of zealous Puritan piety, an Arminian and a friend of the Cambridge Platonist Henry More (1614-1687). *Principles and Practices* was an attack on Calvinism and Puritanism, while *The Design of Christianity* (1671) argued that the fundamental purpose of Christianity was to encourage men and women to lead a holy life. Fowler also used his ideas about the true design of Christianity to argue for conformity. In the prologue to the *Design of Christianity* Fowler urged that fanatics and enthusiasts (by which he meant nonconformists) were causing difficulties out of, 'nothing so much as the ignorance of, or non-attendance to, the Design of Christianity.' Fowler urged that the aim of Christianity was to promote the practice of righteousness, and to thereby acquire, 'a Divine or God-like Nature.'[451] Fowler also sometimes spoke as though grace could mean moral teaching or reason, rather than supernatural aid. 'The Grace of God,' Fowler announced, 'teacheth living soberly, righteously and Godlily.'[452] The truth about the design of Christianity, in Fowler's opinion, was that it was, 'purely a Mystery of Godliness and that it is composed entirely of such precepts as tend thoroughly to instruct mankind in the Particulars of that Duty that the Law of Nature obligeth them to, towards their creator, themselves and their fellow creatures …'[453]

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[448] T. Birch, *The life of John Tillotson*, p. 408.
[449] J. Tillotson, *Several discourses*, p. 252.
[450] J. Tillotson, *Sixteen sermons*, pp. 334-335.
[451] E. Fowler, *The Design of Christianity*, (London, 1671), p. 7.
[452] *Ibid*, p. 16.
[453] *Ibid*, p. 1.

One of the most interesting latitudinarian texts about the nature of religion was John Wilkins's *Of the principles and duties of natural religion* (1675), published posthumously, with the aid of Tillotson. Wilkins had been master of Wadham College during Parker's unhappy time there, and he was also an enemy of Sheldon because of his lenient attitude towards dissent. However, his language and ideas about religion were very similar to Parker's in *A discourse*. In *Of the principles* Wilkins aimed to show that the fundamental elements of religion were natural, and could be discerned through reason alone. His thought was strongly influenced by aspects of scholastic thought, especially teleological ideas about essences and ends. McAdoo has noted Wilkins's debt to the *Summa*. Wilkins's teleological argument for the rationality of religion resembled Parker's argument for the identity of Christianity with natural law. Wilkins urged that it was the essence of man to be religious and that his happiness, his highest end, was to be achieved by practising all the virtues. 'Every mans chief end,' argued Wilkins, 'should be a resemblance to God, a being made like to the Deity.' This was achieved by living honestly and virtuously, 'the only good doth consist in what is honest and virtuous.'[454]

Parker's vision of Christianity as an improved form of natural law was thus hardly out of step with that of his colleagues. Indeed, according to Parker at least, this may have been the view of his patron, Gilbert Sheldon, the Archbishop under whose auspices *A discourse of ecclesiastical politie* was produced. In Parker's *History of His Own Time* he heaped praise on Sheldon, describing him as a man of singular virtue, and portrayed him as sharing Parker's own religious opinions. Sheldon, said Parker, was, 'frequent and assiduous in Prayers yet he was not such an admirer of them, as some are, ' but rather 'plac'd the sum of Religion in a good life.[455]' Sheldon apparently 'despis'd that disdainful sort of men who would have all the duty of man plac'd in the ceremonies and offices of worship …' The chief virtues, in his opinion, according to Parker, were kindness and charity.[456] It is

[454] J. Wilkins, *Of the principles and duties of natural religion*, (London, 1675), p. 310.
[455] S. Parker, *A History of His Own Time*, p. 42.
[456] *Ibid*, p. 44.

impossible to say whether Sheldon had any influence over Parker's latitudinarian arguments about the nature of religion, but going by Parker's own account his patron might have had strong sympathies with his naturalist brand of religion.

Parker's Arminian beliefs about the importance of free-will also allowed him to elide Christianity with natural law. Parker had read continental Arminian divines, such as Simon Episcopius (1583-1643), and probably Arminius (1560-1609) himself, and subscribed to their views on free-will and divine justice. Parker's Arminianism was set out in his only work purely devoted to theological and metaphysical questions *An account of the divine nature and dominion*. Published in 1666 alongside Parker's book criticizing Platonism, *An account* was concerned with God's power over creation. Parker thought Calvinist predestination theory was odious, transforming God into the author of sin, destroying divine justice and encouraging antinomianism.[457] Parker criticized Calvin principally through a discussion of the nature of free-will and of divine justice. Parker's ideas about the type of free-will people possessed, and the degree to which God's just nature limited his power, were very similar to those of Arminius himself.

According to Parker, 'the highest kind of libertie … imports a freedom not only from Foreign Violence, but also from inward necessity; For spontaneity or immunity from coaction without indifferency conveys in it as great necessity as these motions.'[458] Should this account of free-will be true, it was hard to see how on the Calvinist account God could be excused from causing humans to sin. Parker argued that unless the will possessed this kind of liberty all the foundations of religion and morality would be uprooted, because necessity, in any form, could not coexist with genuine moral choice and goodness.[459]

[457] E. Fowler, *Principles and Practices,* pp. 198-210; T. Pierce, *The Christians recuse from the grand error of the heathen*, (London, 1658) pp. 6-10; I. Rivers, *Reason, Grace and Sentiment*, p. 12.
[458] S. Parker, *An account*, p. 29.
[459] *Ibid*, pp. 20-21.

Parker's ideas on free-will caused him to be impelled, like other divines, to find an account of divine justice and sovereignty that preserved God from being charged with causing human sin. *An account* tried to prove God was essentially (and necessarily) just but that he also had space for free action. For Parker, God was limited in his actions by the rectitude of his nature and his holiness did not permit him to reduce sinless creatures to a condition worse than that of nonexistence. 'The Rights of Gods Dominion over sinless creatures,' argued Parker, 'do not extend so far as to warrant his dooming them to a condition more wretched and forlorn than Non-existence.'[460] God could not deprive his creatures of more than he had given them without a cause. God's justice thus ruled out Calvinist predestination theory. However, Parker was convinced that God could deprive his creatures of all the benefits of creation, even if they were quite sinless. God, he averred, could, 'deprive any, or all of his Creatures of what Perfections and Endowments he pleases …'[461] If, Parker pointed out, God was always compelled by his nature to do the greatest amount of good he could, then he would be a necessary agent, rather than a free one, and his actions would have no moral worth.[462]

Here Parker's ideas about divine justice and sovereignty were clearly Arminian. Parker cited Episcopius as the source for his belief God could revoke the benefits of creation but not reduce creatures to a condition worse than non-existence.[463] Parker's ideas were also to be found in the writings of Arminius himself. Arminius had stated the view of divine justice Parker outlined in *An account* in his examination of the English supralapsarian William Perkins and throughout his disputations with the Calvinist Francis Junius (1545-1602).[464] Parker's ideas were also shared by Jeremy Taylor, who had followed the essential outlines of Arminius's account in his book *Deus Justificatus*. Taylor had actually gone slightly further than Arminius and Parker, and had argued God was under some obligation to not revoke the benefits of creation unduly.[465] Parker's Arminian views

[460] S. Parker, *An account*, p. 14.
[461] *Ibid*, p. 8.
[462] *Ibid*, pp. 32-34.
[463] *Ibid*, p. 20.
[464] J. Arminius, *The Works of James Arminius*, trans J and W. Nichols, iii, (Grand Rapids, 1986), pp. 215-222.
[465] J. Taylor, *Deus Justificatus*, pp. 68-70.

about free-will and divine justice had implications for his understanding of the relationship between natural law and Christianity.

Divines of Parker's Arminian views had to confront the implications of their ideas about divine justice for the fallen condition. As sin was only possible for beings possessing liberty of indifference, it might be thought that human beings following the fall could not so depraved that they lacked all means of salvation, or, that if they did, that there existed no law threatening them with eternal damnation. Samuel Rutherford was one prominent Calvinist to make the accusation that Arminians had to hold that God was compelled, by the rules of divine justice, to provide grace and the New Covenant.[466] On the 'Arminian' side Jeremy Taylor had argued that fallen men and women were not threatened with eternal damnation outside of the terms of the gospel covenant, because only the gospel covenant enabled people to freely fail to act virtuously.[467] It is not possible to recover Parker's views precisely, but his ideas about divine justice and free-will contributed to a benign view of the fallen state, in which people still had the ability to act virtuously.

In *An account* Parker argued that as God could justly deprive his creature of all the benefits of creation, God could have created human beings in their present fallen state, even if no one had ever sinned. Therefore, at the fall God had only simply divested people of some of their advantages, but had left them capable of fulfilling the law of nature. According to Parker:

> Upon the occasion of Adam's prevarication, he devested all mankind of a great part of those privilegdes and perfections with which he had endued human nature; And all this God might have done, though Adam never sinned, and therefore tis no injustice that God has made his Posterity the Heir of his misfortunes.[468]

[466] S. Rutherford, *A treatise of the covenant of grace*, (London, 1655), pp. 56-58.
[467] G. Bull, *Harmonia Apostolica*, p. 79-84; J. Taylor, *Unam Necessarium*, pp. 1-3.
[468] S. Parker, *An account*, p. 13.

Parker knew that human nature laboured under some disabilities following the fall. However, Parker was sure that, 'our condition is still competently, or rather extreamly happy …' It therefore appeared that people were still capable of fulfilling the law of nature. Parker commented, 'if men choose to be wicked or miserable, they have no reason to blame the Condition of their Natures for that, which proceeds purely from the choice of their Wills.'[469] Parker's belief that sinless creatures could not be reduced to a condition worse than nonexistence likely suggested to him that human beings had to have the ability to avoid damnation in the present life. The fall had thus made acting rightly more difficult, but it had not fundamentally altered religion, or human duty. Parker's Arminian views about free-will and divine justice thus combined to ameliorate the consequences of the fall. The human race was not collectively guilty as a result of Adam's sin. This moderate view of the fall contributed to Parker's sense that religion carried on unbroken from the state of innocence.

However, there remained the question of how people were saved after the fall, and the way in which natural law was central to this process. Parker did not believe men and women were saved simply in virtue of practising the law of nature, or he would have been a Pelagian. Instead the Church's new moralist theology lay behind Parker's conviction that natural law was still central to the true state of religion after the fall. As we have seen, moralism is the name given to the revision, by a number of Caroline divines, of the traditional Protestant scheme of salvation. The moralists aimed to assert the importance of human good works (aided by grace) to salvation. In *A defence* Parker presented his own moralist account of salvation. Moralist ideas about salvation could elevate the status of the law of nature within Christianity although this fact was not usually drawn out explicitly, except by Parker.

The classic work on moralism is Charles Allison's *The Rise of Moralism* (1966) which John Spurr's account of moralism in *The Restoration Church* (1985) follows. Allison and Spurr argue that moralism was ultimately about fear of antinomianism, and the consequent need to find a

[469] S. Parker, *An account*, p. 13.

description of salvation that gave human agency a more pronounced role.[470] Anglican writers like Henry Hammond, Jeremy Taylor and George Bull (1634-1710) redrew the soteriological landscape in a way more favourable to human agency and good works. Their views were popular, and accepted, in various forms, by many of the Church's most prominent writers, such as John Tillotson, William Sherlock (1640-1707) and Edward Fowler.[471]

The traditional Protestant picture of a sinner's acceptance allowed that good works followed from the pardon of sin, a process known as sanctification, but insisted that there was no causal relationship between works and entry into divine favour (justification). Salvation was a purely gratuitous gift, with no conditions attached. The reason for a sinner's acceptance and pardon was considered to be God's imputation, through faith, of righteousness to him or her. Men and women were therefore saved through faith alone. Justification (meaning, 'to be made righteous') was described as forensic, because righteousness was something external to the individual in question and did not depend on any quality they possessed inherently. Sins were thus forgiven because the personal righteousness of Christ was imputed directly to the Christian (through faith), so that God chose to consider believers as possessing all of Christ's virtues and obedience. Works could not save, or play any part in salvation. Such an account lessened the soteriological importance of human effort and agency.[472]

In order to elevate the role of works and human agency within religion the moralists made a number of alterations to the traditional account of salvation. Henry Hammond included a new account of salvation in his *Practicall Catechisme* (1655), a work intended as an introduction to divinity for students, where it appeared that sanctification, traditionally associated with the good works of the law, preceded justification.[473] Later moralists included George Bull and the

[470] C. Allison, *The Rise of Moralism*; J. Spurr, *The Restoration Church*, pp. 298-312; S. Hampton, *Anti-Arminians;* N. Lettinga, Covenant Theology Turned Upside Down, pp. 653-669.
[471] J. Tillotson, *Select Discourses*, pp. 234-260; S. Hampton, *Anti-Arminians*, pp. 61-67.
[472] A. McGrath, *Iustitia Dei*, (Cambridge, 1986), pp. 263-264; C. Allison, *The Rise of Moralism*, pp. 1-56.
[473] H. Hammond, *A Practicall Catechisme*, pp. 88-105.

latitudinarians John Tillotson, William Sherlock and Edward Fowler. Bull's *Harmonia Apostolica* (1670), was the most famous work of this group and occasioned a theological storm in the Church. Although Bull was supported by Archbishop Sheldon, the Church's remaining Calvinists raised strenuous objections to his emphasis on works. [474] Like Hammond and Taylor, Tillotson, Sherlock, Fowler and Bull insisted that there was a causal connection between works and virtuous action and salvation. Sincere obedience to all the duties of religion, including the precepts of the moral law, now became a condition that had to be fulfilled by all those seeking salvation.[475] The moralists rejected the notion that people were justified by faith alone, where by faith was understood only a belief in Christ as the saviour. Faith, they argued, comprehended all religious duties, such as obedience and good works.[476] The moralists rejected the idea that Christ's righteousness was imputed directly to the believers, because this implied that there was no need for good actions, within the terms of the new covenant, in order to win forgiveness. A real inherent righteousness was said to justify (a position which came dangerously near to the view of the Catholic Church).

Moralism and its implications for the law of nature stood behind Parker's justification for the reduction of Christianity to natural law in *A defence*. Despite his desire to play down the supernatural elements in Christianity, Parker did eventually turn to a discussion of the nature of salvation and the way in which it had been altered by the fall. For Parker, the promise of the gospel, or the New Covenant, was conditional on the performance of good works. He described, 'the Tenour of the New Covenant,' as, 'Gods stipulation of Eternal Life upon no other Condition than of an habitual and uniform Obedience to the Gospel.'[477] 'Our Right to Gods promise,' he claimed, 'is the purchase of a Holy Life.'[478] Faith Parker defined as, 'Trust and Reliance upon the Goodness of God, and the Merits of Christ for … the acceptance of our Persons upon the Performance of the

[474] S. Hampton, *Anti-Arminians*, pp. 78-125.
[475] J. Tillotson, *Select Discourses*, p. 261.
[476] W. Sherlock, *A Discourse Concerning the Knowledge of Jesus Christ*, (London, 1675), pp. 264-274; E. Fowler, *The Design of Christianity*, pp. 76-77; E. Fowler, *The Principles and Practices*, p. 126.
[477] S. Parker, *A defence*, p. 347.
[478] *Ibid*, p. 352.

Conditions of the New Covenant.' The performance of the duties of the gospel were thus included in the definition of faith. Parker warned that it was folly to rely on the imputation of Christ's merits to the believers, 'we have no grounds to expect the divine Acceptance but by performing the Conditions of the Evangelical Covenant … without this, to rely upon our Saviours merits is intolerable folly and presumption.'[479] Thus, although Christ died to expiate sin, his merits were only applied on the condition that people upheld the moral law. Parker also admitted that men and women were justified, in part, by an inherent, rather than imputative righteousness. Parker claimed, 'imputative righteousness is part of the reward promised to inherent Righteousness.'[480]

Parker's moralism led him to see religion as a continuous whole, essentially similar both before and after the fall. The traditional theory argued that the new covenant saved men and women from the old covenant of works, which it was impossible for fallen men and women to fulfil. On this theory, works were not causally important to salvation and so the works of the natural law, as a pathway to salvation, were dead, following the fall. Hammond, Taylor and Bull, on the other hand, had argued that Christ only relaxed the terms of the old law, enabling men and women to keep its new more lenient terms. The new covenant represented the alteration of the old, into something that could be fulfilled.[481] The idea people could win salvation through obedience to a law of works still held good after the fall, according to the moralist. The law which required obedience was still, mostly, the old moral or natural law. Given obedience to the natural law had originally described religion and salvation, the moralist theory could suggest that nothing fundamental had changed following the fall with regard to the place of natural law within religion.

Baxter's response to Parker

[479] S. Parker, *A defence*, p. 352.
[480] *Ibid*, p. 352.
[481] W. Truman, *An endeavour to rectifie some prevailing opinions*, (London 1671) pp. 1-45; G. Bull, *Harmonia Apostolica*, p. 79-84; J. Taylor, *Unam Necessarium*, pp. 1-3; C. Allison, *The Rise of Moralism*, pp. ix-xii.

Parker's view of religion, and the argument against toleration that it was designed to support, was criticized by leading nonconformists. In the next chapter we will examine the ways in which the Calvinists John Owen and Robert Ferguson used their theological disagreements with Parker to uphold the case for toleration. Here the response to *A discourse* by the prominent Presbyterian divine Richard Baxter will be examined. Baxter's views were actually similar to Parker's in many respects, but Baxter felt Parker's analysis of the role of nature within religion was crude. Baxter's response to Parker can illustrate the ways in which Parker used common beliefs about nature and grace to arrive at radical conclusions, as well as the difficulties dissenters sometimes had in countering his argument.

Baxter was not fundamentally opposed to the Church of England. He had been favourable to the religious settlement of the Cromwellian regime and, like many Anglicans, he had hoped for an inclusive Church at the Restoration. Baxter may have initially been prepared to accept the compromise plan based on the idea of moderate episcopacy proposed by bishop Ussher but he eventually failed to conform, angry at the failure to reform the institution of bishops.[482] Baxter was not an advocate of religious toleration, arguing that the magistrate should prohibit displays of irreligion and enforce the correct worship in his *Holy Commonwealth*.[483]

Although Baxter did not share Parker's belief that Christianity was equivalent to the law of nature, he was more sympathetic to Parker's moralism and Arminianism than some of Parker's other critics. Baxter had become concerned about the spread of antinomian ideas during the Civil War, and produced, in response, the moralist *Aphorisms of Justification* (1649). Baxter shared the moralist insight that human works were necessary to salvation, arguing that the atonement only procured entry into the more lenient new covenant.[484] These teachings caused Baxter to clash publicly with the Calvinist Owen. In the Restoration period Baxter tried to defend certain Anglican moralists who

[482] N. H. Keeble, 'Richard Baxter,' *ODNB*.
[483] R. Baxter, *A holy commonwealth, or Political aphorisms*, (London, 1659), An Addition to the Preface.
[484] R. Baxter, *Aphorismes of justification*, (London, 1649), pp. 54-60; C. Allison, *The Rise of Moralism*, pp. 155-165; I. Rivers, *Reason, Grace and Sentiment*, p. 132.

had offended the theological sensibilities of Baxter's own nonconformist colleagues. Edward Fowler's *The Design of Christianity* had drawn the ire of the Baptist Calvinist John Bunyan (1628-1688), who accused Fowler of reducing Christianity to heathen morality by neglecting to emphasize the importance of the atonement and the need for grace. Fowler, of all the latitudinarians and the moralists, was the closet to Parker with regards to his description of religion and Baxter, in *How Far Holinesse is the Design of Christianity* (1671), supported Fowler against Bunyan, arguing that Christianity was designed to improve moral conduct, while disagreeing with some of Fowler's more specific tenets.[485]

The companion pamphlet to *How Far Holinesse is the Design of Christianity*, entitled *The Judgment of Nonconformists About the Difference between Grace and Morality* (1676), addressed the ideas of Parker's *A discourse*. Isabel Rivers suggests both pamphlets were prompted by Baxter's engagement with Fowler and Bunyan, but the opening to *The Judgment of Nonconformists* suggests Parker was Baxter's target.[486] In the pamphlet Baxter expressed dismay at the turn the debate between Anglicans and nonconformists had taken. 'The discord,' Baxter noted, ' about worship and discipline is now pretended by some to be in doctrinals, and to be about the principals of human government and society.'[487] This is far more likely to be a reference to the debate between Parker and Owen because Fowler and Bunyan had not discussed 'the principals of human government and society.' Although Baxter had no intention of resolving the question of liberty of conscience through an analysis of nature and grace himself, he did feel Parker's analysis of the relationship between nature and Christianity was misleading. In response to Parker, Baxter hoped to clarify the definitions of morality and grace, as well as the relationship between the natural and the supernatural.

Baxter's definitions of grace and morality were not controversial. He provided the same tripartite definition of grace Owen had used in *Truth and Innocence*, although Baxter used more

[485] R. Baxter, *How far holinesse is the design of Christianity*, (London, 1671), pp. 3-5; I. Rivers, Reason, Grace and Sentiment, pp. 142-144.
[486] I. Rivers, *Reason, Grace and Sentiment*, pp. 143.
[487] R. Baxter, *The Judgment of Nonconformists*, p. 3.

technical language. Grace was 'efficient' in so far as it represented God's pardon and forgiveness, 'objective' when it represented supernatural aid to recover people's decayed powers (of which there were many kinds) and subjective when it referred to the virtues and habits people possessed through grace. Parker did not use the same language as Baxter and in *A discourse* he had seemed to want to confine the meaning of grace to the category Baxter called 'subjective.' The reason for Parker's stance in *A discourse* was that it was easier to identify 'subjective' grace with the virtues of morality. Yet, as we have seen, it did emerge in Parker's defence of *A discourse* that Parker also acknowledged the reality of what Baxter called 'efficient' and 'objective' grace. In *A discourse* Parker had effectively denied these types of grace existed, but this was a rhetorical strategy rather than a sincerely held theological position.

Baxter's account of the ultimate end of religion, and the way this involved nature and grace, although similar to Parker's, was also different in important ways. Baxter, like Parker, suggested that the ultimate end of religion and life could be called happiness or, as he preferred to put it, holiness. Moreover, he agreed that this end was natural, and that revelation, grace and the atonement of Christ, were only the means by which people fulfilled the ultimate natural end. 'The End,' suggested Baxter, 'must be preached as more excellent than the Means …'[488] Given this it was even possible to view grace as natural, because although it was never imparted naturally, it was the appointed means to restore human nature to its proper health and end.

Yet, despite a certain similarity to and sympathy with Parker's language, Baxter rejected Parker's design of elevating nature over supernature. Parker's whole purpose had been to use the sense that supernature was a means to fulfilling natural ends in order to prove that Christianity was reducible to natural law. *A discourse* had eschewed any talk of revealed supernatural law, sin or the atonement. Baxter, on the other hand, urged that although man's natural end might be more excellent than the supernatural means through which it was acquired, those means still ought to be

[488] R. Baxter, *The Judgment of Nonconformists*, p. 14.

preached, 'as more mysterious, and above meer natural Revelation.'[489] Baxter condemned preachers who spoke only of morality and virtue for teaching, 'little more than what Heathens teach …' Parker's emphasis on morality, virtue and natural law was thus wrong, even though his view that supernature was only a subordinate means to natural ends might be right.

Moreover, Parker's clear distinctions between nature and grace were not always relevant in practice, according to Baxter. There was no clear way to separate specifically supernatural duties from natural ones because most duties were mixed, and derived their obligation from both natural and supernatural sources. 'Even our Faith in Christ, and our obedience to the Gospel,' argued Baxter, 'are neither of natural, nor only of Supernatural Obligation, but mixt: Christ and his ordinances are supernaturally revealed; but being once revealed … natural Revelation then telleth us that I is our duty to believe and obey.'[490]

For Baxter, there was still a real difference between the natural law as kept by heathens, and the law of nature as performed by Christians. At times it had appeared that this was something Parker wished to deny. In Baxter's mind it was not possible for the moral actions of pagans and Christians to be the same, even if they did practice the same virtues derived from the law of nature. This was because Baxter's ethics, like Sanderson's, were built around the scholastic categories of end and object. One could appear to perform a moral action outwardly, but unless one had undertaken that act for the right reasons, and with the proper end in mind, the action was not properly good. Sanderson had made this point in the second lecture of the *Ten lectures*. Sanderson had argued that all acts could be considered with regard to their ends, objects and circumstances. For an act to be good, the end, object and circumstances all had to be good, but for an act to be evil, only one of the three parts of the act had to be bad.[491] Sanderson's subdivision of acts into ends, objects and circumstances was likely derived from Aquinas's discussion of the good and evil of human actions in

[489] R. Baxter, *The Judgment of Nonconformists*, p. 15.
[490] *Ibid*, p. 11.
[491] R. Sanderson, *Ten lectures*, pp. 42-50.

question eighteen of the *Prima Pars Secundae*.[492] Aquinas had also urged that pagans, although capable of fulfilling the law of nature in part, were incapable of fulfilling it in the right way, because their actions would lack the appropriate end (God).[493]

Baxter, along with some of Parker's other opponents, used the ideas of Aquinas and Sanderson about human acts to set the natural law apart from Christianity. Baxter averred, 'a good Principle, Rule, End and right Object, and especially the formal Object, are all essential to a truly good moral Act: But every ungodly man in every action doth want at least one of them.'[494] True morality, or holiness (as the two were the same thing) needed the right object and end. The object of holiness, insisted Baxter, was God himself, and the ultimate end of morality was God's glory. Moral good in infidels was thus never true moral good, as the actions of unbelievers never took God as their object. All actions possessing a proper object, according to Baxter, derived from grace. Two of Parker's most prominent critics, John Owen and Robert Ferguson, also used the same argument from the nature of human acts to set the law of nature apart from Christianity. Ferguson also drew upon the division Aquinas had outlined between natural and theological virtues, to argue that Parker was wrong to suggest that all human virtues derived from the law of nature.[495]

Baxter's account of the differences between grace and morality, and of the relationship between nature and supernature, showed that not all of Parker's ideas were especially unusual. It was possible to describe the supernatural means of recovery, revealed in the scriptures, as a means to natural ends, even though grace had been necessary before the fall. The distinction between natural and supernatural duties could also be very unclear. Yet Baxter also believed that people ought to make a clear distinction between the natural end of religion, and the supernatural means humans required to achieve salvation. For Baxter, as well as Owen and Ferguson, Parker's account of religion also suggested that heathens could fulfil the law of nature as well as Christians, and this was

[492] *ST* Iae IIae, q. 18, a. 1-11.
[493] *ST* Iae IIae, q. 109, a. 4.
[494] R. Baxter, *The Judgment of Nonconformists*, p. 9.
[495] *ST*, IIae Iae, q. 62, a. 1-2; J. Owen, *Truth and Innocence*, p.191; R. Ferguson, *A sober enquiry*, pp. 30-32.

not so, as they explained by employing the scholastic theory of acts. This precise and technical way of discriminating between natural law and Christianity may not have impressed Parker, but it did show the enduring hold of scholastic method and theory upon the debate.

Conclusion

A discourse of ecclesiastical politie continued the tradition of Hooker's *Laws*, Sanderson's *Ten lectures* and Stillingfleet's *Irenicum* through its sense that nonconformity was premised on a fundamental mistake about the nature of religion, and the spheres of authority over human life possessed by nature and grace. Yet Parker's construction of this argument was very different to those of Hooker, Sanderson and Stillingfleet. Although Parker did discuss natural law, he did not do so explicitly within the framework of the *Summa*. Rather he used his latitudinarian account of religion, and his theological moralism, to draw natural law and Christianity very close together. Parker's contribution to the debate about toleration and conformity was thus rather more complex than often supposed. Parker's objection to dissent was theological and philosophical as well as political. Moreover*, A discourse* was both very traditional, given the way it followed Hooker and Sanderson, but was also radical because of Parker's application of various contemporary ideas about theology and salvation to the question of toleration. Parker's work showed very clearly the links between politics, philosophy and theology in the Seventeenth Century.

Far from not caring about theology, Parker's justification of uniformity and persecution was explicitly theological and philosophical. Like a number of his fellow divines, such as Jeremy Taylor, Parker was thinking about the relationship between Christianity and natural law. Parker saw in the correct appreciation of this relationship the means to defeat dissent. In *A discourse of ecclesiastical politie*, the Anglican conformist stress on the importance of reason, present in Hooker and Sanderson was taken to extremes, as was the diminution of the roles of revelation and grace. For Parker it was crucial people understood God was fundamentally the God of nature and creation, and was to be worshipped as such.

Chapter Seven: Calvinism and Toleration

In the hands of Samuel Parker, toleration had come to be bound up with questions about theology and the law of nature. In response to Parker, nonconformists used their own understanding of theology and metaphysics to uphold the supernatural sphere on which toleration was thought to subsist. The two figures who took the debate in this direction were the Independent divine John Owen and his friend and supporter, the nonconformist Scottish whig pamphleteer Robert Ferguson. In this chapter we will explore how, in Owen and Ferguson's response to Parker, questions about free-will, salvation and the nature of worship became of central importance to the doctrine of religious liberty.

Historians are aware of Owen and Ferguson's exchange with Parker, but the way their ideas about natural law and Christianity allowed them to formulate a critique of Parker's case for persecution has never been explored.[496] Owen and Ferguson's response to Parker illustrates how important complex metaphysical and theological questions could become in the debate about liberty of conscience. Owen and Ferguson's opposition to Parker flowed, in part, from their strong Calvinism. For Owen and Ferguson, although the law of nature had once been central to religion, after the fall religion had been fundamentally altered. This meant that Christianity could not be identical to the law of nature and so Parker's argument for religious uniformity could be seen to have failed. However, not all of Owen and Ferguson's objections to Parker's ideas about natural law derived from doctrinal differences. Owen and Ferguson also defended the belief, shared by divines of all theological hues, that divine worship had a specific connection to revelation, and could not be ordered by reason.

Aside from their significance in the Seventeenth-Century English debate about religious toleration, Owen and Ferguson's responses to Parker also illustrate one way in which Calvinist

[496] For Owen and Ferguson's theology, and its context in the debate with Parker; J. Marshall, *John Locke, Resistance, Religion and Responsibility*, (Cambridge, 1994) pp. 125-128; I. Rivers, *Reason, Grace and Sentiment*, pp. 140-141; R. Ashcraft, *Revolutionary Politics*, (Princeton, 1986), pp. 55-71.

theology could affect beliefs about natural law, and natural law's place within religion. Traditionally it is sometimes thought that the Protestant reformers, and Calvin in particular, represented a break with the scholastic tradition of natural law and felt that natural knowledge was all but useless. These views have been challenged, and historians have come to appreciate that reformed Protestants of strong Calvinist convictions could possess a vibrant natural law theory.[497] John Owen was one such figure, and his ideas about natural law have been described as scholastic and Thomist, although at times he was very critical of the language of natural law.[498] However, some historians have retained a sense that the Calvinist emphasis on human sin and depravity stripped the law of nature of its importance within religion.[499] In their debate with Parker, Owen and Ferguson, despite having a very similar understanding of the law of nature to the moralist and Arminian Parker, did use Calvinist ideas to assign the law a very different role within religion than that envisioned for it by Parker.

John Owen and Robert Ferguson

Owen could not have been more unlike his opponent. Parker represented the Church's new moralist theology, while Owen has been called 'indisputably the leading proponent of high Calvinism in England.[500]' One of Owen's very earliest works was an anti-Arminian polemic, *A Display of Arminianism* which attacked Arminian ideas of original sin and free-will. Owen called free-will, understood in the Arminian sense as a liberty of indifference, the Arminians' 'great babel.'[501] Owen's most famous piece of theology was a robust statement of his high Calvinsim: the *Salus Electorum, Sanguis Jesu,* or *The Death of Death in the Death of Christ*. Owen's argument was that the offer of redemption could never be general, as the Arminians supposed, because in the atonement Christ

[497] J. McNeill, 'Natural Law in the Teaching of the Reformers,' *The Journal of Religion*, 26, (1946), pp. 168-182; S. Grabill, *Rediscovering the Natural Law*, pp. 1-69.
[498] C. Trueman, 'John Owen's Dissertation on Divine Justice: An Exercise in Christocentric Scholasticism,' 33, *Calvin Theological Journal*, (1988), 87-103.
[499] J. Hesselink, *Calvin's Concept of Law*, (Princeton, 1992) pp. 67-71.
[500] R. Greaves, 'John Owen' *ODNB*.
[501] J. Owen, *Works*, x, pp. 11-137.

had made an exact payment for the sins of the elect, and therefore the benefits of his sacrifice were received only by the elect, and applied to them by irresistible grace.[502]

As we have seen, Owen's beliefs about toleration were similar to those of Rous, Burroughes and Wolseley. They were centred on his 'anti-formalism' as well as his dislike of coercing belief. Owen associated persecution with Roman Catholicism and thought the examples of the Old Testament were misused if they were interpreted to allow the magistrate to suppress all religious dissent. Yet Owen did want certain crucial Christian truths protected from blasphemers and thought the state had a role to play in promoting Christianity and morality.[503] Sometimes he looked to the law of nature to suggest where the boundaries between magisterial power and liberty ought to be drawn.

Owen had been vice-Chancellor of Oxford when Parker was an undergraduate, but he had lost his position following the Restoration. Cast out of the centre of public affairs, Owen considered emigration to America and attended the proscribed conventicles. Yet, when the Duke of Buckingham (1628-1687) and other members of the Cabal began to show an interest in some form of toleration, Owen entered the lists with a little book called *Indulgence and Toleration discussed*. Following the publication of *A discourse of ecclesiastical politie* the nonconformists, both Presbyterian and Independent, conferred amongst themselves and it was decided Owen would write an answer to Parker, because Richard Baxter, the most eminent Presbyterian, had declined.[504]

Owen's refutation of *A discourse*, entitled *Truth and Innocence Vindicated*, was published in 1669, the year in which *A discourse* was first printed. Owen focused principally on Parker's first three chapters. Owen believed Parker was a genuinely heterodox thinker, who used Popish, Pelagian and Socinian ideas to advance the power of the magistrate over the conscience. Owen identified Parker's

[502] J. Owen, *Works*, x, pp. 145-421; A. Clifford, *Atonement and Justification: English Evangelical Theology 1640-1790: An evaluation*, (London, 1990) pp. 10-13.
[503] J. Owen, *A discourse about toleration*, pp. 56-58, 72-78.
[504] R. Ashcraft, *Revolutionary Politics*, pp. 42-43, 46-47.

ideas about the scope of magisterial authority over the conscience as being those of the Church of Rome, arguing that Parker accorded the magistrate a power over the conscience equivalent to that possessed by Christ.[505] In the following chapters Owen attacked Parker's description of religion and implied Parker was a Pelagian and a Socinian. Owen responded to Parker's argument for persecution by highlighting the distinction between reason and revelation, insisting worship was specifically connected to the supernatural law, and so could never be brought under the remit of the law of nature. Parker's *A defence and continuation of ecclesiastical politie* was a very bitter rejoinder to Owen. Ultimately the dissenters conceded Parker was held to have triumphed, principally because Owen's prior association with Oliver Cromwell (1599-1658) and the army was too damaging in the eyes of the public. Baxter himself was later somewhat critical of Owen's handling of the debate, especially with regard to his definitions of morality and grace. Baxter thought Owen, like Parker, was too fond of drawing very rigid distinctions between nature and supernature.[506]

Owen wrote *Truth and Innocence* with great promptness. Four years later Owen's argument was expanded upon in a book called *A sober enquiry into the nature, measure and principle of moral virtue, its distinction from gospel-holiness*, which identified Parker as its target. It was written by Robert Ferguson, originally a Scottish Presbyterian from Aberdeenshire who had renounced Presbyterianism and embraced Independency under Owen's influence. Ferguson had moved to England sometime in the 1650s and had become an assistant to Owen. Later Ferguson attended conventicles with Owen and preached alongside him. Owen died in 1683 and after his friend's demise Ferguson's career as a plotter and conspirator, for which he is best known, began in earnest.[507]

Ferguson's nonconformity was linked to his whig political sympathies and he was a believer in resistance theory. He was implicated in the Rye House Plot, a plan to murder Charles II and his

[505] J. Owen, *Truth and Innocence*, p. 116.
[506] R. Baxter, *Reliquiae Baxterianae*, iii, pp. 40-42; R. Baxter, *The Judgment of the Nonconformists*, pp. 3-16; I. Rivers, *Reason, Grace and Sentiment*, pp. 143-144.
[507] Melinda Zook, 'Robert Ferguson,' *ODNB*.

brother when they were on their way back to London from the races at Newmarket.[508] Ferguson escaped the consequences of the failed plot and fled to the Netherlands, later accompanying the Duke of Monmouth (1649-1685) in his doomed expedition to overthrow James II. Ferguson himself drew up Monmouth's declaration promising toleration for all Protestants. However, prior to this eventful career, in the 1660s and 1670s Ferguson had acted as a kind of populariser for Owen's theology.[509]

The most important work of Ferguson's in this regard is *Justification onely upon a satisfaction, or, The necessity and verity of the satisfaction of Christ as the alone ground of remission of sin asserted & opened against the Socinians*. In the 1650s Owen had written a detailed attack on the Socinian theory of the atonement, and the beliefs about natural law and the divine nature which he thought underpinned it. The ideas of the *diatriba* on divine justice (as it was called) were to be very important in Owen and Ferguson's response to Parker. Ferguson's *Justification onely upon satisfaction* was really nothing more than a restatement of Owen's specific anti-Socinian theory, and the beliefs about natural law and the divine nature which it entailed.[510] Similarly Ferguson's *A sober enquiry* went into more detail about the faults of Parker's scheme of religion than Owen's *Truth and Innocence*, but the basic argument was more or less identical.

Ferguson was widely read, both in contemporary theology and the scholastic tradition. He enjoyed linking Parker's moralism to the continental Socinian tradition, quoting from Socinus (1539-1604) to illustrate how close to his ideas Parker often was. Ferguson also made use of Aquinas and more recent scholastic sources, making reference to Aquinas's ideas about the division between natural and theological virtues.[511] Ferguson also drew upon the scholastic theory of acts. Despite this

[508] M. Watts, *The Dissenters*, p. 256.
[509] Melinda Zook, 'Robert Ferguson,' *ODNB*.
[510] R. Ferguson, *Justification onely upon a satisfaction, or, The necessity and verity of the satisfaction of Christ as the alone ground of remission of sin asserted & opened against the Socinians*, (London, 1668).
[511] R. Ferguson, *A sober enquiry*, p. 30.

Ferguson was critical of Parker for being overly indebted to philosophy, which he saw as the gateway to Pelagian naturalism.[512]

Ferguson's theological writings, which were discontinued from the 1670s onwards when he became more involved in politics, all had a common theme. They were restatements, or defences, of Owen's brand of high Calvinism and of his attacks on moralists and Socinians. If, therefore, in the rest of this chapter Ferguson sometimes take centre stage rather than Owen, it ought to be remembered that Ferguson's relationship with Owen and his theology was very close. There is no sign Ferguson ever deviated from Owen's views. It is quite possible Owen and Ferguson collaborated closely in producing *A sober enquiry*, but even if they did not, Ferguson's attack on Parker really represents a continuation and an elaboration of Owen's original response to Parker.

Owen, Ferguson and the Law of Nature

In *Truth and Innocence* and *A sober enquiry*, Owen and Ferguson wanted to uncouple Christianity and religious worship from the law of nature, in order to defend a measure of religious toleration. They both disagreed with Parker about the relationship between natural law and Christianity, castigating what they saw as Parker's naturalist and Pelagian account of religion. However, before proceeding to examine how Owen and Ferguson tried to pry nature and Christianity apart, we must examine their ideas about natural law. Central to the logic of their dispute with Parker was their agreement with him about natural law itself. Owen and Ferguson were both strong Calvinists who said they disliked scholastic ideas about virtue and morality, and blamed pagan and scholastic influences for Parker's naturalist opinions. Therefore they might be thought to be dismissive of natural law but this was actually not the case. Owen and Ferguson did not disagree with Samuel Parker about the natural law in itself.

[512] R. Ferguson, *A sober enquiry*, p. 15.

Owen and Ferguson explained their views on the law of nature and Christianity in their responses to Parker: *Truth and Innocence Vindicated* and *A sober enquiry* respectively. However, Owen, in particular, had dealt with natural law, and its foundations, more thoroughly in an anti-Socinian work from the 1650s, called the *diatriba on divine justice*. The *diatriba* was an assertion of the necessity of the atonement against the Socinians and Owen's own Calvinist colleagues (including Samuel Rutherford). Ferguson's *Justification onely upon satisfaction*, published in 1668, was a restatement of the *diatriba's* anti-Socinian argument.

Owen's *diatriba* was occasioned by fear of the Socinian denial of the actual necessity of the atonement to salvation. Socinian ideas of justice and divine power suggested God could, in theory, have pardoned mankind for Adam's sin without a payment in return, remitting human sins as one would forgive a debt. The Socinians progressed from this view, to the idea that the atonement had not really been a propitiation for sin and that Christ had not been a sacrifice but only a moral example. This struck at the heart of orthodox Protestant theology, and with Socinian writings becoming more prevalent in the 1650s, Owen set out to counter the heresy.[513]

In order to confute Socinian theology Owen attempted to prove that if God wished to pardon sin, he was necessitated to do so through some form of vindicatory justice. For Owen, in order to redeem humankind, the atonement was required by the fundamental rules of divine justice, and was not merely the product of God's will alone.[514] This meant that God was required to extract a payment from mankind, in return for salvation, by nature. Owen's opinion in this regard was not widely accepted amongst his own Calvinist colleagues, some of whom strongly disagreed that God was required to punish sin by nature.[515]

[513] S. Mortimer, *Reason and Religion*, pp. 196-202, 207-210; R. Franks, *A History of the Doctrine of the Work of Christ*, ii, (London, n. d.) pp. 13-32.
[514] Owen, *Works*, x, pp. 569-582.
[515] S. Rutherford, *The covenant of life opened, or, A treatise of the covenant of grace*, (London, 1655), pp. 20-21.

To prove his case, Owen had to discuss natural law, its properties, and its connection to the divine nature. For Owen, the only way to prove that an act of vindicatory justice was necessary would be to show that God's own nature effectively imposed such a necessity. Like Parker, therefore, Owen was concerned to mediate between the claims of the free divine will, and the essential rules of the divine nature. The distinction between God's nature and will had been central to Socinus's argument against the orthodox account of the atonement. Socinus had argued that forgiveness was an act of will, and that there was nothing in God's nature to prevent him forgiving mankind.[516] In order to prove the necessity of the atonement, Owen wanted to demonstrate that vindicatory justice was 'natural to God.' As Owen explained, the question was;

> Whether it be natural to God, or an essential attribute of the divine nature,-that is to say, such that, the existence of sin being admitted, God must necessarily exercise it, [the attribute of justice] because it supposes in him a constant and immutable will to punish sin, so that while he acts consistently with his nature he cannot do otherwise than punish and avenge it,-or whether it be a free act of the divine will, which he may exercise at pleasure.[517]

Owen's argument was that vindicatory justice was indeed natural, and a very 'essential rectitude of the Deity itself.' He noted that 'Faustus Socinus opposes this with all his might.'[518] The threat of damnation for all mankind was therefore something natural and necessary.

Owen's *diatriba* showed that he held very similar views about the metaphysical foundations of natural law to Parker, as well as to divines like Stillingfleet and Hooker. Like Parker, Owen saw a very sharp contrast between natural and divine positive law and he based his argument in the *diatriba* on the different properties possessed by these laws. In the *diatriba* Owen argued that God was obliged to punish sins against natural law by his own nature, and therefore could not forgive mankind without a vindicatory sacrifice like the atonement. Owen thus set up a strong contrast

[516] Owen, *Works*, x, p. 575; R. Franks, *A History of the Doctrine of the Work of Christ*, pp. 19-20;
[517] *Ibid*, x, p. 505.
[518] *Ibid*, p. 506.

between God's nature, aspects of which could be known by reason, and his will, which could only be known by revelation, and argued the punishment of sin was necessitated by God's nature, not chosen by his will.

In order to prove his point that vindicatory justice was natural to God, Owen relied on the supposition of a kind of 'epistemological pathway' between God's general revelation (nature) and his essence.[519] That vindicatory justice was an essential attribute of the deity could be shown by the universal consent of mankind, because, as Owen explained, 'What common opinion and the innate conceptions of all assign to God, that is natural to God …'[520] For Owen, general revelation, or natural law, was eternal and knowable, on account of its derivation from the divine nature, and the essential attributes of God. Owen was asserting a connection between the divine nature, and universal, natural knowledge of moral precepts. The divine attributes, which were themselves the foundation of justice and virtue, could be discerned through reason, uniting the divine essence with the law of nature.

Only the acts of the free divine will created the need for special revelation. The acts of the divine free-will could never be discerned naturally because they were only contingent, and not necessary emanations from the divine nature. Therefore God could not impart commands derived purely from his free-will to his creatures through natural reason. Owen argued that knowledge of a free act of the divine will 'can by no means be naturally implanted in creatures; for whence should there be a universal previous conception of an act which might either take place or never take place.'[521] In the *diatriba* Owen used the connection between natural knowledge and the divine nature to prove that vindicatory justice was essential to God, and that the atonement was therefore necessary, and not purely a product of God's free-will.

[519] C. Trueman, 'John Owen's Dissertation on Divine Justice,' p. 101.
[520] J. Owen, *Works*, x, p.517.
[521] *Ibid*, p. 517.

One of the ways in which Owen aimed to show that vindicatory justice was natural and necessary was to examine the institution of sacrifice. Sacrifices were understood to be a universal way of worship, throughout all ages, and therefore people usually assumed they had a connection either to reason or revelation. In the *diatriba*, Owen used the universality of sacrifices to argue that the idea of vindicatory justice had to be natural, as otherwise it would never have occurred to everyone to maintain sacrifices as an acceptable way of worship. For Owen, sacrifices had always been about the expiation of sin. As all people understood by nature that sin needed to be expiated, vindicatory justice was therefore essential to God.[522] The question of the sacrifices and their origin, used as evidence against the Socinians in the *diatriba*, also became of profound importance in determining the extent of the magistrate's authority over worship in Owen and Ferguson's debate with Parker, as we shall see.

The *diatriba* placed Owen in the same camp as Parker and other natural law theorists who sensed a very strong metaphysical connection between the divine nature and the natural law. Like Parker, Owen thought this connection was as important for theology as it was for the doctrine of natural law. Owen restated his ideas about natural law, reason and the divine essence in *Truth and Innocence*, and Ferguson assented to them in *A sober enquiry*. In *Truth and Innocence* Owen argued that the natural, or moral law, was distinguished from the revealed through its derivation from either the nature of God, or the essential essences of other creatures:

> This Moral Law is therefore the Law written in the hearts of all men by Nature which is resolved partly into the Nature of God himself, which cannot but require most of the things of it of Rational Creatures; partly into that state and condition of the nature of things and their mutual relations, wherein God was pleased to create and set them.[523]

[522] J. Owen, *Works*, x, pp. 523-540.
[523] J. Owen, *Truth and Innocence*, p. 188; R. Ferguson, *A sober enquiry*, pp. 55-94.

However, in *Truth and Innocence* and *A sober enquiry* respectively, Owen and Ferguson also revealed more about their understanding of the relationship between Christianity and natural law. Owen and Ferguson identified the natural, moral law with 'the Law of our Creation.' Owen and Ferguson thus accepted Parker's view natural law was an accurate summary of human duty in the state of innocence. The natural law had been summarized in the Decalogue, and even though it was known only imperfectly following the fall, owing to the corruption of reason, it was the law possessed by the gentiles Paul had spoken of. Popular misunderstanding, Owen and Ferguson pointed out, sometimes separated natural law from morality, or confined natural duties to the second table of the Decalogue. However, Owen was clear, religious worship was itself natural and was due on account of the divine nature. In Owen and Ferguson's opinion Christ had brought no new moral duties, a position they shared with Parker and the reformed tradition, and which set them apart from Grotius and Taylor.[524] Like Parker, Owen and Ferguson used the word 'moral' as a synonym for natural, unlike writers like Rutherford who assumed it only meant a free rational action.[525]

Thus Owen and Ferguson, like Parker, subscribed to a view of natural law that saw it as an egress from God's nature and natural relations, and as the full measure of human duty in the state of innocence. They both believed natural law could be described through the language of virtue, but that moral virtue included religious duties like worship. They both criticized the popular misunderstanding that separated religion from morality, and both believed that no new moral duties had been revealed by Christ. They favoured a rigid distinction between the natural and supernatural spheres, not found in some other writers.

There was thus no divergence, in this case, between the high Calvinist tradition, represented by Owen and Ferguson, and the moralist tendency, represented by Parker. The negative outlook

[524] J. Owen, *Truth and Innocence*, pp. 186-192, 203-206; R. Ferguson, *A sober enquiry*, pp. 30-31, 129 168, 212, 239.
[525] R. Baxter, *The Judgment of Nonconformists*, p. 7.

upon natural law, sometimes thought to be adopted by the reformed, might be assumed to set stern Calvinists like Owen apart from their contemporaries, like Parker, who had a less severe view of the fall. Owen and Ferguson were very critical of what they saw as Parker's emphasis on virtue and morality, and Owen ascribed this to the influence of the school-men upon Parker. However, in terms of their ideas about natural law, the disputants, despite their divergent theologies, were all in agreement. Yet they did differ profoundly about the role of natural law in Christianity, even if they agreed about what the law itself was, and it is to that issue which we now turn.

Natural Law and Christianity

Owen and Ferguson wanted to highlight the fact that the Christian dispensation created a space outside of the law of nature, and that in this space the magistrate lacked authority. This was a basic independent position. As we have seen, earlier in the century Rous, Burroughes and Wolseley had all agreed with the Presbyterians that the magistrate could have certain powers over religion, in virtue of his or her control of natural law, but had insisted that such control had to respect the fact that natural light had limits beyond which the magistrate did not have authority to go unless the peace was threatened. Owen and Ferguson knew Parker's assimilation of Christianity to natural law had been designed to exploit this position. If all religion was fundamentally identical to the law of nature then there was no space outside of the boundaries of nature which could justify the exemption of the individual from state power. To reassert the limits of nature, and to set Christianity apart from the law of nature, would be to uphold the basic logic of the independent argument for toleration, and this is exactly what Owen and Ferguson hoped to do.

In *Truth and Innocence* and *A sober enquiry* Owen and Ferguson were bitter in their attacks on Parker's scheme of natural religion, which to them came close to Pelagianism. Owen certainly knew of the moralist and latitudinarian tendencies in the Church, but Parker, he pointed out, was the first to argue natural law and Christianity were identical. Owen described Parker's scheme of religion as, 'the rudest, most imperfect, and weakest scheme of Christian Religion that ever yet I saw

… there is nothing in it that is constitutive of Christian Religion as such at all.'[526] Ferguson was equally appalled. He accused Parker of Pelagianism and argued, 'whoever would act consistently to these principles, he must need proceed to a plain renunciation of all the instituted duties of the gospel …'[527]

Owen and Ferguson knew Parker was using his theological ideas to undermine the plea for liberty of conscience. Owen and Ferguson therefore aimed to set Christianity apart from natural law, and in such a way that restrained the power of the magistrate over religious affairs. To achieve this Owen and Ferguson developed some fundamental lines of attack. They argued that the fall had altered the nature of religion and had removed the law of nature from its position in the state of innocence, when it had been at the heart of religion. Owen and Ferguson were convinced that Parker's elision of Christianity and natural law was only true prior to the fall. They implied that the need for toleration was a product of the fall and of the corruption of human nature. For Owen the distinction between God as creator and as redeemer was of paramount importance, and he noted that Parker had described man's duty as referring, 'either to his Creator, or his neighbour or himself.'[528] On Parker's definition of human duty, complained Owen, 'all Duties referring to our Redeemer are excluded, or not included, which certainly have some place in the Christian Religion. Our Obedience therein is Faith, and must answer to the special object of it.'[529] Owen and Ferguson therefore had a much more Christocentric view of religion. Sin and the need for redemption were taken as fundamental, and created new duties, such as self-mortification, even though they did not add to the moral law itself. This created space between natural law and Christianity.

Owen and Ferguson also had another very specific way of moving the law of nature away from the heart of religion. Their rejection of moralism, and of libertarian free-will, allowed them to entertain a radically different view of the place of natural law in religion following the fall to Parker.

[526] J. Owen, *Truth and Innocence*, pp. 198-199.
[527] R. Ferguson, *A sober enquiry*, p. 6.
[528] J. Owen, *Truth and Innocence*, p. 197; S. Parker, *A discourse*, p. 69.
[529] *Ibid*, p. 203.

Parker thought obedience to the law of nature was still central to salvation but Owen and Ferguson believed natural law was a dead end in a soteriological sense. According to them, Christianity was opposed to the law of nature rather than identical to it.

Ferguson knew that Parker's elision between natural law and Christianity had been facilitated by the new moralist theology, which thought of the new covenant as a modification and relaxation of the stricter old covenant, and which emphasised that salvation was conditional on fulfilment of the new relaxed law. In Parker's mind, as the old covenant had been mostly composed of the law of nature so therefore was the new covenant. Therefore, for Parker, natural law had a continuous role in human salvation, which was never really interrupted but only modified by Christ. However, for Ferguson, natural law was still bound up with the old covenant of works and could not be associated with the new covenant. In Ferguson's mind the sanction of the covenant of works was still in being, threatening death and damnation to all who failed to render God perfect righteousness and obedience (which was impossible). Therefore, even though the new covenant did include the practice of the moral virtues, for Ferguson the new covenant ought to be seen primarily as ministering aid against the law of nature itself. On this view the law of nature did still play a role in religion after the fall, not as the avenue to salvation but as the path to damnation.[530] Natural law was therefore quite clearly set apart from the new covenant and from humanity's avenue to salvation.

Ferguson knew leading moralists took issue with this view. In the *sober enquiry* Ferguson specifically took to task George Bull, the moralist author of the *Harmonia Apostolica*, for denying that there was still a law in being which threatened damnation unless human beings behaved with perfect righteousness.[531] Bull and Taylor were of this opinion because their views on free-will and divine justice suggested that if fallen people were held to such a strict law they would be damned for

[530] R. Ferguson, *A sober enquiry*, pp. 239-244.
[531] *Ibid*, pp. 105-118.

actions they could not refrain from committing. Parker was of this opinion as well. It was certainly consistent with, and logically necessitated by, Parker's own views on divine justice and free-will. Denying the continuation of the covenant of works as a potential but inaccessible avenue to salvation, as Taylor and Bull did, made the elision of natural law and Christianity more plausible. Ferguson wanted to avoid this.

On Taylor and Bull's theory the original law, which had primarily been the law of nature, did not play any soteriological role following the fall. It remained in being in the sense that people were obliged to adhere to the law of nature, but it did not hold out the promise of eternal life, on the condition of perfect righteousness, nor did it threaten eternal death as a penalty for sin. The new covenant represented the restoration of the moral law to its place in human salvation. Therefore, on this scheme the law did not have any role outside the new covenant in relation to mankind's eternal end. For Taylor and Bull, obedience to the law was part of the condition of the new covenant, making natural law central to salvation. Taylor and Bull's view therefore deprived the natural law of any function outside of the new covenant, while emphasising its place within that covenant. The idea that Christianity and the law of nature were the same thing was thereby rendered far more plausible. Ferguson assumed Parker subscribed to this theory.[532]

For Ferguson, it was clear Taylor and Bull were wrong, and that the covenant of works still threatened eternal death if perfect righteousness was not achieved. Ferguson argued for this by restating the argument of the *diatriba,* suggesting that the sanction of the covenant of works was still in force because the sanction was natural. Ferguson argued:

> Man falling abode nevertheless still under the obligation of the law of Creation. For that resulting from the Nature of God, and the Nature of man … so long as these continue, the

[532] G. Bull, *Harmonia Apostolica*, p. 79-84; J. Taylor, *Unam Necessarium*, pp. 1-3; Truman, *An endeavour to rectifie some prevailing opinions*, (London, 1671), pp. 1-45.

> Sanction of that Law must continue. What-ever obligation ariseth upon us from our Nature must be as perpetual as our Nature is …[533]

According to Ferguson we, 'have lost our souls legally in that they are obnoxious to, and under the wrath of God.[534] Following Adam's sin the sanction of the law of nature, which was eternal death for anything less than perfect righteousness, remained in force. The attributes of God and man required that man strive for perfect righteousness and that he should be punished if he failed. The fall, although causing human nature to become depraved, had preserved man's essence, for otherwise men would have become a different species. Therefore the sanction of the covenant of works had to remain in force. Consequently people were in urgent need of the new covenant to provide them with an avenue of salvation because the demands of the law could not be fulfilled.[535]

The belief that the sanction of the covenant of works (eternal death) was natural was the fundamental point at issue in Owen's *diatriba*, and in Ferguson's own version of that argument. Owen had argued against the idea that the punishment of sinners could be voluntary on God's part. Although God was not obliged to offer eternal life as recompense for perfect obedience, he was required, by his nature, to punish disobedience with eternal death. Ferguson's argument for the continuance of the sanction of the covenant of works was thus just another way of stating the argument of the *diatriba*.

Ferguson knew that Bull, Taylor and presumably Parker objected to the idea that there was a law threatening eternal death because they thought God could not punish men and women for failure to adhere to a law that they were naturally incapable of fulfilling. Ferguson believed erroneous Arminian views of free-will stood behind this idea. Ferguson accused Parker and his

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[533] R. Ferguson, *A sober enquiry*, p. 104.
[534] *Ibid*, p. 105.
[535] *Ibid*, p. 104-106, 242-243; This theory was associated with the Protestant reformer Zacharias Ursinus; L. Bierma, 'Law and Grace in Ursinus' Doctrine of the Natural Covenant: A reappraisal,' in C. Trueman, R. Clarks eds, *Protestant Scholasticism: Essays in Reassessment*, (Carlisle 1999), pp. 96-110.

friends of a, 'gross prevarication and mistake concerning the Nature of Liberty …'[536] Parker assumed liberty to lie in an, 'equilibrium to both extreams, or an absolute indifferency of acting or not acting,' whereas, said Ferguson, liberty only consisted in acting in accord with the judgment.[537] For Ferguson, Bull's argument only made sense if free-will lay in liberty of indifference, as Parker argued. If freedom was understood in a more properly Calvinist sense, as a freedom from natural necessity or from coaction, then people's inability to fulfil the law did not mean God was unjust to punish them for failing to do so. As a result, the natural law, which threatened eternal death to those who failed to be perfectly righteous, remained in force.[538] Ferguson's ability to see the law of nature continuing to threaten eternal damnation after the fall was facilitated by his differences with the moralists about free-will.

Owen and Ferguson's vision of the role of natural law in religion was thus very different to Parker's. The differences were founded in metaphysics and theology. Owen and Ferguson saw the sanctions of the original covenant, which were still in force, as purely natural, and based on essential attributes and relations, while believing the new covenant to be based on the divine will alone. As it was ultimately the divine nature which upheld the natural sphere and the free divine will which created space outside of that natural realm, the new covenant was very different from the law of nature in metaphysical terms. It was founded in grace, not nature and was consequently parallel to the old dispensation, rather than a continuation of it. Natural law and Christianity could therefore hardly be the same thing, but this was what Parker needed to prove in order to defeat the argument for liberty of conscience. [539]

This disagreement between Owen, Ferguson and Parker about the place of natural law in Christianity had broad implications for the doctrine of liberty of conscience. Owen and Ferguson realized that if Parker's argument from natural law to the authority of the magistrate was to be shut

[536] R. Ferguson, *A sober enquiry*, p. 274.
[537] *Ibid*, p. 275.
[538] *Ibid*, p. 264, 273-280; W. Truman, *An endeavour to rectifie some prevailing opinions*, pp. 1-45.

down, natural law had to be removed from the centre of Christian life and salvation. If it was possible for religious matters to be governed by a law separate from and opposed to the law of nature, then Parker would find it harder to sustain the idea that all religious affairs were simply part of the law of nature, and that the keeper of the two tables could thereby legislate about them. The debate was about mapping a particular vision of the relationship between nature and grace onto politics. A view of natural law which set it apart from the covenant of grace created a society where the magistrate had distinct limits to his powers over Christian life and worship. In contrast, Parker's version of Christianity as a purification and continuation of the law of nature left no space for such limitations.

However, thus far, Owen, and Ferguson had not troubled to relate their ideas on natural law and Christianity very specifically to the organization of society, although this was ultimately their concern. Instead they had aimed to combat Parker's views at a general level by challenging his claim that Christianity was identical to the law of nature. However, exploring the relationship between religious worship, and its location within the spheres of reason and revelation, could give Owen and Ferguson's ideas a more direct application to the organization of the political community.

Religious Worship and Sacrifice

In *A discourse* Parker had wanted all religion to be seen as fundamentally natural so that the contested ceremonies could be viewed as subordinate means to the fulfilment of natural ends, which the magistrate, in virtue of being *custos utriusque tabulae*, controlled. However, in chapter three of *A discourse* Parker had acknowledged, somewhat implicitly, that there was a problem with his argument. Both Anglicans and nonconformists took it as axiomatic that human rulers had no power to prescribe by law new acts of divine worship. The Church only claimed a power to prescribe the indifferent circumstances of worship. Even a divine like Sanderson, who, like Parker, had sought to justify the power of the civil magistrate by stressing human reason, had nevertheless set the

'substantials of Gods worship' apart from the authority of the magistrate.[540] The perennial problem was that Anglicans and nonconformists would not agree on what was and was not merely a circumstance. Yet the idea of divine worship as something beyond natural control, and as very specifically governed by revelation, meant that even if religion could be said, in the final analysis, to be identical to natural law, it might still not follow that the magistrate should control religious worship.

John Owen pointed out this problem for Parker's argument in *Truth and Innocence*. Owen knew Parker wanted to claim that the magistrate, in virtue of controlling the natural law, controlled all means to the fulfilment of the law's ends. Owen argued that even if religious worship was something ultimately subordinate to natural law, it was still something qualitatively different to a duty derived from the law of nature and so would still not fall under the magistrate's authority. According to Owen:

> the … Rule that he that hath power over the Greater hath so over the lesser, doth not hold unless it be in things of the same nature and kind; and it is no less certain and evident, that there is an essential and formal difference between these things, namely moral vertues and Instituted Worship …[541]

Thus Parker's teleological argument for reducing Christianity to natural law could still run aground on the widespread sense that religious worship and institutions were exempt from the law of reason, regardless of whether they were ultimately subordinate to it or not.

However, Parker was not inclined to see his argument fail. In chapter three of *A discourse* Parker tried to make divine worship entirely natural by disassociating it from revelation. Parker was hesitant to spell out precisely what he was doing, because admitting the magistrate could prescribe

[540] R. Sanderson, *Ten lectures*, p. 230; R. Sanderson, *xiv sermons*, p. 77; J. Taylor, *Ductor Dubitantium*, pp. 309; E. Stillingfleet, *Irenicum*, p. 6; J. Locke, *Political Essays*, pp. 57-58; T. Barlow, *The genuine remains*, p. 531-534; S. Rutherford, *The divine right of church-government*, pp. 99-104.
[541] J. Owen, *Truth and Innocence*, p. 232.

acts of worship was contrary to the opinion of the Church.[542] Parker's ideas were actually close to those of Hobbes. Hobbes argued that the magistrate ought to prescribe one public religion and form of worship in order to keep the peace, which the subjects would be obliged to obey, but even he conceded that some rites and ceremonies were naturally disgraceful, and ought not to be commanded. However, unlike Anglican writers like Sanderson, Hobbes did not allow the magistrate's power over public religious worship to be limited by any revealed law because revelation, for Hobbes, was only law when authorised by the magistrate.[543] Although Parker's reasoning was not the same as that of Hobbes, his conclusion that acts of worship could be directly controlled by the magistrate, unless they were naturally disgraceful, was.

Parker's argument for making acts of worship natural led Owen and Ferguson into a discussion of the nature of worship and of sacrifice. Like a number of other Seventeenth-Century divines Owen and Ferguson had specific ideas about how worship was to defined, in a technical sense, and the degree to which worship could be called natural. They also shared the belief, held by a number of their colleagues, that the origins of sacrifice in the pagan world were an important piece of evidence when considering the nature of worship. Sacrifice was clearly an act of worship and it had been universal in its practice. Consequently the history of sacrifice was thought capable of proving whether worship in general was supposed to be the product of reason, human institution or revelation. Parker, Owen and Ferguson conducted their debate in the context of a tradition of discussion about religious worship, and the proper definition of worship. European divines, since the time of Aquinas and before, had tried to give a precise definition to religious worship; they had also tried to discern the location of the acts of worship (or cultus) within the realms of nature and grace. The scholastic and continental tradition of thought about divine worship was well understood by anti-Catholic polemicists like Edward Stillingfleet. Aquinas's definition of religious worship in the

[542] S. Parker, *A discourse*, pp. 100-105.
[543] T. Hobbes, *Leviathan*, ed J. Gaskin, (Oxford, 1996), pp. 242-244.

Summa was well known. [544] Worship involved specific outward acts, like sacrifice and adoration, and was defined as subjection to God as an acknowledged superior. Aquinas made worship a moral virtue and related it to natural justice, rendering it distinct from the theological virtues.[545] Aquinas's idea about worship being a natural, rather than a theological, virtue was widely shared and there was a broad agreement that worship of God was ordained by the law of nature. All pagan states, with no access to revelation, had framed imperfect ways of worship for their false gods and idols. This constituted proof worship was natural and Aquinas's notion that worship was fundamentally a natural requirement was generally accepted.[546]

However, there was also a prevailing view which suggested that while worship was ordained by the law of nature, acts of outward worship retained an intimate connection with grace and the supernatural, which served to remove them from the ambit of the *custos utriusque tabulae*. Therefore, for many people there remained a crucial distinction between worship and other moral virtues. This distinction had profound implications for politics and for ideas about toleration. People believed that virtues like justice, or temperance, could be interpreted with regard to specifics by human authorities. The law of nature was seen as giving general commands, which needed to be applied to human societies through the medium of human reason. One of the examples used to illustrate this was the case of the Spanish adulteress. In *Ductor dubitantium* Jeremy Taylor pointed out that the law of nature decreed that murder was wrong, but that it was up to magistrates to determine the precise circumstances in which killing was accounted murder. In Spain, Taylor pointed out, a husband killing an adulterous wife in rage was not considered a murderer, but the application of natural law was different in England. [547]

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[544] E. Stillingfleet, *A defence of the discourse concerning the idolatry practiced in the Church of Rome*, (1676, London) pp. 188-194; R. Sanderson, *Ten lectures*, p. 230; J. Locke, *Political Essays*, pp. 57-58.
[545] *ST, IIa IIae*, q. 81, a. 1-7; E. Stillingfleet, *A defence of the discourse*, pp. 184-185; S. Rutherford, *The divine right of church-government*, pp. 80-88; G. Towerson, *An explication of the Decalogue*, (London, 1685), pp. 8-10.
[546] E. Stillingfleet, *Irenicum*, p. 72; C. Wolseley, *The reasonableness of scripture-belief*, pp. 128; P. Nye, *Beames of former light*, p. 1-5.
[547] J. Taylor, *Ductor dubitantium*, p. 430-432.

However, worship, although ordained by natural law, was thought to be different from other natural laws. This point was well illustrated by the nonconformist independent author Philip Nye in *Beames of former light*. As we have seen Nye was unequivocal that the civil magistrate was *custos utriusque tabulae*, and that this office involved specifying the general precepts of the law of nature. Nye thought worship was a natural requirement and believed that the magistrate had a care for the eternal souls of the subjects. Yet Nye had been quick to point out that the magistrate's control over the first table of the law differed substantially from his control over the second. He was only allowed to make new laws on the basis of the general precepts of the second table, but was not permitted to do so in regard to the first.[548] Thus, although the worship of God was natural, the power of the magistrate over matters of worship was not equivalent to his control over other moral, or natural precepts. Seventeenth-Century divines could explain these limitations upon magisterial authority in affairs of worship in metaphysical terms in light of the distinction between the divine nature and the divine will. Worship, it was claimed, depended on the divine will, not the divine nature, and the divine will was inscrutable. Direct revelation was thus required, because only human duties which flowed from the attributes of the divine nature were cognizable by natural light.[549]

This point was made by Parker's nemesis, Sir Charles Wolseley, in *The reasonableness of scripture-belief*. Wolseley believed the reason that worship always had to be connected to revelation lay in the fact that following the fall all worship entailed propitiation for the forgiveness of sins.[550] Acts of worship were therefore about acquiring forgiveness for sin, something which had not been necessary before the fall. Wolseley believed that it was impossible to know a form of worship was really successful in gaining forgiveness without revelation, because the forgiveness of sin, by God, was not part of the law of nature but was a voluntary act on the part of God. For Wolseley, reason did not communicate God's voluntary acts.Wolseley had argued 'No … external Mediums of Worship

[548] P. Nye, *Beames*, pp. 2-3.
[549] E. Stillingfleet, *Irenicum*, pp. 6, 36-38; T. Barlow, *The genuine remains*, pp. 531-534.
[550] C. Wolseley, *The reasonablenes of scripture-beleif*, p. 136.

are founded in Reason, but all in Institution.'[551] Through this argument Wolseley fenced off outward religious worship from nature and natural law. As Christian worship involved repentance it depended on divine acts which were not part of the law of nature, but stood outside it. At the root of the connection between worship and revelation was the divine will, and its inaccessibility to reason.

In *A discourse* Parker recognized that this prevailing view of worship was a problem for his argument. In response Parker claimed that divine worship, although connected to the divine will, ought still to be seen as natural, and thereby under magisterial control. The foundations for Parker's argument that acts of worship were tied to nature, not revelation, were in part derived from his views about the origins of sacrifice. As it appeared sacrifices were a longstanding part of religious practice, this might suggest that they were actually of natural origin, because one of the most obvious signs something was derived from the natural law was its universality. The Anglican latitudinarian John Wilkins noted that the idea sacrifice might be natural was initially plausible, because of the universality of the practice. According to Wilkins, 'all Nations pretending to any Religion from the most ancient times to which any record doth extend, have agreed in the way of worship by Sacrifice. And from this general practice, there may seem to be some ground to infer, this way of worship to be dictated by the light of nature.'[552]

Unfortunately for Parker, the view that sacrifice had its origins in natural law was a deeply unpopular one in Protestant England as it was associated with Roman Catholicism and, in particular, the defence of the mass. In *A sober enquiry*, Ferguson gave a detailed summary of the opposing views on the origins of sacrifice. The view that sacrifice was entirely in accord with the law of nature was, Ferguson admitted, perhaps superficially plausible. Yet it was position which had been held by

[551] C. Wolseley, *The reasonablenes of scripture-beleif*, pp. 130-134.
[552] J. Wilkins, *Of the Principles*, p. 182; J. Owen, *Truth and Innocence*, p. 269.

many in the Roman Catholic Church (including Aquinas) and was thought to support the hated doctrine of transubstantiation. As Ferguson explained:

> Some [divines] derive them [sacrifices] from the Obligation of the Law of Nature: This way do most of the Romanists steer … The inducement leading the generality of the Divines of the Romish Communion to derive the institution of Sacrifice from the Obligation of Nature, is, that they may better Justifie the Sacrifice of the Mass … [because] If we should yield them our being under an Obligation from Nature, for our approaching God by Sacrifices; We must also grant either the Sacrifice of the Mass, or we must substitute some other by which we contrive to pay our Natural Homage to God. For no supernatural Law can repeal a Natural.'[553]

Ferguson's point was that if sacrifice was part of the law of nature, the obligation to worship God through sacrifice could never be brought to an end, because natural law was perpetually obliging. Some provision would therefore have to be made in current worship for sacrifice to play a role, and that could not help but support the Catholic defence of transubstantiation. English Protestant authors, consequently, tended to reject outright the idea that sacrifice could be according to nature. For Wilkins it appeared that sacrifice was not determined by the law of nature; 'When it is well considered, what little reason there is to … believe, that the killing or burning of Beasts and Birds, or any other thing useful to mankind, should of itself be a proper and natural means to testifie our subjection to God: or to be used by way of expiation from sin...'[554] Ferguson concurred, arguing that if sacrifice was natural it had to be in accord with some perfection of the divine nature. Ferguson commented 'I know no perfection in the Divine Being to which they [sacrifices] are suited.'[555]

This was the overwhelming view of English Protestants, Samuel Parker included. Their solution, Samuel Parker aside, was to ground sacrifices in direct divine revelation. According to

[553] R. Ferguson, *A Sober Enquiry*, pp. 186-187.
[554] J. Wilkins, *Of the Principles*, pp. 182-183; J. Owen, *Truth and Innocence*, p. 272.
[555] R. Ferguson, *A sober enquiry*, p. 193.

Ferguson, 'The third Opinion concerning the Original of Sacrifices is theirs who deduce them from the Institution of God himself. And … this is the common sentiment of Protestant Divines …'[556] On this view, sacrifices were neither part of the law of nature, nor of human contrivance, but were the result of a direct divine command, propagated throughout the world and human history by revelation. For Wilkins, 'it will rather appear probable, that the original of this practice was from Institution, and that our first Parents were by particular revelation instructed in this way of worship, from whom it was delivered down to their successive Generations by verbal Tradition …'[557] Owen and Ferguson adduced a mountain of evidence for this view, some of it scriptural, like the statement that Abel offered a sacrifice to God in faith, which Ferguson took to mean on the basis of revealed promises.[558]

However, there was a third view of the origin of sacrifices. Sacrifices could be viewed as a purely human institution. On this version of events sacrifices were neither commanded by the law of nature, nor the law of revelation but were acceptable to reason and natural law. Human magistrates could institute them as a way of offering reverence to God if they wished. Owen and Ferguson understood this point of view to be that of Socinus. Sacrifices, according to Faustus Socinus, had been instituted by men, without any kind of divine warrant, saving a natural apprehension that they were a method of worship acceptable to God. The Socinian denial that sacrifice was either directly derived from nature, or was the product of revelation, was taken to be a way of delegitimizing the atonement. However, various church fathers were known to have also favoured this view, as was Suarez as well as several leading Arminians and Remonstrants, like Grotius and Episcopius.[559]

The view that sacrifices were of human institution was also Parker's view. In *A discourse* Parker argued that sacrifices, 'owe their original purely to the Choice and Institution of men.'[560]

[556] R. Ferguson, *A sober enquiry*, p. 198.
[557] J. Wilkins, *Principles and Practices*, p. 183; E. Stillingfleet, *Irenicum*, pp. 76-77.
[558] J. Owen, *Truth and Innocence*, pp. 275-276; R. Ferguson, *A sober enquiry*, pp. 185-214.
[559] R. Ferguson, *A sober enquiry*, p. 208.
[560] S. Parker, *A defence*, p. 433.

Parker concluded, from his view of the origins of sacrifice that, 'God … in all Ages of the World left its [external Worship's] management to the discretion of Men … Sacrifices, which were the most ancient, if not the onely Expressions of Divine Worship, were purely of Humane Institution.'[561] The implication of this, for Parker, was that the human magistrate could institute new acts of worship if he wished. Suddenly, acts of worship were not sacrosanct and outside the purview of the magistrate. The idea that liberty of conscience ought to be afforded to orthodox Protestants in matters of worship was placed in jeopardy. The distinction between divine worship proper and indifferent circumstances broke down, because sacrifice itself was clearly a proper act of worship and not a circumstance, as Parker was well aware.

Parker's opinion was obviously in need of a defence, because it was contrary to the views of most of his colleagues and was recognizably Socinian. Parker did not spend a great deal of time refuting the idea sacrifices might be commanded directly by the natural law, probably because he knew few people in England held this position.[562] However, Parker had to devote more attention to refuting the claim that they were the product of revelation. Parker's argument against the idea sacrifices originated in revelation drew on his ideas about the nature of divine worship. Parker believed that the insistence sacrifices were the product of revelation owed to a misunderstanding of the nature of worship. Parker knew the kind of argument put forward by Wolseley stood behind the belief sacrifices had to originate in revelation. Wolseley had linked all worship to the need to expiate sin, thereby connecting worship to revelation on the grounds that the forgiveness of sin was voluntary and so unnatural and unknowable through reason.

Parker contended that viewing religious worship as being ultimately about the forgiveness of sin was misguided. Parker argued that sacrifices would only have needed positive institution if it were true that sacrifices were purely an attempt to expiate sin, because the forgiveness of sin was a

[561] S. Parker, *A defence*, p. 419.
[562] *Ibid*, p. 421.

voluntary act on God's part.[563] However, as we have seen in the previous chapter, Parker's ideas about religion led him to believe that worship had to be fundamentally the same both before and after the fall. As Adam and Eve had not had to beg forgiveness for sins before the fall, the expiation of sin could not be what worship was ultimately premised upon. For Parker, worship was based upon the virtue of gratitude and acts of worship were really expressions of thanks and love for God's gifts. Parker did not think creation was something God was necessitated to required carry out, so he believed he was still asking people to pay tribute to God's will, not his nature.[564] However, it was God as creator, not redeemer, Parker wanted men and women to worship. As gratitude was a natural virtue there was no reason to think people did not know how to render thanks to God in the absence of revelation. There was therefore no need to suppose that sacrifices could not be of human institution. In Parker's opinion sacrifices had been seen as naturally agreeable to God, but had not been assumed to be commanded.[565]

Owen and Ferguson recognized how dangerous Parker's views about worship and sacrifice were to the argument for religious toleration. Once again, they traced Parker's advocacy of persecution to his denial that religion had been fundamentally altered following the fall. Parker's view of worship might suit the state of innocence, like his religion as a whole, but it was not a suitable view for Christians. Owen and Ferguson therefore ignored Parker's insistence that worship was really about gratitude and not expiation for sin. Like Wolseley, they were convinced worship following the fall was predicated on the need to atone for sin. Ferguson pointed out that if God forgave sin it could never be known of through the light of nature. The light of nature only informed men and women of God's eternal attributes. A promise to forgive sin, on account of a sacrifice, was a purely voluntary act on God's part, having no reference to the divine nature but only to the divine will. It could, therefore, never be declared through nature. Ferguson argued that, 'a gracious

[563] S. Parker, *A discourse*, pp. 100-101.
[564] S. Parker, *An account*, pp. 42-43.
[565] S. Parker, *A defence*, pp. 318-320.

promise … a voluntary and free benefit; 'tis perfect nonsense to imagine that Natural Light can give a direction about it.'[566]

The issue thus turned on the notion of an epistemological pathway between natural light and the divine essence. Nature could never suggest sacrifice as an acceptable way to worship God, because only revealed promises, which were dependent on God's will, could assure men and women that sacrifices would be accepted. It was necessary, therefore, for Ferguson, for sacrifices to have been the product of direct revelation. This was also the view of Owen, Wilkins and Stillingfleet. Sacrifices, on this view, could not be used to illustrate that acts of divine worship themselves were within magisterial discretion, and so Parker's argument would fail and he remained without proof that human magistrates had any right to prescribe acts of divine worship.

Parker's engagement with the question of sacrifice was ultimately political and ecclesiastical, not theological, and was designed to spread magisterial power over as wide an area of public life as possible, by magnifying the sphere of nature and human reason. Owen and Ferguson's robust defence of the orthodox Protestant view of the origin of sacrifice worked to preserve the very conventional idea that acts of divine worship were outside of the magistrate's control, even if worship itself could, ultimately, be called natural. In their view, the institution of sacrifices through revelation illustrated the necessary connection between an act of divine worship, and the divine will. If it could be shown a key aspect of historical religious worship was derived from revelation, and God's voluntary appointment, rather than reason and the divine nature, divine worship itself could be excluded from the sphere of human activity in which the magistrate could govern in virtue of natural light.

A great deal of Owen and Ferguson's argument thus depended on their ability to connect worship with the divine will, and so separate it from the divine nature. Ferguson's placement of the divine will at the heart of worship moved worship back outside of the magistrate's remit. In *A sober*

[566] R. Ferguson, *A sober enquiry*, p. 205; J. Owen, *Truth and Innocence*, p. 280.

enquiry Ferguson went further and suggested that Parker's description of religion as natural law and moral virtue was actually fundamentally inconsistent with any role for the divine will in Christianity. Parker, thought Ferguson, must really be denying that there was any positive divine law, and that any duties came from revelation at all.

For Ferguson, the divine supernatural law was derived from God's will alone, and its commands obliged in virtue of being willed by God, and not because the commands themselves were inherently good. 'Such Laws,' commented Ferguson, 'Gods Dominion over all men as his Creatures, authoriseth him to make …' Ferguson noted that there had never been a time where there had not been a supernatural law in addition to the law of nature. According to Ferguson:

> Nor did God ever leave man since he first Created him singly to the Law of Nature for the payment of that homage he owes him; but even to Adam in Innocency he thought fit to give a positive law; a Law, which for the matter of it, had no foundation at all in Man's nature …[567]

Parker, Ferguson pointed out, agreed that God's will created supernatural laws which could oblige human beings, and which were distinct from the law of nature. Yet, Ferguson noted, Parker also claimed that all of religion resolved itself into the practice of the moral virtues, which were emanations from the divine nature. This ought to mean, in Ferguson's view, that there should be no supernatural religious duties at all.[568] Parker's naturalism was therefore founded ultimately on the denial of the metaphysical reality of the divine will, and its role in human duty and religion. Religion could only be fully natural, and identical with the law of nature, if supernatural laws, stemming from the divine will did not exist. As it manifestly was not the case, in Ferguson's opinion, that no supernatural law existed, Parker's elision of Christianity with natural law had to be wrong.

Conclusion

[567] R. Ferguson, *A sober enquiry*, p. 212.
[568] *Ibid*, pp. 212-214.

The distinction between natural and supernatural law had always played a role in the theory of religious liberty, and in the Church's apologetic, but Parker's arguments had enormously increased the relevance of questions about reason and revelation, and of nature and grace. Owen and Ferguson realized this, and in their hands the debate about liberty of conscience came to turn on a defence of the reality of the supernatural sphere. Owen and Ferguson believed that if the scheme of human salvation was properly understood and if the metaphysical foundations of nature and grace were born in mind, it was obvious that many human duties were outside of the realm of nature, and so outside of the control of the *custos utriusque tabulae*. The presence of a supernatural sphere, underpinned by the difference between the old and new covenants, and the free action of the divine will, came to be, for Owen and Ferguson, the theological and metaphysical foundation for religious liberty.

The writings of Parker, Owen and Ferguson show how important complex theological and metaphysical ideas could be for Seventeenth Century divines who wanted to think about the way public life should be organized. Owen and Ferguson's Calvinism, and, in particular, their ideas about free-will, allowed them to conceive of a very different role for natural law, both within salvation and in politics, to Parker, despite the broad agreement between all three of them about most aspects of the natural law. Owen and Ferguson's differences with Parker about human nature and the consequences of Adam's sin did suggested a much more limited role for the natural law in religion than the anti-Calvinist Parker allowed.

Parker, Owen and Ferguson's exchange was admittedly unusual: most debates between conformists and dissenters did not come to turn upon detailed points of moralist theology. Nevertheless, the debate only happened at all because buried deep in many people's assumptions was the sense that the natural law, and its foundation, the divine nature, underwrote a natural sphere in which public power could be exercised. Limitations on public power, it was assumed, owed to humankind's dependence on grace for salvation. Of course, this was somewhat paradoxical. For

many it was only the fallen nature of mankind which made government necessary at all. Yet paradoxical or not, the debate between Parker, Owen and Ferguson shows how thoroughly the issue of human nature, and its dependence on grace, permeated thought about religious politics in Restoration England. People's assumptions about the connection between nature, grace and public power meant that a re-thinking of the relationship between nature and Christianity could have pronounced implications for politics.

Chapter Eight: John Locke and Anglican Apologetic

John Locke's voluminous writings on toleration have more connections with scholastic philosophy and natural law theory than has been realized. That these themes appear in Locke is not surprising. Locke's first works on toleration engaged heavily with Sanderson's ideas. The young Locke was a follower of the argument for conformity set out in Robert Sanderson's *Ten lectures*. This chapter traces Locke's engagement with the themes of the Anglican apologetic of Hooker and Sanderson. Ideas about human law and the distinction between nature and grace were, beginning with Richard Hooker, important for many writers on uniformity and toleration and they featured in Locke's writings.

Historians have not usually focused on the connections between Locke and the Church's interest in scholastic philosophy and natural law. Locke's ideas, especially as expressed in the famous A *letter concerning toleration*, are often placed in an international context, his links to Dutch humanist and Remonstrants being emphasized.[569] Although Locke's debt to Sanderson for the substance of the *Tracts* is well known, there have been suggestions Locke really owed as much, if not more, to Hobbes.[570] In this chapter it is argued that a richer understanding of Locke's theory of religious toleration can be gleaned by citing him squarely in the world of Robert Sanderson, Samuel Parker and other prominent Anglican apologists. Throughout his career Locke was navigating through a discourse structured by the Church's own elaborate refutation of dissent. The intellectual manoeuvres Locke undertook can often only be properly understood in the context of the Church's own claims.

The first part of this chapter focuses on Locke's engagement with Robert Sanderson's claims about conscience and human law. The second introduces Locke's famous nemesis, the high Churchman Jonas Proast (1642-1710), who responded to Locke's A *letter concerning toleration* and,

[569] J. Marshal, *John Locke, Toleration and Early Enlightenment Culture*, pp. 469-535.
[570] R. Kraynak, 'John Locke: From Absolutism to Toleration,' *The American Political Science Review*, 74 (1980), pp. 53-69; J. Parkin, *Science, Religion and Politics*, pp. 23-25.

according to some, embarrassed Locke by problematizing Locke's claim that conscience could not be coerced. Here it is suggested Locke dealt with Proast by thinking about toleration, like Wolseley, in terms of nature, grace and natural law. Attention is also give to Proast, who showed that the Anglican argument for conformity had moved away from the model used by Hooker and Sanderson.

Locke and the Tracts

Locke's earliest writings, on any subject, were the *Two Tracts on Government*, produced in 1660 while Locke was at Christ Church in Oxford but never published. The *Two Tracts* were written to defend the principle of religious uniformity. The young Locke feared a return to civil war if differences in worship were allowed to proliferate. Locke was indebted to Sanderson for the argument of the *Tracts* but even in 1660 he differed from Sanderson in one crucial respect. The young Locke held a belief about the circumstances in which penal laws were valid that he would maintain throughout his career, and which upset his argument for conformity. This inconsistency in Locke's early work partly explains Locke's later conversion to the cause of toleration in 1667, when he wrote the *Essay on Toleration*.

The *Two Tracts* were produced while the new religious settlement was coming into being. John Owen, Dean of Christ Church, was encouraging defences of toleration to be written. An especially difficult member of the college, Edward Bagshaw (1630-1671), produced a book, arguing that the Church and state had no right to impose indifferent ceremonies and rites on the whole nation.[571] Bagshaw's argument was a very conventional nonconformist plea, of the sort Sanderson's argument was designed to confute.[572] Locke, fearful, above all, of civil disorder, penned the *Two Tracts*, known respectively as the English (First) and Latin (Second) Tract, in order to answer Bagshaw's request for liberty with a justification of religious uniformity and persecution. The *First*

[571] J. Marshall, *John Locke, Resistance, Religion and Responsibility*, pp. 6-8.
[572] E. Bagshaw, *The great question concerning things indifferent in religious worship briefly stated*, (London, 1660), pp. 1-5.

Tract was a point by point refutation of Bagshaw, while the *Second Tract* was a restatement of the conventional Anglican justification of the Church.

The *Second Tract* in particular is known for its debt to Robert Sanderson's *Ten lectures*. In the *Tracts* Locke argued that permitting ceremonial diversity in worship would lead to a return of the strife which had so recently gripped the country. He also argued that all cultures and societies were justified in having particular ceremonies which were not to be found in the scriptures. Locke did not believe in religious uniformity for the sake of saving souls but because allowing visible differences in worship led to war. In the *Second Tract* Locke's principal aim was to show that imposing ceremonial conformity was legitimate, and that dissent from it was sinful. Locke understood that an account of indifferent affairs had to be given, to delineate the magistrate's power in this regard. Quoting Hooker he set out to explore human law.

For this purpose Locke depended heavily on Sanderson. For Philip Abrams, author of the principal study of the *Tracts*, 'One could reasonably argue, indeed, that the Tract [latin Tract] is little more than a paraphrase of lectures v, vi and vii of Sanderson's book [Ten lectures].'[573] Sanderson's fifth, sixth and seventh lectures had dealt with human laws, discussing their obligation, as well as their material and efficient causes. Locke rehearsed Sanderson's principal arguments, from the nature of human law, for conformity.

Like Sanderson, Locke thought proving that all the magistrate had power over all indifferent acts would refute dissent. To make this argument he followed the logic of the *Ten lectures*, arguing that human laws bound the conscience, and outranked all other improper binders of conscience. Locke provided a hierarchy of improper binders which differed only slightly from Sanderson's. Locke used similar arguments to Sanderson to stress that human laws bound the conscience in all circumstances, in both civil and ecclesiastical cases. Locke also rehearsed one of the most distinctive

[573] J. Locke, *Two Tracts on Government*, p. 72, (Preface); J. Locke, *Essays on the Law of Nature*, ed., von Leyden, (Oxford, 1988), pp. 30-33.

claims of the *Ten lectures*, claiming that subjects were obliged in conscience to obey the magistrate's laws even if those laws did not conduce to the common good. Locke's account of divine worship was almost identical to Sanderson's.[574] Locke recycled, as we have seen, Sanderson's argument from scholastic psychological definitions against liberty of conscience. Locke's dependence on Sanderson in the *Second Tract* was thus very pronounced. Nevertheless, historians have often evinced the need to set Locke apart from Sanderson and the Anglican tradition.

There is a school of thought which postulates that the *Tracts* are Hobbist, and deviate from Hooker and Sanderson's argument for conformity (and by extension the Church of England as a whole). The argument was originally put by Cranston and Gough, but has been restated by Kraynak.[575] Kraynak sees the *Tracts* as subtly Hobbist, and portrays Locke's argument therein as breaking down the barriers that set apart Hooker's vision of the state from that of Hobbes.[576] Abrams was not impressed with the purported connection of Locke's *Tracts* to Hobbes but was convinced that Locke was a considerably more pronounced voluntarist than Sanderson, and argued this fact stood at the heart of Locke's problems with the Anglican conformist case.[577] Yet these arguments are not convincing, as we shall see.

Locke's argument in the *Tracts* was no more Hobbist than Robert Sanderson's, principally because it was very nearly identical. Locke did lay more stress on the need to regulate religion to avoid civil strife than Sanderson did in the *Ten lectures*, but Sanderson had made the same point. As we have seen, Hobbes and Parker deviated from the usual Anglican line about worship and indifferency by suggesting that acts of worship themselves could be prescribed by human authorities. Like Sanderson, Locke rejected this idea and the whole tenor of his argument was the usual Anglican assertion of authority over indifferent circumstances of worship. It is perhaps possible

[574] J. Locke, *Political Essays*, pp. 57-59.
[575] M. Cranston, *John Locke: A biography*, (Oxford, 1957) pp. 61-63.
[576] R. Kraynak, 'John Locke: From Absolutism to Toleration,' pp. 53-69.
[577] J. Locke, *Two Tracts*, pp. 40-49.

that Sanderson's authoritarian view of the scope of magisterial power over conscience might be said to be Hobbesian, but Locke's argument owed little to Hobbes.

However, Locke did differ from Sanderson in one fundamental respect. From the beginning Locke tried to combine Sanderson's argument from law with a particular view about the legitimacy of persecution which was foreign to the traditional Anglican justification of the Church. This particular view about the legitimacy of persecution was the belief that coercion in religious matters could only be justified if it could alter religious beliefs. Historians associate Locke's later advocacy of toleration with this argument because of its prominence in the A *letter concerning toleration*. Yet, even in the conformist *First Tract*, Locke claimed that some forms of persecution were wrong because conscience could not be compelled. John Marshall notes, in Locke's *Tracts*, 'as in all his works defending toleration, the understanding could not be positively influenced by coercion, since it was beyond the power of the individual to alter his mind at will …'[578] As we shall see, blending this idea with Sanderson's argument created difficulties for Locke, and may have compelled him, on a theoretical level, to move towards his later position.

The reason Locke was discussing whether force could compel the conscience in the *Tracts* was because of an argument made by Bagshaw. Bagshaw used the idea that regulating Jews and Muslims in matters of worship was wrong to try and open the way to acceptance of Protestant nonconformity. Bagshaw argued that if the magistrate must:

> leave even those poore Creatures the Jews and Muhumedans, to their unbelief (though they certainly perish in it) rather then by Fines and Imprisonments to torture them out of it; then much lesse may he abridge his Fellow Christian, in things of lesser Moment and which concerne not the substance of his Religion ...[579]

[578] J. Marshall, *John Locke, Resistance, Religion and Responsibility*, p. 15.
[579] E. Bagshaw, *The great question*, p. 2.

Locke's response to this argument caused him to deviate from the structure of Sanderson's argument. Locke agreed that force could never be used to institute religion as a whole, on the grounds that Bagshaw adduced. Conscience could not be coerced as people did not have the power to alter their own conscience. Obviously this created a problem; how was Locke to justify the imposition of indifferent ceremonies if he accepted that people could not be forced to go against their consciences? Locke's whole case, and his allegiance to the Anglican argument now rested on this point. Sanderson had never considered whether the inviolable nature of conscience militated against state imposed conformity. He had, in fact, justified the Church's rites and ceremonies on the grounds that conscience could not be coerced. How could Locke disconnect Bagshaw's argument that religion could not induced by force, from Bagshaw's conclusion, which said indifferent affairs ought to be left at liberty?

One way would have been to entirely divorce outward practice from inward belief, and claim that although religious conviction could not inculcated by force, people could be compelled to practise whatever rites and ceremonies the magistrate called for. However, Locke was not a Hobbist who divorced inner belief from outward action. In the *Second Tract* Locke, like Sanderson and the Church as a whole, stressed that some parts of exterior divine worship were not indifferent and could not be altered by the magistrate. In the *First Tract* Locke made it clear that the magistrate did not have authority over matters relating to the worship of God if they flowed from a divine law. Locke argued people could give up their control of indifferent affairs to the magistrate in a contract but could never surrender their ability to perform duties derived from divine laws. For Locke:

> indifferent things relating to religion … though they relate to the worship of God are still but indifferent and a man hath as free a disposure of his liberty in these as any other civil actions till some law of God be produced, that so annexes this freedom to every single Christian that it puts it beyond his power to part with it …[580]

[580] J. Locke, *Political Essays*, p. 12.

Locke therefore did not confine the liberty flowing from the impregnable nature of conscience to thought alone. He spoke as though a religious conviction grounded in the scripture could cause an act to become impossible to be surrendered to the magistrate in a hypothetical contract. His real distinction was therefore between necessary beliefs and actions, and indifferent ones. He needed an explanation as to why purely indifferent affairs could be regulated, even if they went against conscience.

Locke's solution to the problem was to suggest that people did have the power to change their beliefs and actions, as long as those beliefs and actions were indifferent. Locke put the argument in terms of contract theory:

> it is as certain, then, that the magistrate hath an absolute command over all the actions of men whereof they themselves are free and undetermined agents, as that beyond this he hath no authority, and therefore though he cannot enforce religion, which they never had the liberty to give up to another's injunctions, yet all things which they have a power to do or omit, they have made him the judge …[581]

Locke implied that one's beliefs and actions about indifferent affairs of religion were fully subject to the human will, in a way that religious beliefs and actions about more necessary affairs were not. Beliefs and actions about matters of indifferency were described as 'free and undetermined' and as a consequence individuals could place them under the supervision of the magistrate. Locke thus contrasted necessary beliefs and actions, which could not be compelled, with matters of indifferency. 'In things of indifferency,' he argued, 'depending freely upon the choice of the doer will be entertained or neglected proportionally as the law shall annex rewards or punishments to them, and the magistrate may expect to find those laws obeyed, which demand not any performance above the power of the subject …'[582] The understanding was thus only compelled with regard to

[581] J. Locke, *Political Essays*, p. 15.
[582] *Ibid,* p. 15.

necessary beliefs and actions, and so possessed a liberty of doing or forbearing with regard to indifferent actions.

However, this view was problematic. It was hard to see how people could have more power over their indifferent beliefs and actions than any other sort of action. Such a view would appear to deny the subjective nature of conscience. Almost everyone believed that conscience was subjective, and that people often had erroneous beliefs about their duty. On the Anglican theory of conscience, derived from Aquinas, an erroneous conscience could not be disobeyed without sin. A belief or act might be indifferent in an objective sense but because it might still be thought necessary men and women were bound in conscience to perform it. Locke was obviously aware that the nonconformists thought observance of the religious ceremonies could lead them into sin, and he can have hardly supposed such a belief could be set aside at will.

If this issue is thought of in terms of the contract theory Locke put forward in the *First Tract* the problem of the erroneous conscience is easier to see. Locke had theorized that the magistrate's power over indifferent actions was based on a contract, as had Stillingfleet in *Irenicum*. Locke had urged that men should cede to the magistrate all of their power to perform indifferent actions, retaining only the right to execute their necessary duties, to which they were obliged by the direct divine laws. Yet dissenters thought that the matters of indifferency became necessary to do, or omit, on pain of sin. Under the contract theory they surely ought to have refused to hand over control of such actions to the magistrate, given they could not alter their apprehensions with regard to these matters.

Locke's argument thus ran aground on the rocks of the erroneous conscience. His belief that persecution had to be exercised only about matters which someone could freely alter implied that the erroneous beliefs of the nonconformists concerning the ceremonies ought not to be subject to coercion. Locke's requirement that force had to be able to change belief thus caused the subjective nature of conscience to intrude on Sanderson's argument, which had only dealt with conscience on

an objective basis. Sanderson had only been interested to show that nonconformists were mistaken, Locke suggested that those mistaken beliefs had to be capable of alteration by force and law. Locke was thus left with the dubious task of speaking as though opinions about the indifferent matters could be changed at whim. This was a very awkward position, brought about entirely by Locke's assent to this aspect of Bagshaw's argument.

However, Locke did have a solution and it entailed the by now familiar appeal to the distinct sphere of supernature or grace. Beliefs about important, fundamental necessary truths, according to Locke, were under the supervision of God, and were thus harder to alter than other beliefs. Moreover, they were unequally distributed throughout the population, some people being more enlightened and some less so. Locke claimed:

> God in this [fundamental religious beliefs] ... hath a nearer communion with men retaining a more immediate dominion over their minds, which are brought to an assent to such truths proportionably as God either by the wise contrivance of his providence, or a more immediate operation of his spirit shall please to dispose or enlighten them ...[583]

The sort of beliefs or actions that merited toleration were connected to some kind of infused supernatural aid, the 'immediate operation of his spirit.' Indifferent actions and beliefs were not to be accorded toleration because they were not supported by the spirit. Locke's argument here would thus be a variant of Wolseley's, which used the boundaries between natural and supernatural knowledge to distinguish the realm of liberty from the magistrate's domain. In Locke's mind, beliefs and acts about fundamental aspects of religion were beyond the reach of force because they depended not on the usual natural processes of persuasion, which might be influenced by coercion, but on infused supernatural aid. In the *Tracts* therefore, Locke hinted, like Wolseley, that a clear

[583] J. Locke, *Political Essays*, p. 14.

distinction between the natural and supernatural realm was fundamental to toleration. Locke would repeat a variant of this argument in the more famous A *letter concerning toleration*.

Locke probably derived the idea that necessary beliefs and actions could not be coerced from the standard belief that matters of divine worship were uniquely connected to revelation. The traditional Anglican justification of the Church had always distinguished between indifferent circumstances of worship, and direct acts of divine worship and the latter were thought to be peculiarly dependent on revelation or supernatural gifts. However, unlike Locke, Anglicans like Sanderson did not use the connection between direct acts of worship and revelation to provide a psychological explanation as to why some beliefs and actions could be reformed by penalties but others could not. Sanderson's argument had only been meant to show the emanation and structure of divine laws as they really were, and to thereby prove dissent was sinful. He had not been interested in whether laws could reform the erroneous conscience and had never addressed the issue.

Yet Locke's belief that penal laws had to be able to affect belief led him to tie the legitimacy of religious persecution to the individual's subjective apprehension of the structure of laws. The one premise still upholding Sanderson's argument was Locke's conviction that because of the absence of grace, indifferent acts differed in a psychological sense from necessary beliefs and acts. If this premise could be shown to be untrue, Locke's version of Sanderson's argument collapsed. This is in fact what happened in Locke's next major work on toleration.

Like the *Two Tracts*, the *Essay on Toleration* remained unpublished in Locke's lifetime and four different drafts survive. The *Essay* was the first major draft on the subject of toleration that Locke wrote since the *Tracts*. It was written for Locke's new employer, Anthony Ashley Cooper, the future earl of Shaftesbury. Ashley was to become the leader of the whig exclusionists in their struggle against Charles II and his brother but in the 1660s he remained in the king's confidence, forming part of the 'Cabal' of ministers who assumed power after the fall of Clarendon. Shaftesbury

was favourable to the nonconformists and particularly so because of commercial reasons.[584] Locke's conversion to the cause of toleration has often been attributed, sometimes solely, to his influence. However, aside from diplomatic visits to the continent, which might have suggested to Locke that different denominations could coexist peacefully, there are other purely intellectual explanations for Locke's change in attitude. Locke's belief that penal laws could only be justified if they reformed action and belief had caused him difficulties in the *Tracts*. There was no particularly good reason to think indifferent beliefs could be changed by coercion but necessary belief could not be, unless an appeal was made to beliefs being supernatural.

In the *Essay on Toleration*, Locke simply jettisoned his belief that indifferent belief and actions could be altered by force and asked for a limited toleration for orthodox Protestants. For Locke, the liberty which ought to be accorded to a Muslim or a Jew, out of respect for conscience, was now deserved by dissenting Christians too. Locke wrote, in the *Essay*:

> In religious worship nothing is indifferent, for it being the using of those habits, gestures, etc., and no other, which I think acceptable to God in my worshipping of him, however they may be in their own nature perfectly indifferent, yet when I am worshipping my God in a way I think he has prescribed and will approve of, I cannot alter, omit, or add any circumstance in that which I think the true way of worship.[585]

Locke repeated Bagshaw's point about the Jews and Muslims to reinforce the point. The *Essay on Toleration* thus completely dismantled the structure of Sanderson's argument, which had depended on describing conscientious obligations as they actually were, not what people erroneously thought them to be. In the *Essay* Locke acknowledged that the magistrate ought to respect the subjective, erroneous conscience and no longer tried to justify persecution on the grounds that all beliefs and acts about objectively indifferent matters could be freely given up in a hypothetical contract. This

[584] Tim Harris, 'Anthony Ashley Cooper,' *ODNB*.
[585] J. Locke, *Political Essays*, p. 139.

decision seems likely to have stemmed from the untenable position Locke had put himself in in the *Tracts*. In the *Tracts*, by putting emphasis on the inviolable nature of conscience as a justification of toleration, Locke had found himself unable to think of a convincing reason for not progressing from a tolerance for non-Christians to a toleration for intra-Protestant groups.

In the *Essay*, the argument for toleration that Locke had always accepted, based on the invulnerable nature of conscience, was simply extended from fundamental religious beliefs to all beliefs about worship. This was actually a remarkably small distance to move, in theoretical terms.[586] Latent, even in the *Tracts*, was Locke's principal argument for toleration, which he was still stating in the famous *Letter*. For Locke, only a confusing psychological theory had ever saved Sanderson's argument from Bagshaw's objection. It is perhaps unsurprising therefore that Locke quickly shelved his arguments for persecution and never published the *Tracts*. His assumption about the legitimacy of persecution had stripped away most of the relevance from Sanderson's justification of the Church because it required the subjective nature of conscience to be taken into account.

Locke, the state and natural law

Locke, like many other writers, used his ideas about natural law to underwrite his arguments for toleration. Although Sanderson had discussed the relationship between the magistrate and the law of nature in the *Ten lectures*, Locke did not do so in the *Tracts*. However, shortly after writing the *Tracts*, Locke wrote and delivered seven lectures on the law of nature, in his capacity as moral censor at Christ Church. Locke's interest in natural law was perhaps inspired by a desire to investigate the foundation of Sanderson's views on human law, which was natural law.[587] In any case, the influence of Sanderson was again apparent; Locke drew on his definition of moral obligation, in addition to citing Aquinas and Hooker.[588] In the lectures Locke was principally concerned with the foundations of human knowledge. He concluded that knowledge of the law of

[586] J. Dunn, *The Political Thought of John Locke*, p. 30.
[587] J. Locke, *Two Tracts*, pp. 86.
[588] J. Locke, *Essays on the Law of Nature*, p. 32, 183; R. Sanderson, *De Juramenti*, (London, 1661), p. 25.

nature was the product of sensory experience and reason, rather than tradition. From observing the world people could conclude that God existed and that he required human beings to behave in certain ways. People were supposed to use their natural faculties, preserve themselves and worship God. Locke's views about the metaphysical foundations of law, in God's nature and in real relations and essences were very similar to those of Parker and Owen, and of other natural law theorists like Nathaniel Culverwell.[589] However, in the lectures Locke did not discuss the magistrate's relationship to the law of nature, which Sanderson had in the *Ten lectures*. In the *Essay on Toleration* Locke turned to this problem.

In the *Essay on Toleration*, Locke began to suggest that a magistrate able to impose morality upon a society was a danger to religious toleration. Morality and religion were conceptually too close together, and granting the magistrate a power over one was likely to cede to him a power over the other as well. In order to support a pragmatic form of toleration Locke therefore tried to uncouple the magistrate from the law of nature. Locke's new views on the magistrate and the law of nature represented a firm rejection of Sanderson's position on the subject. As we have seen, in the *Ten lectures* Sanderson had given the magistrate a control over the law of nature for the express purpose of promoting virtue (as Aquinas had done). This position was adopted by many writers, among them conservative Independents who supported limited toleration, like Francis Rous and Sir Charles Wolseley. Sanderson, Rous and Wolseley all believed that the magistrate's duty to promote morality meant that he could enforce at least some religious duties, especially if those duties could be derived from the first table. This argument was different both from the views of those who thought force could inculcate specific saving religious truths, and from those like Jeremy Taylor, who argued that the magistrate existed only to protect the public peace.

In the *Essay* Locke's principal aim was to show that religious beliefs and practices should only be restricted if they threatened the peace. Locke was convinced that Sanderson's view of the

[589] J. Locke, *Essays on the Law of Nature*, pp. 109-121, 157-159.

state's relationship to the law of nature had to be refuted for this argument to work. Locke was therefore eager to stress that the magistrate was actually not the guardian of the two tables, while acknowledging that this opinion was not popular.

In the *Essay* Locke discussed three types of belief or action the magistrate might be able to restrict. These were: religious beliefs, such as transubstantiation, indifferent actions, like the contested ceremonies, and finally, moral virtues and vices. Locke argued that religious beliefs in themselves were always worthy of toleration, but admitted that sometimes they had adverse civil consequences and so might be restrained. The situation was the same with regard to indifferent matters. Locke then moved onto discuss what he called, 'a third sort of actions which are good or bad in themselves; viz., the duties of the second table, or the moral virtues and vices of the philosophers.'[590]

Locke believed that moral duties were at the heart of religion. Locke stressed that the magistrate had no intrinsic power over these things for their own sake and could only control them if the peace was threatened. To suggest the magistrate ought to enforce virtue for its own sake implied that the state had as its end the good of souls, rather than of outward bodies. For Locke:

> the lawmaker hath nothing to do with moral virtues and vices, nor ought to enjoin the duties of the second table any otherwise than barely as they are subservient to the good and preservation of mankind under government. For, could public societies well subsist, or men enjoy peace and safety, without the enforcing of those duties by the injunctions and penalties of laws, it is certain the lawmaker ought not to prescribe any rule about them, but leave the practice of them entirely to the discretion and consciences of his people. For, could even those moral virtues and vices be separated from the relation they have to the weal of the public, and cease to be a means to settle of disturb men's peace and properties,

[590] J. Locke, *Political Essays*, p. 143.

> they would then become only the private and super-political concernment between God and a man's soul, wherein the magistrate's authority is not to interpose.[591]

Locke did not actually suppose the magistrate ought not to promote virtue and suppress vice; his comments indicate that he thought promoting morality was necessary to the good governance of society. Yet Locke did disagree with the position of Aquinas and Sanderson. For Aquinas and Sanderson, although peace was the first point of concern for the magistrate, the use of the law to habituate people in virtue was also a legitimate activity. Locke, on the other hand, confined magisterial power to a very express end: the promotion of outward peace and tranquillity. Any connection between earthly authority and man's eternal end was severed. Locke understood that according the magistrate a control over virtue and vice, for their own sake, made toleration much more difficult to justify.

Locke's uncoupling of the magistrate from the law of nature in the *Essay* was somewhat prophetic. Locke would not have read Wolseley or Parker when he wrote the *Essay* in 1667 but Parker's argument demonstrated that Locke was right to see the relevance of the law of nature to the question of toleration. In the *Essay* Locke had noted how important moral virtues were to religion, and how despite this they did not play any role in the debate about liberty of conscience. According to Locke, 'These, [moral virtues] though they are the vigorous, active part of religion, and that wherein men's consciences are very much concerned, yet I find they make but a little part of the disputes of liberty of conscience.' Locke even mused that, 'if men were more zealous for these, [moral virtues] they would be less contentious about the other, …'[592] It was Parker, of course, who tried to pursue this thought. He had argued that if the magistrate could already control the much more important duties of morality, he ought to be accorded a power over religious worship too. Locke's insistence on uncoupling the magistrate from the law of nature, suggests he had seen

[591] J. Locke, *Political Essays*, p. 144.
[592] *Ibid*, p. 144.

something like the logic of Parker's argument in *A discourse*, although he did not mention it in his commentary on that same work, which focused on a critique of Parker's conviction that ceremonial uniformity was necessary to peace.[593]

The connection between the right of the magistrate to persecute and his right to enforce the law of nature to improve morals was a theme Locke returned to later in his career. In the A *letter concerning toleration*, the argument Locke had put forward in the *Essay* about natural law became inverted. Now, instead of trying to uncouple the magistrate from the law of nature to defend toleration, Locke insisted that the case for persecution was flawed because those who argued for persecution were not sincere about reforming morals. Logically, Locke argued, persecution, justified by the need to save souls, had to go hand in hand with laws and punishments designed to improve morals and enforce the virtues of the law of nature. The contrast between magistrates zealous for small affairs in religion, but neglectful of morality, was a common one in the European literature about toleration.[594] In Locke's opinion, anyone demanding religious conformity, while doing nothing to improve virtue and repress vice, was being fundamentally insincere.[595]

However, although Locke saw the danger to the doctrine of toleration in conceding a magisterial power over virtue and vice, he also endorsed such a power on occasion. In his later responses to Jonas Proast Locke began to argue that if the magistrate acted against vice, but refrained from intervention in matters of religion proper, true religion would prosper.[596] This position was not very dissimilar from that of Wolseley. Locke's earlier sense that toleration was best secured if the magistrate was separated from the law of nature was in a way confirmed when Proast took advantage of Locke's change of emphasis. Proast demanded to know why Locke excluded a rejection of faith from the definition of vice. If Locke, argued Proast, was disinclined to include faith

[593] J. Locke, *Political Essays*, pp. 211-214.
[594] J. Marshall, *John Locke, Toleration and Early Enlightenment Culture*, pp. 539-40.
[595] J. Locke, A *Letter concerning Toleration*, (London, 1690), p. 151.
[596] J. Locke, *The Second Letter concerning Toleration*, (London, 1690), p. 5.

among the virtues, how could anyone be sure what the terms virtue and vice denoted.[597] Therefore, if, for some, toleration was partly founded on the presence of a supernatural sphere of grace, beyond the reach of the magistrate, it could also be underpinned by uncoupling the magistrate from the natural, moral realm, which it was usually accepted that he or she did control. This was, until his later responses to Proast, Locke's strategy. Unlike Wolseley, Ferguson, and, to a degree, Owen, Locke usually tended to avoid giving succour to the conformists by trying to retain the magisterial power over the two tables. However, when Locke did neglect this strategy, the utility of the Thomist vision of the magistrate with a power to promote the moral law for the conformist case became apparent.

Locke's desire to uncouple the state from the law of nature in the Essay represented one response to the *Ten lectures*. However, in the *Essay* and in the later *Letter*, Locke never addressed the core of the Anglican argument he had espoused in the *Tracts*, (which he had derived from the *Ten lectures*) namely, the relationship between conscience and human law. On one level there was an obvious reason for this. Locke's conviction that persecution had to be justified in terms of its ability to bring about religious conviction meant that he had effectively sidestepped the structure of Anglican apologetic. Nevertheless in his unpublished manuscripts and minor essays Locke did address the issues of conscience and human law, and explicitly rejected the Anglican position.

The obligatory power of human law over the conscience had been the centre of Sanderson's justification of the Church and state, as we have seen. Unless human law constituted the highest improper binder of conscience it could not be shown that dissent was sinful, or that obedience to the established Church was not sinful. In a little known manuscript tract of 1676, given the title of 'Obligation of Penal Laws' by Locke's modern editor, Locke addressed these key Anglican principles. Here Locke aimed to undermine the link between conscience and human law he had once espoused. In 'Obligation of Penal Laws' Locke developed a view of human law where human law had nothing to

[597] J. Proast, *A third letter concerning Toleration*, (London, 1693), p. 13.

do with conscience at all. Locke's assumption was that only a state which had a duty to promote morality and religion for their own sake would need to oblige conscience to its laws. Locke apparently believed that something like Sanderson's view of the state as moral pedagogue, which he had argued against in the *Essay*, underpinned the whole notion of human laws that obliged conscience. Locke, as we have seen, thought this vision of the state was false. In 'Obligation of Penal Laws' Locke argued against the view of the state as moral pedagogue in a different way than he had before, and used his argument to show that human laws did not bind the conscience.

For Locke, the state could not have any responsibility for religion and had to be confined purely to civil ends, on account of the presence of pagan magistrates. Locke argued that it was inconceivable to imagine that God had permitted pagans to promote and guard religion. As there were many pagan and non-Christian magistrates, Locke assumed God could not have wished for religion to be under the control of the magistrate at all. Therefore the state had to exist for purely civil ends. According to Locke:

> to heathen politics (which cannot be supposed to be instituted by God for the preservation and propagation of true religion) there can be no other end assigned but the preservation of the members of that society in peace and safety together. This being found to be the end will give us the rule of civil obedience. For if the end of civil societies be civil peace, the immediate obligation of every subject must be to preserve that society or government which was ordained to produce it; and no member of any society can possibly have any obligation of conscience beyond this.[598]

As the magistracy could not be considered to have any purpose above that of purely civil good, the conscience was only obliged to obedience by God to ensure that human beings could not destroy the foundations of civil peace. Locke argued:

[598] J. Locke, *Political Essays*, p. 236.

> So that he that obeys the magistrate to that degree as not to endanger or disturb the government … fulfils all the law of God concerning government … which can be supposed to have no other rule set it by God but this. The end of the institution being always the measure of operation.[599]

The kind of deduction Locke performed in this short tract in order to divine God's intentions in introducing magistracy coheres with Locke's descriptions, in the *Essays on the Law of Nature*, as to how sensory experiences could provide knowledge about the law of nature. Reason, after being furnished with sensory data about a given being's nature, could determine the laws which were to govern it. In the fourth essay Locke had determined that humans were meant to preserve themselves and worship God through observations of human nature and the design of creation. In 'Obligation of Penal Laws' he decided, through an observation of magistracy, that it could have been intended purely for civil ends. For Locke, human laws only needed to bind the conscience if the magistrate was supposed to preserve and propagate religion. Physical punishments were adequate to secure all obedience due to the magistrate, because, 'no man can be supposed to refuse his active obedience in a lawful or indifferent thing, when the refusal will cost him his life …'[600] This view of human law, and its power over the conscience, was similar to that of Samuel Rutherford and John Humfrey. Although God would punish overt resistance to the authority of the magistrate, what Sanderson and Locke had called active obedience was no longer a requirement of conscience.

Locke and Jonas Proast.

Locke's most famous work on toleration, and the first to be published, was A *letter concerning toleration*. Locke began writing the book when in exile in the United Provinces, following the failure of the Whig efforts to exclude James II and the death of his patron Shaftesbury. After the Revolution Locke returned to England and his *letter concerning toleration*, originally written in latin,

[599] J. Locke, *Political Essays*, p. 237.
[600] *Ibid*, p. 236.

was published anonymously by William Popple (1638-1708).[601] Locke's *Letter* was answered by Thomas Long (1621-1707) and Jonas Proast, and Locke and Proast published a series of responses to each other's books. The debate between Locke and Proast was dominated by many of the themes of Locke's earlier career, including the idea that the inviolable nature of conscience depended on grace, and by Locke's insistence that the magistrate had no natural power over religion.

Locke's engagement with Proast has usually been seen in terms of the argument about whether or not force could compel the understanding. Here it is suggested that Locke's arguments, in *A letter*, owe more to Locke's views about natural law, and grace, than have been supposed. Many of his ideas had their roots in his early writings and his engagement with Sanderson and mirrored the debates of the 1660s and 1670s between Wolseley, Parker and Owen.

Jonas Proast was an Oxford don, and a spokesman for worried and nervous Anglican conservatives. After the revolution King William had made his support for toleration and comprehension clear and there were many in the Church's new hierarchy, like John Tillotson, who were prepared to accommodate his wishes. Proast was not, however, and he was anxious to defend the Church of England's monopoly over Christian religious life in the country.[602] After the publication of Locke's *Letter concerning Toleration*, Proast responded in *The argument of the Letter concerning toleration, briefly consider'd and answer'd* (1690). Proast's response to Locke was highly unusual for Anglican polemic. It was primarily centred on refuting the claim that the understanding was not affected by force. Yet Proast also provided an account of sacred history and human psychology designed to demonstrate the necessity of physical force for the survival of true religion in all ages. Proast directed his ire against the claim that the Church and its means of conversion were purely spiritual. In a marked departure from traditional Anglican apologetic, he did not engage with the structure of the traditional Anglican case for uniformity at all, and left some doubt as where the sin

[601] J. Marshal, *John Locke: Resistance, Religion and Responsibility*, p. 369.
[602] M. Goldie, 'John Locke, Jonas Proast and religious toleration 1688-1692, in *The Church of England c. 1689-1833 From Toleration to Tractarianism*,' ed, John Walsh, Colin Haydon, Stephen Taylor (Cambridge 1993) pp. 143-171.

of the dissenters actually lay, although Proast likely thought they were guilty of schism.[603] Proast's argument thus looked very different to Sanderson's.

Proast's principal argument was that force, providing it was used alongside reason and argument, could contribute to bringing about an alteration in religious persuasion. Proast did not imagine force could change belief directly any more than Locke did, but he thought if it were deployed alongside reason and argument, it could prove efficacious.

Proast argued;

> if Force be used not instead of Reason and Arguments, i.e. not to convince by its own proper Efficacy (which it cannot do) but onely to bring men to consider those Reasons and Arguments, which are proper and sufficient to convince them, but which, without being forced, they would not consider: who can deny, but that indirectly and at a distance it does some service towards bringing men to embrace that Truth, which otherwise, either through Carelessness and Negligence they would never acquaint themselves with, or through Prejudice they would reject and condemn unheard, under the nature of Errour.[604]

For Proast, the defender of a Church convinced of its own argument for conformity, but frustrated with the alleged ignorance and stupidity of the average dissenter, this was an obvious case to make. Anglicans had increasingly become convinced that nonconforming congregations were ignorant and led astray by their preachers, who they claimed often lied to them about the reasons for nonconformity. As it was thought few possessed consciences invincibly prejudiced against the Church the problem was seen to be one of education.[605]

Startlingly, Proast also claimed to believe that force had always played a necessary role in the survival of the true religion. Like many writers favourable to persecution, Proast wanted to

[603] J. Proast, *A third letter concerning toleration*, p. 23.
[604] J. Proast, *The argument of the Letter concerning toleration, briefly consider'd*, (London, 1690), p. 5.
[605] J. Sharp, *A discourse concerning conscience*, p. 10-17.

dismiss the early Christian Church, prior to the conversion of Constantine, as an aberration. Proast assimilated the primitive age of Christianity to the Constantinian age by stressing that in the age of the Apostles, extraordinary supernatural aid had been required to safeguard the Church. This aid had now been removed and needed to be replaced by the magistrate. However, Proast progressed from this to a more radical claim.

For Proast, sacred history proved that human lust and passions were too strong for Christianity to survive without magisterial aid. False religion and heathenism were more favourable to debauchery and immorality than the true religion, and so they flourished, at the expense of Christianity, if left unchecked. Proast lamented how quickly after the flood the progeny of the sons of Noah had given themselves over to evil and idolatry. For Proast this problem was not primarily intellectual but centred in lust and passion. Proast even claimed that he was far more positive than Locke about human intellectual abilities themselves, sneering that Locke's emphasis on uncertainty and differences in opinion as a justification for toleration made it sound as though Locke was in want of an infallible chair. Unlike Locke, Proast did not therefore anticipate that the true religion would be disadvantaged by persecution in favour of false religions, because those people who could control their lusts would easily see the truth. His argument was thus the opposite of Taylor's, in the *Ductor dubitantium*, where it had been suggested that because of grace and supernatural aid religion did not need the help of the state. Unlike Taylor, Proast thought that religion was dependent, in all ages, on physical state power. Proast believed that when force had not been available God himself had miraculously provided the equivalent.[606]

Proast's argument was thus quite different to Sanderson's. Of all the Church's apologists, Proast did the most to urge the necessity of persecution in order to promote religion, and justified that belief by a mixture of pessimism about people's tendency to reject the true religion, and

[606] J. Proast, *The argument of the Letter concerning Toleration*, pp. 15-22; J. Proast, *A third letter concerning toleration*, pp. 6-10.

optimism concerning their intellectual ability to perceive which religion was true. Proast's case did have some similarities to that of Sanderson because he also founded the power of the magistrate in natural law, and believed the state was a moral pedagogue. However, while for Sanderson and others the state's control of morals had come first, and its control over religion tended to follow as a consequence, Proast began with the need to use force to alter fundamental religious beliefs, which was something Sanderson and few others before him had ever stressed. Moreover, if Parker's case for persecution sounded Pelagian and relied on suggesting Christianity was really just natural law, Proast's also appeared to involve impugning the power of the Holy Spirit. Proast's assertion of the absolute necessity of the use of force to the survival of religion appeared to deny that grace was sufficient, or efficacious, to bring about salvation, unless it was attended with force.

Proast's argument was part of a general tendency, in which the Church moved away from the type of argument against nonconformity propounded by Sanderson. In the 1670s and before the Church had proceeded without arguing that persecution was necessary to save souls. In the middle of the century the claim persecution was justified by the need to save souls was even dismissed as a rhetorical strategy on the part of tolerationists. Samuel Rutherford complained that everyone knew that conscience could not be coerced and so no one ever justified it on such grounds, despite the claims of proponent of liberty of conscience to the contrary. [607] Sanderson argued for conformity on the grounds that conscience could not be compelled.

However, by the 1680 and 1690s the Church began to rethink why dissent ought to be regarded as sinful. Dissent was now regarded as sinful because it involved schism from the one true Episcopal Church. Recognition of the Church as the one true ark of salvation, and the one sure route to God's grace, came to underpin Anglican argument. Thus, by the 1690s bishop Sanderson's Erastian influence over the Church was waning. Edward Stillingfleet, in his published attacks on dissent, was trimming towards the *iure divino* tendency. John Sharp's book on conscience was less

[607] S. Rutherford, *A free disputation*, pp. 46-48.

emphatic than Sanderson had been about the obligatory force of human law in conscience, and stressed that the formality of the dissenters' sin lay in their schism from the Church.[608] The need to obey the true Church, and receive grace through participation in its sacraments, was essential for salvation, unlike the ceremonies of the prayer book. Thus by coercing the nonconformists back into communion with the Church the souls of the erring brethren would be saved. Sanderson's emphasis on the inviolable nature of conscience, used, in his argument, to render calls for liberty of conscience a kind of category mistake, gave way to a more Augustinian argument premised on the value of force as a pedagogical tool.[609]

Locke struggled to respond to this. He has always assumed conscience could not be coerced, but as few people had based their arguments for persecution on this idea he had never had to defend his principles. He did not speak about the reasons for the inviolable nature of conscience very often. The *Essay concerning Human Understanding* has been searched in vain for any support it might offer to Locke's argument for religious liberty, but, if it took a view at all, it is seen to support Proast.[610] Locke wrote voluminous notes and minor essays about toleration and the nature of civil and ecclesiastical power throughout the Restoration period, yet not once did Locke go further than he had in the *Tracts* in attempting to explain why conscience could not be coerced.

Proast caused Locke to address the logic behind his continuing insistence on the invulnerability of the understanding to force. In his replies to Proast, Locke argued that since they were discussing necessary religious truths it was important not to disparage grace. Religious persuasion was never brought about through purely natural means, it always required something above the ordinary causes of persuasion, argument or coercion. Grace was therefore necessary to impart religious conviction. Locke pointed out that grace only moved within certain channels. For

[608] J. Sharp, *A discourse concerning conscience*, pp. 16-17.
[609] J. Marshall, *John Locke, Toleration and Early Enlightenment Culture*, p. 465-466.
[610] J. Owen, 'Locke's case for Religious Toleration: Its Neglected Foundation in the Essay Concerning Human Understanding,' *The Journal of Politics*, 69, (2009), pp. 156-168; J. Waldron, 'Locke: toleration and the rationality of persecution,' pp. 61-86.

many, the hearing of the word and participation in the sacraments fulfilled this role. In Locke's view, all ways and means to salvation had been delineated in the gospels. The bible said people could come to God's truth by exhortation and divine aid, but coercion by human authorities was never mentioned.[611] As Locke assumed that all paths to salvation had to be mentioned in the scriptures, and because coercion was not, Locke argued that this showed that force could never affect religious belief.

Therefore, for Locke, the inviolable nature of conscience ultimately rested on something more than a psychological truth about the inability of force to have any impact on the understanding. It transpired that force possibly could induce someone to hear arguments or reasons for a specific point of view. However, questions of great religious importance were different, because men and women did not accept religious truths by the means of reason and argument alone, but on account of supernatural assistance. For Locke, God would not permit his specific means for the salvation of souls to be mixed with methods such as force.

Locke's case for toleration thus resolved itself into something very close to Wolseley's conviction that supernatural beliefs were especially impervious to force and therefore ought not to be compelled. This argument bore a resemblance to the argument Locke had originally used in the *Tracts*, where he had been concerned to overcome the difficulties inherent in absorbing the Augustinian premise into Sanderson's argument. The dependence of the inviolable nature of conscience on grace was something Locke had hinted at throughout his career, and which writers like Wolseley had drawn out much more thoroughly. Locke never dwelt on the subject, but at crucial moments he resorted to supernatural aid as a way of answering difficult questions about the impact of force upon the conscience.

[611] J. Locke, *A second letter concerning toleration*, pp. 19-22; J. Locke, *A third letter for toleration*, (London, 1692), pp. 14-17.

In his exchange with Proast, Locke also returned to the question of the magistrate's relationship with the law of nature, which he had addressed in the *Essay on Toleration*. Proast believed the magistrate's duty to inculcate the true religion by force was derived from the law of nature. Locke had already identified magisterial control over the two tables, a view espoused by Sanderson and many others, as harmful to the cause of toleration. In his responses to Proast, Locke used his ideas about heathen magistrates, and the ability of human beings to discern God's natural law in the world through observation to argue that the magistrate had no care for religion under the law of nature.

Most Anglican writers did maintain, in contrast to Locke, that reason and sacred history proved that the magistrate could supervise religious affairs, and that it was a natural duty that he or she do so. Writers like Grotius, Stillingfleet and Parker had all rehearsed arguments from sacred history to show that magistrates had originally been the first priests, and still enjoyed many of the powers of that office in the present day. They were also usually clear that this magisterial power over religion could be enjoyed by any magistrate, and was not dependent on his religion. The prospect of James II, a Catholic, ascending the throne probably concentrated minds on the issue, but the insistence that magisterial power over religion was purely natural, and owed nothing to grace, was a staple of Anglican criticism of the Roman Catholic Church.

William Falkner's *Christian Loyalty* set out to prove the point, in 1679. Falkner, in a broad survey of the proper relationship between Church and state, used the controversy over the date of the Emperor Constantine's baptism as a key exhibit in determining whether a heathen could wield power over the Church. Falkner knew that the Roman Catholics asserted that Constantine only intervened in Church affairs after he was baptized. This implied that while the magistrate ought to support the Church, he was only allowed to do so if he possessed the right religion. Falkner exhaustively set out to show that Constantine was taking a care for the Church before his baptism,

and that therefore even unbelieving magistrates could regulate the Church if they took care of the interests of the true religion.[612]

Proast had believed that Locke's only argument for religious toleration lay in his insistence on the inviolable nature of conscience. Locke pointed out (correctly) that he had other arguments in the *Letter* and one of them revolved around the magistrate's relationship with the law of nature. In his response to Proast Locke again turned to a discussion of the magistrate and the natural law, in a way which had similarities to his stance in 'Obligation of Penal Laws.'

In 'Obligation of Penal Laws' Locke had argued that God's purposes, and the ends he had given to various institutions, could be discerned through reason. God, thought Locke, could not be supposed to have intended pagan magistrates to have control over the religious or eternal ends of human life. In his responses to Proast Locke observed that throughout most of history, the world had been controlled by non-Christian magistrates. If God had really willed that all magistrates possessed a natural power over religious affairs that entailed those magistrates could promote their own religion. Yet if this was the case then God had willed the spread of false religion.[613] Natural law was universal. If pagan magistrates had no power from God through nature to impose religion, no Christian magistrate could enjoy such a power either, unless the scriptures granted Christian magistrates a power not present in nature.[614] Locke found this convincing proof that the natural law had granted the magistrate no commission over promoting or regulating religion at all.[615]

Conclusion

The development of Locke's thought about toleration has more connections with mainstream Anglican apologetic than has usually been realized. Locke's ideas have been associated with Dutch Remonstrant authors, a European republic of letters and the English latitudinarians. Yet

[612] W. Falkner, *Christian Loyalty*, pp. 129-141; J. Taylor, *Ductor dubitantium*, p. 566.
[613] J. Locke, *A second letter concerning toleration*, p. 30.
[614] J. Locke, *A third letter for toleration*, p. 45.
[615] *Ibid*, pp. 52-61.

Locke's affinities with traditional and scholastic Anglican authors has not been emphasized as much as it should.

Locke began his career effectively copying out Sanderson's argument for conformity, rendering the *Tracts* almost identical, in their argument, to the *Ten lectures*, aside from the one crucial difference regarding the justification of penal laws. Sanderson's arguments, encountered by Locke when he wrote the *Tracts*, had a great influence upon his intellectual development because he constructed his arguments for toleration in opposition to them. Locke attacked Sanderson's view of the connection between magistrate and natural law. Following on from that demolished the whole basis of the Anglican argument, which was the obligatory force in conscience of human law. This was accomplished by the application of Locke's ideas about natural law, stated early in Locke's career, in the *Essays*. The presence of heathen magistrates demonstrated that God did not desire the civil ruler to do anything more than maintain the civil peace, a duty which did not entitle him to control over the consciences of his subjects.

Yet Locke carried one belief from the *Tracts* throughout his entire career. Locke's view that persecution and penal laws could only be justified if they altered belief was a constant, even when he was a conformist. It was a view which was incompatible with Sanderson's argument and Locke tried to square the circle with an appeal to grace. Locke seldom had to defend his belief that religious opinions could not be compelled, but when he did he tended to revert to the position of the *Tracts*. In his exchange with Proast, grace was once again enlisted to explain why force could not alter certain beliefs, even though it would certainly have an influence on most. Locke's argument from the inviolable nature of conscience was thus not a psychological theorem, and not about respecting the worth of human reason or judgment, but a theological idea, based upon the need for grace in order to hold beliefs necessary to salvation.

Conclusion: The end of Anglican Naturalism

Natural Law Theory

This study has dwelt on the influence of natural law theory in defences of religious uniformity. However, it has not sought to provide an account of Seventeenth-Century natural law theory as a whole, although the influence of Aquinas, Hooker and Grotius has been stressed. In conclusion it ought to be emphasized that those writers making use of natural law theory in their arguments about religious uniformity did not have distinctive ideas about the law of nature. The influence upon other writers of Aquinas, of scholasticism more generally, and of Grotius, can be well documented. Interest in the metaphysical foundations of law, and about the differences between natural and positive law, was widespread. In addition to Owen, other writers felt an undue stress on nature and reason might be dubious, but developed detailed natural law theories anyway.

However, only a few authors used ideas about natural law to argue in favour of religious uniformity. In the Restoration period there was a distinctive naturalist argument for conformity, espoused, in different ways, by Edward Stillingfleet and Samuel Parker. As we have seen, the roots of that argument lay in Hooker's *Laws*, and, even further back, in the *Summa* and the scholastic philosophy of Aquinas. Aquinas had bequeathed to the Church's apologists a set of resources about the demarcation between the natural and the supernatural that proved hugely influential. The *Summa's* discussion of the hierarchy of divine laws, virtue (both natural and theological) and grace informed people's sense that there were distinct natural and supernatural realms, and that this was a matter of no small importance.

It was Hooker's unique contribution to conformist thought and philosophy to use Aquinas's ideas about divine law, nature and grace, to defend conformity. As we have seen, Hooker's discussion of law was designed to justify the use of reason and natural law in governing the Church, and even to elevate its importance, relative to the revealed law. The argument of the *Laws* was continued, in various forms, in the Seventeenth Century, first by Sanderson, and then by Stillingfleet

and Samuel Parker. Sanderson, Stillingfleet and Parker had all certainly read Hooker, and in all likelihood the relevant sections of the *Summa* (although this is difficult to prove conclusively for Stillingfleet and Parker). All were convinced that nonconformity was premised upon some misunderstanding about the role revelation could be expected to play in religious and political life. They believed that at the heart of Protestant dissent lay a philosophical problem, a grave epistemological mistake about the importance to human life of supernatural knowledge. Therefore, to counter dissent, the importance of the natural law to religious life and duty had to stressed, and the influence of the revealed law, and of its near companion, grace, pushed back. Sanderson, Stillingfleet and Parker approached this problem in different ways. Sanderson suggested that revealed law was premised upon reason and natural law; Stillingfleet urged the mutable nature of supernatural law, in contrast to the unchanging natural law; Parker decried the idea supernatural duties even existed and radically tried to fuse natural law and Christianity.

All of these arguments depended on the presence of a strong distinction between natural and supernatural law. The division between mutable positive law, based on will, and the eternal natural law, founded upon metaphysical reality, had come from before Aquinas and was assumed by Hooker, Sanderson, Stillingfleet and Parker. However, Stillingfleet and Parker made the connections between the law of nature and the divine nature rather more explicit than had Hooker and Sanderson. They also drew a sharper contrast between the mutable products of the divine will and the unchanging verities derived from the essence of God. Stillingfleet and Parker's ideas were echoed in Grotius's *de jure belli*, Culverwell's treatise on natural law, and in the writings of Owen and Ferguson. But, as we have seen, the existence of a clear demarcation between the natural and the supernatural law could be questioned. This was not an issue Hooker had confronted, but by the mid-Seventeenth Century some moralist Anglican divines were becoming attracted to the idea that Christ had brought new moral duties, thereby changing and perfecting the law of nature. Jeremy Taylor articulated how this belief altered the more traditional picture of the divine law as split into two distinct laws with different metaphysical foundations. Taylor detected fewer differences between

the natural and supernatural laws than did Sanderson, Stillingfleet, Parker and Owen, arguing all law had to be seen deriving from the divine will.

Yet if the natural and supernatural law did not differ in a metaphysical sense, the argument for conformity from natural law became unsustainable. Hooker, Sanderson and Stillingfleet had all built their case on the fact positive supernatural law was mutable, while the law of nature was eternal and unchanging. This difference was thought to be founded in the different origins of those laws. According to the natural law tradition, the law of nature was held to flow from the divine nature and the real essences of beings, while the law of revelation derived from God's will. In general Taylor's argument acquired few followers among English natural law theorists. Significantly John Owen and Robert Ferguson were in complete accord with Samuel Parker's views about natural law. Owen's *diatriba* emphasized more strongly than any other text the intimate connections, on the one hand, between the law of nature and the divine essence, and on the other, between revelation and the divine will. In the debate between Parker, Owen and Ferguson the connection between politics and the metaphysics of divine law became especially apparent. Ferguson pointed out that Parker's naturalist justification of conformity relied on writing the divine will out of an account of law altogether. The divine will, and the revelation required to comprehend it, thus created constraints on the power of the magistrate, constraints which might disappear if society was to be ordered purely in accordance with the divine nature.

The ultimate purpose of the natural law arguments of Sanderson, Stillingfleet and Parker was therefore to increase the power of the civil magistrate, who drew his authority, in their eyes, from the law of nature. Thus the revealed law was seen to be creating a series of duties, rights and laws over which the magistrate lacked authority. In contrast, the law of nature presented fewer barriers to the magistrate's regulation of worship. This was recognized by the nonconformist writers, like Charles Wolseley, who founded their theories of toleration upon the demarcation between nature and grace. For Wolseley the diverse nature of the spiritual gifts dispersed throughout the

population precluded coercion in supernatural matters. Moreover, there was a sense among Anglicans and dissenters that revealed law could never be specified by human magistrates in the way natural laws could. As we have seen, Aquinas's view of law suggested human laws were derivations of the law of reason. However, it was common knowledge that although by nature people could understand moral duties tolerably well, and could therefore specify the general laws of nature into particular human laws, it was thought that they would nevertheless remain ignorant of the duties pertaining to worship without revelation. Thus the connection between worship and revelation limited the power of the magistrate over the public religious life of the community. Expanding the influence of the law of nature over political and religious life would therefore enhance the power of the state over dissident religious groups.

The Reaction Against Nature: The Response to Irenicum

However, Hooker's argument from nature only made sense, from the Anglican perspective, as long as the civil magistrate was committed to upholding the Church's religious monopoly. Yet Charles II was never a reliable friend to the Church. The restoration of the Church's religious monopoly in the early 1660s owed more to the spontaneous support for the old Anglican order among the gentry than it did to the king, who, although determined to reward his Anglican supporters, likely desired a more tolerant and comprehensive settlement. The king's declaration of indulgence of 1672, although soon withdrawn under pressure, highlighted how fragile the Church's religious monopoly was, a situation further compounded by the revelation of the Duke of York's (1633-1701) conversion to Catholicism. The argument in favour of conformity from nature thus began to look less and less attractive.

To an extent this had been true from the beginning of the 1660s. Stillingfleet's ideas, as expressed in *Irenicum*, became unpopular quite quickly as the Church was triumphantly restored, and the need to affect a compromise with moderate nonconformity diminished. By the time *Irenicum's* second edition was printed the prospect of a compromise settlement, built on moderate

episcopacy, had started to collapse, and many of the Presbyterians Stillingfleet hoped could be incorporated into the national Church faced ejection from their livings and harassment under the terms of the Clarendon Code.[616] Stillingfleet did not capture the mood of the nation, and there was muted criticism of his Erastian denial that the Church was an independent law-making body. Stillingfleet's sense that the Church was unfavourable to his views caused him to remain aloof from the debate about Protestant uniformity until the 1680s.

There was no overt criticism of Stillingfleet in the 1660s. Yet *Irenicum* principles had not been forgotten, either by nonconformists or by Stillingfleet's Anglican colleagues. Praise and criticism for the *Irenicum* began again at the start of the 1680s, in response to a new edition of *Irenicum*, published in 1681, and a sermon by Stillingfleet entitled the *Mischief of Separation* (1680). *Mischief* represented Stillingfleet's first public printed engagement with dissent since the *Irenicum*. The sermon, although possibly popular overall within the Church, managed to upset certain high churchmen. *Mischief*, and the book which followed it, *The unreasonableness of separation* (1681), did not restate the natural law arguments of the *Irenicum*, nor did they attack *iure divino* episcopacy. However, they revived old anxieties because of their equivocal attitude to the question of Church society. *Mischief* and *The unreasonabless* hinted that Stillingfleet still saw the Church as a national and natural society, maintained by the magistrate as a civil law-maker, rather than a body founded in revelation.[617] The situation was further exacerbated when Stillingfleet's fellow latitudinarian John Tillotson published a sermon exalting the power of the magistrate over the Church and denying that Christians had the right to preach without the permission of the magistrate.[618] Together, these

[616] I. Green, *The Re-Establishment of the Church of England*, pp. 34-35.
[617] E. Stillingfleet, *The mischief of separation*, (London, 1680), pp. 16-18; E. Stillingfleet, *The Unreasonableness of Separation*, p. 287.
[618] J. Tillotson, *The Protestant religion vindicated, from the charge of singularity and novelty in a sermon preached before the King at White-Hall*, (London, 1680), pp. 7-8; S. Lowth, *Of Church power*, pp. 381-382.

events were enough for certain churchmen to bring their longstanding criticisms of the *Irenicum's* arguments against *iure divino* forms of Church government out into the open.[619]

In a rather startling development, Stillingfleet's chief critic was none other than Samuel Parker, the divine who, aside from Stillingfleet, had done the most to propagate the argument against dissent from nature. Parker's *The Case of the Church of England Truly Stated* (1681) was a bitter attack on Erastianism, which Parker had now decided was destructive to the Church's battle with dissent. Parker directed his ire at three figures: Thomas Hobbes, John Selden and Stillingfleet, author of the *Irenicum*. Parker pointed out that Hobbes was well known for having views destructive to religion, and Selden for possessing opinions destructive to the power of the Church, but, he argued, men like Stillingfleet, supposedly among the Church's friends, also had dangerous ideas. If Hobbes did not believe in religion and Selden did not believe in the Church, Stillingfleet did not believe the Church had any government, which meant it could not be a proper society at all. Only if the Church was founded upon a supernatural knowledge and had a form of government derived, not from nature but revelation, could it be a proper society. In *The Case of The Church* and other books published at the same time, Parker made the case for *iure divino* episcopacy, and the idea that the Church's nature as a society was constituted by its political order under the power of the bishops.

Parker was scathing about Stillingfleet's version of Hooker's argument from the nature of law and dismissed Stillingfleet's (and Hooker's) argument for the mutability of forms of Church government. Stillingfleet's argument from natural law was devastating to Parker's *iure divino* beliefs, so Parker rejected Stillingfleet's argument that positive divine laws needed to be expressly promulgated, arguing instead that examples and acts of Christ and the apostles could indeed be used to structure the Church's form of government. For Parker in this new frame of mind, Stillingfleet's sense that very few divine laws were given in the scriptures had to be wrong as this

[619] S. Grascome, *A letter to a friend in answer to a letter written against Mr. Lowth, in defence of Dr. Stillingfleet*, (London, 1688), pp. 2-5; R. Grove, *An answer to Mr. Lowth's letter to Dr. Stillingfleet in another letter to a friend*, (London, 1687), pp. 19-23.

would call into question the validity of the sacraments themselves.[620] The sacraments had been a problem for Stillingfleet in the *Irenicum* because the directions concerning them did not quite cohere with the very explicit promulgation Stillingfleet said positive divine laws had to have.[621] Stillingfleet had admittedly taken pains to prevent his argument destroying the divine warrant for the sacraments but Parker was convinced that any view of divine positive law which undermined baptism and communion had to be incorrect. Parker concluded that the inspired supernatural knowledge in the scriptures had to be considered as declaring binding laws, regardless of the theoretical mutability of the positive law.

From defending conformity through elevating the importance of the law of nature, Parker now strove to combat dissent by refuting the very argument which had inspired his own naturalism. Parker was not being totally inconsistent at this point, because even in his earliest works about toleration and uniformity, Parker had been a supporter of divine right episcopacy.[622] Even then he had agreed that Christians had to obey some positive revealed laws, like the sacraments, although he had played down this fact as much as possible. Yet Parker's emphasis had clearly shifted dramatically. From seeing the defence of the Church lying in a version of Hooker's appeal to natural law, Parker had now come to rely on elevating the supernatural law.

Parker's drift towards an emphasis on *iure divino* arguments, and away from a view of conformity centred on the civil magistrate was in line with a general shift of opinion in the Church. Both Jeffrey Collins and John Spurr have described how the Restoration Church came to put a greater emphasis on episcopacy, thus adopting a more Catholic ecclesiology.[623] This was reflected in the Church's apologetic in the later Restoration period. In the 1680s a number of other Anglican writers had joined Stillingfleet to make the case against dissent, among them William Sherlock and

[620] S. Parker, *The case of the Church of England*, (London, 1681), pp. 129-131.
[621] E. Stillingfleet, *Irenicum*, pp. 22-24.
[622] S. Parker, *A defence*, p. 294.
[623] J. Collins, 'The Restoration Bishops and the Royal Supremacy,' *Church History*, 68, (1999), pp. 549-580; J. Spurr, *Restoration Church*, p. 281.

Thomas Long, but their arguments were very different from Stillingfleet's in the *Irenicum*. Sherlock and Long's work stressed that the essence of schism and separation lay in wrongful division from the Church as a historical, apostolic institution headed by bishops. Sherlock and Long, like Parker, referred frequently to the writings of the Church father St. Cyprian (200-258), who had lived before the time of Constantine, to illustrate the nature of Church communion. This set their arguments apart from those of Stillingfleet, where conformity was demanded not on behalf of the bishops but on account of the powers of the civil magistrate under natural law.[624]

Writers like Sherlock and Long did not so much as hint that they saw Stillingfleet making a different case to themselves, but for Parker the disharmony between Stillingfleet's views and those of the other Church apologists prominent at the time were too much to bear. Stillingfleet's restatement of Hooker, and his appeal to nature empowered the civil magistrate to redraw the boundaries of ecclesiastical society. In the current political climate, in which Parliament might decide to endorse toleration or comprehension, this was not acceptable to Parker. Parker clearly had in mind arguments raised by the nonconformists themselves. A number of dissenting writers, like Richard Baxter, John Humfrey and John Owen had pointed out that if the civil magistrate were the head of the visible Church, and its only law-maker, he could reconstitute ecclesiastical society as he saw fit, and include the nonconformists in the Church through declarations of indulgence. The sins of schism, separation and disobedience to human law could thus be waved away by Parliamentary statute or royal prerogative.[625] Consequently Parker felt it was necessary to the Church's charge against dissent to preserve the idea that the Church was a distinct society, with its own government. This had never been part of the case put forward by Hooker or Sanderson (two writers who

[624] W. Sherlock, *A discourse about Church-unity being a defence of Dr. Stillingfleet's Unreasonableness of Separation*, (London, 1862), pp. 74, 138-146, 208; J. Spurr, *Restoration Church*, pp. 117-129; T. Long, *A continuation and vindication of the Defence of Dr. Stillingfleet's Unreasonableness of separation in answer to Mr. Baxter*, (London, 1682), pp. 226-240.

[625] J. Owen, *A brief vindication of the non-conformists from the charge of schism*, (London, 1680), pp. 12-14. J. Humfrey, *An answer to Dr. Stillingfleet's sermon, by some nonconformists*, (London, 1680), pp. 30-34. R. Baxter, *Richard Baxters answer to Dr. Edward Stillingfleet's charge of separation*, (London, 1680), p. 31.

influenced Parker) but Charles II's equivocal attitude towards the Church's religious monopoly had caused Anglican apologists to rethink their criticisms of dissent.

Just as the tradition of defending the Church by an appeal to nature faded away under these pressures, so too did the other elements of Sanderson's scholastic approach that had emphasized the role of the state in the defence of conformity. It is telling that Sherlock and Long did not spend any time focusing on the need to obey human law. One of the most important apologists of the late 1670s and early 1680s, William Falkner, did not repeat any of Sanderson's scholastic arguments from the *Ten lectures*, and only noted briefly that disobeying humans laws was sinful (he was likely influenced by Sanderson's views on oaths).[626]

John Sharp, who became Archbishop of York after 1688, produced a book on conscience, *A Discourse on conscience*, quite unlike the *Ten lectures*. Although the essential elements of Aquinas's views on conscience were preserved in Sharp's work, there was no scholastic terminology. More importantly, Sharp dissented from Sanderson's view that all human laws bound the conscience unless they commanded sin. For Sharp the most important weapons against dissenters were ecclesiastical laws, which people were obliged to obey in order to avoid the spiritual sin of schism. Sharp was thus moving from a form of opposition to dissent grounded in the power of the magistrate's laws, and towards one which saw obedience to the Church as being of paramount importance.[627] The discussion of indifferency produced by John Williams (1636-1709) in 1683, *The case of indifferent things used in the worship of God*, depended more on scriptural sources than on scholastic ones, in contrast both to the *Ten lectures*, and dissenting works such as Henry Jeanes's *A treatise concerning the indifferencie of humane actions*. This is not to say the structure of Anglican argument changed radically in every respect in the 1670s and 1680s. The 1685 *A Collection of cases and other discourses* repeated many traditional points about indifferent affairs, and about the three

[626] W. Falkner, *Libertas ecclesiastica*, (London, 1674), pp.31-52, 54-58.
[627] J. Sharp, *A Discourse*, pp. 1-15.

most hotly contested ceremonies. However, the emphasis on natural law was absent, and human law as not explored.

The appeal to nature was an important part of the Anglican justification of religious uniformity, and of their opposition to religious toleration. It caused questions about scholastic philosophy and natural law to become central to politics and ecclesiology. In the late 1660s, in the hands of Samuel Parker, this Anglican appeal to nature caused the Church's moralist and latitudinarian theology to become explicitly harnessed to the cause of religious persecution. Parker's conviction that a good and virtuous life, rather than spiritual assurance or correct belief, guaranteed salvation, became the basis of a very distinctive justification of religious uniformity. Yet the role of the appeal to nature was always to empower the state to determine the nation's form of worship. Therefore, when the Church determined the state had become unreliable, the attraction of the argument from nature withered and Anglicans returned to emphasizing the revealed, supernatural origins of Church society.

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