

**"Though it be not according to the law":  
Donne's Politics and the Sermon on Esther**

Meg Lota Brown

Recent criticism has attempted to rehabilitate Donne, whose flagging status in Renaissance studies is partly due to his representation by new critics and early new historicists as an absolutist, monarchist authoritarian. Annabel Patterson notes that such representations are over-simplified and do not take into account either the highly pressurized context of Donne's actions or the indirection and subtly oppositional stances encoded in his works. Similarly, David Norbrook, Arthur Marotti, and Ted-Larry Pebworth point out the critical and resistant positions Donne takes not only in his prose but in his public poetry.<sup>1</sup> Such studies have yielded a far more complicated and richly rewarding Donne, one whose works bear out Gerald Graff's observation that "Literature is a scene of contradictions that cannot be subsumed under any 'totalizing' system or ideology."<sup>2</sup> Other readers of Donne, however, have been perhaps too zealous to identify his political correctness; they tell us, for example, of "revolutionary" subtexts and "radicalism" in Donne's treatment of his culture's repressive institutions.<sup>3</sup> But Donne was not a champion of democracy or even of the limited liberty that Milton espoused. Rather, he was a political moderate under a coercitory regime. More conservative than insurgent, he was a supporter of monarchy and—when he believed circumstances warranted—an apologist for autocratic governance.<sup>4</sup>

And yet Donne's political analyses, like his support of monarchy, were never unequivocal. His politics were often inconsistent—at times apparently absolutist and at times apparently subversive—because they were typically casuistical. In (c.) 1615, for example, Donne publicly preached in defense of unlawful religious assembly, and he denied the authority of the monarch to enforce unjust conformity: "In times of persecution, when no exercise of true Religion is admitted, these private Meetings may not be denied to be lawful . . . ; so, those souls, which without that, must necessarily starve, may steal their Spiritual food in corners, and private meetings."<sup>5</sup> In a sermon preached

approximately a decade later, however, Donne urged unrelenting and severe pressure on religious non-conformists, and he proclaimed the monarch to be master “not of bodies onely, but of soules too.” The king, he insists, has divine right, “not onely as we worship one God, but as we are to expresse that worship in the outward acts of Religion in the Church. God hath called himselfe King; and he hath called Kings Gods. . . So it is not the King that commands, but the power of God in the King.”<sup>6</sup> Motivating the startling differences between Donne’s political positions in these two sermons—his claims about the individual’s versus the king’s control of the soul—is not his aging conservatism, his careerist corruption, or his fear of reprisals; rather, it is the circumstances of the specific cases under consideration that shape the politics of each sermon. Such casuistical contingency informs Donne’s politics throughout his works. Whether playfully in the *Songs and Sonets* and the *Paradoxes and Problems*, or more earnestly in “Satyre III,” the *Essays in Divinity*, and the sermons, he insists on the equivocal or casuistical nature of language and law.<sup>7</sup>

This essay reads Donne’s politics through his use of casuistry, focusing on the 1615 sermon on Esther as representative of the interpretive principles that inform Donne’s politics throughout his career. I do not mean to suggest that Donne’s politics were unchanging during his life or that his works all bear the same relation to authority and agency. On the contrary, it is Donne’s observance of casuistical principles that leads him to take contrary positions in *Pseudo-Martyr* and *Biathanatos*, for instance, on laws against suicide. Moreover, the context within which he employs casuistry always changes, but the problem of justifying action in the face of conflicting precepts remains. The young Donne abuses logic and burlesques the methods of case divinity when he argues that the exceptional circumstance of a flea bite creates a dispensation for unmarried sex. But at the heart of his specious appeal to reason and conscience are the same principles that lead the author of *Essays in Divinity* to describe famine as “an affliction which defeats all Magistracy; for in it one may lawfully steal.”<sup>8</sup>

Also called practical theology or case divinity, casuistry is a method of adjudicating the conflicting claims of self and law. Its purposes are to address the tensions that arise from legal or ethical antinomies, and to respond to those who are uncertain about “acceptable conduct.” Indeed, casuistry is necessary because there is no easy definition of acceptable conduct. Practical theology is a system of directives to reason and conscience that defines, interprets, and applies general laws according to the circumstances of a specific case. When public code unduly restricts private conduct, casuistry attempts to afford

equitable sanctions that protect the integrity of the individual. Acknowledging the pressure of epistemological anxiety and the indeterminacy of words, case divinity recognizes that language and law are ambiguous, moot, unstable: it is impossible, for example, to formulate precepts comprehensive enough to solve all moral dilemmas. Consequently, casuists recognize that the literal application of law is not always just. As Joseph Hall insists, "It is not the bare letter of the law that wise men should stand upon, but the drift and intention of the law."<sup>9</sup> Consulting conscience, scriptural principles, and reason, casuists examine the relation of general laws to particular experience, enabling one—however precariously—to impose form on uncertainty, to justify action on the basis of probability and circumstantiality, to reason towards practical responses to the conflicting claims of absolutist authorities.

Like casuists, Donne's assessment of any law, whether secular, canon, natural, or divine, depends on its context. Summarizing a central assumption of case divinity, he observes in *Biathanatos*, "to me there appeares no other interpretation safe, but this, that there is no externall act naturally Euill, and that Circumstances condition them, and giue them theyr Nature."<sup>10</sup> Since no action has an innate moral status, valuation and interpretation are relative and unstable. Donne's insistence on the relativity of laws, a potentially subversive position, is not limited to the works that antedate his ordination. In a sermon that discusses sumptuary rules, for example, he argues that no restriction is universally appropriate. Time, place, and person qualify any act, whether suicidal or sartorial.

Certainly the limits of adorning and beautifying the body are not so narrow, so strict, as by some sowe men they are sometimes conceived to be. Differences of Ranks, of Ages, of Nations, of Customes, make great differences in the enlarging, or contracting of these limits, in adorning the body; and that may come neare sin at some time, and in some places, which is not so alwaies, nore every where.<sup>11</sup>

As laws and conventions vary according to circumstances, so must our actions. Moral judgments, Donne affirms, should be qualitative, contingent, casuistical.

Such a position accords considerable agency to the individual, who must determine each case according to his or her own reason and conscience. Indeed, practical theologians' privileging of conclusions drawn in conscience over institutionally mediated truths was potentially disruptive of social norms. But Donne's sermons stop well short of the radical individualism that

casuistical epistemology looks towards.<sup>12</sup> Like most of his contemporaries, Donne invokes case divinity as the resource of conservatism and moderation, preserving social norms by insisting that exceptions to the rule are just that: exceptional. Such is the case in his sermon on Esther, a work which justifies acting outside of natural law and positive law, as well as outside of ordinances against illegal worship and illegal assembly,<sup>13</sup> but which nevertheless takes a “moderate” position on both obedience and authority.

The sermon on *Esther* 4.16 is a model of casuistical organization and method. It follows the deliberative structure that moral theologians recommend: after delineating Esther’s conflicts and establishing that hers is a case of perplexity,<sup>14</sup> Donne examines first the general laws relevant to the case, then the circumstances peculiar to Esther’s dilemma, and finally her contingent resolution, which serves as a guide for analogous cases. The sermon is less concerned with Esther’s final decision than with her method of evaluation. Indeed, Donne never mentions the outcome of her resolution. He merely conjectures the probable success that her process of reasoning should achieve. As Jeanne Shami has noted about Donne’s treatment of cases of conscience in general, he attempts to teach by example the procedures of moral deliberation and to demonstrate the practical value of casuistry in determining right action. “In effect, he is not trying to teach his hearers what they must know, but how they can come to know.”<sup>15</sup>

Conflicting allegiances precipitate Esther’s case of conscience. The Jewish Queen of Persia learns of a pogrom that Haman plans against all Persian Jews. To prevent the attack on her nation and on God’s honor, Esther must enlist her husband’s support, but the King has decreed that no one, on pain of death, may address him without a summons. Positive law, the divine authority of kings, and the natural law of self-preservation militate against Esther’s appeal. Against these claims, she weighs her duty to God, to her people, and to her own safety, which Haman’s plot endangers. The Biblical text of Donne’s sermon recounts her decision to disregard the King’s decree, and her provision for the appeal. She orders that all the Jews of the city assemble, fast, and pray for her success.

Caught among mutually hostile laws and owing divided allegiances to civil and religious authorities, Esther posed a familiar case of conscience for Donne’s contemporaries. The sermon does not risk drawing a close analogy between the politics of her position and that of modern audiences, however; rather than make what would appear to be an overtly subversive connection between Esther’s decision to resist the King’s decree and the response of James’s subjects to similar conflicts of allegiance, Donne insists that it is the

process of judging—not the judgment itself—that his congregation should apply to their lives.<sup>16</sup> His focus is on the Queen's casuistical reasoning as exemplary for all perplexed consciences. He states that the purpose of his sermon is to consider what methods of deliberation one can learn from

this Heroical Woman, *Esther*; what she did in a perplexed and scrupulous case, when an evident danger appeared, and an evident Law was against her action; and from thence consider, what every Christian Soul ought to do, when it is surprised and overtaken with any such scruples or difficulties to the Conscience (5: 217).

Esther is anyone, then, caught between conflicting laws, and it is casuistry that resolves her conscience and determines her action.

Having reviewed the laws at issue, Donne describes Esther's impartial evaluation of her problem. Esther "puts off all Passion, and all particular respects," thus grounding her decision in reason rather than sentiment or expedience (p.217). She marshals all the facts of her case, and debates them "in a rectified and well informed Conscience." She confers with Mordecai, not for answers, but for the opinion of a virtuous man,<sup>17</sup> and she measures her judgments by God's dictates. Concluding that her petition to the King is a greater responsibility,

she neglects both that particular Law. . .and that general Law, that every Man is bound to preserve himself; and she exposes her self to an imminent, and (for any thing she knew) an unescapable danger of death: *If I perish, I perish*. (5. 217)

Esther's disregard of positive and natural laws is justifiable only after reason and conscience persuade her that the circumstances are exceptional. Acknowledging the conditional nature of authority, Donne praises the equity of Esther's decision. Like equity, casuistry enables more qualitative considerations than do precisely legal hearings. As William Ames remarks, "Legall Justice taken strictly, considereth the words just as they are written, but Equity considereth the End, scope and intent of the Law, and so hath more Law in it, then Legall Justice, when taken strictly."<sup>18</sup>

In the "divisio" of his sermon, Donne proposes to examine Esther's action in two parts: her preparation and her resolution. Each stage of her preparation generates additional cases of conscience. The first act, gathering together all Jews of the city, does not have the authorization of the State, and therefore

its legality is questionable. Donne treats the problem as a case of doubt. Unlike the perplexity of Esther's appeal, no conflict of laws is involved; instead, the question is whether rules against assembly are applicable to the circumstances. To determine the moral status of the act, Donne considers the intention of legislators who forbid private convening of crowds. As casuists recommend, he compares the law's purpose with Esther's own intentions, and with the consequences of her action. Generally, Donne concedes, prohibitions against assembly are both necessary and just. Mobs endanger the State, and whoever gathers a crowd is culpable for its disorder.

How good soever their pretence (and perchance purpose) be, that assemble people, and discontent them, the bridle, the stern, is no longer in their hands; but there arise unexpected storms, of which, if they were not authors in their purpose, yet they are the occasioners. (5: 220)

Donne argues, however, that Esther's assembly poses no threat to the State. Rather than "discontent" the crowd, the Queen offers them hope for their safety, and orders them to humble themselves with prayers and fasting. Her action averts their despair, as well as the violence that might attend it. Consequently, by casuistical standards, she does not transgress the legislator's intention.

Donne is particularly sensitive to the religious nature of Esther's assembly. The situation would undoubtedly have reminded his congregation of contemporary laws against Catholics gathering for Mass. In what appears at first glance to be a seditious use of casuistry, Donne defends illegal worship. Unjust laws against religion, he asserts, may be broken in good conscience.<sup>19</sup> "In times of persecution, when no exercise of true Religion is admitted, these private Meetings may not be denied to be lawful" (5: 218). Donne defends his claim by citing an analogous case that has the support of jurists and theologians:<sup>20</sup>

As for bodily sustenance, if a man could no otherwise avoid starving, the Schoolmen, and the Casuists, resolve truly, That it were no sin to steal so much meat as would preserve life; so, those souls, which without that, must necessarily starve, may steal their Spiritual food in corners, and private meetings. (5: 218)

Like most casuists, both Catholic and Protestant, Donne endorses a hierarchy of laws in which self preservation "defeats all magistracy." It is lawful to steal nourishment, whether physical or spiritual, rather than starve to death.

Given the government's view of recusants, and the increasing friction between Anglicans and Puritans, Donne's statement seems imprudent, if not radical. However, like all casuists, Donne is careful to explain that his assertion is contingent upon extenuating circumstances. The exceptions with which he qualifies his statement indicate his moderate Anglican position:

But if we will steal either of these foods, Temporal or Spiritual, because that meat which we may have, is not so dressed, so dished, so sauced, so served in, as we would have it; but accompanied with some other ceremonies then are agreeable to our taste; This is an inexcusable Theft, and these are pernicious Conventicles. (5: 218)

Superficial objections to religious control (objections that Donne describes as epicurean rather than reasonable) do not warrant disregard of the law.

In the second stage of her preparation for the appeal, Esther joins the Jews in fasting. Once again, Donne evaluates her action in terms of casuistical principles. Indeed, his analysis is remarkably similar to Perkins' case of conscience entitled "How a religious Fast is to be observed?" Both Donne and Perkins insist that fasting is an indifferent act; that is, one's intention determines whether it is constructive or misguided: "Fast with a holy purpose; and it is a holy action" (5: 221). The proper aims of fasting are humiliation, repentance, and prayer. Those who attempt to bargain with God, "to satisfie his justice for sinne," are simply arrogant.<sup>21</sup> As Perkins observes, fasting cannot buy merit; it "is a thing indifferent, neither good nor evil. For though it be referred to a religious end, which is the humbling of the soule; yet it is not good in it selfe, but onely in regard of the end."<sup>22</sup> And Donne concurs: "Though fasting be not a vertue, yet it is the way to vertue. . . look for no particular reward of it, and God shall give you a benefit by it in the whole course of your lives" (5: 221). Because Esther's intention is to chasten herself and her people so that their prayers will be more acceptable to God, Donne concludes that her fast is not in error. His discussion of Esther's preparation begins and ends with the casuistical dictum that rectitude depends not on predetermined rules of behavior, but on the circumstances, intention, and consequences of an act.

The second half of Donne's sermon addresses Esther's resolution to disregard both positive and natural laws. Again observing the casuistical movement from general principles to the particular case, Donne begins with a strong affirmation of the sanctity of human laws. As in *Pseudo-Martyr*, he asserts that kings are God's representatives; therefore, to violate their

ordinances is to commit sacrilege. Insofar as positive laws partake of divinity, they bind the conscience. It is universally admitted, Donne maintains, that “There is in every Humane Law, part of the Law of God, which is obedience to the Superior. . . He that resists his [God’s] Commission, his Lieutenancy, his Authority, in Lawmakers appointed by him resists himself” (5: 225). However, authority is hierarchical, and not all laws are equally binding. When two commands conflict, “that Law which comes from the superior Magistrate, and is in the nature of the thing commanded, highest too, that Law must prevail” (5: 226). The problem, of course, is how to determine whether “the nature of the thing commanded” is more or less imperative. But Donne’s discussion of religious assembly has already taught that one should measure one’s actions by the intention of the law. He applies the now familiar casuistical principle to Esther’s resolution.

The purpose of the King’s “retiredness, and denying of ordinary access to his person” is simply “to augment his greatness and Majesty” (p.226). Against this “new law” is “the fix’d and permanent Law, of promoting God’s glory,” which Esther would transgress if she did not try to prevent the massacre of His chosen people. Since reason and conscience convince the Queen that her greater duty is to God, obeying positive law in her case would be a sin.<sup>23</sup> That is not to say, however, that Esther’s perplexity forces her to commit sacrilege by breaking the King’s rule. Since the lesser of two conflicting laws ceases to exert its claim, the Queen may approach her husband with impunity.<sup>24</sup> Donne adds that the probability of the King’s clemency strengthens Esther’s resolve. Although she is willing to risk death for her petition, she knows that the situation is exceptional,

and that no exception was likelier then this, That the King for all his majestical reservedness, would be content to receive information of such a dishonor done to his Queen, and to her god; she might justly think that that Law, intended onely for the Kings ease, or his state, reached not to her person, who was his wife, nor to her case, which was the destruction of all that professed her Religion. (5: 227).

Without knowing certainly that the king will pardon her intrusion, Esther reasons that the probability is great and that, indeed, the King will want to know about Haman’s threatened violence.

Esther’s comment, “If I perish, I perish,” introduces the sermon’s final case of conscience. Donne remarks that self-preservation is a moral duty, but



as in *Biathanatos*, he argues that extenuating circumstances may release one from natural law. He lists several examples of self-sacrifice that “the general stream of Casuists” condones, and he explains why Esther’s risk is justifiable. One may not hazard death for dignity or reputation, “But that provident and religious Soul, which proceeds in all her enterprises as *Esther* did in her preparations. . . may also come to *Esther* resolution, to go in to the King, though it be not according to the Law” (5: 229). Donne’s emphasis here and throughout the sermon is on the process of Esther’s deliberation. Her systematic observance of casuistical methods and safeguards enables her to assess the laws of her case, and gives her a probable assurance of dispensation:

when she proceeded not upon any precipitation, upon any singular or seditious spirit, when she debated the matter temperately with a dispassioned man. . . she was then come to that, which onely can excuse and justifie the breaking of any Law, that is, a probable, if not a certain assurance, contracted *Bona fide*, in a rectified conscience, That if this present case, which makes us break this Law, had been known and considered when the Law was made, he that made the Law would have made provision for this case. (5: 226)

Like all casuists in their justification of acting “beside the law,” Esther considers that, if the lawmaker had known of the present circumstances when formulating the law, he would have allowed for their exemption.

The sermon ends with the universal relevance of Esther’s problem. Donne reiterates that the methods of case divinity exemplified in the Queen’s decision are applicable to any doubtful or perplexed circumstances. By dividing Esther’s actions into several cases, he has elucidated for his audience the categories and assumptions of practical divinity, and he encourages the congregation to cultivate casuistical habits of mind so that they will be prepared to adjudicate their own cases of conscience.

Such an emphasis on the individual’s agency in effecting moral and political judgments can be construed as nonconformist and even insubordinate. But Donne’s treatment of casuistical principles throughout the sermons is always anchored to the context of each case. While the principles are indeed potentially subversive, his application of them is “discreet.”<sup>25</sup> The latitude afforded to individual conscience and reason, as well as the practical orientation of casuistry, made case divinity increasingly popular for those caught in the welter of conflicting laws and religions in early modern England.

As the most prominent figures of power—King, Pope, and later in the period, members of Parliament—jockeyed for greater jurisdiction, each called into question the very basis of the other's authority. Ironically, the more absolute their conflicting claims of authority became, the more they forced individuals to judge for themselves the *limits* of another's jurisdiction over their own experience. "The central, if controversial, instrument for drawing order out of a chaotic landscape of conflicting moral, political, and social hierarchies,"<sup>26</sup> casuistry provided an allowance for anomaly—indeed, even sanctioned contention—while still containing the anomalous or contentious individual within the authority of established rules and rulers. Itself both potentially conservative and oppositional, casuistry was particularly well-suited to Donne's interpretive practices and politics. Enabling integration with the community while promising integrity of conscience, case divinity appealed both to Donne's divided culture and to his own ambivalent politics.

University of Arizona

## Notes

<sup>1</sup> Annabel Patterson, "All Donne" in *Soliciting Interpretation: Literary Theory and Seventeenth-Century English Poetry*, eds. Elizabeth D. Harvey and Katharine Eisaman Maus (Chicago: University of Chicago Press, 1990), pp. 37-67; David Norbrook, "The Monarchy of Wit and the Republic of Letters: Donne's Politics" in *Soliciting Interpretation*, pp. 3-36; Arthur Marotti, *John Donne: Coterie Poet* (Madison: University of Wisconsin Press, 1986), pp. 183-95; Ted-Larry Pebworth, "'Let Me Here Use That Freedom': Subversive Representation in John Donne's Obsequies to the Lord Harrington," *JEGP*, 91, No. 1 (1992): 17-42.

<sup>2</sup> Gerald Graff, "What Has Literary Theory Wrought?" *The Chronicle of Higher Education*, Feb. 12, 1992, p. A48.

<sup>3</sup> William Zunder, "The Poetry of John Donne: Literature, History and Ideology" in *Jacobean Poetry and Prose: Rhetoric, Representation, and the Popular Imagination*, ed. Clive Bloom (London: Macmillan, 1988), pp. 78-95.

<sup>4</sup> See, for example, Donne's fifth Prebend sermon in *Donne's Prebend Sermons*, ed. Janel Mueller (Cambridge, MA: Harvard University Press, 1971), pp. 160-179.

<sup>5</sup> John Donne, *Sermons*, eds. George R. Potter and Evelyn Simpson (Berkeley: University of California Press, 1953-62), 5: 218. Subsequent references to the sermon will appear in the text.

<sup>6</sup> *Donne's Prebend Sermons*, ed. Janel Mueller, p. 165.

<sup>7</sup> In addition, both *Biathanatos* and *Pseudo-Martyr* are predicated on Donne's arguments about the "instability" of language and law. For a fuller discussion of

those arguments, see my "Interpretive Authority in *Biathanatos*," in *Praise Disjoined: Changing Patterns of Salvation in Seventeenth-Century Literature*, ed. William Shaw, *Seventeenth-Century Texts and Studies* 2 (1991): pp.151-163. For an illuminating account of casuistry in Donne's satires and in several of his prose works, see Camille Wells Slight, *The Casuistical Tradition in Shakespeare, Donne, Herbert and Milton* (Princeton: Princeton University Press, 1981). See also A. E. Malloch, "John Donne and the Casuists," *SEL* 2 (1962): 57-76 and Dwight Cathcart, *Doubting Conscience* (Ann Arbor: University of Michigan Press, 1975).

<sup>8</sup> John Donne, *Essays in Divinity*, ed. Evelyn Simpson (Oxford: Clarendon Press, 1952), p. 68.

<sup>9</sup> Joseph Hall, *Resolutions and Decisions of Divers Practical Cases of Conscience*, Vol. XII of *Works*, ed. John Downname (Oxford: D.C. Talboys, 1937), p.311.

<sup>10</sup> John Donne, *Biathanatos*, ed. Ernest W. Sullivan II (Newark: University of Delaware Press, 1984), p.120.

<sup>11</sup> *Sermons*, 5: 302.

<sup>12</sup> Astutely describing the political valence of casuistry in early modern Europe, Lowell Gallagher remarks that practical theology "became a figure of ambiguity: ostensibly the vehicle through which the voice of conscience performed its stabilizing, normative function, it was also the perceived harbinger of the disintegration of communally recognized signs of what belonged inside and what outside the structure of cultural norms." (*Medusa's Gaze: Casuistry and Conscience in the Renaissance* [Stanford: University Press, 1991], p.2) Resistant to fixed prescriptions and totalizing doctrine, casuistry assumes that the meaning of any text—whether legal, biblical, literary, etc.—is contingent and unstable. At the same time, it guides the uncertain or anomalous conscience according to institutionally approved standards for conduct. Paradoxically,

It reduced anxieties in its capacity as an instrument of pastoral care or social control only to raise others as the vehicle of an epistemology of opacity and contingency and of an interpretive practice that militated against the authority of final answers against, for example, the capacity of an authorial voice to delimit the range of meanings or perceived intentions in texts designated as the representations of the truth of conscience. (Gallagher, p.4)

<sup>13</sup> Like other casuists, Donne is careful to distinguish between violating and disregarding the law. Insofar as casuistical dispensations insure justice, they are consonant with the purpose of law, even though temporarily and conditionally they may invalidate an ordinance. William Perkins notes that in some cases we may disregard even divine commands without breach of conscience:

And this stands even by the equitie of Gods word. God made a law, that the priests onely should eat of the shew bread; now David being no priest, did upon urgent occasion eate of it without sinne. If this be true in Gods

lawe, then it may also be true in the lawes of men, that they may in some cases be omitted without sinne against God. Neither must this seeme strange. For as there is a keeping of a law, and a breaking of the same; so there is a middle or meane action betweene them both, which is, to doe a thing *beside the lawe*, and that without sinne.

William Perkins, *A Discourse of Conscience*, ed. Thomas Merrill (Nieuwkoop: B. De Graaf, 1966), pp. 34-35.

<sup>14</sup> Casuists divide cases into categories, the most common of which are perplexity and doubt. Because each category requires slightly different procedures, it is important to establish the status of the case early in one's deliberation. Perplexity occurs when two or more laws conflict, so that to obey one precept seems to violate another. The casuistical rule in such dilemmas is to follow the lesser evil or the greater responsibility. A perplexed conscience should compare the intention and consequences of each law and determine which is more appropriate to the circumstances. As Donne observes in the sermon on Esther, "If two Laws lie upon me, and it be impossible to obey both, I must obey that which comes immediately from the greatest power, and imposes the greatest duty" (5: 225-6). Cases of doubt, on the other hand, are dilemmas in which the pertinence of a law is questionable, either because strict application of the law would be unjust, or because of uncertainty about interpreting the law. Anyone caught in a case of doubt must establish whether the circumstances are extenuating. A dispensation may be warranted if any of the following can be proven:

a real ambiguity in the formulation of the law, the undoubted tolerance by authority of its neglect, the definite exception from its operation. . . , the emergence of an important factor which obviously never entered into the calculations of those who formulated the law.

Kenneth E. Kirk, *Conscience and Its Problems* (London: Longmans, Green, 1927), p.270.

<sup>15</sup> Jeanne M. Shami, "Donne on Discretion," *ELH* 47 (1980): 59. See also Shami's "Donne's Protestant Casuistry: Cases of Conscience in the *Sermons*," *Studies in Philology* 80 (1983): 56.

<sup>16</sup> Jeanne M. Shami rightly notes that Donne was vigilant about making scripture applicable to his congregation's experience. In the case of the sermon on Esther, however, he avoids drawing direct parallels to contemporary laws against recusants, for example, or against forms of worship; instead, he counsels his audience in ways of judging the fairness, authority, and applicability of any law to their own experience. See Shami, "Donne on Discretion," p. 49.

<sup>17</sup> Donne supported the view of Protestant casuists that one should consider others' opinions of one's case of conscience but never rely uncritically upon them for a resolution. The authority of the individual conscience, as opposed to that of Church officials, was a hotly debated issue between Catholic and Protestant casuists. Donne agreed with Joseph Hall and other "moderate" Reformed theologians that

A man would do well betwixt two extremes: the careless neglect of our spiritual fathers on the one side, and too confident reliance upon their power on the other. Some there are that do so overtrust their own judgment, that they think they may slight their spiritual guides: there can be no safety for the soul but in a midway betwixt both these.

Hall, *Resolutions and Decisions*, p. 354. Once reason and conscience are persuaded, however, Donne and Reformed casuists agree that "it is not lawful to go against our own opinion (certain or probable) for respect to other men's authority." William Ames, *Conscience With the Power and Cases Thereof in Works* (Ann Arbor: University Microfilms, 1962), Bk. I, 16. See also Donne's *Sermons* 5: 243; *Sermons* 6: 250; *Pseudo-Martyr* (Ann Arbor: University Microfilms, 1967), p. 173; and Perkins, *Discourse*, p.43.

<sup>18</sup> Ames, *Conscience With the Power*, Bk. V, p. 111. See also Donne's defense of equity in *Biathanatos*: "No Law is so primary and simple but it fore-imagines a reason upon which it was founded: and scarce any reason is so constant, but that Circumstances alter it" (p. 47).

<sup>19</sup> Donne's definition of unjust laws is consonant with the teaching of practical theology: "Laws against God, Laws beyond the power of him that pretends to make them, are no Laws" (5: 225). For Aquinas' distinctions between binding and non-binding laws, see *Summa Theologica*, II. 96. 4.

<sup>20</sup> The *Essays in Divinity* (p.68) and *Biathanatos* (p.73) make the same casuistical defense of stealing food in cases of extreme necessity. Donne's evaluation of stealing "Spiritual food in corners, and private meetings" is particularly charged, as his brother Henry was jailed for taking confession and died of the plague in Newgate prison at the age of twenty.

<sup>21</sup> William Perkins, *The Whole Treatise of Cases of Conscience*, ed. Thomas Merrill (Nieuwkoop: B. De Graaf, 1966), p.157. As Donne's sermon repeatedly evinces, it is a fundamental tenet of casuistry that intention determines the moral status of an act. It is impossible to evaluate experience justly without taking into account the agent's state of mind. Jeremy Taylor writes, "He that does a good thing while he believes it to be evil, does choose the evil, and refuse the good" (*Ductor Dubitantium*, Vol. 3 of *Works* [London: Henry Bohn, 1844], p. 56). And Donne observes in *Biathanatos* that "the intent and end conditions every action, and infuses the poyson or the nourishment which they which follow suck from thence" (p. 185).

<sup>22</sup> Perkins, *Whole Treatise*, p.157.

<sup>23</sup> It is a commonplace of practical divinity that the authorization of conscience is greater than any law (natural, civil, or canon) to the contrary. Donne's support of this assumption in "Satyre III" is echoed in Ames's observation that conscience "is immediately subject to God, and his will, and therefore it cannot submit it selfe unto any creature without Idolatry" (*Conscience With the Power*, Bk. I, p.6). Thus, Esther's primary responsibility is to her conscience; Donne remarks in *Sermons* 3: 359, "he that sinnes against his Conscience. . . cannot be pardoned."

<sup>24</sup> “The precepts of God never do so jar of their nature, that it is necessary to break one of them by sin: for when a less commandment is neglected that a greater may be observed, that less commandment does cease for a while to bind, so that they who upon such an occasion neglect it are altogether blameless, that is, sin not.” Ames, *Conscience With the Power*, Book 3, p.87.

<sup>25</sup> I use the term as Jeanne M. Shami has developed it in “Donne on Discretion,” *passim*.

<sup>26</sup> Gallagher, p.2. Attention to practical theology was more widespread during Donne’s lifetime and the fifty years that followed than at any other time. This was largely because the issues of conscience and conduct that are the staple of casuistry were extraordinarily charged during the period; they informed in material and urgent ways the lives not only of individuals but of entire nations. Keith Thomas has aptly called the seventeenth century the “Age of Conscience.” “Cases of Conscience in Seventeenth-Century England” in *Public Duty and Private Conscience in Seventeenth-Century England*, eds. John Morrill, Paul Slack, and Daniel Woolf (Oxford: Clarendon Press, 1993), p.29. Other recent accounts of casuistry during the period include: Perez Zagorin, *Ways of Lying: Dissimulation, Persecution, and Conformity in Early Modern Europe* (Cambridge, MA: Harvard University Press, 1990); Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988); P. J. Holmes, *Resistance and Compromise* (Cambridge: Cambridge University Press, 1982); Edmund Leites, ed. *Conscience and Casuistry in Early Modern Europe* (Cambridge: Cambridge University Press, 1988).