

“‘Tis set down so in heaven, but not in earth”:

Political Theology in *Measure for Measure*

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ABSTRACT

One of *Measure for Measure*'s central concerns is the changing shape of political theology in Shakespeare's England. From its origin until the high middle ages, Christian thought had described the work of the church (the care of souls) and that of the state (the maintenance of the common good) as complementary but essentially different tasks. This division implicitly separated and held in tension the private spiritual obligations of the individual Christian and the public duty of the Christian ruler. This understanding fell under fire in the late middle ages, however, first from the papacy and then from Protestant reformers. Shakespeare's Lord Angelo is often linked with this latter group's Puritan faction in England, which was known for its demand that the state enforce private Christian virtue (primarily sexual) as public law. The Duke Vincentio has frequently been described as representative of the more moderate Reformed political thought of Elizabeth I and James I.

This thesis argues that in both assuming the disguise of a priest and insisting that a magistrate's judgments are only valid if he is himself innocent of the condemned's crime, the Duke shares Angelo's and thus the Puritans' rejection of the traditional division between the private and public obligations of a Christian ruler. Act V particularly reveals both the similarities between Angelo and the Duke and the fundamental problems of their approach to law. In the end, Isabella is not simply the student of the Duke's political theology but rather the exemplar of how the traditional distinction between the roles of church and state and an individual's private and public moral obligations better defends both personal freedom and the common good.

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To my father,

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who prepared me to work with my mind by teaching me to work with my hands.

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INTRODUCTION

The perennial and wide-ranging disagreement over what to make of Shakespeare's *Measure for Measure* is both reason to avoid and invitation to attempt interpretation of it. From Johnson's praise of the play as "very natural and pleasing" (382) to Coleridge's aggressive declaration that "the comic and tragic parts equally border on the μισητόν [hateful], the one disgusting, the other horrible" (273), critical opinion has varied widely, even wildly. Rosalind Miles prefaced her 1976 criticism survey by suggesting that this divergence "offers us an advance warning that this is a play of undeniable but somehow evasive peculiarities. It strongly suggests, too, that even when problems are identified, they are unlikely to be solved" (13).

Not surprisingly, the play's three central characters, the Duke of Vienna, his deputy Lord Angelo, and the novice Isabella form the loci of these "problems." Especially in recent years, the opinion one takes of the Duke in particular acts as a sort of weather vane that predicts how one will react to the other two characters. Those who find the Duke and particularly his methods to be legitimate and compassionate, and to result in wise and humane judgments, inevitably see Angelo and his methods as the direct opposite: puritanical, self-seeking, and malicious. By the same token, Isabella tends to be seen as a student of the Duke, whose wisdom rescues her from legalism by instructing her in Christian mercy. On the other hand, those who find the Duke's methods suspect for their secrecy and underhandedness see Angelo less as a personal

moral Puritan than as a sort of modern tyrant, ruthless in his desire for total power and control over his subjects. In this scheme, Isabella often becomes something of a figure of resistance to the state, rejecting its claim to total power by asserting herself as an individual and a woman. She is thus ambivalent towards the Duke, and often comes off incredulous at his concluding offer of marriage.

What is rare in criticism is belief in the Duke's sincerity and benignity coupled with a questioning of his methods and general approach to governance. Neither is much of virtue ever found in Angelo's (at least initially) earnest political philosophy. Similarly, Isabella only ever ends up philosophically opposed to a suspect, not a benevolent, Duke. It is to these novel conclusions that I have come in my study of the play. Consideration of the theological and political debates leading up to and at the time of Shakespeare reveals the surprisingly radical¹ notions underlying the Duke's exercise of government in Vienna. Simply put, the Duke diverges from both the earlier medieval and contemporary Church of England understanding of the relationship between church and state and of the roles of their respective representatives, priest and king, in a way that aligns him much more closely with the radical Puritans with whom Angelo is typically associated.

Until roughly the time of Aquinas, western European thought shared a basic belief in the essential difference of the natures and roles of church and state. While frequently cooperative, political thought tended to draw a clear line between the jurisdictions and abilities of each, associating the church with the personal and spiritual task of saving souls (*salus animarum*) and the state with the corporate and temporal work

¹ I use "radical" here and elsewhere to describe the Duke's similarities with radical Reformers like the Puritans.

of maintaining the common good (*bonum commune*) of the realm. Precipitated by both the papacy's increasing claims of political jurisdiction and the increasingly radical rejections of them, the high middle ages saw a breakdown of the aforementioned consensus which eventually spilled over into the Protestant Reformation. Significantly, the Protestant theological tendency to diminish the status and role of both clergy and sacraments in the church's *cura animarum* reduced its spiritual authority over individuals and the states they dwelt in. This reduction frequently resulted in the state attempting to fill something of the void left by the church's diminished institutional stature and potency. In England, it helped to shape the Puritan movement, which characteristically attempted to have previously spiritual principles of personal Christian ethics made into public law. These attempts frequently and infamously focused on the questions of private and particularly sexual morality. Such matters had previously been adjudicated by the church's canon law courts, in keeping with the belief that the state's jurisdiction did not extend into the private lives of its citizens.

In *Measure for Measure*, Angelo has frequently been identified as holding and acting upon Puritan ideals of government. Isabella too is often seen to begin the play as a political radical, who repudiates those ideals only under the Duke's careful tutelage; in the play it is only he who consistently seems to eschew Puritan judicial rigour in favour of mercy and mitigation. I will try to demonstrate, however, that by sharing with radical reformers a strong disregard for the nature of religious (and thus, I will also argue, political) office and the traditional division between the functions and duties of church and state, the Duke actually bases his governance on the same principles as did they. Though a kinder, gentler one, he is a philosophical and theological Puritan nonetheless,

who attempts to deal with the personal spiritual issues of his subjects by means of the state's public law. While the play upholds his benignity and sincerity throughout, it nevertheless offers a consistently negative critique of his politics in comparison with the traditional Christian politico-theological division between church and state, and priest and king. In this scheme, it is Isabella's opening political opinion, expressed in her initial encounter with Angelo, that is contiguous with that of the Duke; by play's end, she rejects the Duke's equations of private intent with public act and of personal sin with public crime, and affirms a more moderate and traditional political theology.

Obviously, high political philosophy and theology are not the only approaches one might take to understanding notions of the private and public self in Shakespeare's drama. Closely related to my own is that of the Renaissance tradition of casuistry. Casuistry, or "case divinity," is simply the "application of moral law to particular cases," and had been practised by theologians throughout the middle ages (Slights xi). Late sixteenth- and early seventeenth-century England saw for the first time, though, the dramatic flowering of a distinctly Protestant form of casuistry. Prominent divines (more often than not of strong Calvinist leanings) like William Perkins, William Ames, Jeremy Taylor, and Richard Baxter all wrote manuals of casuistry which meticulously examined, on a case by case basis, each moral principle relevant to particular situations. Camille Wells Slights' authoritative study links the popularity of casuistry to the later Renaissance's increasing interest in the uniqueness of private individual experience and its relationship to the public sphere. Moral law was, of course, seen to be universal and immutable, but Protestant casuists acknowledged that "the uniqueness of actual human situations often complicated or obscured the moral quality of particular actions,"

necessitating their work (xi). Many of the internal dilemmas of *Measure for Measure*'s characters would make fitting subjects for casuistical analysis – Isabella's internal debate over Angelo's offer, or Angelo's own rethinking of his judgment of Claudio, for example. Characters also seek to identify precisely the validity of personal actions in light of universal moral law: the Duke gives a detailed rationalization for Marianna's sinlessness in having sex with Angelo, and Isabella makes a subtle argument for pardoning Angelo in Act V. In each, characters seek to understand and consider how to (or not to) align their personal and inward consciences with public, outward law. Moreover, they struggle to differentiate the eternal and absolute moral law from its temporal and contingent expression – another subject characteristically treated by casuistry (xii).

Less immediately relevant to my thesis than casuistry is the development of the self as subject commonly believed to have begun in the sixteenth-century. While my focus on a single play induces me to avoid larger periodic generalizations and consider simply what is present in the work at hand, Stephen Greenblatt's concept of self-fashioning is clearly relevant to the machinations of Angelo, the intellectual development of Isabella, and the outward roles assumed by the Duke. Each fashions "a distinctive personality, a characteristic address to the world, a consistent mode of perceiving and behaving" that variously suggest "hypocrisy or deception, an adherence to mere outward ceremony; ...representation of one's nature or intention in speech of actions" (2,3). In studying his portrayal of each character, we come to see Shakespeare's uncanny perception of how particular personal circumstances and backgrounds tend to

produce particular personalities. In considering characters' personal self-understanding and their public presentation of those selves, Shakespeare might be shown to demonstrate the cultural determinacy that shapes individuals in real life.

Marshall Grossman and Katherine Eisaman Maus have both elaborated a theoretically-informed understanding of the self and its relationship to the public roles it can assume. Grossman seeks to understand through rhetorical and semiotic analysis the nature and history of the self that Greenblatt attributes to socio-cultural forces. Grossman suggests that "the structure of language and rhetoric ... configur[e] cognitive paradigms that integrate the individual" into his or her larger society (16). Authors' use these structures "to represent their characters' choices and actions in relation to the worlds of and beyond their poems" (xi). He pays particular attention to the way this "rhetoric of the self" evolves in response to early modern cultural and historical change. In *Measure for Measure*, it is precisely Isabella's "prosperous art / When she will play with reason and discourse" that Claudio identifies as her great strength and which Shakespeare has her employ, first to defend Claudio, but then also to search out her own conscience's relationship to what her public roles of sister, novice, and finally legal disputant, demand of her. Maus expands Grossman's at times psychoanalytic technique to focus more specifically on Renaissance drama. She investigates the way in which a character's interior person is distinguished from his or her exterior by means of rhetoric, as well as the consistent equation of the outward with "seeming" (in the words of Isabella), and the inward with the true and genuine. While this observation is unremarkable in itself, Maus shows that Renaissance authors repeatedly returned to it in everything from sermons to satire to the drama, indicating that the distinction was more

complicated than it might first seem. She pays particular attention to the way that the sexual in *Measure for Measure* becomes the meeting place between characters' public roles and private persons, and between the state and its subjects.

Ultimately, though, I raise each of these divergent approaches to the public and private only to differentiate them from my own. While Sights' reading of the casuistical tradition directly parallels the aspects of intellectual history that interest me, I am concerned here less with *how* characters justify their personal actions in the face of public law than with the *nature* of those categories themselves, and how characters' actions reveal the way they conceive of them. In this instance my focus is thus less practical and applied than ideal and abstract. With Greenblatt, I acknowledge and analyse *Measure for Measure* as (in part) a cultural artifact, the concerns of which arise out of historical realities. Yet I am again interested more in how the ideals of political philosophy and theology prior to and during Shakespeare's time inform the categories and debates of the play, than with the influence of the (arguably²) more concrete social conditions of the time which Greenblatt's New Historicism tends to take as its focus. To incorporate Grossman's study of the development of subjectivity and the self into a discussion of *Measure for Measure* would demand another project of the present scope. While dealing with sexuality to an extent, Maus' theoretical approach is less germane to my overall topic than the political and theological ideas that, it seems to me, crucially influenced Shakespeare. The romantic stereotype of Shakespeare as an untutored natural who only intuited the great debates of his time has largely and thankfully

² I say "arguably" because even these conditions, gleaned as they are from historical documents frequently unconcerned with them, are abstractions.

dissipated; certainly *Measure for Measure* demonstrates a mind that is deeply enough engaged with the theological debates and resulting political shifts of his time to incorporate them convincingly into his play.

* * *

It is with an examination of this political and theological background, then, that Chapter One begins. Touching briefly on the textual origins and historical development of what came to be known as the “two swords” doctrine, I look at two influential Renaissance incarnations of it: Erasmus’ *The Education of a Christian Prince* and James I of England’s *Basilicon Doron*. Despite being written during the inception and the dénouement respectively of Reformational intellectual foment, each demonstrates an allegiance to traditional delineations of a king’s role in upholding the good of his realm. I then consider the parallel role of church and clergy in working the *cura animarum* – a task which, in England, remained fairly traditional through to the end of the sixteenth-century. Despite this practical stability, the Reformation’s radical reinterpretation of the sacramental and clerical aspects of its work would eventually produce demands from English radicals for the state’s greater involvement in the personal lives of its subjects – clearly seen in the writings of Martin Bucer. At this point I introduce Debora Shuger’s *Political Theologies in Shakespeare’s England: The Sacred and the State in Measure for Measure*, which forms a touchstone for my thinking about these theological trends. In relating them to *Measure for Measure*, Shuger tries to demonstrate that Shakespeare’s Duke is a middling response to radical reformers like Bucer and more traditional political thinkers like Erasmus and James.

Chapter Two begins with a broader survey of thematically relevant *Measure for Measure* criticism, giving particular attention to Shuger's book. I then consider the conception of his private self and public office by which Angelo governs Vienna in the Duke's stead. Surprisingly, key similarities emerge between him and the Duke when their self-conceptions and politico-philosophical approaches to governance are compared: each fails to make the traditional distinction between the private self and the public officer. Angelo's resulting moral failure in the play is obvious, but the Duke also fails both in his ducal office and the priestly one that he assumes for much of the play. Like the English Puritans, he takes the personal ethics expressed by Christ in his Sermon on the Mount and attempts to enforce them as public law, legally demanding the virtue from his subjects that the church had always insisted must be sought voluntarily.

The judgment scene of Act V warrants its own detailed examination in Chapter Three, as it ties together the various threads of the play that I have been pulling at previously. Careful reading of the act reveals the play's overall scepticism about the Duke's attempts as both friar and prince to intervene in the private lives of his subjects and to make judgments based on the spiritual good of individuals instead of the corporate well-being of the state. Not only does he fail the state by his approach, but his citizens are not any better off for his compassionate but misguided pardons. Both Lucio and Pompey hint at this failing, but it is Isabella who most clearly presents the alternative to it of traditional Christian political theology. Though she begins the play sharing the Duke's philosophy of governing the state by private Christian ethics, by Act V Isabella has rejected it as ultimately untenable. Instead of artificially and arbitrarily

divorcing the spiritual and personal good of the individual from the temporal and corporate good of the community as Shuger suggests it does, Isabella reveals the distinction between the roles of priest and king, spiritual and temporal, to defend the uniqueness and validity of two spheres which must be dealt with on their own particular grounds. In demonstrating the presence of this opinion in the play, I aim to highlight the continued vitality and relevance of pre-Reformational political and theological thought in post-Reformational England, and particularly in Shakespeare's drama. The play anticipates the results of the radical Reformational thought that would increasingly challenge the English monarchy and demonstrates its inherent flaws, encouraging and affirming the moderate and historically-informed approach of Elizabeth I and James I.

CHAPTER ONE

I

The various conceptions in post-Reformation England of the role of church and state and of priest and king are rooted in the medieval political understanding of the dual realms of spiritual and temporal authority. While descriptions of this duality developed over hundreds of years and practical applications of it varied widely, it remained the fundamental paradigm of political thinkers well into the early modern period. Its central metaphor, that of the “two swords,” was thought to be ultimately derived from Christ himself and his words to his disciples at the Last Supper. St Luke’s Gospel relates how Christ informs his disciples that while he had previously sent them out “without purse, and scrip, and shoes,” he was now instructing them to take these things, and that “he that hath a purse, let him take it, and likewise his scrip: and he that hath no sword, let him sell his garment, and buy one” (22.34-35).¹ When the disciples produce two swords, Christ replies, “It is enough” (38). These two swords and their declared sufficiency found an analogue in the epistles of St Paul. He refers on the one hand to the “word of God” (*i.e.* the teachings of Christianity) as the “sword of the spirit” (Eph 6.17), and on the other to secular rulers’ power as a divinely appointed “sword” (Romans 13.4). The state ruler “is the minister of God, a revenger to execute wrath upon him that doeth evil.” These swords would come to be seen as images of the

two great God-ordained powers in the world, the church and the state: the 11th-century cardinal Deusdedit writes that “the priest fights, as the Apostle says, with the sword of the word . . . the king fights with the material sword, since he is the Lord’s minister, avenger in wrath on those who act with evil” (Watt 371). Within this arrangement the primary concern of the church was the *salus animae* of the individual person. This care was administered primarily through the priest’s offering of the sacraments, especially those of baptism, the Eucharist, and confession. The primary concern of the state was the *bonum commune* of the realm, accomplished most directly by the making and enforcement of law. In summarizing the thought of the fifth-century pope Gelasius, historian R. A. Markus observes that the role of rulers is to maintain “outward necessities and public order among the Christian people entrusted to their care” (102). Importantly, the jurisdictional line between individual and corporate good that this arrangement draws was representative of that between the inner and outer parts of a person: the individual’s good was akin to that of the soul, the corporate to that of the body: thus pairing the spiritual with the private and individual, and the temporal (physical) with the public and communal. In working for the *bonum commune*, the king’s role was, as Gelasius states, both to build up his realm through laws and governance that lead to stability and prosperity, and to defend it from deterioration by enforcing those laws and punishing their violators, and by defending the realm in time of war. This is, of course, a commonplace and hardly needs to be mentioned; yet the purpose or end of the state’s doing so is crucial.

¹ All Bible quotations taken from the 1611 Authorized Version.

While the roles and functions of church and state received various Renaissance formulations, that of Erasmus in *The Education of the Christian Prince* makes clear the nature of the link between the state and the public and the ecclesiastical and the private. Published in 1516 and dedicated to the young Habsburg prince who would become Charles V, Erasmus sent a copy of the *Education* to Henry VIII, ensuring its immediate popularity in England (Born 26-28). The work is important here not simply for its subsequent influence on Henry's reformation, but because Erasmus, in Richard Hardin's description, "is his century's chief spokesman for the claims of the inward over outward authority, whether political or religious" (19). After pointing out that "in his *Politics* Aristotle differentiates between a prince and a tyrant on the basis that the one is interested in his own pursuits and the other is concerned for the state," Erasmus urges that in all deliberations, a good prince "always keep this one thing in mind: 'Is this to the advantage of all my subjects?'" (161). The welfare of individual citizens comes up continually as the prince's chief aim, and by extension, the state's:

The good prince ought to have the same attitude toward his subjects, as a good *paterfamilias* toward his household – for what is a kingdom but a great family? What is the king if not the father to a great multitude? ...Homer, in giving a man the honorary title of 'king,' calls him the *pasteur de peuple*, 'shepherd of the people.' (170)

To this end, the prince must strive most diligently for peace with neighbouring princes and states, in order that his subjects have "nothing to fear at all from the prince for either their lives or their possessions" (171). In doing so, says Erasmus, the king emulates God the heavenly Father and Christ the spiritual shepherd, who are to be his ultimate models of selfless regard for those entrusted to him.

As Debora Shuger notes, such concern for the individual is most proper to the ecclesiastical realm, which works precisely towards the *salus animae* (102). Erasmus makes clear, though, that the king is not himself intended to provide either physical or spiritual goods to his subjects. He does not work to secure their increase in virtue or their ultimate salvation, but only to provide the *conditions* of political peace and stability favourable to their own pursuit of these ends with the aid of the church. In the context of showing that a Christian king is as obligated as his subjects are to live according to the Gospel, Erasmus makes a sharp distinction between the roles of priest and king: the prince

is not a priest, I confess, and therefore does not consecrate the body of Christ. He is not a bishop, and so does not rouse the people on the mysteries of Christianity, nor does he administer the sacrament. He has not professed the rule of St. Benedict, and therefore does not wear the cowl. (*Education* 154)

While going on to insist that this difference in no way diminishes the king's obligation to Christ, the distinction is nevertheless significant, and taken by Erasmus as a commonplace. He bases it precisely on the role of the clergy: "consecrating" and "rousing", the ministry of sacrament and word at the heart of the church's mandate on earth. The king's direct involvement in spiritual and personal matters is thus disallowed (at least ideally) on the basis of the jurisdiction assigned to him in his anointing, which is to the temporal and public realm. Thus he has neither the power nor spiritual authority to provide anything but the temporal and corporate conditions necessary to leading "a quiet and peaceable life in all godliness and honesty" (1 Tim 2.2). He is not able, nor should he try, to provide the direct means to that life. Or, as Shuger summarizes

Aquinas, the “state deals in intermediary ends – peace, prosperity, virtue; but the final end of human life is ‘the enjoyment of the divine,’ and this no secular ruler can provide” (111).

Erasmus’ *Education* is the generic twin of James I of England’s *Basilicon Doron* (1599) – ostensibly written by James as counsel to his son, the crown prince Charles. It enjoyed immediate popularity, not only in Britain, but also across much of the continent, where it was translated as many as thirty-eight times. It and other of James’ writings were mentioned approvingly by both John Locke and Thomas Hobbes, and treated as serious political works in their time (Sommerville xv). Central to the work’s argument is James’ statement that the office of the king is “mixed, betwixt the Ecclesiasticall and ciuill estate: For a king is not *mere laicus*, as both the Papists and Anabaptists would haue him” (52). In his later *Meditation...* (1619), James furthers this:

Kings therefore, as God’s Deputie-iudges vpon earth, sit in thrones, clad with long robes, not as laikes and simply *togati* [citizens]...but as *mixtae personae*... being bound to make a reckoning to God for their subjects soules as well as their bodies. (237)

Here James follows the previous medieval alignment of the soul with the spiritual, personal, and ecclesiastical realm, and the body with the temporal, corporate, and civil realm. But he appears to cross the line present in Erasmus between the king providing the *circumstances* necessary for salvation and being in some fashion the *mediator* of that salvation itself, giving him responsibility before God for his subjects’ “soules as well as their bodies.” Shuger refers to this dual responsibility in calling James and Shakespeare’s Duke each a “King of souls” (112) – her very appellation links the two jurisdictions of public and private. On this notion she builds the case for James being the model used by Shakespeare in *Measure for Measure* of a sovereign directly working for

the good of individual souls that I will later critique. Yet immediately following James' previously-quoted statement (which Shuger also quotes) is the following qualifier (which she does not) of what the ecclesiastical responsibilities he refers to actually mean:

Not that [kings] ought to usurpe any part of the Priestly office, no more then the Priest should the Kings, for these two offices were deuided in *Aarons* Priesthood; but it is the Kings office to ouersee and compell the *Church* to do her office, to purge all abuses in her, and by his sword (as *vindex utriusque tabulae*) to procure her due reuerence and obedience of all his temporall subiects.
(*Meditation* 237)

Thus, concern for the souls of his subjects allows him to go no further than ensuring that the church fulfills its mandate, his subjects offer it their “due reuerence and obedience,” and, as he explains elsewhere², that true doctrine is defended. Here James claims headship of the church after the mode of Henry VIII and Elizabeth I: the task of presiding over the church is public and corporate, relating only to the church's existence as a public institution. Headship remains, as for Henry and Elizabeth, an essentially administrative task, and not at all sacerdotal in the sense of bearing direct responsibility for the *cura animarum*. In fact, the whole notion of a king as a *mixta persona* was not new, but a commonplace of medieval law, rendering James' adoption of it somewhat less significant. Shuger later acknowledges these facts in passing (59), but her overall argument posits James as claiming a degree of direct, quasi-sacerdotal responsibility for the *cura animarum* – again, the hallmark of the church's function on earth according to traditional political theology. To be sure, James does speak much of the heightened responsibility before God of a king who is “a little God” (*Basilicon* 12). He reiterates Erasmus' belief that a king must himself be virtuous:

² In *Triplici Nodo, Triplex Cuneus* 129.

...it is not enough to be a good King, by the scepter of good Lawes well execute to gouerne, and by force of armes to protect his people; if he ioyne not therewith his virtuous life in his owne person. ...[but you must] let your owne life be a law-booke and a mirrour to your people.” (33-4)

But even in this, James lies much closer to the subtle but definite division of jurisdictions assumed by Erasmus. “Being content to let others excel in other things,” he concludes the *Basilicon*, “let it be your chiefest earthly glory, to excel in your owne craft” of governance, as Anchises charged his son Aeneas: “*Tu, regere imperio populos, Romane, memento / (Hae[c] tibi erunt artes)*...” (“You, Roman, remember to rule peoples by your power / This will be your art”; 61).

III

This careful deference of both Erasmus and James to the role and jurisdiction of the church demands an explanation of the content of that role. Both thinkers assume the state to be an essentially Christian entity. Within it, the church was to minister to the spiritual needs of individuals in the space given it by the peace of the good king’s rule. This ministry was primarily accomplished through the preaching of the Word of God and the offering of the sacraments. While the Reformation reduced both the number and mystical significance of the sacraments in England, baptism and communion generally remained (and in the case of the latter, perhaps became more important because of its more frequent reception) indispensable to the Christian life and the obtaining of salvation. More to the present point, confession, while no longer thought of officially as a sacrament, remained a prominent part of many people’s

spiritual regimen.³ Confession was by its nature one of the most private and personal encounters that an individual might have with the church, and thus (potentially) one of the most effective means to bring about moral change in that person's life. "At its best," confirms historian Peter Marshall, "confession was a forum where priests could play the role of spiritual physician, and administer ghostly [spiritual] counsel to sick or troubled consciences," with the intent "to provide the individual sinner with access to the infinite mercy of God" (19). To this end, a priest would prescribe various penances designed to help the penitent to repent of and overcome particular vices to which he or she had confessed. While it could undoubtedly be simply an annual Lenten obligation of little personal significance, "pious and leisured laypeople" had, from the later 15th century at least until the latter part of the 16th, been making increasing use of confession for the purpose of personal spiritual direction. Historian Eamon Duffy notes that "there was a growing literature of penitence and compunction designed to help lay people to use confession in this way" (60). This confirms the centrality of sacramental confession in the church's work of the *cura animae*, in which penance played a complementary role. Not surprisingly, hearing confessions and giving spiritual counsel are central aspects of Shakespeare's Duke's work while he is disguised as a friar.

Closely related to confession and penance was the practice of preparing spiritually for death. This was a central concern of any pious person; as evidenced by the tradition and literature of the *ars moriendi*, "there can be no doubt of the crucial importance attached to proper preparation for death by ordinary men and women. ...The consistently reiterated concern to secure shrift and housel [confession and

³ This judging by the perennial complaints about clerics revealing confessions (Houlbrooke 119, 195).

communion] in the hour of death clearly represents a strong lay conviction” of its importance (Duffy 311, 3). While these sacraments had become somewhat less crucial by Elizabeth’s reign under the influence of Reformed theology,⁴ they nevertheless remained central in the imagination of many, if the examples of it in *Measure for Measure* are any indication. Receiving at least spiritual counsel and assurance was crucial to the passing of one’s soul from the body and this world into the next, and to one’s hopes for rest in that world. Marshall notes that wills (treated by historians as accurate indicators of deathbed practices among the upper classes) regularly “assigned to their confessor responsibility for funeral arrangements” and often significant roles and benefits in the disposal of their goods (17). Such requests, he argues, “suggest a strong and long-standing bond between priest and penitent which survived to the grave,” even during Elizabeth’s reign.

Profoundly, even the state took a person’s preparations for death seriously when it sent convicted murderers to execution, as evidenced by the accounts of late 16th- early 17th-century murder pamphlets. Shuger and historian Peter Lake describe these pamphlets’ stories, in which convicted criminals are given and frequently take the opportunity before death to confess their crimes to priests, and occasionally even to those witnessing their execution. Even obdurate felons were given repeated opportunities to confess, their executions sometimes being delayed in the hope of eliciting their repentance and thus salvation before they died (Shuger 127-8).

⁴ See Marshall 32, 192.

Such concern on the part of king and magistrate may be construed as further evidence of the state's interpolation into the realm of the church by concerning itself with the care of the condemned's soul. It is more accurately seen, I would argue, as another example of the king (or his representatives, as the case may be) only making room for and defending the private space of the individual who, in approaching death, is seen to require the uniquely personal care which was the mandate and duty of the church. Indeed, critic Darryl Gless observes that "preparing men to face death was considered so important an office in sixteenth-century England that clerics found themselves bound by royal injunction to devote to it special care" (136). Shuger fails to note that the magistrate left "room in the judicial proceedings for the pastoral efforts of the clergy" (Lake 166). He would allow "various clerics to insert themselves into the interstices of the judicial process" who "conferred with the felon in prison, instructed and converted him, and then taught him the outward forms of a good death" (165). Thus, by virtue of its spiritual nature, the church's central functions correspond most directly with the personal needs and concerns of the individual. It offered to the penitent and/or dying person that which he or she senses to be most necessary to his or her eternal felicity – "deep calls to deep", in the words of the Psalter.⁵ This distinction between the state assuming the role and methodology of the church and thus a degree

⁵ Of course, a possible interpretation of these tracts and events is also that securing such repentance reinforced and legitimized the power of the state to execute those it deemed undesirable or threatening. While disagreeing with her specific interpretation of these, I nonetheless agree with Shuger's assertion that to do so would be "to miss the strangeness of all this. ...[W]hy would the state want to risk the appearance of hanging men who had 'become much more the better / For being a little bad' (V.i.433), especially since the opposite strategy could have worked just as well and would certainly have been less labor-intensive; that is, if criminals regularly died swaggering, cursing, and defiant, the self-evident justice of their hanging and the equally evident likelihood of their damnation might also have encouraged conformity and obedience" (129). In general, the "various attempts to locate the sacred within the state have much to do with the power politics of legitimation, but to assume a demystified reading from the outset, rather than illuminating this strange project, merely denies its strangeness" (45).

of sacrality, and it only enabling the church to do its traditional work, will become crucial in considering Duke Vincentio's across-the-board pardons at the end of *Measure for Measure*. In the examples from the murder pamphlets of the period, the state does not for a minute consider 'forgiving' murderers because its role is the upholding and enforcing of the law. The forgiveness of God which a priest might convey remains a separate thing from the state's verdict.

The second aspect of the church's social role concerned marriage and sexuality, which it regulated through its ecclesiastical courts. These courts were related to their state counterparts, but were marked off from them by virtue of their dealing with (among other things⁶) personal matters. The secular civil courts historically dealt out retributive punishment for offenses committed against the common good; their focus on property rights made them by nature the arbiter of interpersonal disputes. Civil courts were largely penal, their sentences consisting of "punishment, exemplary terror, and compensatory damages" (Shuger 114). Church courts, on the other hand, had as their aim not the punishment of the offender, but his or her spiritual and social restoration – similar to the sacramental work of the priest. The seventeenth-century canonist Joannis Valerus asserts that "there is very little difference between the forum of canon law and the penitential or spiritual forum, since both aim primarily at the salvation of souls" (Shuger 170-1n). Of these courts' many responsibilities, marital and sexual issues were the most common and the most obviously personal. Moreover, their power was real and allowed them to impose penalties such as alimony payments in cases of desertion, child support payments for illegitimate children, and penance-like

⁶ For a description of these, see Houlbrooke 7-8.

directives for various forms of sexual incontinence (Houlbrooke 68, 77). However, “the typical penalties imposed by the church courts were not, strictly speaking, punishments at all,” says Shuger, citing Richard Cosin’s 1593 *Apology for . . . Jurisdiction Ecclesiastical*, “since, whereas [civil courts’] punishments aimed either at compensating the injury, avenging wickedness, or deterring would-be offenders, canon law penalties were ‘a medicine, tending to the reformation of the delinquent, [aimed] at his bettering upon whom it is inflicted’” (102). What is significant here is, first, that such judgment is seen to be a matter for the church and not the state to issue, thus implicitly labeling it as a personal⁷ and spiritual concern. Second, it was most often treated relatively lightly. It must be further noted, though, that church courts had limited ability (or even inclination) to pry out sexual secrets. Unless treasonous, acts confessed to a priest remained secret by order of even Reformed English canon law, even if a visible penance was prescribed to the penitent. Legal historian R. H. Helmholz describes how in distinguishing canon from civil law in post-Reformation England, church canonists had historically allowed for “a sphere of life into which the public authorities, whether from church or state, were not entitled to enter,” on the grounds that “no one is obliged to reveal his own shame” (“Privilege” 19). They thus aimed to “defend the private lives of ordinary citizens from intrusive official scrutiny” (Shuger 105), insisting (at least ideally) on the need for and legitimacy of private personal space. This was only in keeping with the essentially medicinal mode of bringing about personal restoration that was by nature the church’s. The transgressions brought before the ecclesiastical courts were ones

⁷ This is not to say that sex was a personal matter in the same way as it is today: largely unregulated by state or church and left to the discretion of private individuals. Rather, it was personal in the sense that it was not public and political: the state and its courts tended to have little involvement in its regulation, leaving this largely to the church.

which had independently become public – either through pregnancy or the ire of a jilted lover or spouse. Judgments dealt largely with the communal or interpersonal consequences of the sin, insisting that the wrongdoer take responsibility for the social results of his or her sin, yet in a way that held the person, not society, as its focus. The courts’ refusal to pry into unrevealed transgressions and personal lives (again, at least ideally) and to make such the object of its judgment demonstrates its own consciousness of its spiritual, medicinal nature. It is also an admission of the unlikelihood of legal process bringing about genuine contrition in any effective way: using Erasmus’ distinction, the state might provide the conditions necessary for the *cura animarum*, but only the church could do the actual work of it. The deeply personal nature of “repentance unto salvation” necessitated that unless the sin had clear social consequences, repentance be voluntary and uncoerced, occurring privately within the individual. Such willingness had to be met not simply with retributive punishment, but the spiritual effect of the church’s sacraments conveyed by the ordained priest. It is this sacramental mode, at once personal and spiritual, that set the church apart, both in its sacramental ministry and in its courts, from the state.

In addition, not only ordinary citizens, but the king himself is allowed and even required by Erasmus and James to maintain some degree of private space where, enabled by the sacramental ministrations of the church, he labours to develop personal, and not simply kingly, virtue. The public office, says James to his son, does not excuse personal vice, “but by the contrary your fault shall be aggruated, according to the height of your dignitie” (*Basilicon* 12). This is premised on the two aspects of the king’s person: “as you are clothed with two callings, so must ye be alike careful for the

discharge of them both” (19). The ruler is both king and Christian, and “it is not enough to [be] a good King..., if he ioyne not therewith [a] virtuous life in his owne person” (33), demonstrated by the personal reading of Scripture and by “behaviour in your owne person, and with your servants” (20). Erasmus likewise warns a prince against neglecting his personal life and obligations in favour of those official and public:

Guard against such inner thoughts as these: “Why is all this addressed to me? I am not a mere subject. I am not a priest. I am not a monk.” Think rather in this fashion: “I am a Christian and a prince.” ... You compel your subjects to know and obey your laws. With far more energy you should exact of yourself knowledge and obedience to the laws of Christ your king! (153)

The temptation to think, “I am not a mere subject. I am not a priest,” is, in this instance, not simply one to act as a godless tyrant towards his subjects, but more deeply, to deny the existence of and responsibility for a private life. To live without regard for the essence of one’s professed religion is to exist solely in the public realm.

It must be restated that the content of the private life is not to be simply the pursuit of wealth, pleasure, and happiness (which few kings would need encouragement towards anyway) but the pursuit of spiritual virtue and salvation. To this end, James counsels his son to remember “either in the night, or when yee are at greatest quiet, to call your self to account of all your last dayes actions, either wherein ye haue committed things yee should not, or omitted the things ye should doe, either in your Christian or Kingly calling” (*Basilicon* 17-18). Again in this advice, James implicitly associates the “Christian calling” with the king’s private life, wherein he is a man like any other, and distinguishes it from the “Kingly” calling, which is public and unique. This distinction could be seen to be unnecessary here: we might assume that any serious sin committed in the latter role would be equally a sin in the prior private role. Yet in keeping the

distinction in this discussion both here and elsewhere, as Erasmus also seems to do, James implies something about how he views himself: while inextricably connected, public and private lives and the ends they strive for must be treated with a degree of separation. While, as Erasmus urges, both are to be governed by the rule of Christ and his Gospel, the duties of a king (most notably to punish lawbreakers and to defend his realm) belong to the office and not the person. This is illustrated by the medieval theological commonplace that a magistrate is not guilty of murder for condemning a criminal to death based on the statute of law; if, however, he condemns a man out of personal malice or hatred, he is morally culpable for his death.⁸ This is the sort of division James assumes in the passage and as a result of it urges the king to understand himself in dualist terms. It closely parallels the twofold realms of the temporal and spiritual, and of king and priest consistently delineated by medieval political theory. In *Measure for Measure*, both Angelo and the Duke fail to make this distinction within themselves, resulting in their subsequent failures to make it between the church and state.

I V

This twofold jurisdictional division still evident in a traditional sense in Erasmus and James had already begun to be challenged in the later middle ages by both papal and Reformational theology. Indeed, one of the Protestant Reformation's central concerns was precisely the nature of the relationship between the two swords of church and state. In 1302, Pope Boniface VIII had given official voice to Rome's growing claims of

⁸ This principle is described in Crawford and Quinn, *Christian Foundations* 185.

jurisdiction in the bull *Unam sanctam*. According to J. A. Watt, the bull referred to church and state as “two powers inscribed within the one corporate society of Christians” and declared that “the spiritual power institutes the temporal power and judges it if it errs... The pope, in unshared headship, rules the Christian community as vicar of Christ,” with the power to do whatever is necessary for the salvation of Christian souls (401-2). The novel claim that the spiritual legitimates the temporal and the overall language of the bull invited hierocratic⁹ interpretations, and was thus a source of grave concern to both European monarchs and political thinkers. An anonymous work that emerged from the University of Paris in the first decade of the fourteenth-century, the *Quaestio in utramque partem* (“Investigation on Both Sides”), responded to the papacy’s implied claims of political jurisdiction by reiterating the classical and patristic dualist position. It arose particularly from the discussion of Philip the Fair’s attempt to bring Boniface VIII before a general council of bishops to answer charges of violating the temporal jurisdiction of the king of France (Watt 403-4). Secular government, the *Quaestio*’s author notes, predates the institution of the church and its origin and function are “intrinsically natural and ethical,” as Aristotle and Cicero had described (Watt 406). He recounts Christ’s words on the two swords in Luke 22.37 and St Paul’s in Romans 13.4 and Ephesians 6.17 as proof that Christian kings required no sacerdotal validation or authorization. The *Quaestio* also appeals to the parallels between the twofold nature of human beings (soul and body), their “two-fold way of

⁹ Hierocracy is simply government by priests or ecclesiastics. Boniface VIII’s claims in *Unam Sanctam* were understood by many to make the pope a ‘king of kings.’

life (*duplex vita*), each with its appropriate societal context (*duplex civilitas*), each regulated by an appropriate power (“two swords”)” as further evidence of the division of the two powers (Watt 406).

If the hierocratic claims of the papacy were one extreme which this dualist position moderated, the other was that of Dante’s contemporary, Marsilius of Padua. Marsilius was a former rector of the University of Paris who had received the canonry of Padua from the Pope. Watt calls his *Defensor pacis* (“Defender of Peace”; 1324) “the most thorough and original treatise on the relations of the powers written by a medieval analyst” (416). In it, Marsilius denies the Pope (and thus the church) *any* temporal jurisdiction or coercive power, leaving him only “a teacher of souls, a physician, not a coercive judge or ruler” (Watt 420). He warns that “the ruler has jurisdiction over all bishops, priests, and clergy, lest political society be destroyed by the existence of an unordered multiplicity of governments” (Watt 420). The consequence of this notion was distinctly caesaropapist¹⁰, and thus revolutionary, says Watt: “the lawful sovereign was the sole authority in ecclesiastical affairs, beginning with the definition of the articles of faith and the determination of disputed interpretations of the Bible” (420). In the argument between the papacy and thinkers like Marsilius, the traditional church-state dualism of the *Quaestio* was left behind. These two divergent opinions were characteristic of the state of political theory on the eve of the Protestant Reformation. By then,

¹⁰ Caesaropapism is the opposite of hierocracy - the supremacy of the civil power in ecclesiastical affairs. The government of the Byzantine empire, for example, is frequently described as having been distinctly caesaropapistic.

the theorists of the relations of the powers had produced two different models: hierocracy and caesaropapism. Each was a logic which rejected any theory predicating a dualism of two autonomous authorities existing co-ordinately in human society. Each was a theory wherein a unity was founded upon the supremacy of one or other of the powers. Each... postulated one authority to control both swords. Dualism...did not wholly disappear. But it is suggested here that it was not that logic which was most characteristic of the later middle ages, nor the one which proved influential when the relationship of the two powers was redrawn in early modern Europe. (Watt 423)

Indeed, Henry VIII of England had Marsilius' *Defensor pacis* translated into English shortly after declaring his headship of the English church. Mingled with the then-emerging Lutheran theology, it proved influential on Thomas Cromwell and his work formative of the Church of England.

If Marsilius and other caesaropapist theorists had reduced the role of the church to only its pastoral role, the Lutheran theology so influential in shaping the early Church of England served to diminish the uniqueness and potency of even this pastoral role. Historian Francis Oakley describes how medieval theologians had frequently subdivided the church's "spiritual sword" into the "power of order (*potestas ordinis*) and a power of jurisdiction (*potestas jurisdictionis*)" (163). The *potestas ordinis* was the church's "truly sacerdotal, sacramental power at whose heart lies the mysterious power to make present in the eucharist the 'true body of Christ'" (162-3); derivative of this power is the pastoral *cura animarum* derives from this power. Oakley describes how Luther's doctrine of justification by faith undercut the medieval Catholic notion of salvation as a "gradual and lifelong process of effortful spiritual regeneration" requiring the spiritual medicine of the sacraments, and replaced it with the notion of salvation as a "wholly divine gift and an instant reality conditioned only by faith" (163). An immediate corollary of this Lutheran doctrine was the diminished role of the sacraments in gradually effecting an

individual's salvation. To put it simply, they were no longer immediately necessary to people whose salvation had already been granted them. Luther and other Reformers eliminated the sacraments of confession, orders, and marriage (among others), and described the remaining ones "not as indispensable channels of grace but simply as visible testimonies to the Word" (Oakley 168). While Luther maintained a high-sacramental view of baptism and the Eucharist compared with other continental Reformers, he nevertheless changed their purpose, as Oakley describes, from being medicinal and salvific to testimonial and confirmational.

Furthermore, Luther's reductive sacramental theology necessitates devaluing the sacerdotal orders of the church. If salvation no longer requires the reception of the sacraments, explains Oakley, it is logical that it requires neither the ordained ministers of those sacraments nor the "traditional distinction between clergy and laity, ...reduc[ing] the ministry to the functional status of one divinely ordered calling among many" (168). The church's *potestas jurisdictionis* was correspondingly reduced by Luther: he dismissed canon law as a tool of papal exploitation and, like Marsilius, declared the church and its clergy to possess no coercive power: "their role was one of service; their power, no more than the power of persuasion; their authority, the authority of the Word that addresses itself to the inner hearts of men" (Oakley 170).

These elements of Lutheran (and other) Reformed theologies ensured that those who adhered to them paid close attention to political questions, laying "the foundations for a body of political thinking markedly different from that dominant in the centuries preceding" (Oakley 168). Significantly, Oakley finds the roots of much of Reformed political thought sunk deeply in

the novel Lutheran soteriology [that] stressed the primacy of faith,... and its reinterpretation of the notion of ‘church’, its refusal to the church thus interpreted of any power to mediate via sacramental channels the divine graciousness, and its concomitant denial of anything other than a functional distinction between clergy and laity. (197-8)

These changes radically altered and at times eradicated the personal and moral categories with which people had understood their inner lives. This destabilization allowed for the state to propose alternative ways in which to understand one’s previously personal and moral responsibilities, thus potentially increasing its influence and jurisdiction over the private lives of its citizens. In considering the political thought – indeed, both she and Oakley call it “political theology” – that emerged in Reformation England, Shuger first summarizes my previous point and then describes its result: “Protestantism rejected the papal church’s claim to be the earthly kingdom of Christ” – and thus its claim of jurisdiction over individual souls – “and abolished or demoted all the traditional *loci* where the sacred had penetrated the temporal order: anchorites [one might add clerics], relics, shrines, images, holy water, consecrated Host.” It was thus “in search of those loci where the sacred remained or might be reconstituted,” and this search, she claims, often “ended up in the state” (43). Protestant theology to varying degrees transferred sacrality from the church, its officers, and its sacraments to the state and its prince. Oakley describes how by 1535, English Lutheran sympathizers like Robert Barnes “and in some measure Tyndale too, had come to envisage the king’s authority as a [temporal] minister of God as extending now beyond the temporal to encompass the spiritual” (177), which tended, as I have shown, to be *de facto* the personal.

This shift of “sacral *loci*” from the church to the state, and the state’s increasing assumption of the church’s role, logically affected the private lives of individual citizens within the state. Martin Bucer’s *De regno Christi* (“The Kingdom of Christ”) is an extreme example of this shift, but effectively demonstrates the effect of this increased sacrality of the state on the individual. *De regno* was written for England’s Edward VI in 1550 while Bucer was in England as an exile from Strasbourg. It lays out for the Protestant ruler a blueprint for building a truly reformed England – portions of which had earlier helped get Bucer expelled from Strasbourg. One of his central and most striking principles is the insistence that pious princes must “plant and propagate the Kingdom of Christ also by the power of the sword, as by all the powers which they have received from the Lord... [It is] their duty not to tolerate anyone who openly opposes and undermines the sound doctrine of the gospel” (272). This “undermin[ing] of sound doctrine” is effected not simply by heretical preaching and teaching, but by the way an individual might lead his or her life: those who violate even the lesser of the Ten Commandments (against adultery and the dishonoring of parents, for example) Bucer calls “dangerous beasts as harmful to the commonwealth as men who are plainly godless, empty of God, sons of the devil” (380). He thus recommends that Edward set up an extensive bureaucracy of inspectors, magistrates, and censors to bring about what he calls the “full reception” and “reestablishment of the Kingdom of Christ” in his realm (175, 279). This is to be done by enforcing not simply the common law of the temporal kingdom, but the whole moral code of the Levitical law and the Gospels. Most indicative of this overall policy is Bucer’s insistence on the strict regulation of sexuality. It is “completely necessary..., first, by utmost severity and just penalties to

cut off and strike down not only seductions and adulteries, but also all wandering lusts, all illegitimate unions of males and females” (333). To this end, the penalty for adultery is to be death (379). Even legitimate sexual relations are to be policed: laws must be enacted which prohibit marriages formed against the will of parents (321); if otherwise inclined, husbands and wives must be compelled “by the inflicting of punishments...to fulfill their matrimonial pledge” (327). In all of this, Bucer is concerned about sexuality not because of an ascetically-extreme abhorrence of it, but because of its private nature. Of course, sexuality and marriage are equally social issues, creating and shaping family and community life; this frequently determined the manner in which church courts dealt with sexual and marital deviance. But they were public and political issues, relevant to the state, only in a secondary sense. Bucer is thus novel in construing them as aspects of life demanding not simply church governance, but that of the state. Throughout, Bucer measures such personal matters solely by their potential impact on the *bonum commune*.

Bucer’s program runs strongly contrary to the late medieval and subsequent Anglican understanding of marriage and the private life of the individual, which had been to keep marriage out of the “jurisdiction of kind and community by holding that a valid marriage required no more (and no less) than the free consent of the contracting parties” (Shuger 26), and as Helmholz summarizes current scholarly thinking, “promoting the value of freedom in making personal life choices” (*Oxford History* 524). While marriage continued to be regulated through church courts and confessional penance, it was consistently the church – the spiritual ‘sword’ – that did so, thus aligning it with other personal and spiritual matters. Once again, this is not to say that marriage

was independent of “kind and community”; it most certainly was not. Rather, in declaring it a personal matter, I differentiate it from ones public and political; the church regulated marriage and sexuality without extensive interference from either the common law or the civil courts. Even when its penances were occasionally (and humiliatingly) public and reminiscent of state criminal punishment, they were still administered by the church courts.¹¹ Nor was their regulation nearly as extensive as is Bucer’s version: social historian David Cressy describes how the success of pre-marital courtship among the gentry turned not on the sanction of parents or priest (as Bucer insisted it must), but on simple “‘good will’ and ‘good liking’” (254). Quite simply, engaging oneself to be married was a surprisingly personal matter: “a maid had to be courted and won.” Only after “an agreement and contract between the couple” had been reached would “legal and financial agreements between their families be worked out” (254). Bucer insists, however, that the whole reason the state and outside authorities must be involved is because “marriage is a *res politica*” – a fact dangerously obscured by the papacy, he claims – and thus it “requires men to be helped and compelled...by the laws and judgments of the state” (316).

In thus expanding the role of the state, Bucer is not simply declaring marriage and sexuality to be temporal, political matters by virtue of their relationship to social order, and that they thus rightly fall under the state’s jurisdiction. Instead, he is making the aim of the state to be almost identical to the aim of the church: to foster the

¹¹ Historian Dave Postles describes instances of the public shaming of sexual deviants in the mid-sixteenth century, but affirms that it was always church courts and not ones civil that administered penalties for such crimes.

individual virtue and holiness that results in spiritual salvation. “The governance of the kingdoms of this world and of Christ [the temporal and spiritual realms] have this in common,” states Bucer:

...that the kings of this world also ought to establish and promote the means of making their citizens devout and righteous. ...For from God on high [kings] have received all power over [God’s] people and the sheep of his fold, ‘for the building’ of their faith and salvation. (180)

Like James and Erasmus, he does first refer here to kings promoting the “means” of personal holiness and not this holiness directly. Yet in keeping with Luther’s reformed theology, church courts, clergy, and the sacraments play only a minor role in this effort: the king and his magistrates are left to accomplish this work directly and unaided. The result, argues Shuger, is a near identification of the aims of the state with those of the church:

the state aims at securing transcendent goods such as virtue and holiness; virtue and holiness, by aiming at the common good, secure the state. It follows from this near-total identification of the common good with eternal goods that the state can leave no interstitial spaces where its citizens might cultivate their own private gardens. (24)

Thus, a significant result of Bucer and other radical Protestants’¹² political theology is the making temporal of the spiritual and the politicization, or the making public, of the private. These reformers, of course, would have it the other way; Bucer prefers to call this the “reestablishment of the Kingdom of Christ” (279). Yet when seen in the light of the traditional dualist description of temporal and spiritual powers, “Christ’s” kingdom bears all the hallmarks of the temporal and earthly kingdom (law, magistrates, juridical and retributive punishment) and very few of the eternal and spiritual realm

¹² Shuger examines a similar bent in Baxter’s *Holy Commonwealth* (1659) and Lupton’s play *Too Good to be True* (1581).

(grace, priests, and restorative penance). In Bucer, the work of the church's ministers becomes strangely similar to that of the state's morality magistrates, the only substantial difference being the clergy's task of dispensing sacraments. Yet these have already been rendered unnecessary by theology and their personal mode assumed by the state, thus leaving no uniquely effective role for church and clergy. These are left simply to cooperate with the state, which by its nature will deal with the private in an essentially legal, penal, and retributive mode.

Along with her earlier descriptions of James' tendencies towards personal involvement with his subjects, Shuger cites the equity courts of the time as a qualitatively different example of the state's involvement in private spiritual matters. Separate from the common law courts, equity courts dealt with legal exceptions: cases where the circumstances of a crime and of the accused would make "the ordinary legal penalties ... inappropriately and unjustly harsh" (80). They allowed, Shuger claims, "for the higher justice of God to enter" the otherwise secular legal system, and as such are "in the fullest sense *sacral loci*" because they made decisions with a view to mercy and the restoration of the guilty, rather than simply to punishing them in a juridical fashion (86). Again, though, this is not really the state working in the church's spiritual and restorative mode. To reduce or remove lower courts' punishments, as the equity courts often did, is only to do what Erasmus claims is the state's chief aim: providing the *conditions* necessary to the individual's pursuit of virtue and salvation, not those goods themselves. A prisoner who may have a death sentence for theft stayed receives a great grace, and in doing so the court would be working, as does the church, with an eye more towards the good of the person than that of the community. It does not,

however, change that part of the prisoner's personal character which, in the church's understanding of the soul, inclined to theft in the first place. In being given his or her life, the guilty receives nothing more than very favourable conditions in which to amend his or her character. To be actually so amended required the further working of God – whether in a direct and instantaneous way for the radical Protestant, or in a mediated and sacramental way for the traditional. Thus, even while adopting as a guiding principle Christian mercy, the equity courts remained by nature temporal, and thus did not directly affect the personal and spiritual realm of the individual in the way that the church had power to.

Shuger makes an essential distinction between Bucer, the later Puritans, and a character like Angelo on the one hand, and James I and the Duke on the other, describing the former group as examples of the failure of shifting sacral *loci*, and the latter as successful. The first group's attempts to involve the state in private lives are oppressive and either do not occur (Bucer) or do not work (the Puritans and Angelo). The latter bring the state to bear on the private in a benign and quasi-sacramental way, and gain respect (James) and success (the Duke) for it. Both Shuger's alignment of the groups and her analysis of their success, however, are subtly flawed, and for several reasons. First, James' idea of the king as *mixta persona* is neither novel nor in any way sacerdotal. The headship of the Church of England that he claimed was, as I have said, that of Henry VIII and Elizabeth I before him, and impinged only on the church's *potestas jurisdictionis*. His was an administrative role in the church – a powerful one to be sure, but one whose power did not borrow anything from the church's *potestas ordinis*, its unique and sacramental ability to work the *salus animarum*. It is in this that James' ideas

fundamentally differ from Shakespeare's Duke. As we shall see, the latter does not assume the friar's cowl to oversee the doctrinal and institutional aspects of the church, but like Bucer's magistrates, to minister directly to the personal spiritual needs of his subjects. He differs from them – and Angelo – only by degree: while to an extent more sympathetic than they, all evince a shared belief in the state's ability to work the *cura animarum*, instead of limiting it to providing the church and individuals with the necessary conditions (of outward political stability) for it. On the other hand, the writings of Erasmus and James, in maintaining the traditional distinction of temporal and spiritual swords, recognize the essential incompatibility of the state's methods with personal and spiritual matters. Shuger's historical analysis of the issues of public and private is shrewd and incisive, and sets up the terms and questions for both this chapter and those that follow. However, she reads overmuch into James' quasi-sacerdotal language and misses his essential traditionalism. What I will show in the following chapter is that the Duke, however benign, is closer in understanding to Angelo and the English Puritans than to James and traditional Anglican polity.

CHAPTER TWO

I

Measure for Measure has alternately been classified as a tragicomedy and a problem play; as dark and brooding and persistently comic; as Shakespeare's most overtly Christian play and his most skeptical and cynical. This range of generic, tonal, and thematic descriptors make it, says Rosalind Miles, "a critic's delight," for the reason that "the nature of the drama and the intentions of the author are sufficiently eclipsed as to permit of the most highly individual interpretations" (13-4). As I have mentioned, my investigation of the play will not be comprehensive of all of these possibilities. I hope to justify my partial focus, however, by turning it on issues central to the play: what is the ideal of law and justice it puts forward; to what degree is the Duke its embodiment and to what are Angelo or Isabella its antithesis; and what parallels to it can be found in the political thought of Shakespeare's time? As I earlier alluded to, "highly individual" and divergent interpretations have surrounded these questions from at least the time of Samuel Johnson. Jumping ahead several centuries, the early part of the twentieth saw a spate of autobiographically-influenced criticism. E. K. Chambers and Una Ellis-Fermor held that Shakespeare had made particularly Act V to be deliberately artificial, so as to convey both his own personal world-weariness and cynicism and that of his time. This approach was soon countered by a mid-century trend towards allegorical interpretation of the play. Rather than a deeply personal statement of despair, critics beginning with

G. Wilson Knight and peaking with Roy Battenhouse and Nevill Coghill described *Measure for Measure* as an allegory of Christian atonement: the Duke represents Christ; Lucio, the devil; Isabella, the soul, chosen to be the bride of God.¹

In 1949, Elizabeth Pope wrote the first intensive exploration of the play's historico-political background. She examined contemporary Reformed theological and political opinion of Christ's Sermon on the Mount and found definite dissonances between it and the actions of Shakespeare's Duke. She also compared the Duke with James I and his political thought, finding that while the two rulers share similar personality traits, allegorical interpreters of the play are wrong to claim that either James or Shakespeare's Duke saw themselves as quasi-divine rulers markedly different than other of England's or Shakespeare's princes. In 1965, J. W. Lever prefaced his Arden edition of the play with a monumental introduction that sought to balance "the complexities of the leading characters and the obstinate challenge to doctrinal rigidity presented by common erring humanity" with the play's "intense and positive concern with the 'properties of government', the scope of secular and divine justice, [and] the working of grace" (lviii). With Pope, Lever outlines the traditional distinctions between the public and private obligations of Christian princes that radical Reformers had sought to erase. While in the play the Duke often blurs these lines (to his own detriment), he is in the end a wise teacher who elicits repentance from Angelo and schools Isabella in personal forgiveness and public mercy. Prior to the Duke's tutelage, Angelo's impersonal justice evinced his faulty belief in the quasi-divine nature of state justice, while Isabella had reduced the duty of a magistrate to the personal Christian obligation

¹ Their work is more subtle than this summary gives credit for; nevertheless, these are the analogues they

to simply forgive wrongdoers. The Duke's final judgments moderate these two extremes and demonstrates the more subtle theological and political thought of Shakespeare's time.

Darryl Gless furthered Pope's work on the relationship of Renaissance intellectual and particularly theological history to *Measure for Measure*. He sees Isabella's desire for the rigorous law of monastic life as indicative of a radical legalism that she shares with the equally ascetical Angelo. By publicly destroying the outward reputation of each (Angelo's by his public arraignment; Isabella's by having her confess unchastity), the Duke, with his similarities to the benevolent master in Christ's parable of the talents (Matt. 25.14-30), teaches both Angelo and Isabella that outward appearances of goodness are only a distraction from the motives of the heart. As such, the Duke reveals the meaning of Christ's Sermon on the Mount, which, Gless claims "Shakespeare in fact establishes...as the primary ethical standard intrinsic in *Measure for Measure*" (43). N. W. Bawcutt's 1984 article also takes up the play's complicated relationships of law, justice, and mercy to the inner and outer lives of a magistrate. Bawcutt rejects any simplistic equation of Angelo with justice and the Duke with mercy by focusing on the Duke's central "He who the sword of heaven will bear" soliloquy (III.i.515-36). Bawcutt observes that in principle the Duke consistently approves of Angelo's judicial severity and as such, "if Angelo is to be called a puritan, so too is the Duke" (91). Rather than issuing a blanket call for mercy (as he is sometimes said to do), the Duke upholds a "personal or reflexive view of the law," in which the punishment exacted from the guilty is directly contingent upon the innocence of the judge: a judge

draw.

can rightly pronounce harsh sentence if he himself is just (94). While such a notion runs contrary to most developed systems of law and is described as doing so by Angelo, it is nevertheless upheld by Shakespeare in the play – a claim similar to Gless’ assertion that *Measure for Measure*’s ethical standard is the Sermon on the Mount.

In 1985, Jonathan Dollimore brought a version of cultural materialism to bear on the play, declaring that “the time is right for a radical reading of *Measure for Measure*, one which insists on the oppressiveness of the Viennese State and which interprets low-life transgression as *positively* anarchic... – a subversion from below of a repressive official ideology of order” (73). Only slightly retracting his raised fist over the course of the article, Dollimore reads the play “to disclose [moral] integrity as the strategy of authority” to repress what it always imagines to be the inherent rebelliousness of the lower classes, instead of it being “the disinterested virtue of [a] leader” that allows him to govern legitimately (83). Ironically, it is neither Lucio nor Pompey but Angelo who is most subversive of state authority in the play; his *lack* of integrity lays the Duke’s Vienna open to the accusations of repression made by the former characters. Lucio and Pompey, though, are no morning stars of the revolution; the former models his oppressors by turning in Pompey and Overdone to the authorities, and the latter eventually agrees to serve a legitimate role within the state hierarchy as a hangman.

In 2001, historian Peter Lake published a somewhat less breath-taking historical approach to the play. Examining late sixteenth-century pamphlets, he suggests that *Measure for Measure* is “an exercise in anti-Puritanism pushed [by Shakespeare] at the situation created by James’s accession” to the English throne in 1603 (168). Lake calls Angelo a remarkably accurate portrait of both a personal Puritan and a Puritanical

magistrate, demanding as he does the same high morality from his subjects that he exacts from himself. When Isabella challenges this former demand, however, Angelo strangely reverts to more traditional arguments about the difference between public and private morality. He and Isabella each emerge from their discussions as inconsistent: they “have got their laws crossed; both are congenitally incapable of distinguishing consistently between the realms of human and divine law, justice and mercy, if you like, religion and politics” (176).² The Duke, though, finds a balance “between justice and mercy, rigour and temperance...by the end of the play” in a way that “critique[s] puritan pretensions to godly rule” while undercutting “the very similar pretensions of Jacobean absolutism” (178; 180).

Stacy Magedanz’s 2004 article foregrounds what Lever, Gless, and Bawcutt had all previously touched on: the “clash of the public role and the private person in the proper exercise of justice” (317). Magedanz highlights the challenge Anabaptists made to the traditional separation of a magistrate’s actions from his personal Christian faith by their insistence that true Christians could not hold public office because of its necessary use of the temporal sword. This, she says, is exactly Isabella’s argument when she first faces Angelo, an argument that he counters by “split[ting] the public and private into unrelated and irreconcilable realms,” as did more moderate Reformers Luther and Tyndale (327). The Duke, however, rejects both of these extremes, mingling his public duty to do justice with his personal obligation to show mercy in order to bring about what Magedanz

² To portray them as inconsistent, Lake conveniently juggles the order of their various speeches in II.ii and II.iv.

identifies as equity. This equity functions “as a mediator between public justice and private mercy [and] allows the Duke to fulfill his role as a public authority figure and still exist as an individual and a Christian” (328).

Debora Shuger’s *Political Theologies in Shakespeare’s England* is in many ways a summary of these prior interpretations of the theological and political delineations of the public and private. The book combines unprecedented (for *Measure for Measure* scholarship) historical analysis with an imaginative reinterpretation of the Duke. It must be stated at the outset that she makes no claim to be doing a thorough explication of the play: her book “does not present a reading of *Measure for Measure* in the ordinary sense; it says virtually nothing about imagery, irony, or characterization..., but rather uses the play...as a basis for rethinking English politics and political thought *circa* 1600” (1). It may thus appear unfair to spend time critiquing what reading of the play she does offer. I proceed, though, for two reasons. First, her interpretations of the play that I differ with are precisely those that she puts forward to advance the historical thesis of her work (which *is* central to it); namely, the transference of sacrality from church and priest to state and king, and James I and his equity courts as embodiments of this transference. Second, in using *Measure for Measure* as evidence of politico-historical occurrences, she chooses to focus on what she claims

the play makes clear, explicit, and overt, since only what is itself evident can serve as evidence of something else.... What interests me is the obvious: why the Duke cares about his subjects’ readiness to die; that he forces Angelo and Lucio to marry the women they have wronged; that Angelo defends the strict, uniform enforcement of the law; that the law in question makes pre-marital sex a capital offence. (6)

While I will later suggest that there are several other things that the play more subtly but nonetheless consistently pushes the reader to consider, I tentatively agree that the

importance of these matters “is signaled by their clarity.” Finally, her reading treats themes central to the play in a novel way, and thus should be considered a part of the body of criticism of the play. For all these reasons, her interpretation seems to me fair game for analysis.

Citing the fact that the play’s first recorded performance was on December 26, 1604, just after the coronation of James I, and that Shakespeare “may well have written *Measure for Measure* for this at once sacred and state occasion,” Shuger states that “the political theme dominates from the outset”(1). The Duke’s opening lines, “Of government the properties to unfold” (I.i.3), are an “overt thematic statement” which is unique in Shakespeare and sets up the Duke and his relationship to this theme as crucial to interpreting the play. Moreover, the title’s allusion to Christ’s Sermon on the Mount (Matthew 7.5, Luke 36.38) links the theme of governance and the Duke to Christianity, “recalling the king’s promise in the medieval English coronation oath to observe both ‘justice and mercy...that by his merciful dealing with others, the God of mercy may take commiseration upon him’” (1).

At the same time, the play deals not simply with medieval political and theological categories, but the moral requirements of an individual’s public and private lives:

The dramatic logic of the play hinges on [there being] a connection between public and private morality. Moreover, in a play in which the villain is a puritanical magistrate with an unhealthy zeal for sexual regulation, one would expect the hero to be a bit more loose and liberal than Vienna’s Duke. ...[T]he characters ranged against the ‘precise’ Lord Angelo (I.iii.51) do not seem to be on the right side, but rather on a different wrong side. ...[T]he good people in this play take the issues of sexual morality and sexual regulation with deep seriousness. (34-5)

In beginning to consider Shuger's take on Angelo, it is important to remember this. His fault is not, as we might think, that he thinks the sex life of his people should be subject to state discipline, because all characters (with the exception of Lucio and Pompey) think so. His flaw is rather that he refuses to acknowledge his own sin and relate it to his governance. In his soliloquy "He who the sword of heaven will bear / Should be as holy, as severe" (III.i.515-6), the Duke censures precisely this "hypocritical severity of his deputy" (68), who fails first by being ignorant of his own weakness and susceptibility to temptation, and second, by not mollifying his judgment of others with knowledge of himself. As such, Angelo is essentially a Puritan, resembling the morality magistrates of Martin Bucer's imagined Kingdom of Christ, who pass judgment on people's personal sins with a strictness that implies their own perfection. Angelo's central fault, then, is not his attempt to involve the state in private affairs, but, like the Puritans, to do so with a harsh legalism that ignores his own private weaknesses.

The Duke is in these central ways Angelo's opposite. While he has no quarrel with (and, we might assume, wrote) the law that condemns Claudio, the Duke's method of applying it distinguishes him from Angelo. Angelo's attempt to bring the state into the private life of individuals results in solely juridical condemnations, and as such, he is throughout the picture of a temporal judge. In contrast, the Duke's efforts to govern are defined by his donning of the friar's robe. He does not shy away from dealing with the personal lives of his subjects but approaches them as a priest instead of a prince. Where Bucer and Angelo would simply extend the reach of temporal courts and princes

into private lives, the Duke adopts the methods of the church to deal with matters that were historically the church courts' concern. This is a potentially blasphemous notion, as Shuger points out:

Since English kings were not clergymen, his disguise is literally sacrilegious imposture, yet ... the play nowhere suggests that the Duke's actions are improper; the point of his taking on a friar's role and garb, over and above its utility as a plot device, seems to be rather to indicate, to gesture toward, the sacerdotal nature of royal authority, and thus what it means to bear 'the sword of heaven.' (60)

Unlike George Whetstone's *Promos and Cassandra* (Shakespeare's primary source for *Measure for Measure*; 1578), where "sacrality" is "dispersed" among several different characters and locations, Duke Vincentio occupies all of *Measure for Measure's* "sacral loci: priest-confessor, fiery-tongued prophet (V.i.286-344), ruler-judge" (54).

His role as "priest-confessor" is central to Shuger's understanding of the Duke and his uniquely personal mode of governance. Though Isabella concludes at play's end that "thoughts are no subjects" (V.i.454),

the Friar-Duke has been taking cognizance of his subjects' thoughts throughout the play. He hears Mariana's confession and brings Juliet to confess her sin and repent. He comes to Claudio in prison to help him prepare his soul for death. He withholds from Isabella and Angelo the fact that Claudio lives, to train both in the acceptance of death, but also so that Isabella might learn to forgive sin, and Angelo to repent it. (108)

Each of these individual episodes indicates his concern for the inner person and the after-life, a concern uniquely foregrounded by his dealings with Barnardine, the recalcitrant murderer who has been awaiting execution for nine years. Barnardine starkly refuses the Duke's attempts to confess and prepare him for death, forcing the Duke to conclude that he is a "gravel heart," "a creature unprepared, unmeet for death" (IV.iii 61, 64). Yet remarkably, the Duke does not wash his hands of the man, but

decides to forestall his execution because, he says, “to transport him in the mind he is, / Were damnable” (IV.iii 65-66). Shuger sees the Duke here claiming that he would risk his own damnation by allowing the execution of such a man. This claim makes a prince responsible to God for his subjects’ souls, and it remains even after the Duke has resumed his real identity. In all of this, we see the state representative taking as his central concern

the moral and spiritual good of individuals. He makes windows into men’s souls, extending the gaze of authority into private, interior, and ultimate moral actualities – holiness and sin, guilt and repentance, heaven and hell – matters not usually thought of, now or then, as the business of the state and its rulers. His administration of justice ignores the boundaries separating civil from ecclesiastical jurisdiction and the external from the penitential forum – boundaries clearly visible

in both Shakespeare’s sources and his England (109-10). Indeed, in a play in which religious questions of law, sin, and forgiveness are central, no cleric plays anything more than a utilitarian role in the play; the Duke is equally the image of the state and the church.

Shuger concludes that the Duke’s personalized justice is both radically different from Angelo’s impersonal legalism and ultimately successful. Angelo’s justice is that of Bucer and the Puritans, whose typical rejection of the “penitential model” of church courts “in favor of a harshly penal enforcement of virtue” formed one of the central divides between themselves and more traditional Anglicans, and “characterizes the Puritan ‘reformation of manners,’ with its call for strict, punitive laws against immorality and impiety” (118). In contrast, the Duke’s final sentencing requires

the men to care for the women they have wronged and the children they have fathered, but all else is forgiven.... These sentences do not, of course, guarantee that the resulting marriages will be happy, or that those pardoned will repent....

Yet to view the dubious outcome of these pairings and pardons as evidence of the Duke's failure, as much recent criticism has done, is to miss the point, (132)

which is rather the Duke's "extravagant abjuration of the penal" (the traditional mode of the state's corporate justice) in favour of forgiveness and the restorative (the mode of the church's private penitential regeneration). This is the Christian justice that Isabella had earlier urged Angelo towards when she declared that "all the souls that were were forfeit once, / And He that might the vantage best have took / Found out the remedy" (II.ii 75-77).

In thus refusing the traditional delineation between temporal and spiritual care, the Duke embodies what Shuger claims is implicit in the writings of James I. God required the king, James believed, "upon the perill of his soule, to procure the weale of both soules [the spiritual] and bodies [the temporal], as farre as in him lieth, of all them that are committed to his charge" (*Trew Law* 65). The Duke's priestly ministrations vividly portray James' assertion that kings are "not *mere laicus*" (*Basilicon* 52) but a "*mixta persona*... bound to make a reckoning to God for their subjects soules as well as their bodies" (*A Meditation* 237). Ultimately, in both the *mixta persona* of the Duke and his administration of justice, "the soteriological and pastoral aims of Christian justice simply replace the penal sentences of the law. *Measure for Measure*, that is, reflects on the post-Reformation crossover of the sacred from ecclesial to temporal polity" (Shuger 131). The play is thus an attempt on the part of Shakespeare to transcend the hardened categories of traditional political philosophy and theology and imagine how application of the novel claims of a Protestant king like James might alter a state's administration of justice. Shuger concludes: "the Friar-Duke's Vienna is an attempt to imagine what Christianity might look like as a political praxis" (131).

Shuger is surely right to claim that the Duke's friar's guise and interest in his subjects' private lives, his method of administering justice as compared to Angelo's, and the relationship of all of this to contemporary political and theological debates are crucial dimensions of Shakespeare's play. That the form and position these elements take in the play are puzzling to modern readers often suspicious of authority and those who embody it, of the state's involvement in the personal, and of religiously-inflected politics (and religion in general) is obvious.³ Indeed, N. W. Bawcutt notes that recent performances of the play have had no trouble staging "the low-life scenes, which had shocked earlier centuries," while "the serious scenes (what Peter Brook termed 'the holy')" that centre on the Duke have become "more difficult to accept" (Introduction 38). Where the Duke previously tended to be cast as a benevolent and God-like figure (enabled by frequently heavy textual cutting), performances of the last thirty years have been at least somewhat suspicious of the benignity of such an all-encompassing and intrusive authority figure.⁴ Whether endorsed or questioned, however, these aforementioned themes remain central to any interpretation of the play.

In making the fascinating and not uninvited connection between the play and its contemporary political debates, however, Shuger glosses over significant complications, presented most especially by Angelo and the Duke. While acknowledging that "literary scholars, by training, seek what is not obvious," paying attention to "nuances, silences, and ambiguities," she consciously adopts the assumption that "texts do not usually omit,

³ Anne Barton's introduction to the Riverside edition of the play is an eloquent example of this.

⁴ See Bawcutt's Introduction pp. 38-41 for a concise history of recent performances.

conceal, or make ambiguous the important stuff – a claim that seems, if anything, most plausible with respect to the theatre, where meanings must be apprehensible at first blush” (5). With respect to *Measure for Measure* particularly, she estimates:

had Shakespeare thought it important for the audience to realize that, in disguising himself as a friar, the Duke had done something wildly improper, the play would have raised the possibility.... The fact that no one objects ... means that the issue does not, in this play, matter.... Conversely, that *Measure for Measure* keeps coming back to the relationship of private morals to public authority locates this at or near the center of what the play is about. (5)

While this approach is sensible and not without merit, I will suggest that in pressing for the obvious, Shuger has missed the slow and quiet accumulation of subtleties that over the course of the play do call these issues into question.

II

To begin, the Duke’s quarrel with Angelo is not exactly over his “hypocritical severity” (Shuger 68), but more precisely his hypocrisy alone. Over the course of the play, the Duke declares at least five times in various ways that Angelo, who “puts transgression to ‘t / ...does well in ‘t” (III.i 360-361). When Lucio complains to him of Claudio’s death sentence, the Duke concurs with Angelo’s judgment: lechery “is too general a vice,” he says, “and severity must cure it” (III.i.363). Again, when the Provost laments the same harsh penalty, calling Angelo a “bitter deputy,” the Duke corrects him:

Not so, not so; his life is paralleled
Even with the stroke and line of his great justice.
He doth with holy abstinence subdue
That in himself which he spurs on his power
To qualify in others. Were he mealed with that
Which he corrects, then he were tyrannous,
But this being so, he’s just. (IV.ii.78-85)

The Duke here calls Angelo's severity a "great justice" which would be diminished and made unjust only if Angelo were himself guilty of the sin he judges. Obviously latent within this and other similar instances is the irony that Angelo's life is indeed "mealed with that / Which he corrects," and that he is thus truly "tyrannous." The Duke is also hinting here at St Paul's description in Romans of the impossibility of perfectly keeping the law of God; I will consider this allusion presently. Yet neither this implied impossibility nor the fall of Angelo that it necessitates removes the Duke's clear declarations – several of which are spoken before he knows of Angelo's hypocrisy – that Angelo's severity is itself not vicious, but rather conditionally laudable. Angelo's error, then, is solely that of being hypocritical in exercising the law and failing to weigh others' offences by his own.

That Angelo thus differs from the Duke's opinion of the place of the personal in exercising judgment first emerges in his conversation with Escalus that opens Act II. Escalus tries to win mercy for Claudio by delicately suggesting that Angelo consider

That in the working of your own affections,
Had time cohered with place, or place with wishing,
Or that the resolute acting of your blood
Could have attained the effect of your own purpose,
Whether you had not sometime in your life
Erred in this point, which now you censure him,
And pulled the law upon you. (II.i.10-16)

Angelo quickly and not unconvincingly rejects the basis of Escalus' petition: that he allow consideration of his own personal sinfulness to moderate his justice. "'Tis one thing to be tempted, Escalus," he says, "Another thing to fall" (17-18). He goes on to assert that even if he were guilty, his ability to judge Claudio would not be affected:

I not deny
 The jury passing on the prisoner's life
 May in the sworn twelve have a thief or two
 Guiltier than him they try...

 You may not extenuate his offense
 For I have had such faults, but rather tell me,
 When I that censure him do so offend,
 Let mine own judgement pattern out my death. (18-30)

Angelo implies here that a judge is fit to judge because to do so is required by his office, not because of his own moral innocence, just as the guilt of an individual juror does not nullify the jury's verdict. This understanding is significantly different from the Duke's when he describes Angelo's failure to be judging without keeping his own personal character in mind.

When Isabella first approaches Angelo to plead for Claudio's life, she takes a similar tack to that of Escalus. After Lucio urges her beyond her initially feeble and polite requests for Claudio's pardon, she too begins to press the need for personal consideration in the administration of justice: "if you had been as Claudio," she says to Angelo, "You would have slipped like him." She urges him to consider whether, if "I had your potency, / And you were Isabel; should it then be thus?" (II.ii.65, 67-8). Angelo remains unmoved, and so she further intensifies her suit, urging him to consider not simply his relationship to other mortals but to Christ himself:

Why, all the souls that were were forfeit once,
 And He that might the vantage best have took
 Found out the remedy. How would you be
 If He which is the top of judgement should
 But judge you as you are? (II.ii.74-8)

In each instance she is inviting Angelo to think of himself not as a ruler but as a private individual: a man with similar passions to Claudio; who may himself someday face a

ruler's judgment; who is a Christian who benefits from the mercy of God. Angelo flatly refuses the invitation, though, and, building on his prior discussion with Escalus, counters Isabella with a clear explanation of his approach to governance:

Be you content, fair maid.
It is the law, not I, condemn your brother;
Were he my kinsmen, brother, or my son,
It should be thus with him. (80-3)

In not allowing personal considerations of any sort to sway his judgment, Angelo reveals here that while holding office, he thinks of himself solely in terms of this public function. He is a judge only, not a private man with personal obligations to his subjects, his "kinsmen, brother, or son," or even, it seems, to his God.

Angelo's one-dimensional self-concept is hinted at earlier by the Duke when he tells Friar Thomas:

Lord Angelo is precise,
Stands at a guard with envy, scarce confesses
That his blood flows, or that his appetite
Is more to bread than stone. (I.iii. 51-3)

To stand "at a guard with envy" is to be wary of others' malice; Bawcutt takes the phrase to imply that Angelo is "much concerned about his reputation" (105; n.51). His concern is so much his outward public self that he "scarce confesses" that there is another dimension to his person than that of public magistrate. Angelo's shock at discovering that his blood does in fact flow while disputing with Isabella is due not simply to discovering the base passions of other men dwelling within himself, but seems also to arise from his realizing the existence of a separate private self alongside his public one:⁵

⁵ Here, Marshall Grossman's work on the Renaissance delineation of the self is enlightening.

O, fie, fie, fie!
 What doest thou, or what art thou, Angelo?

 . . . Ever till now
 When men were fond, I smiled and wondered how. (II.iii.175-6, 189-90)

As Bawcutt (“Sword” 94) notes, it is precisely when Angelo takes cognizance of himself that the consideration of mercy arises in his mind: “O let her brother live!” / Thieves for their robbery have authority / When judges steal themselves” (178-80). He eventually refuses to allow this recognition of his private self and its attendant passions to temper his sentence. Instead he deliberately divorces them from his judgment as he simultaneously plots to bed Isabella and execute her brother.

In all of this Angelo’s failure emerges perhaps most clearly in the terms of political philosophy. Traditionally, it was thought that rulers held authority not primarily by virtue of their person but by virtue of their office. The grace and authority bestowed on a secular prince through anointing and coronation had clear parallels with those given a priest in ordination: “the authority of all civil rulers is derived from God,” explains Elizabeth Pope in her survey of English Renaissance political thought relevant to the play, and “Hence they may be called ‘gods,’ as they are in Psalm 82:6, because they act as God’s substitutes” (70). Yet this authority remains located primarily in the *office* of the ruler, not in his *person*: while the prince and magistrates, explains clergyman Henry Smith in his *Magistrates Scripture* (1590), are like “little Images of God,” they are not divine in and of themselves (339). “The name is given them,” says Pope, “only to remind them that they are appointed by the Lord to rule as he would rule” (Pope 70-1). Commenting on Psalm 82:6 in his sermon at the coronation of James I, Thomas Bilson affirms this, declaring, “Princes can not be Gods by nature, being framed of the same

mettall, and in the same moulede, that others are; It foloweth directly, they are gods by Office; Ruling, Iudging, and Punishing in God's steede" (sig. A6). It is on this basis that Isabella berates Angelo, perceiving him to have forgotten that temporal authority is something given him by God, and not inherent within himself:

...man, proud man,
Dressed in a little brief authority,
Most ignorant of what he's most assured,
His glassy essence, like an angry ape
Plays such fantastic tricks before high heaven
As makes the angels weep.... (II.ii.119-24)

She likens the office and its authority to a garment put on by a magistrate, which while worn, nonetheless remains separate from him. In her example, though, the man himself, his "essence," remains ignorant of this separation. J. V. Cunningham glosses Isabella's use of "essence" as referring more precisely to a person's "soul, which is an image of God, and hence is 'glassy' for it mirrors God" (198). To complicate the metaphor, recall that Henry Smith calls the magistrate's office an 'image of God.' In light of this, Angelo's error here is a mistaking of images or (in Isabella's word) 'essences.' He mistakes the locus of a prince or magistrate's essence or "god"-hood as being his own individual soul. He fails to see himself as a private individual who is only "dressed in a little brief authority," instead thinking and judging solely as a ruler. This is precisely what Escalus suggests when he says that though he has pleaded with him for Claudio's life, he has found Angelo "so severe that he hath forced me to tell him he is indeed justice" (III.i.507-9). Angelo's severity results not simply from self-ignorance, but from a misconception of the nature of his office and himself as holder of it. It is thus ironic that a man who takes no account of himself as a private, Christian man separate from his office ends up thinking and acting as if the grace and power of the

office were actually located within his own private, Christian self. Failing to maintain separation between the two makes of the private man wholly a magistrate, and of the magistrate, wholly a private man. This is the source of the hypocrisy which the Duke declares to be Angelo's great fault: he sees himself as wholly magistrate, identifying so completely with the office given him that he is first completely ignorant, then summarily dismissive, of the personal and private. Were he cognizant of the personal – both in himself and in others – his severity would necessarily be softened. Thus Angelo's severity doubly earns him the name of "Puritan": for harshly judging the personal sins of others, and for failing to acknowledge his own.

The assumption, then, that most critics bring to an examination of the Duke is that he does not make the same error nor operate by the same philosophy as the deputy he arraigns. That this assumption is inaccurate, as I will argue, has already been hinted at by my observation that the Duke has in principle no quarrel with the severity of Angelo's sentencing. The Duke's qualified approvals of Angelo's punishment of Claudio are meant ironically to recall the Pauline dictum in Romans 3.20 that "by the law [comes] the knowledge of sin." Darryl Gless observes (223) that "the symbolically rich 'law' that Angelo administers has as its most comprehensive and fundamental purpose the revelation of human sinfulness. ...[T]o operate rightly on Lord Angelo, therefore, the law ought to breed a conviction of personal sinfulness" and of the impossibility of its perfect observance; again, in the words of St Paul, "for to will is present with me; but how to perform that which is good I find not" (Rom 7.18). Nevertheless, one must allow for the ideal possibility, as does the Duke, that a magistrate might be guiltless of certain faults and thus justified in exacting harsh

punishments from those who *are* guilty of them. Bawcutt distills the philosophy underlying the Duke's idea as a "personal or reflexive view of the law," in which "when faced with a prisoner the judge must look into himself" to determine if he is able (because innocent of the crime in question) to pass sentence ("Sword" 94). To judge in such a way is to pay homage to yet another Scriptural command, this one the source of Shakespeare's title: "with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again" (Matt. 7.2). The Duke summarizes his scriptural philosophy in the soliloquy that closes Act III:

He who the sword of heaven will bear
Should be as holy as severe;
Pattern in himself to know,
Grace to stand, and virtue, go;
More nor less to others paying
Than by self-offences weighing. (III.i.515-20)

The only qualifier he gives here of a ruler's severity is his own holiness; if he has a "pattern" of virtue "within himself," his use of the sword in "paying" is justified. As venerable as it may be, such an approach is not common, as Bawcutt describes:

Most normal systems of law operate on principles closer to Angelo's than the Duke's. A sentence made by due process of law on adequate grounds could hardly be appealed against on the grounds that the judge himself had subsequently been discovered to be guilty of the offence for which he had sentenced the prisoner. The response would surely be that the judge himself must now stand trial, but his verdict need not be overturned. ("Sword" 94)

In advocating his "reflexive" view of the law the Duke is thus drawing not on established civil practice but on notions of religious law given in Romans and the Sermon on the Mount. In at least the first of these sources, the author is speaking exclusively of the Levitical theocratic law, and not that which governed the Roman Empire – including Palestine – at his time. While Christ's words in the second are not

explicitly referring to religious law, they too have nevertheless historically been taken to do so. The Duke is thus taking explicitly religious and personal principles and making of them statutes by which to rule a public state. That he refers to the king as bearing the “sword of heaven,” contrary to the traditional delineation of the church’s heavenly sword and the state’s earthly, further demonstrates his adoption of the ecclesiastical principle.

This brings us to a crucial similarity between the Duke and Angelo that is most often overlooked: applying scriptural principles to the rule of the state, as the Duke here advocates, is exactly the habit of Puritans like Bucer, who pushed for an ever “fuller acceptance and reestablishment of the Kingdom of Christ in [the] realm” (175). Theirs was the attempt, in various forms, to have the state governed by the edicts not simply of common and regnal law, but of Scripture. The Duke’s ideal of enforcing the whole religious law, his practice of weighing criminals’ offenses by the magistrate’s own, and his focus on sexual regulation⁶ are all, like Bucer’s, attempts to reestablish “the Kingdom of Christ”. Both men seek to blur or eradicate the traditional line between state and canon law, and the demands of public and private roles, rejecting the classical and medieval dualism⁷ still evident in Erasmus and James. That the Duke differs from most hardliners of Shakespeare’s time in valuing and offering forgiveness is what Shuger claims differentiates him from Angelo’s and Puritan law. I will discuss the Duke’s radical forgiveness presently; for now suffice it to say that according to the Duke, Angelo, and the Puritans, Claudio legally deserves death because he has violated a

⁶ This is evident in more ways than simply the existence of the anti-fornication law: he gives Julietta a stern lecture on the grievousness of her sin with Claudio (II.iii.19-39) and similarly excoriates Pompey for supporting himself by “such a filthy vice” (III.i.273-300).

religious statute. The Duke's eventual forgiveness does not change Claudio's guilt; it only mitigates the punishment. While eventually issuing a pardon, the Duke's fundamental approach to governance and personal religion's incorporation into it are akin to Angelo's.

Even more importantly, the Duke's understanding of the nature of the princely office parallels that of Bucer. Angelo's error had been his refusal to consider himself as private man when he acted as magistrate; he was, in his mind, only and wholly a magistrate in his dispensing of justice. The Duke's error is opposite but equal. He bases his legal system solely on the private character of the office holder, to the point that a magistrate cannot fulfill his role if his character shares the moral blemish of the accused. He summarizes this view in speaking of Angelo: "If his own life answer the straitness of his proceedings, it shall become him well; wherein if he chance to fail, he hath sentenced himself" (III.i.510-12). The Duke makes no mention of the objective reality of whether Angelo has given out the correct sentence demanded by the law for the crime, nor of whether he considered the circumstances of the accused in issuing judgment – the latter of which would have come up in any court, civil or ecclesiastical. As such, he seems to see no authority inherent in the office of prince or magistrate that makes the holder of it worthy or able to do the work; a public man must be judged capable solely on his private virtue. This is Bucer's understanding as well, and the whole assumption behind the general Puritan demand for rigorously holy authorities. Bucer declares, "God specifically requires of the magistrates of his people that they be men of truth" who are "outstanding" in the virtues of "heroic fortitude of spirit, sincere religion

⁷ "Dualism" here means not the unorthodox concept of matter being evil and spirit being good, but simply

and piety towards God, honesty, liberality, and kindness, and who excel in other virtues” (363). It is not simply because of their office that the Psalmist calls them “gods”, says Bucer, but because of their personal character. By this link, a magistrate becomes less an unworthy “man / Clothed in a little brief authority” than one who governs because his nature, his essence, *makes* him worthy of the task. It is moral and spiritual categories rather than political ones that determine authority in the state, for only such men “are suitable to be put over other men in order to rule them” (Bucer 363). The office does not bestow authority on the man; rather, its legitimacy is determined by his holiness.

Of course, both James I and Erasmus strongly echo Bucer’s demand for godly magistrates, as I have shown previously. Yet their central concern in doing so is that the individual who holds an office be equal to the authority inherent in it; his virtue is not the source of the office’s authority. Because he is both “a Christian and a prince,” says Erasmus to the prince, he should “with far more energy” than that which he exerts to compel his subjects to obey the law, “exact of yourself knowledge and obedience to the laws of Christ your king” (*Education* 153). The office in Erasmus’s thought is thus a potent entity in itself which demands heightened virtue of the holder. Personal unworthiness certainly must be acknowledged, but it does not disqualify a man, because the authority is not rooted in his person. In insisting that as king his son must daily “call your self to account of all your last dayes actions, ...either in your Christian or Kingly calling,” James too distinguishes the personal and Christian from the kingly, separating the responsibilities of the office from those of the private man (*Basilicon* 17-

the belief in the separation of political and ecclesiastical jurisdiction, as do Watt and Shuger.

8). Bucer, Angelo, and the Duke, on the other hand, judge the officeholder solely on the basis of his private character.

Earlier, Angelo had shown complete disregard for himself as a private man and equated himself wholly with his office. This ironically removed power and authority from the office and located them precisely in the private man whose existence and relevance to the office he had tried to deny. This, I have been trying to show, is exactly what the Duke's approach to justice does. According to his 'measure for measure' ethic, his authority is valid primarily because he has not exercised judgment as if guiltless himself, as did Angelo; thus the authority is rooted in his personal character. This approach to royal office is the one he brings to the priestly. He thinks it adequate simply to ask Friar Thomas to "supply me with the habit and instruct me / How I may formally in person bear / like a true friar" (I.ii.46-7). With these outward symbols of the office, he plans to "behold his [Angelo's] sway" and "as 'twere a brother of your order, / Visit both prince and people" (43-5). That he means "visit" in a pastoral sense soon becomes apparent as he hears confessions, offers 'deathbed' counsel, and (we might assume when he approaches Barnardine) last rites. He demonstrates no qualms about taking up tasks proper to those explicitly ordained to them by the church,⁸ but seems to believe that his good intent and personal virtue are all the authority he needs. In essence, his actions demonstrate that if the kingly office is determined solely by the character of the bearer, so too is the priestly. The Duke thus mirrors Luther's diminished regard for holy orders and the church's *potestas ordinis*, though he comes to

⁸ Shuger holds this to demonstrate that the Duke's assumption of priestly orders is not treated as controversial by the play. That may well be; I raise it because it is exactly coherent with the Duke's previously-demonstrated concept of authority and office, not to charge him with blasphemy or gross impropriety.

this position from the opposite direction: Luther's doctrine of salvation reduced the potency and status of the sacraments and thus the role of the priests who administer them. The Duke, coming to the question with his Puritan-like political theory, sees holy orders as little different than political office; his virtue enables him to assume orders and thus validates the quasi-sacraments he attempts to administer. Furthermore, Luther's approach results in the diminished spiritual authority of the church for the individual believer. The Duke, by wearing the clerical robe over his ducal one, attempts to fill that vacancy – a prime example of Shuger's shift in sacral loci from church to state. He attempts to confess Julietta and prepare Claudio for death, he marries off Angelo and Lucio, and, most profoundly, releases Barnardine. In each case he either offers spiritual advice as a confessor or seeks restitution as a bishop presiding over a church court. But in doing so, he brings something of the state's juridical methods of justice to priestly ministry, as he has brought and will bring something of the priest's restorative justice to the state. This interchange between public and private, which Shuger lauds, I will suggest simply does not work.

The Friar-Duke's overall approach to sacerdotal ministry and the result of each particular engagement he has call into question the ability of one whose role is political and public to effect personal change and restoration. To begin with, his priestly work is tainted with political methodology. While ostensibly a priest, he invokes a king's "privilege of using extraordinary means" (Pope 72) which seventeenth century cleric William Willymat⁹ describes:

⁹ In *A Loyal Svbiects Looking-Glasse*, (London: 1604.)

Kings, princes, and governors do use oftentimes for diuerse causes to disguise their purposes with pretenses and colours of other matters, so that the end of their drifts and secret purposes are not right seene into nor vnderstood as first, this to be lawfull the word of God doth not deny. (58)

This is precisely the Duke's plan in leaving Angelo in charge of Vienna: to "see / If power changes purpose, what our seemers be" (I.iv.54). Furthermore, in his priestly work, the Duke's language and assumptions remain tellingly juridical, even in their often sacramental form. Upon meeting Julietta in the prison, he offers to "teach you how you shall arraign your conscience / And try your penitence, if it be sound / Or hollowly put on" (II.ii.21-3), using words not dissimilar to the form of sacramental confession outlined by Peter Marshall (9). Julietta responds to the Friar-Duke, "I'll gladly learn" (24), and he proceeds to question her about her sin of sleeping with Claudio. To all of it she humbly responds, "I do confess it, and repent it, Father" (29), yet the Duke rather clumsily continues to lecture her about the need to repent sincerely. His manner is quite contrary to the common instruction given a priest "not to interrupt the penitent in the course of his confession; ... or to register disapproval of the sins about which he was being told" (Marshall 10). In fact, Julietta finally interrupts him, restating plainly, "I do repent me it as an evil, / And take the shame with joy" (34-5). In this quasi-confessional encounter, in which a priest was to "comfort the penitent by reminding him that Christ died for our sins" (Marshall 10), the Duke's language is distinctly juridical. He will "arraign" and "try," and measures out which of Claudio and Julietta bear the greater guilt for their sin. The whole meeting seems to have no benefit for the already contrite Julietta, and his inability to accomplish anything leaves him looking awkward.

When he subsequently approaches Claudio, the Duke's failing is less related to his real identity as prince than to general pastoral ignorance. Claudio is in a similar state of repentance to Julietta. He has earlier admitted sleeping with Julietta to be sin, and though he is shocked at the severity of Angelo's chosen punishment, he admits that "yet still 'tis just" (122). When the Duke asks him what hope he has for receiving pardon, Claudio's concise response balances a natural desire for life with humble acceptance of his fate: "I've hope to live, and am prepared to die" (III.i.4). The Friar-Duke then begins trying to talk him out of a fear of death which Claudio has shown no indication of having. The Duke claims that in being "absolute for death; death or life shall thereby be the sweeter," yet the remainder of his speech sees nothing sweet in life whatsoever (5-6). In attempting to console and prepare the doomed man for his death, the Duke calls life no more than "a breath... / Servile to all the skyey influences," and "death's fool." It is "not noble," "by no means valiant"; then, addressing it directly, he says, "Thou art not thyself / For thou exists on many a thousand grains / That issue out of dust. Happy thou art not" and "Friend hast thou none." In short, "What's in this / That bears the name of life?" (8-39). As Robert Watson observes, the content of the Duke's speech "is essentially a compilation of *contemptus mundi* and *ars moriendi* commonplaces," collections of which the pious would meditate on to prepare for their deaths (117). Their delivery here may thus be an orthodox, if somewhat clichéd, attempt on the part of the Duke to prepare Claudio's soul for death, akin to the previously-mentioned murder pamphlets in which the state shows spiritual concern for the soul of the condemned man. Yet given Claudio's self-described peace in the face of death, they are far less needful than other things the Friar-Duke might have offered

him, like the Christian hope of heaven and resurrection. His complete omission of any mention of life after death or of any hope beyond dissolution, make the speech's overall effect to be "essentially materialist and pagan," according to Lever:

By Christian teaching, man's breath, far from being 'servile to all the skyey influences', came to him from God. His nobility and valour, happiness and certainty, were not 'nurs'd by baseness', but were spiritual qualities permeating natural life. The self was no Lucretian amalgam of 'grains / That issue out of dust', but an immortal soul. (lxxxvii)

Claudio's initial response to the Duke's proffered comfort here is the hollow "To sue to live, I find I seek to die, / And seeking death, find life" (42-3). That it is hollow is shown by the fact that the Duke has offered him nothing of the Christian hope of life in death to which Claudio obligingly refers.¹⁰ The speech contains no notion of trading an earthly death for eternal life, but only for annihilation and non-existence. The failure of it is further indicated by the previously non-existent terror of death that Claudio subsequently demonstrates in front of Isabella:

Ay, but to die, and go we know not where,
To lie in cold obstruction, and to rot,
This sensible warm motion to become
A kneaded clod; and the delighted spirit
To bathe in fiery floods or to reside
In thrilling region of thick-ribbèd ice,
To be imprisoned in the viewless winds
And blown with restless violence round about
The pendant world... (III.i.121-9)

Claudio's notion of the afterlife is not only as un-Christian as the Friar-Duke's, but the fears he expresses here correspond exactly to the particular consolations the Duke has just extended to him, and seem almost to have been conjured by them. He is loathe "to

¹⁰ I do not suggest here that the Duke holds un-Christian beliefs about the afterlife. Elsewhere, he urges Barnardine to "Look forward on the journey you shall go" (IV.iii.55) and consoles Isabella grieving her brother with the knowledge that "That life is better life, past fearing death" (V.i.398). My concern is rather that he fails as a Christian pastor by offering Claudio no hope of heaven.

rot / ...to become a kneaded clod”; his earthly spirit is in fact a “delighted” one; the thought of body and soul dissolved into the four elements (as Lever notes, lxxxviii) of “clod”, fiery floods” and “ice”, and “winds” is not comfort but terror.¹¹ In attempting to provide Claudio with perhaps the most profound counsel expected of a clergyman, the Friar-Duke cannot get beyond the temporal world over which his jurisdiction rightly lies, and so reduces the Christian spiritual hope of life after death to an exhortation to accept death’s finality. His counsel is essentially “to be ‘absolute for death’ out of disgust for life,” and Claudio’s natural response is to be “‘absolute for life’ through the horror of [the Duke’s version] of the world to come” (Lever lxxviii). As the *mixta persona* that Shuger describes him, the Duke fails conclusively in the sacerdotal aspect of his work. This failure and inability to function as a mediator of the spiritual world and its personal categories prefigures his later attempt to incorporate spiritual principles of restoration into state justice. Quite simply, the laws and offices proper to one realm are shown to be incapable of functioning effectively when imported into the other.

The Duke has even worse success in preparing Barnardine for his pending execution. When the Duke informs him, “I am come to advise you, comfort you, and pray with you,” Barnardine flatly refuses him: “Friar, not I. I have been drinking hard all night, and I will have more time to prepare me, or they shall beat out my brains with billets. I will not consent to die this day, that’s certain” (IV.iii.48-9, 50-3). After the Duke’s repeated urgings, Barnardine abruptly cuts him off: “Not a word. If you have anything to say to me, come to my ward, for thence will not I today” (59-60). F. R.

¹¹ All of this does also show Claudio to be rather erratic and emotionally volatile – when the Duke returns to him he declares himself to be “so out of love with life that I will sue to be rid of it” (III.i.173-4). Yet this is exactly what the Duke seeks to calm, but only succeeds in enflaming.

Leavis shrewdly notes that the “indifference to death displayed by [Barnardine] comes nearest to that preached by the Friar” to Claudio: “For him life is indeed an after-dinner’s sleep, and he, in the wisdom of drink and insensibility, has no fear at all of death” (238). The irony of this parallel with the Duke’s previous speech asks that we view the failure of this encounter as the Duke’s, and not simply as due to Barnardine’s lack of spiritual sensitivity. As with Julietta, the Duke is here taken up short by one he would have as his spiritual charge.

The Duke’s benevolence and good intent, I hasten to add, are not in question, only his consistently portrayed inability to work the *cura animarum* while he is disguised as a friar. His concern for his subject’s welfare is, I think, patent throughout his dealings in disguise. Yet by virtue of his actual identity as temporal ruler, his methods are consistently mingled with those of the state. He speaks to Julietta as would a judge and is able to offer Claudio no genuinely spiritual counsel. His failure to win Barnardine’s repentance reveals the impossibility of a prince taking responsibility for the soul of an individual. Yet saying that “to transport him in the mind he is / Were damnable,” evinces an attempt to take just such responsibility (IV.iii.64-5). Accordingly, Angelo, if not the Duke himself, would be required to answer for Barnardine’s unrepentant soul. But Barnardine’s simple refusal of any counsel shows such a claim to be absurd on the part of a priest, let alone a prince. The Duke, first here as friar and later when he releases Barnardine as Duke, can do nothing for one who will not accept help. Again, his attempts to take personal responsibility for the souls of his subjects are,

in all three instances, shown to be flawed by their nature. One whose office is to provide for the *bonum commune* simply founders when he ignores it to attempt the *cura animarum*.

In all of this, the Duke neglects his proper office in favour of the priestly and thus fails not only at the priestly, but in the princely. He has already accepted the charge of erring as a ruler from Friar Thomas when he likened his administration of Vienna to that of “fond fathers” who have “bound up the threatening twigs of birch, / Only to stick it in their children’s sight / For terror, not to use” (I.iii.23-6). The result of considering only the individual “children” and not the whole ‘family’ of his state has been that “liberty plucks justice by the nose, / The baby beats the nurse, and quite athwart / Goes all decorum” (29-31). The Duke later refers to his own laxity, however much it may have arisen from genuine and fatherly concern for his individual subjects, as a “vice” (III.i.524). For this reason, says Pope, the Duke “would be recognized at once” by Elizabethans “as the type [of king] who has failed” in his appointed task of enforcing the law. He is “essentially a wise and noble man who has erred from an excess of good will [*i.e.* personal Christian virtue]; ...Shakespeare does not disguise the fact that he has been wrong” (76). Indeed, the Duke vividly describes Vienna as a city

Where I have seen corruption boil and bubble
Till it o’errun the stew: laws for all faults,
But faults so countenanced that the strong statutes
Stand like the forfeits in a barber’s shop,
As much in mock as mark. (V.i.320-4)

This is a not terribly subtle criticism of the result of his laxity, mirroring the earlier description of his realm that he gave to Friar Thomas. Here, though, and for the remainder of Act V, there is no further indication that he takes responsibility for

Vienna's state of affairs. In all of this, the consistent charge against the Duke is that by working directly for the salvation of souls, he has failed in what political thinkers from Aristotle through Gelasius to James I describe as the temporal ruler's primary duty: safeguarding the *bonum commune* of the state by enforcing its laws.

This remains clear even if one questions whether the state has any right to prosecute aspects of the sexual deviance that form a good part of the 'boiling stew' that is Vienna, and that in Shakespeare's England would have been handled by church courts. If fornication is a capital crime, it is more than likely that Vienna also has a law against the brothels and prostitution in general which form the source of so many of its social problems, and that the Duke should long ago have done something about these. He has also known about Angelo's injustice to Marianna for some time. He unfolds the circumstances of it to Isabella in great detail, but seems to have made no effort to rectify it. Likewise, Lucio tells the Friar-Duke that he himself had once been brought before the Duke "for getting a wench with child." Lucio suggests that legally the Duke "should have married [him] to the rotten meddler," but instead pardoned him, evidently making no provision for the woman or their child (IV.iii.165-8). Lucio admits he was "fain to forswear" his deed before the Duke, but surely the man who sees through him so well at play's end could have done so when Lucio's case came before him previously.¹² In each of these examples the Duke has refused to prosecute crimes which have had a detrimental effect upon the city as whole.

¹² Lucio may be a liar and slanderer, but he would seem to have no motive here to impugn himself by telling this story.

This double failure of the Duke as both prince and priest parallels and is rooted in his notions of governance and of office. The first is defined by his adoption of a personal Christian ethic as the law of the state. The second similarly adopts personal Christian virtue as the sole condition of a magistrate's fitness to hold office, making public authority contingent not upon right application of state law, but simply the magistrate's personal morality. Yet because personal Christian morality is extremely cautious about one Christian judging, let alone punishing, another, the Duke's philosophy severely constricts his ability to do the state's work of safeguarding the *bonum commune* by enforcing its laws. But the state and its ruler do not simply become or replace the church and its priest by adopting their principles and trying to perform their duties; the former remain temporal entities endowed only with their temporal means. When the Duke tries to do the church's work in the church's way, we see him and the state fail. In Act V, the Duke attempts to do as duke what he has attempted as friar – care for the souls of his subjects. As we shall see, his philosophy of governance and of office will again be inadequate to the work of the state, and his civil authority to the work of the church.

CHAPTER THREE

I

The Duke's ultimate return to Vienna as duke in the judgment scene of Act V incorporates each of the ideas that Chapter Two drew out, and as such requires a systematic and dedicated reading. In Act V, the Duke conflates the philosophy and approach to justice that he has previously demonstrated separately in his role as ruler and as friar. He exemplifies in his judgments as Duke the "personal and reflexive" justice he has been suggesting as Friar – a justice that shares the essential methods and personal pastoral aims of church and priest. Yet it is also in Act V that a genuine alternative to this justice finally and coherently emerges after appearing sporadically throughout the play. The need for such an alternative has previously been pointed out by Lucio and Pompey, whose words and deeds raise significant questions about the Duke's laws and Angelo's administration of them. While this pair offers no credible alternative themselves, Isabella emerges with a lucid and profound understanding of the need for the traditional division between the temporal and spiritual swords. The answers demanded by Lucio and Pompey and given by Isabella are a subtle but direct refutation of the Duke's concluding judgments.

After setting up his return to Vienna with the Provost, Isabella, Marianna, and Friar Peter, the Duke re-enters Vienna to receive back his tokens of authority. He greets Escalus and Angelo at the gates and tells the latter that "we hear / Such goodness

of your justice that our soul / Cannot but yield you forth to public thanks” (V.i.6-8). He then takes his hand to “let the subject see, to make them know / That outward courtesies would fain proclaim / Favours that keep within” (15-17). This is a significant self-alignment with one whom the people must have known only as a fearfully harsh judge. His language foregrounds the theme of the inner and outer person, of thoughts and actions, which will figure strongly in his subsequent judgments: Angelo’s goodness demands “public thanks” which ought not to remain hidden in “covert bosom.” This praise is particularly for his work in office, the “goodness” of his “justice”, and thus reconfirms his theoretical approval of Angelo’s judicial severity – regardless of Angelo’s personal failings making the Duke’s praise here ironic. This praise is soon checked, though, by Isabella’s loud cry for “justice, justice, justice, justice!” (26). She accuses Angelo of being “forsworn”, “a murderer”, “an adulterous thief / An hypocrite, and a virgin violator” (39-42), charges which attack not so much his exercise of justice that the Duke has just praised, but his personal character and dealings. These things are “ten times strange” (44) because of their dissonance with the Duke’s earlier praise. Yet, says Isabella, even as

...the wicked’st caitiff on the ground
 May seem as shy, as grave, as just, as absolute,
 As Angelo[,] Even so may Angelo,
 In all his dressings, caracts, titles, forms,
 Be an arch-villain. (54-5)

This was her accusation of Angelo, both before and after he offered to free Claudio in exchange for her body: that, despite being “dressed in a little brief authority,” Angelo’s virtue is all “Seeming, seeming!” (II.ii.179, iv.151). This regular differentiation between the office and the man which she has discovered in Angelo will become important.

The Duke's response to Isabella is to introduce what will become his only charge against Angelo:

...it imports no reason
That with such vehemency he should pursue
Faults proper to himself. If he had so offended,
He would have weighed the brother by himself,
And not have cut him off. (109-13)

The Duke thus restates the central tenets of his approach to justice: that a judge must weigh the severity of his verdict by his own culpability, and in demanding this, that the personal obligations given a Christian by Christ's Sermon on the Mount are to hold sway in that Christian's governing of the state.

The accusations of both Isabella and Marianna against Angelo are not believed because the Duke insists that Angelo's spotless outward "worth and credit / That's sealed in approbation" (245-6) testify to his inner and personal innocence. Shortly after, the Duke slips away and leaves Angelo and Escalus to search out the root cause of the women's accusations. When he returns in friar's garb to answer his deputies' queries, his words reintroduce the theme of the relationship between office and office holder, and give it his most explicit and direct treatment thus far in the play. When the Friar-Duke curtly denies setting Isabella and Marianna up to slander Angelo, Escalus accuses him of scorning his authority: "Know you where you are?" (293). The Friar-Duke's reply calls into question the nature of the authority that Escalus thinks himself and Angelo to embody: "Respect to your great place, and let the devil / Be sometimes honoured for his burning throne" (294-5). He likens the respect due by virtue of Escalus' office as deputy to that the devil receives for his office as prince of evil. The comparison is obviously a strong one, and essentially strips Escalus (and Angelo) of any

authority that their role as substitutes of the Duke had conferred on them. But Escalus' response challenges the Friar-Duke's radical assertion: "The Duke's in us, and we will hear you speak" (279). To thus liken himself and Angelo to the Duke is to assert the traditional political notion that the right and ability to rule is derived (at least primarily) from the office, and not the individual who holds it. Obviously, Escalus does not mean that he is Vincentio; but his public and official 'self' is the equivalent of the Duke's official self (until of course the Duke resumes his position from the deputy). The Friar-Duke, though, again rejects Escalus' assumption on the basis of his previously-demonstrated understanding of political (and priestly) office. As I explained, authority for him derives from the personal character of the office holder: if he is virtuous, his authority is to be respected; if he is vicious, he loses any right to rule. Turning to Isabella and Marianna, the Duke asks:

But O, poor souls,
Come you to seek the lamb here of the fox?
Good night to your redress! Is the Duke gone?
Then is your cause gone too. (299-302)

He here makes the two women's hope of justice entirely contingent upon his person, (presumably because he is personally virtuous), and not the authority of the ducal office. Certainly this assertion is partly due to Angelo's obvious bias in the case, and is what has evoked Isabella's regular charges against him of "seeming". Yet what Isabella laments is not the absence of Vincentio the person but Angelo's unworthiness of the ducal office. Isabella's concern in charging Angelo with "seeming" is similar to that of Erasmus and James – that a ruler ought to be virtuous because of the authority his office gives him, not because his office holds no authority if he is vicious. The Friar-Duke, though, does not call the women's case hopeless because of Angelo's unworthiness, but primarily

because *he* is (as they think) absent. This is confirmed when the Friar is revealed as the Duke and consoles Isabella:

Your friar is now your prince. As I was then
Advertising and holy to your business,
Not changing heart with habit, I am still
Attorneyed at your service. (383-6)

His heart and his personal virtue does not change with his office, and this, he tells Isabella, is what counts. Angelo's seeming is all the greater to the Duke's way of seeing because his guilt completely undermines his authority. In contrast, the Duke maintains his integrity and thus his authority.

After he is unhooded, he returns to his charge against Angelo. As his previous approbation of his justice has shown, the Duke is not concerned with the fact that Angelo has executed (so most characters still think) a man for sleeping with his fiancée, but rather that he judged a crime of which he himself is guilty. In sentencing him, the Duke first asks Isabella to extend her own personal forgiveness to Angelo:

...but as he adjudged your brother,
Being criminal in double violation
Of sacred chastity and of promise-breach
Thereon dependent for your brother's life,
The very mercy of the law cries out
Most audible, even from his proper tongue,
'An Angelo for Claudio, death for death....' (404-10)

The charge is of violating Christ's command to "judge not, lest you be judged," and is not in any way public or criminal: the Duke makes very clear that Angelo "dies for Claudio's death," which his verdict had demanded (144). Legally, the state could charge Angelo with soliciting bribes, abuse of office, or even (in Vienna) fornication. But the Duke insists that Angelo's central crime is exercising judgment while guilty of the same crime of the accused. The charge is not that he violated "sacred chastity" or was in

“promise breach,” but rather that he saw fit to judge Claudio while he was *in* that state: “as he adjudged your brother, being criminal” himself, he is “dependent for your brother’s life.” Importantly, the Duke would not charge Angelo for Claudio’s death if Angelo had not succumbed to the same temptation as Claudio. As he has previously done with the anti-fornication statute, the Duke here adopts a private and religious obligation as a principle for the state, but instead of judging it as would a confessor or church court, he prosecutes that law as one would a state law. That the Duke eventually pardons Angelo does not alter his philosophy; this is proven by the very necessity of a state pardon for a private violation.

Curiously, in several other instances, the Duke does deal out justice on a more traditional temporal legal basis. While the Duke has been in disguise, Escalus has unwittingly slandered him and Isabella has improperly importuned him. Both are granted pardon on the basis of the circumstances in which they committed their crimes: in speaking to him, they did not know the Friar was the Duke. Such consideration of the accused’s circumstances would be only proper to a court, especially the equity courts described by Shuger and Magadenz. In giving it, the Duke is simply being equitable. These instances, then, help to reveal the strangeness of the Duke’s approach to Angelo, where he insists that a judge consider his *own* moral circumstances but not at all those of the *accused*.

The Duke had also initially made the traditional differentiation between Isabella’s personal Christian responsibility to forgive wrongs done against her and the responsibility of the state and himself as its ruler to enforce its laws, to *not* simply forgive unless the circumstances of the accused warrant it. There is, though, in the

opinion of most critics, little in Angelo's circumstances that warrant mercy: he is obviously guilty of the Duke's charge of "violation / Of sacred chastity and promise breach," he has radically abused his office and baldly lied about it to the Duke throughout the first half of the scene. Yet in the end he is pardoned. This can only be explained by concluding that the Duke has adopted as his public law code that proper to the Christian individual: "forgive, and you will be forgiven" (Luke 6.37). This substitution of a personal ethic for a public one is the same substitution made by English Puritans, however compassionate the Duke's version here may be. When he alluded to the Levitical principle of "an eye for an eye" in declaring "an Angelo for Claudio," he invoked the harsh principle of Puritan law – but only, it seemed, to reject it by play's end. Here, though, we see again that the Duke's and the Puritans' underlying thinking remains the same: while Puritans chose the Levitical law, the Duke chooses the Gospels, but *both* are, in historical Christian understanding, personal and spiritual, not public and temporal, codes. As Magadenz summarizes, the Duke "exercise[s] his civil authority according to the command Christ gave to private Christians: judge as you would be judged. He seems to want to be both monk and monarch" (326). Furthermore, in quoting and applying the "Measure still for Measure" passage, the Duke is not only making an ironic reference to the Levitical "eye for an eye" precept, but also an earnest one to the Gospel passage: because he is able to pronounce judgment, he likens himself to God, who is the one who judges the Christian according to the measure he or she has used. Again, his eventual pardon of Claudio does not negate the claim here that a personal religious obligation should be the law of the state, and that the ruler is fit to prosecute violations of it.

To pass judgment on his subjects' personal spiritual responsibilities as he does here on Angelo is to take the role of a sacerdotal confessor or presiding bishop of a church court. This is what the Duke continues to do in his further judgments of Angelo and Lucio. After he eventually pardons their capital crimes, their only remaining sentence remains marriage. This is ordered, it appears, in the hope that marriage will function for them as a sort of purgative penance. After pardoning him, the Duke tells Angelo to "love your wife, her worth worth yours" (500) – meaning that in caring for one he has cruelly wronged he will come to see her value as equal to his own. He orders that Lucio marry the woman who has borne his child, presumably in the hopes that domestic life will go some way towards restraining his libido. As Shuger observes, both these pardons and sentences are examples of "the soteriological and pastoral aims of Christian justice" – that administered by the church for personal offences – "simply replac[ing] the penal sentences of the law" that would have been proper for the Duke to declare as bearer of the temporal sword (131). He specifically states that "I find an apt remission in myself" (501), indicating that his pardons come from his personal (and thus Christian) obligation to "forgive, and you will be forgiven," and not from warrant of the accused's circumstances nor from his office. Yet in enforcing marriage and making it a criminal sentence he goes well beyond the penalty that church courts would have administered in similar cases, and in a way that can result only from the Duke's office as ruler, not priest. According to canon law, a man could not be forced to marry a woman simply because they had slept together or had conceived a child (Houlbrooke 60). The father might be ordered to make the equivalent of child support payments or other material compensation to the woman, but nothing beyond this (77). Even in a case like

Angelo and Marianna's, where a *de futuro* marriage contract¹ existed, the violation of any aspect of the contract (the loss of Marianna's dowry, for example) would have legally annulled it (57,60). Part of the reason for the church's hesitancy to inflict an unwanted marriage on a person was due to its understanding of the personal and spiritual nature of it. Until the Reformation, marriage was a sacrament, a means of God's saving grace, and even afterward retained much of its sacramental character. A crucial aspect of both this sacramental character and its contractual nature is that it had to be entered into voluntarily.² The Duke's verdicts fall clearly within the jurisdiction of the church courts and are an attempt to work their form of restorative justice. Yet they are tainted by the state's inevitable inability to deal adequately with personal issues: though obviously showing concern for Angelo and Lucio's souls, they disregard the voluntary character of marriage, and of spiritual regeneration more generally. Not only this, but the Duke gives these sentences to one (at least) who shows no sign of repentance for his wrongdoing – the key prerequisite of spiritual restoration. Even the Duke's own concluding marriage proposal to Isabella makes marriage a matter of public policy. He announces his intention to marry her in the middle of doling out judgment: in one short speech he pardons Claudio, requests her hand, pardons Angelo, and then turns to

¹ Early-modern marriage contracts were of two sorts: *de praesenti*, which took immediate effect upon solemnization and bound a man and woman in marriage, and *de futuro*, which obligated the pair to a future marriage in a fashion roughly similar to but more strongly binding than a modern marital engagement. See Houlbrooke 57-60 for a more detailed explanation of these, and Margaret Scott's "Our city's institutions" for an examination of their relevance to *Measure for Measure*.

² "The explicit mutual consent of the partners had come to be considered an essential element of a marriage long before the sixteenth century" (Houlbrooke 56). That this ideal did not eliminate, in practice, all manner of coercion by other interested parties goes without saying, but does not diminish the fact that "judges upheld no contracts clearly shown by evidence to have been vitiated by coercion" (64).

deal with Lucio. To request marriage to her is inevitably to give her a public role in the state, when what she has been desiring in the nunnery is a wholly private and spiritual life, “dedicate / to nothing temporal” (II.ii.156-7).

About the only one who seems pleased with the marriages is Marianna: Angelo prefers death, Isabella remains strangely silent at the prospect, and Kate Keepdown is contracted *in absentia* to Lucio, whose demonstrated character and loud protests that “Marrying a punk, my lord, is pressing to death, whipping, and hanging” (525-6), leave little doubt that he will soon be back before the Duke on charges of abandonment. Shuger insists that “to view the dubious outcome of these pairings and pardons as evidence of the Duke’s failure...is to miss the point” that the state ought to give a sinner a chance to repent in the same way as does the church, instead of cutting him or her off (133). Yet the Duke’s prioritizing of the spiritual concerns of individuals here is at best, I would argue, a bad imitation of the church’s pastoral work. In doing so, he neglects his primary role of safeguarding the *bonum commune* – which seems to me no less the point.

The Duke’s pardon of Barnardine exemplifies the state’s failing of both the individual and the larger community. His forgiveness of Barnardine is even more obviously ‘found in himself’ than his pardoning of Angelo and Lucio. That Barnardine’s circumstances in no way warrant his release confirms once again that the Duke acts not out of his role as public magistrate but his personal Christian duty: Barnardine has committed murder – significantly more serious than fornication – and though he has “evermore had the liberty of the prison,” if given “leave to escape hence, he would not” (IV.ii.147-8). In an attempt to inspire in him at least some regard for the

afterlife, the Provost and his guards “very often have waked him, as if to carry him to execution, and showed him a seeming warrant for it; it hath not moved him at all” (150-2). When added to the fact that this has been going on for the “nine years” of his incarceration (131), we are left with a portrait of a man who has resolutely chosen his course in life and has no desire to repent of or change it. He tries to refuse the Duke’s offer of sacramental confession and preparation for death and the inherently voluntary nature of these demand his refusal be honoured. Yet the Duke twice denies him this freedom by failing to take Barnardine’s rejection seriously. He first as Friar refuses to have him executed, claiming that to “transport him in the mind he is / Were damnable” (IV.iii.65-6). In so doing he takes upon himself the responsibility for Barnardine’s life that should rightly be Barnardine’s alone. The Duke’s subsequent pardon in Act V is a further refusal to take Barnardine’s will seriously. To reward even a slight inclination towards repentance with the pardon the Duke gives would not fall outside the jurisdiction of the ruler. Here, though, the sullenly silent Barnardine is given over to the care of Friar Peter and told to “take this mercy to provide / For better times to come” (487-8) – the very thing that his words and actions have shown he has no desire to do. Rather, they request the just punishment which the Duke refuses to exact. He simply takes neither Barnardine’s will nor the voluntary nature of repentance seriously, demonstrating that his personal duty to forgive is again determining his public administration of law.

Shuger sees in Barnardine’s pardon the best example of her thesis that the Duke models the “ideal of Christian justice that has been on the table since Isabella’s first meeting with Angelo, where she argues that the Deputy should pattern his exercise of

judicial authority on the Crucifixion” (132-3). That the Duke attempts to exercise justice on this penitential basis, she asserts, is radically Christian, in contrast with both traditional political thought and that of Bucer. While it may be radical, I would suggest that it is more of a *distortion* of Christian justice than its ideal: orthodox Christianity has always insisted that a sinner must willingly accept Christ’s forgiveness for it to be of any value to him or her, and that this forgiveness can be refused on the basis of human beings’ free will. Barnardine has steadfastly rejected repeated offers of spiritual aid and mercy. The Duke must take this seriously and allow Barnardine to receive the punishment he has earned or he fails as a Christian king to honour the freedom of conscience of his subjects. It is ironically this very freedom of the inner person that Bucer and the Puritans similarly trammel by enforcing Christian personal ethic as law, and that traditional Christian political thought seeks to defend by drawing a clear line between the temporal state and outer actions of a person, and the spiritual church and one’s inner intentions. It is because he does not maintain this division that the Duke’s priestly ministrations and magisterial judgments simply do not work.

I I

That the Duke’s central error is his attempt to involve the state in the personal realm is suggested by both Lucio and Pompey. Their thoughts on the matter are not unbiased, of course, given that Angelo’s resuscitation of the Duke’s anti-fornication statute severely cramps their style and livelihood respectively. Yet to disregard them as little more than hardened sinners, as Shuger and other more conservative critics have tended to do, is to miss a consistent critique that the play makes about the state and the

privacy of its subjects. In his discussions with the Friar-Duke, Lucio displays a keen awareness of at least some aspects of governance. He calls it a “mad fantastical trick” for the Duke “to steal from the state, and usurp the beggary he was never born to” (III.i.356-7). He comprehends here the seriousness with which a king must take his public office, similarly to James I. Citing Anchises’ ancient charge to Aeneas, James had urged his son and future heir that “being content to let others excell in other things, let it be your chiefest earthly glory, to excell in your owne craft” of governance (*Basilicon* 61). The Duke’s God-given role is that of a prince, and it is as improper for him to “usurp the beggary he was never born to” as it would be for a pauper to usurp the throne. A king does not have the luxury of laying down one office in favour of another; to do so is to “steal” from the state in both senses of the word – to ‘leave’ is to ‘rob’ something from the city of Vienna.

It must be admitted that much of what Lucio says about the Duke is little more than unfounded slander. Any initial doubts about this are laid to rest by his obviously false accusations in Act V: we know that the Friar-Duke has not called the absent Duke “a fleshmonger, a fool, and a coward” because we have heard the conversations to which Lucio refers (335-6). This makes one particular comment of Lucio’s stand out for its ingenuousness: he wishes that the Duke were back in place of Angelo, because the Duke “would yet have dark deeds darkly answered; he would never bring them to light” (III.i.434-5).³ He recognizes an understanding of the personal to be at least partially implicit in the Duke’s earlier and more lax governance: that the private and personal are best dealt with as such, not as state matters. Though the long existence of

the anti-fornication statute prevents us from attributing such an understanding to the Duke (it was within his power to wipe such an anti-privacy act from the books, after all), Lucio at least realizes what the rest of the play consistently puts forward: that the state is at best ineffectual, and at worst tyrannical, when it attempts to deal with private matters better left to the church. When he then declares that Claudio has been condemned for little more than “untrussing” (437), Lucio does not simply disregard Claudio’s deed as unimportant (though he does say as much) but implies that its nature does not demand state punishment.

Pompey, on the other hand, takes issue precisely with the nature of fornication. His conversation with Escalus after being remanded by Constable Elbow speaks directly to the state’s ability to regulate the private effectively:

ESCALUS How would you live, Pompey? By being a bawd?
 What do you think of the trade, Pompey? Is it a lawful
 trade?
POMPEY If the law would allow it, sir.
ESCALUS But the law will not allow it, Pompey, nor it shall
 not be allowed in Vienna.
POMPEY Does your worship mean to geld and splay all the youth of the
 city?
ESCALUS No, Pompey.
POMPEY Truly, sir, in my poor opinion they will to’t then.
 (II.i.214-22)

Like Lucio’s later comment that fornication “is impossible to extirp...till eating and drinking be put down” (III.i.365-6), Pompey perceives how fundamental sexuality and its attendant urges are to human beings – as strong as the need for food and drink. The whole reason bawds and prostitutes exist, he suggests, is simply the perennial demand people make for their services. He then takes fornication’s ubiquity as further proof of

³ Following editors Lever and Bawcutt, I read “darkly” here to mean “privately” as in *OED* 1, and without

sexuality's deeply-engrained nature: when Escalus informs him that the new penalty for it is "heading and hanging," Pompey retorts, "If you head and hang all that offend that way but for ten year together, you'll be glad to give out a new commission for more heads" (227-9). Nor is the vice limited to the lower classes, for "if this law hold in Vienna ten year, I'll rent the fairest house in it after three pence a bay" (229-31). Like that of Lucio, Pompey's language of 'gelding' and 'splaying' locates sexuality in the physical nature that humanity shares with the animals. It is precisely this link that both Pompey and Lucio suggest makes sexual misconduct impossible to legislate against: until the physical organs it employs are cut off, "they will to't then."⁴ This perception is evident not only in the pair's words, but in their lives: Lucio remains an incorrigible lecher until the end and Pompey, after thanking Escalus for his "good counsel," slyly promises to "follow it as the flesh and fortune shall better determine" (240-2). Darryl Gless notes that the pair's "willful determination to continue in sin makes nonsense of Angelo's subsequent assertion that strict legalistic justice will absolutely deter future crime" (219):

The law hath not been dead, though it hath slept.
 Those many had not dared to do that evil
 If the first that did the edict infringe
 Had answered for his deed. (II.ii.91-4)

Even Angelo, who unlike these two at least wills to avoid sexual vice and attempts to buttress himself against it, ends up its victim. Gless again connects this inability of the law to restrain sin effectively to St Paul's insistence on humanity's need for grace: the argument of Lucio and Pompey

sinister implications.

alludes to the ineluctable law of postlapsarian human nature. Even those who, with Paul, fervently desire to do good fall victim to the lusts of the flesh – except, of course, when they are supported by grace: “For the good that I would I do not: but the evil which I would not, that I do” (Rom. 7:19). After falling to lust, Angelo attests that his loss of grace has subjected him to this interior warfare. (218-9)

when he declares “Alack, when once our grace we have forgot, / Nothing goes right ; we would, and we would not” (IV.iv.31-2). The Pauline understanding of the limited nature of the law and the need for grace counters not only Angelo, but the Duke, whose firm belief in the effectiveness of strict law is demonstrated by his consistent approval of Angelo’s enforcements of it. Even his eventual pardons are based on the assumption that personal matters of sexuality can be regulated by the state: to issue pardon instead of scrapping the law that necessitates it is still to acknowledge that law’s general validity. But as Lucio and Pompey implicitly suggest, state law is inadequate to regulate single-handedly deeply personal matters like sexuality. Nevertheless, the condition of Vienna calls for *something* to be done: Walter Pater’s ridiculously romanticized description of the play’s licentious characters as wholly “attractive, full of desire, vessels of the genial, seed-bearing powers of nature, a gaudy existence of flowering out over the old court and city of Vienna, a spectacle of the fullness and pride of life” is pleasantly blind to the diseased, selfish, and frequently malicious nature of many of them (173-4).

⁴ The third chapter of Watson’s *Death as Annihilation* (103-32) is a consideration of sex and the law in *Measure for Measure* from a psychoanalytic perspective.

III

A solution to the dilemma of public regulation of private matters is proposed, I would like to suggest, by Isabella. While never explicitly stating my suggestion that the personal spiritual realm must be left by the state to the care of the church, the understanding to which she comes by play's end is one that recognizes the limitations of the state law in dealing with the spiritual and the private. Hers is an understanding of law that changes and develops over the course of the play in direct contrast with that of Angelo. He advocates first a totally impersonal justice that rejects a magistrate's personal Christian responsibility, then later comes to agreement with the Duke in desiring that the state punish his spiritual offense. After initially agreeing with this latter approach, Isabella comes to moderate Angelo's two extremes with what amounts to the traditional politico-theological understanding. In their first meeting, Isabella begins by advocating a view of the law not unlike the Duke's "reflexive justice." She shares the abhorrence of both men for sexual licentiousness, and believes that state law should punish what she calls that "vice that most I do abhor, / and most desire should meet the blow of justice" (II.ii.29-30). Coupled with this severity and belief in the power of the law is an acknowledgment of the state's need to incorporate personal Christian categories of mercy and forgiveness into its application of the law. She pleads with Angelo to look with Christian eyes upon her brother's sin, declaring that "not the king's crown, nor the deputed sword, / The marshal's truncheon, nor the judge's robe" – all things proper to and symbolic of the state's exercise of justice – "become them with

one half so good a grace / As mercy” – that thing especially required of the individual Christian – “does” (60-3). As discussed in the previous chapter, this principle of personal law is urged most potently when she pleads:

Why, all the souls that were were forfeit once,
And He that might the vantage best have took
Found out the remedy. How would you be
If He which is the top of judgement should
But judge you as you are? O, think on that,
And mercy then will breathe within your lips
Like man new made. (II.ii.74-80)

Isabella’s final request to Angelo summarizes her approach:

Go to your bosom,
Knock there, and ask your heart what it doth know
That’s like my brother’s fault; if it confess
A natural guiltiness, such as is his,
Let it not sound a thought upon your tongue
Against my brother’s life. (138-43).

Her belief is that though the law’s punishment of Claudio’s vice is proper and just, the judge ought to mitigate that law to the degree that he finds within himself like passions and guilt – a position identical to that of the Duke. The logical result of this religiously-inflected understanding is explicitly revealed by Isabella in a way that remains only implicit with the Duke. When Angelo refuses to incorporate estimations of his own sinfulness into his judgment but insists on maintaining his impersonal approach to law, Isabella decries both him and the law: “O, it is excellent / To have a giant’s strength, but it is tyrannous / To use it like a giant” (108-10). She essentially accuses him of tyranny for doing what the law demands and gives him power to do. Lever is right to see in this an unwitting “scorn of authority” (lxix) which Angelo will recall as such when he later observes, “You seemed of late to make the law a tyrant” (II.iv.115). Political philosopher Barbara Tovey detects in Isabella’s position a subtle antinomianism,

suggesting that in fact “all the arguments Isabella presents are based upon principles that, if consistently carried through, would make any system of legal justice impossible” (70). This is indeed the intended result of Christ’s principle that his followers judge themselves before they judge others; if they do so, they will find themselves unable to judge their neighbour. So too, his equation of lust with adultery and hatred with murder is meant to show that no one is innocent of the passions and thoughts that lead to the worst crimes, even if one has not actually committed those crimes. If Isabella, and likewise the Duke, are going to insist that a magistrate judge with the personal commands of Christ as a guideline, there will be no sentence for crimes, and anyone who attempts to pronounce such will be guilty of the greatest crime – hypocrisy. This goes some way toward explaining the state that Vienna is in prior to Angelo’s rule, and to which it seems likely to revert after the Duke resumes his seat.

This position, curiously enough, Angelo will come to adopt, as Isabella’s argument becomes to him “Such sense that my sense breeds with it” (II.ii.145).⁵ Angelo is from here on converted to Isabella’s (and likewise the Duke’s) understanding of justice. After she leaves and he wonders at his new-realized passion for her, he rebukes himself for his previous approach to law: “O let her brother live! / Thieves for their robbery have authority / When judges steal themselves” (II.ii.178-80). From his initial insistence that the person of the magistrate ought to be irrelevant to justice, he comes onside with Isabella and the Duke, believing that a judge’s authority to judge is wholly dependent on the integrity of his person. He confirms this in his second meeting with Isabella when he likens the begetting of illegitimate children to murder:

⁵ While his “sense” here is obviously more than his mind, it is not less.

It were as good
To pardon him that hath from nature stolen [killed]
A man already made, as to remit
Their saucy sweetness that do coin heaven's image
In stamps that are forbid. (II.iv.42-6)

In keeping with the Sermon on the Mount, he equates a lesser and more personal sin with a greater and criminal offence. Though he obviously does not live by it in plotting to possess Isabella, this personal and spiritual ethic will be the one he resumes when the Duke reveals his falseness. It is notable that with this change of opinion, Angelo goes from being only strict to being despicable. Previously he lived according to his understanding as a zealot; from here on until he is found out he lives according to his passions and not his principles, and thus as a hypocrite.

By their second meeting, though, Isabella too has changed her understanding. She responds to Angelo's comparison of bastards with murder victims not with the agreement we might have expected, but by suggesting a subtle distinction that Angelo fails to make: " 'Tis set down so in heaven, but not in earth" (II.iv.50). Though according to the judgment with which God will weigh individual Christians there is no difference between secret and open sins, that of this world, she says, must make this distinction. In keeping with the Christian political tradition, Isabella allows temporal states a law code different from the one under which individual Christians are obligated to live. While Angelo had previously operated under this assumption, Isabella is the first one in the play to link this approach to the larger notion of the division between the "two swords" of the temporal state and spiritual church. It is in this spirit that Isabella recants her earlier equation of magistrates with tyrants, asking pardon of Angelo and explaining that "it oft falls out / To have what we would have, we speak not what

we mean” (118-9). This is all the explanation we are given of Isabella’s change of opinion. Nevertheless, it is this understanding that she will carry into and develop in Act V’s judgment scene.

In similar manner, Angelo also brings his altered and now opposite understanding of law to Act V. He initially attempts to keep up his appearance as the severe but just magistrate he was at the outset, but is soon found out by the Duke. His repentance seems genuine as he confesses:

O my dread lord,
I should be guiltier than my guiltiness
To think I can be undiscernible,
When I perceive your grace, like power divine,
Hath looked upon my passes. (367-71)

Accepting his guilt and the condemnation it must bring, he continues on to request sentence in a way that confirms his agreement with the Duke’s approach to judgment:

Then, good prince,
No longer session hold upon my shame,
But let my trial be mine own confession.
Immediate sentence, then, and sequent death
Is all the grace I beg. (371-5)

Angelo’s recognition of his guilt and his belief that its necessary punishment is death recalls once more St Paul’s understanding of religious law and sin, that “the wages of sin is death” (Rom 6.23). Angelo perceives here in a Pauline way both the deeply sinful nature of his plot and deception and that the consequence of them is spiritual condemnation and death. Yet where Paul is speaking of the spiritual justice of God, the Duke understands this “death” to be something that the temporal state can exact from

him. As the Duke has done before and Martin Bucer pressed England to do, Angelo takes a spiritual law and understands the state to have the right and power to prosecute it.

There is a significant difference between this and Angelo's earlier statement to Escalus regarding Claudio: "When I that censure him do so offend, / Let mine own judgement pattern out my death" (II.i.29-30). There he was accepting responsibility for his severity in prosecuting Claudio by stating his own readiness to receive the full penalty called for by the law if he should be found guilty of Claudio's offence; the objective law is the measure of punishment, not the subjective moral integrity of the judge. Here, however, Angelo is answering to the Duke's maxim that he should not "pursue / Faults proper to himself" (110-1); that the subjective integrity of the judge determines the punishment. While the Duke's official charge of "An Angelo for Claudio" has not yet been made, that Angelo has this in mind is proved by his repeating this request for death after the Duke has clearly charged him with responsibility for Claudio's execution. As earlier demonstrated, to the Duke Angelo is guilty not primarily of soliciting bribes or abusing authority, nor even of fornication, but of failing to judge Claudio in the light of his own sinfulness. For this essentially personal and spiritual failing, Angelo turns to the justice of the state and its temporal law. He does not even request from it the spiritual punishment or penance that might be appropriate to his crime, but rather execution by its temporal sword – thereby affirming his belief in its ability to deal temporally with spiritual offences.

Isabella's understanding of justice is again closely contrasted with Angelo's when she pleads with the Duke to pardon him. Her request reinforces the subtle distinction she has previously made between what is "set down" in heaven and what so on earth. The Duke has just stated emphatically that Angelo "dies for Claudio's death" (444) when Isabella falls to her knees and implores him:

Most bounteous sir,
Look, if it please you, on this man condemned
As if my brother lived. I partly think
A due sincerity governed his deeds
Till he did look on me; since it is so,
Let him not die. My brother had but justice,
In that he did the thing for which he died.
For Angelo,
His act did not o'ertake his bad intent
And must be buried as an intent
That perished by the way. Thoughts are no subjects,
Intent, but merely thoughts. (444-54)

In this speech, Isabella differentiates between the grounds on which she might herself forgive Angelo and those on which the state might pardon him. As Lever perceives, "her bid to save Angelo's life is motivated by a Christian forgiveness of private wrongs; yet at the same time the form of pleading take due account of the judicial approach to the specific case" (lxxi). Her forgiveness arises from the personal Christian imperative that the Duke has unadvisedly made a public law: she puts herself in Angelo's shoes, giving him credit for an initial "sincerity" that was later overcome by passion "when he did look on me." The weakness that precipitated his fall is both personal and common, and as such she forgives him for it as a fellow sinner.⁶ She does not, though, go on to insist that as she has forgiven Angelo so too should the state – the premise on which

⁶ That she is simply obeying Christ's injunction to "forgive, that your heavenly father will forgive you" does not minimize the great compassion and strength of character she shows in forgiving Angelo.

the Duke will forgive him. Rather, she recommends a pardon by considering the nature of the law that Angelo has broken – not the Duke’s law of “judge not”, however, but the statute against fornication and Angelo’s other more genuine crimes. She admits that according to the law, Claudio “had but justice, / In that he did the thing for which he died,” but Angelo did not actually have his intended way with her. This is precisely the nature of her distinction: that because Angelo’s “act did not o’ertake his bad intent, / [It] must be buried but as an intent.”⁷ She does not allow the state to make Angelo and the Duke’s equation of intent with criminal actuality in the manner of the Sermon on the Mount, but recalls the division made between the inner and outer person by traditional Christian political theology. The state, in Isabella’s mind, is not to demand perfect Christian virtue from its subjects, but only their adherence to laws that prohibit “the more grievous vices, ... chiefly those that are to the hurt of others” (Aquinas 68). Even her language here attests to this: “Thoughts are no *subjects*,” she says, denying the state’s authority over the workings of the inner person, “Intents but merely thoughts.” She also recalls the understanding of the law that Angelo had initially demonstrated in refuting Escalus’ plea that he consider his own personal weakness in sentencing Claudio:

’Tis one thing to be tempted, Escalus,
 Another thing to fall. I not deny
 The jury passing on the prisoner’s life
 May in the sworn twelve have a thief or two

⁷ Anne Barton attacks Isabella’s argument here as illogical: “That Angelo has not slept with Isabella, as he intended, is true. He has, however, slept with Mariana outside the bonds of holy matrimony, even as Claudio did with Juliet. How, then, can Isabella claim that her brother ‘had but justice’ when he has died (as she thinks) for exactly the same sin, fornication on a pre-contract, committed by Angelo with Marianna?” (582). While true, Barton forgets that Isabella speaks here of Angelo’s intended crime against *her*, not his guilt in general. She requests pardon of his crimes as they relate to her and her brother (though still on legal grounds), not to others like Marianna.

Guiltier than him they try. What's open made to justice,
That justice seizes. What knows the laws
That thieves do pass on thieves? (II.i.17-22)

In making the distinction between thought and intent that the Duke and later Angelo refuse, she reveals the genuine limitations of the temporal law implicit in both its nature and that of the thoughts and intents it cannot judge. The private inner world of the mind and heart is ultimately a spiritual reality, and lies outside the temporal jurisdiction of the state. To enter it and thus be judged by it, they must first be incarnated in action.

* * *

Shuger's thesis is that *Measure for Measure* reveals the traditional distinction between personal Christian ethics and public secular law to be imposed and artificial:

To restrict the scope of temporal justice to acts and facts...tended to uncouple man's laws from God's laws and thus to wedge apart what mattered to the state from what ultimately and eternally matters. In God's eyes, and hence *sub specie aeternitatis*, all that counts is "our secret thoughts"... (107)

Moreover, she claims, such an historical understanding has "vanished" from *Measure for Measure* by its conclusion (108). Yet in Act V Isabella clearly maintains the distinction. She does so not because she thinks intentions do not matter to the state or "acts and facts" do not matter to God, but because she has perceived that the state by its nature simply cannot see into a person's private space to pass accurate judgment on what lies hidden there. Throughout, the play demonstrates in the person of the Friar-Duke and the results of his efforts that when the state attempts this, it fails. Instead of providing only the conditions necessary for it as Erasmus had described its task, the state, in attempting to work for the *salus animarum*, ends up failing not only the *bonum*

commune (its primary responsibility), but even the individuals it attempts to aid. The Duke earlier likened his rule to that of a doting father who is so personally concerned for his citizen-children that the “threatening twigs of birch” he should have applied to them on occasion are become “more mocked than feared” (I.iii.242, 6). As described, the personal and spiritual work he does undertake as Friar has dubious success precisely because his juridical and temporal approach is more proper to the state than the church. It is because of his nature as prince that he misreads Julietta’s already-existent contrition, demanding of her further repentance rather than offering her consolation. Because of it he misinterprets Claudio’s state of mind and soul before his execution and ends up inciting the very fears he intended to put down. He harshly rebukes the utterly unconcerned Pompey and is rejected when he tries to rouse the nonchalant Barnardine. Marriage is made a punishment of the state, and the free will of his subjects to determine their spiritual fate is overrun by the Duke’s insistence on basing judgment on his own personal spiritual obligations. In each case, the personal intentions and motives of his subjects lie utterly beyond his ability to perceive or treat. In the end, the Duke’s attempts simply do not work. When the judicial dust has settled and all return to the business of their lives, his pardons seem likely to ensure that Vienna’s “corruption” continues to “boil and bubble”; the play’s conclusion only reinstates the central error of laxity with which the Duke had earlier charged himself. In addition, not only are sexual reprobates let off the hook, as seems to have been the Duke’s prior habit, but now a bribe-soliciting conspirator, a perpetual slanderer⁸, and a convicted murderer are all turned loose. While Angelo’s repentance seems genuine, we are only confirmed in our

⁸ Slander was serious criminal charge in Elizabethan England – see Pope 71-72.

suspicions of Lucio and Barnardine's incorrigibility at play's end: one by his continued jests, the other by his silence. We are left to wonder about what the Duke will say to the family of Barnardine's next murder victim, or to the next woman Lucio leaves pregnant with his child⁹. Rather than radical Christian forgiveness, the play's conclusion seems more the replacement of one extreme – harsh, unyielding justice – with another – unmerited and irresponsible mercy. As Bawcutt keenly observes, “there is nothing in Act V to support those critics who argue that the play[’s] ... ideal is some kind of blend or balance [of justice and mercy].... The play seems to offer us little between these two extremes, death on the one hand, and forgiveness on the other” (96-7).

I have been trying to show that the play, and thus its author, are not entirely convinced of the philosophy of the Duke and that this hesitancy is genuinely present in the play. That the Sermon on the Mount is not “the primary ethical standard intrinsic in *Measure for Measure*” (Gless 43) is confirmed by the way two other of Shakespeare's sovereigns enact their dual responsibilities to personal Christian forgiveness and public law enforcement. At the conclusion of *The Tempest* (occasionally compared to *Measure for Measure*¹⁰), Prospero is faced with the possibility of forgiving those who years before had conspired against his rule in Milan. Like the Duke of Vienna's, Prospero's inclination to forgive others comes of putting himself in their place, of judging with the measure he would wish to receive: he says that if Ariel,

...which art but air [hath] a touch, a feeling
Of their afflictions, ...shall not myself,
One of their kind, that relish all as sharply
Passion as they, be kindlier moved than thou art?” (V.i.21-4)

⁹ I do not mean to imply that everyone would be better off if Lucio were executed as the Duke initially demanded, but simply that his actions demand some form of punishment beyond simply marriage.

¹⁰ Barbara Tovey's article is an example.

Yet his personal obligation to forgive is not the whole basis of his decision to do so: though “the rarer action is / In virtue, than in vengeance,” he declares that “[t]hey being penitent,” he will not further punish their wrongs (27-8). This is an alternative to the Duke’s mingling of personal Christian¹¹ responsibility with due regard for the good of the state: the conspirators’ perceived repentance here makes forgiveness a responsible political act, unlike in Vienna, where wholly intractable criminals are set loose.

In *Henry V*, King Henry makes an even finer distinction between his private and public responsibilities in judging the three traitors Scrope, Cambridge, and Grey at Southampton. Like the crimes of Angelo, Barnardine, and *The Tempest*’s conspirators, those of Henry’s nobles form a direct threat to the *bonum commune*, as he accuses them:

...you would have sold your king to slaughter,
His princes and his peers to servitude,
His subjects to oppression and contempt,
And his whole kingdom into desolation. (167-70)

In giving sentence, Henry does not forget his Christian duty to eschew personal vengeance, declaring that “Touching our person seek we no revenge,” and asks that “God ‘quit you in his mercy” (171,162). Yet his position as head of the state demands that he act to defend it:

But we our kingdom’s safety must so tender,
Whose ruin you have sought, that to her laws
We do deliver you. (172-4)

For Henry to have offered not simply personal forgiveness but state pardon would have been for him to confuse his office with his person – the error of the Duke. Rather, the

¹¹ As the former Duke of Milan, Prospero is at least ostensibly a Christian.

distinction that he makes here is akin to that of Isabella, who recommends the pardon of Angelo only on legal, not personal-ethical, grounds.

Each example (Prospero and Henry's) posits an alternative to the central flaws of the Duke's philosophy: his equation of office with the holder of it, and his adoption of personal Christian principle as the law of the state. Implicit in these ideas are notions of what is and ought to be private and what public. The Duke's first principle makes the authority of public office entirely contingent upon the private character of its holder, to the neglect of the more objective matter of whether the magistrate exercises true and just judgment. The second is a logical result of the first: if state office is contingent upon personal ethics, state law should reflect this by making personal Christian duty into public obligation. Each principle indicates the Duke's refusal to make the distinction between private and public that traditional Christian political theology has believed necessary for the dual goods of the individual and of the state. The Duke's final judgments enforce by law a personal spiritual repentance that must by its nature be voluntary. At the same time, they undermine the public good by freeing criminals who are a serious threat to it. By eliminating the public-private distinction and attempting to exercise jurisdiction over both, the Duke fails them both.

Though the church and its priests have no real role in the play, their place in dealing with the private lives of individuals is highlighted first by my historical survey of their work, and second by the Duke's friar disguise. The Duke earnestly strives to emulate and incorporate the church's personal sacramental approach to individual issues and its court's methods of restorative justice into his state role. Yet the play ultimately shows him to fail at the project because as a prince, he cannot divest himself of the

judicial and compulsory methods proper to a prince. As the king's anointing conferred only temporal powers, any attempt by a ruler like the Duke to do anything more than provide the conditions necessary to spiritual regeneration was bound to fail, rather than to take the place of the priest. Isabella's alternative model is a return to the traditional private and public, church and state distinction that enables and defends the personal freedom of the individual within the legitimate bounds given it by the state in the interest of the common good.

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