

## ABSTRACT

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REPRESENTATION OF OFFICEHOLDING  
IN EARLY MODERN LITERATURE

Helen Louise Hull, PhD, 2009

Directed By:                         Donna B. Hamilton, Professor, Department of  
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This study argues that early modern English dramatists and prose writers were reevaluating the subject's offices. Officeholders appear frequently on the early modern English stage, in roles ranging from lord mayors to constables to lord chancellors. Widely circulated prose tracts established officeholders' authority and defined their duties. Dramatists who staged officeholders, along with men who wrote officeholding manuals, drew on humanist and classical republican concepts of citizenship in depicting officeholders; they were also responsive to contemporary religious and political pressures. They were redefining the very parameters of office by redescribing officeholding as a site of political representation.

I begin by establishing the investment subjects had in officeholding as evidenced by the proliferation of contemporary officeholding manuals. My first chapter canvases the range of manuals as well as their socio-political context. I then focus on William Lambard's *Eirenarcha* (1581), a manual for justices of the peace. By emphasizing that the justice is duty-bound to God and to the common law as well as to the

monarch, Lambard raises questions of obligation and representation for officeholders. In chapter two, I consider representations of justices of the peace in Anthony Munday's *Downfall of Robert, Earl of Huntington*, William Shakespeare's *Merry Wives of Windsor* and Ben Jonson's *Every Man in His Humor* (all three c. 1597-98). By juxtaposing officeholding with quasi-feudal and chivalric models of service, these dramatists define what officeholding was not and what it could be. In my third chapter, I consider depictions of the lord chancellor in Anthony Munday's *Play of Sir Thomas More* (c. 1592-94) and in *Henry VIII* (1613), by Shakespeare and John Fletcher. I argue that these plays challenge the claims made by early modern magistrates to be ministers of justice. The last chapter considers scenes featuring London's lord mayor in Shakespeare's *Richard III* (c.1593), Thomas Heywood's *Edward IV* (1599), and Heywood's *I If You Know Not Me, You Know Nobody* (1604). I read these plays in the light of contemporary disputes over free speech in Parliament. By asking how freely the lord mayor can speak, these plays associate office itself with the representation of subjects.

SCRIPTING PUBLIC PERFORMANCE:  
THE REPRESENTATION OF OFFICEHOLDING IN EARLY MODERN  
LITERATURE

By

Helen Louise Hull

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Advisory Committee:  
Professor Donna B. Hamilton, Chair  
Professor Theodore B. Leinwand  
Professor Kent Cartwright  
Professor Theresa M. Coletti  
Professor Judith P. Hallett

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## Introduction

In William Shakespeare's *Richard III*, even as he plots his way to the throne, Richard needs the support of English subjects—or at the very least, the appearance of their support. He solicits the aid of London's lord mayor, who acts complicitly as his intermediary. Having heard Richard and Buckingham's justification for executing Hastings, the Lord Mayor declares that he will "acquaint our duteous citizens / With all your just proceedings in this cause" (3.5.64-65).<sup>1</sup> Richard applauds this intent, since "...to that end we wish'd your lordship here, / T'avoid the censure of the carping world" (3.5.66-67). Later, ignoring Londoners' refusal to voice their approval for Richard, the Lord Mayor urges Richard to accept the crown to which "your citizens entreat you" (3.7.200). The Lord Mayor plays exactly the role Richard desires of him and his complicity enables Richard to accede to the throne. In Shakespeare's dissection of monarchy and its legitimizing practices, London's most important officeholder plays a crucial role.

Officeholders appear frequently on the early modern English stage, in roles ranging from lord mayors to constables to lord chancellors. Shakespeare's officeholders include *Henry VIII's* two lord chancellors, Thomas Wolsey and Thomas More; *Much Ado About Nothing's* constable, Dogberry; *Measure For Measure's* constable, Elbow; *2 Henry IV's* Lord Chief Justice; and Justice Robert Shallow, who appears in both *2 Henry IV* and *The Merry Wives of Windsor*. Other dramatists feature officeholders in both central and marginal roles: Simon Eyre rises to become London's lord mayor in Thomas Dekker's *The Shoemaker's Holiday*; the Lord Mayor

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<sup>1</sup>William Shakespeare, *King Richard III*, ed. Antony Hammond (London: Methuen, 1981).



and Lord Justice pass judgment on the murderers George Brown, Nan Sanders, Anne Drury, and Roger Clement in the anonymous *A Warning for Fair Women*; similarly, the Knight who serves as justice of the peace in the anonymous *A Yorkshire Tragedy* laments the crimes of the Husband. In Thomas Heywood's *I If You Know Not Me, You Know Nobody*, London's lord mayor welcomes the newly-crowned Queen Elizabeth to London, even after Queen Mary's lord chancellor, the Bishop of Winchester, has done his best to dispatch Elizabeth. Officeholders are also present in widely circulated prose tracts in sixteenth-century England. William Lambard's *Eirenarcha, or Of the office of the Justices of the Peace in Four Books* (1581) and John Hooker's *A Pamphlet of the Offices, and duties of everie particular Sworne Officer, of the Citie of Excester* (1584) establish officeholders' authority and define their duties. In what follows, I will argue that dramatists who staged officeholders, along with men who wrote officeholding manuals, were redefining the very parameters of office by redescribing officeholding as a site of political representation.

An examination of early modern representations of officeholding, an institution with roots in classical forms of government (imperial and republican) as well as in the ancient customs of England, this dissertation joins an ongoing cross-disciplinary dialogue about subjects and citizens in early modern England. Arthur Ferguson, Quentin Skinner and J.G.A. Pocock have illuminated what English people thought about and how they participated in government.<sup>2</sup> Patrick Collinson, John

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<sup>2</sup>See Arthur Ferguson, *The Articulate Citizen and the English Renaissance* (Durham, NC: Duke UP, 1965); J.G.A. Pocock, *The Machiavellian Moment* (Princeton: Princeton UP, 1975); Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge UP, 1978).

Guy, and Peter Lake have examined the English polity through the lens of religion.<sup>3</sup> The historian of political thought, Markku Peltonen, and the literary scholar, David Norbrook, have recuperated strains of republican discourse present in pre-civil war England.<sup>4</sup> In the course of these discussions, scholars have paid some attention to officeholding, examining, for instance, power in relation to office. They have also considered sociological aspects of officeholding, such as the social and financial benefits of holding office and its growth as a profession.<sup>5</sup> It has been argued that officeholders played an important part in mediating between national authorities and local communities.<sup>6</sup> For their part, Patrick Collinson and Mark Goldie have emphasized officeholders' important roles in what the former calls a "monarchical republic" and the latter, an "unacknowledged republic."<sup>7</sup>

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<sup>3</sup>See, for example, Patrick Collinson, *The Sixteenth Century, 1485-1603* (New York: Oxford UP, 2002); John Guy, *Tudor England* (New York: Oxford UP, 1988); Peter Lake, *Anglicans and Puritans* (Winchester, MA: Unwin Hyman, 1988).

<sup>4</sup>David Norbrook, *Writing the English Republic* (Cambridge: Cambridge UP, 2000); Markku Peltonen, *Classical Humanism and Republicanism in English Political Thought: 1570-1640* (Cambridge: Cambridge UP, 1995).

<sup>5</sup>See Richard Cust and Peter Lake, "Sir Richard Grosvenor and the Rhetoric of Magistracy," *Bulletin of the Institute of Historical Research* 54 (1981): 40-53; Robert Tittler, "Seats of Honor, Seats of Power: The Symbolism of Public Seating in the English Urban Community, c. 1560-1620" *Albion* 24.2 (1992): 205-23; Paul Griffiths, "Secrecy and Authority in Late Sixteenth- and Seventeenth-Century London" *Historical Journal* 40.4 (1997): 925-51; Michael J. Braddick, "Administrative performance: the representation of political authority in early modern England," *Negotiating Power in Early Modern Society*, eds. Michael J. Braddick and John Walter (Cambridge: Cambridge UP, 2001) 166-87; Robert C. Braddock, "The Rewards of Office-holding in Tudor England" *The Journal of British Studies* 14.2 (1975) 29-47; A.J. Fletcher, "Honour, Reputation and Local Officeholding in Elizabethan and Stuart England," *Order and Disorder in Early Modern England*, eds. Anthony Fletcher and John Stevenson (Cambridge: Cambridge UP, 1985) 92-115.

<sup>6</sup>See Keith Wrightson, "Two concepts of order: justices, constables and jurymen in seventeenth-century England," *An Ungovernable People: The English and their law in the seventeenth and eighteenth centuries*, eds. John Brewer and John Styles (New Brunswick, NJ: Rutgers UP, 1980) 21-46; Joan R. Kent, *The English Village Constable, 1580-1642: A Social and Administrative Study* (Oxford: Clarendon P, 1986).

<sup>7</sup>Patrick Collinson, "The Monarchical Republic of Queen Elizabeth I," *Bulletin of The John Rylands University Library of Manchester* 69.2 (1987): 394-424; Mark Goldie, "The Unacknowledged Republic: Officeholding in Early Modern England," *The Politics of the Excluded, c. 1500-1850*, ed. Tim Harris (New York: St. Martin's Press, 2001).

Collinson and Goldie also have helped us to understand officeholding in terms of the practical matters of governance. Collinson argues that the early modern bureaucracy, that network of administrative offices that enabled the state to function, constituted something like a republic within the monarchy: while “everything which was done, publicly and by due legal authority, was in a sense done by the monarch,” the monarch herself did not attend to every aspect of governing.<sup>8</sup> Goldie elaborates, noting the mutual benefit for Crown and subject when subjects hold office: the monarchy needed administrative help, and the “gentleman needed office as a mark of status and an instrument of social authority.”<sup>9</sup> Officers who mediated between their local community and the Crown negotiated outcomes that served the interests of both.<sup>10</sup> Needless to say, subject-citizens served in a number of different offices. Goldie lists the sheriff, coroner, constable, justice’s clerk, militia mustermaster, gaol-keeper, mayor of the borough, and alderman, among others.<sup>11</sup> He observes that the practice of holding office was “remarkably socially extensive.... [I]n parishes, offices were held by an array of people from minor gentry to cottagers.”<sup>12</sup> The City of London developed its own particular bureaucracy, including its Court of Common Council, which served a primarily legislative function, and its Court of Aldermen, which served a primarily executive function.<sup>13</sup> London’s lord mayor was the city’s most prominent officeholder. Certain offices were more desirable than others; and

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<sup>8</sup>Collinson, “Monarchical Republic” 399-400.

<sup>9</sup>Goldie, “Unacknowledged Republic” 159.

<sup>10</sup>Goldie, “Unacknowledged Republic” 166.

<sup>11</sup>Goldie, “Unacknowledged Republic” 160-61.

<sup>12</sup>Goldie, “Unacknowledged Republic” 163.

<sup>13</sup>Ian W. Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge UP, 1991) 18-19. See also Valerie Pearl, *London and the Outbreak of the Puritan Revolution: City Government and National Politics* (Oxford: Oxford UP, 1961); Frank Freeman Foster, *The Politics of Stability: A Portrait of the Rulers in Elizabethan London* (London: Royal Historical Society, 1977).

while people were occasionally fined for failing to uphold their duties, the very existence of such fines points to the value placed by the community on holding office: “governance was the required activity of any and every citizen.”<sup>14</sup>

The range of contemporary tracts devoted to officeholding is another indication of subjects’ investment in this avenue for civic participation. Many humanists insisted on civic participation as the “key to public good.”<sup>15</sup> Works such as Sir Thomas Elyot’s *Boke of the Governour* emphasize the need for magistrates to be virtuous.<sup>16</sup> Translations of Cicero’s *De Officiis* canvas a much broader range of qualities that a magistrate needed.<sup>17</sup> Manuals devoted to particular offices constituted an emerging genre. William Lambard’s *The Dueties of Constables, Borsholders, Tythingmen, and such other lowe and lay Ministers of the Peace* and Sir Anthony Fitzherbert’s *Office et auctoryte des iustyces de peas* discuss the duties of local officeholders, often explaining how they interact with other local officeholders.<sup>18</sup> John Hooker’s *A Pamphlet of the Offices, and duties of everie particular Sworne Officer, of the Citie of Excester* (1584) localizes its discussion by dwelling on the offices of a particular town. One 1600 tract served as a calendar, reminding London’s lord mayor of the responsibilities he held throughout the year.<sup>19</sup> Another focused on the duties required of more elevated officeholders: “A Treatise of the Office of a

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<sup>14</sup>Goldie, “Unacknowledged Republic” 168.

<sup>15</sup>Goldie, “Unacknowledged Republic” 181.

<sup>16</sup>Thomas Elyot, *The Boke Named the Governour*, ed. Donald W. Rude (New York: Garland, 1992).

<sup>17</sup>Marcus Tullius Cicero, *Marcus Tullius Ciceroes thre bokes of duties*, trans. Nicolas Grimalde, ed. Gerald O’Gorman (Cranbury, NJ: Associated University Presses, 1990); see also Barnabe Barnes, *Four Bookes of Offices* (London, 1606).

<sup>18</sup>William Lambard, *The Dueties of Constables, Borsholders, Tythingmen, and such other lowe and lay Ministers of the Peace* (London, 1583); Sir Anthony Fitzherbert, *Office et auctoryte des iustyces de peas* (London, 1538). Both Lambard’s and Fitzherbert’s texts went through numerous editions.

<sup>19</sup>J. Windet, *General Matters to be Remembered of the Lord Mayor, Through the Whole Year* (London, 1600).

Councillor and Principall Secretarie to her Ma[jes]tie,” presumably written by Robert Beale around 1592, provides detailed instructions for the Principal Secretary to Queen Elizabeth.<sup>20</sup> Taken together, these tracts were, following David Norbrook, “writing the English republic.”

If we look closely at these prose and dramatic depictions of officeholding, we may begin to glimpse the changing nature of government. Goldie, who argues for the importance of subjects’ governing through office, also separates this model of service from the psephological model, or electoral politics.<sup>21</sup> But, as Hadfield notes, officeholding “can be seen to constitute a public realm developing alongside that of formal political representation in parliament.”<sup>22</sup> Surely, Parliament’s role as a representative institution has been much debated.<sup>23</sup> Derek Hirst and Mark Kishlansky, in particular, have explored Parliamentary election or selection procedures, accounting for the shift by the end of the seventeenth century according to which elected politicians were presumed to represent constituents.<sup>24</sup> If nascent Parliamentary electoral politics help to explain the shift toward representative government, evolving concepts of officeholders’ duties are equally important to our understanding of the development of constituencies. Political representation had

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<sup>20</sup>Robert Beale, “A Treatise of the Office of a Councillor and Principall Secretarie to her Ma[jes]tie,” appendix, Conyers Read, *Mr. Secretary Walsingham and the Policy of Queen Elizabeth* (Oxford: Oxford UP, 1925) 423-43.

<sup>21</sup>Goldie, “Unacknowledged Republic” 156-57.

<sup>22</sup>Andrew Hadfield, *Shakespeare and Republicanism* (Cambridge: Cambridge UP, 2005) 53.

<sup>23</sup>See John Neale, *Elizabeth I and her Parliaments, 1559-1601*, 2 vols. (New York: St. Martins, 1958); G. R. Elton, *The Parliament of England, 1559-1581* (Cambridge: Cambridge UP, 1986); T.E. Hartley, *Elizabeth’s Parliaments: Queen, Lords and Commons, 1559-1601* (Manchester: Manchester UP, 1992); *Parliament and Liberty from the Reign of Elizabeth to the English Civil War*, ed. J.H. Hexter (Stanford: Stanford UP, 1992); Norman Jones, “Parliament and the political society of Elizabethan England,” *Tudor Political Culture*, ed. Dale Hoak (Cambridge: Cambridge UP, 1995) 226-242.

<sup>24</sup>Derek Hirst, *The Representative of the People? Voters and Voting in England under the Early Stuarts* (Cambridge: Cambridge UP, 1975); Mark A. Kishlansky, *Parliamentary Selection: Social and Political Choice in Early Modern England* (Cambridge: Cambridge UP, 1986).

increasingly to acknowledge the officeholder's duty to his or her constituents.<sup>25</sup>

Many town and county officeholders, like the mayor, recorder and justice of the peace, would have sat in Parliament.<sup>26</sup> They would have participated in debates over issues related to representation and the right to free speech, and they would have brought to such debates their own experiences negotiating the competing demands of the monarch, the Privy Council, and their local communities. Contemporary writing about officers executing their duties was consistently responsive to the various pressures brought to bear upon officeholding.

While literary scholars have yet fully to consider officeholding, they have made a case for the political agency of what we now call literary texts.<sup>27</sup> New historicists and cultural materialists have examined discursive exchanges between the theater and the state.<sup>28</sup> Their investigations have led to fruitful conversations about subjectivity and identity.<sup>29</sup> And significant aspects of early modern representations of officeholding have been noticed, for example the staging of particular officers and the

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<sup>25</sup>Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: U of California P, 1967) 155.

<sup>26</sup>Kishlansky, *Parliamentary Selection* 39. Kishlansky cites Vivienne J. Hodges, "The Electoral Influence of the Aristocracy 1604-1640," PhD dissertation, Columbia University, 1977, pp. 437-54. Justices were also often returned to Parliament. See J. H. Gleason, *The Justices of the Peace in England, 1558-1640: A Later Eirenarcha* (Oxford: Clarendon P, 1969) 26.

<sup>27</sup>See, for example, Marie Axton, *The Queen's Two Bodies: Drama and the Elizabethan Succession* (London: Royal Historical Society, 1977); David Norbrook, *Poetry and Politics in the English Renaissance*, rev. ed. (Oxford: Oxford UP, 2002).

<sup>28</sup>Seminal works include Stephen Orgel, *The Illusion of Power* (Berkeley: University of California Press, 1975); Stephen Greenblatt, *Renaissance Self-Fashioning* (Chicago: University of Chicago Press, 1980); Jonathan Goldberg, *James I and the Politics of Literature* (Baltimore: Johns Hopkins University Press, 1983); Louis Montrose, *The Purpose of Playing* (Chicago: University of Chicago Press, 1996).

<sup>29</sup>See, for example, Stephen Greenblatt, "Invisible Bullets: Renaissance Authority and its Subversion," *Glyph* 8 (1981): 40-60; Carol Thomas Neely, "Constructing the Subject," *English Literary Renaissance* 18.1 (1988): 5-18; Leonard Tennenhouse, *Power on Display* (New York: Methuen, 1986); Annabel Patterson, *Shakespeare and the Popular Voice* (Cambridge, Mass: Blackwell, 1989); Richard Helgerson, *Forms of Nationhood: The Elizabethan Writing of England* (Chicago: U of Chicago P, 1992); Jean E. Howard and Phyllis Rackin, *Engendering a Nation: A Feminist Account of Shakespeare's English Histories* (New York: Routledge, 1997); Christopher Pye, *The Vanishing: Shakespeare, the Subject, and Early Modern Culture* (Durham, NC: Duke UP, 2000).

theatricality of specific offices, such as the lord mayor's pageants.<sup>30</sup> But a fuller investigation will allow us further to explore intersections between dramatic and political representation.<sup>31</sup> Andrew Hadfield has noted that among the most pressing political issues in early modern England was the question of "how exactly the people at large should be represented by their rulers."<sup>32</sup> Popular dramatists and the early modern writers of officeholding tracts were coming up with a host of answers.

They were deliberating on nothing less than duty, justice, law, loyalty, warrants, oaths, conscience, ministering, and free speech. That these terms surface repeatedly in the following chapters indicates the early modern English consideration of the promise of government amidst shifting social, economic, political, and religious dynamics. As these writers articulate their concerns, they draw attention to the limitations of such terms. But they reconceive their scope, hence the potential to broaden their parameters for subjects, governors, and government. A variety of what Raymond Williams calls "keywords" were newly scrutinized.<sup>33</sup> They were words like "represent," whose meanings were "offered, felt for, tested, confirmed, asserted, qualified, changed."<sup>34</sup> We may take some of these words for granted today, but we must reassess their early modern force if we are to understand their significance in

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<sup>30</sup>See, for instance, Phoebe S. Spinrad, "Dogberry Hero: Shakespeare's Comic Constables in their Communal Context," *Studies in Philology* 89.2 (1992): 161-78; Julie Sanders, "A Parody of Lord Chief Justice Popham in *The Devil Is an Ass*," *Notes and Queries* 44.242.4 (1997): 528-30; David Bergeron, *English Civic Pageantry 1558-1642* (Columbia: University of South Carolina Press, 1971); Theodore B. Leinwand, "London Triumphant: The Jacobean Lord Mayor's Show," *CLIO* 11:2 (1982): 137-53; Leinwand, "Negotiation and New Historicism," *PMLA* 105.3 (1990): 477-90. Edward Gieskes examines the professionalization of bureaucracy in *Representing the Professions: Administration, Law, and Theater in Early Modern England* (Newark: U of Delaware P, 2006).

<sup>31</sup>Cf. David Norbrook, whose *Writing the English Republic* traces the "parallels between artistic and political representation" (10).

<sup>32</sup>Hadfield, *Shakespeare* 12.

<sup>33</sup>Raymond Williams, *Keywords: A Vocabulary of Culture and Society*, rev. ed. (Oxford: Oxford UP, 1983).

<sup>34</sup>Williams, *Keywords* 12, 266-69.

centuries gone by. As I outline my chapters, then, I will identify the keywords that each chapter brings to the fore.

In chapter one, I provide an overview of contemporary officeholding manuals. While these manuals described an officeholder's duties, they also often expanded those duties and the concept of office itself. To whom or what was the officeholder dutybound? To the monarch? To God? To other subjects? To the law? To justice? This overview canvases a range of manuals as well as their socio-political context. I then focus on William Lambard's *Eirenarcha*, first printed in 1581. Whereas earlier manuals for justices were primarily printed lists of statutes that justices were expected to enforce, Lambard theorizes about the justice's office, providing the office's history and establishing the justice's authority. In doing so, he points to a justice's sources of obligation. Historians have noted that the justice's office became important in late medieval England as a way for Tudor monarchs to centralize power.<sup>35</sup> When Lambard discusses the officeholder's duties, he shifts from a model according to which the justice is primarily duty-bound to his monarch to one in which he is equally duty-bound to God or to the common law—Lambard's justice has the capacity to discern for himself to whom or what he is duty-bound and how he should execute his duties. Taken together, these tracts provide evidence of the early modern investment in expanding office and establishing the officeholder as a representative of interests besides those of the monarch.

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<sup>35</sup>For the relationship between central and local governing agencies during the Tudor period, see A. Hassell Smith, *County and Court: Government and Politics in Norfolk, 1558-1603* (Oxford: Clarendon P, 1974); Peter Clark, *English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent 1500-1640* (Rutherford: Fairleigh Dickinson UP, 1977).



As this chapter suggests, “office” itself is a cultural keyword. “Office” derives from classical Latin *officium*, meaning task, duty, moral obligation, service, official post, function of a thing, bodily function, rite or ceremony. Medieval and early modern uses include the sense of “official post.” Robert Wimbledon asks in one of his sermons (c. 1387), “How hast thou rewld, that is to seye, the people and the office that thou haddist to gouerne?” In 1433, the *Rolls of Parliament* record that “no man that hath been in the seid Offices of Corouner.” Following on the Latin *ex officio*, one could indicate one’s authority as being “of office.” And by 1586, one could instruct that one’s “signet of office [be] thereto affixt.” Modern usage typically refers to positions of public service. But medieval and early modern usage also often emphasized one’s general moral obligation. For instance, Robert Whittinton defines honesty as “the offyce and dutie of a man” in his translation of Cicero, *The Three Bokes of Tullyes Offyces* (c. 1534). Edward Hall, in 1548, has in mind not just a monarch’s public position, but a monarch’s duty as well: “To thentent y<sup>l</sup> he worthely might be called a king, whose office is to rule & not to be ruled of other.”<sup>36</sup> It is the early modern emphasis on this sense of “dutie,” I would argue, that enables “official post” to become a site of political contest.

The officeholding manuals also call attention to the varied connotations of “law” and “justice” in early modern England. According to William Lambard, for example, justices were called justices precisely because they “doe (or should doe) law and Iustice.”<sup>37</sup> But determining exactly what that means, in turn, requires manuals. “Law” derived from the Old Icelandic *lag*, which meant something laid or fixed (as in

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<sup>36</sup>“office, n.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 29 Jan. 2005 <<http://dictionary.oed.com>>.

<sup>37</sup> William Lambard, *Eirenarcha* (London, 1594) 3.

a layer, or a fixed relationship like a partnership). Latin *lex* is usually translated into English as “law,” so English connotations of law have inevitably been inflected by Rome. As early as the eleventh century, the “laws” of Engla, Dena, Cnutes are referred to in works such as the *Laws of Ethelred* and the *Anglo-Saxon Chronicle*, indicating recognition of a set of rules that communities considered members to be obligated to follow. This law could be divine, as it is in Wulfstan’s *Homilies* (1023), where God’s law is invoked. Five hundred years later, Edward Hall, in his *Chronicles*, was still concerned with “christen men” making out “the law of God.” But Hall also refers to the law in terms of something natural, discernible by human reason: “I shuld not do that whiche by the lawes of nature and reason I ought to do, which is to rendre kyndnes for kyndnes.” In sixteenth-century England, there were civil, canon, and common laws; Raphael Holinshed describes Peter Mallart as a “doctor of both lawes,” civil and canon, in his *Chronicles*.<sup>38</sup> In early modern England, those who were responsible for “doing” law had an inherently complex duty.

“Justice,” for its part, is derived from Latin *justitia*, meaning righteousness, uprightness, or equity. Of course justice pertained to the exercise of power and the authority to punish and reward: in the *Old English Chronicle* (1140), we read that “He dide god iustise and makede pais.” And in 1548, Edward Hall’s *Chronicles* describes the duties of a king: “I am...an anyoynted kyng, to whom...it apperteineth...to minister to them indifferent iustice.” But justice could denote the administrative process that leads to punishment or the punishment itself. In William

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<sup>38</sup>“law, n.1” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 1 Oct. 2008 <http://dictionary.oed.com>.

Caxton's *Historie of Jason* (c. 1477), we read: "He sente to Zethephius that he sholde do iustice on his seruauntes." Caxton aside, justice typically had theological connotations: John Man's *Musculus' Common places of christian religion* (1563) urged "suppressyng the raygne of synne, [that] we may serve justice." Thomas Usk spoke of the "Vertues of soule ... whiche been Prudence, Justice, Temperaunce, and Strength" in *The Testament of Love* (c. 1387). Justice was then a civic and a theological virtue. As for justices, in 1276, they were sent out to inquire into complaints: "Acorde est..que Iustices ailent parmi la terre, a enquere e oier et terminer les pleintes e les quereles de trespas." But by the sixteenth century, a justice in England typically referred to a justice of the peace or another low-level magistrate. In 1586, in *The English Secretary*, Angel Day writes of one "being ... brought before a Justice upon suspition of his wretched living." Day's justice was a far cry from the sword or scales-wielding, veiled-eyed goddess whom Shakespeare invoked in *Henry IV* (c. 1599): "You are right Iustice, and you weigh this well: Therefore still beare the Ballance, and the Sword" (5.2.102).<sup>39</sup>

In chapter two, I consider three dramatic representations of justice – of justices of the peace – in Anthony Munday's *Downfall of Robert, Earl of Huntington*, William Shakespeare's *Merry Wives of Windsor* and Ben Jonson's *Every Man in His Humor*. By juxtaposing officeholding with quasi-feudal and chivalric models of service, these dramatists define what officeholding was not and what it could be. They respond to traditions based on chivalric champions of justice, knights whose personal quests for honor entail distributing justice by force and rewarding personal

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<sup>39</sup> "justice, n." *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 2008) 22 Feb 2008 <<http://dictionary.oed.com>>.

loyalties. But these same dramatists were alert to republican assertion of the value of office and civil (as opposed to chivalric) service. They were anything but oblivious to the absolutist rhetoric according to which governing was solely the monarch's responsibility. Munday's play reveals that justice can be confused by personal loyalties, and it suggests the dangers of meting out justice according to those loyalties. In Shakespeare's *Merry Wives*, Justice Shallow's longing for the old days takes the form of a misguided nostalgia for chivalric traditions that threatens to disturb the common peace. Jonson in turn considers officeholding an alternative to chivalry. In *Every Man In His Humor*, vows of chivalry turn out to be empty oaths. But the warrants that are issued by Justice Clement are equally suspect. Only the officeholder's office – the institution and its processes – fully authorizes justice.

All of these dramatists acknowledge that championing justice is not the same as executing justice. If their plays dwell on “warrants” and “oaths,” it is because these two words confirm the power of words to bring about justice. “Warrant” is related to guarantee. Both words derive from Old French *warrant*, *warand*, a variation of *guarant*, *garant*, which in turn is related to Frankish Latin *warens*, *warentem*, *warandus*, *-um*. Warrant was used as early as the thirteenth century to denote a person who guaranteed one's safety, or to denote that safety itself. For example, in *The lay of Havelok the Dane* (c.1300), “Cum now forth with me, ... For now wile y youre warant be.” In 1490, in William Caxton's translation, *The Boke of Eneydos*: “... [E]lecor, that was ryght swyfte & lyght, fled toward the castel for his waraunt.” While these senses are now obsolete, they were still current in early modern England, suggesting the close personal ties within communities and, at times, a perception of

an urgent need for safety. By the fifteenth century, however, a warrant could be something much more impersonal, a document authorizing action: in 1464, according to the *Manners & Household Expenses of England in the thirteenth and fifteenth centuries*, “Iohn Boteler of Herwesche is on of the iij. that was arested at the same towen be Pertones warente.”<sup>40</sup> And by the fifteenth century, “warrant” could also be used to indicate that one guaranteed the truth of a statement. Or it could express the authorization to act; as William Lambard later elaborates in *Eirenarcha*, “the forme of [the justices’] commission was enlarged, so as they ... were ... warranted also to arrest Felons that were indited.”<sup>41</sup>

Of course, a warrant could also be vapid. In *The Merry Wives of Windsor*, Mistress Quickly warrants Falstaff five times in quick succession that Mistress Ford is enthralled with him (2.2.57-72). Similarly, an oath could be a guarantee or an empty promise. The etymology for “oath” is uncertain. The word existed in various forms in Old and Middle English; cognates existed in Old Frisian, Old High German, and other languages. An oath invokes a higher authority as witness to a statement’s truth. The higher authority is often God or a supernatural deity, but not always; in Lord John Berners’s *Boke of the duke Huon of Burdeux* (1533) the emperor “hath so made his oth and promyse & hath sworne by his crowne imperyall.” In early modern England, authorities and dramatists alike were sensitive to the possibly blasphemous nature of oaths. In 1550, Robert Crowley warned against “wycked othes and the tyme myspent.” In 1606, Thomas Dekker defined oaths as “Crutches, vpon which

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<sup>40</sup>“warrant, n.<sup>1</sup>” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 26 Jan. 2006 <<http://dictionary.oed.com>>.

<sup>41</sup>“warrant, v.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 26 Jan. 2006 <<http://dictionary.oed.com>>.

Lyes ... go, & neede no other pasport ... oathes are wounds that a man stabs into himselfe.”<sup>42</sup> The potentially profane act of swearing before God is of concern in chapter three, as well.

In chapter three, I consider depictions of the lord chancellor in Anthony Munday’s *Play of Sir Thomas More* and in *Henry VIII*, by Shakespeare and John Fletcher. These plays interrogate the claims made by early modern magistrates that they were ministers of justice and of the law. I read these plays in the light of contemporary debates over the jurisdiction of the Court of Chancery, a court designed to mitigate the rigor of the common law. Because the lord chancellor, the head of the Court of Chancery, judged these cases according to conscience, the court became known as the court of conscience. The lord chancellor himself, deputized by the monarch, was known as the keeper of the king’s conscience. Chancery became associated with monarchical prerogative, however, and disputes occurred over whether the monarch’s judgment could supersede common law judgment. Both plays challenge their officeholder’s claim to be a minister. Munday’s drama about the rise and fall of Sir Thomas More questions whether an officeholder, and the monarch by proxy, has jurisdiction over a subject’s conscience. In *Henry VIII*, Shakespeare and Fletcher respond to concerns over James’s claims to be above the law by making clear that “ministering the law” does not mean “ministering the monarch’s will.” Both dramatists indicate that officeholders, including the monarch, need limits; only by staying within those limits do officeholders best serve subjects.

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<sup>42</sup>“oath, n.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 29 Jan. 2008 <<http://dictionary.oed.com>>.

The key terms, justice and law, again feature in this chapter. But here, we are also asked what it means to “minister.” “Minister” stems from the Anglo-Norman and Old and Middle French *menestre*, *ministre*, servant, as in a person in the service of the king or of God, and *ministrer*, *menistrer*, to serve, which in turn derives from the classical Latin *ministrare*, to provide, to supply, to manage or control, to act as a servant, to wait on, to serve food or drink, to administer medicines. The term was used as early as the twelfth century to denote a priest; in specific orders of Franciscan friars and Jesuits, it came to signify one who was in command. In 1450, the *Rolls of Parliament* mentions “Nicholas, nowe Maistir or Minister of the ordre of Seynt Gilbert of Sempyngham.” During the Reformation, the term “minister” was used in opposition to priest, “to imply that officiating at the commemoration of the Lord’s Supper did not constitute the offering of a sacrifice.” And in the fifteenth century, one could be said to minister justice or minister the law. In 1467-8, the *Rolls of Parliament* laments that “this Londe was full naked and bareyn of Justice, the Peas not kepte, nor Lawes duely mynystred within the same.” But it is not until the late sixteenth century that the word “minister” designates a high officer of state, a person acting for a head of state in a particular department. George Puttenham observed in 1589, in the *Arte of English Poesie*, that a “*politien is rather a surveyour of civilitie than civil, & a publique minister or Counseller in the state.*”<sup>43</sup> Munday, Shakespeare, and Fletcher explore the tension between a minister who supplies, waits on, serves, and a minister who administrates, manages, controls.

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<sup>43</sup>“minister, n.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 28 Jan 2008 <<http://dictionary.oed.com>>; and “minister, v.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 28 Jan 2008 <<http://dictionary.oed.com>>.

As they examine the public and private nature of the minister of state's office, Munday, Shakespeare and Fletcher also examine the public and private nature of “conscience.” As a judge and as an administrator, the lord chancellor relied on conscience to determine what was right. “Conscience” derives from the Latin *conscientia*, meaning privacy of knowledge, knowledge within oneself. This in turn derives from *conscire*, *con* –together + *scire* –to know. The word was used as early as the thirteenth century to connote a sense of moral right and wrong; by the sixteenth century, as we have noted, conscience had become important for litigants. But as the editors of the OED acknowledge, and as our playwrights underscore, determinations of “right” have varied “from the conception of the mere exercise of the ordinary judgment on moral questions, to that of an infallible guide of conduct, a sort of deity within us.” William Tyndale’s *The Parable of the Wicked Mammon* (1528) speaks of being “without conscience of God, and without knowledge of the true intent of fasting.” For Shakespeare, to “tell one’s conscience” meant to speak one’s mind or voice one’s conviction. In *Henry V*, the disguised King ironically declares that “By my troth, I will speake my conscience of the King” (4.1.113).<sup>44</sup>

In the fourth and final chapter, I discuss officeholders who are charged with speaking for the monarch and subjects, and whether or not they speak their conscience. I examine three plays that feature London’s lord mayor—Shakespeare’s *Richard III*, Thomas Heywood’s *Edward IV*, and Heywood’s *I If You Know Not Me, You Know Nobody*—in the light of contemporary disputes over free speech in Parliament. Members of Parliament were fleshing out what exactly it meant to

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<sup>44</sup>“conscience,” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 11 Feb 2008 <<http://dictionary.oed.com>>.



counsel the monarch. All three plays shift these concerns to office, placing London's officeholders in relation to the concept of free speech. In Shakespeare's *Richard III*, Richard scripts the lord mayor's speeches. By casting Richard as a tyrant, Shakespeare also points to a healthy monarchy, in which officeholders have the right to speak the truth. Heywood's quasi-republican *Edward IV* celebrates the lord mayor and London's citizens while depicting Edward as yet another tyrant, trampling on his subjects' rights. The lord mayor plays the smallest of roles in *If You Know Not Me*, appearing at the end to welcome the newly crowned Elizabeth to London. But even via the most conventional of exchanges, Heywood can assert the lord mayor's duty to speak Londoners' opinions. Each of these dramatists expects London's officeholders to speak for Londoners. By asking how freely they can in fact speak, they associate office itself with the representation of subjects.

It was not until the mid-seventeenth century that "represent" connoted acting on behalf of constituents in a legislative or deliberative assembly. In 1655, Oliver Cromwell observes in a speech to Parliament that "I have been careful of your safety, and the safety of those that you represented." But the seeds of political representation were in part planted in early modern representations of officeholders. "Represent" derives from Latin *representaere*, *re + praesentare*, to present. By the fifteenth century, the term could be used to denote the artistic depiction of something. Late in the sixteenth century, Sir Philip Sidney writes in *The Arcadia* of "the Painter meaning to represent the present condition of the young ladie." By the sixteenth century, the word could also mean "to substitute" or "act as a deputy." In his 1595 recollections of his voyage with Robert Dudley, Captain Wyatt records that "our Generall sent

Captain Jobson, repraesentinge his person with his authoritie, as his Leiftenante  
Generall.”<sup>45</sup> When they staged officeholders, dramatists, like the writers of  
officeholding manuals, were broadening not just the connotations, but the denotations  
of “representation.”

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<sup>45</sup>"represent, v.<sup>1</sup>." *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989)  
13Oct. 2005 <<http://dictionary.oed.com>>.

## Chapter 1: The Subject's Office

*Office (Officium)* doth signifie not onely that function, by virtue wherof a man hath some imploiment in the affaires of another, as of the King or other common person; but also an Inquisition made to the Kings use of any thing by vertue of his office who inquireth....<sup>46</sup>

John Cowell's definition of "office" in his dictionary of legal terms suggests that the officeholder is not just a surrogate, but the king's surrogate. But Cowell was an absolutist, and it is no surprise that members of the 1610 Parliament were outraged by his claim that the king was above the law.<sup>47</sup> Of course, any definition of "office" would have been ideologically-driven and so a site of contest. For Cowell, "office" entailed a "position of trust, authority, or service under constituted authority; a post in the administration of government, the public service...."<sup>48</sup> For him, the Latin root *officium* (task, duty, moral obligation) is in play.<sup>49</sup> Cowell was hardly alone in defining office. Sixteenth- and seventeenth-century officeholders' manuals and treatises proliferated, and both the jurisdiction and duties of those holding positions of "service under constituted authority" were their abiding concern.

The very range of these works and the extensiveness of their printing history indicate their significance. Some focus primarily on local offices. Others examine

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<sup>46</sup> John Cowell, *The Interpreter* (London, 1607) N3<sup>r</sup>.

<sup>47</sup> Brian P. Levack, "Cowell, John (1554-1611)," *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004) 20 Sept 2007 <<http://www.oxforddnb.com>>.

<sup>48</sup> "office, n." *Oxford English Dictionary Online* (Oxford: Oxford UP, 2007) 13 June 2007 <<http://dictionary.oed.com>>.

<sup>49</sup> "office, n." <<http://dictionary.oed.com>>.

the duties required of more elevated offices, such as the monarch's secretary. Their descriptions of officeholders' obligations are often prefaced by narratives of the offices' histories and etymologies of the offices' titles. They share a vocabulary of virtue and service. But because these manuals assume "service under constituted authority," they necessarily get involved in defining "constituted authority" itself. Virtually all of them uncontroversially stipulate service to God. Cowell, we have seen, binds office to service to the king; but others locate authority in Parliamentary statute, common law, and/or custom. These tracts, then, explore the representative nature of public office in the early modern period. They recognize that questions of obligation always refer back to the individual or group whom a public officeholder represents. In the following overview of officeholding manuals, I first canvas early modern debates over the parameters of the subject's offices. A close examination of William Lambard's *Eirenarcha* (1581) then reveals the ways in which office can be made to serve the subject.

The first manuals for local officeholders such as justices of the peace and sheriffs were printed early in the sixteenth century. They were often bound with other tracts concerning local government, which, circulating in manuscript at the end of the fifteenth century, had provided information for example on the Court Baron, the Leets, and the Court of Hundred.<sup>50</sup> The movement of these manuals to print was certainly a consequence of the advent of the printing press in England. But it also was part and parcel of the professionalization of the law. Lawyers not only were receiving a more formal education, they had begun to rely on standardized textbooks that evolved in part from common law court practices dating to the thirteenth century.

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<sup>50</sup> Sir William Holdsworth, *A History of English Law*, vol. 4 (London: Methuen, 1966) 112.

<sup>51</sup> Courts began keeping reports of cases, recording precedents for pleas and judgments.<sup>52</sup> By the seventeenth century, lawyers arguing a case could ““vouch the record.””<sup>53</sup> Meanwhile, yearbooks, named reports, abridgements, and registers compiled important aspects of legal information, enabling quick access to precedents and forms of writs.<sup>54</sup> Various expositions of the common law were also composed. These treatises included twelfth and thirteenth-century tracts attributed to Ranulf de Glanvill and Henry de Bracton; the anonymous fourteenth century *Old Tenures* and *Old Natura Brevium*; Littleton’s *New Tenures*, composed in the fifteenth century; and in the sixteenth century, Fitzherbert’s *New Natura Brevium* and Christopher St. German’s *Doctor and Student*.<sup>55</sup> These reports and treatises informed lawyers and judges about common law principles and practices. Similarly, manuals for justices of the peace, sheriffs and constables spelled out their duties in and out of court.

The widespread dissemination of such manuals was also a response to the Tudor program to centralize power and achieve stability in the aftermath of fifteenth-century upheaval.<sup>56</sup> Crucial to these efforts were customary networks of law enforcement already in place.<sup>57</sup> But printed manuals also provided information to local officials who were expected to uphold Crown policies.<sup>58</sup> Cardinal Wolsey, for example, emphasized the authority of the commission of the peace over the office of

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<sup>51</sup> S.J. Gunn, *Early Tudor Government, 1485-1558* (New York: St. Martin’s Press, 1995) 15.

<sup>52</sup> J. H. Baker, *An Introduction to English Legal History*, 2<sup>nd</sup> ed., (London: Butterworths, 1979) 151.

<sup>53</sup> Baker, *English Legal History* 152.

<sup>54</sup> Baker, *English Legal History* 152-60.

<sup>55</sup> Baker, *English Legal History* 161-64.

<sup>56</sup> For the relationship between central and local governing agencies during the Tudor period, see A. Hassell Smith, *County and Court: Government and Politics in Norfolk, 1558-1603* (Oxford: Clarendon P, 1974); Peter Clark, *English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent 1500-1640* (Rutherford: Fairleigh Dickinson UP, 1977).

<sup>57</sup> Clark, *Kent* 16-17; Mary Polito, *Governmental Arts in Early Tudor England* (Burlington, VT: Ashgate, 2005) 28, 35.

<sup>58</sup> Polito, *Governmental Arts* 29.

sheriff, an office that had become associated with the powerful nobility.<sup>59</sup> The justice's office gained in prestige and power as Wolsey counted on justices to effect Crown policies.<sup>60</sup> Not by accident, the number of men commissioned as justices mounted steadily over the sixteenth century.<sup>61</sup> While increasingly these men were trained in the law, many were not; clergy and county gentry with connections to the Court were also appointed.<sup>62</sup> As their responsibilities grew, they turned to manuals for guidelines about their duties and about procedures. Later in the century, at meetings of quarter sessions, "all but the most experienced chairmen would read from a prepared classification available in an up-to-date procedural handbook like Lambarde's *Eirenarcha*."<sup>63</sup> In general, as Tudor policies emphasizing the importance of local offices increased the pressure on local officeholders, officeholders relied on manuals to help them perform duties.

It is well-known that this was also a time when humanists were discussing governance. Classical works such as Cicero's *De officiis* were recovered and cited for their catalogues of the virtuous qualities that men needed in order to govern.<sup>64</sup> *De officiis* was published in both Latin and English editions throughout the sixteenth century.<sup>65</sup> Cicero discusses the concept of duty, establishing that the "foundations of

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<sup>59</sup> Clark, *Kent* 17.

<sup>60</sup> Clark, *Kent* 17, 19.

<sup>61</sup> Clark, *Kent* 17-18; Smith 86. A number of sources remark on this fact; Lambard himself comments on it in *Eirenarcha, or Of the Office of the Justices of the Peace in Four Books* (London, 1581) 37-38.

<sup>62</sup> Clark, *Kent* 18-19.

<sup>63</sup> Smith, *Norfolk* 92.

<sup>64</sup> Skinner, *Foundations* 84-88; Markku Peltonen, *Classical Humanism and Republicanism in English Political Thought, 1570-1640* (Cambridge: Cambridge UP, 1995) 7-11.

<sup>65</sup> Erasmus published an annotated Latin edition of Cicero's work in 1520. In 1556, Richard Tottel printed Nicholas Grimalde's English translation of Cicero's work; over the next forty-five years, Grimalde's edition was printed at least seven more times. See Gerald O'Gorman, introduction, *Marcus Tullius Cicero's three books of duties*, by Marcus Tullius Cicero, trans. Nicolas Grimalde, ed. Gerald O'Gorman (Cranbury, NJ: Associated University Presses, 1990) 13-14.

justice” are “first, that no man be hurt: next, that common profit be served.”<sup>66</sup> For some men, holding office was a path to living dutifully: “But all lingering sett aside, offices ar to be taken, and the commonweale to be served of those: who have by nature the helpes of dispatch of maters. For otherwise can neither the state be governed, nor the greatnesse of corage be declared.”<sup>67</sup> Officeholders were uniquely able to act on behalf of the entire realm, not just themselves:

Whoso shall bee governours of the commonweale, lette them observe two precepts of Platoes: one is, that they so mainteine the profit of the commons: that whatever they doo, they referre it therto, allwayes forgetting their owne commodities: the other is, that thei have care over the holle bodie of the commonweale: leste while they upholde somme one parte, the rest they leave destitute.”<sup>68</sup>

For Cicero, private virtue becomes public virtue when men fulfill their obligation to the commonweale.

The values championed in classical works were carried over into an English context in works like *The Mirror for Magistrates* and Sir Thomas Elyot’s *The Boke Named the Governour*. Elyot cites Cicero’s *De Officiis* as required reading for a gentleman preparing for public service, arguing that he would find “incomparable swetnesse of words and mater ... in the saide warkes of Plato and Cicero.”<sup>69</sup> Even

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<sup>66</sup> Marcus Tullius Cicero, *Marcus Tullius Ciceroes thre bokes of duties*, trans. Nicolas Grimalde, ed. Gerald O’Gorman (Cranbury, NJ: Associated University Presses, 1990) 63.

<sup>67</sup> Cicero, *Duties* 78.

<sup>68</sup> Cicero, *Duties* 83.

<sup>69</sup> Sir Thomas Elyot, *A Critical Edition of Sir Thomas Elyot’s The Boke named the Governour*, ed. Donald W. Rude (New York: Garland, 1992) 54. Elyot’s work drew on other literary traditions as well, such as courtesy books like the Italian Baldassare Castiglione’s *Il Cortegiano*; see Donald W. Rude, introduction, *A Critical Edition of Sir Thomas Elyot’s The Boke named the Governour*, ed.

with help from ancient sources, however, defining office proved difficult. Elyot, who struggled with translating Cicero's Latin title, notes that "whereunto yet is no proper englishe worde to be given: but...it may be sayde in this fourme: of the dueties and maners appertaynyng to men."<sup>70</sup> First printed in 1531, a revised edition of Elyot's work was printed in 1537; from 1544 to 1580, six subsequent editions were based on this extended 1537 edition.<sup>71</sup> Elyot establishes that the "publike weale" ought to have one sovereign, but that other "inferior governours called magistrates" will be necessary, since "one mortall man can nat have knowlege of all thynges done in a realme or large dominion."<sup>72</sup> He then describes the education and virtues that these lesser magistrates should have. According to Mary Polito, Elyot sought to induct readers into English civil service by making practical an "art of government."<sup>73</sup>

At least four different manuals for justices of the peace were printed in the sixteenth and seventeenth centuries, and each one was printed in several editions.<sup>74</sup> No fewer than thirty-two editions of the anonymous *The Boke of Justyces of Peas* appeared between 1505 and 1580.<sup>75</sup> The author describes men who were eligible to be justices: "well disposed men and lawfull that ben not meyntenours of quarelles."<sup>76</sup> At least "two or iii. men of moost reputacyon and Worshippe sholde be assigned to be

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Donald W. Rude (New York: Garland, 1992) xliii-xlix. See also Skinner, *Foundations* 228-36; Polito, *Governmental Arts* 51- 73.

<sup>70</sup> Elyot, *Governour* 53.

<sup>71</sup> Rude, introduction lxxiii.

<sup>72</sup> Elyot, *Governour* 27.

<sup>73</sup> Polito, *Governmental Arts* 59.

<sup>74</sup> The work of B.H. Putnam is invaluable here in tracing these different editions. See her *Early Treatises on the Practice of the Justices of the Peace in the Fifteenth and Sixteenth Centuries*, Oxford Studies in Social and Legal History 7 (1924; New York: Octagon Books, 1974); B.H. Putnam, "The Earliest Form of Lambard's 'Eirenarcha' and a Kent Wage Assessment of 1563," *English Historical Review* 41.162 (1926) 260-73. See also Ellen A. McArthur, "'The Boke Longyng to a Justice of the Peace' and the Assessment of Wages," *English Historical Review* 9.34 (1894) 305-14; Holdsworth 112-21 .

<sup>75</sup> Putnam provides bibliographic information on the manuals. See *Early Treatises* 7-8, 224-37.

<sup>76</sup> *The Boke for a Iustice of Peace* (London, 1505) sig.A2<sup>r</sup>.



Justyces of the peace.”<sup>77</sup> Justices’ duties are presented in a list format, including summaries of statutes mandating what the justices ought to do, the charge to officers, and examples of legal documents, such as indictments of felonies.<sup>78</sup> That these examples are provided in Latin indicates an educated audience. Still more important to note is that *The Boke* grounds the justice’s authority in statutes, not the king’s commission. This was not always the case.

More explicitly than the anonymous author of *The Boke*, Sir Anthony Fitzherbert defines the justice’s office in relation to larger networks of authority. Fitzherbert’s compilation of the justice’s duties, first published in 1538 in French, was entitled *Loffice et auctoryte des Justyces de peas*. At least eleven editions of an English translation, *The newe boke of Iustices of peace*, appeared from 1538 to 1566.<sup>79</sup> Fitzherbert’s manual is considerably longer than, and differs in significant ways from, the anonymous *Boke*.<sup>80</sup> Fitzherbert first explains that “it is nowe conveniente for oure purpose to declare and shew the effecte of this commission [of the peace] & what auctoritie the Justices of peace have, as well by vertue therof as also by divers statutes, when they be constituted and made Justicers by the kinges commission.”<sup>81</sup> By postponing discussion of statutory authority and by beginning with the commission, Fitzherbert emphasizes that justices are charged “to enquire of

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<sup>77</sup> *The Boke* sig.A2<sup>r</sup>.

<sup>78</sup> *The Boke*, passim; Putnam, *Early Treatises* 11. Putnam also outlines the main differences between the anonymous *Boke* and Fitzherbert’s text.

<sup>79</sup> It is not known who translated Fitzherbert’s work. Putnam concludes that it could not have been Fitzherbert himself (*Early Treatises* 35).

<sup>80</sup> Putnam notes that the English translation of Fitzherbert’s text makes a few changes to Fitzherbert’s original French edition, but mostly in terms of the order. She compares the English translation with the older *Boke*, in light of the fact that the changes made in the translation are relatively insignificant and that the English version was the text that was re-issued a number of times (*Early Treatises* 10). I also discuss here the English translation of Fitzherbert’s work.

<sup>81</sup> Sir Anthony Fitzherbert, *The newe boke of Iustices of peace* (London, 1566) fol.5<sup>r</sup>.

all such things as to them shall be enioyned on the *kings* behalf, whiche they by theyr *commission* have power & auctoritie to heare and determine....”<sup>82</sup> Fitzherbert next provides the oath the justices were required to take. Only then does he list all or parts of important statutes, elaborating on *The Boke*’s summaries.<sup>83</sup> The statutes are ordered according to the monarch under whom they were ordained: “The statutes of Henry the fourth concerning the power of Justicers of the peace.”<sup>84</sup> Fitzherbert subordinates the justice to the monarch, and he provides the charge justices should give to jurors at quarter sessions. He also includes descriptions of other offices, such as sheriff and bailiff. In sum, Fitzherbert articulates the justice’s place within a hierarchy of authority.

Two more series of manuals for justices were printed, each invoking Fitzherbert. William Lambard’s *Eirenarcha: or of The Office of the Justices peace* appeared in at least thirteen editions between 1581 and 1619. Although Lambard’s title does not reference Fitzherbert, the manual’s prefatory material does. In his dedicatory epistle, Lambard informs Sir Thomas Bromley, Lord Chancellor of England, that when he first began writing his tract, he consulted earlier works, in particular Fitzherbert’s.<sup>85</sup> Lambard’s manual, however, substantially amplifies Fitzherbert’s work, adding material about the history of the office, clarifying the differing responsibilities of a single justice versus two or three, and providing

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<sup>82</sup> Fitzherbert, *newe boke* fol.5<sup>v</sup> (my italics).

<sup>83</sup> Fitzherbert, *newe boke passim*; Putnam, *Early Treatises* 11-14.

<sup>84</sup> Fitzherbert, *newe boke* fol. 40<sup>v</sup>.

<sup>85</sup> William Lambard, *Eirenarcha: or of the Office of the Iustices of peace, in two bookes* (London, 1581) sig.A2r. Lambard also cites Thomas Marowe, author of an important manuscript, a legal reading on the peace, *De Pace Terre & Ecclesie & Conservacione Eiusdem*, ca. 1503. Putnam identifies Marowe as a prominent London lawyer and justice, admitted to the bar around 1479 (*Early Treatises* 128). Lambard also cites an anonymous text that Putnam assumes is the earlier, anonymous *Boke* (*Early Treatises* 40).

procedures for the quarter sessions. Lambard does not include Fitzherbert's sections on other local offices.<sup>86</sup> In general, Lambard's tract, as I shall argue, elevates the justice's office, putting the "keeper of the peace" on a par with the monarch.

The second series that cites Fitzherbert, Richard Crompton's *Loffice et auctoritie de Iustices de Peace*, appeared in 1583 and was reprinted at least five more times by 1617. Crompton's work claims to be a compilation of Fitzherbert's work, enlarged by Crompton. The entire title of the 1583 edition reads *Loffice et auctoritie de Justices de Peace, in part collect per le iades tresreverend Iudge, Mounsieur A. Fitzherbert, et ore enlarge per Richard Crompton, un Apprentice de le common ley, & publie lan du grace*. Crompton prints the commission, the oath, and the charge; he also treats other offices, like constables. He too amplifies Fitzherbert's work, adding information about the sessions and the justices' jurisdiction. If he failed to achieve Lambard's success, it may have been because of what Bertha Putnam calls his "chaotic arrangement and impossible language."<sup>87</sup> Or perhaps it was just that his legal French failed to define adequately the English justice.

Tracts on the office of the justice continued to be printed throughout the seventeenth century. In terms of commercial success, Michael Dalton's manual was the next *Eirenarcha*. His *The countrey justice, containing the practice of the justices of the peace out of their sessions: gathered for the better help of such justices of peace as have not been much conversant in the study of the laws of this realm* was the basis for at least twenty editions from 1618 up through 1746. William Sheppard's *The justice of peace his clerks cabinet, A book of presidents, or warrants, fitted and*

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<sup>86</sup> Lambard wrote a separate tract about those offices; see below, p.11. Holdsworth assumes that separate manuals were necessary since the justices' responsibilities were so enlarged (116).

<sup>87</sup> Putnam, *Early Treatises* 215.

*made ready to his hand for every case that may happen within the compass of his masters office* was printed in at least four editions from 1654 to 1672. Any one of these titles might have political force. J. H.'s *Justice restored, A guide for His Majesties justices of peace...* was printed in at least three editions from 1660-1671. A 1681 tract entitled *The practick part of the office of a justice of the peace: containing precedents upon acts of Parliament. As also appeals, informations, indictments, and other proceedings relating to the office of a justice of the peace,* printed at least one more time in 1682, conspicuously omits "His Majesty" from its title.

As I have noted, manuals were also written for local offices, such as sheriff, constable, and coroner. Not surprisingly, these manuals frequently were compiled by the authors of the justices' manuals, and they were often bound with those tracts. Sir Anthony Fitzherbert's manual for sheriffs and constables was printed in at least eight editions from 1538 to 1579.<sup>88</sup> William Lambard's *The dueties of constables, borsholders, tythingmen, and such other lowe and lay ministers of the peace* ran to at least twenty-six editions, including later enlarged editions, from 1583 through 1677. Michael Dalton wrote another manual for a "lowe" office. His *Officium vicecomitum The office and authoritie of sheriffs: Written for the better incouragement of the gentry (upon whome the burthen of this office lyeth) to keepe their office, and undersherife, in their houses; that so by their continuall care of the businesse, and eye over their officers, they may the better discharge their dutie to God, their Prince, and countrey, in the execution of this their office. Gathered out of the statutes, and*

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<sup>88</sup> Sir Anthony Fitzherbert, *In This Booke is contained ye offices of Sheryffes, Bailliffes of liberties, Escheatours, Constables and Coroners/ It Sheweth what every one of them maye do by vertue of theyr offices, drawen out of bokes of the common lawe & of the Statutes* (London, 1538).

*bookes of the common lawes of this kingdome* appeared five times between 1623 and 1700. And William Sheppard's *The offices and duties of constables, borsholders, tything-men, treasurers of the county-stock, overseers for the poore, and other lay-ministers. Whereunto are adjoined the severall offices of church-ministers and church wardens* saw seven reprints between 1641 and 1664. Fitzherbert lists the duties and regulations of the office, noting that the term of office for a sheriff is one year.<sup>89</sup> Lambard concerns himself not only with describing officeholders' duties, but also with providing the history and jurisdiction of offices. He explains the titles' etymologies and defines legal terms, such as what constitutes a "breach of the peace."<sup>90</sup> Like the manuals for the justices, these tracts for local officeholders define and redefine these offices in relation to authorities such as God, Prince, commonwealth, and the common law.

Urban magistrates required direction as well. The tracts for London's officeholders emphasize the system of shared governance of which Londoners were so proud.<sup>91</sup> *The ordre of my Lorde Mayor, the aldermen & the sheriffs, for their meetings and wearyinge of theyre apparel throughout the yeare* (1568) elaborates on the ceremonial meetings of London's officeholders, beginning with the August election of sheriffs and covering the election of the lord mayors, as well as religious holidays such as Christmas and Easter. J. Windet's *Generall matters to be remembred of the Lord Maior, throughout the whole yeare* (1600) focuses more specifically on London's lord mayor. Like *The ordre*, *Generall matters* dispenses

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<sup>89</sup> Fitzherbert, *Shyriffes* sig.A7v.

<sup>90</sup> Lambard, *Constables* 11.

<sup>91</sup> See, for example, the contemporary *A breefe discourse, declaring and approving the necessarie and inviolable maintenance of the laudable customes of London* (London, 1584).

with the history of the office and character requirements; instead, it lists the lord mayor's tasks, organizing them first by general topic and then chronologically. The tract derives the lord mayor's authority from custom and the Crown. For instance, a regulation regarding the Thames is to be enacted "accordyng to the law and the Chartres of the Citie and her Maiesties speciall commaundement."<sup>92</sup> Like *The ordre, Generall matters* recognizes rituals of office, including proper procedures for the election of the new lord mayor and various attendant ceremonies. Piers Cain has suggested that these "calendars" of duties reflect City leaders' efforts to maintain the City's celebrated liberties by bolstering London's identity as a powerful city.<sup>93</sup> Due reverence was paid to monarchical authority, but its encroachments were strenuously defended against.

If *The ordre of my Lorde Mayor and Generall Matters* provides practical timelines for the lord mayor and his fellow aldermen, a more personal account is provided by Thomas Norton, London's remembrancer and also a member of Parliament for London.<sup>94</sup> Norton encourages the newly elected lord mayor, James Hawes, nodding first in the direction of the Crown: "Yowe are to remember howe great a thinge is the L. Maior, and of London so great a citie, the imperiall Chamber of so great a Prince, of our Sovereigne Ladie, the ymediate leeftenaunte of the moste great and mightie God."<sup>95</sup> Having acknowledged the higher authorities that the lord mayor serves, Norton reminds Hawes that, in addition to the recorder, "Yowe have a

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<sup>92</sup> Windet, *Generall matters* sig.A3v.

<sup>93</sup> Piers Cain, "Robert Smith and the Reform of the Archives of the City of London, 1580-1623," *The London Journal* 13.1 (1987-88): 11.

<sup>94</sup> Thomas Norton, "An Exhortation or Rule wherbie the L. Maior of London is to order him selfe and the Citty," printed as "Instructions to the Lord Mayor of London, 1574-75," *Illustrations of Old English Literature*, ed. J.P. Collier, Vol. 3 (London, 1866) 1-17.

<sup>95</sup> Norton, "Exhortation" 1.

painefull, carefull, and zealous Chamberaline: yowe have an olde, diligent, experienced Common Sergeant: yowe have a readie and hable Towneclerke...” and many other willing and able officers to help govern the City.<sup>96</sup> A devout Protestant, Norton insists that above all, “you are firste to have care of God....Some particulars of your service to hym properlie are theis: that yow advaunce his religion, the true understanding whereof he hathe revealed in his owne worde.”<sup>97</sup> The lord mayor should support preachers and suppress papists.<sup>98</sup> He should serve the Queen, take care of widows and orphans, protect orphans from kidnappings, insure London’s provisions, and look after the poor.<sup>99</sup>

By the end of the sixteenth century, men who held high offices were themselves recording their duties. “A Treatise of the Office of a Councillor and Principall Secretarie to her Ma[jes]tie,” a manuscript presumably written by Robert Beale around 1592, provides detailed instructions for Queen Elizabeth’s secretary.<sup>100</sup> Beale’s tract, like Norton’s, is a personal account, but it resonates with the vocabulary of civil service that characterizes the officeholding manuals. Beale includes reminders about the secretary’s clerical responsibilities, such as overseeing the keeping of the Privy Council’s “perfect booke of the L[ord]’s sittings, of the place, daye and number and likewise of their l[ett]res signed” and keeping minutes of the

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<sup>96</sup> Norton, “Exhortation” 5.

<sup>97</sup> Norton, “Exhortation” 7.

<sup>98</sup> Norton, “Exhortation” 8.

<sup>99</sup> Norton, “Exhortation” 9-12.

<sup>100</sup> Robert Beale, “A Treatise of the Office of a Councillor and Principall Secretarie to her Ma[jes]tie,” appendix, Conyers Read, *Mr. Secretary Walsingham and the Policy of Queen Elizabeth* (Oxford: Oxford UP, 1925) 423-43. Read notes that the treatise was found among the Yelverton manuscripts; he concludes that it was composed around 1592 for Sir Edward Wotton, who anticipated being appointed Principal Secretary.

Privy Council's meetings.<sup>101</sup> He exhorts the secretary to prioritize important matters of state, to keep public and private interests separate, and to keep written records. To manage matters diplomatically, he recommends that the secretary "Learne before your accesse her Ma[jes]tie's disposic[i]on."<sup>102</sup> The secretary ought not to take it personally when he is corrected by the Queen: "The Princes themselves knowe best their owne meaninge and ther must be time and experience to acquainte them w[i]th their humours before a man can doe anie acceptable service."<sup>103</sup>

For their part, members of Parliament were also formulating opinions on officeholders. The author of *A Pamphlet of the Offices, and duties of everie particular Sworne Officer, of the Citie of Excester* (1584), John Hooker, like Thomas Norton, was a member of Parliament. Hooker had earlier written a tract on Parliamentary authority, *Order and Usage* (1572), which argued that members of the House of Commons and the House of Lords were equally noble when Parliament was in session.<sup>104</sup> Hooker likewise views local office as equalizing; he dedicates his manual for Exeter to the mayor, bailiffs, recorder, aldermen, and "all others, the sworne officers of the Citie."<sup>105</sup> He exhorts officeholders to live up to their responsibilities, appealing to their desire for "the preservation of the bodie of the commonwealth."<sup>106</sup> For Hooker, the status of "freeman" is itself an office: he devotes the first section of his manual to the "office and duetie of a *Freeman*," who he considers to be "the cheefest and principallest member of the common wealth of the

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<sup>101</sup> Beale, "Secretarie" 425-26.

<sup>102</sup> Beale, "Secretarie" 437.

<sup>103</sup> Beale, "Secretarie" 439.

<sup>104</sup> A.N. McLaren, *Political Culture in the Reign of Elizabeth I: Queen and Commonwealth, 1558-1585* (Cambridge: Cambridge UP, 1999) 164-71.

<sup>105</sup> John Hooker, *A Pamphlet of the Offices, and duties of everie particular Sworne Officer, of the Citie of Excester* (1584), sig.A1r.

<sup>106</sup> Hooker, *Excester* sig.D2v.



Citie.”<sup>107</sup> It is then unsurprising that this champion of freemen describes the evolution of offices by appealing to custom and common law in his efforts to establish their authority. As did Cicero, Hooker emphasizes the duty of each citizen to the commonwealth. According to Mark Goldie, Hooker’s pamphlet provides evidence of the “ancient and republican” nature of England’s polity, especially its emphasis on the officeholders’ role in governing.<sup>108</sup>

Interest in defining the parameters of various offices held by subjects was, as we have seen, widespread. I have also noted that Tudor manuals have been understood in the context of the Crown’s efforts to centralize its power. While the Crown sought to limit the powers of the church and the nobility, common lawyers sought to increase the Crown’s prerogative, utilizing available avenues such as Parliamentary statute.<sup>109</sup> Mary Polito argues that the manuals aided Crown policies, since their broad dissemination could only further the aims of the government.<sup>110</sup> Once a broad cohort of men was educated in the laws of the land, however, they began to use them to defend the subject’s position against encroaching monarchical prerogative.

William Lambard’s *Eirenarcha*, first printed in 1581, provides us with a compelling example of a tract that undertakes such a defense. We have already seen that Lambard’s tract is far more extensive than previous tracts in its treatment of the history and authority of the justice’s office. That the tract also provides thorough descriptions of the justice’s responsibilities may be reason enough for its popularity.

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<sup>107</sup> Hooker, *Excester* sig.C1r.

<sup>108</sup> Mark Goldie, “The Unacknowledged Republic: Officeholding in Early Modern England,” *The Politics of the Excluded, c.1500-1850*, ed. Tim Harris (New York: Palgrave, 2001) 154.

<sup>109</sup> S.J. Gunn, *Early Tudor Government, 1485-1558* (New York: St. Martin’s Press, 1995) 15.

<sup>110</sup> Polito, *Governmental Arts* 29.

As I will argue here, however, Lambard's tract is more radical than has been assumed. Lambard defines the subject's duties in relation to the king's or queen's peace, assiduously acknowledging the Crown's prerogative. But at the same time, he offers an alternative to conventional depictions of the justice as the monarch's deputy. For Lambard, both the monarch and the justice are God's deputies, sworn to uphold the common law. By reconstituting the hierarchy of authority, then, Lambard broaches the question of political representation. Whose interests does the justice ultimately represent? Lambard sets out to transform office on the subject's behalf.

The justice of the peace was a key position in the English hierarchy of authority. Justices were appointed by the Crown through a commission, and they served their counties in both judicial and administrative capacities. They issued warrants for arrest and took "recognizances," bonds or money pledged by subjects to warrant their behavior. They presided over quarter sessions, the local court gatherings held four times a year, filing reports on actions they had taken in the meantime and hearing criminal cases. They also were expected to attend assize sessions, certifying records for the traveling assize judges. Their administrative tasks included regulating commodities like grain, attending to the relief of the poor, ensuring road maintenance, enforcing regulations in times of plague, and recruiting and training soldiers. Charged with "keeping the peace," justices enforced statutes concerning criminal behavior as well as statutes and Privy Council orders regarding social and economic issues.<sup>111</sup>

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<sup>111</sup> For descriptions of the justices' duties, see Lambard's *Eirenarcha*; William Lambard, *William Lambard and Local Government: His "Ephemeris" and Twenty-nine Charges to Juries and Commissions*, ed. Conyers Read (Ithaca, NY: Cornell UP, 1962); David Loades, *Tudor Government: Structures of Authority in the Sixteenth Century* (Malden, MA: Blackwell, 1997) 124-31; Cynthia B.

William Lambard was the right man to author a work on the history and authority of the justice's office. Born in 1536 to a prosperous merchant family in London, Lambard eventually entered Lincoln's Inn and was called to the bar in 1567.<sup>112</sup> While a law student, Lambard became acquainted with the circle of antiquarians that included Matthew Parker and Laurence Nowell. Lambard's antiquarian interests manifest themselves in works such as *Archaionomia* (1568), his compilation and translation of Anglo-Saxon laws and customs, and *A Perambulation of Kent* (1576), his history of the county and its customs. Appointed justice of the peace in 1579, Lambard served until he died in 1601. While a justice, he advanced to other offices, too, having been appointed a Master of Chancery in 1592, Keeper of the Records of the Rolls Chapel in 1597, and Keeper of the Records of the Tower in 1601. With his legal background and an antiquarian's scholarly interests, Lambard was well equipped to write the tome that describes the justice's office.

Scholars have mined Lambard's *Eirenarcha* for information about various social, economic, and legal concerns.<sup>113</sup> But often it is referred to only in connection with Lambard, when he is noted, for example, as "the author of a best-selling manual

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Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge UP, 1987) 42-66; J. H. Gleason, *The Justices of the Peace in England, 1558-1640: A Later Eirenarcha* (Oxford: Clarendon P, 1969) 96-115; Charles Austin Beard, *The Office of Justice of the Peace in England In Its Origin and Development* (New York: Columbia UP, 1904) 72-113.

<sup>112</sup> Two important biographies of Lambard are Wilbur Dunkel, *William Lambarde, Elizabethan Jurist 1536-1601* (New Brunswick, NJ: Rutgers UP, 1965) and Retha M. Warnicke, *William Lambarde: Elizabethan Antiquary, 1536-1601* (London: Phillimore, 1973). See also introductory material and commentary in Conyers Read, ed., *William Lambarde and Local Government: His "Ephemeris" and Twenty-Nine Charges to Juries and Commissions* (Ithaca: Cornell UP, 1962), and in Raymond J. S. Grant, *Laurence Nowell, William Lambarde, and the Laws of the Anglo-Saxons* (Atlanta, GA: Rodopi, 1996).

<sup>113</sup> For example, Felicity Heal and Clive Holmes, *The Gentry in England and Wales, 1500-1700* (Stanford, CA: Stanford UP, 1994) 167-68, 178-79; Herrup, *Common*, especially Chapter 3; Julius Goebel, Jr., "Constitutional History and Constitutional Law," *Columbia Law Review* 38.4 (1938) 559; Beard, *Office*, especially Chapters 6 & 7.

for justices,” or otherwise dismissed as “a practical, everyday guide to ‘keeping the peace.’”<sup>114</sup> Scholars also have assumed that Lambard wrote the manual after being commissioned as a justice and discovering that there was no useful guide.<sup>115</sup>

Certainly *Eirenarcha* updates prior manuals for justices, acknowledging the many new statutes that were creating new responsibilities.<sup>116</sup> Wilbur Dunkel suggests, however, that scholars have been misled by Lambard’s own prefatory comments.<sup>117</sup>

Pointing to the prodigious amount of research required for such a learned text, Dunkel posits that Lambard began his studies before he even assumed office.<sup>118</sup> He argues that Lambard understood the office in terms of humanist and classical concepts of governance, comparing Lambard to the author of *The Common Weal of this Realm of England*.<sup>119</sup> While Dunkel believes that Lambard’s primary goal is to increase respect for the office, I will argue that Lambard’s *Eirenarcha* had greater ambitions.<sup>120</sup>

Lambard himself has been characterized as a loyal servant of the Crown.<sup>121</sup>

Dunkel considers any inconsistencies with this characterization to be evidence of the scholarly Lambard’s lack of tact.<sup>122</sup> But James D. Alsop and Wesley Stevens argue that Lambard was more astute about the political pressures shaping Elizabethan

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<sup>114</sup> Smith, *Norfolk* 76; John M. Adrian, “Tudor Centralization and Gentry Visions of Local Order in Lambard’s *Perambulation of Kent*,” *English Literary Renaissance* 36.3 (2006): 315.

<sup>115</sup> Adrian, “*Perambulation*” 315. See also Warnicke, *Antiquary* 70.

<sup>116</sup> Dunkel, *Jurist* 69.

<sup>117</sup> Dunkel, *Jurist* 63.

<sup>118</sup> Dunkel, *Jurist* 63.

<sup>119</sup> Dunkel, *Jurist* n.5, p. 191. Dunkel notes that Lambard owned a copy of this tract, now referred to as *A Discourse of the Comonweal of This Realm of England* (1549) and attributed to Sir Thomas Smith. See Mary Dewar, introduction, *A Discourse of the Commonweal of This Realm of England*, by Sir Thomas Smith (Charlottesville: UP of Virginia, 1969) i, xx-xxii.

<sup>120</sup> Dunkel, *Jurist* 67.

<sup>121</sup> In addition to Dunkel’s biography, see Warnicke, *Antiquary passim*.

<sup>122</sup> Dunkel, *Jurist* 61.

England than he has been given credit for.<sup>123</sup> Alsop and Stevens' Lambard was not anti-monarchical; rather, he championed mixed monarchy, with a view to limiting the royal prerogative in favor of the common law.<sup>124</sup> Alsop and Stevens do not address *Eirenarcha* at length, noting that it was an "uncontroversial ... production."<sup>125</sup> But they do call attention to Lambard's prefatory remarks to *Eirenarcha*, in which he requests pardon for any misunderstanding he may occasion. Alsop and Stevens argue that his words do not so much express scholarly humility as his awareness of the politically charged Elizabethan atmosphere, and they surmise that Lambard's true concern was with content, not style.<sup>126</sup> Hence, Lambard's apprehensions might have had something to do with the fact that in a manual on the justice of the peace, he remarks quite a bit on the monarch's limited powers. In the course of establishing the justice's jurisdiction, Lambard emphasizes that the "constituted authority" that the justice serves is that of a mixed monarchy.

Theories of English mixed monarchy were widely promulgated in response to the Henrician Reformation.<sup>127</sup> The separation from the Roman Catholic Church had necessitated a legal and theological justification for the monarch's supremacy over the church and his repudiation of papal authority, and men such as Stephen Gardiner

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<sup>123</sup> James D. Alsop and Wesley M. Stevens, "William Lambarde and Elizabethan Polity," *Studies in Medieval and Renaissance History*, eds. J.A.S. Evans and R.W. Unger, vol. 7 (New York: AMS P, 1986) 234; for other reconsiderations of Lambard, see Wilfrid Prest, "William Lambarde, Elizabethan Law Reform, and Early Stuart Politics," *The Journal of British Studies* 34.4 (1995) 464-80; and Adrian, "*Perambulation*" *passim*.

<sup>124</sup> Alsop and Stevens, "Lambarde" 246-47.

<sup>125</sup> Alsop and Stevens, "Lambarde" 241.

<sup>126</sup> Alsop and Stevens, "Lambarde" 241.

<sup>127</sup> See A.N. McLaren, *Political Culture in the Reign of Elizabeth I: Queen and Commonwealth, 1558-1585* (Cambridge: Cambridge UP, 1999) 75-80; Francis Oakley, "Christian Obedience and Authority, 1520-1550," *The Cambridge History of Political Thought, 1450-1700*, eds. J.H. Burns and Mark Goldie (Cambridge: Cambridge UP, 1991) 175-81; John Guy, *Tudor England* 369-78; Quentin Skinner, *The Foundations of Modern Political Thought*, vol. 2 (Cambridge: Cambridge UP, 1978) 89-108.

argued that the Bible provided evidence of the king's authority over the Church.<sup>128</sup> The monarch was "conceived in hieratic terms: king, not pope, as vicar of God."<sup>129</sup> But these theories of "imperial" kingship also caused alarm, and humanist scholars such as Thomas Starkey and Christopher St. German were concerned about the potential for tyranny in such a polity.<sup>130</sup> Both Starkey and St. German conceived of sovereignty as being invested in the king-in-parliament, as opposed to the king on his own.<sup>131</sup> St. German, in particular, argued that the basis for the king as "supreme head" over the church lay in the common law and parliamentary statute.<sup>132</sup> These were not totally novel ideas; Bracton had argued that the king was "under God and the law, because the law makes the king."<sup>133</sup> Sir John Fortescue, writing in the fifteenth century, had compared the "regal" monarchy of France to England's "mixed" monarchy.<sup>134</sup> St. German's particular interest was in defining authority over the church, and he argued that the king-in-parliament had a "sovereignty delegated from God to men, enabling parliament to expound scripture and identify (if need be reform) the common law..."<sup>135</sup> In this sense, the king-in-parliament became the vicar of God.

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<sup>128</sup> Skinner, *Foundations* 93-97.

<sup>129</sup> McLaren, *Political Culture* 77.

<sup>130</sup> McLaren, *Political Culture* 77.

<sup>131</sup> McLaren, *Political Culture* 79; John Guy, *Tudor England* (Oxford: Oxford UP, 1988) 374; see also John Guy, "Thomas More and Christopher St. German: The Battle of the Books," *Moreana* 21.83-84 (1984): 5-25.

<sup>132</sup> Skinner, *Foundations* 57-58, 104; Guy, "Thomas More" 10.

<sup>133</sup> Qtd. in Guy, *Tudor England* 371.

<sup>134</sup> Guy, *Tudor England* 374. Donald R. Kelley provides a brief summary of medieval constitutionalism and its roots in classical theorists such as Aristotle and Polybius in "Elizabethan Political Thought," *The Varieties of British Political Thought, 1500-1800*, ed. J.G.A. Pocock, Gordon J. Schochet, and Lois G. Schworer (Cambridge: Cambridge UP, 1993) 51.

<sup>135</sup> McLaren, *Political Culture* 79.

Elizabethan concepts of the mixed monarchy were indebted to these earlier theories.<sup>136</sup> John Guy has argued for the “two reigns” of Queen Elizabeth: before 1585, the ruling elite endorsed St. German’s concept of the king-in-parliament; by the 1590s, sovereignty was considered to be invested in the monarch alone.<sup>137</sup> Whereas Guy emphasizes the powers of the Privy Council, Stephen Alford focuses on the ways William Cecil, Lord Burghley shaped policy.<sup>138</sup> Alford notes the Elizabethan appreciation for the classical republican *vir civilis* leading a *vita activa*.<sup>139</sup> He concludes that Cecil’s influence helped turn the Privy Council and Parliament into “institutions which actively participated in the running of the polity and contributed to decisions which affected the future of the realm.”<sup>140</sup> For her part, A.N. McLaren has emphasized ways in which the mixed monarchy was conceived by Tudor apologists in response to gender. She argues that “the ‘mixed monarchy’ was defined as a corporate body politic; one in which the wisdom of the many (a contested, but gender-specific identity during this period) ‘bridled’ and imparted grace to a female prince, and thereby preserved both Protestantism and national autonomy.”<sup>141</sup> If for McLaren, Parliament was the primary “institutional means” of expressing the “political virtue of the body of the realm,” Guy, Alford, and McLaren taken together focus on the Privy Council and Parliament.<sup>142</sup> The latter is obviously crucial to the king-in-parliament formulation, and it is to this version of the polity that Lambard’s

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<sup>136</sup> McLaren, *Political Culture* 77.

<sup>137</sup> John Guy, “The 1590s: The Second Reign of Elizabeth I?” *The Reign of Elizabeth I*, ed. John Guy (Cambridge: Cambridge UP, 1995) 12.

<sup>138</sup> Guy, “The 1590s” 13; Stephen Alford, *The Early Elizabethan Polity: William Cecil and the British Succession Crisis, 1558-1569* (Cambridge: Cambridge UP, 1998).

<sup>139</sup> Alford, *Cecil* 7-8, 116-19.

<sup>140</sup> Alford, *Cecil* 212.

<sup>141</sup> McLaren, *Political Culture* 3; pp. 75-80 on Henrician Reformation concepts of kingship; pp. 198-234 on Sir Thomas Smith’s *De Republica Anglorum*.

<sup>142</sup> McLaren, *Political Culture* 5.

*Eirenarcha* responds. All along the way, Lambard also dwells on office as an effective institutional means for expressing political virtue and for participating in the running of the polity.

Lambard might have had personal reasons for shifting the focus from Parliament to the institution of office. Alsop and Stevens argue that he was the “Mr. Lambert” involved in the 1566 Parliamentary disputes over free speech.<sup>143</sup> Whether or not he actually served in Parliament, as a resident of Lincoln’s Inn, Lambard had many personal connections to its members and in 1579, he wrote *Archeion*, a history of Parliament.<sup>144</sup> In the two prior decades, Parliament had engaged in a series of disputes with Queen Elizabeth over their role as counsel. Members wanted the right to speak freely in Parliament about issues such as the Queen’s marriage, the succession, and the religious settlement.<sup>145</sup> Concerned to assert her prerogative even then, Elizabeth responded to an initiative by the Commons on the succession question in 1566: “My Lords, do what you will; as for myself, I shall do nothing but according to my pleasure. All the resolutions which you may make have no force without my consent and authority....”<sup>146</sup> In the 1570s, members such as Peter Wentworth questioned whether the Queen was “reprobate” in her role in the mixed monarchy,

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<sup>143</sup> Alsop and Stevens, “Lambarde” 236-39. Paul L. Ward concurs, establishing that the author of notes on Parliamentary proceedings in 1584 was the same Lambert from the 1566 session, and he argues for Lambard as the author of these notes; see Paul L. Ward, introduction, *William Lambarde’s Notes On the Procedures and Privileges of the House of Commons (1584)* (London: Her Majesty’s Stationery Office, 1977) 1-2; 30-46.

<sup>144</sup> Ward, introduction 31-34. Gleason also notes the general exchange between lawyers, members of the Commons, and justices (*Later Eirenarcha* 122).

<sup>145</sup> See John Neale, *Elizabeth I and her Parliaments, 1559-1601*, 2 vols. (New York: St. Martin’s; 1958); G. R. Elton, *The Parliament of England, 1559-1581* (Cambridge: Cambridge UP, 1986); T.E. Hartley, *Elizabeth’s Parliaments: Queen, Lords and Commons, 1559-1601* (Manchester: Manchester UP, 1992); *Parliament and Liberty from the Reign of Elizabeth to the English Civil War*, ed. J.H. Hexter (Stanford: Stanford UP, 1992); McLaren, *Political Culture* 161-97.

<sup>146</sup> Qtd. in McLaren, *Political Culture* 151.



and deemed her too willful to accept proper counsel.<sup>147</sup> At the same time, Queen Elizabeth, who herself was paying careful attention to local governance, was aware of who was being commissioned as justice of the peace and who was being removed from the commission for incompetence.<sup>148</sup> Of course, incompetence was not the only reason justices were removed; since the Crown relied on the justices to enforce its policies, it had good reason for dismissing “dissident” justices.<sup>149</sup> Justices benefited greatly from their office, but they also experienced tensions as agents of the Crown. Like their MP brethren, they feared an imperious, if not an imperial, sovereign.

European affairs were also influential. Jean Bodin’s *Six Livres de la Republique* was published in 1576.<sup>150</sup> By 1579, a student at Cambridge observed that “‘you cannot step into a scholar’s study but (ten to one) you shall lightly find open either Bodin’s *De Republica* ... or some other like French or Italian politic discourses.’”<sup>151</sup> Bodin undertakes to define “sovereignty,” concluding that it consists of a “‘high, absolute and perpetual power over the citizens.’”<sup>152</sup> For Bodin, a mixed polity such as English theorists laid claim to could not exist; there could only be three types of governments: monarchy, aristocracy, or democracy.<sup>153</sup> Insofar as England and France were concerned, Bodin concluded that sovereignty was indivisible.<sup>154</sup>

Indeed, he argued, “‘the principal point of sovereign majesty, and absolute power,

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<sup>147</sup> McLaren, *Political Culture* 181.

<sup>148</sup> Dunkel, *Jurist* 68.

<sup>149</sup> Gleason, *Later Eirenarcha* 68.

<sup>150</sup> Julian H. Franklin, “Sovereignty and the mixed constitution: Bodin and his critics,” *The Cambridge History of Political Thought*, ed. J.H. Burns and Mark Goldie (Cambridge: Cambridge UP, 1991) 298-328; Skinner, vol. 2 284-301.

<sup>151</sup> Qtd. in Ward, introduction 19-20.

<sup>152</sup> Qtd. in Skinner, *Foundations* 288.

<sup>153</sup> Skinner, *Foundations* 288-89; Franklin, “Sovereignty” 302.

<sup>154</sup> Franklin, “Sovereignty” 307; Skinner, *Foundations* 284; Ward, introduction 20.

[consisted] principally in giving laws unto the subjects in general, without their consent.’’<sup>155</sup>

Queen Elizabeth’s marriage negotiations with the French Dukes of Anjou in the 1570s sparked concerns over English sovereignty.<sup>156</sup> Jean Bodin, in fact, was in the service of the Duke of Anjou and had visited England on his behalf.<sup>157</sup> While Elizabeth perceived the alliance to be one that would give England control over France and an ally against Spain, others worried that England would instead be subsumed under French rule.<sup>158</sup> Protestants, remembering the killing of thousands of French Protestants in the 1572 St. Bartholomew Massacre, feared a Catholic alliance.<sup>159</sup> For printing a pamphlet that warned against the dangers of the French marriage, John Stubbs lost his right hand.<sup>160</sup> William Camden described the moment in his *History of the Princess Elizabeth*: “‘the multitude standing about was deeply silent: either out of an horror at this new and unwonted kind of punishment, or else out of commiseration towards the man, as being of an honest and unblameable repute, or else out of hatred of the marriage, which most men presaged would be the overthrow of religion.’’<sup>161</sup> William Lambard was apparently a close friend of Stubbs, mentioning his punishment in his personal notes and loaning him substantial amounts

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<sup>155</sup> Qtd. in Ward, introduction 20; qtd. in Skinner, *Foundations* 289.

<sup>156</sup> In 1570-71, Elizabeth negotiated with the elder Duke of Anjou, the future Henry III; in the late 1570s, she was negotiating with his younger brother, the Duke of Alencon, who had in 1574 succeeded to the title of Duke of Anjou. See Guy, *Tudor* 282, n. 63; Susan Brigden, *New Worlds, Lost Worlds: The Rule of the Tudors, 1485-1603* (New York: Viking, 2000) 245; Ward, introduction 20.

<sup>157</sup> Ward, introduction 20; Ward cites L.F. Dean in *Studies in Philology*, 39 (1942) 161.

<sup>158</sup> Brigden, *New Worlds* 270.

<sup>159</sup> Brigden, *New Worlds* 271 ; Guy, *Tudor* 278-83.

<sup>160</sup> Brigden, *New Worlds* 271; Ward, introduction 36.

<sup>161</sup> Qtd. in Ward, introduction 37.

of money.<sup>162</sup> While there is no record of Lambard speaking out on Stubbs' behalf, he clearly was affected by these events.

By the time Lambard was writing *Eirenarcha*, Sir Thomas Smith had conceptualized the English polity in his *De Republica Anglorum*.<sup>163</sup> Lambard, like Sir Thomas Smith, emphasizes the mixed monarchy model of Elizabethan England. But Lambard's account differs from Smith's in that the latter, in describing the justice's office, authorizes the justice primarily in terms of his relationship to the monarch: "The Justices of the peace be men selected out of the nobilitie, higher and lower, ... and of such as be learned in the laws, such and in such number as the Prince shall thinke meete, and in whome for wisdom and discretion he putteth his trust."<sup>164</sup> Smith reiterates several times that "the Prince putteth his special trust" in the men chosen by him to be justices.<sup>165</sup> He explains that

The Prince with his counsell chooseth out certaine articles out of penall lawes aleadie made for to repress the pride and evill rule of the popular, and sendeth them downe to the Justices, willing them to looke upon those pointes, and after they have mette together and consulted among themselves, howe to order that matter most wisely and circumspectly, whereby the people might be kept in good order and obedience after the lawe, they divide themselves by three or foure: and so each in his quarter taketh order for the execution of the saide articles. And then within certaine space they meete againe and certifie

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<sup>162</sup> Ward, introduction 36-37.

<sup>163</sup> Smith's *De Republica Anglorum* was written in 1565 (McLaren, *Political Culture* 201).

<sup>164</sup> Sir Thomas Smith, *De Republica Anglorum* (London, 1583) 67.

<sup>165</sup> Smith, *Republica* 67-71.

the Prince or his privie counsell how they do finde the shire in rule & order touching those pointes and all other disorders.<sup>166</sup>

In Smith's account, the justice is appointed by the monarch, who places special confidence in him; the justice is in turn accountable to the monarch. Lambard recalibrates this hierarchy of authority, at least in relation to the execution of the law. Lambard's justices, while they are appointed by the monarch, are obligated primarily to God and to the common law. They enact justice on behalf of the realm, not in the interest of the monarch.

This difference suggests that *Eirenarcha* is also responsive to the religious conflicts of the sixteenth-century. Advocating for forcible resistance to imperial rulers, Protestant resistance theorists advanced a range of arguments according to which lesser magistrates were also authorized by God.<sup>167</sup> Andreas Osiander, a Lutheran theorist, argued that inferior magistrates were “no less ordained of God” than their prince and thus were authorized to resist a superior magistrate who failed to fulfill his duties.<sup>168</sup> According to Martin Bucer, inferior as well as superior magistrates “have been ordained of God.”<sup>169</sup> In England, both John Ponet and Christopher Goodman argued that rulers are ordained “to see justice administered to all sorts of men.”<sup>170</sup> They insist that rulers are “but executors of God's laws.”<sup>171</sup> Ponet argued that “before magistrates were, Goddes laws were.”<sup>172</sup> Lambard was

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<sup>166</sup> Smith, *De Republica* 70.

<sup>167</sup> Skinner, *Foundations* 189-348; Robert M. Kingdon, “Calvinism and resistance theory, 1550-1580,” *The Cambridge History of Political Thought*, ed. J.H. Burns and Mark Goldie (Cambridge: Cambridge UP, 1991) 193-218; McLaren 105-33.

<sup>168</sup> Qtd. in Skinner, *Foundations* 204-05.

<sup>169</sup> Qtd. in Skinner, *Foundations* 205.

<sup>170</sup> Goodman qtd. in Skinner, *Foundations* 222.

<sup>171</sup> Qtd. in Skinner, *Foundations* 222.

<sup>172</sup> Qtd. in Kelley, “Elizabethan Political Thought” 59.

not interested in theorizing resistance, but he did draw on the vocabulary of equality under God, which subjected both the monarch and justice to the common law.

All of which is to say that William Lambard's manual for justices includes more than a description of duties. In the first part of *Eirenarcha*, in particular, Lambard addresses the officeholder's authority, virtue, and judgment. By doing so, he establishes the office of justice of the peace as an ancient institution that provided subjects with another avenue for participation in the polity: officeholding, not Parliament. For Lambard, all virtuous subjects share the monarch's responsibility of governing. But Lambard does more than acknowledge these responsibilities as the subject's customary duties. He privileges the authority of the common law and of the king-in-parliament, defending the mixed nature of England's polity.<sup>173</sup> Instead of serving as a deputy of the monarch, Lambard establishes that the justice acts on behalf of the commonwealth. Indeed, according to Lambard, both justice and monarch are equal citizens who act on behalf of God and the commonwealth.

From the beginning of his treatise, Lambard adopts the posture of a humble subject. Dedicating the work to his patron, Sir Thomas Bromley, Lord Chancellor of England, who had appointed him to the commission of the peace in 1579, he explains that he writes the manual "aswel for saving you (my speciall good L. and favourer) blamelesse in the Choice [of Lambard], as also for mine owne Information and

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<sup>173</sup> On the common lawyers' perception of the "ancient constitution" and the "immemorial" nature of the common law, see J.G.A. Pocock, *The Ancient Constitution and the Feudal Law* (1957; Cambridge: Cambridge UP, 1987); Corinne C. Weston, "England: Ancient Constitution and Common Law," *The Cambridge History of Political Thought, 1450-1700*, eds. J.H. Burns and Mark Goldie (Cambridge: Cambridge UP, 1991) 374-411; William Klein, "The Ancient Constitution Revisited," *Political Discourse in Early Modern Britain*, eds. Nicholas Phillipson and Quentin Skinner (Cambridge: Cambridge UP, 1993) 23-44.

discharge in the Service itself.”<sup>174</sup> Honored and humbled by his charge, Lambard “thought it [his] part...to looke diligently into that portion of our Lawe which concerneth the office of the Peace, wherewith I had before that time very little or none acquaintance.”<sup>175</sup> Even after his considerable research, he flaunts the modesty topos, certain that his work is “neither answerable to your woorthinesse, nor to myne owne wish.”<sup>176</sup> He hopes the lord chancellor will accept the work, since then “the booke it selfe shall have the more curteous entertainment and freer passage with other men.”<sup>177</sup> Ever deferential, Lambard hopes that his book will “remaine a perpetuall Monument of the Sacrifice of mine owne thankfulnessse for those your rare and long continued favours, from time to time (even undeservedly) bestowed and cast upon me.”<sup>178</sup> This is the conventional pose of the good servant, common to dozens of dedications.

At the same time, however, Lambard fashions himself a virtuous citizen. Like the Doctor in Sir Thomas Smith’s *Discourse of the Commonweal*, he has a deep appreciation for learning.<sup>179</sup> Lambard calls attention to the careful research that has gone into his work: not only has he examined treatises such as Anthony Fitzherbert’s, he also has gone to “the olde and newe books of the Common Lawes, and to the Volumes of the Actes and Statutes.”<sup>180</sup> Nor is this praise of learning for learning’s sake. Like Smith’s Doctor, Lambard conjoins learning and rule: “For we see in all kind of government, for the most part, the wiser sort have the sovereignty over the

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<sup>174</sup> Lambard, *Eirenarcha* sig. A2r.

<sup>175</sup> Lambard, *Eirenarcha* sig. A2r.

<sup>176</sup> Lambard, *Eirenarcha* sig. A2v.

<sup>177</sup> Lambard, *Eirenarcha* sig. A3r.

<sup>178</sup> Lambard, *Eirenarcha* sig. A3r.

<sup>179</sup> Sir Thomas Smith, *A Discourse of the Commonweal of This Realm of England*, ed. Mary DeWar (Charlottesville, VA: UP of Virginia, 1969) 23-33.

<sup>180</sup> Lambard, *Eirenarcha* sig. A2r.

rude and unlearned as in every house the most expert, in every city the wisest and most sage, and in every Commonweal the most learned are most commonly placed to govern the rest.”<sup>181</sup> As a virtuous citizen, Lambard contributes his knowledge for the betterment of all. Although he did not originally intend to publish his tract, “sundrie godly, wise, and not unlearned gentlemen” persuaded him that most other justices “had neede of some helpe in writing for their better conduit in this office, & it might increase the knowledge of many of [the justices], and consequently doe a common good, to have the booke made common by Impression.”<sup>182</sup> In writing and printing his manual, Lambard not only betters himself, he serves the commonwealth by disseminating knowledge.

Lambard thus plays *and* advocates the part of the virtuous citizen. He hopes that his manual will teach other justices to judge well—and to criticize well, too. Perhaps critics will judge his *Eirenarcha*; perhaps they will judge Crown policies and actions. Lambard’s own “respect” or reason for presenting his manual to the lord chancellor is significant. He wants Bromley, “according to the Rule of lawe (in your owne hands) [to] rectifie the Commission of the Peace, and some other crookednesse, whereof this booke shall bring complaint before you.”<sup>183</sup> This is to subordinate the lord chancellor to the common law and, indirectly, to the wisdom of a lesser subject. Lambard’s justice’s jurisdiction extends all the way to Crown policies, first on behalf of God, then the commonwealth, and, lastly, the monarch and the justice. Lambard

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<sup>181</sup> Smith, *Discourse* 25.

<sup>182</sup> Lambard, *Eirenarcha* sig. A2v.

<sup>183</sup> Lambard, *Eirenarcha* sig. A2v-A3r. Lambard elaborates on his complaint about the commission, explaining that it is out of date, later in the manual (47-49).

effectively confirms Patrick Collinson's estimation that in Elizabethan England, "citizens were concealed within subjects."<sup>184</sup>

Lambard the humble servant in the "Proheme" is always Lambard the defender of the subject's rights. He acknowledges that it might seem unnecessary to contribute another treatise on the justice's office, in light of the widely available works of "M. Marowe" and "Justice Fitzherbert."<sup>185</sup> But he notes that "since their time, this Office is charged with manie Statutes, which were not made when their writings were penned," and other responsibilities have been taken away from justices "by the force of law."<sup>186</sup> He reiterates that he "collect[s] some discourse, that may serve for the present age wherein wee now live, and somewhat further the good endeavour of such as bee not trained up in the studie of the laws."<sup>187</sup> In these efforts, he assures the reader that he "meane[s] to robbe no man of his right, but to yield to eche one the due prayse of his owne."<sup>188</sup> Then he concludes with a defense of his own right freely to offer his opinions: "So if I my selfe shal be found here and there to dissent in opinion from other men, I desire heartilie that my good meaning bee not evill interpreted, that my allegations and reasons be weighted indifferently, and that the respect of my person bring no prejudice to the thing in question."<sup>189</sup> All of this resonates with the protests of members of Parliament who defended their right to

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<sup>184</sup> Patrick Collinson, "De Republica Anglorum: Or, History with the Politics Put Back," *Elizabethan Essays* (London: Hambledon P, 1994) 19.

<sup>185</sup> Lambard, *Eirenarcha* 1.

<sup>186</sup> Lambard, *Eirenarcha* 1-2.

<sup>187</sup> Lambard, *Eirenarcha* 2.

<sup>188</sup> Lambard, *Eirenarcha* 2.

<sup>189</sup> Lambard, *Eirenarcha* 2.



speaking freely and to dissent. Reasonable exchanges of ideas can only benefit the commonwealth.<sup>190</sup>

Lambard again indicates his loyalty as a subject but also his concerns as a citizen when he reproduces the Oath of Supremacy. Later editions of Fitzherbert did not include this text, which declared that “the Queenes Highnesse is the onely supreme Governour of this Realme, and of all other hir Highnesse Dominions and Countries, as well in all spirituall and ecclesiasticall things (or causes) as temporall.”<sup>191</sup> Lambard connects the Oath to fears of foreign influence, reminding his readers that the Oath was “appointed” for justices “after the seconde abolishment of the usurped authoritie of the Romish Pharao, by the ioyous entrie of our gracious Queene Elizabeth.”<sup>192</sup> The inclusion might also remind justices throughout England of the Queen’s duties, particularly amid concerns over her marriage negotiations with the French Duke of Anjou. The Oath states that “no forraine Prince, person, Prelate, State, or Potentate, hath, or ought to have, any iurisdiction, power, superioritie, preheminance, or authoritie, ecclesiasticall or spirituall, within this realme....”<sup>193</sup> The swearer then agrees to renounce any foreign jurisdiction and to defend the realme against any foreign incursion.<sup>194</sup> Lambard is anxious about justices who have been asked to swear the Oath of Supremacy only once or twice. He notes that “many a Iustice there is, that by indirect practice never tooke, neyther thys, nor the former, whereof what harmes doe, and may grow, I leave to wiser and higher men to be

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<sup>190</sup> Hartley, *Elizabeth’s Parliaments* 140-42.

<sup>191</sup> Lambard, *Eirenarcha* 61.

<sup>192</sup> Lambard, *Eirenarcha* 61.

<sup>193</sup> Lambard, *Eirenarcha* 61-62.

<sup>194</sup> Lambard, *Eirenarcha* 62.

considered.”<sup>195</sup> He suggests that the justices’ vigilance against foreign threats, whether invasion by army or by marriage, might wane.

Lambard protests another form of foreign invasion when he defends the office and common law against incursions of civil law.<sup>196</sup> Explaining the etymology of the justice’s title, he notes that “in many olde histories, the Chiefe Iustice of *England*, is termed, Capitalis Iustitia” and that the “Originall Writtes that are in M. Glanvils Booke (which was written under the raigne of king Henry the second) have this forme, *quod sit coram me, vel Iustitius meis...*”<sup>197</sup> He is certain that this “was done of speciall purpose, and to the ende, that the mention of their name should put them in minde of their office, and should continually (as it were) sollicite them to administer Justice, for whose sake they were appoynted.”<sup>198</sup> But, he recounts, “in the days of King Henry the third, M. Bracton (who reduced the body of our law into Latine, and therein imitated the Methode of the Civile Lawyers) changed the worde *Iustitius*, into *Iustitarius*, (how Latine like, let them judge that can skil) and setteth downe the Writtes accordingly, *coram Iustitarius nostris.*”<sup>199</sup> Since then, writs and commissions have utilized the form *Iustitarius*, and it is for this reason that Fitzherbert’s tract denominates justices as “Iusticers, ... and not Iustices, as we commonly (and not altogether unproperly) do name them.”<sup>200</sup> Bracton, an earlier English jurist, had studied Roman law and “brought Roman ideas to the discussion of

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<sup>195</sup> Lambard, *Eirenarcha* 62.

<sup>196</sup> On the competition and exchange between the common law, canon law, and civil law, see Donald R. Kelley, “Law,” *The Cambridge History of Political Thought, 1450-1700*, eds. J.H. Burns and Mark Goldie (Cambridge: Cambridge UP, 1991) 66-94; Theodore F. T. Plucknett, *A Concise History of the Common Law*, 5<sup>th</sup> ed. (Boston: Little, Brown, 1956) 39-48, 294-431.

<sup>197</sup> Lambard, *Eirenarcha* 3. (Because to be before me, even so is to be in the presence of justice).

<sup>198</sup> Lambard, *Eirenarcha* 4.

<sup>199</sup> Lambard, *Eirenarcha* 4. (Before our justice, or doer of justice).

<sup>200</sup> Lambard, *Eirenarcha* 4.

English law.”<sup>201</sup> After his dig at Bracton’s Latin, his learning, and civil lawyers in general, Lambard pointedly resumes use of “Iustice,” the term he deems most appropriate. For Lambard, Justicer privileges the person executing the law; Justice privileges the law.

Lambard’s historicizing of the office further suggests that the justice is bound to the law. As he defines the office, “Iustices of the Peace, bee Iudges of Recorde, appointed by the Queene to bee Iustices within certaine limites, for the Conservation of the Peace, and for the execution of sundrie things comprehended in their Commission, and in divers laws committed unto them.”<sup>202</sup> While justices are appointed by the monarch, the office’s authority stems from the common law:

As the common lawe hath, even from the very beginning, continued a speciall care for the Conservation of this peace: So did it not want meete officers (beefore that these Wardeins or Iustices of the Peace were made) to whose charge it did committe maintainance of the same.<sup>203</sup>

Since “it will give no small light to the understanding of the office of the present Iustices of Peace, to have that auntient authoritie unfolded, upon the which this latter power is (as it were upon a Stocke) set and engrassed,” Lambard explains these ancient offices.<sup>204</sup> Like the common law, the justice’s office is immemorial: “At the Commune law therefore, and before ye time of King Edward the third, there were sundrie persons, that had interest in the keeping of the Peace. Of these, some had that charge as incident to other Offices that they did beare,” and were thus called by the

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<sup>201</sup> Richard Helgerson, *Forms of Nationhood: The Elizabethan Writing of England* (Chicago: U of Chicago P, 1992) 65.

<sup>202</sup> Lambard, *Eirenarcha* 3.

<sup>203</sup> Lambard, *Eirenarcha* 11.

<sup>204</sup> Lambard, *Eirenarcha* 11.

name of those other offices, and some “had it simply, as of it selfe, & were therefore named *Custodes pacis*, Wardeins, or Conservators of the Peace.”<sup>205</sup> Titles and procedures might change, but the office of keeping the peace has always been in accord with the common law.

The office is also obliged to God. According to Lambard, Parliament stipulates that those chosen to be justice be men who “love & feare God aright.”<sup>206</sup> For Lambard, the oaths that justices swear upon their induction signify this deep commitment. Lambard and Fitzherbert both provide the text of the oath of office. Fitzherbert, however, prefaces it by explaining merely that “by this oath it appereth that they ought to do al things appertaininge to the office of justicers of the peace,” and he goes on to list such duties as holding quarter sessions.<sup>207</sup> Lambard, however, emphasizes that “such as occupie Judicial places, ought to take heede what they doe, knowing (as Jehosaphat saide) that they exercise not the judgements of men onelie, but of God himself, whose power, as they doe participate: So he also is present on the bench with them.”<sup>208</sup> Then he provides the oath that the justices should take, since

... it hath beene always the policie of Christian laws, to appoint meete forms of Religious attestations (or Othes) for such Officers to take: meaning thereby, not onlie to set God continually before their eyes (whome by suche Othe, they take to wnesse of their promise, & call for revenge of their falsehood:) but also to threaten them (as it were) with temporall paines provided against corrupt dealings, & withal, to strengthen their minds, and arme their courages,

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<sup>205</sup> Lambard, *Eirenarcha* 11-12.

<sup>206</sup> Lambard, *Eirenarcha* 35.

<sup>207</sup> Fitzherbert, *newe boke* fol. 19<sup>f</sup>.

<sup>208</sup> Lambard, *Eirenarcha* 57-58.

against the force of humane affections, whiche otherwise might allure & draw them out of the way.<sup>209</sup>

While threatened with “temporall paines” should he fail to fulfill his duties, the justice ultimately is deputized by a higher authority than even the monarch.

When he cites the statute that “willed” that justices must be sworn, Lambard situates the oath within a Parliamentary, as well as a godly, context.<sup>210</sup> The oath reminds each justice that to act as a godly judge on earth is to act primarily on behalf of the commonwealth. It directs the justice according to the following form: “Ye shall swear, that as Iustice of the peace in the countie of Kent, in all Articles in the Queenes Commission to you directed, yee shall doe egall right to the poore, and to the rich, after your cunning, wit, and power, and after the laws and customes of the Realme, and Statutes thereof made...”<sup>211</sup> Lambard notes that he has updated the oath from that provided in Fitzherbert’s work, emphasizing its currency. This oath and its obligations are so important that Lambard has come up with a verse “for memories sake”:

Do equall right to rich & poore, as wit & lawe extends:

Give none advise in anie cause, that you before depends:

Your Sessions hold, as Statutes bid: The forfeites that befall,

See entred well, and then estreate them to the Cheaquer all:

Receive no fee, but that is given by Queene, good use, or right:

Ne send precept to partie selfe, but to indifferent wight.<sup>212</sup>

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<sup>209</sup> Lambard, *Eirenarcha* 58.

<sup>210</sup> Lambard, *Eirenarcha* 58.

<sup>211</sup> Lambard, *Eirenarcha* 59.

<sup>212</sup> Lambard, *Eirenarcha* 61.

Lambard's mnemonic device neatly encapsulates that while the justice receives fees from the monarch, he acts in the best interests of all subjects.

When Lambard does cite monarchical authority, he refers to the authority of the king-in-parliament. Lambard recounts the “first ordaining of the Wardeins and Iustices of the Peace, by Statute Lawe.”<sup>213</sup> While originally justices were elected by the people, after Edward II's deposition, Queen Isabel sought the aid of Parliament to “represe all intention of uproar and force.”<sup>214</sup> Only Parliamentary statute could authorize the monarch to appoint justices. Lambard is careful, too, to show that the monarch is capable of misconstruing the statutes. Apparently Edward III for many years had appointed several men to be wardens jointly over several shires, rather than a separate warden for each shire. Lambard grants that “this mighte be warranted after 18.E.3 (as I suppose) out of the Construction of the worde Countie used plurally in the Statute 18.E.3. Stat.2.ca.2,” especially in contrast to earlier laws, where the word is used in the singular.<sup>215</sup> However, he then reports, “Parliament (34.E.3.ca.1) restored the proper sense of those lawes.”<sup>216</sup> For Lambard, the monarch interprets but does not author the law; the power to clarify the law rests with the representative assembly.

Lambard outlines the monarch's powers, but he also points to the limitations of those powers. According to Lambard,

From the King (who is the head of justice) ought to flow all auctoritie to the inferiour and subalterne Justices. And upon this reason, it seemeth that the

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<sup>213</sup> Lambard, *Eirenarcha* 20.

<sup>214</sup> Lambard, *Eirenarcha* 22.

<sup>215</sup> Lambard, *Eirenarcha* 23.

<sup>216</sup> Lambard, *Eirenarcha* 23.

said Statutes (18.E.3.ca.2 and 34.E.3.ca.1) did ordaine, that the Wardeins of the Peace in each Countie should be assigned by the Kings Commission, that it might thereby appeare that they received their whole authoritie and power, as it were by his owne hande and deliverie.<sup>217</sup>

Lambard's "ought" acknowledges the difference between theory and reality; he elaborates by explaining that eventually, church officials usurped this power of appointment. Eventually, King Henry VIII is forced to resort to Parliament again "to restore unto the Crowne hir antient right in his behalfe."<sup>218</sup> While the statute decrees that "no person whatsoever, should have any power to make Iustices of the Peace, but that they should be made by letters patents under the Kings great seale, in the name and by the auctoritie of the King and his heires," Lambard observes parenthetically that there are exceptions.<sup>219</sup> Lambard also clarifies that generally, justices are "ordained by the meane of the greate Seale, and ministerie of the L. Chauncelour."<sup>220</sup>

The delegation of appointments once again calls to mind Patrick Collinson's assessment of Elizabethan England as a monarchical republic; while "everything which was done, publicly and by due legal authority, was in a sense done by the monarch," at the same time, the monarch cannot personally attend to all matters.<sup>221</sup>

Even as he specifies the exclusive personal nature of officeholding—only those who are virtuous, knowledgeable, and sufficiently wealthy should hold office—Lambard emphasizes its inclusive political nature.<sup>222</sup> Not just the king but

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<sup>217</sup> Lambard, *Eirenarcha* 26.

<sup>218</sup> Lambard, *Eirenarcha* 27.

<sup>219</sup> Lambard, *Eirenarcha* 27-28.

<sup>220</sup> Lambard, *Eirenarcha* 28.

<sup>221</sup> Patrick Collinson, "The Monarchical Republic of Queen Elizabeth I," *Bulletin of The John Rylands University Library of Manchester* 69.2 (1987): 399-400.

<sup>222</sup> Lambard, *Eirenarcha* 32.

the king-in-parliament selects justices: “In the choice of the Wardeins and Iustices of the Peace, the Statute lawes have respecte to the manners and ability (or livelihood) of them all, and to the skil and learning of suche as are Speciallie Selected, and therefore named of the *Quorum*. For, Gardeins of the Peace ought to bee good men and lawfull, no maintainers of evil...”<sup>223</sup> From time to time, new statutes are “enacted,” “ordered,” “published” in Parliament, in order to counter corruption in the nominating procedures.<sup>224</sup> And Lambard reiterates at the end of the chapter that

our Parliaments, (entending to make the Iustice of Peace an able judge) doe require that he come furnished with three of the principall ornamentes of a Iudge, that is to say, with Iustice, Wisdome, and Fortitude, for to that summe the words, Good, Learned, Valiant, do wel amounte. And above all, that he love & feare God aright, without whiche he can not bee accounted Good at all.<sup>225</sup>

Even though the justice’s authority “ought to flow” from the king, he represents the authority of Parliament.

To the extent that Lambard buttresses the officeholder’s authority, in this zero-sum arrangement, he undermines the monarch’s. Fitzherbert, whose manual begins by printing the commission and an exposition of it, since “they be constituted and made Justicers by the kinges commission,” emphasizes that the commission signifies monarchical power.<sup>226</sup> Lambard, for his part, clarifies that there are “Two fountains of the power of Iustices of the Peace”: “theyr Commission, and the

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<sup>223</sup> Lambard, *Eirenarcha* 32.

<sup>224</sup> Lambard, *Eirenarcha* 33-34.

<sup>225</sup> Lambard, *Eirenarcha* 35.

<sup>226</sup> Fitzherbert, *newe boke* fol.5<sup>r</sup>.



Statutes.”<sup>227</sup> He points to changes that have been made to the commission.<sup>228</sup> He warns the reader that some statutes have been “repealed by new Actes of our time provided in that behalf, and that therefore they are vainely rehearsed in the Commission at this day.”<sup>229</sup> He is not happy with the commission’s wording, since “greater power seemeth to be given by the letter of the Commission, than is ment by the author of the Commission.”<sup>230</sup> He concludes by pointing out that the commission’s handling of the quorum, once again, “doth make much relation to the saide Statutes that are not now at all.”<sup>231</sup> Lambard insists that “it were convenient to reforme it now also for [these] divers imperfections that do yet remaine in it.”<sup>232</sup> By criticizing, he also argues implicitly that those who are not members of Parliament or the Privy Council have valid counsel to offer.

For Lambard, the monarch herself is an officeholder charged by the common law with keeping the peace.<sup>233</sup> Lambard provides a list of such officers; some had jurisdiction over the whole realm, and some over a particular region.<sup>234</sup> He differentiates between the keeper of the peace and “a Duke, Earle, or Baron,” who “bee no conservators of the Peace, because those be no titles of Office, but of dignitie onelie.”<sup>235</sup> He cites, as an example, the jurisdiction of the Queen: “The Queenes Majestie then is, by hir office & dignitie royall, the principall conservator of the peace within hir Dominions, and may give authoritie to others, to see the peace kept, and to

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<sup>227</sup> Lambard, *Eirenarcha* 39.

<sup>228</sup> Lambard, *Eirenarcha* 46.

<sup>229</sup> Lambard, *Eirenarcha* 52.

<sup>230</sup> Lambard, *Eirenarcha* 53.

<sup>231</sup> Lambard, *Eirenarcha* 56.

<sup>232</sup> Lambard, *Eirenarcha* 48.

<sup>233</sup> McLaren observes that Sir Thomas Smith emphasizes the *office* of the monarch in *De Republica Anglorum* (*Political Culture* 218-220).

<sup>234</sup> Lambard, *Eirenarcha* 12.

<sup>235</sup> Lambard, *Eirenarcha* 12.

punish such as that break the same.”<sup>236</sup> As an officeholder, the monarch, too, is subject to the law. He has earlier noted that the monarch swears an oath upon accession:

the Queene at hir Coronation, she sweareth, *servare Ecclesia Dei, Cleri & Populi, pacem ex integro*: the meaning whereof is, (as I suppose) that she will maintain eche degree and estate of hir Subjects, as well Ecclesiasticall as Temporall, (for *Populus* comprehendeth all the laitie) according to their several customes, lawes, and priviledges.<sup>237</sup>

Like all other officeholders, the monarch holds office to serve the commonwealth. While Lambard acknowledges the importance of the Queen’s office, he insists that it is, still, just another office.

In defining the justice’s jurisdiction, Lambard endows the justice with authority on a par with the monarch. He holds that

This Iurisdiction of theirs is exercised, for the most part (if not altogether) aboute those causes which be in a maner the same that the Civil Lawyers do call, *Iudicia publica*, partely because the Prince (who representeth the head of the common wealth) hath interest in the most of them, as wel as that private person which is immediatly offended, and partely, because they are not commonly tried by suche Action as other Civil and Private causes are, but rather by Criminall and Publique Accusation, Information, or Presentment.<sup>238</sup>

Here, Lambard utilizes the scholarship of the civil lawyers. Roman law distinguished between public and private law, the first concerning affairs of state and the second

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<sup>236</sup> Lambard, *Eirenarcha* 12.

<sup>237</sup> Lambard, *Eirenarcha* 6-7.

<sup>238</sup> Lambard, *Eirenarcha* 66.

involving the concerns of individuals, such as property disputes.<sup>239</sup> English common law did not so differentiate; in fact, Lambard's *Eirenarcha* is the only contemporary legal work even to mention public and private in relation to the common law.<sup>240</sup> Treating public law could be controversial. Of Edward Coke's later *Institutes* (works that codified English law), only the first, on matters of private law, was published initially. Upon finding out that Coke had dared to treat public matters in subsequent volumes, King Charles I suppressed them.<sup>241</sup> And the right to address public, or state, matters had been an issue in the Parliamentary disputes over free speech in the 1570s, when the monarch prohibited Parliamentary discussion of the succession, religious issues, and foreign affairs. Peter Wentworth had defended his opinions on the grounds that he offered them as a public councilor, and not as a private man, in the interest of the public weal.<sup>242</sup> Lambard establishes the justice's concern with criminal affairs, but he also claims for the justice an official avenue for participation in the polity.

Lambard can make such a claim because the justice's obligations had a religious as well as an administrative and judicial dimension. A criminal act was not just a crime; it was a sin.<sup>243</sup> According to Cynthia Herrup, criminal behavior offended the particular individual involved, but it also transgressed the injunctions of "God, king, and community."<sup>244</sup> Thus crime was a public as well as a private matter. Prosecution undertaken by justices was understood to be on behalf of the monarch:

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<sup>239</sup> Plucknett, *Common Law* 298; Helgerson, *Nationhood* 90-91.

<sup>240</sup> Goebel, "Constitutional" 559; 559, n. 11.

<sup>241</sup> Helgerson, *Nationhood* 91.

<sup>242</sup> Qtd. in McLaren, *Political Culture* 193.

<sup>243</sup> Herrup, *Common* 3; Plucknett, *Common Law* 305.

<sup>244</sup> Herrup, *Common* 3.

“It was the king who stood as the symbolic victim, and who had to be revenged.”<sup>245</sup>

While the Prince might be symbolically involved, as God’s deputy on earth, Lambard’s justice is responsible primarily to the law. The law allows Lambard’s justice the power of coercion: “This punishment then, is an orderly execution of a lawfull iudgement, layed upon an offendour, by the minister of the Lawe....”<sup>246</sup> And, for Lambard, punishment serves the commonwealth as a whole. It “amends” the criminal, it sets an example, it restores the dignity of the offended, and, in the case of capital punishment, it removes the threat of the evil-doer.<sup>247</sup> While the justice of the peace is deputized by the king, he no less than the king enacts justice for the subject.

The justice’s status as a judge of record initially indicates his obligation to the monarch, but Lambard stresses the justice’s obligation to other subjects as well. The courts of record were those courts that kept records of their proceedings; as Lambard expresses it, “they shall be trusted in the reporte of causes happening before them.”<sup>248</sup> Records served an important financial purpose; they allowed the magistrates to exact payment of fines and fees.<sup>249</sup> Lambard’s justice “maye take a Recognisance for the Peace ... which none can do, but a Iudge of Recorde, because the acknowledging of the sum, is to remaine as a matter of Recorde.”<sup>250</sup> Being a judge of record augments the justice’s standing:

I maketh not a little, both for maintenance of the Peace, and for the credite of the Iustices thereof, that they are numbred amongst the Iudges of Recorde for,

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<sup>245</sup> Herrup, *Common* 3.

<sup>246</sup> Lambard, *Eirenarcha* 67.

<sup>247</sup> Lambard, *Eirenarcha* 68.

<sup>248</sup> Lambard, *Eirenarcha* 70.

<sup>249</sup> S.F.C. Milsom, *Historical Foundations of the Common Law*, 2<sup>nd</sup> ed. (London: Butterworths, 1981) 17.

<sup>250</sup> Lambard, *Eirenarcha* 73.

on the one side evil doers wil be afraid, when they shall see Memorialles of their wickednesse before their eies, and on the other side, the proceedings of those Iustices shall be so much the more revered & let by, as it shall appeare that their endeoures are countenanced with the favour of authoritie.<sup>251</sup>

Lambard later asserts that “greate cause hathe the Iustice of Peace therefore, to take diligente heede, that he abuse not this credite, either to ye oppressing of any subject, by making an untrue Recorde, or to the defrauding of the Prince, by suppressing anye true Record.”<sup>252</sup> Lambard’s justice owes it to both subject and prince to avoid cheating either.

While the records were important for financial reasons, they were also important in terms of future legal decisions. These records provided precedents: “One man may affyrme a thing, and another may deny it, but if a Record once saye the worde, no man shall be received to Averrre (or speake) against it.”<sup>253</sup> The justice’s “Recorde or testimonie is made in some case of greater force and value than an Enditement by the oath of twelve men, for his Record ... shal conclude the partie so, that he shal not be admitted to Traverse or gainsay it by 21.H.6.5 Fitzh. Fol. 18.6 & upon the statute 15.R.2.ca.2. 11.H.7.ca.15. & 33.H.8.c.6.”<sup>254</sup> In spite of the common lawyers’ perception of the common law as immemorial (and thus unchanging), J. H. Baker argues that during the sixteenth century, lawyers increasingly relied on “jurisprudence,” or “judge-made law,” over “doctrine,” or

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<sup>251</sup> Lambard, *Eirenarcha* 69-70.

<sup>252</sup> Lambard, *Eirenarcha* 73.

<sup>253</sup> Lambard, *Eirenarcha* 71.

<sup>254</sup> Lambard, *Eirenarcha* 73.

“common learning.”<sup>255</sup> When deciding cases, judges looked to records and reports for precedents, rather than relying on reason, or their knowledge of common law. Lambard’s perspective reflects this shift; he cites the authority of Bracton: “If men shoulde bee admitted to deny the enrolled actes of the Court, then would there never bee any ende of controversies.”<sup>256</sup> When Lambard cautions against oppressing subjects and defrauding the Prince, he refers to financial matters, but the warning might extend to the justice’s role in establishing legal precedents, too.

Lambard also associates justices with the making of the law by granting them discretion. While, on the one hand, the commission “bindeth [justices] faste with the chaines of the Lawes, customes, ordinances, and Statutes,”<sup>257</sup> on the other hand,

Our latter laws of Parliament, although they also endeavour (for the most parte) to hold the same course, yet forasmuche as everie considerable circumstance can not be foreseeene at the time of the making of the Lawe, they doe many times leave to be supplied by the discretion of the Executioner of the Lawe, that thing which was not conveniently comprehended before hand, by the wisdom of the maker of the Law.<sup>258</sup>

Justices should not abuse this power of discretion, “for no way better shall the Discretion of a Iustice of the Peace appeare, than if he (remembering that he is *Lex loquens*) do containe himself within the lifts of law, and (being soberly wise) do not use his owne Discretion, but onely where both the law permitteth, and the present

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<sup>255</sup> J. H. Baker “English Law and the Renaissance,” *Cambridge Law Journal* 44.1 (1985) 59. See also Baker, *English Legal History* 152.

<sup>256</sup> Lambard, *Eirenarcha* 71.

<sup>257</sup> Lambard, *Eirenarcha* 63-64.

<sup>258</sup> Lambard, *Eirenarcha* 64.

case requireth it.”<sup>259</sup> Even while cautioning the justice to remain within the law, Lambard designates him a speaker of the law, a position that King James himself later wanted to claim: “‘*Rex est lex loquens.*’”<sup>260</sup> Coke responded in his *Institutes* that “‘*Judex est lex loquens.*’”<sup>261</sup> For Coke, the law is made by “‘the very true resolutions, sentences, and judgments of the reverend judges and sages of the law themselves, who for their authority, wisdom, learning, and experience are to be honored, revered, and believed.’”<sup>262</sup> For Lambard and Coke alike, the judges authored the law; the monarch was subject to it.

As Lambard’s concern about justices abusing their discretion indicates, he was broadly concerned with subjects’ performance of their offices. As he notes, the commission itself charges justices “to be diligentlie intendant aboute the execution of the premisses.”<sup>263</sup> But, Lambard laments, “howe negligentlie many of them performe it, I am afraide it is too manifeste, whylest ambitiouslie seeking the name and power to rule, they take smal care of doing their duetiful service that belongeth therunto.”<sup>264</sup> As a justice himself, he exhorted jurors to be more conscientious.<sup>265</sup> Retha Warnicke concludes that “in none of these exhortations did he emphasise national affairs.”<sup>266</sup> Lambard might not have mentioned specific events, but the commonweal was always on his mind. Indeed, for Lambard, holding office is more than a duty to the commonwealth, it is a critical site for *participation* in the polity.

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<sup>259</sup> Lambard, *Eirenarcha* 65.

<sup>260</sup> Qtd. in Helgerson, *Nationhood* 84.

<sup>261</sup> Qtd. in Helgerson, *Nationhood* 84.

<sup>262</sup> Qtd. in Helgerson, *Nationhood* 84.

<sup>263</sup> Lambard, *Eirenarcha* 56.

<sup>264</sup> Lambard, *Eirenarcha* 56.

<sup>265</sup> See, for example, Dunkel, *Jurist* 91, 111-112, 154-56, 186; Warnicke, *Antiquary* 61, 67; Alsop and Stevens, “Lambarde” 248. See also *William Lambarde and Local Government: His ‘Ephemeris’ and Twenty-Nine Charges to Juries and Commissions*, ed. Conyers Read (Ithaca, NY: Cornell UP, 1962).

<sup>266</sup> Warnicke, *Antiquary* 68.

Lambard's title for his manual indicates his understanding of this polity. *Eirenarcha* hearkens back to "eyre," the name of the system of itinerant judges that had developed by the twelfth century. The eyres became so powerful, however, that they were eliminated in the fourteenth century.<sup>267</sup> When Lambard legitimizes the justice's office, he reconfigures the chain of authority. Rather than a vertical hierarchy, one in which God's authority is vested in the monarch, and the monarch's authority is vested in the officeholder, Lambard depicts a society in which God's authority is vested in monarch and subject alike as ministers of God's law. In doing so, he contributes significantly to the discourse of officeholding. By defining the officeholder's obligations, Lambard was imagining the officeholder's potential to transform governors and government.

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<sup>267</sup> Baker, *English Legal History* 15.



## Chapter 2: Promising Justice

These, and many other Iudiciall officers in our law, be called Iustices (*per Metonymiam subiecti*) because they doe (or should doe) law and Iustice.<sup>268</sup>

In 1931, Leslie Hotson argued that Shakespeare created *The Merry Wives of Windsor*'s Justice Shallow as a bit of personal revenge. Hotson recorded his search through the Public Records Office in *Shakespeare versus Shallow*. He initially turned to the PRO in the hopes of gleaning further information about Shakespeare's life; he notes that he focused on "petitions for sureties of the peace" in the rolls of the Queen's Bench.<sup>269</sup> His research eventually revealed that in 1596, a "William Wayte craves sureties of the peace against William Shakspeare, Francis Langley, Dorothy Soer wife of John Soer, and Anne Lee, for fear of death, and so forth."<sup>270</sup> After further research implicated Wayte's stepfather, William Gardiner, a justice of the peace, Hotson concluded that Gardiner had abused his powers as justice in an attempt to get revenge on Francis Langley. After yet more research, Hotson determined that Gardiner was indeed, as Langley apparently declared, "'a false knave, a false forsworn knave, and a perjured knave."<sup>271</sup> As a result, Hotson argued, Shakespeare got his revenge in the best way he knew how, through poetic justice. By lampooning Gardiner, Shakespeare could offer up an insult that would long outlive whatever material wealth Gardiner had gained in a lifetime of "greed, usury, fraud, cruelty, and

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<sup>268</sup> William Lambard, *Eirenarcha* (London, 1594) 3.

<sup>269</sup> Leslie Hotson, *Shakespeare versus Shallow* (1931; New York: Haskell House, 1969) 4.

<sup>270</sup> Hotson, *Shallow* 9.

<sup>271</sup> Qtd in Hotson, *Shallow* 78.

perjury.”<sup>272</sup> According to Hotson, “Shakespeare is here revealed for the first time as a master of personal satire, taking with devastating humour a satisfactory revenge for himself, his associates of the theatre, and Gardiner’s victims in Southwark.”<sup>273</sup>

In his 2000 Arden edition of *Merry Wives*, Giorgio Melchiori disputes Hotson’s claim. He notes that “the family connection between Shallow and Slender is never stated in unequivocal terms ... and in 2 *Henry IV* there is no mention of Shallow’s family or relations, therefore there is no reason to believe that these two represent the litigants in the legal case.”<sup>274</sup> Still, Melchiori’s blanket dismissal of Hotson’s argument has no bearing whatsoever on Hotson’s basic research: Shakespeare evidently was familiar with the ways in which officeholders administered the law.<sup>275</sup> And *Merry Wives*’s Shallow is, among other things, an officeholder. Indeed, consideration of two contemporary plays – Anthony Munday’s *The Downfall of Robert, Earl of Huntington* and Ben Jonson’s *Every Man in His Humor* – reveals that Shallow’s role goes well beyond mere caricature. All three of these plays (c. 1597-98), evaluate the significance of justices of the peace and of office itself. Their dramatists juxtapose officeholding with quasi-feudal chivalric communities, exploring officeholding as an alternative avenue for service by loyal subjects.

These plays were written when various pressures were being brought to bear upon the justice’s office. As is clear from my discussion of the officeholding

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<sup>272</sup> Hotson, *Shallow* 29.

<sup>273</sup> Hotson, *Shallow* 130-31.

<sup>274</sup> Giorgio Melchiori, notes for List of Roles, *The Merry Wives of Windsor*, by William Shakespeare, ed. Giorgio Melchiori (London: Thomas Nelson, 2000) 121-22.

<sup>275</sup> Shakespeare’s knowledge could have been grounded in more than just personal experience; for instance, Peter Ackroyd points to evidence suggesting that Shakespeare owned a copy of *Archaionomia*, a legal text compiled by William Lambard. See Peter Ackroyd, *Shakespeare: The Biography* (New York: Doubleday, 2005) 85.

manuals, the justice's office had been strengthened by the Tudors in an effort to centralize power. Justices, like all subjects, were expected to be loyal, and they in particular were charged with carrying out the orders of central government. But by the late sixteenth-century, central authorities were voicing concerns over the justices' performance of their duties. Lord Keepers from Nicholas Bacon in 1565 to Thomas Egerton in 1602 worried that many justices were only interested in the office for their own private gain; Bacon criticized those "'drones'" who only wanted "'to keepe the name and place of a Justyce ... for reputation's sake.'"<sup>276</sup> Members of the Privy Council had reservations about the education and capabilities of local justices, urging them in 1590 to reserve judgment in the Quarter Sessions on ambiguous cases and instead wait for the Assizes.<sup>277</sup> In 1609, the Privy Council concluded that so many justices were incompetent that "'it is high time to prevent the growing evils which may ensue for lack of good distribution in causes that concern public services which are often carried so confusedly or executed so remissly as the vulgar sort of people will in time get a custom of disobedience.'"<sup>278</sup> In some instances the Privy Council reprimanded justices for being lax about enforcing hunting and gaming laws.<sup>279</sup> Star Chamber heard cases concerning failure to perform duties or abuse of office; those convicted could be fined, censured, or dismissed from office.<sup>280</sup>

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<sup>276</sup> Qtd. in Felicity Heal and Clive Holmes, *The Gentry in England and Wales, 1500-1700* (Stanford: Stanford UP, 1994) 168.

<sup>277</sup> Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge UP, 1987) 44-45.

<sup>278</sup> Qtd. in J.H. Gleason, *The Justices of the Peace in England, 1558-1640: A Later Eirenarcha* (Oxford: Oxford UP, 1969) 99.

<sup>279</sup> Roger Manning, *Hunters and Poachers: A Social and Cultural History of Unlawful Hunting in England, 1485-1640* (Oxford: Clarendon P, 1993) 68-69.

<sup>280</sup> Heal and Holmes, *Gentry* 177.

Certainly some of these complaints were due to negligent or corrupt justices, but some of them must have been occasioned by uncertainty and confusion on the justices' part over what exactly the office's duties entailed. Or perhaps justices were re-defining what it meant to be a justice. According to Lambard, justices were so named because they "doe (or should doe) lawe and Iustice."<sup>281</sup> But to "do justice" is a broad and vague charge. As noted in the preceding chapter, the justice's office entailed a combination of administrative and judicial responsibilities, and contemporary justices appear to have felt overwhelmed by their duties. In response to complaints that there were too many justices, Lambard questioned: "how many Iustices (thinke you) may now suffise (without breaking their backes) to beare so many, not loades, but Stackes of Statutes, that have since that time bene laide uppon them?"<sup>282</sup> The very proliferation of manuals was an attempt to deal with this increase in responsibilities, as Lambard made clear in his dedicatory epistle when he noted that his friends had persuaded him that "the more parte of the Iustices of the Peace as this day had neede of some helpe in writing for their better conduct in that office."<sup>283</sup> There is also evidence that in some cases, justices and juries chose not to enforce laws that they deemed unfair.<sup>284</sup>

Does a justice of the peace, then, do justice on behalf of the monarch, the subject, or "justice" itself? If one is charged with doing justice, what *is* justice? The very vagaries of the term itself were further complicated by the fact that over the fifteenth and sixteenth centuries, the identity of those who were called to do justice

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<sup>281</sup> Lambard, *Eirenarcha* 3.

<sup>282</sup> Lambard, *Eirenarcha* (1582) 38.

<sup>283</sup> Lambard, *Eirenarcha* (1582) sig.A2<sup>v</sup>.

<sup>284</sup> Manning, *Hunters and Poachers* 68.

was shifting. Under the Tudors, knights who traditionally had been men of the sword took on judicial and administrative duties, serving as justices and members of Parliament.<sup>285</sup> They were initially called to be justices because they had the might and the arms to enforce the law, not necessarily because they had any particular knowledge of it.<sup>286</sup> But Mervyn James has argued that while the concept of honor remained important in early modern English politics, what he calls the “honour community” broadened to include not only warriors but lawyers, merchants, and officeholders.<sup>287</sup> For James, there was a gradual shift from a community where honor meant “‘faithfulness’ to lords and friends” and which resorted to battle to resolve conflicts, to a community in which honor was expressed in civil service.<sup>288</sup>

For both James and Arthur Ferguson, Sir Thomas Elyot’s *The Boke of the Governour* was instrumental in this “transvaluation,” according to which service previously understood in terms of chivalric values came to be understood in terms of commonwealth sentiments.<sup>289</sup> While Elyot is concerned with the knight’s education, he emphasizes the importance of learning and wisdom as well as battle skills.<sup>290</sup> Defining the concept of justice is an important aspect of Elyot’s transvaluation. In *The Boke Named the Governour* (1531), Elyot defines justice as “a wille perpetuall and constaunt, whiche gyveth to every man his right.” It is so “necessary and expedient for the governour of a publike weale, that without it none other virtue may be

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<sup>285</sup> Arthur Ferguson, *The Chivalric Tradition in Renaissance England* (Washington: Folger Books, 1986) 20; Roger B. Manning, *Swordsmen: The Martial Ethos in the Three Kingdoms* (Oxford: Oxford UP, 2003) 21.

<sup>286</sup> Ferguson, *Chivalric Tradition* 29.

<sup>287</sup> Mervyn James, *Society, Politics and Culture: Studies in Early Modern England* (Cambridge: Cambridge UP, 1986) 375.

<sup>288</sup> James, *Society* 413.

<sup>289</sup> Ferguson, *Chivalric Tradition* 60.

<sup>290</sup> James, *Society* 378.

commendable.”<sup>291</sup> For Elyot, “that whiche in latyne is called Fides, is a parte of justice....”<sup>292</sup> Allowing that the terms faith, credence, trust, and loyalty are interchangeable for the same virtue, he explains that different relationships call for the use of the different terms.<sup>293</sup> Faith is used to describe one’s relationship with God, while “from the subjecte or servaunt to the soverayne or maister it is proprely named fidelitie, and in a frenche terme loyaltie.”<sup>294</sup> Elyot then laments the demise of this virtue, noting that it is “so neglected throughout christendome, that neither regarde of religion or honour, solemne othes or terrible cursis can cause hit to be observed.”<sup>295</sup>

Elyot, then, uses the vocabulary of chivalry to describe the commonwealth, in particular the judicial system. The demise of faith is problematic for the individual, but he also wonders, “O what publike weale shulde we hope to have there, where lacketh fidelitie? Whiche as Tullie saieth is the foundation of justyce.”<sup>296</sup> He exhorts his peers to be loyal to their sovereign, citing the example of David, who refused to assassinate Saul when he had the chance.<sup>297</sup> Elyot also addresses “that parte of fidelitie, which concerneth the keypyng of promise or covenantes.”<sup>298</sup> He laments the numbers of men breaking promises and taking oaths lightly, mentioning specifically the implications for the judicial system:

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<sup>291</sup> Sir Thomas Elyot, *The Boke Named the Governour*, ed. Donald W. Rude (New York: Garland, 1992) 176.

<sup>292</sup> Elyot, *Governour* 189.

<sup>293</sup> Elyot, *Governour* 189.

<sup>294</sup> Elyot, *Governour* 190.

<sup>295</sup> Elyot, *Governour* 190.

<sup>296</sup> Elyot, *Governour* 190.

<sup>297</sup> Elyot, *Governour* 192-93.

<sup>298</sup> Elyot, *Governour* 197.

In judiciall causes, be they of never so light importunce, they that be no parties but straungers, I do meane witnesses and jurates, whiche shall procede in the trial, do make no lasse othe, but openly do renounce the helpe of God and his sayntes, and the benefite of his passion, if they say nat true, as ferre furthe as they knowe. How evill that is observed, where the one partie in degree ferre exceed the other, or where hope of rewarde or affection taketh place, no man is ignoraunt sens it is every yere more commune harvist. Alas what hope shall we have of any publike weale, where such a pestilence reigneth?<sup>299</sup>

Elyot transvalues personal loyalty into the sorts of covenantal bonds that would provide a basis for institutions throughout the commonwealth.

Markku Peltonen reads Elyot's *Boke of the Governour*, as well as the works of other humanists such as Thomas Starkey, focusing on prevalent concerns regarding the monarch and the monarchy. Even as they were redefining the subject's role in the polity, these treatises were redefining and delimiting the monarch's role. Peltonen observes that tracts of the 1570s and 1580s were printed amid disputes over Parliament's place in advising the monarch, citing Peter Wentworth's claim that he spoke in Parliament not as a "private person" but instead as "publique and a councillor to the whole."<sup>300</sup> The same topics recur under Queen Elizabeth's reign, when succession anxieties were mounting. Two tracts published in England in the late 1590s advocate a mixed constitution.<sup>301</sup> Both *The Counsellor* (1598), a

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<sup>299</sup> Elyot, *Governour* 198.

<sup>300</sup> Markku Peltonen, *Classical Humanism and Republicanism in English Political Thought: 1570-1640* (Cambridge: Cambridge UP, 1995) 45.

<sup>301</sup> Peltonen, *Classical Humanism* 106-08.

translation of a work by Laurentius Grimalius Goslicius, and Gasparo Contarini's *De Magistratibus et republica Venetorum* (1599), as translated by Lewes Lewkenor, insist on the virtue of the *vita activa*.<sup>302</sup> Goslicius, citing Cicero, theorizes that a perfect government "was governed by a king, a Senate, and consent of the people."<sup>303</sup>

Upon King James' accession to the throne, the role of the subject in public life again became a topic of debate.<sup>304</sup> Absolutist claims elevated the monarch and, correspondingly, limited the subject's role.<sup>305</sup> As William Willymat argued in 1604, subjects were not to occupy themselves with public matters or office; they had "only each of them his owne private busines according as his owne place, function, and calling requireth."<sup>306</sup> George Meriton, preaching before James, argued against the *vita activa*: "Yet to be a Mayor of a Towne or Citty, or a Iustice of Peace in the Countrey (I might goe higher) cannot sort so well with noble estate, as Priesthood may: heere-in may Nobles live, and devote them-selves unto Gods service without disparidgement."<sup>307</sup> Others, however, such as John Brinsley, who translated anew the first book of Cicero's *De officiis* for publication in 1616, countered that "the life of those who apply themselves to government, for the good of the commonwealth, or to achive great maters: for the same, is more profitable to mankinde, and also more fit for attayning fame and honour."<sup>308</sup>

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<sup>302</sup> Peltonen, *Classical Humanism* 109.

<sup>303</sup> Qtd. in Peltonen, *Classical Humanism* 108.

<sup>304</sup> Peltonen, *Classical Humanism* 119-20.

<sup>305</sup> Peltonen, *Classical Humanism* 120-21.

<sup>306</sup> Qtd. in Peltonen, *Classical Humanism* 121.

<sup>307</sup> George Meriton, *A Sermon of Nobilitie* (London, 1607) sig.E2<sup>f</sup>.

<sup>308</sup> Qtd. in Peltonen, *Classical Humanism* 148.



Brinsley joined a tradition of humanists who drew on classical republican thought to counter arguments against the subject's participation in the polity.<sup>309</sup> Eager to reconcile the *vita activa* with the *vita contemplativa*, they deemed *otium*, learning, a useful tool for *negotium*, not an end in itself.<sup>310</sup> As Gabriel Harvey observed, “all theory is puerile, without manly practice.”<sup>311</sup> Writers such as Thomas Baynes weighed the respective merits of the contemplative life and the active life, concluding that ultimately a man's life was meant to be dedicated to “the only use and behoofe of his country.”<sup>312</sup> In turn, these accounts were connected to discussions of virtue and of nobility. What it was that constituted or conferred nobility was disputed fervently. While some, such as John Foord, argued that nobility descended from “ancient riches and vertue,” others held that nobility required more than lineage and wealth.<sup>313</sup> Thomas Rogers, for instance, contended in 1576 that “true is that sentence of Cicero, Noble men, except they be vigilant, honest, valiant, and mercifull (notwithstanding their byrth) must needs geve place unto them, which are adorned with those goodly vertues.”<sup>314</sup> True nobility consisted not only in the possession of these virtues but in their use for the benefit of the commonwealth, whether through military prowess or governing.<sup>315</sup>

Tracts such as John Barston's *Safegarde of Societie* (1576), Richard Beacon's *Solon his follie*, and Henry Crosse's *Vertues Commonwealth* (1603) emphasized the

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<sup>309</sup> Peltonen, *Classical Humanism* 10-11, 20-45.

<sup>310</sup> Peltonen, *Classical Humanism* 10.

<sup>311</sup> Qtd. in Peltonen, *Classical Humanism* 26.

<sup>312</sup> Qtd. in Peltonen, *Classical Humanism* 30.

<sup>313</sup> Peltonen, *Classical Humanism* 37. On virtues and governing, see also Quentin Skinner, *The Foundations of Modern Political Thought*, vol. 1 (Cambridge: Cambridge UP, 1978) 228-43.

<sup>314</sup> Qtd. in Peltonen, *Classical Humanism* 37.

<sup>315</sup> Peltonen, *Classical Humanism* 40, 44.

importance of virtue in the service of a healthy commonwealth.<sup>316</sup> In *Vertues Commonwealth*, Crosse emphasizes the “diligent education & training up [of] youth in discipline, wherby a universall good is attained; for this is the maine pillar that holdeth up & underprops the government, without which no Common-wealth could stand & peaceably continue.”<sup>317</sup> He attributes the “flourishing state” of the Romans, Athenians, and “other dominions” to virtue, since “where *Vertue* is wanting in a generall government, that Common wealth is wholly overthrown.”<sup>318</sup> Crosse specifies that virtue is associated with man: “The Stoikes, call Vice and *Vertue*, *Animalia*, living creatures, because by them a man is discerned, for in respect of *Vertue*, a man is said to be a man, which is the *Eytmologie* of the word, and in respect of *Vice*, to be a beast, because he wanteth those faculties, and demensions, onely proper to a vertuous and good man.”<sup>319</sup>

Justice, one of the four cardinal virtues (temperance, prudence, justice, and fortitude) was a standard component of these discussions, if to varying degrees. Barston listed the cardinal virtues, but underscored virtue in general, observing that “all that may bee called honest, preceedeth from one of these foure.”<sup>320</sup> Crosse, like Barston, primarily discusses the general importance of virtue and vice. But he does specify that “to prosecute my intent, which is to handle the morrall Vertues, and lay open the parts of humanitie, it wil not be amisse to touch by the way, the foure chiefe

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<sup>316</sup> Peltonen, *Classical Humanism* 63, 78, 151.

<sup>317</sup> Henry Crosse, *Vertues Commonwealth* (London, 1603) Sig.G4<sup>r</sup>.

<sup>318</sup> Crosse, *Vertues* sig.E4<sup>r</sup>.

<sup>319</sup> Crosse, *Vertues* sig.B1<sup>r-v</sup>.

<sup>320</sup> Qtd. in Peltonen, *Classical Humanism* 63.

and principall Vertues, called cardinall Vertues, as Prudence, Iustice, Fortitude, and Temperance....”<sup>321</sup> Defining justice, he observes that

Iustice, is a vertue that giveth to everyman his owne, the first and principall part whereof is, and ever was, to doo God that honour which is due to his divine maiestie, consisting in feare, love, & reverence, for as Iustice....will equally render to every man his owne, & bring discarding things to an equalitie, by considering the difference betweene them, so much more and most of all, it is most iust, to love God, of whom wee have all that we have, and being perished by originall corruption, were eftsoones recovered, by the suffereings of his son....<sup>322</sup>

For Crosse, justice is a virtue that men have and it is also something that men do to restore right relations between men and with God.

Justice itself—what exactly it was, who was supposed to execute it, and how it was to be executed—remained a cause for concern decades after Elyot raised his reservations. Some contemporary theorists defined justice in relation to equity and mercy.<sup>323</sup> Others, like Barnabe Barnes, emphasized justice as one of the cardinal virtues needed for good governance. Barnes’s *Foure books of offices* (1606) correlates the virtues with positions in the polity. In his preface, Barnes clarifies that “by these foure are all blessed Monarchies, Kingdomes, Commonweales, and policies susteined, governed, directed and protected, that is by Temperance, Prudence, Iustice and Fortitude, shadowed as I said in the Treasurer, Counsellour, Iudge, and

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<sup>321</sup> Crosse, *Vertues* sig.B2<sup>r</sup>.

<sup>322</sup> Crosse, *Vertues* sig.B3<sup>r-v</sup>

<sup>323</sup> James E. Phillips, “Renaissance Concepts of Justice and the Structure of *The Faerie Queene*, Book V,” *Huntington Library Quarterly* 33.2 (1970) 105.

Souldier....”<sup>324</sup> In the book on justice, Barnes cites Cicero, declaring justice to be “*Omnium virtutum domina & Regina: The Lady and Queene of all other vertues.*”<sup>325</sup> He defines justice as “A perpetuall and assured will to give every man his due. And derived as I suppose from *Ius*, which is right, *tanquam Ius stans, & immobile, veliuris statio*: As a sure, immoveable, or implanted right being the same in effect with the definitions of iustice.”<sup>326</sup> Barnes elaborates by providing information related to jurisdiction, such as laws, edicts, and customs.

Barnes subsequently devotes pages to describing the ideal judge, associating justicial virtue with this particular officeholder. He argues that a judge needs gravity of mind, experience, and constancy,

so that by the iustice of his heart, which ministreth wisdom and gravitie to his head; and by the severe and precise prudence of his head, which inblazoned in a stedfast countenance a stout maiestie withal; and by the comely grace of his countenance which admirably shadoweth all in a decent austeritie, there may be due reverence and feare drawene to the person of a Iudge on every side about him....<sup>327</sup>

For Barnes, an effective judge must literally embody justice, “for if gravitie should not appeare in all his iudgements, then shall he be suspected of a partiall & foolish lenthitude: which opinion (when it is once vulgarly conceived) will prejudice him either in his reputation, or in administration of the Lawes.”<sup>328</sup> At the end of the book,

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<sup>324</sup> Barnabe Barnes, *Foure books of offices: enabling privat persons for the speciall service of all good princes and policies* (London, 1606) sig.A3<sup>v</sup>.

<sup>325</sup> Barnes, *Foure books* 128.

<sup>326</sup> Barnes, *Foure books* 128.

<sup>327</sup> Barnes, *Foure books* 139.

<sup>328</sup> Barnes, *Foure books* 140.

he lists those who have embodied these characteristics, including the writers of tracts on law such as Littleton, Fitzherbert and Plowdon, as well as notable judges, including Bacon, Bromley, Egerton, and Popham.<sup>329</sup> Such men serve as examples for all others who have the responsibility of judging, since they have “taken great paines for the comfort and benefit of this Common-wealth....”<sup>330</sup>

For John Cowell, who is primarily concerned with asserting the monarch’s sovereignty, defining justice becomes a way to limit the officeholder’s power. Justice is above all associated with the officeholder and with the officeholder’s relationship to the monarch: “*Iustice (Iusticiarius)* is a French word, and signifieth him, that is deputed by the king, to do right by way of iudgement.”<sup>331</sup> Citing Glanville, Cowell explains that the justice is called justice and not “*Iudex*” because “in auncient time the latine word for him was (*Iusticia*) and not (*Iusticiarius*)”; and, he says, he notes this in particular because “men of this function should hereby consider, that they are or ought to be, not (*Iustis*) in their iudgements, but in abstract (*ipso iusticia*). How be it I hould it well, if they performe their office in *concreto*.”<sup>332</sup> Cowell esteems justices less as judges and more as administrators bound to execute the orders of the monarch. He explains that “Another reason why they are called *Iusticiarius* with us and not *Iudices*, is, because they have their authority by deputation, as Delegates to the king, and not *intro magistratus*; and therefore cannot depute others in their stead.”<sup>333</sup> In this respect, he differentiates between the justices and some other officeholders: “for the Chancellor, Marshall, Admirall, and such like are not called *Iusticiarii* but

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<sup>329</sup> Barnes, *Foure books* 160.

<sup>330</sup> Barnes, *Foure books* 160.

<sup>331</sup> John Cowell, *The Interpreter* (London, 1607) sig.2P<sup>r</sup>.

<sup>332</sup> Cowell, *Interpreter* sig.2P<sup>r</sup>.

<sup>333</sup> Cowell, *Interpreter* sig.2P<sup>r</sup>.

*Judices*.”<sup>334</sup> For Cowell, the justice of the peace represents justice on earth, but only as the monarch’s deputy: “Iustices of peace (*Iusticiarii ad pacem*) are they that are appointed by the kinges commission, with others, to attend the peace in the County where they dwell....”<sup>335</sup>

Hence, even as holding office offered the warrior class an alternative way to achieve virtue and honor in early modern England, it became a site of contest, as subjects by turns defended monarchical prerogative and defended against it. Meanwhile, chivalric values did not quite disappear. While historians dispute the degree to which chivalry remained influential in Elizabethan and Jacobean England, they all acknowledge its values and vocabulary persisted.<sup>336</sup> Men could still attain honor through military accomplishments. In a 1606 sermon, George Meriton asserted that poor members of the nobility might “give them-selves unto Chevalry, and leade a martiall life: for it is a peece of happiness to a country, (if there can be happines in war) when as Captaines are gentlemen, and gentlemen Captaines.”<sup>337</sup> For his part, Sir Robert Naunton categorized the Elizabethan “Servants of her State” according to their roles as warriors or counselors.<sup>338</sup> According to Naunton, men such as Sir Nicholas Bacon and Thomas Radcliff, Earl of Sussex were either *togati* or *militia*.<sup>339</sup> William Cecil, Lord Burleigh, “this great Instrument of State,” Naunton ranked “amongst the *Togati*, for he had not to do with the sword, more then as the great pay-master, and

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<sup>334</sup> Cowell, *Interpreter* sig.2P<sup>r</sup>.

<sup>335</sup> Cowell, *Interpreter* sig.2P4<sup>r</sup>.

<sup>336</sup> See Manning, *Swordsmen*; Ferguson, *Swordsmen*; James, *Society*; Richard C. McCoy, *The Rites of Knighthood: The Literature and Politics of Elizabethan Chivalry* (Berkeley: U of California P, 1989); Maurice Keen, *Chivalry* (New Haven: Yale UP, 1984); Frances A. Yates, *Astraea: The Imperial Theme in the Sixteenth Century* (London: Routledge & Kegan Paul, 1975) 88-111.

<sup>337</sup> Meriton, *Sermon* sig.E<sup>v</sup>-E2<sup>r</sup>.

<sup>338</sup> Sir Robert Naunton, *Fragmenta Regalia, or Observations on the Late Queen Elizabeth, Her Times and Favourits* (London, 1641) 42.

<sup>339</sup> Naunton, *Fragmenta Regalia* 13.

Contriver of the Warre, which shortly followed.”<sup>340</sup> For his part, Thomas Radcliff, Earl of Sussex, “was indeed one of the Queens Martialists, and did very good service in *Ireland*.”<sup>341</sup>

The early modern English nobility, then, might still be looking back to the most traditional model for secular service.<sup>342</sup> Chivalry was historically connected with the aristocracy and with martial exercises.<sup>343</sup> The term itself derives from the French *chevalrie*, indicating the equestrian skills that only the aristocracy could afford to attain.<sup>344</sup> Its code emphasized valor and lineage over virtue.<sup>345</sup> Its Elizabethan revival included pageants and tournaments in which the likes of Sir Philip Sidney and Robert Devereux, the second Earl of Essex, could simultaneously assert their loyalty to Elizabeth and their masculine independence.<sup>346</sup> Literary works by Sidney and Edmund Spenser contributed to the glorification of the code of chivalry.<sup>347</sup> The Earl of Essex, for his part, was so popular that in 1600, engravings were sold that depicted him on horseback, with lists of his honors and poetry praising him.<sup>348</sup> His putative magnanimity, courage, courtesy, and prowess were all chivalric ideals.<sup>349</sup> Charged with protecting their sovereign and poor subjects, knights were said to champion loyalty and justice. Hence, brotherhoods or orders of knights, like the Order of the

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<sup>340</sup> Naunton, *Fragmenta Regalia* 17.

<sup>341</sup> Naunton, *Fragmenta Regalia* 15.

<sup>342</sup> Ferguson observes that through the fifteenth century, chivalry was “all the aristocracy had as a guide for its secular life” (*Chivalric Tradition* 12).

<sup>343</sup> Keen, *Chivalry* 2.

<sup>344</sup> McCoy, *Rites* 16.

<sup>345</sup> Keen, *Chivalry* 125-26; 156-61.

<sup>346</sup> On Essex, see McCoy, *Rites* 79-102; James, *Society* 416-65; and Rebecca Lemon, *Treason By Words: Literature, Law, and Rebellion in Shakespeare’s England* (Ithaca: Cornell UP, 2006) 11-15 and *passim*.

<sup>347</sup> Manning, *Swordsmen* 71-73.

<sup>348</sup> McCoy, *Rites* 96-98.

<sup>349</sup> McCoy, *Rites* 12; Keen *Chivalry* 2.

Garter, encouraged loyalty to the sovereign.<sup>350</sup> But this premium on loyalty was complemented by a commitment to justice. The sword given to the knight Saladin in the *Ordene de chevalerie* has “two sharp edges ... to remind the new knight that justice and loyalty must go together.”<sup>351</sup> Serving justice and keeping the law were no less a knight’s responsibility than martial defense of the realm.

But for some, the chivalric revival had deeper or darker undercurrents. This community of honor obeyed its own law, above the laws of the land.<sup>352</sup> While Naunton celebrates the achievements of Elizabeth’s *militia*, he also makes it clear that these men were driven by pride and desire for glory. Elizabeth’s courtiers’ ambitions and rivalries were no secret. Naunton remarks on favorites who slipped overseas “without licence...so predominant were their thoughts and hopes of honor growing in them....”<sup>353</sup> He tells the story of Mountjoy, whom the Queen called home by messenger after he had “stoln away” to battle without her permission.<sup>354</sup> The Elizabethan knight might “degenerate into the reckless arrogance of the *miles gloriosus*.”<sup>355</sup> Richard McCoy argues that re-chivalrization revealed tension between the nobility’s need to show their loyalty to the monarch and their desire to maintain their positions of power. He cites Essex’s research into the powerful feudal offices of earl marshal and constable; according to custom, the constable could arrest the monarch.<sup>356</sup> Essex, of course, is an extreme, but the chivalric revival could be subversive in other ways. Nobles rejected James’s peace negotiations and headed off

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<sup>350</sup> Keen, *Chivalry* 185.

<sup>351</sup> Keen, *Chivalry* 7.

<sup>352</sup> Manning, *Swordsmen* 197.

<sup>353</sup> Naunton, *Fragmenta Regalia* 18.

<sup>354</sup> Naunton, *Fragmenta Regalia* 18.

<sup>355</sup> McCoy, *Rites* 12.

<sup>356</sup> McCoy, *Rites* 88-94; see also Manning, *Swordsmen* 90-91.



to fight in European wars.<sup>357</sup> The propensity for dueling that arose in the latter half of the sixteenth century was another expression of undisciplined noble ego.<sup>358</sup> Dueling was “extralegal and potentially subversive of royal authority.”<sup>359</sup> According to Roger Manning, dueling provided a means for the nobility to “regulate aristocratic status” instead of the monarch.<sup>360</sup> Ironically, those who criticized dueling invoked the code of chivalry, arguing that the nobility bore arms only to defend the realm and the weak and poor.<sup>361</sup> But honor readily trumped justice.

Justice, then, its place in the polity and its relation to, for instance, the code of chivalry, pertained to men both high and low in the commonwealth. In *The Merry Wives of Windsor*, *Every Man in His Humor*, and *The Downfall of Robert, Earl of Huntingdon*, Shakespeare, Jonson, and Munday join the debate by focusing in particular on the justice of the peace’s office as a site for virtuous civic participation. George W. Keeton explains that in *Merry Wives*, Shakespeare “was intending to caricature justices in general, and more particularly, country justices. These were stock figures of ridicule upon the Elizabethan stage, and they remained so for long afterwards.”<sup>362</sup> But rather than accept that all dramatists were engaged in caricaturing bumbling or corrupt justices, whether specific individuals or the category as a whole, I will argue that dramatists were engaged in a broader interrogation of what exactly the office of justice of the peace could represent. As we have seen in chapter 1, by defining the justice’s duties and the foundation for his authority, the authors of the

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<sup>357</sup> Manning, *Swordsmen* 9.

<sup>358</sup> Keen, *Chivalry* 250.

<sup>359</sup> Ferguson, *Chivalric Tradition* 96.

<sup>360</sup> Manning, *Swordsmen* 195.

<sup>361</sup> Manning, *Swordsmen* 214.

<sup>362</sup> George W. Keeton, *Shakespeare’s Legal and Political Background* (New York: Barnes & Noble, 1967) 102.

officeholding manuals sought to delineate what it meant to “doe justice.” But in doing so, they were also expanding the concept of the subject’s duty and of office.

The dramatists, too, were exploring what it meant to do justice. Spenser had of course already given England knights like Artegall, an embodiment of justice. When they juxtaposed officeholding with quasi-feudal and chivalric models of service, Munday, Shakespeare, and Jonson were also reacting to the Elizabethan ethos of service implicit in the revival of the chivalric code, complete with knights questing for personal honor and distributing justice by force, according to personal loyalties. The dramatists, however, put forward (if not quite center stage) the new paradigm of service that was officeholding. And to this, they counterpose the values of the old honor community even as they point to its deleterious effects.

Anthony Munday’s *The Downfall of Robert, Earl of Huntingdon* criticizes justice awarded according to loyalty. Munday’s play has been considered primarily in terms of genre and its relationship to the Robin Hood legend; it stands out in part due to Munday’s elevation of Robin Hood from yeoman to the Earl of Huntington.<sup>363</sup>

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<sup>363</sup> M.A. Nelson provides a general overview of the play and some of its central concerns in “The Earl of Huntington: The Renaissance Plays,” *The Robin Hood Tradition in the English Renaissance*, Salzburg Studies in English Literature 14 (Salzburg: U of Salzburg P, 1973), rpt. in *Robin Hood: An Anthology of Scholarship & Criticism*, ed. Stephen Knight (Cambridge: Brewer, 1999) 99-121. Christopher Hill discusses the gentrification of Robin Hood, exemplified in Munday’s plays, in relation to the Robin Hood legend; see “Robin Hood,” *Robin Hood: An Anthology of Scholarship & Criticism*, 285-95. Stephen Knight also relates the plays to the larger trajectory of the Robin Hood legend; he argues that while the dramatists elevate the Robin Hood character in terms of status, they marginalize him in terms of action. See *Robin Hood: A Complete Study of the English Outlaw* (Oxford: Blackwell, 1994) 115-34. Liz Oakley-Brown examines the way the plays’ generic concerns and treatment of legend intersect in “Framing Robin Hood: temporality and textuality in Anthony Munday’s Huntingdon plays,” *Robin Hood: Medieval and Post-Medieval*, ed. Helen Phillips (Portland, OR: Four Courts, 2005) 113-28. J.M.R. Margeson argues that *The Downfall* and its sequel, *The Death*, should be considered together as romance rather than history plays; see “Dramatic Form: the Huntingdon Plays,” *Studies in English Literature* 14.2 (1974) 223-38. Paul Dean considers the efficacy of two-part plays as a means for dramatists to reconcile chronicle and romance in representing history in “Forms of time: some Elizabethan two-part history plays,” *Renaissance Studies* 4.4 (1990) 410-30. Others have examined Munday’s representation of monarchs. Carole Levin focuses on the presence of

I believe that this gentrification is significant partly due to the merging of two traditions that were not typically combined. Maurice Keen notes that “the champion of chivalry and the outlaw never met face to face in medieval story, though they adventured in the same forests.”<sup>364</sup> Gentrifying Robin places him and the other characters in a quasi-feudal chivalric relationship; King Richard replaces King Arthur as the king to whom loyalty is owed. Munday also incorporates the corrupt officials of the outlaw ballads.<sup>365</sup> While his Justice Warman is a somewhat marginal character, he plays a key role in that he colludes with the Prior of York to outlaw Robert, Earl of Huntington (who then assumes the identity of Robin Hood). Warman does not remain a justice for long; for his “good will and furtherance” (145) in these matters, he is rewarded with a bribe, and he is eventually made a sheriff.<sup>366</sup> This promotion reflects the power dynamics of local officeholders in medieval times; the sheriff was more powerful than the justice.<sup>367</sup> But the promotion also reflects a heavy investment in personal loyalty and its association with justice, or doing justice. Throughout the play, characters are rewarded for their loyalty to, or, conversely, criticized for their betrayal of, each other. Justice is subsumed under loyalty.

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King John in the play, arguing that the dramatist cautions against sexual licentiousness on the part of rulers, in “‘Lust being Lord, there is no trust in kings’: Passion, King John, and the Responsibilities of Kingship,” *Sexuality and Politics in Renaissance Drama*, eds. Carole Levin and Karen Robertson, *Studies in Renaissance Literature* 10 (Lewiston, NY: Edwin Mellen P, 1991) 255-78. Donna B. Hamilton considers the play’s juxtaposition of John and Richard, arguing that for Munday, a monarch’s relationship to the church signals his nature as a ruler; see *Anthony Munday and the Catholics, 1560-1633* (Burlington, VT: Ashgate, 2005) 129-32.

<sup>364</sup> Maurice Keen, *The Outlaws of Medieval Legend*, rev. ed. (New York: Routledge, 2000) 3.

<sup>365</sup> Keen, *Outlaws* 149.

<sup>366</sup> All citations by line numbers are to Anthony Munday, *The Downfall of Robert, Earl of Huntington* (Oxford: Malone Society Reprints, 1964).

<sup>367</sup> Keen, *Outlaws* 135.

Munday's characters focus on loyalty and betrayal as much as right and wrong or justice and injustice. After the news that he has been outlawed reaches him at his dinner-party, Huntington expresses his disappointment in Warman:

You from a paltry pen and inkhorn Clarke,  
Bearing a buckram satchell at your belt,  
Unto a Justice place I did preferre,  
Where you did uniuſtly have my tenants rackt,  
Wasted my treasure, and increaſt your ſtore.

(348-52)

Warman's betrayal of Huntington stings as much as his unjust treatment of Huntington's tenants. Others reproach Warman similarly for his actions. Little John asks him "Is it thy part, thou ſcreenfac't ſnotty noſe, / To hinder him that gave thee all thou haſt?" (455-56). When Warman himſelf is later baniſhed, his couſin refuses to help him, ſtating that not only is he fearful of being puniſhed for aiding Warman, but "your trecheries I hate.... So wolfe-like you purſued / [Huntington] and his ſervants" (2276-82). His couſin emphasizes the ſignificance of betrayal by equating it with blaſphemy: "vile ingratitude, / Damnd Judaisme, false wrong, abhorred trechery, / Impious wickedesse, wicked impietie" (2282-84). Warman next ſees the Jayler, and hopes for help from him, ſince the Jayler "yeſterday / Was at my ſervice ... / And him I made Jayler of Notingham" (22993-95). But the Jayler alſo refuses aid, primarily on the grounds that "Warman was a traitor to his Lord" (2315).<sup>368</sup> Like Huntington himſelf, the Jayler calls him Judas and asserts that he has "undoone / the honourable Robert, Earle of Huntington" (2321-22).

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<sup>368</sup> The text attributes theſe lines to Warman, but it is clear that they are meant to be ſaid by the Jayler.

Warman is deserving of reprimand, given Huntington's honorable status and Warman's close relationship to him. But he is not the only character represented in terms of loyalty and betrayal. Huntington condemns all his guests at the initial dinner-party, surmising that they have been bribed, "to be my guests, my faithlesse guesstes this day, / That your kinde hoste you trothlesse might betray" (364-65). Leicester reproaches Prince John later in the play for his lack of loyalty to Richard, contrasting him with the "prophane men, following Mahomet" against whom they crusaded: "But if ye note, they did their kings their right, / [Unlike] these more than heathen, sacrilegious men, / [Who] professing Christ, banish Christs champion hence, / Their lawfull Lord..." (1960-64). Both Ely and Fitzwater are exiled on trumped up charges of treachery. Prince John sends Ely to Nottingham, decreeing "There as a traitor let him be close kept, / And to his triall wee will follow straight" (1154-55). After scuffling with Prince John over this unjust treatment of Ely, Fitzwater, having been deemed a "traitrous wretch" (1230) by the queen, is banished. Whether accurate or not, evaluations of right and wrong, just and unjust behavior are couched in terms of loyalty and betrayal.

The restoration of justice, enacted at the end with the arrival of the king, is equally dependent upon the bonds of loyalty. Maurice Keen notes that in the medieval outlaw ballads, the king is the *deus ex machina* who arrives on the scene to right wrongs.<sup>369</sup> While at the end of Munday's play, King Richard does dispense justice, for him this means restoring bonds of loyalty and depending on Huntington. Established as a loyal servant of King Richard, Huntington explains that "I would not

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<sup>369</sup> Keen, *Outlaws* 157. Donna Hamilton observes that in the final scene, "to this display [of gift-giving], Munday conjoins a representation of the good king as the one to whom the kingdom entrusts all justice" (*Munday* 132).

for the wide worlds wealth / Incense his Maiestie: but doe my best, / To mitigate his wrath, if he be mov'd" (ll. 2642-44). Richard recognizes this loyalty: "Thanks all, but chiefly, Huntington, to thee....True pillar of my state" (ll.2705-09). While Richard says he is "sad to see thee so" (l.2712), before he can even begin to rectify matters, Huntington urges him to accept certain gifts he has for Richard (l.2719-20). These gifts turn out to be Richard's own subjects, Fitzwater, Lester, Richmond, and Prince John, whom Huntington presents as jewels, championing them for their good and loyal deeds. He notes that Lester and Richmond are both "Christes sworne champions, / That follow'd Richard in his holy warre" (ll.2734-35). Although Huntington recognizes Prince John's betrayal, he also assures Richard that "he is now no more the man he was, / But duetifull in all respects to you" (ll. 2760-61). Richard acts on Huntington's recommendation: "Wel good Huntington, / For thy sake pardon'd is our brother Iohn, / And welcome to us in all heartie love" (ll. 2763-65). Justice here means reconciliation with the king; while it encompasses forgiveness, it is contingent upon loyalty or duty to the monarch.

Such justice is extended from the Earl even to his former steward. Warman is presumably included in the play's final reconciliation between monarch and subjects, since earlier he had been reconciled with Huntington. After being exiled, Warman wanders the forest, eventually concluding that he must hang himself, since "As Iudas did, so I intend to doe / For I have done already as he did: his master he betraid: so I have mine" (ll.2407-09). But the forgiving Fitzwater and Marian are determined to stop him, and they find Robin Hood, who urges Warman to "Cast from thy necke that shamefull signe of death, / And live for mee, if thou amende thy life, / As much in

favour as thou ever didst” (ll. 2474-76). Ely reassures Warman of Robin Hood’s fidelity: “Warman, be comforted, rise and amend. / On my word Robin Hoode will be thy friend” (ll.2479-80). Nonetheless the play’s comic reconciliations are undermined in the end. Skelton and Sir John Eltham discuss the “matters tragicall” that the king can expect to see (ll.2788). They plan a sequel in order to recount “many a sad accident” (ll. 2790), including “the death of Robin, and his murderers” (ll.2825). Loyalty in and of itself is not a bad quality, but as Munday recognizes, substituting loyalty for judgment impedes justice.

In *The Merry Wives of Windsor*, Shakespeare is also concerned with how and how not to do justice. His comedy opens with Justice Robert Shallow’s pursuit of Falstaff, who has, according to Shallow, “beaten my men, killed my deer and broke open my lodge” (1.1.104-05).<sup>370</sup> Shallow aims to play the part of the *deus ex machina*, dispensing the king’s justice. However, when the characters reunite on stage for the comedic resolution, Shallow is absent. Scholars have noted the way in which the play fails to follow up on Shallow’s dispute with Falstaff, calling it an “inconsistency” or “loose end.”<sup>371</sup> Why, we are left wondering, does Justice Shallow disappear; indeed, why is he present at the start? Scholars have argued that Shakespeare is concerned with how communities provide social justice instead of resorting to legal justice.<sup>372</sup> If so, he also provides insight into how systems of justice fail, and reveals his apprehension about the contemporary Elizabethan

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<sup>370</sup> All citations are to William Shakespeare, *The Merry Wives of Windsor*, ed. Giorgio Melchiori (London: Thomas Nelson, 2000).

<sup>371</sup> Giorgio Melchiori, introduction, 43.

<sup>372</sup> Jeffrey Theis, “The ‘ill kill’d’ Deer: Poaching and Social Order in *The Merry Wives of Windsor*,” *Texas Studies in Literature and Language* 43.1 (2001) 56; Camille Wells Slight, *Shakespeare’s Comic Commonwealths* (Toronto: U of Toronto P, 1993) 158.

rechivalrization. Shallow is an inept justice, but not just because he is shallow. Rosemary Kegl has argued that Shallow fails in his office because he cannot negotiate the justice's "dual alliance" to both his local community and the central government.<sup>373</sup> I will argue that Shallow is an ineffective justice because he thinks of office in chivalric terms. Eager to be a knight, Shallow conducts himself as a justice according to the ethos of chivalry. Because he is primarily concerned with personal honor, he prefers to handle justice by the sword.

In the opening scene, Shakespeare highlights the distinct political identities of Shallow and Falstaff, and the revisions made to the play amplify these distinctions.<sup>374</sup> While Q 1602 and F 1623 both begin with Shallow threatening to take his complaints to the Star Chamber, F 1623 adds about 25 lines that emphasize Shallow's status as a justice of the peace.<sup>375</sup> "In the County of Gloucester," Shallow is the "Justice of the Peace and Coram" (1.1.3-5). Not only that, but he is "Cust-a-lorum," according to Shallow, and "Rato lorum, too," according to Slender (1.1.6-7). These quibbles identify Shallow as an important justice; as a member of the "coram," or *quorum*, Shallow has the prestige to constitute the bench. As "Cust-a-lorum" and "Rato lorum," or *custos rotulorum*, Shallow is his county's keeper of the rolls, a judge of record.<sup>376</sup> Meanwhile, Falstaff is identified as a (somewhat degenerate) knight. There is no doubt that Shakespeare aims to distinguish between Shallow and Falstaff's socio-political status.

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<sup>373</sup> Rosemary Kegl, *The Rhetoric of Concealment: Figuring Gender and Class in Renaissance Literature* (Ithaca: Cornell UP, 1994) 92.

<sup>374</sup> For other aspects of the revisions, see, for example, Leah Marcus, "Levelling Shakespeare: Local Customs and Local Texts," *Shakespeare Quarterly* 42.2 (1991): 168-78.

<sup>375</sup> References to Q are to the facsimile edition of Q included in the appendix to Melchiori's edition.

<sup>376</sup> Heal and Holmes, *Gentry* 169; Herrup, *Common* 44; Charles Austin Beard, *The Office of Justice of the Peace in England In Its Origin and Development* (New York, 1904) 76.



Although Shakespeare painstakingly alludes to Shallow's institutional authority in the beginning, Shallow neither dispenses justice nor keeps the peace. Entitled a justice of the peace, he is associated throughout the play with knighthood and chivalry. Shallow claims nobility by virtue of his lineage, emphasizing his coat of arms rather than his service to the commonwealth. He initially identifies himself as "Robert Shallow esquire" (1.1.3); and Slender declares that Shallow is "a gentleman born, master parson, who writes himself *Armigero*, in any bill, warrant, quittance, or obligation" (1.1.7-9). Shallow concurs, asserting that he has "done [so] any time these three hundred years" (1.1.10-11). As Kegl points out, in declaring that he is "*Armigero*," or armigerous, Shallow proudly places his family's heritage in the context of service to knights.<sup>377</sup> Slender continues in this vein, saying that Shallow's family "may give the dozen white luces in their coat," and Shallow affirms that "it is an old coat" (1.1.14-15). Rather than asserting Shallow's expertise in legal matters, as Slender's mention of "any bill, warrant, quittance, or obligation" might suggest, they focus on his coat of arms. In noting that Shallow's family may have up to twelve luces, or pike-fish, on their coat of arms, Slender is not only asserting Shallow's nobility, he demonstrates his knowledge—or perhaps his pretense to knowledge—of heraldry.

Shallow's very complaint should further establish his authority as a justice of the peace, as he acts on behalf of not only his own interests but also upholding laws that protected the monarch's interests. As Jeffrey Theis has noted, Falstaff is guilty of poaching.<sup>378</sup> And as Theis notes, Shallow threatens to take Falstaff before the

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<sup>377</sup> Kegl, *Rhetoric* 93.

<sup>378</sup> Theis, "'ill kill' d' Deer" 53.

“Council,” presumably the Privy Council in Star Chamber, on the grounds that “it is a riot” (1.1.31).<sup>379</sup> Shallow would be able to prosecute Falstaff’s offense before Star Chamber as a riot because poachers usually hunted in groups, and groups of more than three persons could be considered a riot.<sup>380</sup> As Roger Manning notes, subversive subjects were said to use hunting parties to cloak insurrection (hence, more restrictive game laws were typically enacted after popular rebellions).<sup>381</sup> In another way as well, Shallow’s complaint ought to establish his authority as a justice, that is, as the representative of the monarch’s interests. Forest and game laws in medieval and early modern England established boundaries for royal and private deer parks; they also regulated who was allowed to hunt.<sup>382</sup> In establishing these boundaries, monarchs asserted both dominion and prerogative, affirming royal jurisdiction over both property and social behavior.<sup>383</sup>

Of course, what we in fact see is that Shallow prosecutes his complaint according to chivalric traditions. He enters in a combative mood, asserting that he will best Falstaff: “If he were twenty Sir John Falstaffs, he shall not abuse Robert Shallow esquire” (1.1.2-3). When Page indicates that Falstaff has confessed, Shallow is not satisfied: “If it be confessed, it is not redressed....He hath wronged me, indeed he hath...Believe me: Robert Shallow saith he is wronged” (1.1.96-100). Shallow is busy trying to right wrongs; Falstaff, however, is thinking about the law. By confessing, he reduces the charge from a felony to a misdemeanor, automatically

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<sup>379</sup> Theis, “‘ill kill’ d’ Deer” 54.

<sup>380</sup> Manning, *Hunters and Poachers* 1.

<sup>381</sup> Manning, *Hunters and Poachers* 57, 64.

<sup>382</sup> Theis, “‘ill kill’ d’ Deer” 47-52; Manning, *Hunters and Poachers* 57-66.

<sup>383</sup> Theis calls attention to the significance of gaming laws in the course of his discussion of Falstaff’s transgressive behavior (“‘ill kill’ d’ Deer,” 47-53, 67-68).

reducing the punishment.<sup>384</sup> Having heard Falstaff's confession, Shallow initially insists that the case be taken to higher authorities: "The Council shall know this" (1.1.110). Falstaff recommends instead that Shallow keep the incident "in counsel; [otherwise] you'll be laughed at" (1.1.111-12). Falstaff shrewdly recognizes that Shallow's reputation is worth more to him than a judgment from the Privy Council. Unsurprisingly, Shallow desists, apparently more concerned about maintaining his status than performing the duties of office.

That Shallow wants to settle matters by the sword ("ha, o' my life, if I were young again, the sword should end it"—1.1.36-37) is appropriate given that poaching and raids on hunting lodges were often interpreted as challenges to a duel.<sup>385</sup> Shallow is also one of the main participants in the jest involving Evans and Caius, encouraging them to duel. His exchange with the two of them further reveals Shallow's ambivalent relationship to his office and his preference for the role of a knight. When Caius complains that Evans has yet to show up, Shallow points out to Caius that this is not a bad thing: "He is the wiser man, Master Doctor: he is a curer of souls and you a curer of bodies. If you should fight, you go against the hair of your professions. Is it not true, Master Page?" (2.3.34-37). Page, however, reminds Shallow that he himself has "been a great fighter, though now a man of peace" (2.3.38-39). Shallow confesses to Page that he still longs to fight at times: "Bodykins, Master Page, though I now be old, and of the peace, if I see a sword out, my finger itches to make one. Though we are justices and doctors and churchmen, Master Page, we have some salt of our youth in us—we are the sons of women,

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<sup>384</sup> Manning, *Hunters and Poachers* 63, 70.

<sup>385</sup> Theis, "'ill kill' d' Deer" 54; Manning, *Hunters and Poachers* 43.

Master Page” (2.3.40-44). Constrained by his office, Shallow would rather be an Essex or a Sidney. The Host of the inn picks up on this, nicknaming him “Cavaliero Justice” (2.1.176, 180).<sup>386</sup>

While on the one hand, the jest is only a practical joke, and all in fun, on the other hand, Shakespeare indicates the potentially serious repercussions of neglecting or exploiting one’s duty to the commonweal. Although Shallow at one point appears to try to stop the duel, telling Caius “I am come to fetch you home. I am sworn of the peace.... You must go with me, Master Doctor” (2.3.47-51), this is only part of the ruse, setting up a believable situation for Caius. Shallow is entertained throughout the plot, pleased even with the Host’s resolution: “Afore God, a mad host. Follow, gentlemen, follow” (3.1.101-02). When the Host invites them to continue the entertainment with a drink, however, Caius and Evans reveal that they do not appreciate being the butt of a community joke. Evans proposes that they “knog our prains together to be revenge on this same scall, scurvy, cogging companion, the host of the Garter” (3.1.107-09). While it was just a joke, abuse of the charge to keep the peace has led to a resolve for revenge—for the satisfaction of private desire over the public weal—which eventually is associated with the theft of the Host’s horses (3.3.222-6, 4.5.78-86), a crime punishable by death.<sup>387</sup>

Similarly, as Kegl notes, Shallow’s failure to prosecute Falstaff allows Falstaff to threaten the common peace of Windsor.<sup>388</sup> Moreover, Shallow’s own efforts to arrange a marriage between Slender and Anne Page mirror Falstaff’s

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<sup>386</sup> Cavaliero/*cavaliere* is Italian for ‘knight’ (2.1.176, 180 n). Melchiori suggests that the Host merely makes a mistake here, confusing the Italian with the Spanish word for a ‘gallant gentleman,’ *caballero*, but I would argue it is intentional.

<sup>387</sup> Herrup, *Common* 143.

<sup>388</sup> Kegl, *Rhetoric* 97.

attempts to profit from the wives of Windsor. While he asks Slender how he feels about Anne, Shallow ignores Slender's confession that he does not "affection the 'oman" (1.1.211). Slender, for his part, will do as Shallow asks, since "he's a Justice of Peace in his country" (1.1.202). He will "marry [Anne], sir, at your request" (1.1.229). Just as Falstaff misinterprets the wives' words and gestures, Shallow interprets the words of Slender to suit his own will, assuming that Slender "meant well" (1.1.239). Shallow may exit the play because he has succeeded in his quest to become a knight, but for the play's purposes that slot has already been filled. We might say that Shallow is absorbed into Falstaff.

The masque-like punishment of Falstaff further reveals Shakespeare's apprehensions about the influence of chivalry on Elizabethan culture.<sup>389</sup> Scholars have argued that the wives effect justice in the play, arranging the charade that eventually leads to Falstaff's undoing.<sup>390</sup> But almost all the members of the community are involved in Falstaff's last trial. What is more important is that the masque itself parodies English traditions, mimicking customary English methods of apprehending criminals and of finding evidence of guilt. It depicts a hue and cry, a searching of a suspected criminal's house. Quickly, as the Queen of Fairies, orders

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<sup>389</sup> Much scholarship has been devoted to the original occasion behind *The Merry Wives of Windsor* and its connection to the 1597 entertainment for Queen Elizabeth and the knights of the Order of the Garter. Giorgio Melchiori reviews the arguments and concludes that the play itself could not have been written for the occasion, although perhaps a shorter, masque-like version was (Introduction 18-30).

<sup>390</sup> For critical approaches emphasizing the significance of the women's roles, see Kegl, *Rhetoric*; and Richard Helgerson, "The Buck Basket, the Witch, and the Queen of Fairies: The Women's World of Shakespeare's Windsor," *Renaissance Culture and the Everyday*, eds. Patricia Fumerton and Simon Hunt (Philadelphia: U of Pennsylvania P, 1999) 162-82. Peter Erickson argues that although the play features strong women, it is not necessarily feminist or progressive; see Peter Erickson, "The Order of the Garter, the cult of Elizabeth, and class-gender tension in *The Merry Wives of Windsor*," *Shakespeare Reproduced: The text in history and ideology*, eds. Jean E. Howard and Marion F. O'Connor (New York: Methuen, 1987) 116-40.

the other fairies to “attend your office and your quality” (5.5.39-40) in the castle, and they respond by searching for domestic crime: “Cricket, to Windsor chimneys shalt thou leap: / Where fires thou find’st unraked and hearths unswept, / There pinch the maids as blue as bilberry – / Our radiant queen hates sluts and sluttery” (5.5.43-46). But Cynthia Herrup describes the hue and cry as a declining practice, one that was being replaced by the issuing of a formal warrant. She notes that responsibility was shifting from the community to the officeholder.<sup>391</sup> Shallow, complicit in the masque through his encouragement of Slender, evades his responsibility as an officeholder.

When he invokes the Knights of the Garter, Shakespeare appears to salute this honorary order and its head, Queen Elizabeth. Frances Yates notes that under Elizabeth, the Order “had been made a vehicle for the glorification of the national monarchy established by the Tudors.”<sup>392</sup> Peter Erickson argues that “as a pastoral environment, Windsor provides a green world for the masque celebrating the Garter ideal of aristocratic chivalry.”<sup>393</sup> He finds that the chivalric Order’s emphasis on unifying aristocratic classes dovetails with the play’s emphasis on unity in the community, affirming the hierarchy of class.<sup>394</sup> But Shakespeare undermines the tribute by associating the Order with disorder in the Queen’s palace. Quickly orders the fairies to “scour / With juice of balm and every precious flower” the “several chairs of Order” (5.5.61-62). The fairies, like the Knights of the Order, are cast as keepers of order and keepers of custom: “And nightly, meadow-fairies, look you

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<sup>391</sup> Herrup, *Common* 70.

<sup>392</sup> Yates, *Astraea* 109.

<sup>393</sup> Erickson, “Order of the Garter” 125.

<sup>394</sup> Erickson, “Order of the Garter” 128.

sing, / Like to the Garter compass, in a ring” (5.5.65-66). But it is also suggested that this is merely ornamental or decorative:

And *Honi soit qui mal y pense* write  
In em’rald tufts, flowers purple, blue and white,  
Like sapphire, pearl and rich embroidery,  
Buckled below fair knighthood’s bending knee:  
Fairies use flowers for their charactery.

(5.5.69-73)

Finally, Quickly orders the “ordeal by fire” once the fairies recognize the human in their midst:

With trial fire touch me his finger end:  
If he be chaste, the flame will back descend  
And turn him to no pain; but if he start,  
It is the flesh of a corrupted heart.

(5.5.84-87).

Shakespeare parodies archaic ways of testing a suspect’s guilt. Rather than celebrating the Order of the Garter and the Queen, Shakespeare mocks the early modern English esteem for chivalry as a regressive force in the quest for justice.

In *Every Man In His Humor*, Ben Jonson, too, considers the relations among chivalry, the justice’s office, and justice itself. Since both *Merry Wives* and *Every Man In* feature jealous husbands and young lovers who use trickery to arrange a marriage not approved by parents, scholars have frequently compared the two plays.

For many, Jonson and Shakespeare were both writing comedies of humor.<sup>395</sup> Be that as it may be, both plays unmistakably align chivalry with officeholding. Like Falstaff, Captain Bobadill is a descendent of the *miles gloriosus* tradition,<sup>396</sup> a caricature of the Elizabethan *militia*. Justice Shallow could arguably also fit into this tradition. Jonson's Justice Clement, it must be said, does not; although he has his moment when he turns to the sword. Either way, in the last scene of the play, he is the key to the restoration of order. The turn to the law in the person of Justice Clement contrasts sharply with the play's beginning, when characters are concerned primarily with establishing their gentility. In *Every Man In*, chivalry yields to civic officeholding and justice and reconciliation are finally effected through the officeholder; however, Jonson challenges not only contemporary theories of justice but of governance as well. We might keep in mind the two ways of relating virtue to governance elucidated by Quentin Skinner: that the virtue of governors is preeminent and that institutions able to withstand corruption are key to successful governance.<sup>397</sup> Skeptical of relying on virtuous men, Jonson points instead to the institutional nature of office as the most promising avenue for effecting justice.

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<sup>395</sup> See Arthur Sale, "Introduction to *Every Man In His Humour*," *Ben Jonson: A Collection of Critical Essays*, ed. Jonas A. Barish (Englewood Cliffs, NJ: Prentice-Hall, 1963) 75-81; Roslyn Lander Knutson, *The Repertory of Shakespeare's Company, 1594-1613* (Fayetteville, AR: U of Arkansas P, 1991); Jeanne Addison Roberts, "The Merry Wives: Suitably Shallow, But Neither Simple Nor Slender," *Shakespeare Studies* 6 (1970): 109-23; Grace Tiffany, "Falstaff's False Staff: 'Jonsonian' Asexuality in *The Merry Wives of Windsor*," *Comparative Drama* 26.3 (2000): 254-70; Russ McDonald, *Shakespeare and Jonson, Jonson and Shakespeare* (Lincoln: U of Nebraska P, 1988) 31-55.

<sup>396</sup> McDonald 47; Jonas A. Barish, *Ben Jonson and the Language of Prose Comedy* (Cambridge: Harvard UP, 1960) 101. Knutson also notes similarities between the characters of Falstaff and *Every Man's* Bobadill (76). See Leonard Dean for a discussion of the similarities between Bobadill and the Falstaff of Shakespeare's *Henry IV* plays; Leonard F. Dean, "Three Notes on Comic Morality: Celia, Bobadill, and Falstaff," *Studies in English Literature* 16.2 (1976): 263-71.

<sup>397</sup> Skinner, *Foundations* 44-45.



Like *Merry Wives*, Jonson's play underwent significant revisions. Although we cannot be certain of exactly when these revisions occurred, and although they certainly served different purposes, the revisions underscore Jonson's interest in the English justice of the peace.<sup>398</sup> When Jonson changed the play's setting from Italy to England, he also changed the title of the primary agent of peace and comedy in the play—Clement's. In the Q version, characters address Clement as "Master Doctor" (3.3.98; 3.3.105-06; 3.3.113); when Lorenzo, Jr. asks about "Doctor Clement" (3.2.42), Prospero responds "He is the *gonfaloniere* of the state here, an excellent rare civilian, and a great scholar" (3.2.44-45).<sup>399</sup> Q's Clement is a "Doctor," a Florentine civil lawyer and a magistrate. In F's London, Clement "is a city magistrate, a justice here, an excellent good lawyer and a great scholar" (3.2.251-52). Now a member of the local bureaucracy with a background in common law, Clement is charged with "keeping the king's peace."

Before introducing Clement, however, Jonson introduces the indisputable target of his satire. As J.W. Lever notes, Jonson relentlessly mocks social climbers.<sup>400</sup> Captain Bobadill and other characters are obsessed with their status as gentlemen. Through these characters, Jonson denigrates superficial claims to nobility. Stephen is preoccupied with learning about hunting and hawking, since a man "is for no gallant's company without'em" (1.1.43-44). Bobadill, in turn, is

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<sup>398</sup> The Q version of *Every Man In His Humour* was first performed in 1598; scholars have established 1605-1612 as the most likely period of time for the revisions. See J. W. Lever, introduction, *Every Man In His Humour*, by Ben Jonson, ed. J.W. Lever (Lincoln: U of Nebraska P, 1971) xi-xii. See also A. Richard Dutton, "The Significance of Jonson's Revision of *Every Man in His Humour*," *Ben Jonson: Modern Critical Views*, ed. Harold Bloom (New York: Chelsea House Publishers, 1987) 129-39

<sup>399</sup> All citations are to J.W. Lever's parallel-text edition of the play: Ben Jonson, *Every Man in His Humour: A Parallel-Text Edition of the 1601 Quarto and the 1616 Folio*, ed. J.W. Lever (Lincoln: U of Nebraska P, 1971). Citations are from the Folio text, unless otherwise indicated.

<sup>400</sup> Lever, introduction xvi.

reluctant to let others know that he lodges with Cob, a lowly water-carrier; his instinct that others' perception of him will suffer is validated by Matthew's reaction.

Matthew is shocked that "a gentleman of [Bobadill's] havings," would lodge with Cob (1.3.55). Cob himself is obsessed with lineage; he asserts to Matthew that he comes from "an ancient lineage, and a princely. Mine ance'try came from a king's belly, no worse man; and yet no man neither...but Herring, the King of fish—from his belly I proceed—one o' the monarchs o' the world, I assure you" (1.3.9-13). Cob knows of his pedigree from "the harrots' books" (1.3.15). If one cannot afford the lodgings of a gentleman or cannot brag about his family's mention in the books of heraldry, he can at least look the part. When Matthew praises Bobadill's boot, Bobadill acknowledges the compliment, replying that "it's the fashion gentlemen now use" (1.3.159). While Bobadill and the other characters believe they are establishing their honorable nature, they merely confirm that they are deluded by the trappings of gentility.

Matthew and Stephen are harmless gulls. Captain Bobadill, as a farcical version of the Elizabethan knights, is also without bite; but his very lack of substance enables Jonson to establish the chivalric code's shallowness. As Leonard F. Dean puts it, Bobadill's words and actions are "part of a self-confident and self-deluded duet between the expository fantasy of the military planner and the equally mad remnants of chivalry."<sup>401</sup> He presents himself to others as an accomplished member of the *militia*, but he is consumed with appearances. He is what some of Jonson's contemporaries would have termed a "carpet knight."<sup>402</sup> When Matthew reports that

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<sup>401</sup> Dean, "Comic Morality" 267.

<sup>402</sup> Manning, *Swordsmen* 28-29.

Downright has threatened to “cudgel” Matthew, Bobadill is outraged, declaring that “an’t were my case now, I should send him a *chartel* [challenge] presently” (1.3.189-90). Imagining himself an expert on fencing, he coaches Matthew. Bobadill is particularly concerned with appearances, and he instructs Matthew to “twine your body more about, that you may fall to a more sweet, comely, gentlemanlike guard” (1.3.210-11). Bobadill flaunts his knowledge of dueling vocabulary: “The best-practic’d gallants of the time name it the *passada*; a most desperate thrust, believe it!” (1.3.222-23). When recounting his valor in battle, Bobadill compares his own sword to those of famous knights: “[The blade] is the most fortunate weapon that ever rid on poor gentleman’s thigh: shall I tell you, sir? You talk of Morglay, Excalibur, Durindana or so. Tut, I lend no credit to that is fabled of ‘em; I know the virtue of mine own, and therefore I dare the boldier maintain it” (3.1.140-44). While Matthew and Stephen are impressed, Edward is dubious, wondering “But was it possible?” (3.1.122) and whether Bobadill could do “all this, Captain, without hurting your blade?” (3.1.137-38).

For Bobadill, force is the way to resolve personal conflict; he assumes Matthew will duel with Downright. He also promises to demonstrate his loyalty to Queen and country through arms. He explains how he would “undertake, upon this poor head and life, for the public benefit of the state, not only to spare the entire lives of her subjects, in general, but to save the one half, nay, three parts of her yearly charge in holding war, and against what enemy soever” (4.5.62-66). He envisions training nineteen other men with his expertise in fencing; they “would come into the field the tenth of March, or thereabouts; and we would challenge twenty of the

enemy; they could not, in their honor, refuse us. Well, we would kill them; challenge twenty more, kill them....” (4.5.75-79). Of course, this scheme has never been put to the test, but only, according to Bobadill, because he remains unknown to the Queen (4.5.59-61). Not that his lack of recognition keeps him from persistently equating civil service and manhood with battle: “And this will I venture my poor gentlemanlike carcase to perform—provided there be no treason practic’d upon us—by fair and discreet manhood; that is, civilly, by the sword” (4.5.86-87).

This great pretender to *gentillesse*, this valiant soldier, turns out to be a pseudo-knight who pays only lip-service to chivalric ideals. Immediately after he boasts that he would fearlessly serve his Queen and his country, he claims he is ready to confront Downright (4.5.93-95). However, when Downright challenges him, Bobadill takes refuge in exemption under the law. He informs Downright that “I never thought on it till now: body of me, I had a warrant of the peace served on me even now, as I came along, by a water-bearer” (4.5.113-15). When Downright thrashes him, Bobadill tries to justify his refusal to fight by declaring that legally he could not fight: “Well, gentlemen, bear witness, I was bound to the peace, by this good day” (4.5.122-23). But Ed Kno’well refuses to let him cloak his cowardliness: “No, faith, it’s an ill day, Captain; never reckon it other. But, say you were bound to the peace, the law allows you to defend yourself: that’ll prove but a poor excuse” (4.5.124-26). Bobadill’s turn to a rhetoric of law to justify himself exposes the emptiness of the rhetoric of chivalry.

Perhaps instead of being considered a pretender to *gentillesse*, Bobadill should be considered its elegist. Post-beating, Matthew and Bobadill discuss what others

will say. Bobadill claims that they will consider it to be “a kind of gross battery us’d, laid on strongly, borne most patiently; and that’s all” (4.7.6-7). Matthew won’t let go of the subject, wondering “would any man have offer’d it in Venice, as you say?” (4.7.8). Since in Q, the comparison is between Venice and Florence, F’s revisions suggest that the elegy for nobility and gentility that Bobadill utters is specific to London: “Tut, I assure you, no: you shall have there your *Nobilis*, your *Gentilezza*, come in bravely upon your reverse, stand you close, stand you firm, stand you fair....thrust with brave steel, defy your base wood! But wherefore do I awake this remembrance? I was fascinated, by Jupiter, fascinated; but I will be unwitch’d, and reveng’d by law” (4.7.9-15). While “*Gentilezza*” may be alive and well in Venice, it is merely a “remembrance” in England. Chivalric ideals no longer pertain; as Matthew aptly asks, “Is’t not best to get a warrant, and have him arrested and brought before Justice Clement?” (4.7.16-17).

The warrant exposes the empty promises of chivalry. As Russ McDonald and Jonas Barish have noted, Matthew and Stephen are most impressed by Bobadill’s oaths.<sup>403</sup> When Stephen listens to Bobadill recount his adventures, he laments in an aside that he “had as lief as an angel I could swear as well as that gentleman” (3.1.114-15). But while both McDonald and Barish have considered Bobadill’s oaths in light of his linguistic extravagance, they can also be considered in terms of the “mad remnants” of chivalry. Bobadill often swears by his status as a soldier and as a gentleman; in conversation with Matthew, he swears “by the heart of valor in me” (1.3.124), “as I am a gentleman” (1.3.135), and “as I am a gentleman and a soldier” (1.3.172-73). He also swears by the patron saint of English chivalry: “by Saint

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<sup>403</sup> McDonald, *Shakespeare and Jonson* 48; Barish, *Language of Prose* 101.

George” (1.3.170; 3.1.118).<sup>404</sup> As Maurice Keen has shown, taking vows became a ritual of chivalry; knights swore to perform great feats in tournaments or in battle and to honor their ladies.<sup>405</sup> The vows were not just ceremonial; a common device used to represent a knight’s vow was a prisoner’s chain, an emblem of the binding promise the knight had made.<sup>406</sup> Bobadill’s swearing is a corruption of a knight’s vow. For Sir Thomas Elyot, oaths had become empty: “Alas what hope shall we have of any publike weale, where such a pestilence reigneth? Dothe nat Saloman saye: A man moche sweringe shall be filled with iniquitie, and the plage shall nat departe from his house? O mercifull God, howe many men be in this realme, which be horrible swerers, and commune jurates perjured?”<sup>407</sup> He laments that promises are made lightheartedly: “And amonge christen men it is so neglected: that hit is more often tymes broken than kept.”<sup>408</sup> While the gulls are impressed with Bobadill’s swearing, his oaths really represent the superficiality of his commitment. He, like the other characters, must turn to a warrant to guarantee justice.

In Bobadill, Jonson depicts the emptiness of justice dependent upon force and superficial appearances. Justice Clement represents an alternative. While Lever calls him a “random *deus ex machina*,” appearing at the end to judge the other characters’ actions, his arrival is not the least bit random.<sup>409</sup> Characters are always either heading to Justice Clement’s house or sending someone there. Whatever the geographical center of the city might be, in terms of the action of the play, Clement’s house, and

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<sup>404</sup> Bobadill does have his more creative moments; he swears, for instance, “by the foot of Pharoah” (1.3.189), “by Hercules” (3.2.288), and then again “by Pharoah’s foot” (3.2.323).

<sup>405</sup> Keen, *Chivalry* 212.

<sup>406</sup> Keen, *Chivalry* 212.

<sup>407</sup> Elyot, *Governour* 198.

<sup>408</sup> Elyot, *Governour* 199.

<sup>409</sup> Lever, introduction xvii.

Clement himself, are crucial. It makes sense, then, that in the last act, every character assembles to await justice at his house. After all, here is a man who displays good judgment, wit, and mercy.<sup>410</sup> And yet, even with regard to Clement, Jonson betrays ambivalence: it is not simply the man, but his office and its procedures that explain his effectiveness.

Jonson starkly contrasts Bobadill and Clement when they meet late in the play. On the one hand, this scene indicates Clement's courage, suggesting that justices had something to learn from chivalry. On the other hand, the scene suggests that Clement is not always as forgiving as his name would suggest. When his servant announces that a soldier wishes to speak with him, Clement is alarmed: "A soldier? Take down my armor, my sword, quickly. A soldier speak with me! Why, when, knaves? Come on, come on, hold my cap there, so; give me my gorget, my sword; stand by, I will end your matters anon" (5.1.43-47). But as soon as Bobadill complains that he has been "uncivilly wrong'd and beaten," (5.1.55), which Bobadill finds particularly egregious since he is "a man in no sort given to this filthy humour of quarreling" (5.1.57), Clement realizes that he need not be worried. He mocks Bobadill: "Is this the soldier? Here, take my armor off quickly, 'twill make him swoon, I fear; he is not fit to look on't, that will put up a blow" (5.1.62-64). Unlike Bobadill, Clement fearlessly faces danger. But mercy does not necessarily accompany this courage. Clement exiles Bobadill at the end of the play, since Bobadill is only a "sign o' the soldier" and "so false" (5.1.241-42). He leaves

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<sup>410</sup> Lawrence L. Levin, "Clement Justice in *Every Man in His Humor*" *Studies in English Literature* 12.2 (1972): 293. Russ McDonald also considers Clement to be an ideal of wit, judgment, and "regulated imagination" (*Shakespeare and Jonson* 51).

Bobadill with only the prayer that “we may be so merry within as to forgive or forget you when we come out” (5.1.245-47).

Clement’s judgment, courage, and wit do enable him to serve justice better than others, but this does not make him an ideal. Whereas many of the play’s characters, including Bobadill, are easily gulled, Clement is quick to recognize that mischief is afoot. The English justice was charged with hearing evidence and assessing character, so Clement begins his interrogation.<sup>411</sup> When Dame Kately informs him that “my brother Wellbred told me that Cob’s house was a suspected place” (5.1.16-17), Clement wryly responds, “So it appears, methinks” (5.1.18). After hearing a bit more of Wellbred’s involvement in the matter, Clement quickly concludes that “this is a mere trick, a device; you are gull’d in this most grossly, all” (5.1.32-33). Clement’s astuteness and concern for all is in contrast to other characters’ self-centeredness; seeing that Tib, Cob’s wife, was beaten unfairly, he sympathizes with her: “Alas, poor wench, wert thou beaten for this?” (5.1.33-34). Nevertheless, this “excellent good lawyer and a great scholar” (3.2.252) can be capricious. Ned remarks that “they say he will commit a man for taking the wall of his horse” (3.2.258-59), and Wellbred rejoins with “ay, or wearing his cloak of one shoulder, or serving of God; anything indeed, if it come in the way of his humour” (3.2.260-61).

It is Clement’s warrant, more than his humour or his virtue, that distinguishes his office. As has been noted, Bobadill turns to the warrant as the most effective way to get justice. Angry with Bobadill for beating him, Cob, too, seeks out Clement. He tells Clement that he is a “poor neighbor” of Clement’s, “come to crave the peace of

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<sup>411</sup> Herrup, *Common* 86-88.



your worship” (3.3.62-73). Cob’s request establishes Clement as the purveyor of local justice, but it also suggests the need for precision in language and legal procedure. Clement merrily responds: “Of me, knave? Peace of me, knave? Did I e’er hurt thee? Or threaten thee? Or wrong thee, ha?” (3.3.74-75). Cob then clarifies that he wants “your worship’s warrant for one that has wrong’d me, sir” (3.3.76-77). A subsequent scene highlights the importance of the warrant itself, the actual piece of paper with writing on it. Cob has returned home and gloats to his wife Tib that he will now be able to get even with Captain Bobadill. He emphasizes the material aspect of the warrant: “I have it here in black and white, for his black and blue: shall pay him” (4.2.17-18). Cob is actually ambivalent about Clement himself; he appreciates Clement’s actions, calling him the “The honestest old brave Trojan in London!” and noting that he does “honor the very flea of his dog” (4.2.19-20). But he also wishes a “plague on him” since Clement’s jests “put me once in a villainous filthy fear” (4.2.20-21). Although Cob has reservations about the officeholder, he trusts the warrant itself, believing in the procedures that the office authorizes.

Even though Clement jests with Cob about the warrant, he takes warrants very seriously indeed, and so does Jonson.<sup>412</sup> Bobadill’s oaths represent the empty vows of chivalry, but warrants represent the English judicial system’s answer to a conundrum posed by Sir Thomas Elyot regarding an effective legal method to bind men to their promises. Elyot had wondered:

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<sup>412</sup> Jonson returns to warrant(s) and justice(s) in *Bartholomew Fair*. See Luke Wilson, *Theaters of Intention: Drama and the Law in Early Modern England* (Stanford: Stanford UP, 2000) 118-120; Ray L. Heffner, “Unifying Symbols in the Comedy of Ben Jonson,” *Ben Jonson*, ed. Jonas A. Barish (Englewood Cliffs, NJ: Prentice-Hall, 1963) 141-46.

And nat onely sealyng (whiche Seneca disdained, that it shulde be more sette by than soules) is uneth sufficient: but also it is nowe come into suche a generall contempt, that all the lerned men in the laws of this realme, whiche be also men of great wisdom: can nat with all their study devise so sufficient an instrument, to bynde a man to his promise or covenant.<sup>413</sup>

According to William Lambard, warrants arose because men valued their property enough to guarantee that they would keep their promises. In *Eirenarcha*, Lambard addresses the warrant's importance relative to keeping the peace. He first clarifies that one of a justice's principal responsibilities in keeping the peace is "by taking Suertie for the keeping of [the peace]." He observes that the surety, an assurance that one person will not harm another, originated with the "auntient Normans."<sup>414</sup> The Normans, however, were content with an oath and a handshake; in England, in latter days, however, "our Governours, knowing that evill men be more restrained by losse of goods, than by conscience of an oath, have used to take sure bonds, and that to the Prince, for the securitie of such as be in feare."<sup>415</sup> Lambard defines surety as "An acknowledging of a bond to the Prince, taken by a Judge of Recorde, for the keeping of the peace."<sup>416</sup>

Lambard goes on to say that a justice may "command [the surety], either as a Minister when hee is willed to do it by a higher auctoritie: or as a Judge when he doth it of his owne power derived from his Commission." The justice may "by vertue of his Office and as he is a Judge, commaunde this Suertie to be founde, and that either

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<sup>413</sup> Elyot, *Governour* 199.

<sup>414</sup> Lambard, *Eirenarcha* 82.

<sup>415</sup> Lambard, *Eirenarcha* 82.

<sup>416</sup> Lambard, *Eirenarcha* 83.

of his owne motion and discreation, or else at the requeste and prayer of another.”<sup>417</sup> Lambard also establishes that the “suretie may be enjoyed ... either by Word, or by Writing under Seale.” As long as all involved parties are present, the justice can verbally order an arrest. However, “if eyther the Officer, Servant, or Party be absent, then it is requisite to make a Warrant (or Precept) in writing.”<sup>418</sup> According to Lambard, “a sworne and known Officer needeth not to shew this Warrant, when he doth serve it upon a man. 8E.4.14 & 20.H.7.13&c. for his Office doth after a sort auctorise him. But if the Justice wil set his Servant to serve it, ye servant must shewe the Warrant (if ye party demaunde it) and otherwise the party may make resistance, 8.E.4.14.”<sup>419</sup> Proper procedures must be followed; Lambard notes that “if a Bailife do arrest a man for the peace, before that he have any Warrant, & then afterward do procure a Warrant for it, this is unlawfully done.”<sup>420</sup>

Cob is relieved to get his warrant from Clement and Bobadill seeks Clement in order to get his. Brainworm’s escapades, however, call into question the warrant’s promise. While Jonson endorses the authority of Clement’s office, Brainworm reminds us that one cannot necessarily rely on governors themselves. Motivated by the fees, he agrees to serve an unauthorized warrant on Downright, deciding to “pawn this cloak of the Justice’s man’s at the broker’s for a varlet’s suit, and be the varlet myself; and get either more pawns, or more money of Downright for the arrest” (4.7.69-72). Brainworm next enters as a “city serjeant,” musing that “of all my disguises yet, now am I most like myself, being in this serjeant’s gown. A man of my

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<sup>417</sup> Lambard, *Eirenarcha* 85-86.

<sup>418</sup> Lambard, *Eirenarcha* 93-94.

<sup>419</sup> Lambard, *Eirenarcha* 98.

<sup>420</sup> Lambard, *Eirenarcha* 99.

present profession never counterfeits, till he lays hold upon a debtor and says he rests him, for then he brings to him all manner of unrest” (4.9.1-4). Brainworm associates officeholders with deception, dissembling, hypocrisy. Clement himself has earlier recognized the role that costume plays in office, assuring the worried Kno’well that his “cares are nothing: they are like my cap, soon put on, and as soon put off” (3.3.131-32). Anyone, it seems, can be an officeholder, provided that he has the right uniform.

But if the robes of office lend authority, they do not sustain it. When Matthew and Bobadill spy Brainworm, they identify him by his costume: “See, I think yonder is the varlet, by his gown” (4.9.9), and he plays along. But when Brainworm attempts to arrest “Downright,” all are taught – or should be taught – a lesson about naively trusting that clothes make the man. It is not Downright who has entered, but Stephen, wearing Downright’s cloak. As Bobadill realizes, “he wears such a cloak, and that deceived us” (4.9.28). It is the cloak that leads to Brainworm’s discovery, as Downright in turn demands Stephen’s arrest and immediate justice: “Officer, I’ll go with thee to the Justice’s; bring him along” (4.9.50). Brainworm, wishing to avoid Justice Clement, attempts to worm his way out of the fix he has gotten himself into by relying on a promise. He assures Downright that “I’ll take your word; and this gentleman’s, too, for his appearance” (4.9.53-54). But Downright is not as trusting as Matthew and Bobadill, insisting that “I’ll ha’ no words taken. Bring him along” (4.9.55). Downright prevails, and Brainworm’s exposure follows in short order.

Brainworm’s initial success in deceiving the other characters suggests that the paper Cob relies upon is no more trustworthy than a knight’s vows. When he sets

matters right, Justice Clement emphasizes the validity of the warrant as long as it is procured and served properly. When his servant brings word that “There’s one of the varlets of the city, sir, has brought two gentlemen here, one upon your worship’s warrant” (5.1.67-68), Clement is taken aback: “My warrant?” (5.1.69). He first asks Bobadill if he had Clement’s “warrant for this gentleman’s apprehension” (5.1.87-88), and when Bobadill replies in the affirmative, he wonders “where had you it?” (5.1.90). When Bobadill replies that he got it from Clement’s clerk, Clement expresses disbelief: “That’s well, an’ my clerk can make warrants, and my hand not at ‘em!” (5.1. 92-93). He wonders, “Where is the warrant? Officer, have you it?” (5.1.93). Like Cob, Clement emphasizes the document itself, wanting to “see it here in black and white” (4.2.17).

No one, of course, can produce the warrant. Clement is no less astounded that Downright is unaware of another point of process: “Why, Master Downright, are you such a novice, to be serv’d, and never see the warrant?” (5.1.96-97). When Downright replies that Brainworm didn’t actually serve the warrant, but merely “said he must serve it” (5.1.100), Clement is outraged at the ridiculousness of the scenario. He threatens to cut off Brainworm’s legs: “I must cut off your legs, sirrah: nay, stand up, I’ll use you kindly; I must cut off your legs, I say” (5.1.104-05). Brainworm pleads for mercy, but Clement continues in the same vein, insisting that he “must” do it, and he “must” also cut off his ears, nose and head (5.1.107-09). Of course, in due time Clement relents, but only after he has turned the tables on Brainworm to make his point: “I said, I must cut off thy legs, and I must cut off thy arms, and I must cut off thy head; but I did not do it: so, you said you must serve this gentleman with my

warrant; but you did not serve him. You knave, you slave, you rogue, do you say you must? Sirrah, away with him to the jail; I'll teach you a trick for your 'must,' sir" (5.1.114-19). Brainworm's main offense in impersonating an officer is his abuse of the office's promise. For him to tell Downright that he "must" serve the warrant at the same time that he lacks authority for it is for him to rely on the "inferred or presumed certainty of a fact."<sup>421</sup> It is precisely as it was with Bobadill's oaths.

Bobadill never realizes the delusion in his promises, but Brainworm fully acknowledges his transgressions, and he receives a fitting sentence. When Clement orders him to jail, Brainworm replies, "Nay, sir, if you will commit me, it shall be for committing more than this. I will not lose, by my travail, any grain of my fame, certain" (5.1.122-24). Like Falstaff, he relies on his candor in confession to save him: "Nay, excellent Justice, since I have laid myself thus open to you, now stand strong for me; both with your sword and your balance" (5.1.130-32). After receiving Knowell's pardon, he informs them of his exploits. Clement ultimately also pardons Brainworm, stating that he has "done or assisted to nothing, in my judgment, but deserves to be pardon'd for the wit o'the offense" (5.1.173-75). For McDonald, when Clement forgives Brainworm, he enacts Jonson's own defense of wit.<sup>422</sup> But undisciplined wit does not go entirely unpunished.<sup>423</sup> Clement first requests a cup of sack, in order to toast Brainworm; he then declares, "this is my sentence. – Pledge

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<sup>421</sup> "must, v.<sup>1</sup>," *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 4 Aug. 2008 <<http://dictionary.oed.com>>.

<sup>422</sup> McDonald, *Shakespeare and Jonson* 51.

<sup>423</sup> McDonald, *Shakespeare and Jonson* 50.

me” (5.1.172-73). This is to instruct Brainworm to “become surety for” him, to “make oneself responsible for” him.<sup>424</sup> He expects Brainworm to uphold his promise.

For Jonson, the promise of justice is better upheld by the institutional processes associated with office than by officers themselves. Jonson, Munday, and Shakespeare were participating in a paradigm shift in the honor community in early modern England. In these plays, they question the ethos of chivalry, a code that was reviving in early modern England. The knight is bound primarily to honor. His vow, susceptible to corruption, has only his own backing. The justice, too, is fallible. But the justice’s warrant and the office itself were backed by law and legal procedure. The bourgeois playwrights aligned themselves with administration and law even as they exploited and mocked chivalric fantasies.

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<sup>424</sup> “pledge, v.,” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 4 Aug. 2008 <<http://dictionary.oed.com>>.

### Chapter 3: Keeper of the King's Conscience

...whereas all other Justices in our common wealth, are tied to the lawe, and may not swerve from it in judgement: the Chancelor hath in this the kings absolute power, to moderate and temper the written law, and subjecteth himselfe onely to the lawe of nature and conscience, ordering all things *iuxta equum & bonum*.<sup>425</sup>

While we have seen that William Lambard described the justice of the peace as a “minister of the law,” the lord chancellor also administered the law.<sup>426</sup> The former was bound to the letter of the law but the latter had the discretion and the power to mitigate it.<sup>427</sup> He ministered, or served, the spirit of the law.<sup>428</sup> As head of the Court of Chancery, he was the monarch’s deputy, empowered in his office by royal prerogative. For John Cowell, the lord chancellor is the “cheife man for mater

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<sup>425</sup> John Cowell, *The Interpreter* (Cambridge, 1607) sig.N2v.

<sup>426</sup> William Lambard, *Eirenarcha, or of the Office of the Iustices of peace, in two bookes* (London, 1581) 67.

<sup>427</sup> The perception that common law judges’ lacked discretion was not entirely accurate, but it persisted, and the rise of the court of chancery over the fifteenth and sixteenth centuries is partly attributable to dissatisfaction with common law judges’ strict interpretations of the law. On the history of chancery and the lord chancellor, see Lord Elwyn-Jones, “The Office of Lord Chancellor,” *Proceedings of the Royal Institution of Great Britain* 60 (1988): 87-98; S.F.C. Milsom, *Historical Foundations of the Common Law*, 2<sup>nd</sup> ed. (London: Butterworths, 1981) 82-96; J.A. Guy, *The Public Career of Sir Thomas More* (New Haven: Yale UP, 1980) 35-93; J.H. Baker, *An Introduction to English Legal History* (London: Butterworths, 1979) 83-100; Nicholas Underhill, *The Lord Chancellor* (Lavenham, England: Terence Dalton Ltd., 1978); W.J. Jones, *The Elizabethan Court of Chancery* (Oxford: Clarendon P, 1967); Theodore F.T. Plucknett, *A Concise History of the Common Law*, 5<sup>th</sup> ed. (Boston: Little, Brown, 1956) 176-98; Sir William Searle Holdsworth, *A History of English Law*, 16 vols., 7<sup>th</sup> ed., rev., eds. A.L. Goodhart and H.G. Hanbury (London: Methuen, 1956-72) 1:395-476, 5:215-338; Sir H.C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (London: His Majesty’s Stationery Office, 1926); and Lord John Campbell, *The Lives of The Lord Chancellors and Keepers of the Great Seal of England*, (Philadelphia: Lea and Blanchard, 1847).

<sup>428</sup> “minister, v.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 28 Jan 2008 <http://dictionary.oed.com>.



of justice (in private causes especially) next unto the prince.”<sup>429</sup> He is second to his sovereign, but he is finally answerable “onely to the lawe of nature and conscience.”<sup>430</sup> Hence his office was a site of conflicting loyalties, where written (or positive) law, the laws of nature and conscience, and the monarch’s will were often at odds with each other. Such contention is palpable in Anthony Munday’s *Sir Thomas More* (c. early 1590s) and William Shakespeare and John Fletcher’s *Henry VIII* (1613), two plays that feature the lord chancellor.<sup>431</sup> Both plays were written during periods of controversy over the royal prerogative, and both plays stage Sir Thomas More.

While it may have been risky to represent the Catholic martyr More, neither *Sir Thomas More* nor *Henry VIII* dwells on More’s Catholicism.<sup>432</sup> Instead, they emphasize his office as lord chancellor (and in Munday’s case, More’s humanism). More’s faith may have fallen into disrepute, but his office increased in importance due to lively religious and political controversies. The last years of Elizabeth’s reign were marked by a rise in divine right rhetoric as the Queen and her ministers sought to counter arguments in favor of a Presbyterian form of church government.<sup>433</sup> For his part, James I was highly invested in *jure divino* theories, declaring “‘no bishop, no king’ ... twice in one day at the Hampton Court Conference to discredit Presbyterian

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<sup>429</sup> Cowell, *Interpreter* sig.N2v.

<sup>430</sup> Cowell, *Interpreter* sig.N2v.

<sup>431</sup> All citations are from Anthony Munday and others, *Sir Thomas More*, eds. Vittorio Gabrieli and Giorgio Melchiori (Manchester: Manchester UP, 1990); and William Shakespeare and John Fletcher, *King Henry VIII*, ed. Gordon McMullan (London: Thomson, 2000).

<sup>432</sup> See, for example, Donna B. Hamilton, *Anthony Munday and the Catholics, 1560-1633* (Burlington, VT: Ashgate, 2005) 120.

<sup>433</sup> John Guy, “The Elizabethan Establishment and the Ecclesiastical Polity,” *The Reign of Elizabeth I: Court and Culture in the Last Decade*, ed. John Guy (Cambridge: Cambridge UP, 1995) 126-49; Peter Lake, *Anglicans and Puritans? Presbyterian and English Conformist Thought from Whitgift to Hooker* (London: Unwin Hyman, 1988) *passim*.

influence.”<sup>434</sup> In *The True Law of Free Monarchies* (1598), James grounded monarchical authority in God’s will, contending that the monarch was subject only to God.<sup>435</sup> James had allowed that a “good king will not onely delight to rule his subjects by the lawe, but euen will conforme himeselfe in his owne actions thervnto,” but he maintained that the monarch was not obligated to subject himself to the law.<sup>436</sup> For those contesting such theories and the expanding prerogative that accompanied them, More’s own writings would have been pertinent. *Utopia*, for instance, proposes that “the construction of a truly Christian political order must rest upon the foundation of a just secular one.”<sup>437</sup> Dramatists who emphasize More the lord chancellor, I will argue, explore this “foundation of a just secular” political order. They reveal the extent to which officeholders, as ministers of the law and justice, were crucial to a just secular political order.

Historically, the office of the lord chancellor was vital to the governing of the realm. As head of Chancery, which had evolved in the later Middle Ages as a primarily administrative bureau, the lord chancellor oversaw many governmental transactions: Chancery issued royal grants of property and office, pardons, commissions, treaties, charters, and licenses.<sup>438</sup> The lord chancellor was traditionally

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<sup>434</sup> J. H. M. Salmon, “Catholic Resistance Theory, Ultramontaniam, and the Royalist Response, 1580-1620,” *The Cambridge History of Political Thought, 1450-1700*, ed. J. H. Burns with Mark Goldie (Cambridge: Cambridge UP, 1991) 247; see also J. P. Sommerville, “The Royal Supremacy and Episcopacy ‘Jure Divino’, 1603-1640,” *Journal of Ecclesiastical History* 34.4 (1983): 548-58; Frederick Shriver, “Hampton Court Re-visited: James I and the Puritans,” *Journal of Ecclesiastical History* 33.1 (1982): 48-71.

<sup>435</sup> Mark Fortier, “Equity and Ideas: Coke, Ellesmere, and James I,” *Renaissance Quarterly* 51 (1998):1268.

<sup>436</sup> Qtd. in Fortier, “Equity and Ideas” 1270.

<sup>437</sup> Brendan Bradshaw, “Transalpine Humanism,” *The Cambridge History of Political Thought, 1450-1700*, ed. J. H. Burns with Mark Goldie (Cambridge: Cambridge UP, 1991) 105. Bradshaw cites his own earlier work on More, “More on Utopia,” *The Historical Journal*, 24.1 (1981) 1-27.

<sup>438</sup> Baker, *English Legal History* 84; Underhill, *Lord Chancellor* 34; see also M.T. Clanchy, *From Memory to Written Record: England 1066-1307*, 2<sup>nd</sup> ed. (Oxford: Blackwell, 1993) 57-104.

the keeper of the Great Seal, which was used to authenticate these documents.<sup>439</sup> This administrative side of Chancery became increasingly detached from the king's court, but the lord chancellor himself did not.<sup>440</sup> By the mid-fourteenth century, the lord chancellor had become a central member of the monarch's advisory council.<sup>441</sup> Under Queen Elizabeth, he was a prominent member of the Privy Council, serving as the monarch's, the Parliament's, and the Privy Council's go-between.<sup>442</sup> He was also the Queen's spokesman in Parliament, and he was deemed Speaker of the House of Lords.<sup>443</sup> According to Sir Thomas Smith, "Next under the prince [in Parliament] sitteth the Chancellor, who is the voyce and orator of the prince."<sup>444</sup> The monarch may have been present, but the lord chancellor "answereth in the princes name, as apperteyneth" in opening ceremonies.<sup>445</sup> The man who held the office of lord chancellor was, then, in close contact with the monarch, advising and speaking for her in important matters of state. He was a minister of the law in its executive and legislative senses. But by Queen Elizabeth's reign, his administration of the law had become primarily judicial.<sup>446</sup>

By virtue of his role on the king's Privy Council, the lord chancellor came to preside over Star Chamber and the Court of Chancery.<sup>447</sup> Originally inseparable from Privy Council meetings, Star Chamber under Cardinal Thomas Wolsey (Henry VIII's

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<sup>439</sup> Baker, *English Legal History* 85; Underhill, *Lord Chancellor* 6.

<sup>440</sup> Underhill, *Lord Chancellor* 28-29. Underhill notes that by the late fourteenth century, chancery clerks were permanently established in offices at Westminster, rather than traveling with the court.

<sup>441</sup> Underhill, *Lord Chancellor* 32.

<sup>442</sup> Elwyn-Jones, "Office" 89.

<sup>443</sup> Underhill, *Lord Chancellor* 102; Elwyn-Jones, "Office" 92.

<sup>444</sup> Sir Thomas Smith, *De Republica Anglorum* (London, 1583) 36-37.

<sup>445</sup> Smith, *De Republica* 38.

<sup>446</sup> W.J. Jones, *Chancery* 7.

<sup>447</sup> Underhill, *Lord Chancellor* 90.

lord chancellor) strengthened its jurisdiction as a separate court.<sup>448</sup> Like Chancery, Star Chamber was concerned with real property; but cases were more likely to involve claims of riot, forcible entry, and other sorts of disorderly conduct, and Star Chamber eventually prosecuted criminal matters.<sup>449</sup> According to Lambard, Star Chamber supplemented the common law courts: sometimes “the ordinarie Courts of *Iustice* be hindered in their course and orderly proceeding, or ... the *Evill* and *Crime* it selfe is ... new in *Device*, for which no *Law* hath beene yet provided.”<sup>450</sup> In such cases, “*helpe* and *supply* must elsewhere be sought.”<sup>451</sup> Sir Thomas Smith ascribes to Star Chamber the responsibility for dealing with those subjects, primarily members of the nobility, who were guilty of rebellion.<sup>452</sup> Other infractions included perjury, bribery, slander, counterfeiting money, corruption on the part of magistrates, and riot on the part of any subject.<sup>453</sup> Smith explains that Henry VIII and Wolsey’s use of Star Chamber helped to convince the nobility that “they had a Prince who would rule his subjects by his laws and obedience.”<sup>454</sup> By the end of the sixteenth century, Star Chamber was associated with the monarch’s prerogative. In theory, at least, the court and its judges ruled on the monarch’s behalf in extraordinary cases.

For its part, Chancery evolved from its administrative origins into a court of law that, like Star Chamber, was meant to complement the common law courts. By

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<sup>448</sup> Baker, *English Legal History* 102; Plucknett, *Common Law* 181-82. See also J.A.Guy, *The Cardinal’s Court: the Impact of Thomas Wolsey in Star Chamber* (Totowa, NJ: Rowman, 1977).

<sup>449</sup> Baker, *English Legal History* 102-03.

<sup>450</sup> William Lambard, *Archeion, Or A Discourse Upon the High Courts of Iustice in England* (London, 1635) 80-81. Although *Archeion* was not printed until 1635, it was written before 1591.

<sup>451</sup> Lambard, *Archeion* 81.

<sup>452</sup> Smith, *De Republica* 94-97. Smith refutes the notion that Star Chamber was created by Cardinal Wolsey when he was lord chancellor, but acknowledges that Wolsey greatly increased its authority (96).

<sup>453</sup> Lambard, *Archeion* 82-95; Baker, *English Legal History* 102-03.

<sup>454</sup> Smith, *De Republica* 97.

the fifteenth century, common law judges were expected to interpret law narrowly; however, the chancellor, who was in close contact with the monarch, could overrule judgments meted out by a “fixed and a rigid system.”<sup>455</sup> As William Lambard explains, “considering that the *Prince* of this *Realme* is the immediate *minister* of *Iustice* under God,” it is only to be expected that the monarch will “reserve to himself, or referre to others a certain soveraigne and preheminent *Power*, by which he may both supply the want, and correct the rigour” of the common law.<sup>456</sup> The lord chancellor did not need to “follow the technicalities of the law. He represented the king’s grace....”<sup>457</sup> Here is Sir Thomas Smith: “for so much as in this case [the subject] is without remedie in the common lawe, therefore he requireth the chauncellor according to equitie and reason to provide for him and to take such order as to good conscience shall appertaine.”<sup>458</sup> The concept of equity has classical roots (Aristotle termed it “a correction of law where it is defective owing to its universality”), but in fifteenth-century England, many of the chancellors were ecclesiastics.<sup>459</sup> They “based their equity on the more restricted idea that the court ought to compel each individual litigant to fulfill the duties which reason and conscience would dictate to a person in his situation.”<sup>460</sup> Chancellors were to arrive at decisions pertaining to individual cases not arbitrarily but based on reason and their

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<sup>455</sup> Holdsworth, *English Law* 5:215.

<sup>456</sup> Lambard, *Archeion*, 68.

<sup>457</sup> Underhill, *Lord Chancellor* 83.

<sup>458</sup> Smith, *De Republica* 54.

<sup>459</sup> Baker, *English Legal History* 90. Early modern literary scholars are probably most familiar with equity due to its importance in Shakespeare’s *Measure for Measure*. See Wilbur Dunkel, “Law and Equity in *Measure for Measure*,” *Shakespeare Quarterly* 13.3 (1962): 275-85; John W. Dickinson, “Renaissance Equity and *Measure for Measure*,” *Shakespeare Quarterly* 13.3 (1962): 87-97; Donna B. Hamilton, *Shakespeare and the Politics of Protestant England* (Lexington, KY: UP of KY, 1992) 111-27; and Debora Kuller Shuger, *Political Theologies in Shakespeare’s England: The Sacred and the State in Measure for Measure* (New York: Palgrave, 2001) *passim*.

<sup>460</sup> Holdsworth, *English Law* 5:216.

knowledge of God's laws.<sup>461</sup> Thus it was that Chancery became known as the court of conscience.

The conscience referred to was that of several parties. As noted above, Chancery aimed to help the subject act in accordance with his or her conscience: "Chancery did not concern itself with legal title but merely with title in conscience, that is, it ordered the defendant's conduct as the conduct of his conscience required."<sup>462</sup> Chancery also came to represent the "conscience" of the commonwealth. In 1595, one justice of the peace observed that "the general conscience of the realm ... is Chancery."<sup>463</sup> And by the end of the sixteenth century, conscience often referred to the chancellor's relationship to the monarch. Sir Christopher Hatton, Lord Chancellor from 1587 until his death in 1591, is generally credited with first claiming that the lord chancellor was the "keeper of the king's conscience."<sup>464</sup> Indeed, the lord chancellor's office as keeper of the king's conscience was so important that it sparked debate about what sort of professional background best prepared the chancellor for his position. In 1597, Edward Hake, author of a later tract on equity, wrote in a letter to Sir Julius Caesar about his plans for still another tract, observing that he had initially meant to argue

in a sorte and as I mighte, that as in former tymes the Lord Chauncellor hath not usually been (and in olden times not at all) a temporall Lawyer, so considering how and whereupon the Equity of that Courte is to be derived, namely, upon the Conscience of the Judge, it is not therefore of necessity (*nec*

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<sup>461</sup> Baker, *English Legal History* 90-91.

<sup>462</sup> D.E.C. Yale, introduction, *Epieikeia: A Dialogue on Equity in Three Parts*, by Edward Hake, ed. D.E.C. Yale (New Haven: Yale UP, 1953) xv.

<sup>463</sup> Qtd. in Underhill, *Lord Chancellor* 92; also in Yale, introduction xv, n.5.

<sup>464</sup> W.J. Jones, *Chancery* 44; Underhill, *Lord Chancellor* 92.

*quid ulteius dicam*) that he should be a temporall Lawyer and none other, but rather indeed of such a profession of learning as may be said to approach nearest to Divinity.<sup>465</sup>

Hake eventually decided that a background in common law was best, but he still allowed for the appointment of ecclesiastics.<sup>466</sup> Either way, lord chancellors required the knowledge and skill to reconcile positive law with God's law on behalf of the sovereign and the subject.

Anthony Munday's *Sir Thomas More*, which apparently was never staged, dramatizes the life of a lord chancellor who was ordered by his monarch to contravene what he deemed to be God's law on the monarch's behalf. The play traces More's life from his time as a London officeholder to his execution. Scholars have debated the date of the play and its revisions, its sources, and each of the seven hands evident in the extant manuscript (particularly "Hand D," said by many to be William Shakespeare's).<sup>467</sup> Editors Vittorio Gabrieli and Giorgio Melchiori explain that while dates of composition from 1586 to 1603 have been proposed for the play, scholars generally concur that the play was written in the early 1590s, and they argue that the revisions were also written then.<sup>468</sup> In addition to questions of dating and authorship, scholars have considered the play's structural integrity and its

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<sup>465</sup> Qtd. in Yale, introduction xxviii.

<sup>466</sup> Yale, introduction xxviii.

<sup>467</sup> See Peter Blayney, "The Booke of Sir Thomas Moore Re-Examined," *Studies in Philology* 69 (1972) 167-91; T. Howard-Hill, ed. *Shakespeare and Sir Thomas More: Essays on the Play and Its Shakespearian Interest* (Cambridge: Cambridge UP, 1989); MacDonald P. Jackson, "Anthony Munday and the Play of Thomas More," *Moreana* 22 (1985) 83-84; and E.A.J. Honigmann, "The Play of *Sir Thomas More* and Some Contemporary Events," *Shakespeare Survey* 42 (1990): 77-84. While there is evidence of collaboration, Vittorio Gabrieli and Giorgio Melchiori attribute primary authorship to Anthony Munday, and so I will refer to the play as Munday's. See Vittorio Gabrieli and Giorgio Melchiori, introduction, *Sir Thomas More*, by Anthony Munday and others, eds. Vittorio Gabrieli and Giorgio Melchiori (Manchester: Manchester UP, 1990) 14.

<sup>468</sup> Gabrieli and Melchiori, introduction 11-12, 27.

topicality.<sup>469</sup> Some have argued that the play avoids contemporary political issues. Charles Forker and Joseph Candido, for example, observe that “Historical events sweep by in a hazy background” as the play examines More’s personal life and characteristics, “rather than ... the political or religious significance of his [public] life and actions.”<sup>470</sup> However, I will argue that the play’s representation of More’s intertwined private and public lives is closely connected to contemporary religio-political issues. In what follows, I also accept 1591-93 as the probable time of composition and revision: certainly, these years help to explain the play’s focus on More and on other officeholders administering the law.

The likely connection between Munday’s depiction of the Ill May-Day riots and anti-alien sentiment in Elizabethan London, particularly acute in the late 1580s and 1590s, has been noted.<sup>471</sup> Many of the aliens, or strangers, were French and Dutch immigrants, fleeing religious persecution. Taking asylum in London, they were accommodated in various ways by sympathetic magistrates, including members

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<sup>469</sup>For example, Donna B. Hamilton considers the significance of the play-within-a-play in *Anthony Munday* 119-26; Suzannah Brietz Monta examines the play’s focus on wit and conscience in relation to representational strategies in “*The Book of Sir Thomas More and Laughter of the Heart*,” *The Sixteenth Century Journal* 34.1 (2003) 107-21; Clarence H. Miller compares the way *Sir Thomas More* and Robert Bolt’s *A Man For All Seasons* respectively treat the subject of Sir Thomas More in “Thomas More, A Man For All Seasons,” *Moreana* 27 (1990): 101-10; Scott McMillin examines the play as a promptbook and its other theatrical aspects in *The Elizabethan Theatre and The Book of Sir Thomas More* (Ithaca: Cornell UP, 1987); Charles Clay Doyle argues that the emphasis on More’s beard is significant in “The Hair and Beard of Thomas More,” *Moreana* 18 (1981): 5-14; Joseph Candido and Charles R. Forker discuss the play’s linguistic and metatheatrical elements, in “Wit, Wisdom, and Theatricality in *The Book of Sir Thomas More*,” *Shakespearean Studies* 13 (1980): 85-104; William H. Matchett discusses some of the imagery in the play, partly in the interest of dating the play, in “Shylock, Iago, and *Sir Thomas More*: With Some Further Discussion of Shakespeare’s Imagination,” *PMLA* 92 (1977): 217-30.

<sup>470</sup>Candido and Forker, “Wit” 86.

<sup>471</sup>Blayney, “Booke” 181; William B. Long, “The Occasion of *The Book of Sir Thomas More*,” *Shakespeare and Sir Thomas More: Essays on the Play and Its Shakespearian Interest*, ed. T. H. Howard-Hill (Cambridge: Cambridge UP, 1989) 50-51.



of the Privy Council.<sup>472</sup> But increasing competition in the marketplace meant that aliens “were resented because they were thought to evade company regulations and produce substandard goods.”<sup>473</sup> The measures that Londoners took, such as circulating libels against the strangers and resorting to riots, were not just “mindless violence: rather the threat of popular action should be seen as a negotiating strategy, designed to remind the magistrates of their obligations to redress apprentice grievances.”<sup>474</sup> Although restrictions were placed on aliens, they were not always easy to enforce, and City companies thus turned to Crown ordinances, litigation, and legislative efforts in Parliament in order to tighten up regulations.<sup>475</sup> Economic and xenophobic tensions between English people and aliens also weighed on the administration of the law.

The early 1590s provide still another context for Munday’s focus on the administration of the law. While he highlights More’s refusal to acquiesce to the monarch’s wishes, he never specifies that More refuses to subscribe to the Act of Supremacy. Gabrieli and Melchiori note that Munday thus “avoids raising the question of the conflict between the Roman and the English Church, replacing it with that of the freedom of the individual conscience from worldly authority.”<sup>476</sup> This strategy would have been one way to placate the censor, but it would have been to risk calling attention to another, related controversy, this one pertaining to the oath *ex officio*. Church leaders such as John Whitgift, intent on upholding monarchical

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<sup>472</sup> Ian Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge UP, 1991) 137-38.

<sup>473</sup> Archer, *Pursuit* 131.

<sup>474</sup> Archer, *Pursuit* 5. Archer later notes that while there were reports of planned conspiracy against aliens, the tensions never led to an actual anti-alien riot (140).

<sup>475</sup> Archer, *Pursuit* 135-37.

<sup>476</sup> Gabrieli and Melchiori, introduction 15.

supremacy, shaped ecclesiastical policy accordingly.<sup>477</sup> Because their campaign called for strict enforcement of conformity to the Church of England, the ecclesiastical courts and Star Chamber became venues for prosecuting and persecuting Puritans and Catholics alike.<sup>478</sup> And this is where the controversial oath *ex officio* came into play.<sup>479</sup> Administered upon their summons to court, defendants were required to swear that they would answer truthfully all questions put to them by the court before they were even informed of the accusations made against them or of the prosecution's evidence.<sup>480</sup> While the oath itself originated much earlier, the Elizabethan courts acquired a reputation for abusing it, unfairly questioning defendants about their behavior at home and seeking information about their family or friends, which was then used to indict them.

The oath thus impinged on legal procedures, on recusancy, and on the politics of the administration of God's law. Both Puritans and Catholics accused in a church court, or brought before the High Commission on charges of recusancy or failure to observe the Book of Common Prayer, could tie up legal proceedings by refusing to swear the oath *ex officio*. The trial was then pre-empted, the defendants were charged with contempt of court, and a new trial over the oath would commence. Such cases

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<sup>477</sup> Guy, "Elizabethan establishment" 126-27.

<sup>478</sup> Munday would have been familiar with these cases; he was occasionally employed as a pursuivant, deputized by the High Commission and other authorities concerned with enforcing conformity. Records indicate that he turned in both suspected Catholics and Puritans. Munday may have been motivated by money rather than ideology (Hamilton, *Anthony Munday* xxi-xxii).

<sup>479</sup> For the treatment of the debate over the oath, see Guy, "Elizabethan establishment" 126-49; Leonard Levy, *Origins of the Fifth Amendment: The Right Against Self-Incrimination* (New York: Oxford UP, 1968); and Patrick Collinson, *The Elizabethan Puritan Movement* (Berkeley: University of California Press, 1967). Hamilton examines the significance of the debate over the oath in early modern drama; see *Shakespeare* 34-42.

<sup>480</sup> The oath had its roots in Catholic inquisitional procedures (Levy, *Fifth Amendment* 23-24).

might then be taken to Star Chamber.<sup>481</sup> Trials of individuals such as Sir Thomas Tresham, whose argument in 1580 against the oath *ex officio* included the objection that “this ys not a mere temporall demaunde but a case of conscience, therefore yt ys against *iudicium* to sweare herein,” helped to call into question the legality of the oath *ex officio* and so the courts’ procedures.<sup>482</sup> John Udall, arrested in 1590 as a result of the Martin Marprelate scandal, also refused to swear. When told that he must go to prison, he responded, “God’s will be done! I had rather go to prison with a good conscience, than to be at liberty with an ill one!”<sup>483</sup> These cases typically upheld Magna Carta as the fundamental law of the land.<sup>484</sup> The oath was objectionable on the grounds that a person’s thoughts and beliefs were his or her private property and as such were protected under the articles of the Magna Carta. However, the notorious verdict in the trial against Robert Cawdrey, a trial that lasted until 1591, upheld the “ancient prerogative of the monarch to govern the ecclesiastical affairs of the nation.”<sup>485</sup> Monarchical prerogative prevailed over what subjects felt were God’s laws and the law of the land.

Sir Thomas More himself had been involved in a dispute over the oath *ex officio* which was part of an earlier polemical debate over the reach of the church courts. After Henry VIII’s decision to break from the Roman Catholic Church, More upheld the courts’ right to administer the oath *ex officio* as a defense against the

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<sup>481</sup> For one such case, see “Narrative of the Proceedings in Star-chamber, against lord Vaux, sir Thomas Tresham, sir William Catesby, and others, for contempt in refusing to swear that they had not harbored Campion the Jesuit,” *Archaeologia* 30 (1844): 64-110.

<sup>482</sup> “Narrative” 94.

<sup>483</sup> Qtd. in Levy, *Fifth Amendment* 166.

<sup>484</sup> Levy, *Fifth Amendment* 235.

<sup>485</sup> Levy, *Fifth Amendment* 223; Guy comes to the same conclusion in “Elizabethan establishment” 132.

spread of heresy.<sup>486</sup> But More himself, after being brought to trial for refusal to swear to the oath of supremacy, refused to swear to the oath *ex officio*. He was “offred . . . an othe by which [he] shoulde be sworn to make true aunswere to suche things as shoulde be asked [him] on the Kinges behalfe, concerning the Kinges owne person.”<sup>487</sup> More refused, answering that ““verily I never purposed to swere any booke othe more while I lived.””<sup>488</sup> More’s sixteenth-century biographer, Nicholas Harpsfield, records that, when pressed by Cromwell on the parallels between More’s forcing heretics to “make a precise aunswere thereto” and the monarch’s will to “compell men to aunswere precisely to the lawe here, as they did then concerning the Pope,” More argued that “in this case a man is not by the lawe of one Realme so bounde in [his] conscience where there is [a] lawe of the whole corps of christendome to the contrarie in matter touching believe, as he is by the lawe of the whole corps.”<sup>489</sup> Disputing the monarch’s jurisdiction over his conscience, More called into question the monarch’s office as minister of the law.

More’s objections might have resonated in the 1580s and 90s, when his own grandson, Thomas More II, was prosecuted for recusancy.<sup>490</sup> In particular, More’s integrity might have been perceived by both Catholics and Puritans to stand in stark

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<sup>486</sup> More debated with Christopher St. German over the use of the oath *ex officio*. See Levy, *Fifth Amendment* 61-70; John Guy, “Thomas More and Christopher St. German: The Battle of the Books,” *Moreana* 21 (1984): 5-25; William Rockett, “More and St. German: *Ex Officio* and Lay-Clerical Division,” *Moreana* 34.129 (1997): 21-43.

<sup>487</sup> Qtd. in Levy, *Fifth Amendment* 70.

<sup>488</sup> Qtd. in Levy, *Fifth Amendment* 70.

<sup>489</sup> Nicholas Harpsfield, *Harpsfield’s Life of More*, ed. Elsie Vaughan Hitchcock (Oxford: Oxford UP, 1963) 177. Harpsfield’s manuscript was a primary source for the play (Gabrieli and Melchiori, introduction 8).

<sup>490</sup> Honigmann, “Contemporary Events” 82. It has been noted that Munday possibly had access to Harpsfield’s account through his connection with Richard Topcliffe, who apprehended More’s grandson and reportedly found a copy of Harpsfield’s biography in his study (Honigmann, “Contemporary Events” 83; Gabrieli and Melchiori, introduction 8).

contrast to the integrity of two lord chancellors who served around the time of the play's composition. They both supported the conformist agenda. Sir Christopher Hatton, Lord Chancellor from 1587-1591, and John Puckering, Lord Keeper from 1592-1596, had both been involved in prosecuting various *ex officio* cases.<sup>491</sup> Hatton represented the Queen in her opposition to Puritan efforts in Parliament further to reform the church. In 1589, he "charged the Commons not to meddle in matters religious except to bridle the activities of the queen's enemies, papist and puritan alike."<sup>492</sup> He also supported Whitgift's campaign for new articles that would have upheld the episcopacy and the Crown's authority over ecclesiastical matters.<sup>493</sup> Hatton's support for these programs may have been motivated less by ideology than by his indebtedness to Queen Elizabeth, financial and otherwise.<sup>494</sup> Puckering, as Queen's Sergeant before his appointment as Lord Keeper, was involved in prosecuting Presbyterians such as Thomas Cartwright.<sup>495</sup> By 1590, he had been appointed recorder for Warwick, and he was a key figure in the trial of the Puritan John Udall.<sup>496</sup> His contemporaries accused him of using office for self-advancement and of being a "tool" of others.<sup>497</sup> Puckering was apparently successful at promoting

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<sup>491</sup> Lord Keeper was the title reserved for those appointed as guardian of the Great Seal who were not of noble background. In 1563, an Act of Parliament decreed that the office of Lord Keeper had the same authority as the office of Lord Chancellor (W.J. Jones, *Chancery* 33).

<sup>492</sup> Wallace T. MacCaffrey, "Hatton, Sir Christopher (c.1540-1591)," *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004) 16 Dec 2006 <<http://www.oxforddnb.com> >.

<sup>493</sup> MacCaffrey, "Hatton"; Collinson, *Elizabethan Puritan* 408.

<sup>494</sup> John Guy, *Tudor England* (Oxford: Oxford UP, 1988) 280.

<sup>495</sup> W.J. Jones, *Chancery* 46.

<sup>496</sup> N.G. Jones, "Puckering, Sir John (c.1543/4-1596)," *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004) 16 Dec 2006 <<http://www.oxforddnb.com> >.

<sup>497</sup> W.J. Jones, *Chancery* 46.

himself. He was appointed Lord Keeper after Hatton's death despite the fact that he was "not an automatic choice for the lord keepership."<sup>498</sup>

Hatton and Puckering's manipulation of the Court of Chancery sets More's very different behavior in high relief. More was appointed Lord Chancellor in the wake of Cardinal Wolsey, whose "ministerial policy had aimed first at strict and impartial enforcement of existing law upon all the king's subjects, irrespective of social status and private power."<sup>499</sup> Wolsey had encouraged men who feared the corruption of local judges to turn to Star Chamber and Chancery. These courts were also more expeditious and flexible than the common law courts.<sup>500</sup> However, Wolsey alienated common law judges, and upon his downfall, there was some question as to whether More would continue to encourage the growth of Chancery and Star Chamber.<sup>501</sup> As it turned out, More upheld the authority of these courts, viewing them as effective venues for ensuring "impartial and efficient justice."<sup>502</sup> He not only continued Wolsey's initiatives, he improved upon them; for instance, he consistently enforced penalties, making judgments final.<sup>503</sup> During the sixteenth century, hagiographical accounts of More's life credited him with unfailing integrity in the execution of his office. Harpsfield records More's resistance to importuning even by his sons-in-law.<sup>504</sup> He also notes More's availability, stating that More "used commonly every afternoone at his house at Chelsey to sitt in his open hall, to the intent that, if any persons had any sute unto him, they might the more boldly come to

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<sup>498</sup> N.G. Jones, "Puckering".

<sup>499</sup> Guy, *Public Career* 38.

<sup>500</sup> Guy, *Public Career* 37; Baker 88.

<sup>501</sup> Guy, *Public Career* 41-42; Baker 90-91.

<sup>502</sup> Guy, *Public Career* 85.

<sup>503</sup> Guy, *Public Career* 91.

<sup>504</sup> Harpsfield, *Life of More* 52-53.

his presence, and there upon bring their complaintes before him.”<sup>505</sup> Other biographers, such as T. Stapleton, in his *Life and Illustrious Martyrdom of Sir Thomas More*, reported that More cleared up the backlog of cases in Chancery.<sup>506</sup> More’s reputed efficiency and impartiality in administering the law stood in stark contrast to perceptions of Hatton and Puckering.

Hatton and Puckering were both appointed to the office at a time when Chancery procedures needed reforming, yet neither made significant changes. Ironically, while earlier litigants had turned to chancery because of delays attending common law court cases, by the mid-sixteenth century, Chancery itself was overburdened with cases, many of which were frivolous.<sup>507</sup> Processes were not clear for litigants.<sup>508</sup> Such confusion allowed for abuse by the clerks; while theoretically many of the writs and orders issued needed to be approved by the head of Chancery, clerks often acted on their own volition. W.J. Jones observes that “numerous orders in the entry books... testify to the illegal and unauthorized issue of process.”<sup>509</sup> Elizabeth’s choice of Hatton had been a surprise for many; while he had been at the Inner Temple, he apparently never was called to the bar, nor did he have the legal and judicial experience expected of the lord chancellor.<sup>510</sup> While his time in the office “cannot be regarded as disastrous,” he managed only a few administrative reforms.<sup>511</sup> After Hatton’s death, Queen Elizabeth waited six months before naming Puckering Lord Keeper, exacerbating the delays in getting cases through Chancery that were

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<sup>505</sup> Harpsfield, *Life of More* 54.

<sup>506</sup> Guy, *Public Career* 82-83.

<sup>507</sup> W.J. Jones, *Chancery* 34.

<sup>508</sup> W.J. Jones, *Chancery* 49.

<sup>509</sup> W.J. Jones, *Chancery* 47-48.

<sup>510</sup> W.J. Jones, *Chancery* 40.

<sup>511</sup> W.J. Jones, *Chancery* 44.

caused by “procedural difficulties” and “clerical slackness.”<sup>512</sup> While Puckering made some attempt to clarify Chancery’s jurisdiction in relation to other courts, he, too, failed to address the real problems by not defining procedures.<sup>513</sup> Theoretically, Chancery was the court of conscience, where justice was speedily, impartially and definitively litigated, but in practice, Chancery proceedings could mean a drain on litigants’ and defendants’ time and money.

Munday’s play leaves us with no doubt that even a man as wise and good as More does not have the duty, much less the right, to question monarchical authority. In the last speech of the play, Surrey’s comment that “a very learned worthy gentleman / Seals error with his blood” (5.4.126-27) serves “explicitly to vindicate the authority of the state.”<sup>514</sup> *Sir Thomas More* counsels obedience because “opposition to the king is opposition to God.”<sup>515</sup> Yet even in an evidently cautionary play, Munday asks what it means to be a minister of the law. Given the lord chancellor’s position as a minister of state and traditional associations between his office and ecclesiology and conscience, any examination of his office would have entailed an interrogation of assumptions about officeholders’ duties. Officeholders were charged with upholding the law and keeping the peace, but how extensive was the reach of the law? Were thoughts private? What were the pastoral responsibilities of a minister of law?<sup>516</sup>

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<sup>512</sup> W.J. Jones, *Chancery* 47.

<sup>513</sup> W.J. Jones, *Chancery* 48-49. Chancery conflicts would culminate in the seventeenth-century dispute between Lord Chancellor Egerton and Sir Edward Coke, concerning chancery’s jurisdiction over the common law courts. See below.

<sup>514</sup> Candido and Forker, “Wit” 103.

<sup>515</sup> Long, “Occasion” 51.

<sup>516</sup> Shuger in particular emphasizes the penitential aspect of the equity courts (*Political Theologies* 86-90), connecting them to contemporary representations of the state’s “spiritual jurisdiction” over its subjects (*Political Theologies* 114).



Munday's lord chancellor play suggests that officeholders protect subjects' property, their conscience in particular. Munday emphasizes the issue of property right from the start of the play. Londoners are rioting in good measure because of their anger over the aliens' appropriation of their property. Sherwin and Lincoln are upset that Caveler has taken Williamson's pair of doves; Lincoln complains "It is hard when Englishmen's patience must be thus jettied on by strangers, and they not dare to revenge their own wrongs" (1.1.25-27). Wives are also considered property. Doll Williamson, upset over the approaches Bard has been making toward her, rebukes her husband: "How now, husband? What, one stranger take thy food from thee, and another thy wife?" (1.1.31-32). These objections are not limited to the commoners, however. Surrey expresses amazement that "this high-crested insolence should spring / From them . . . / That [are] fattened with the traffic of our country" (1.3.12-15), and he and the other lords discuss the strangers' insolence. Property is key to the happiness of the English people, a right that requires defending.

There are also grievances about the laws that protect the strangers. When George threatens to "revenge their injury," Francis de Bard taunts him with the fact that "My lord ambassador shall once more make your mayor have a check if he punish thee not for this saucy presumption" (1.1.37-39). Williamson concurs, lamenting that "Indeed my lord mayor, on the ambassador's complaint, sent me to Newgate one day because (against my will) I took the wall of a stranger" (1.1.40-42). George is thus "curbed by duty and obedience" from exacting revenge on de Bard (1.1.51). Sherwin expresses his hopelessness: "It is not our lack of courage in the cause, but the strict obedience that we are bound to: I am the goldsmith whose wrongs

you talked of, but how to redress yours or mine own is a matter beyond all our abilities” (1.1.75-78).

The aggrieved Londoners, stymied by the rigor of the law, take it upon themselves to secure redress. Doll threatens Caveler with bodily harm, rationalizing that “If our husbands must be bridled by law, and forced to bear your wrongs, their wives will be a little lawless, and soundly beat ye” (1.1.65-68). A bill of complaints is drawn up and preachers are enlisted to “openly publish [it] in the pulpit” during the Spital sermons, the sermons given in the week before Easter (1.1.91-92). The aim is to garner enough support to carry out May Day attacks on the foreigners (1.1.127-32). As Lincoln declares, “Since justice keeps not [the strangers] in greater awe we’ll be ourselves rough ministers at law” (2.1.29-30).

To the citizens’ rough justice, Munday poses the alternative that is Thomas More, the play’s spokesman for equity. More is concerned with upholding the law, but he considers each case with understanding and mercy.<sup>517</sup> The audience is first introduced to Sheriff More, adjudicating the sentence of Lifter, a cutpurse. Munday takes pains to include More’s use of a jest to teach Justice Suresby a lesson. Suresby has suggested that “Had [Lifter] had right, he had been hanged ere this” (1.2.7). But in pretence of defending Lifter, Suresby makes what he believes to be a ridiculous argument, blaming Smart, Lifter’s victim, for not having paid attention to his purse. More then has Lifter lift Suresby’s own purse. As Lifter notes, More’s intent “[i]s but to check the folly of the justice / For blaming others in a desperate case / Wherein

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<sup>517</sup>As has been noted, Munday adapts historical fact. More was only an undersheriff of London, and he was not successful in resolving the Ill May-Day riots. Instead, in shaping him as an officeholder, Munday attributes to More the role played by the lord chancellor at the time, Cardinal Wolsey (Gabrieli and Melchiori, introduction 11).

himself may fall as soon as any” (1.2.92-94). Munday illustrates More’s capacity to judge with equity, to examine the circumstances of a case and to mitigate the rigors of the law.

In his role as sheriff, More is concerned with keeping the peace, with resolving situations by diplomacy rather than violence. When the commoners threaten to riot, the nobility turn to More. According to the Earl of Surrey, More is “a wise and learned gentleman, / And in especial favour with the people” (1.3.86-87). He hopes that More “may by his gentle and persuasive speech / Perhaps prevail more than we can with power” (1.3.89-90). When violence erupts, however, and the subjects break into London’s prisons and plan to attack the aliens, the Lord Mayor, the nobility, and the monarch himself turn to force. The Earl of Shrewsbury reports to the Lord Mayor that the king has sent him and Surrey “To add unto your forces our best means / For pacifying of this mutiny” (2.3.23-24). Still, More remains confident that “we shall appease / With a calm breath this flux of discontent” (2.3.30-31). When the Londoners themselves call for “Peace, peace!” so that More may speak, he urges them, “Look what you do offend you cry upon, / That is the peace” (2.3.66-68). More also asks them to think through the consequences of their actions. Should they get what they ask for, the “removing of the strangers,” it will only lead to further disorder:

you had taught

How insolence and strong hand should prevail,

How order should be quelled, and by this pattern,

Not one of you should live an aged man,

For other ruffians ... would shark on you.

(2.3.76-92)

He urges obedience to the king since “God hath his office lent / Of dread, of justice, power and command, / Hath bid him rule, and willed you to obey” (2.3.106-08).

More further emphasizes that the laws protect the subjects and their property.

Sheriff More’s actions and speech prefigure those of Lord Chancellor More.

He urges the Londoners to put themselves in the strangers’ place, asking them if they were to go abroad, “What would you think / To be thus used? This is the strangers’ case, / And this your mountainous inhumanity” (2.3.149-51). More also holds out the promise of the monarch’s grace:

Submit you to these noble gentlemen

Entreat their mediation to the king,

Give up yourself to form, obey the magistrate,

And there’s no doubt but mercy may be found

If you so seek it.

(2.3.155-59)

When the commoners yield, More again suggests that they will receive the monarch’s pardon, although he cannot guarantee this: “No doubt his majesty will grant it you. / But you must yield to go to several prisons, / Till that his highness’ will be further known” (2.3.161-63). In his office as sheriff, More keeps the king’s peace by exhorting the commoners to do their duty, and he himself keeps within the bounds of the law. The play attributes More’s rise to the chancellorship to his ability to plead

on behalf of the subject (the political crisis involving Cardinal Wolsey is absent from the play, as is Henry himself). Surrey explains that

Sir Thomas More humbly upon his knee,  
Did beg the lives of all, since on his word  
They did so gently yield. The King hath granted it  
And made him Lord High Chancellor of England,  
According as he worthily deserves.

(2.4.145-49)

Acting as the king's conscience, More argues that the rigor of the law should be mitigated by the subjects' submission, and he is rewarded for acting on their behalf.

Having earned the title of Lord Chancellor, More meditates on the challenges of holding office. Munday invokes More's reputation as a humanist and the humanist appreciation for the value of officeholding. Writers such as Thomas Pritchard, arguing around 1579 for men's engagement in civic affairs, cited Cicero: "'Tullie saith in his Offices, that wee bee borne partly to pleasure and profit our freendes, our Parentse, and most of all, our native Countrey.'"<sup>518</sup> Munday's More recognizes the tensions between private and public life:

I must now sleep in court, sound sleeps forbear:  
The chamberlain to state is public care.  
Yet in this rising of my private blood  
My studious thoughts shall tend the city's good.

(2.3.234-37)

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<sup>518</sup> Qtd. in Markku Peltonen, *Classical Humanism and Republicanism in English Political Thought, 1570-1640* (Cambridge: Cambridge UP, 1995) 24.

More divorces civic life from personal gain. For Cicero, the magistrate “representes the persone of the citie: and... he ought to maintein the honour, and reputation therof: and to keepe the orders of the same: and to sette oute lawes fit therefore: and to remember, they be committed to his charge.”<sup>519</sup> More knows that to be “from such an humble bench of birth / [and to] ... step as ‘twere up to my country’s head / And give the law out there ...” could lead to corruption (3.1.5-14). He realizes that he must guard against such corruption among his servants as well. When the players who perform for More and the Lord Mayor suspect that they have not been paid in full, they turn to More to rectify the situation. He commends Wit for his quick thinking in recovering the money: “Well Wit, ‘twas wisely done, thou playest Wit well indeed, / Not to be deceived of thy right” (3.2.333-34). More is especially concerned that the players recuperate their rightful property due to his office: “Am I a man by office truly ordained / Equally to divide true right his own, / And shall I have deceivers in my house?” (3.2.335-37).

In the first three acts, then, Munday depicts a humanist More concerned with his duty to God, the king, and the commonwealth, associated with equity by nature and by office. More appears to be an exemplary keeper of the king’s conscience; he represents the monarch as he metes out justice and mercy to all. But like the defendants in the oath *ex officio* cases, More himself is eventually expected to conform to the monarch’s will. He is busy performing the duties of lord chancellor, meeting with Surrey, Rochester, and other lords to debate the wisdom of war strategies, when Sir Thomas Palmer arrives with “These articles enclosed, first to be

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<sup>519</sup> Marcus Tullius Cicero, *Marcus Tullius Ciceroes thre bokes of duties*, trans. Nicolas Grimalde, ed. Gerald O’Gorman (Cranbury, NJ: Associated U Presses, 1990) 97.

viewed / And then to be subscribed to” (4.1.70-71). The articles of course refer to the Oath of Supremacy and Act of Succession, which established the monarch’s status as head of the church in England. In point of fact, these were submitted to More in 1534. In the play, More instantly recognizes the gravity of the king’s demand: “Stay, let us pause: / Our conscience first shall parley with our laws” (4.1.73-74). More must decide whether or not he can reconcile the signing of the oath with canonical or constitutional law. Munday’s focus shifts from More as minister of the law to the monarch as minister of the law, as More proceeds to “resign mine office / Into my sovereign’s hands” (4.1.88-89). But the monarch appears to be ministering his will rather than the law. Even as disobedience to the monarch is duly punished, Munday questions whether justice is served.

An ineffective minister of the law, the absent monarch is an effective tyrant. While Munday might avoid trouble with the Elizabethan government by failing to specify which oaths are in play, such vagueness comes at the expense of the dramatist’s ability to justify the monarch’s demands, making those demands appear capricious. The lord chancellor was charged with examining a wrongdoer’s conscience, a duty More effectively performs in Act 2. Lincoln both confesses his sins and asks for forgiveness before his execution (2.4.52-70). The absent monarch also sets out to probe More’s conscience. When More informs his wife and family of his resignation, he remarks that “The King seems a physician to my fate, / His princely mind would train me back to state” (4.3.79-80).<sup>520</sup> His son-in-law urges him

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<sup>520</sup> The language of casuistry is evident here; casuists were often referred to as physicians. See Keith Thomas, “Cases of Conscience in Seventeenth-Century England,” *Public Duty and Private Conscience In Seventeenth-Century England*, ed. John Morrill, Paul Slack, and Daniel Woolf (Oxford: Clarendon

to “be his patient” (4.3.81), but More realizes that to be the patient would be to construe himself as being ill, as having a defective conscience. This he denies. Hence his citation from Seneca: “*Ubi turpis est medicina, sanari piget* (When the medicine is disgusting one is loath to be healed)” (4.3.83).<sup>521</sup> Munday suggests that rather than being truly concerned with his subject’s conscience, the monarch is concerned only with matters of state; the pastoral relationship a monarch might claim with his subjects is mere pretence.

For Munday, the monarch is no more effective where state matters are concerned. More’s passage into the Tower is interrupted by a woman seeking his aid. When the First Warder reminds the woman that More is no longer lord chancellor, she replies, “The more’s the pity, sir, if it pleased God” (5.1.20). The First Warder himself has earlier pronounced that “A wiser or more virtuous gentleman / Was never bred in England” (5.1.10-11). The woman explains that she has had “A suit this two year in the chancery, / And [More] hath all the evidence I have, / Which should I lose, I am utterly undone” (5.1.24-26). The woman’s reference to her two-year delay in Chancery seems more a reference to Elizabethan circumstances than to More’s reputation for speedily dispatching justice. When she asks More for her “writings” (5.1.34), More can only lament that

Poor silly wretch, I must confess indeed,  
I had such writings as concern thee near,  
But the king has ta’en the matter into his own hand:

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P, 1993) 34; Rose Elliot, *Cases of Conscience* (Cambridge: Cambridge UP, 1975) is a seminal work on casuistry.

<sup>521</sup> Gabrieli and Melchiori note that “It is significant that this quotation, implying that it is better to die than to submit, was crossed out by Tilney himself” (4.3.83n).



He has all I had; then, woman, sue to him,  
I cannot help thee, thou must bear with me.

(5.1.37-41)

Chancery, now in the hands of the monarch—a monarch who has been entirely absent from the process of governing in the play—has lost its conscience. And the monarch’s subjects must bear this together.<sup>522</sup> Is Munday intimating the futility of the monarch’s efforts? This king is less concerned with the administration of the courts than with interrogating and convicting loyal subjects on matters of faith.

Skeptical about the pastoral nature of the monarch’s office, Munday reaffirms that conscience is an individual spiritual concern. More relies on his conscience in much the same way as did opponents of the oath *ex officio*. Summoned to the Tower, he is resigned: “To a great prison, to discharge the strife / Commenced ‘twixt conscience and my frailer life / More now must march” (4.4.62-64). He ruminates upon the many guilty persons who have passed through the doors, but he is relieved that he has “ne’er [entered] with a clearer conscience / Than at this hour” (5.2.62-63). When the warrant for his execution arrives, he is calm in the face of death, assuring the lieutenant that “I thank my God / I have peace of conscience, though the world and I / Are at a little odds” (5.3.10-12). Similarly, the defendants in the oath *ex officio* trials claimed the right to act in accordance with their consciences. When questioned about the Book of Common Prayer, Robert Cawdrey, too, maintained that “I could not have done it according to the order of the said book, or otherwise than as

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<sup>522</sup> As Gabrieli and Melchiori point out, More’s last line can be read as suggesting not only that he requests her patience with him, but also as his own admission that she must suffer along with him (5.1.41n).

I have done, I think, with a safe conscience.”<sup>523</sup> On one occasion, when asked to swear to follow the Book of Common Prayer in each particular point, he avowed that “I will so far as I may according to the word of God, and with a good conscience.”<sup>524</sup>

Part of More’s defense of his behavior depends on the tenet that one’s beliefs and private thoughts are one’s own personal property, not subject to appropriation. Thoughts do not belong to the monarch. When Shrewsbury urges More to “publish to the world / Your great offence unto his majesty,” More responds that he will “confess his majesty hath been ever good to [More]” (5.4.69-72). But More will only “send [the king] for my trespass a reverent head, somewhat bald.... If that content him not, let him but bury it, and take it” (5.4.75-79). The king can have his head, but not his thoughts, beliefs, or convictions. When Surrey urges More to “hold conference with your soul” for “the time of life is short,” More assures him that he “dispatched that business the last night” (5.4.80-83). As St. German had once said in an attack on the oath *ex officio*, only God “is the sercher of man[’s] herte.”<sup>525</sup> Such a sentiment was accommodated earlier in Elizabeth’s reign, when the government tended not to “make windows into men’s souls and secret thoughts, as Elizabeth herself was reputed to say.”<sup>526</sup> One’s conscience, which is one’s property, ought to be protected, not harassed by the law.

More’s exchange with the sheriffs who escort him to his execution underscores Munday’s skepticism about officeholders as pastors. When More reminds the sheriffs that he himself had once been a sheriff of London, the First

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<sup>523</sup> Benjamin Brook, *The Lives of the Puritans* (London, 1813) 432.

<sup>524</sup> Brook, *Lives* 436.

<sup>525</sup> Qtd. in Levy, *Fifth Amendment* 66.

<sup>526</sup> Levy, *Fifth Amendment* 85-86.

Sheriff responds “Then you know our duty doth require it.” More acknowledges that it is the sheriffs’ responsibility to make arrangements for sentences to be carried out (5.4.31-36). But More also comments to the Second Sheriff that “you and I have been of old acquaintance: / You were a patient auditor of mine / When I read the divinity lecture at Saint Lawrence’s” (5.4.37-39). The Second Sheriff acknowledges this connection, assuring More that “I have heard you oft, as many other did, / To our great comfort” (5.4.40-41).<sup>527</sup> More’s choice of topic for this lecture, and Munday’s allusion to it in the play, suggest a concern with government. In *de Civitate Dei*, Augustine distinguishes between the City of God, the community of souls who love and are ruled by God, and the City of Men, the temporal community of individuals who love and are ruled by their self-interest.<sup>528</sup> Augustine argued that while it was impossible for any temporal government or State to dispense true justice (since only God could do that), the State still was needed to keep temporal peace for men to achieve salvation.<sup>529</sup> For Augustine, the State is only an “external order,” ensuring the “absence, or at least the diminution, of overt violence.”<sup>530</sup> It was not for the State to shape “the thoughts, desires, and wills of its citizens” or to make “men truly good or virtuous.”<sup>531</sup> It was left to the State to protect the goods and property of men, thereby to prevent them from lapsing into disputes and enabling them to pursue salvation.<sup>532</sup>

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<sup>527</sup> In addition to William Grocyn and other humanists such as John Colet and Thomas Linacre, the audience for More’s divinity lectures might have included lawyers, who were increasingly responsible for government. See Harpsfield 13-14; and Dominic Baker-Smith, “Who Went to Thomas More’s Lectures on St. Augustine’s *De Civitate Dei*?” *Church History and Religious Culture* 87.2 (2007): 149.

<sup>528</sup> Dorothy F. Donnelly, “The ‘City of God’ and Utopia: A Reevaluation,” *Augustinian Studies* 8 (1977): 116-17.

<sup>529</sup> Donnelly, “City of God” 118; Herbert A. Deane, *The Political and Social Ideas of St. Augustine* (New York: Columbia UP, 1963) 134.

<sup>530</sup> Deane, *St. Augustine* 117.

<sup>531</sup> Deane, *St. Augustine* 117.

<sup>532</sup> Deane, *St. Augustine* 139.

Augustine also argued that a Christian ruler must be quick to pardon.<sup>533</sup> But Munday's monarch is disinclined to pardon even when More resigns his office. He also deprives the commonwealth of an effective minister of justice. More, the keeper of the monarch's conscience, is prevented from acting upon his conscience. Munday exposes the irony here, and connects it to contemporary debates over the oath *ex officio*, the jurisdiction of the ecclesiastical courts, and divine right theories of monarchy and episcopacy. He at once questions the jurisdiction of any secular officeholder over an individual's conscience and makes a case for office.

Shakespeare's *Henry VIII* revisits the occasion of Thomas More's rise to the lord chancellorship. Notorious for the 1613 performance at the Globe that led to the burning of the theatre, *Henry VIII* raises both authorship questions (it is the work of both Shakespeare and John Fletcher) and generic questions (what sort of history play is it?).<sup>534</sup> A number of critics have argued that it is a topical play, commenting on King James I and his court, in particular James's efforts to expand the royal prerogative.<sup>535</sup> By continuing to focus on the lord chancellor's office, I believe that I can provide additional insight into the play's politics. While Gordon McMullan has

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<sup>533</sup> Deane, *St. Augustine* 130.

<sup>534</sup> For a thorough discussion of the authorship question, see Gordon McMullan, introduction, *King Henry VIII (All Is True)*, by William Shakespeare and John Fletcher (London: Thomson, 2000) 180-99. For treatment of its genre, see, for example, Thomas Healy, "History and Judgment in *Henry VIII*," *Shakespeare's Late Plays*, eds. Jennifer Richards and James Knowles (Edinburgh: Edinburgh UP, 1999) 158-75; and Dennis Kezar, "Law/Form/History: Shakespeare's Verdict in *All Is True*," *Modern Language Quarterly* 63:1 (2002): 1-30.

<sup>535</sup> See William M. Baillie, "*Henry VIII*: A Jacobean History," *Shakespeare Studies* 12 (1979):247-66; Lee Bliss, "The Wheel of Fortune and the Maiden Phoenix of Shakespeare's *King Henry the Eighth*," *ELH* 42 (1975): 1-25; John D. Cox, "Henry VIII and the Masque," *ELH* 45 (1978): 390-409; Stuart M. Kurland, "*Henry VIII* and James I," *Shakespeare Studies* 19 (1987): 203-17; F. Schreiber-McGee, "'The View of Earthly Glory': Visual Strategies and the Issue of Royal Prerogative in *Henry VIII*," *Shakespeare Studies* 20 (1988) 191-200; Hamilton, *Shakespeare* 163-90.

written that Henry VIII “lack[s] ... a single, obvious central character,”<sup>536</sup> I will argue that the lord chancellor fits that bill. The play depicts lord chancellors past, present, and future: Cardinal Thomas Wolsey, Archbishop of York, and Sir Thomas More, lord chancellors to Henry VIII; then Stephen Gardiner, Bishop of Winchester and lord chancellor to Mary. Like *Sir Thomas More*, *Henry VIII* acknowledges the lord chancellor’s office as conscience of the king.<sup>537</sup> In re-visioning these historical personages, Shakespeare and Fletcher explore what it means to be a minister of the law. They appear to recommend that the minister’s obligation to guide the state should take precedence over the pastoral nature of his relationship with subjects.

Debates over the *ex officio* oath, of concern in the *More* play, were related to the extension of the royal prerogative in the 1590s. Twenty years later, debate over the royal prerogative related to the widening jurisdiction of Chancery. In defending Chancery’s prerogative to judge with equity, legal theorists associated the courts and the lord chancellor with the royal prerogative: “Alterations of law by the Chancellor, however, had no more obvious contemporary justification than alterations by a judge, and thus the position was reached...that the Chancellor was here acting for the Prince, that he was the keeper of the king’s conscience, and that the Chancery, in consequence, depended solely upon the prerogative and was a prerogative court—the court of the king’s absolute power.”<sup>538</sup> Theoretically, the lord chancellor’s jurisdiction represented the monarch as the deputy of God on earth, meting out

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<sup>536</sup> McMullan, introduction 4.

<sup>537</sup> Judith Anderson, Camille Wells Slight, and Donna Hamilton also comment on the play’s vocabulary of conscience. Slight and Hamilton clarify the significance of conscience in relation to contemporary religious politics. See Judith H. Anderson, *Biographical Truth: The Representation of Historical Persons in Tudor-Stuart Writing* (New Haven: Yale UP, 1984); Camille Wells Slight, “The Politics of Conscience in *All Is True* (or *Henry VIII*),” *Shakespeare Survey* 43 (1991) 59-68; Hamilton, *Shakespeare*, 182-90.

<sup>538</sup> Yale, introduction viii.

justice; but this could take a perjorative turn. As John Selden suggested, “if the measure of equity was the chancellor’s own conscience, one might as well make the standard measure of one foot the chancellor’s foot.”<sup>539</sup> Decisions made in Chancery courts that could be seen as the judgments of God’s deputies on earth could also be seen as the arbitrary verdicts of tyrants.

Thomas Egerton, Lord Keeper under Queen Elizabeth and Lord Chancellor Ellesmere under King James (until illness forced his resignation in 1617), was a lightning rod. While Egerton sought to reform both Chancery and common law courts, he continued to uphold the superior jurisdiction of Chancery.<sup>540</sup> Early in his career, Egerton addressed such Chancery issues as the proliferation of frivolous lawsuits and clerks’ abuses of office, seeking thereby to improve Chancery as a venue for justice.<sup>541</sup> He also expressed concerns about overreaching common law judges:

The Iudges of the Kinges bench and Commen place have of late yeares taken vpon them as Chancellors to mak orders in Equitye, according to theyr owne discrecions, not regarding nor standing vpon, the stricte rules of Lawe, (whervnto they use to saye they are sworne).<sup>542</sup>

Egerton’s defense of Chancery jurisdiction pitted him against Sir Edward Coke, who mounted an assault on the prerogative of the Chancery courts, insisting that they did not have the authority to overturn decisions handed down in the common law courts. Coke and his fellow common lawyers worked hard to establish the common

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<sup>539</sup> Baker, *English Legal History* 93.

<sup>540</sup> Louis A. Knafla, *Law and Politics in Jacobean England: The Tracts of Lord Chancellor Ellesmere* (Cambridge: Cambridge UP, 1977) 74, 108-22; W.J. Jones 61-2, 78-79.

<sup>541</sup> W.J. Jones, *Chancery* 82-87; Knafla, *Ellesmere* 155-57. Since clerks were paid per page, for example, some utilized many spaces and big handwriting.

<sup>542</sup> Sir Thomas Egerton, “Memorialles for Iudicature. Pro Bono Publico’ (c. 1609),” *Law and Politics in Jacobean England: The Tracts of Lord Chancellor Ellesmere*, ed. Louis A. Knafla (Cambridge: Cambridge UP, 1977) 280-81.

law's supremacy.<sup>543</sup> These debates culminated in a showdown between Egerton and Coke several years after *Henry VIII's* first performance, but they were conspicuous in court cases as early as 1607, and they continued during the years preceding the play's performance.<sup>544</sup>

As it happens, Egerton was involved in other disputes related to the monarch's prerogative, particularly debates over ecclesiastical commissions. Challenges to the High Commission (the ecclesiastical court used to enforce conformity), initiated in the latter part of Queen Elizabeth's reign, continued into James' reign. These disputes became more and more contentious, with the House of Commons debating the issues and various parties printing and circulating treatises.<sup>545</sup> Eventually, in 1609, James requested his attorney general to prepare a defense of the High Commission.<sup>546</sup> Edward Coke, chief justice at the time, attacked the position held by the attorney general, and the dispute ended up before the Privy Council in 1611: "The Archbishop invoked God, Crown, Church, and Commonwealth in defending the High Commission against prohibitions. The Chief Justice invoked the ancient, immemorial customs of the common law."<sup>547</sup> Egerton intervened, eventually achieving a compromise of sorts. He acknowledged the need to reform the High Commission's legal processes, but he upheld its jurisdiction.<sup>548</sup> Like Coke, Egerton was concerned with limiting the jurisdiction of the ecclesiastical courts, but he disagreed with the extent to which Coke would limit the courts. Seeking to uphold to

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<sup>543</sup> Knafla, *Ellesmere* 170.

<sup>544</sup> Knafla, *Ellesmere* 169.

<sup>545</sup> Knafla, *Ellesmere* 138.

<sup>546</sup> Knafla, *Ellesmere* 139.

<sup>547</sup> Knafla, *Ellesmere* 139.

<sup>548</sup> Knafla, *Ellesmere* 139-40.

uphold the courts' basic authority, Egerton argued that Coke was attacking in part the episcopacy's legitimacy.<sup>549</sup>

These conflicts over court jurisdiction were inextricably linked to contemporary conceptions of monarchical prerogative, ecclesiastical polity, and divine right theory—debates that turned on the monarch's office as God's minister. King James favored the Chancery courts in the dispute between Ellesmere and Coke, a perspective that was influenced by his own political theory.<sup>550</sup> In *The True Law of Free Monarchies* (1598), James had argued that the monarch was subject only to God, not the positive laws of the land. In speeches made in 1604, 1605, and 1610, James reiterated this position. He thus justified the jurisdiction of equity:

...I have at length proved, that the King is above the law, as both author and giuer of strength thereto; ...And where he sees the lawe doubtful or rigorous, he may interpret or mitigate the same, lest otherwise *Summum ius* bee *summa iniuria*: And therefore generall laws, made publickely in Parliament, may vpon knowen respects to the King by his authoritie bee mitigated, and suspended vpon causes onely knowen to him.<sup>551</sup>

While James distinguishes between a king and a tyrant (a king follows a country's established laws; a tyrant advances his own good), in the end, “Kings are in the word of GOD it selfe called Gods, as being his Lieutenant and Vice-regents on earth.”<sup>552</sup>

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<sup>549</sup> Knafla, *Ellesmere* 139; 143.

<sup>550</sup> Fortier, “Equity and Ideas” 1267.

<sup>551</sup> Qtd. in Fortier, “Equity and Ideas” 1270.

<sup>552</sup> Fortier, “Equity and Ideas” 1272-3.



And, for James, Chancery provided an important instrument with which the monarch could minister God's will.<sup>553</sup>

The combination of James and Egerton was formidable. For lawyers such as Timothy Tourneur, their agenda raised constitutional issues:

...the high power of the chancellors...persuade the king that they are solely the instruments of his prerogative, and insinuate with the king that his prerogative is transcendent to the common law; and thus in a short time they will enthral the common law (which yields all due prerogative) and by consequence the liberty of the subjects of England will be taken away, and no law practiced on them but prerogative, which will be such that no one will know the extent thereof....<sup>554</sup>

A diary entry from a contemporary judge, Richard Hutton, acknowledges that Egerton was "a man of great and profound judgment, an eloquent speaker, and yet in his later times he became more choleric and opposed the jurisdiction of the common law and enlarged the jurisdiction of the Chancery, and in many things he derogated from the common law and the judges."<sup>555</sup> Tourneur concluded that Egerton's actions were motivated "yet not for any hate he bare [the law], but for the love he bare to his own honour to greaten himself by the fall of others."<sup>556</sup> Egerton had his champions, but extant records suggest a contemporary perception that, toward the end of his career, he failed to minister the law equitably.

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<sup>553</sup> Fortier, "Equity and Ideas" 1277.

<sup>554</sup> Qtd. in J.H. Baker, "Egerton, Thomas, first Viscount Brackley (1540-1617)," *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004) online ed, 2005, 16 Dec 2006 <<http://www.oxforddnb.com/view/article/8594>>.

<sup>555</sup> Qtd. in Baker, "Egerton."

<sup>556</sup> Qtd. in Baker, "Egerton."

At the very moment when the power of Chancery was increasing under James, the power of another institution with which the lord chancellor was associated, the Privy Council, declined in one important respect—that of advising the monarch.<sup>557</sup> The Privy Council continued to carry out administrative and judicial duties, but James rarely attended meetings and instead consulted with his favorites on matters of state.<sup>558</sup> While men such as Egerton remained on the Privy Council, by 1613, the Spanish ambassador to England, the Count of Gondomar, felt that it was made up of “men of small property and little experience in affairs of state and of war.”<sup>559</sup> The rise and fall of such institutions as Chancery and the Privy Council according to the personalities of both monarch and advisors meant that the duties themselves of the monarch’s ministers of state fluctuated. One assessment of the lord chancellor’s office attempted to define those responsibilities. In a tract that was reputed to be the work of Egerton, the lord chancellor’s “Authority and power” are said to consist of two sorts,

As a Judge, and that is either ORDINARY...[or] ABSOLUTE,...[and] AS a MINISTER, GRANTING of pardons of Common Grace. GRANTING and Sealing of Commissions, OF patents and preservations, &c. MAKING of Originall Writs of Processe, upon the Statute Staple, &c. CONSTITUTING of certain Officers belonging to his Office. GIVING of Oathes to Officers, And such like.<sup>560</sup>

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<sup>557</sup> G.P.V. Akrigg, *Jacobean Pageant: or The Court of King James I* (Cambridge, MA: Harvard UP, 1963) 361-66.

<sup>558</sup> Akrigg, *Pageant* 361-3.

<sup>559</sup> Qtd. in Akrigg, *Pageant* 366.

<sup>560</sup> Thomas Egerton, *Certain Observations Concerning the Office of the Lord Chancellor* (London, 1651) sig.H6<sup>r-v</sup>.

As Egerton sought to delineate what it meant to be lord chancellor, so Shakespeare and Fletcher sought to define what it meant to be a minister of state. They are skeptical about the claim that one can be a minister of God's law, pointing to the necessity of interpretation.<sup>561</sup> Moreover, they portray both Wolsey and Henry VIII as ministers of their own words. Each would have his will become law. Neither has regard for the law of the land. Neither serves God.

The authority of ministers of state is already an issue in the opening scene of the play. When members of the nobility lament the influence that Cardinal Wolsey, Lord Chancellor, exerts over Henry, one of their primary concerns revolves around Wolsey's office as a minister. Buckingham asks Norfolk who "did guide" the elaborate Field of the Cloth of Gold. Norfolk responds that "one, certes, that promises no element / In such a business," since "All this was ordered by the good discretion / Of the right reverend Cardinal of York" (1.1.45-51). Buckingham then questions the propriety of Wolsey's involvement: "What had he / To do in these fierce vanities?" (1.1.53-54). The nobility are dismayed that low-born Wolsey has risen to a position of such power (1.1.59-66), and they are worried about their own financial well-being (1.1.80-83); but they are also concerned about Wolsey's involvement in affairs of state. "What did this vanity / But minister communication of / A most poor issue?" (1.1.85-87), asks Buckingham. Norfolk confirms that the expensive display was worthless, since "France hath flawed the league" (1.1.95). Wolsey's meddling is dangerous for the state and for individuals alike. What his

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<sup>561</sup> Kevin Sharpe argues that James used his writings, including meditations on the Bible, to establish his authority as a servant of God. See "The King's Writ: Royal Authors and Royal Authority in Early Modern England," *Culture and Politics in Early Stuart England*, eds. Peter Lake and Kevin Sharpe (Stanford: Stanford UP, 1993) 117-138.

“high hatred would effect wants not / A minister in his power” (1.1.107-08). That “he’s revengeful” (1.1.109) further confirms that he ought not to be lord chancellor.

For his part, Wolsey is ever careful to project an air of thoughtfulness about what it means to be a minister of state. Katherine protests the unfair taxation he has levied: “There have been commissions / Sent down among [the subjects] which hath flawed the heart / Of all their loyalties” (1.2.20-22).<sup>562</sup> Wolsey’s reply to Henry about the commissions is cagey; he takes advantage of his place among a cadre of advisors:

Please you, sir,

I know but of a single part in aught  
Pertains to th’ state, and front but in that file  
Where others tell steps with me.

(1.2.40-43)

At the same time, he defends his actions by theorizing about what it means to be a statesman:

If we shall stand still  
In fear our motion will be mocked or carped at,  
We should take root here where we sit,  
Or sit state-statues only.

(1.2.85-88)

Lacking in integrity and unwilling to take responsibility for the hard measures that fall to statesmen, Wolsey can only say in his self-defense that he has “no further gone

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<sup>562</sup> Donna B. Hamilton connects these commissions to royal finances and prerogative; see Hamilton, *Shakespeare*, pp. 168-73 in particular.

in this than by / A single voice, and that not passed me but / By learned approbation of the judges” (1.2.69-71). When he is not being self-serving, he is content to shift blame onto Henry and the Privy Council.

Henry responds on behalf of the commonwealth and its laws, not the individual statesman. Asking whether Wolsey has “a precedent / Of this commission” (1.2.91-92), he insists that “We must not rend our subjects from our laws / And stick them in our will” (1.2.93-94). To do so might enable a ruler to gain temporarily, but the commonwealth would suffer in the long run:

Why, we take

From every tree lop, bark and part o’th’timber,

And though we leave it with a root, thus hacked

The air will drink the sap.

(1.2.95-98)

Even if Henry’s words are insincere (according to Kurland, “Henry criticizes in Wolsey’s government what he consistently does himself”<sup>563</sup>), even if they are merely public relations, they articulate values that pertain to officeholders as well as the monarch. If anything, they pertain most to those ministers of state who, as counselors to the monarch, must persuade their sovereign to uphold the law.

Wolsey is most, if only temporarily, adept at upholding the power of his office to advance his own agenda, and, by the bye, that of the monarch. The King tells his Lord Chancellor to “send our letters with / Free pardon to each man that has denied / The force of this commission” (1.2.99-101). Such a pardon will restore confidence in the law of the land. Wolsey, ever the opportunist, instructs his secretary:

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<sup>563</sup> Kurland, “James I” 213.

Let there be letters writ to every shire  
Of the King's grace and pardon. The griev'd commons  
Hardly conceive of me: let it be noised  
That through our intercession this revokement  
And pardon comes. I shall anon advise you  
Further in the proceeding.

(1.2.102-08)

Utilizing Chancery documents as a prop, the lord chancellor pretends to be the keeper of the king's conscience. Wolsey also exploits his office as the keeper of the king's conscience in relation to Henry's divorce from Katherine. The gentlemen discussing rumors of the matter believe that "Either the Cardinal / Or some about him near have, out of malice / To the good Queen, possessed him with a scruple" that will lead to her downfall (2.1.155-58). Norfolk, too, believes that Wolsey "dives into the King's soul and there scatters / Dangers, doubts, wringing of the conscience, / Fears and despairs" (2.2.24-26). These could be just the bitter accusations of Wolsey's enemies, but Henry's own words point to Wolsey's office as keeper of the king's conscience. Henry greets Wolsey: "Who's there? My good lord Cardinal? O my Wolsey, / The quiet of my wounded conscience, / Thou art a cure fit for a king" (2.2.72-74). Later, after Henry has acted upon his decision, he blames "conscience, conscience" (2.2.141).

Katherine's subsequent "trial" indicts both Wolsey and Henry for failing to be ministers of justice. Her hearing is suggestive of the contemporary controversies over the ecclesiastical commissions and in particular the challenges to the High

Commission. With bishops, archbishops, members of the nobility, and the King seated in state, Wolsey begins the procedures: “Whilst our commission from Rome is read, / Let silence be commanded” (2.4.1-2). Henry, however, dismisses protocol, asserting “It hath already publicly been read, / And on all sides th’authority allowed; / You may then spare that time” (2.4.3-5). Editor Gordon McMullan observes that “Henry’s intervention is not in Holinshed, and is possibly added simply to avoid a tedious recital of the commission, but also to demonstrate the King’s unease.”<sup>564</sup> Might not the King have been asserting his prerogative, as the monarch and ministers did through the ecclesiastical commissions? Katherine’s actions further recall subjects’ challenges to the High Commission’s unfair procedures. When called upon to affirm her presence in the court, Katherine refuses to respond in the expected manner. Instead, she silently rises from her chair, walks about the court, and then kneels at the King’s feet, asking him for mercy (s.d. 2.4.10). Like the accused in the *ex officio* oath trials, Katherine disrupts the proceedings, jeopardizing their legitimacy.

She also exposes Wolsey’s failure as a minister. The lord chancellor traditionally spoke on behalf of the monarch, but he also spoke on behalf of subjects. Katherine has already suggested that Wolsey twisted Buckingham’s words, having urged Wolsey to “Deliver all with charity” when he accuses Buckingham of malign intent (1.2.143). During her own trial, she accuses Wolsey of again failing to do what is in the best interest of both monarch and subject: “For it is you / Have blown this coal betwixt my lord and me, / Which God’s dew quench” (2.4.76-78). On these grounds, she once again impedes the trial: “Therefore, I say again, / I utterly abhor,

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<sup>564</sup> See 2.4.1-5n.

yea, from my soul / Refuse you for my judge” (2.4.78-80). When Wolsey protests, Katherine further indicts him, arguing that he has

by fortune and his highness’ favours,  
Gone slightly o’er low steps, and now are mounted  
Where powers are your retainers, and your words,  
Domestics to you, serve your will as’t please  
Yourself pronounce their office. I must tell you,  
You tender more your person’s honour than  
Your high profession spiritual....

(2.4.109-15)

When Katherine exits and refuses to return when she is called back, Henry himself acknowledges that she is justified in her objections: “That man i’ th’ world who shall report he has / A better wife, let him in naught be trusted / For speaking false in that” (2.4.131-33). Still, he continues with his plans, like Wolsey ministering to his own agenda instead of to justice.

The scene depicting Wolsey’s downfall underscores his failure as a minister of state. Stunned by Wolsey’s inventory of his vast household, Henry finally acknowledges that Wolsey has relinquished his duties as keeper of the king’s conscience. He cannot help but comment ironically on Wolsey’s spiritual contemplations:

You are full of heavenly stuff, and bear the inventory  
Of your best graces in your mind, the which  
You were now running o’er. You have scarce time



To steal from spiritual leisure a brief span  
To keep your earthly audit.

(3.2.137-41)

Wolsey responds that “For holy offices I have a time; a time / To think upon the part of business which / I bear i’th’ state” (3.2.144-46). But Henry attacks Wolsey’s sanctimonious manner, comparing the ways each of them has held his office:

Since I had my office,  
I have kept you next my heart, have not alone  
Employed you where high profits might come home,  
But pared my present havings to bestow  
My bounties upon you.

(3.2.156-60)

While Norfolk, Buckingham, and Katherine have all commented on Wolsey’s shortcomings as a cleric, Henry also reproaches Wolsey for his shortcomings as a minister of state: “Have I not made you / The prime man of the state?” (3.2.161-62).

The indictment brought against Wolsey emphasizes the extent to which Wolsey exploited the prerogative of his office in order to betray his monarch. Many of the charges against Wolsey relate to his appropriation of official communications to advance his own power. According to Norfolk,

all you writ to Rome, or else  
To foreign princes, ‘*ego et rex meus*’  
Was still inscribed, in which you brought the King  
To be your servant.

(3.2.313-15)

In any number of ways, Wolsey has transgressed the boundaries of his authority. He “made bold / To carry into Flanders the great seal” (3.2.318-19) and he tried to make alliances without the king’s knowledge:

Item, you sent a large commission  
To Gregory de Cassado, to conclude,  
Without the King’s will or the state’s allowance,  
A league between his highness and Ferrara.

(3.2.320-23)

He has “stamped” his “holy hat ... on the King’s coin” (3.2.325). As Katherine later concludes, he made “His own opinion ... his law” (4.2.37).

Wolsey’s actions precipitate his downfall, but so does Henry’s assertion of his own power.<sup>565</sup> Early in the play, Henry is depicted as a distant governor; like in the *More* play, the absent monarch creates a void that, here, Wolsey fills.<sup>566</sup> But immediately after Katherine’s trial, Henry reconstitutes his relationship with his lord chancellor(s). Wolsey asks Henry to clear him of the charge Katherine has made against him. Henry acquiesces, but in his narrative of events, Henry publicly reclaims his conscience. He explains that after “My conscience first received a tenderness, / Scruple and prick on certain speeches uttered / By th’ Bishop of Bayonne, then French ambassador” (2.4.167-69). He subsequently deliberated about the propriety of his marriage to Katherine, consulting with others. Three more times

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<sup>565</sup> G.W. Bernard argues that historians have over-emphasized the role of political factions in bringing down Wolsey, and he contends that Henry instead controlled events. See “The Fall of Wolsey Reconsidered,” *Journal of British Studies* 35.3 (1996): 277-310.

<sup>566</sup> Others have pointed to James’s putative neglect of his monarchical duties. See, for example, Kurland, “James I” 205.

Henry repeats that he was acting according to “my conscience.” He thus relieves Wolsey of personal responsibility for his actions. But in doing so, he relieves his lord chancellors of their duty to keep the king’s conscience. And while an unchecked lord chancellor is potentially dangerous, an unchecked monarch is not the solution.

Gordon McMullan notes the ambivalence toward Henry VIII in Jacobean England, particularly among Protestants; while the significance of his split with Rome was acknowledged, he was also remembered for defending the Catholic faith, persecuting Protestants, and for the absolutism of his reign.<sup>567</sup> When Shakespeare and Fletcher explore the relationship between Henry VIII and his lord chancellors, they inevitably consider the implications of any minister of the state who, like James, insists that he is above the law.

Wolsey’s downfall sets the stage for Henry’s delimitation of his officeholders in general. News is brought to Wolsey that Sir Thomas More has been made Lord Chancellor. But after this hasty transfer of power, More’s name is never again mentioned, and the office of the lord chancellor is now reduced to a largely ceremonial role. The “Lord Chancellor, with purse and mace before him” appears as part of the stage directions for the Queen Anne’s coronation procession (4.1.36). Not to mention More’s name is to minimize his presence and thus, as R.A. Foakes notes, to “‘avoid the intrusion of a personality.’”<sup>568</sup> It may also be that the dramatists’ desire is to minimize the lord chancellor’s role so that they may emphasize the monarch’s. Another reference to Henry’s consolidation of his power occurs in the discussion of the coronation proceedings. When one of the gentlemen mentions that the party of

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<sup>567</sup> McMullan, introduction 73-80.

<sup>568</sup> Qtd. in 5.2.34.2n.

state has gone to York Place for the feast, another gentleman corrects him: “You must no more call it ‘York Place’—that’s past; / For since the Cardinal fell, that title’s lost. / ‘Tis now the King’s, and called ‘Whitehall’” (4.1.95-97).

In the play’s final scenes, Shakespeare and Fletcher appear to uphold the monarch’s newly-claimed prerogative, prophesying peace and prosperity for Protestant England. But the depictions of Thomas Cranmer’s hearing and the subsequent baptism of Elizabeth are ambivalent. Still other scenes depicting Henry suggest his tyrannical bent. His words and actions reveal a man who wants his word to be the law and the truth. When the Old Lady arrives to inform him of his daughter’s death, Henry greets her with a question and a command: “Is the Queen delivered? / Say ‘Ay, and of a boy’ (5.1.162-63). As McMullan notes, the Old Lady is thus put into an impossible position, caught between following the King’s command and telling the truth. She manages to squirm her way out by reporting

Ay, ay, my liege,

And of a lovely boy. The God of heaven

Both now and ever bless her: ‘tis a girl

Promises boys hereafter.

(5.1.163-66).<sup>569</sup>

Henry later professes outrage over the Council’s treatment of Cranmer, the Archbishop of Canterbury; when they summon Cranmer to the Council meeting, they have him hold “state at door ‘mongst pursuivants, / Pages and footboys” (5.2.23-24). Henry remarks that “‘Tis well there’s one above ‘em yet” (5.2.26). Henry is outraged that they would treat a fellow member of the Council this way, particularly one who

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<sup>569</sup> See 5.1.163-4n.

is “so near our favour” (5.2.29). It is unclear what he resents more, the insult to Cranmer or the fact that the Council presumes a privilege Henry assumes should be his, making “A man of [Cranmer’s] place ... / To dance attendance on their lordships’ pleasures” (5.2.29-30).

Henry’s meeting with Cranmer has its own tyrannical aspects. When Cranmer is summoned to confer with Henry prior to his hearing, he is “fearful. Wherefore frowns [Henry] thus? / ‘Tis his aspect of terror. All’s not well” (5.1.87-88). Henry rebukes Cranmer for Cranmer’s naïve belief that “the good I stand on is my truth and honesty” (5.1.122). Henry protests,

Your enemies are many and not small: their practices  
Must bear the same proportion, and not ever  
The justice and the truth o’th’question carries  
The due o’th’verdict with it. At what ease  
Might corrupt minds procure corrupt knaves as corrupt  
To swear against you? Such things have been done.

(5.1.128-33)

Henry acknowledges that justice is habitually corrupted but faults Cranmer. He also demeans Cranmer’s faith:

Ween you of better luck –  
I mean in perjured witness – than your master,  
Whose minister you are, while here he lived  
Upon this naughty earth? Go to, go to:  
You take a precipice for no leap of danger,

And woo your own destruction.

(5.1.135-40)

Henry comes off as a poor minister of the law, both God's law and the realm's. He tolerates the corruption of justice rather than root it out. Indeed, corruption even seems to serve his purpose, enabling him to ride in as savior whenever he wishes. When he construes Cranmer's faith as naïve, he suggests that his law is more powerful than God's.

It hardly helps the reputation of the lord chancellor's office that Stephen Gardiner, Bishop of Winchester and future lord chancellor under Queen Mary, makes an appearance as a poorly qualified minister of justice in the play's final scenes. In conversation with Sir Thomas Lovell, he celebrates the birth of Elizabeth, but he reveals that he would be happy with the Queen's death (5.1.20-23). Lovell's response points to Gardiner's lack of a conscience. While he agrees with Winchester, his "conscience says / She's a good creature and, sweet lady, does / Deserve our better wishes" (5.1.24-26). Gardiner, for his part, acknowledges that he instigated the proceedings against Cranmer (5.1.41-45). When Cranmer protests the inquisitorial nature of the proceedings, begging "That in this case, of justice, my accusers, / Be what they will, may stand forth face to face / And freely urge against me" (5.2.80-82), Gardiner tries to intimidate Cranmer, imputing that they have more important business to attend to and that Henry has decreed that Cranmer be sent to the Tower (5.2.88-91). Cranmer, Shakespeare and Fletcher respond by calling into question Gardiner's integrity as a judge and priest:

If your will pass,

I shall both find your lordship judge and juror,  
You are so merciful. I see your end:  
'Tis my undoing. Love and meekness, lord,  
Become a churchman better than ambition.  
Win straying souls with modesty again;  
Cast none away. That I shall clear myself,  
Lay all the weight ye can upon my patience,  
I make as little doubt as you do conscience  
In doing daily wrongs. I could say more,  
But reverence to your calling makes me modest. (5.2.93-103)

This assessment must be taken as an implicit indictment of Henry and Mary, too.

In contrast, the Lord Chancellor, were he given the chance, would fulfill the office of minister of justice. When the trial begins, the Lord Chancellor informs Cranmer of the complaint against him, and does so in a way that suggests the potential for forgiveness that inheres in the office of the lord chancellor:

we are all men,  
In our own natures frail, and capable  
Of our flesh – few are angels – out of which frailty  
And want of wisdom, you that best should teach us  
Have misdemeaned yourself, and not a little,  
Toward the King first, then his laws, in filling  
The whole realm, by your teaching and your chaplains' –  
For so we are informed – with new opinions,

Diverse and dangerous, which are heresies  
And, not reformed, may prove pernicious.

(5.2.44-53).

The Lord Chancellor's moderation stands in contrast to Gardiner's overheated predictions of "Commotions, uproars, with a general taint / Of the whole state, as of late days our neighbours, / The upper Germany, can dearly witness" (5.2.62-64). The hearing lapses into an exchange of insults between Gardiner, Cranmer, and Thomas Cromwell (secretary to the Privy Council), until the Lord Chancellor finally interrupts, reminding them of their place: "This is too much. / Forbear, for shame, my lords" (5.2.119-20). When Henry, in turn, charges the Council with unstatesmenlike behavior, only the Lord Chancellor assumes responsibility:

My most dread sovereign, may it like your grace  
To let my tongue excuse all. What was purposed  
Concerning his imprisonment was rather –  
If there be faith in men – meant for his trial  
And fair purgation to the world than malice,  
I'm sure, in me.

(5.2.182-87)

The last words that the Lord Chancellor speaks present his office as a medium for forgiveness, fairness, and justice in the polity.

Of course, the Lord Chancellor only nominally presides over the proceedings against Cranmer. He has no control over them. As noted above, Gardiner instigated the proceedings, which quickly spiral out of control. Moreover, Henry has pre-



scripted the whole affair. He earlier reassured Cranmer, telling him to “Be of good cheer. / They shall no more prevail than we give way to” (5.1.142-43). Now, with his dramatic entrance in the middle of the trial, he confounds the Council, ordering them to “respect [Cranmer]. / Take him, and use him well: he’s worthy of it” (5.2.187-88). Having extracted Gardiner’s acquiescence, Henry leaves the Council with one last directive: “As I have made ye one, lords, one remain: / So I grow stronger, you more honour gain” (5.2.214-15). But Henry’s direction to his Council is undermined by his own words. Henry has earlier exposed Gardiner as an actor whose special talent is improvisation:

You were ever good at sudden commendations,  
Bishop of Winchester. But know I come not  
To hear such flattery now, and in my presence  
They are too thin and base to hide offenses.

(5.2.157-60)

In light of this acknowledgement, it seems improbable that Gardiner’s acquiescence is sincere; rather than forging unity, Henry’s parting words to his Council ring empty. After all, Henry earlier confirmed his Council’s irrelevance, telling them that he understands that they “would try [Cranmer] to the utmost, had ye mean, / Which ye shall never have while I live” (5.2.180-81). Henry keeps the peace by virtue of his absolute power. But tensions simmer beneath the surface, and in ministering his words instead of the law, he fails to lay a foundation that will insure future justice and peace.

Henry dismisses the Council's hearing of Cranmer – even though it has everything to do with the administration of the laws of God and of England – by exclaiming that “we trifle time away” (5.2.212). He longs only to have his “young one made a Christian” (5.2.213). Obviously a monarch needed to be concerned about succession and about his heir's baptism, too. However, this ruler has been by turns licentious and tyrannical. Camille Wells Slights argues that the crowds depicted at Anne's coronation scene and at the baptism “evoke images of strength and fertility.”<sup>570</sup> But the “fry of fornication” cited by the Porter (5.3.34) suggests lawlessness and futility every bit as much as fertility. Celebrating the birth of Elizabeth, the play ignores the births of Mary and Edward, and England's years of religious turmoil, to which Henry's fertility in some measure led.

If, as Cranmer's prophecy suggests, the monarch's chief concern is the establishment of a Protestant nation, then it might be more productive to administer the law in the present than to place his hopes in an heir. The crowd that gathers to watch the baptismal procession is rowdy and threatening: “These are the youths that thunder at a playhouse and fight for bitten apples, that no audience but the tribulation of Tower-hill or the limbs of Limehouse, their dear brothers, are able to endure” (5.3.60-63). The Porter indicts both the crowd and the spectacle of government they have gathered to watch. Rather than show respect for the baptismal ceremony, the crowd behaves “as if we kept a fair here” (5.3.66). The Lord Chamberlain, dismayed by the scene, chastises the porters themselves for failing to do their duty:

As I live,

If the King blame me for't, I'll lay ye all

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<sup>570</sup> Slights, “Politics of Conscience” 66.

By the heels, and suddenly; and on your heads  
Clap round fines for neglect. Y'are lazy knaves,  
And here ye lie baiting of bombards, when  
Ye should do service.

(5.3.77-82)

Note that the Lord Chamberlain will act only if the monarch blames him for not keeping the peace. We have reason to doubt that Henry will; here are his last words: “This day, no man think / Has business at his house, for all shall stay: / This little one shall make it holiday” (5.4.73-75). The kind of reverence that Henry demands – the reverence that makes the birth of his heirs into a holy-day – leads to irreverence, and consequently lawlessness, among their subjects.

When they staged England's lord chancellors, the dramatists behind *Sir Thomas More* and *Henry VIII* were not just representing famous personages. They were examining the claims made by contemporary officeholders to be ministers of the law, ministers of justice, God's ministers on earth. When an officeholder claims “to minister,” he claims simultaneously to serve, to provide, to manage and to control.<sup>571</sup> Does he, then, serve the law, provide the law, or manage the law? Is he governed by the law, or does he govern his subjects according to the law – or his law? Interrogating the broad jurisdiction that such claims allowed, Munday, Shakespeare, and Fletcher raise questions about the purpose of governors and government.

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<sup>571</sup> “minister, v.” *The Oxford English Dictionary*, 2nd ed., *OED Online* (Oxford: Oxford UP, 1989) 28 Jan 2008 <<http://dictionary.oed.com>>.

## Chapter 4: Officially Speaking

“The office of the Maior is the highest and cheefest in the citie, and is named in the Latine, *Maior*, and in the Saxon Mayer, both which importe one, and the same thing; namelie one more excellent and above the rest. And as he is in authoritie above all others, so much the more is he in godliness, wisdom and knowledge to excel and exceede them. He is the eie and the head of the whole common-weale, and therefore must he see and understand all things incident and appertaining both to the common governement of the citie, and to the preservation of the public state.”<sup>572</sup>

Toward the end of the sixteenth century, London’s lord mayor was increasingly celebrated in popular media. The lord mayor’s show, held yearly for his installation, was an important civic procession that honored the City and its merchant elite.<sup>573</sup> Individual lord mayors were mythologized; the legend of the medieval lord mayor, “Dick” Whittington, the poor boy who came to London and made his fortune with the aid of his cat, was well-known in the 1590s.<sup>574</sup> Lord mayors’ major and marginal roles in early modern plays were part of a “wave of civic mythmaking” that

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<sup>572</sup> John Vowell alias Hooker, *A Pamphlet of the Offices and Duties of Everie Particular Sworn Officer of the City of Exeter* (London, 1584) sig.C1r.

<sup>573</sup> See David Bergeron, *English Civic Pageantry 1558-1642* (Columbia: U of South Carolina P, 1971); Theodore B. Leinwand, “London Triumphant: The Jacobean Lord Mayor’s Show,” *CLIO* 11:2 (1982): 137-53. Lawrence Manley examines the increasing eminence of the lord mayor’s pageants, connecting it to a general focus on the city’s role in the national arena as a result of rising tensions between City and Court. See *Literature and Culture in Early Modern London* (Cambridge: Cambridge UP, 1995), particularly pp. 265-75.

<sup>574</sup> Caroline M. Barron, “Richard Whittington: the Man behind the Myth,” *Studies in London History*, eds. A.E.J. Hollaender and William Kellaway (London: Hodder and Stoughton, 1969) 197-98. Whittington was appointed lord mayor by Richard II in 1397. See also Ian Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge UP, 1991) 51.

celebrated “a whole gallery of urban luminaries whose virtues equalled or outshone those of nobility and kings.”<sup>575</sup> In addition to exalting these men’s virtue, these plays explore the virtue of office itself. Even when the mayor’s role is marginal, his office often proves central to a play’s overall concerns. In this chapter, I will examine William Shakespeare’s *Richard III* and Thomas Heywood’s *I King Edward IV* and *If You Know Not Me*. Whereas Heywood’s *Edward IV* features London’s lord mayor and its recorder in prominent roles, the lord mayors play more marginal roles in the other two plays. Nonetheless, in all three plays, Shakespeare and Heywood are concerned not only with royal succession but with civic officeholding. The plays link these two concerns by exploring the officeholders’ prerogative of free speech, ultimately questioning exactly whose interests these officeholders represent.

Associating civic office with free speech, Shakespeare and Heywood rely on the language of classical republicanism to criticize monarchs and, in Heywood’s case, perhaps hereditary monarchy itself. Freedom of speech and freedom to debate were tenets of early modern republicanism.<sup>576</sup> Humanists studied classical republican texts, such as Cicero’s *De Officiis*, which addressed not only the virtues of holding office, but the virtues one needed to govern well.<sup>577</sup> As Cicero recognizes, the

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<sup>575</sup> Manley, *Literature and Culture* 273-74. Janette Dillon also considers the city’s prominence in City-Court relationships; see *Theatre, Court and City, 1595-1610* (Cambridge: Cambridge UP, 2000) 20-42.

<sup>576</sup> See Andrew Hadfield, *Shakespeare and Republicanism* (Cambridge: Cambridge UP, 2005) 128-29; Cary J. Nederman, “Rhetoric, reason and republic: republicanism—ancient, medieval, and modern,” *Renaissance Civic Humanism: Reappraisals and Reflections*, ed. James Hankins (Cambridge: Cambridge UP, 2000) 247-53; David Norbrook, *Writing the English Republic: Poetry, Rhetoric and Politics, 1627-1660* (Cambridge: Cambridge UP, 2000) 11-12.

<sup>577</sup> *De Officiis* was widely circulated in England. Erasmus published an annotated Latin edition of the work in 1520; Sir Thomas Elyot’s *Boke of the Governour* cites it as required reading for a prince. In 1556, Richard Tottel printed Nicholas Grimald’s English translation of Cicero’s work and over the next 45 years, Grimald’s edition was printed at least 7 more times. See Gerald O’Gorman, introduction, *Marcus Tullius Ciceroes thre bokes of duties*, by Marcus Tullius Cicero, trans. Nicolas Grimalde, ed. Gerald O’Gorman (Cranbury, NJ: Associated U Presses, 1990) 13-14.

“power of speech is considerable, and has a twofold application, in argumentation and in conversation. The first is to be employed in debate in the courts, in public assemblies, and in the senate....”<sup>578</sup> Cicero urges statesmen

even in times of greatest success [to] exploit the advice of friends to the full, and lend even greater weight than previously to their authority; and under those same favourable circumstances we must beware of lending an ear to sycophants, and of exposing ourselves to flattery, for it is easy to be deceived in that way once we believe that our standing merits such praise.<sup>579</sup>

Early modern English humanists associated debate and advising with participation in the *vita activa* as governors and as counselors.<sup>580</sup> Members of Parliament, in particular, considered counseling the monarch to be one of their duties.<sup>581</sup> As is well-known, under both Elizabeth and James, Parliament’s right to debate and to counsel was contested.<sup>582</sup>

Under Elizabeth, the question of freedom of speech in Parliament often was related to the succession crisis. Members of Parliament broached concerns over Elizabeth’s marriage and the naming of her successor at various times throughout her

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<sup>578</sup> Marcus Tullius Cicero, *On Obligations (De Officiis)*, trans. P.G. Walsh (Oxford: Oxford UP, 2000) 45.

<sup>579</sup> Cicero, *On Obligations* 32.

<sup>580</sup> Markku Peltonen, *Classical Humanism and Republicanism in English Political Thought, 1570-1640* (Cambridge: Cambridge UP, 1995) 44-45; John Guy, “The rhetoric of counsel in early modern England,” *Tudor Political Culture*, ed. Dale Hoak (Cambridge: Cambridge UP, 1995) 292-310.

<sup>581</sup> Peltonen, *Classical Humanism* 45.

<sup>582</sup> On Parliament as a developing institution, see John Neale, *Elizabeth I and her Parliaments, 1559-1601*, 2 vols. (New York: St. Martins, 1958); G. R. Elton, *The Parliament of England, 1559-1581* (Cambridge: Cambridge UP, 1986); T.E. Hartley, *Elizabeth’s Parliaments: Queen, Lords and Commons, 1559-1601* (Manchester: Manchester UP, 1992); *Parliament and Liberty from the Reign of Elizabeth to the English Civil War*, ed. J.H. Hexter (Stanford: Stanford UP, 1992); Norman Jones, “Parliament and the political society of Elizabethan England,” *Tudor Political Culture*, ed. Dale Hoak (Cambridge: Cambridge UP, 1995) 226-42.

reign, in spite of the fact that she forbade discussion of such topics.<sup>583</sup> In 1566, a “Mr. Lambert” began a speech on the succession in spite of the fact that three days earlier, Elizabeth had specifically prohibited Parliament from addressing these issues.<sup>584</sup> Paul Wentworth, objecting to these restrictions, wondered “whether hyr Hyghnes’ commawndment, forbyddyng the lower howse to speake or treate any more of the successyon and of any theyre excuesses in that behalffe, be a breache of the lybertie of the free speache of the Howse or not?”<sup>585</sup> Historians today caution that “free speache” in this context does not imply modern concepts of “freedom of conscience and freedom of expression.”<sup>586</sup> Instead, it refers to the latitude members of Parliament had in discussing political matters of national importance.<sup>587</sup> John Guy cautions that debates about Parliament’s role as counsel never assumed Parliament’s counsel as a right per se: “Even in the Privy Council, counseling was a duty, not a right.”<sup>588</sup> But he also observes that Wentworth’s brother Peter “exceeded all bounds” when he argued for Parliament’s right to free speech in the 1570s.<sup>589</sup> In responding to issues like the succession question, members of Parliament were exploring

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<sup>583</sup>On the Elizabethan succession, see Stephen Alford, *The Early Elizabethan Polity: William Cecil and the British Succession Crisis, 1558-1569* (Cambridge: Cambridge UP, 1998); Susan Brigden, *New Worlds, Lost Worlds: The Rule of the Tudors, 1485-1603* (New York: Viking, 2001); and John Guy, *Tudor England* (Oxford: Oxford UP, 1988).

<sup>584</sup> James D. Alsop and Wesley M. Stevens, “William Lambard and Elizabethan Polity,” *Studies in Medieval and Renaissance History* 8 (1986): 238. Alsop and Stevens argue that the “Mr. Lambert” was William Lambard.

<sup>585</sup> Qtd. in Alsop and Stevens, “Lambarde” 238.

<sup>586</sup> J.H. Hexter, “Parliament, Liberty, and Freedom of Election,” *Parliament and Liberty from the Reign of Elizabeth to the English Civil War*, ed. J.H. Hexter (Stanford: Stanford UP, 1992) 44.

<sup>587</sup> The question of exactly what was meant by “liberty of free speech” in this particular dispute and later ones has occasioned much debate. G.R. Elton argues that the right of freedom of speech in Parliament was never contested; rather, what the “right” guaranteed was debated: whether or not the freedom protected men who spoke in a disrespectful manner and whether members of Parliament were able to bring up whatever matters they wished (*Parliament* 341-49). T.E. Hartley argues that such debates were over the right to “be able to speak freely on matters put before [Parliament],” as opposed to introducing topics (*Elizabeth’s Parliaments* 139).

<sup>588</sup> Guy, *Tudor England* 322.

<sup>589</sup> Guy, “Rhetoric of Counsel” 302.

Parliament's role as counselor and their roles as representatives; how freely they were able to give counsel was a central concern.

Important local officeholders would have been familiar with the limits of representation in Parliament. Town officers, like the mayor and recorder, often sat in Parliament.<sup>590</sup> Mark Kishlansky has found that “in perhaps the most common method of selecting members, boroughs used one of their civic officers either to hold a place or to nominate to it.”<sup>591</sup> A list of London's representatives to Parliament finds substantial crossover between civic and national offices in Elizabethan England: Edward Osborne, lord mayor in 1583, sat in Parliament in 1586; George Barne(s), lord mayor in 1586, sat in Parliament in 1589; John Harte, lord mayor in 1589, sat in Parliament in 1593 and 1597; Stephen So(a)me, lord mayor in 1598, sat in Parliament in 1601; Henry Billingsley, lord mayor in 1596, sat in Parliament in 1603.<sup>592</sup> William Fleetwood, London's recorder from 1571-1592,<sup>593</sup> was very active in the Parliaments of 1572, 1585, 1586, and 1589.<sup>594</sup> Indeed, Fleetwood's background served him well:

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<sup>590</sup> Mark A. Kishlansky, *Parliamentary Selection: Social and Political Choice in Early Modern England* (Cambridge: Cambridge UP, 1986) 39. Kishlansky cites Vivienne J. Hodges, “The Electoral Influence of the Aristocracy 1604-1640,” PhD dissertation, Columbia University, 1977, pp. 437-54. Justices were also often returned to Parliament. See J. H. Gleason, *The Justices of the Peace in England, 1558-1640: A Later Eirenarcha* (Oxford: Clarendon P, 1969) 26.

<sup>591</sup> Kishlansky, *Parliamentary Selection* 39. Kishlansky notes that this practice changed shortly after James' accession, in 1604.

<sup>592</sup> See ‘Addenda: Representatives of London in Parliament, from Edward I to 1770,’ *A New History of London: Including Westminster and Southwark* (1773) 897-99. 2 October 2, 2006 <<http://www.british-history.ac.uk/report.asp?compid=46800>>; “Lord Mayors of the City of London From 1189,” *City of London*, January 2006, London, England, 21 September 2006 <[http://www.cityoflondon.gov.uk/NR/rdonlyres/5C61458D-4-DOA-4C07-AE3E-90C1C20B1E71/OLH\\_HC\\_lordmayors1189.pdf](http://www.cityoflondon.gov.uk/NR/rdonlyres/5C61458D-4-DOA-4C07-AE3E-90C1C20B1E71/OLH_HC_lordmayors1189.pdf)>.

<sup>593</sup> J. D. Alsop, “William Fleetwood and Elizabethan Historical Scholarship,” *Sixteenth Century Journal* 25.1 (1994): 155-76.

<sup>594</sup> See ‘Addenda: Representatives of London.’ Alsop notes that Fleetwood was a part of the circle of antiquarians who were influenced by Archbishop Matthew Parker; he had connections to William Lambard, John Stow, and Raphael Holinshed (166). He also notes that one of Fleetwood's “favorite subjects” was “the study of the English royal succession” (156).



...[Privy] Councillors ... relied on a number of competent second-line members with whom they had direct links, like Thomas Norton and William Fleetwood. These were men with legal expertise, busy on committees and in debate, and prominent in drafting important measures. They were thus in the midst of 'government' business in the Commons....<sup>595</sup>

While these men were advancing the interests of Privy Council and the Crown, they were just as often advocating for London. London "had long experience of using Parliament to solve its problems" and its lobbies were "the most active, best organized and therefore most troublesome."<sup>596</sup> At the same time, City officeholders were wary of courtiers who sought reversions to offices in order to bestow them as patrons. In the 1570s and again in the 1590s, City rulers took measures to restrict the granting of these offices, limiting some of them to freemen.<sup>597</sup> Such action suggests that City rulers were conceptualizing their own offices as sites of representation, since they were wary of allowing those who might have extraneous allegiances to hold office.

Both Shakespeare and Heywood cast or invoke characters that had historical connections to Parliament. Indeed, Heywood's play foregrounds London citizens who held prominent civic and national offices; three of Heywood's main characters, Lord Mayor John Crosby, Recorder Thomas Urswick, and citizen Ralph Josselyn, sat in the Parliament of 1461. Although the historical John Crosby was never lord

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<sup>595</sup> Hartley, *Elizabeth's Parliaments* 7; for Fleetwood's prominence in Parliament, see also Alsop, "William Fleetwood" 161.

<sup>596</sup> G.R. Elton, *Parliament* 77. See also Ian Archer, "The London Lobbies in the Later Sixteenth Century," *Historical Journal* 31.1 (1988): 17-44; David Dean, *Law-making and Society in Late Elizabethan England* (Cambridge: Cambridge UP, 1996) 12-13.

<sup>597</sup> Archer, *Pursuit* 34. Archer notes that while city rulers were defensive about the Court's demands for patronage, they also realized the potential benefits.

mayor, Heywood casts him instead of John Stockton, who was the lord mayor but who never sat for London in Parliament.<sup>598</sup> As for Ralph Josselyn, he was not lord mayor at the time of the rebellion depicted in Heywood's play, but he was later elected lord mayor twice.<sup>599</sup> While *Richard III*'s lord mayor, Edmund Shaw, did not sit in Parliament, Shakespeare refers to Thomas Fitzwilliam, who was named recorder of London in 1483, and who was returned to Parliament for London in 1483 (under Richard III), and again in 1485, 1488, and 1489 (under Henry VII).<sup>600</sup> Heywood and Shakespeare predictably align these characters' Parliamentary connections with concerns about freedom of speech. But they also develop them as *officeholders* of London, thereby shifting the focus from debates about Parliamentary representation to the representative nature of office, emphasizing in particular the offices of lord mayor and recorder.

Historically, London's lord mayor was deputized to act on behalf of both the citizenry and the Crown. Presiding over London's primary governing body, the Court of Common Council, the lord mayor was integral to the regulation of City life.<sup>601</sup> While the Court of Common Council oversaw taxation, the lord mayor was responsible for determining wages and setting prices.<sup>602</sup> He "set the price of fewell

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<sup>598</sup> See 'Addenda: Representatives of London.' Richard Rowland suggests that Heywood was fascinated with Crosby's legendary "rags-to-riches" rise, which included construction of a beautiful home for himself, Crosby Place, as well as with the fact that John Spencer, London's extremely unpopular lord mayor in 1595, had purchased Crosby Place in 1594 and was living there. See Richard Rowland, introduction, *The First and Second Parts of King Edward IV*, by Thomas Heywood, ed. Richard Rowland (Manchester: Manchester UP, 2005) 42.

<sup>599</sup> See "Lord Mayors of the City of London," note 23, above.

<sup>600</sup> See 'Addenda: Representatives of London'; S.J. Payling "Fitzwilliam, Sir Thomas (d. 1497)," *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004) 11 Oct 2008 <<http://www.oxforddnb.com>>.

<sup>601</sup> Frank Freeman Foster, *The Politics of Stability* (London: Royal Historical Society, 1977) 84; Valerie Pearl, *London and the Outbreak of the Puritan Revolution* (Oxford: Oxford UP, 1961) 49.

<sup>602</sup> Archer, *Pursuit* 19.

for summer, and [took] good order for good bondes to keepe it.”<sup>603</sup> It was the lord mayor’s job “to looke to the provision of graine as occasion shall require,” and “to provide for the store of all other vitaille from time to time.”<sup>604</sup> In his role as a paternal figure, the lord mayor looked after widows and orphans.<sup>605</sup> He was also a diplomat on behalf of both London and England, welcoming England’s monarch as well as foreign statesmen to the City.<sup>606</sup> In his administrative capacity, he interpreted and applied national statutes to City matters; he saw to it “that all letters and commandments from the Queen’s Majesty be ... duly and speedily executed and answered.”<sup>607</sup> Should the monarch die, the lord mayor “became the chief legal authority in the kingdom.”<sup>608</sup> Clearly, the lord mayor was a central figure in the life of both London and its citizens and England and its subjects.

That the lord mayor was duty-bound to the City and the commonwealth was brought home by the election of a new mayor each year.<sup>609</sup> In 1594, the recorder noted that the annual election was important since it reminded the lord mayor that he was “to rule Men, and his Fellow Citizens; to rule them not after his will, but according to the laws; to rule, not alwaie, but for a time, and no longer tyme then only

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<sup>603</sup> *Generall Matters to be Remembred of the Lord Mayor, Through the Whole Year* (London, 1600) B2 v.

<sup>604</sup> *Generall Matters* A1<sup>r</sup>; see also Thomas Norton, “Instructions to the Lord Mayor of London, 1574-5,” *Illustrations of Old English Literature*, ed. J.P. Collier, Vol. 3, Item 8 (London, 1866) 11-12.

<sup>605</sup> *Generall Matters* Aviii<sup>r</sup>; Norton, “Instructions” 10-11.

<sup>606</sup> Foster, *Politics* 84.

<sup>607</sup> *Generall Matters* A1<sup>r</sup>.

<sup>608</sup> Lawrence Manley, “Civic Drama,” *A Companion to Renaissance Drama*, ed. Arthur F. Kinney (Malden, MA: Blackwell, 2004) 295.

<sup>609</sup> Pearl, *London* 51. Ian Archer cautions against considering this “democratic” rule, since the franchise was limited; however, he also points out that increasing social mobility allowed men to move into the franchise relatively rapidly (*Pursuit* 31, 51). In his discussion of the importance of Parliamentary elections, David Harris Sacks acknowledges Mark Kishlansky’s point that these elections were rarely contested and were thus “more a matter of acclamation than of what we would recognize as voting” (102). But he also notes that some elections were contested and that the importance of “free elections,” elections that were free of any manipulation, was recognized (116-17).

one yeare; then to lay downe his office ... and become a Member, and noe Head, as ready to obey as he was willing to command.”<sup>610</sup> Printed tracts carefully record the events surrounding the lord mayor’s election, presenting the peaceful transfer of power as a normal course of events. The lord mayor’s final September duty was to “call the Commons on Michaelmas day to elect a new Maior for the yeare following.”<sup>611</sup> In October, “on the day before Simon and Jude the Commons being assembled in the Guildhall, the old Maior then being in the Inner Court before their commyng out to the Commons, after thanks to all his brethren for their assistaunce and such othr speache of excuse advise or otherwise as shall please him to use is to yelde the Chayre to the Maior elected.”<sup>612</sup> The annual lord mayor’s inaugural shows had unmistakably republican undertones:

in contrast to the royal entry ceremony, modeled on the pattern of the Christian and Roman imperial advent, the lord mayor’s shows were modeled formally on the Roman republican *processus consularis* and the military ‘triumph.’ The mayor’s ‘triumph’ was understood not as a once-and-for-all salvific miracle, but as an annual renewal in an ongoing history of orderly transitions and exceptional achievements.<sup>613</sup>

The lord mayor’s office was a celebration of civic service. He was admonished to act in the best interests of the City and the kingdom.

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<sup>610</sup> Qtd. in Manley, *Literature and Culture* 260.

<sup>611</sup> *Generall Matters* B6v. See also *The ordre of my Lorde Mayor, the aldermen & the sheriffs, for their meetings and wearynge of theyre apparel throughout the yeare* (London, 1568).

<sup>612</sup> *Generall Matters* B7r-v.

<sup>613</sup> Manley, “Civic Drama” 306.

Although the lord mayor was preeminent, London governance was shared by many. Thomas Norton observed that it should be some comfort to James Hawes, lord mayor in 1574-75, that

the generall forme of the settled and true pollitie of the Citie of London [was] so distributed and marshaled in ordre by the wysdome of oure forefathers as, lyke a heauye burthen parted and laied upon manie shoulders, or lyke a great woorke sorted into manie handes, the officers of wardes, parishes, and precincts, the companies with their Masters, Wardenns, and Governors, moste prudentlie assigned to everie woorcke and place, together with the orderlie formes, times, limitations, and circumstances, delivered by knowen and usuall presidentes, shall beare the waight with yowe, and make yowe to beare lighter.<sup>614</sup>

Among the City's officers was the recorder, appointed by the Crown but answerable chiefly to the City. Norton further encouraged Hawes by observing that the current recorder was "learned and painefull, and to her Majesties service dutifullie, to the Citie faithefullie, and to your selfe lovinglie affected."<sup>615</sup> The recorder was "originally appointed to be the City's chief legal adviser and judge in certain of its courts," including the Old Bailey.<sup>616</sup> As a justice of the peace for the City, the recorder often worked with the Privy Council.<sup>617</sup> The Crown relied upon the recorder for consultation about trials; regarding Edmund Campion's trial, for example, Burghley suggested to Walshingham that he convince "Her Majesty that the Lord

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<sup>614</sup> Norton, "Instructions" 5.

<sup>615</sup> Norton, "Instructions" 4.

<sup>616</sup> P.R. Harris, "William Fleetwood, Recorder of the City, and Catholicism in Elizabethan London," *Recusant History* 7 (1963): 107, 113.

<sup>617</sup> Harris, "Fleetwood" 107.

Chancellor [Bromley] by conference with the Recorder might devise some way agreeable to the law for [Campion's] punishment.”<sup>618</sup> Additionally, “the Mayor and Aldermen have been accustomed commonly to set forth all other matters touching the City in presence of his lordship the King and his Council, as also in all the royal Courts, by the mouth of such Recorder.”<sup>619</sup> Like the lord mayor, the recorder was in the service of both the City and the Crown.

Of course, these were interdependent. Both the City as a corporation and its individual merchants were important financial resources for the Crown. The City funded the Crown's ventures through taxes, customs revenues and loans.<sup>620</sup> Certainly, Londoners were well aware of the Crown's dependence on them. David Harris Sacks cites John Stow's characterization of London as the “Kinges chamber.”<sup>621</sup> Ian Archer also notes that, particularly during the 1590s, the Crown's increased demands for money led to the perception of a fiscal crisis, regardless of the actual burden that these demands posed.<sup>622</sup> Nevertheless, the citizens of London recognized the advantages of cooperation. The royal prerogative gave the Crown jurisdiction over other vital aspects of City life: “the Crown granted the livery companies their charters and supervised their ordinances.”<sup>623</sup> The Privy Council helped City rulers in their provisioning of London and in enforcing tax policies.<sup>624</sup> Aldermen relied on the Crown's support for bills introduced in Parliament that were

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<sup>618</sup> Qtd in Harris, “Fleetwood” 114.

<sup>619</sup> John Carpenter, *Liber Albus: The White Book of The City of London*, trans. Henry Thomas Riley (London, 1861) 38.

<sup>620</sup> Ian W. Archer, “The Government of London, 1500-1650,” *Historical Journal* 26.1 (2001): 22; Archer, *Pursuit* 10-14.

<sup>621</sup> David Harris Sacks, “London's Dominion,” *Material London, ca. 1600*, ed. Lena Cowen Orlin (Philadelphia: U of Pennsylvania P, 2000) 25.

<sup>622</sup> Archer, *Pursuit* 14.

<sup>623</sup> Archer, *Pursuit* 39.

<sup>624</sup> Archer, *Pursuit* 38.

meant to regulate City companies; but companies might rely on the royal prerogative in attempts to bypass the aldermen.<sup>625</sup> The Crown's notorious issuing of monopolies led to various negotiations between City and Crown.<sup>626</sup> No wonder "monarchs found themselves engaging in the process of dialogue, exchange, and contractual obligation" during their ceremonial royal entries.<sup>627</sup>

Nor was the "contractual obligation" merely economic. The Crown also depended upon City rulers' help to keep the king's peace. Elizabethan authorities were leery of disorderly apprentices (and gentry), and disorder was on the rise in the 1590s.<sup>628</sup> Authorities were also concerned about the threat posed by foreigners, including ambassadors and especially those from Catholic countries.<sup>629</sup> The Privy Council required the help of London's officeholders since "to lose control of the capital was to lose control of the realm."<sup>630</sup> As *ex officio* justice of the peace, Recorder Fleetwood not only provided legal advice for the Privy Council, he was also entrusted with keeping the peace.<sup>631</sup> The City elite's law and order function was literally embodied in their role in coronation entries: "by forming a buffer between the tumultuous London crowds behind them and the nobility and royalty passing before them, ... the orderly ranks of London officials, in full regalia, served as a symbolic reminder of the City's essential role in maintaining civil order."<sup>632</sup> The City's loyalty was crucial during the 1601 Essex rebellion, when the Earl of Essex

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<sup>625</sup> Archer, "London Lobbies" 24, 26.

<sup>626</sup> Archer, "London Lobbies" 29-34.

<sup>627</sup> Manley, "Civic Drama" 297.

<sup>628</sup> See Archer, *Pursuit*, 1-17; see also Steve Rappaport, *World Within Worlds: Structures of Life in Sixteenth-Century London* (Cambridge: Cambridge UP, 1989) 1-20.

<sup>629</sup> Harris, "Fleetwood" 109.

<sup>630</sup> Harris, "Fleetwood" 108.

<sup>631</sup> Harris, "Fleetwood" 107.

<sup>632</sup> Manley, "Civic Drama" 302.

mistakenly counted on the City's support.<sup>633</sup> Maintaining order in the City no less than in the realm required a joint effort.

Jurisdiction was another two-way, City/Crown, street. The Crown granted London's liberties. These liberties allowed the City to govern itself as well as to award "freeman citizenship" to certain inhabitants.<sup>634</sup> But because these liberties could be revoked, negotiations between Crown and City were not uncommon. Henry I, in granting London its charter, formalized the liberties the City had previously enjoyed.<sup>635</sup> However, even though these liberties had been confirmed by King John in *Magna Carta* (1215), subsequent monarchs challenged the privileges. For example, following Henry III's accession, London's liberties were re-negotiated in 1218, when the citizens turned over to the monarch "a fifteenth of their personal estates for the confirmation of their ancient privileges."<sup>636</sup> According to W. Woodcock, London's history—and England's—involves a constant interplay between England's monarchs and London's citizens, with the lord mayor serving as the citizens' chief representative.<sup>637</sup>

In her day, Queen Elizabeth promised to protect London's liberties: "As for the privileges and Charters of your City, I will discharge of my oath and affection, see them safely and exactly maintained, ... and persuade yourselves that for the safety and quietness of you all, I will not spare, if need be, to spend my blood in your behalf."<sup>638</sup> But as Ian Archer observes, these "privileges and Charters" remained

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<sup>633</sup> Archer, *Pursuit* 43-45.

<sup>634</sup> Manley, "Civic Drama" 294.

<sup>635</sup> W. Woodcock, *Lives of Illustrious Lord Mayors* (London, 1846) 22.

<sup>636</sup> Woodcock, *Lives* 33.

<sup>637</sup> Woodcock, *Lives passim*.

<sup>638</sup> Qtd in Jennifer Harrison, "Lord Mayor's Day in the 1590s," *History Today* 42 (1992): 43.



precarious in the eyes of Elizabethans.<sup>639</sup> London's recorder acknowledged the City's debt in a speech to Queen Elizabeth in 1593 ("we enjoy our jurisdictions and privileges derived from your imperial crown");<sup>640</sup> the author of *Apologie of the Citie of London* refers to causes that "'have heretofore moved the Princes, either to fine and ransome the Citizens of London, or to seize the Liberties of the Citty it self.'"<sup>641</sup> Such causes included "the City's support for rebels against the prince, the breakdown of order within the capital, abuses in the City's own government and justice, and straightforward extortion by the Crown on flimsy pretexts."<sup>642</sup> Citizens responded to their anxieties over these liberties in different ways. City rulers in 1580 approved a plan to revamp the City's system of record-keeping; newly archived and indexed records were meant to facilitate the retrieval of records relevant to protecting London's liberties.<sup>643</sup> Archer attributes the cohesiveness of London's ruling elites in part to the need to appear united in the face of a meddling Crown.<sup>644</sup> In 1587, the recorder of London admonished citizens reluctant to serve as sheriff, recalling "the City's forfeiture of its privileges under Edward II when a mayor cast off his robes and refused to come to commissions of oyer and terminer."<sup>645</sup>

Finally, Londoners' vulnerability to the Crown was exacerbated by succession issues. London's rulers knew something about complicated choices, for example, "choices for or against Somerset in October 1549, and for or against Lady Jane Grey

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<sup>639</sup> Archer, *Pursuit* 41.

<sup>640</sup> Qtd in Manley, "Civic Drama" 295.

<sup>641</sup> Qtd. in Archer, *Pursuit* 41. Archer deems James Dalton the "probable author" of the *Apologie* (28).

<sup>642</sup> Archer, *Pursuit* 41.

<sup>643</sup> Piers Cain, "Robert Smith and the Reform of the Archives of the City of London, 1580-1623," *The London Journal* 13.1 (1987-88): 4-11.

<sup>644</sup> Archer, *Pursuit* 41.

<sup>645</sup> Archer, *Pursuit* 41.

and the Duke of Northumberland in July 1553.”<sup>646</sup> In 1549, “when the City was approached by the lords of the privy council for aid against the isolated Protector,” the citizen George Tadlowe cautioned against the “wrong decision”: “rebellion against Henry III had resulted in the loss of the liberties of the City, ‘and strangers appointed to be our heads and governors.’”<sup>647</sup> The City’s aldermen again experienced difficulties “in the first year of the reign of Mary Tudor, who regarded them with intense suspicion for their acquiescence in the nine days’ rule of her rival.”<sup>648</sup> Queen Elizabeth frustrated her subjects by refusing to address publicly an issue that had such significant ramifications.

But Elizabeth’s subjects managed to voice their apprehensions, particularly in print and on stage.<sup>649</sup> Shakespeare’s *Richard III*, for example, is clearly concerned with succession.<sup>650</sup> Gloucester exploits both London’s lord mayor and the City

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<sup>646</sup> Archer, *Pursuit* 27.

<sup>647</sup> Archer, *Pursuit* 27.

<sup>648</sup> Archer, *Pursuit* 27.

<sup>649</sup> See Marie Axton, *The Queen’s Two Bodies: Drama and the Elizabethan Succession* (London: Royal Historical Society, 1977). Andrew Hadfield argues that prohibiting discussion of the succession, “the key issue of sixteenth-century England,” made poetry and drama “especially important form[s] for advancing political debate” (Hadfield, *Shakespeare* 7).

<sup>650</sup> See, for example, William C. Carroll, “‘The Form of Law’: Ritual and Succession in *Richard III*,” *True Rites and Maimed Rites: Ritual and Anti-Ritual in Shakespeare and His Age*, eds. Linda Woodbridge and Edward Berry (Urbana: U of Illinois P, 1992) 203-219. Scholars have considered *Richard III*’s relationship to the genre of history plays and to Shakespeare’s first tetralogy, as well as to Tudor historiography. See Irving Ribner, *The English History Play in the Age of Shakespeare* (Princeton: Barnes and Noble, 1957); Richard P. Wheeler, “History, Character and Conscience in *Richard III*,” *Comparative Drama* 5 (1971-72) 301-21; Robert Ornstein, *A Kingdom for A Stage: The Achievement of Shakespeare’s History Plays* (Cambridge: Cambridge UP, 1972). Jean E. Howard and Phyllis Rackin reappraise the role of women in *Richard III* and the play’s status as history play in *Engendering a Nation* (New York: Routledge, 1997) 100-18. Harold F. Brooks also considers the role of women in the play in “‘Richard III,’ Unhistorical Amplifications: The Women’s Scenes and Seneca,” *Modern Language Review* 75.4 (1980): 721-37. Donna J. Oestreich-Hart considers the courtly love tradition and its generic influence on the play in “Therefore, Since I Cannot Prove a Lover,” *SEL* 40.2 (2000): 241-60. Katharine Goodland links the women’s laments with Catholic and Protestant burial practices, connecting the play to religious discourse; see “‘Obsequious Laments’: Mourning and Communal Memory in Shakespeare’s *Richard III*,” *Religion and the Arts* 7.1-2 (2002): 31-64.

recorder in order to establish his legitimacy as monarch.<sup>651</sup> Less readily apparent may be the extent to which *Richard III* explores republican theory, particularly concepts of free speech, in relation to Richard's (or Elizabeth's) succession crisis. Hence Shakespeare presages his later treatment of the Roman republic in *Coriolanus* (c.1609). Annabel Patterson has argued that *Coriolanus* represents Shakespeare's "belief that Jacobean England desperately needed to borrow from the strengths, as well as learn from the difficulties, of republican political theory."<sup>652</sup> Patterson situates the play in the context of the 1607 Midlands Rising and the 1610 Parliament, arguing that the play is "devoted to these questions: who shall speak for the commons; what power should the common people have in the system; to what extent is common power compatible with national safety?"<sup>653</sup> In *Richard III*, Shakespeare was already examining similar issues in their English context. The earlier play certainly acknowledges that England could benefit from "the strengths ... of republican political theory."

*Richard III* (c.1593) refers rather pointedly to questions surrounding the Elizabethan succession and to Londoners' increasing concerns regarding official record-keeping. This is to link officeholding with subjects' freedom of speech. Thus Gloucester plots his way to England's throne, resorting to assassination to remove

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<sup>651</sup> While theoretically the crown descended according to hereditary right, the choice of successor was not always obvious. William Anson explains the increasing importance of Parliamentary recognition; see William Anson, *The Law and Custom of the Constitution*, vol. 2, 4<sup>th</sup> ed. (Oxford: Clarendon P, 1935) 260-64. See also *Halsbury's Laws of England*, 4<sup>th</sup> ed. (London: Butterworths), vol. 8.2, para. 25-40 and vol. 12.1, para. 8-27. G.R. Elton provides a brief overview of Tudor dynastic difficulties and excerpts from related documents; see *The Tudor Constitution: Documents and Commentary* (Cambridge: Cambridge UP, 1968) 1-12. George W. Keeton reviews Shakespeare's treatment of these issues in the history plays in *Shakespeare's Legal & Political Background* (New York: Barnes & Noble, 1967) 248-63.

<sup>652</sup> Annabel Patterson, *Shakespeare and the Popular Voice* (Cambridge, MA: Basil Blackwell, 1989) 122.

<sup>653</sup> Patterson, *Popular* 127.

obstacles, but he cannot entirely ignore the will of the subjects.<sup>654</sup> Accordingly, he enlists the aid of London's Lord Mayor and the Recorder in his attempt to claim popular support. Andrew Gurr has argued that the play depicts the importance of "democratic process" since it is the nobility who determine the outcome.<sup>655</sup> Gurr is referring to an abstract democratic process, resolved by the nobility choosing sides in battle. I believe that Shakespeare emphasizes the importance of the subjects' voice even before war, and that in doing so, he points to the importance of office in mediating that voice.

The Lord Mayor is first introduced as London's representative when he welcomes the young Prince Edward, heir to Edward IV's throne, to London. Richard has just warned Prince Edward against his other uncles, who, Richard contends, are "dangerous" (3.1.12) and "false friends" (3.1.15).<sup>656</sup> Richard then introduces the Lord Mayor, who wishes the new monarch well: "God bless your Grace with health and happy days!" (3.1.18). This ceremonial greeting conveys the subjects' loyalty. *Richard III* goes on to develop the Lord Mayor's importance as an officeholder rather than as a historical accomplice in Richard's usurpation of the throne. According to Sir Thomas More's account of events, the lord mayor "upon trust of hys awyne avauncement, where he was of a proude harte highly desirous, toke on hym to traine the cytie to their appetite."<sup>657</sup> Shakespeare's Lord Mayor may be ambitious, or

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<sup>654</sup> Carroll observes that succession is the "one structure of social order which remains absolutely sacred for Richard throughout the play" ("Ritual" 213).

<sup>655</sup> Andrew Gurr, "Richard III and the Democratic Process," *Essays in Criticism* 24 (1974): 46.

<sup>656</sup> All citations to the play are from William Shakespeare, *King Richard III*, ed. Antony Hammond (London: Methuen, 1981).

<sup>657</sup> "From *The pitifull life of kyng Edward the .V.* and *The tragical doynge of Kyng Richard the thirde*," Appendix III, *King Richard III*, ed. Antony Hammond (London: Methuen, 1981) 355. Hammond establishes that Edward Hall used Sir Thomas More's *History of Richard III* in his *Union of the Noble and Illustre Famelies of Lancastre and York* (1548); see Appendix III, 342; introduction, 73-

perhaps just naïve; in either case, Shakespeare is less concerned with the Lord Mayor's personal characteristics than with the importance of his office.

In the play, it is the office of the lord mayor that disseminates the words of the would-be monarch to his subjects. Richard needs the Lord Mayor to justify the trial and execution of Hastings, when in fact the process has been a mockery of justice. In More's narrative, as soon as news of Hastings's execution begins to circulate, the "Protectoure immediately after dyner (entending to set some colour upon the matter) sent in all the haste for many substantial men out of the cytie into the Towre"; after "explaining" the circumstances to them, "he required them to report."<sup>658</sup> Instead of relying on a cadre of the City's elite "to report" the incident to other subjects, Shakespeare emphasizes the Lord Mayor's ratification of Richard's and Buckingham's words. According to Buckingham, they had not intended to execute Hastings until the Lord Mayor himself had "...heard / The traitor speak, and timorously confess / The manner and the purpose of his treasons" (3.5.55-57). Unfortunately, according to Richard, Catesby and Buckingham acted impulsively: the "loving haste of these our friends, / Something against our meanings" (3.5.53-54) has kept the Lord Mayor from hearing this testimony. Since Hastings' guilt is taken as a given, the real value of the Lord Mayor's presence is as a witness; Richard would have had the Lord Mayor hear Hastings's confession of treason, "That you might well have signified the same / Unto the citizens, who haply may / Misconstrue us in him and wail his death" (3.5.58-60).

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80. See also Geoffrey Bullough, *Narrative and Dramatic Sources of Shakespeare*, vol. 3 (New York: Columbia UP, 1960) 224-227.

<sup>658</sup> "From *The pitifull life*" 354.

Shakespeare's depiction of Richard's interactions with the Lord Mayor correlates the behavior of a tyrant with denial of freedom of speech to his officeholder. The Lord Mayor is expected to serve as witness to what he has not seen. The worth of his testimony is vitiated. When Richard and Buckingham provide the Lord Mayor with a script, he acquiesces:

But, my good lord, your Graces' words shall serve

As well as I had seen and heard him speak;

And do not doubt, right noble princes both,

But I'll acquaint our duteous citizens

With all your just proceedings in this cause. (3.5.61-65)

When he deploys the Lord Mayor to cover up unlawful proceedings, Richard exemplifies Sir Thomas Smith's key characteristics of a tyrant: "A tyrant they name him, who by force commeth to the Monarchy against the will of the people, breaketh lawes already made at his pleasure, maketh other without the advise and consent of the people, and regardeth not the wealth of his communes but the advancement of him selfe, his faction, & kindred."<sup>659</sup>

Tyranny and free speech are again put into play in the scene at Guildhall, where Buckingham makes public the case for "the bastardy of Edward's children" (3.7.4). Buckingham reports to Richard that the subjects were silent in the face of this

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<sup>659</sup> Sir Thomas Smith, *De Republica Anglorum* (London, 1583) 6. Many scholars have explored the tyrannical aspects of Richard's ascent to the throne. Andrew Leggatt contrasts Richard and Richmond, arguing that Richard's very ability to manipulate relationships prevents him from establishing relationships, a necessary aspect of being king, in *Shakespeare's Political Drama: The History Plays and the Roman Plays* (New York: Routledge, 1988) 32-53. Rebecca Bushnell associates Richard's tyranny with seduction in *Tragedies of Tyrants: Political Thought and Theater in the English Renaissance* (Ithaca: Cornell UP, 1990) 118-126. Mary Steible reads the play in light of Tudor historians' "demonizing" of Richard in "Jane Shore and the Politics of Cursing," *SEL* 43.1 (2003): 1-17. Andrew Hadfield associates Richard's tyranny with his appropriation of his subject's property (*Shakespeare* 126).

justification of Richard's claim. When Buckingham questioned the meaning of this "wilful silence," the Lord Mayor excused it, explaining that "the people were not us'd / To be spoke to but by the Recorder" (3.7.28-30). But when the Recorder "was urg'd to tell [the] tale again," he undermined the authority of the narrative by clarifying that the speech had been scripted for him: "'Thus saith the Duke; thus hath the Duke inferr'd' -- / But nothing spake in warrant from himself" (3.7.31-33). After the Recorder's narrative, Buckingham can claim a victory only because his plants in the audience cried out support of King Richard. The subjects recognize Richard's disdain for them, and Richard wonders whether the Lord Mayor will fall into line with him or them: "What, tongueless blocks were they? Would they not speak! / Will not the Mayor then and his brethren come?" (3.7.42-43).

Although fleeting, this reference to the Recorder in *Richard III* is significant, invoking as it does the recorder's duties. In More's narrative, Richard and Buckingham first enlist the lord mayor's brother, "Raffe Shaa," to preach a sermon concerning Edward's bastardy. In a subsequent episode, at the Guildhall, the lord mayor tries unsuccessfully to elicit a response from the people.<sup>660</sup> In shifting the emphasis to the recorder, Shakespeare suggests a perversion of the recorder's responsibilities. The recorder was associated with the routine yearly peaceful selection of City officeholders, customarily pronouncing the City's newly elected lord mayor and sheriffs.<sup>661</sup> The Recorder's very title points to a vital aspect of his office:

His name is derived out of the Latine toong, *Recordator*, which signifieth a rememberer, or adviser: that is to put everie man in remembrance of his dutie,

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<sup>660</sup> "From *The pitifull life*" 355-58.

<sup>661</sup> *The ordre of my Lorde Mayor* sig.A6<sup>v</sup>.

both according to the course and order of the lawes, and according to the orders and customes of the citie, and to see all things in government, to be directed accordinglie.<sup>662</sup>

The recorder of London's "duty is, always to be seated at the Mayor's right hand when recording pleas and delivering judgments; and by his lips, [the] records and processes holden before the Mayor and Aldermen at Saint Martin's le Grand, in presence of the Justiciars assigned for the correcting there of errors, ought orally to be recorded."<sup>663</sup> The recorder's approval was enough to establish a custom.<sup>664</sup>

Additionally, according to custom, the recorder was called upon to present City concerns to the Crown since he was esteemed "a man more especially imbued with knowledge, and conspicuous for the brilliancy of his eloquence."<sup>665</sup> In *Richard III*, a tyrant-in-the-making calls upon the Recorder to report to the City, thereby establishing his case as record, but the Recorder shrewdly resists, withholding his "warrant" (3.7.33) and conspicuously undermining Richard's credibility.

While Richard cannot rely on the Recorder, he can resort to the Lord Mayor's office. In their last scene with the Lord Mayor, Buckingham and Richard carefully orchestrate appearances, depicting Richard as reluctantly being called to the throne by the people. The Lord Mayor is an essential witness: "See where his Grace stands, 'tween two clergymen!" (3.7.94). Buckingham promptly interprets for him: "Two props of virtue for a Christian Prince, / To stay him from the fall of vanity" (3.7.95-

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<sup>662</sup> Hooker, *Exeter sig.D2*<sup>r</sup>.

<sup>663</sup> Carpenter, *Liber Albus* 38.

<sup>664</sup> Beatrice Webb and Sidney Webb, *The Manor and the Borough*, vol. 2, (Hamden, CT: Archon Books, 1963) 682, note 2. The Webbs cite A. Pulling, *Laws, Customs, etc., of the City and Port of London*, pp. 3-9 of the 1354 edition.

<sup>665</sup> Carpenter, *Liber Albus* 38.



96). Richard absolves himself from blame should matters go awry, since kingship has been “imposed” upon him: “For God doth know, and you may partly see, / How far I am from the desire of this” (3.7.234-35). The Lord Mayor indicates that he will report Richard’s sentiments: “God bless your Grace: we see it, and will say it” (3.7.236). Richard does his best to establish his legitimacy, and Shakespeare does his best to undercut it. When Shakespeare warrants the subjects’ support for Richmond, this is not simply, as Gurr finds, evidence of “their preference for a good man to a bad one.”<sup>666</sup> Shakespeare has them actively reject a tyrant who does not respect their offices.

Thomas Heywood goes one step beyond Shakespeare. His *1 King Edward IV* (1599) not only explores the monarch’s relationship to the lord mayor and recorder; it stages alternative models of governance. For some time, scholars dismissed the first part of *Edward IV*, perhaps because of its historical inaccuracy or its preoccupation with commoners.<sup>667</sup> But scholars have begun to revisit the play, exploring in particular the relationship between Edward IV and his subjects.<sup>668</sup> I will concentrate

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<sup>666</sup> Gurr, “Democratic” 46.

<sup>667</sup> See, for instance, Mowbray Velte, *The Bourgeois Elements in the Dramas of Thomas Heywood* (New York: Haskell House, 1966) 25.

<sup>668</sup> Critics generally agree that Heywood contrasts unfavorably Edward IV’s behavior with that of his subjects. Richard Helgerson considers the monarch’s relationship to Hobs and both Jane and Matthew Shore, arguing that this play is part of a group of plays that emphasize commoners’ suffering under monarchs; see *Forms of Nationhood: The Elizabethan Writing of England* (Chicago: U of Chicago P, 1992) 195-245. Helgerson further explores the particular dynamics of Shakespeare’s *Richard III* and Heywood’s *Edward IV* and their respective relationships to contemporary narratives of Jane Shore in “Weeping for Jane Shore,” *South Atlantic Quarterly* 98.3 (1999): 451-76. Daryl W. Palmer focuses on the relationship between Edward IV and Hobs the Tanner in “Edward IV’s Secret Familiarities and the Politics of Proximity in Elizabethan History Plays,” *ELH* 61.2 (1994): 279-315. Jesse M. Lander, like Helgerson, focuses on the play’s motif of the household in “‘Faith in Me vnto this Commonwealth’: *Edward IV* and the Civic Nation,” *Renaissance Drama* 27 (1998): 47-78. Garrett Sullivan links the city under siege to debates in the 1590s over the Crown’s granting of monopolies, arguing that the play questions the extent of the royal prerogative; see *The Drama of Landscape: Land, Property, and Social Relations on the Early Modern Stage* (Stanford: Stanford UP, 1998) 197-229. Finally, Janette Dillon argues that the play exposes tensions resulting from the potentially mutually exploitative relationship of exchange between Crown and City (43-58).

on Heywood's primary officeholders, his King and his Lord Mayor. The Lord Mayor leads the defense of London in the beginning of the play; after the citizens' victory, he appears primarily in relation to the monarch. *I Edward IV*, then, does not merely contrast two historical personages; it contrasts the ways two officeholders fulfill their offices. In doing so, Heywood, as Jesse M. Lander notes, depicts "London as the embodiment of a civic culture that is seen to be appropriate for the nation as a whole."<sup>669</sup> A key component of this civic culture, one that Lander does not explore, is freedom of speech.

Heywood, like Shakespeare, associates succession issues with freedom of speech, albeit in a different manner. In the initial scenes of the play, the Lord Mayor, the Recorder, and other citizens of London debate Edward IV's claim to the throne with the rebel Falconbridge and his supporters. Heywood's concern with these issues was perhaps spurred by the 1598 printing of a tract written by Peter Wentworth. Peter, like his brother Paul, was involved in earlier disputes over freedom of speech in Parliament. A Puritan leader, he had hosted "extraordinary assemblies" in 1579 amid Puritan discontent over Elizabeth's marriage negotiations with the duke of Anjou.<sup>670</sup> In 1576, he defended Parliament's right to discuss religious matters, and again in 1587, he was involved with Sir Anthony Cope and other Puritans when Cope sponsored a bill calling for ecclesiastical reform.<sup>671</sup> Wentworth was sent to the Tower of London for his "celebrated defence of the imagined liberties of the House of Commons. In the rhetoric of his ringing, prophetic questions, Parliament was entrenched in the fundamental constitution of the country with prerogatives of its

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<sup>669</sup> Lander, "Faith" 49.

<sup>670</sup> Patrick Collinson, *The Elizabethan Puritan Movement* (Oxford: Clarendon P, 1967) 199.

<sup>671</sup> See Collinson, *Elizabethan* 303-316; T.E. Hartley, *Elizabeth's Parliaments* 125-143.

own, a deadly threat to the Tudor conception of kingship.”<sup>672</sup> While historians have debated exactly how radical Wentworth’s declarations were, it is clear that his challenges mattered.

Printed posthumously, Wentworth’s *A Pithie Exhortation To Her Majestie For Establishing Her Successor To the Crowne. Whereunto Is Added A Discourse Containing the Authors Opinion of The True and Lawfull Successor to Her Majestie* was written in response to Robert Persons’ *A Conference about the Succession to the Crowne of Inland* (Antwerp, 1594), which argued on behalf of the claim of Phillip II.<sup>673</sup> That these tracts were printed signals a shift in the public sphere; while matters such as the succession and freedom of speech were not to be taken up in Parliament, they could be addressed through other media. The anonymous author of the prefatory letter concedes that “it may seeme strange that [Wentworth] woulde venture to write it, in respect of these ticklish times, and of his present troubles for a lesser matter.”<sup>674</sup> Indeed, Wentworth spent the last four years of his life again imprisoned in the Tower of London for expressing his opinions on the matter of the succession. Collinson attributes the decline in Puritan leadership in Parliament in the latter years of Elizabeth’s reign to circumstances such as Wentworth’s imprisonment: “In the last two parliaments of the reign the puritan gentlemen were uncharacteristically docile, when they were not missing altogether.”<sup>675</sup> They did, however, pick up the slack in

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<sup>672</sup> Collinson, *Elizabethan* 311.

<sup>673</sup> Hadfield, *Shakespeare 7*; Peltonen, *Classical* 105. See also Paul E. J. Hammer, “Royal Marriage and the Royal Succession,” *A Concise Companion to English Renaissance Literature*, ed. Donna B. Hamilton (Malden, MA: Blackwell, 2006) 54-74. Susan Brigden emphasizes that Persons not only argued for Phillip, he argued that “neither monarchy nor the principle of succession were inviolable” and that the people could depose a tyrant and “could also alter the course of succession” (*New Worlds* 335-36).

<sup>674</sup> Prefatory letter sig.A1r.

<sup>675</sup> Collinson, *Elizabethan* 444.

print. Wentworth's tract was printed by Robert Waldegrave, the "puritan printer," who earlier had printed some of the Marprelate tracts.<sup>676</sup> Printing this tract—after Wentworth had been punished for expressing his opinion—could only be seen as a further assertion of the subject's right to counsel the monarch.

The author of the prefatory letter invokes Wentworth's own sense of duty, observing that Wentworth "was accustomed to say to his friends, if it bee a dutie required of us to communicate our knowledge in the meanest matters for mutuall instruction: who in any good conscience can suppress his knowledge in matters so greatly importing every private and publick estate of these Realmes?"<sup>677</sup> But the author invokes these sentiments to support his own reasons for publishing the tract: "I have published them both not so much to procure commendation & praise to the dead, though he justlie deserve it for his most worthie parts, as to worke a due regarde of right and equitie, to the good and behoofe of all my councitmen."<sup>678</sup> In the last part of this letter, it is agreed that James is the rightful heir to the throne ("if I did knowe a better right then the Scottish kings, I would unfainedlie favour it"), and a final appeal is made to the reader's reason: "I wish thee so to read these treatises of M. Wentworths, as hee was accustomed to read other mens, to wit, to yeeld to the reason, and not to the man."<sup>679</sup> Such language echoes the strains of humility many authors assumed in such prefatory materials. But in addition to establishing a humble persona, the words also recommend "a due regarde of right and equitie."<sup>680</sup> In asserting the subject's right to voice an opinion, the author asserts that debate leads to

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<sup>676</sup> Collinson, *Elizabethan* 448; 391.

<sup>677</sup> Prefatory letter sig.A1v.

<sup>678</sup> Prefatory letter sig.A1r-v.

<sup>679</sup> Prefatory letter sig.A2v.

<sup>680</sup> Prefatory letter sig.A1r-v.

the best decision. Of course, this is to echo Wentworth and others' claims to the right to speak freely in Parliament.<sup>681</sup> While Wentworth's previous efforts to secure the Commons' freedom of speech in counseling the Queen might have failed, efforts to establish the subject's rights continued on other fronts.

Wentworth carefully positions himself as a loyal subject. He begins the *Exhortation* by asserting that

true and heartie love, first towards God and his true Religion, secondlie a loyall and dutifull affection towards your highness person, & preservation: & lastly, a minde, by all lawfull meanes unfainedly wishing the good peace & prosperity of this our native country of England, and no other respectes whatsoever, have moved and stirred us up: first to devise and write, and nowe to offer and deliver unto your Majestie, this short discourse following.<sup>682</sup>

He hopes that he does not offend, but at the same time, he cannot allow a fear of offending to prevent him "from performing of a necessarie, profitable, and honorable service unto God, our Prince, & countrie."<sup>683</sup> Throughout the tract, he insists that his are the words of a loyal subject. He explains why naming her successor will protect the queen: she will learn "that the heartie good-will and liking of their subject towards them, is a farre better and stronger meane of their preservation, then either riches, strong holdes, or any such outward thing whatsoever."<sup>684</sup> By naming a Protestant successor,

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<sup>681</sup> Hartley, *Elizabeth's Parliaments* 140-42.

<sup>682</sup> Peter Wentworth, *A Pithie Exhortation To Her Majestie For Establishing Her Successor To the Crowne. Whereunto Is Added A Discourse Containing the Authors Opinion of The True and Lawfull Successor to Her Majestie* (Edinburgh, 1598) sig.B1r-v.

<sup>683</sup> Wentworth, *Exhortation* sig.B2r.

<sup>684</sup> Wentworth, *Exhortation* sig.D1r.

you should so break the neck of the Popishe hope of their golden day, that the despaire thereof would presently cause most of them (in reverence bee it spoken unto your Majestie) either to hang, or conforme themselves: and the rest woulde also give over all detestable practices against your noble person: yea, they would be glad to pray with us, & to use all good meanes with us for your preservation.<sup>685</sup>

Wentworth argues that the queen should proclaim her successor, but he knows full well that Elizabeth could not possibly share his conviction. Nonetheless, he argues that by advancing his judgment in the public sphere, he proves himself her loyal subject.

Heywood's *Edward IV* is equally concerned with the subject's loyalty to the monarch, if not necessarily to the concept of hereditary monarchy. Heywood was writing in an environment that entertained republican concepts to varying degrees: "In 1591, Oxford students presented to the degree of MA debated the manner of electing the magistrate, but in the following year they were told to argue that the well-being of a commonwealth depended on hereditary kingship."<sup>686</sup> Tracts with specifically republican claims, some of which related to office and freedom of speech, were printed in 1598-99. An anonymous 1598 translation of a work by the Polish author Laurentius Grimalius Goslicius, *The Counsellour*, advocated the election of virtuous rather than wealthy men to the magistracy; in 1599, Lewes Lewkenor's translation of Gasparo Contarini's *De magistratibus et republica Venetorum* also

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<sup>685</sup> Wentworth, *Exhortation*\_sig.D3r.

<sup>686</sup> Peltonen, *Classical* 105; Peltonen cites the *Register of the University of Oxford*, vol 2, (1571-1622) ed. Andrew Clark (Oxford: Oxford Historical Society, 1887).

praised the election of Venetian magistrates for their virtue rather than their wealth.<sup>687</sup> Lewkenor cited citizens' involvement in governing, praising the Venetian republic's inclusion of the people in electing new princes.<sup>688</sup> Goslicius considered it an essential aspect of a "citizen's liberty" to be "capable of offices, to have power to make & correct lawes, to speake freely in matters that concerne liberty, law or injury, not to be arrested or imprisoned without order of lawe or authoritie, nor be unjustly judged, robbed or forced to pay tribute."<sup>689</sup> The first part of Heywood's *Edward IV*, in particular, points to republicanism and to its efficacy of putting virtuous men in leadership. To the extent that Heywood associates free speech with London's lord mayor, its recorder, and other subjects, and then goes on to contrast the lord mayor with the monarch, his play can be read as recommending elective monarchy. At the very least, he protests the prohibition of speech about political issues such as the succession.

The opening scene sets up the play's comparison between the leadership of the monarch and the lord mayor. As others have noted, Heywood's *Edward IV* places "his private interests before the safety of London and the well-being of England."<sup>690</sup> Word of Falconbridge's rebellion in the name of the deposed Henry VI arrives while Edward and his mother, the Duchess of York, are disputing his marriage to Elizabeth. Edward is not surprised:

This is no new evasion.

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<sup>687</sup> Peltonen, *Classical* 111; 117. Wawrzyniec Grzymala Goslicki's *De optimo senatore libri duo* was printed in 1568; Contarini's *De magistratibus et republica Venetorum* was printed in 1543 but written earlier, in the 1520's. Lewkenor's translation was entitled *The commonwealth and government of Venice*.

<sup>688</sup> Peltonen, *Classical* 107.

<sup>689</sup> Qtd in Peltonen, *Classical* 109.

<sup>690</sup> Dillon, *Theatre* 44. See also Sullivan, *Landscape* 218.

I surely thought that one day I should see  
That bastard Falcon take his wings to mount  
Into our eagle aery.

(1.148-51)

Enlisting Howard and Sellinger as his deputies, Edward declares that “Tomorrow you shall have commission / To raise up power against this haughty rebel” (1.157-58).

Meanwhile, he will send a messenger to London: “Sirrah, depart not ‘till you know our pleasure; / You shall convey us letters back to London / Unto the Mayor,

Recorder, and our friends” (1.159-61). But it is food that is on Edward’s mind: “Is supper ready? Come by, my bonny Bess” (1.162). Whereas Heywood’s

contemporaries emphasized Edward IV’s military prowess, Heywood focuses on the king’s legendary self-indulgence, suggesting that it leads to disarray in the realm.<sup>691</sup>

The monarch’s own household is not unified. He has failed to rein in the nobility.

He is unconcerned about the threat of civil war.

If Heywood exposes the king, he idealizes the Lord Mayor, who takes Edward’s place as “the model of a warrior king.”<sup>692</sup> Chronicle accounts vary in the amount of detail they give to the Falconbridge rebellion. Richard Rowland suggests that they vary in tone, as well, arguing that Heywood likely drew upon the “civic preoccupations” of Robert Fabyan’s *The Great Chronicle* when he dramatized the “rebels’ strategies of social inversion.”<sup>693</sup> Fabyan’s account, like the play, features

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<sup>691</sup> Michael Hicks surveys contemporary perspectives on Edward IV in *Edward IV* (New York: Oxford UP, 2004) 31-65.

<sup>692</sup> Hicks, *Edward IV* 37.

<sup>693</sup> Rowland, “Introduction” 13. Other accounts of the rebellion include Raphael Holinshed, *Holinshed’s Chronicles of England, Scotland, and Ireland*, vol. 3 (1587; New York: AMS P, 1965) 321-29; Edward Hall, *The Union of The Two Noble and Illustre Famelies of Lancastre & Yorke* (1548;



the lord mayor in his role as the City's protector, but Fabyan emphasizes the actions of individual citizens and two other City officeholders, the recorder and the lieutenant of the tower. He celebrates the heroic actions of the recorder, Mr Ursewyk, who "Commandid In the name of God & Seynt Georege the portculious to be upp drawyn, The which was shortly doon, and theuppon Issuyd owth with theyr people, and with sharp shott and ffyers ffygh put theyr Enemyes bakk as fferre as Seynt Botulphis Chirch."<sup>694</sup> According to Fabyan, Robert Basset, an alderman of the City, led the citizens in pursuing the rebels, slaying many of them and taking others prisoner.<sup>695</sup> Sir Rauff Josselyn also slays and imprisons rebels, in addition to chasing Falconbridge until the rebel has fled for good.<sup>696</sup>

Heywood develops Fabyan's brief mention of the lord mayor to the degree that his Lord Mayor clearly directs the defense. In Fabyan's *Chronicle*, it is Robert Basset who encourages the citizens. Basset "laid on ffast abowth hym as he from the beginning hadd doon & comffortid hys people In such maner, That there was slayn many of the said Rebellys and shortly afftyr put unto fflygh, whom the said Robert Basset with the other Cytyzynes chacid unto mylis end..."<sup>697</sup> In Heywood's play, however, it is the Mayor who articulates the values of the commonwealth and motivates the subjects: "This is well done. Thus should good citizens / Fashion themselves, as well for war as peace" (3.1-2). The Lord Mayor commends the Recorder as

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New York: AMS P, 1965) 300-302; John Stow, *Stow's Survey of London* (1598; New York: E.P. Dutton, 1956) 29-30.

<sup>694</sup> Robert Fabyan, *The Great Chronicle of London*, eds. A. H. Thomas and I.D. Thornley (London: G.W. Jones, 1938) 219.

<sup>695</sup> Fabyan, *Chronicle* 220.

<sup>696</sup> Fabyan, *Chronicle* 220.

<sup>697</sup> Fabyan, *Chronicle* 219-20.

A discreet, painful gentleman ...  
And we must, all of us, be so inclined,  
If we intend to have the city safe,  
Or look for thanks and credit with the King.

(3.17-20)

Later, when word comes of the challengers' imminent arrival, the Lord Mayor exhorts, "St George, away! And let us all resolve, / Either to vanquish this rebellious rout, / ... Or seal our resolution with our lives" (3.93-96). The Lord Mayor stands in for the absent monarch.

Heywood's Lord Mayor, then, is not merely the King's deputy. He is a positive alternative to the monarch. The appeal of the Lord Mayor's leadership is not based merely on personality, but also, and crucially, on the more democratic institutional basis for his power. James C. Scott observes that societies that are ordered by extremes of hierarchies, such as feudal monarchies, are represented as being based on "vertical" relationships; all members of the community are united by their link to the lord or ruler, not by links to each other.<sup>698</sup> While subjects or subordinates, of course, develop a variety of "horizontal" links to each other, these connections "had, however, no place in the official picture, which acknowledged only social action by subordinates originating with the will of a superordinate."<sup>699</sup> In the first scene of the play, Edward calls our attention to the vertical links that support the monarchy: he sends his messenger to rouse London. When the Lord Mayor urges the citizens to earn the "thanks" of the King, he too acknowledges those vertical links.

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<sup>698</sup> James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale UP, 1990) 61-62.

<sup>699</sup> Scott, *Domination* 62.

However, the rhetoric available to a lord mayor also emphasizes the importance of the horizontal connections among citizens, making them part of the official picture. Thomas Norton dispensed this advice to the lord mayor:

In the generall course of governynge the Citie, ... it is good that all be donne with your Brethernes advice and assent: if they devise the best waie, let them allowe it: this waie is surest for wisdom and strongest concorde: suche warrant of agreement shall bothe direct yowe to do, and defende yowe when yowe have donne.<sup>700</sup>

In his role as chief defender of London, Heywood's Lord Mayor exemplifies such receptiveness to the counsel of his fellow citizens. He anxiously awaits the return of the Recorder since "his advice / Must not be wanting in these high affairs" (3.12-13). The Recorder himself assumes that he will be part of the counsel; when he returns, he reports on the City's preparations and then questions "Shall we now go together, and consult / What else there is to be determined of?" (3.49-50).<sup>701</sup> The Lord Mayor's response confirms the value placed on the Recorder's opinion and the role of free speech in the community: "Your coming, Master Recorder, was the thing / We all desired; therefore, let us consult" (3.51-52). The Lord Mayor leads not only by accepting the counsel of others, but by demanding it.

Heywood's play brings to bear this mode of political participation on the succession dispute. While the victor is eventually determined by battle, the subjects

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<sup>700</sup> Norton, "Instructions" 12.

<sup>701</sup> Dillon argues "What the scene seeks to highlight is an idealized harmony between civic leaders appointed respectively by the city (the mayor) and the crown (the recorder)." She goes on to note that the absence of the King complicates this idealized representation (*Theatre* 45).

spend considerable time defending the respective claims to the throne, as if they were debating the issue in Parliament. The Lord Mayor challenges Falconbridge:

We have no warrant, Thomas Falconbridge,  
To let your armed troops into our city,  
Considering you have taken up these arms  
Against our sovereign, and our country's peace.

(4.11-14)

Falconbridge says he seeks “entrance in King Henry’s name, / In right of the true line of Lancaster” (4.17-18). The Recorder asserts that “Should Henry’s name command thee entrance here, / We should deny allegiance unto Edward, / Whose true and faithful subjects we are sworn” (4.25-27). Shore tells Falconbridge that

My Lord Mayor bears his sword in his defence,  
That put the sword into the Arms of London,  
Made the lord mayors for ever after knights:  
Richard—deposed by Henry Bullingbrook—  
From whom the House of York doth claim their right.

(4.31-36)

What is at stake for the citizens, however, is more than just the rightful claimant.

To stage, in 1599, no less, citizens parrying monarchical claims to the throne must be to respond directly to anxiety over both the Elizabethan succession and the prohibition of comment about it. Heywood’s characters’ rhetoric emphasizes who is speaking, how they are speaking, and why they have the right to speak every bit as much as it does claims to the throne. In refusing entrance to Falconbridge, the Lord

Mayor demands “What’s he that beats thus at the city gates, / Commanding entrance as he were a king?” (4.5-6). Falconbridge asserts that

I tell thee, Mayor— and know he tells thee so  
That cometh armed in a king’s defence—  
That I crave entrance in King Henry’s name...  
Methinks that word, spoke from a Neville’s mouth,  
Should like an earthquake rend your chained gates.

(4.15-20)

In response to the defiance of the Recorder, Falconbridge reiterates “I tell thee, traitor” (4.28). Shore frames his reply by claiming authority to speak and by denigrating Falconbridge’s: “Nay, then, I tell thee, bastard Falconbridge...” (4.30). No wonder Falconbridge wants to know “What’s he that answers us thus saucily?” (4.37). Toward the end of the scene, after the Lord Mayor has spoken, Falconbridge mocks him as much for his manner of speaking as for his position: “Spoken like a man—and true velvet-jacket; / And we will enter, or strike by the way” (4.71-72). More than just rhetorical flourishes, these lines take up the vexed question of who is privileged to speak about political matters.

Falconbridge may mock the Lord Mayor, but the audience is being asked to respect the Lord Mayor for his reliance on his office as he prepares for battle. Encouraging the citizens, the Lord Mayor speaks of loyalty to the City: “Why, it is well, brothers and citizens; / Stick to your city as good men should do” (5.4-5). Significantly, he then holds up as inspiration a former lord mayor of London, rather than a monarch:

Think that in Richard's time, even such a rebel  
Was then by Walworth, the Lord Mayor of London,  
Stabbed dead in Smithfield;  
Then show yourselves as it befits the time,  
And let this find a hundred Walworths now  
Dare stab a rebel, were he made of brass.

(5.6-11)

As Garret Sullivan observes, the Lord Mayor exhorts the apprentices to fight since they might one day be lord mayor: "And prentices: stick to your officers, / For you may come to be as we are now" (5.12-13).<sup>702</sup> The Lord Mayor invokes the highest authorities: "God and our King against an arrant rebel!" (5.14), but he concludes his speech by referring to horizontal links: "Brothers, away: let us defend our walles!" (5.15). The Lord Mayor's vision of social mobility gives vertical relationships meanings at odds with static, monarchical authority. At the same time, it preserves horizontal (fraternal) dimensions.

As Janette Dillon observes, because the Lord Mayor's speech to the troops is reminiscent of Henry V's Agincourt speech, it reminds the audience of the monarch's absence.<sup>703</sup> But the speech serves another purpose as well, leading as it does into the apprentices' own "Agincourt" speeches. The apprentices respond to the Lord Mayor's exhortations: "My Lord, your words are able to infuse / A double courage in a coward's breast" (5.16-17). The rebel Spicing challenges their declaration to fight until the end, taunting that their speeches are "but your words: when matters come to

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<sup>702</sup> Sullivan, *Landscape* 211. Dillon (*Theatre* 48-49) and Lander ("Faith" 53, 61) also note the significance of these lines.

<sup>703</sup> Dillon, *Theatre* 45.

proof / You'll scud, as 'twere a company of sheep" (5.27-28). The apprentices resent this insult and offer as proof of their abilities testimony from history:

Nay, scorn us not that we are prentices.  
The chronicles of England can report  
What memorable actions we have done,  
To which this day's achievement shall be knit,  
To make the volume larger than it is.

(5.54-59)

From the apprentices' perspective, the history of England is—and should be—as much the history of apprentices as it is of monarchs. They are aware of their value and articulate their place in the official picture.

The character of Ralph Josselyn, historically both a representative in Parliament for London and a lord mayor, underscores the investment Heywood's City leaders have in articulating their positions. The chronicles' Josselyn is remarkably brave; in the play, however, Josselyn is notoriously inept in speech, bumbling his way through speech after speech. The Lord Mayor reassures him that "we are sure ye mean well, / Although somewhat defective in your utterance" (3.37-38). While the Lord Mayor is forgiving, Josselyn's speeches suggest the dangers of being inarticulate: "Sirrah Spicing, if Spicing be thy name, we are here for matters and causes, as it might seem, for the King; therefore, it were good—and so forth" (5.90-92). When Spicing responds with threats, Josselyn replies, "Fond fellow, justice is to be used—ay, marry, is it—and law, in some sort, as it were, is to be followed; O, God forbid else! This, our magistrate, hath power, as it might seem—and so forth; for

duty is to be observed, and officers must be obeyed, in sort and calling—and so forth” (5.97-100). Spicing recognizes that Josselyn’s vagueness leaves the way open for further inroads into the City’s defense. He tells Josselyn, “We’ll talk more anon, good master ‘and-so-forth’” (5.103). A representative of London, whether in Parliament or as lord mayor, ought to be able to articulate the commonwealth’s values. When Heywood’s Josselyn fails, his opponent perceives an opportunity to attack.

These first scenes, then, emphasize the importance of London’s citizens and the positions they (try to) articulate. They depict a ruler not just accepting but expecting counsel. Subsequent scenes continue to juxtapose the monarch and the lord mayor. Edward’s knighting of the citizens, meant to display monarchical power, provides a further opportunity to celebrate the Lord Mayor. Matthew Shore refuses to be knighted, but not because he does not merit royal favor. Instead, he does not consider himself to be the equal of the Lord Mayor and other aldermen: “Far be it from the thought of Matthew Shore / That he should be advanced with Aldermen, / With our Lord Mayor, and our right grave Recorder” (9.233-35). Later, the Lord Mayor ruminates on the honor of knighthood, but he, like Shore, distances himself from nobility: “I do not shame to say the Hospital / Of London was my chiefest fost’ring place” (16.11-12). Found by “an honest citizen,” “a poor shoemaker,” he was named after the cross by which he was found and apprenticed to a grocer (16.13-16). He attributes his success to God’s blessing, but he also notes that he has “well requited” the man who found him as well as the Hospital (16.24). He has even established a poor house, to be called Crosby House (16.28-29). As Dillon notes,



“the point of the speech is to highlight the civic context that supports this meritocracy.”<sup>704</sup> The Lord Mayor expresses the different ways in which he lives up to the citizens’ values, such as the expectation that City leaders be charitable. These values all speak to horizontal connections; the citizens foster each others’ prosperity, and they place as much, if not more, value on those relationships as they do on their relationships with the monarch.

Even though the Lord Mayor himself is initially impressed with Edward IV, Heywood immediately juxtaposes his keeping of the peace with Edward’s. The Lord Mayor praises Edward: “Sir Ralph Josselyn, have you ever seen / A prince more affable than Edward is? / What merry talk he had upon the way!” (10.104-06). Josselyn agrees: “Doubtless, my lord, he’ll prove a royal king” (10.107). But Heywood stresses that Edward’s language is ineffective; when it comes to containing the rebellion, the citizens, not the Crown, prevail. The Lord Mayor and Josselyn are interrupted by the Miller:

Here I present unto you, my Lord Mayor,  
A pair of rebels, whom I did espy  
As I was busy grinding at my mill;  
And taking them for vagrant idle knaves,  
That had beset some true man from his house,  
I came to keep the peace.

(10.109-114)

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<sup>704</sup> Dillon, *Theatre* 47. Jesse Lander also reads the speech as indicative of the city’s “‘open’ hierarchy” (“Faith” 62).

Fabyan's *Chronicle* reports that after the fighting, Edward IV "with a grete band of men Rode Into kent, and there cawsid enquiries to be made of the accessaries of the fforesaid Ryott, where many were ffound culpable, Of the which Such as were Rych were hangid by the purs, and the othir that were nedey were hangid by the nekkis."<sup>705</sup> In Heywood's play, it is the Lord Mayor who passes judgment on Spicing and Chubb, the two rebels caught by the Miller (10.119-48). Still later in his play, Heywood introduces a Vice-Admiral and a Captain of the Isle of Wight, who capture Falconbridge and sentence him to die (15.1-111).<sup>706</sup> It is, of course, the subject's duty to keep the king's peace. But in this case, the officeholders' dutifulness is contrasted with the monarch's inaction. It is no longer the king's peace; it is simply "the peace."

When Edward honors the Lord Mayor by dining with him, Heywood heightens the contrast between self-serving Edward and the self-sacrificing lord mayor. Lander describes the Edward of Heywood's play as "a potential tyrant"; I would omit "potential."<sup>707</sup> When the Lord Mayor makes a ceremonial speech, indicating the subjects' loyalty to the monarch, Edward is preoccupied with how he is being served: "Thanks, good lord Mayor; but where's my lady Mayoress? / I hope that she will bid us welcome too" (16.77-78). Even though Edward covets Jane Shore, he ironically casts the Lord Mayor as the appropriator of another man's property: "And Master Shore, tell me how like you this: / My Lord Mayor makes your wife his Lady Mayoress?" (16.131-32).<sup>708</sup> Of course, the Lord Mayor is only attempting to fulfill

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<sup>705</sup> Fabyan, *Chronicle* 220-21. Holinshed also reports that Edward IV "sate in judgement" in Kent (*Chronicles* 328).

<sup>706</sup> Rowland explains that "no chronicle so much as hints at any of this" (note to 15.1-2).

<sup>707</sup> Lander, "Faith" 59.

<sup>708</sup> Garrett Sullivan notes the parallel between Falconbridge's threatened siege of the city and Edward's advances (*Landscape* 216, 219).

the obligations of his office, while Edward ignores Cicero's advice for statesmen: "all appetites are to be restrained and tranquillized, and our attention and care must be awakened, to ensure that we do nothing rash or at random, without due consideration and in an offhand way."<sup>709</sup>

When Heywood depicts Edward as a monarch ruled by his whims, does he imply that electing magistrates is the best way to put virtuous men in office and thus serve the commonwealth? Goslicius had written in his 1598 tract that, out of many ways to "preserve the commonweale & happiness thereof, there is nothing better then to elect such men for magistrates, as be induced with greatest wisdom, judgement & vertue."<sup>710</sup> When Edward suddenly departs from the Lord Mayor's banquet, the worried Lord Mayor feels certain that some sudden illness has carried Edward off from the banquet, since "[the king] knows how it would glad my soul / If I had seen his highness satisfied / With the poor entertainment of his Mayor" (16.193-95). Matthew Shore reassures him by reminding him that "Kings have their humours" (181). Heywood, however, weighs monarchical "prerogative" (unquestioned by Shore) against the institutional checks on the lord mayor. As the recorder noted in 1594, yearly elections remind the lord mayor "to rule Men, and his Fellow Citizens; to rule them not after his will, but according to the laws."<sup>711</sup> Limited as he was by his supporting network of governors and by custom and law, a lord mayor would not easily—not as easily as a king—have devolved into a tyrant.<sup>712</sup>

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<sup>709</sup> Cicero, *On Obligations* 35.

<sup>710</sup> Qtd. in Peltonen, *Classical* 111.

<sup>711</sup> Qtd. in Manley, *Literature and Culture* 260.

<sup>712</sup> Archer, *Pursuit* 42.

When Edward prepares for war at the end of Part 1, he relies upon the Lord Mayor to be his deputy. Heywood implies that a polity in which officeholders merely substitute for the monarch devolves into a polity based on appearances. Subjects say only what they believe the tyrant expects. In a scene reminiscent of *Richard III*, Edward asks the Lord Mayor if he has “signified / Our thankfulness unto our citizens, / For their late gathered benevolence?” (21.40-42). The emphasis is on speaking; the lines reveal Edward’s overriding concern with how he is represented to the citizens. But this can work both ways; the Lord Mayor replies that

Before the citizens, in our Guildhall,  
Master Recorder made a good oration,  
Of thankful gratitude unto them all;  
Which they received with so kind respect  
And love unto your royal majesty,  
As it appeared to us they sorrowed  
Their bounty to your highness was no more.

(21.43-49)

Historically, Edward’s extraction of benevolences from his subjects was greatly resented.<sup>713</sup> The Lord Mayor’s lines indicate, however, that whether or not the citizens really are sorry that they cannot pay more is not as important as the claim that they “appeared” to be sorry. Edward then invites the Lord Mayor to accompany him

To see the order that we shall observe  
In this so needful preparation;

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<sup>713</sup> Hicks, *Edward IV* 38, 61.

The better may you signify to them

What need there was of their benevolence. (21.52-55)

Like Richard, Edward seeks to direct the Lord Mayor's perceptions.

But Heywood suggests just how difficult it is to dictate or prohibit speech. In contrast to *Richard III*'s Lord Mayor, who articulates only support for the monarch, *Edward IV*'s Lord Mayor responds that he will "wait upon your gracious majesty," only to note in an aside, "Yet there is one thing that much grieveth me" (21.56-57). Presumably a reference to Edward's adultery, the statement could refer to any one of the various ways in which Edward has fallen short. Matthew Shore later reiterates his loyalty to the king, telling Jane "I'll not examine his prerogative" (22.113). While Matthew may not consider it his right to question the prerogative, the Mayor's comment suggests that he does and has, and he has found the monarch lacking. Richard Helgerson concludes that in *Edward IV*, like other plays that explore the monarch's relationship to his subjects, "The kings are to blame, but kings are no more liable to retaliation than the inconstant world. Effective resistance is impossible—indeed, unthinkable."<sup>714</sup> But if the Lord Mayor cannot criticize the monarch to his face, he can do so in a dramatic aside, to others in the community. He can resort to word of mouth, to gossip, to rumor—the "politics of the excluded."<sup>715</sup> The king is "liable to retaliation," and "effective resistance" is not necessarily "unthinkable."

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<sup>714</sup> Helgerson, *Forms* 239.

<sup>715</sup> Tim Harris, "Introduction," *The Politics of the Excluded, c. 1500-1850*, ed. Tim Harris (New York: Palgrave, 2001) 9. See also John Walter, "Public transcripts, popular agency and the politics of subsistence in early modern England," *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*, eds. Michael J. Braddick and John Walter (Cambridge: Cambridge UP, 2001) 123-48.

Heywood's juxtaposition of the two officeholders culminates in a scene in which a subject substitutes the Lord Mayor for the King. The depiction of Edward's preparations for war suggests that his conference with the Lord Mayor about England's needs interrupts his pursuit of entertainment.<sup>716</sup> Hobs has come to London to seek forgiveness for his son, and Edward wants to jest at Hobs' expense. He resumes his disguise as "Ned," and Hobs, after greeting him, asks, "But, Ned, is not the King in this company? What's he in the long beard and the red petticoat? Before God, I misdoubt, Ned, that is the King" (23.42-44). Hobs explains he has learned this from drama: "I know it by my Lord What-ye-call's players.... Ever when they play an enterlout or a commodity at Tamworth, the King always is in a long beard and a red gown, like him; therefore I 'spect him to be the King" (23.44-49). Janette Dillon observes that this is a "highly self-reflexive moment, reminding a watching audience that ordinary people throughout England, and especially outside London, form their images of the monarch via representations such as the interludes Hobs describes or the play they now view."<sup>717</sup> But is not Heywood also asking his audience to decide whether the Lord Mayor would be the better ruler?

Whereas the Lord Mayor seeks to protect the commonwealth and advance the prosperity of its subjects, the King exploits his subjects for his entertainment. In the scene with Hobs, Edward insists that the Lord Mayor collude in his deception:

"Therefore, Lord Mayor, and you, my other friends, / I must entreat you not to

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<sup>716</sup> Helgerson, citing Anne Barton, argues that the "disguised king" scenes are meant to break down social barriers and "represent a dream of commonality" between king and subject (*Forms* 231-32). See also Anne Barton, "The King Disguised: Shakespeare's *Henry V* and the Comical History," *The Triple Bond: Plays, Mainly Shakespearean, in Performance*, ed. Joseph G. Price (University Park, PA: Pennsylvania State UP, 1975) 92-117.

<sup>717</sup> Dillon (*Theatre* 43). Lander also notes the significance of the scene in terms of theatrical spectacle ("Faith" 50).

knowledge me; / No man stand bare; all as companions” (23.8-10). The King can manipulate horizontal connections when it suits his purposes. When Hobs falls for the jest, Edward sets him straight: “No, trust me tanner, this is not the King; / ... This man is the Lord Mayor, Lord Mayor of London; / Here was the Recorder too, but he is gone” (23.50-54). Hobs then wonders: “What nicknames these courtnoles have! Mare, and corder, quotha? We have no such at Lichfield. There is the honest bailiff and his brethren; such words ‘gree best with us” (23.55-58). When Hobs mistakes the Lord Mayor and Recorder for courtiers, Heywood implies that the officeholders of a tyrant are no more than vacuous courtiers, not to be trusted.

Heywood’s play ends with Edward IV’s last command: “Lord Mayor, we thank you, and entreat withal / To recommend us to our citizens. / We must for France” (23.148-50). Once again, the monarch deputizes the Lord Mayor. Had Edward been present earlier in the play, however, he would have realized that when the Lord Mayor speaks, he articulates the values not necessarily of a feudal monarch, but of a community that values horizontal connections as much as vertical. He also would have realized that the subjects were not just fighting for him, but rather following the lead of the Lord Mayor and fighting for what he represents.

Heywood’s Lord Mayor represents both the subjects’ interest and the subjects’ right to be represented.

Heywood returns to the significance of office in his later play, the first part of *If You Know Not Me, You Know Nobody* (1604). *If You Know Not Me, You Know Nobody* has attracted some attention due to its textual transmission and to the seemingly incongruous nature of its two parts; the first part treats the ascendance of

Queen Elizabeth to the throne, and the second part deals primarily with the establishment of the Royal Exchange under Queen Elizabeth. Scholars have considered the pair of plays in relation to Heywood's works in general.<sup>718</sup> And the second part has been examined recently in terms of its concern with the Royal Exchange.<sup>719</sup> The first part, however, warrants attention for the precedent it sets for a newly-crowned monarch. Nostalgically recalling Elizabeth's virtues, the play can also be seen as another response to anxiety over monarchical succession. While the peaceful accession of James had allayed subjects' fears of civil disorder, it had led to new fears. As James established his new regime, subjects worried about his management of controversial issues such as the religious settlement and Parliament's authority.<sup>720</sup> *I If You Know Not Me* suggests that Heywood was still interested in republican concepts; at the very least, he takes pains to show the subject's part in legitimizing the monarch.<sup>721</sup> The play emphasizes the importance of the subject's voice. In particular, Heywood utilizes the lord mayor in his role as London's representative.

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<sup>718</sup>Barbara J. Baines, *Thomas Heywood* (Boston: Twayne Publishers, 1984); Kathleen E. McLuskie, *Dekker & Heywood: Professional Dramatists* (London: MacMillan, 1994).

<sup>719</sup>See Edward T. Bonahue, Jr., "Social Control, the City and the Market: Heywood's 2 *If You Know Not Me, You Know Nobody*," *Renaissance Papers*, 1993, eds. Barbara J. Baines and George Walton Williams (The Southeastern Renaissance Conference, 1994); Theodore B. Leinwand, *Theater, Finance and Society in Early Modern England* (Cambridge: Cambridge UP, 1999). In another perspective on the play's connection to the market, Anita Sherman explores the play's concern with charity in "The Status of Charity in Thomas Heywood's *If You Know Not Me You Know Nobody II*," *Medieval and Renaissance Drama in England* 12 (1999) 99-120.

<sup>720</sup> See, for example, Frederick Shriver, "Hampton Court Re-visited: James I and the Puritans" *Journal of Ecclesiastical History* 33.1 (1982): 49-71; Kenneth Fincham and Peter Lake, "The Ecclesiastical Policy of King James I," *Journal of British Studies* 24 (1985): 169-207; J.H. Hexter, "Freedom of Elections" 21; Judith M. Richards, "The English Accession of James VI: 'National' Identity, Gender and the Personal Monarchy of England" *English Historical Review* (2002): 513-535.

<sup>721</sup> Andrew Hadfield argues that even though the peaceful accession of James had eased the urgency of the "republican moment," Shakespeare remained interested in republicanism (*Shakespeare* 205).



Heywood contrasts Catholic Mary and Protestant Elizabeth, and the scenes that represent each queen's accession are indicative of his perceptions about the two monarchs as well as the subject's place in the commonwealth. No coronation ceremonies for Mary are depicted in the beginning of the play; instead, Mary and her Lord Chancellor imperiously command the subjects to accept her. Mary's first entrance is signaled by the Bishop of Winchester's direction to the conversing lords: "Good morrow Lords, attend the Queen into the presence" (1.42).<sup>722</sup> Mary then declares "By god's assistance and the power of heaven, / We are instated in our brother's throne" (2.48-49). The representation of Elizabeth's installation, on the other hand, suggests a different sort of legitimacy for her reign. Lawrence Manley has observed that in Elizabeth's coronation entry in 1559, "contractual exchange played a crucial role."<sup>723</sup> Heywood's *Sussex* initiates the exchange: "The imperiall Crowne, I here present your Grace, / With it my staffe of Office and my place" (23.1520-21). When the other officeholders follow his example, resigning from their offices, Elizabeth reinstates some and accepts the resignations of others. While Heywood represents Mary as assuming the throne in the manner of a tyrant, his Elizabeth is instated in office.

Heywood also depicts the Lord Mayor endorsing Elizabeth as England's rightful, Protestant ruler. The final officeholder who takes part in Elizabeth's coronation proceedings is the Lord Mayor of London:

I from the Citty London do present,

This Purse and Bible to your Majesty,

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<sup>722</sup>All citations are from Thomas Heywood, *If You Know Not Me You Know Nobody Part I* (Oxford: Malone Society Reprints, 1934).

<sup>723</sup>Manley, "Civic Drama" 297.

A thousand of your faithfull Cittizens  
In Velvet Coats and Chaines well mounted, stay  
To greet their royall Sovereigne on the way.

(23.1573-77)

In the historical procession, the Bible was given to Elizabeth in a pageant by figures representing Truth and Time.<sup>724</sup> Heywood's Lord Mayor, perhaps standing in for Truth, transfers to Elizabeth the symbols of her civic and spiritual authority.

Elizabeth receives the gifts: "An English Bible, thanks my good Lord Maior" (23.1580).<sup>725</sup> In presenting Elizabeth with this symbol of Protestantism, the Lord Mayor upholds a primary obligation of his office: the lord mayor was "firste to have care of God" since "it is he that ministreth and prosperously governethe all good meaninges."<sup>726</sup> In particular, the lord mayor needed to beware of the "heresie of Papistrie, whiche hathe, and is not onelie the damnable subverter of sowles, but also the universall enemye and supplanter of all just crownes and kingedomes, and of all lawfull, civill, politics, states, and jurisdictions."<sup>727</sup> In contrast with the scene that represents Mary's accession, here, the subjects legitimize the ruler.

In Heywood's *I If You Know Not Me*, as in *King Edward IV* and Shakespeare's *Richard III*, it is the Lord Mayor's duty to speak for the monarch and for London's citizens. But these dramatists are also recording subtle differences in their perceptions of the mayoralty and of other offices. Mary, Richard, and Edward

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<sup>724</sup> John Nichols, *The Progresses and Public Processions of Queen Elizabeth*, vol. 1 (London, 1823) 35. David Bergeron notes that this final scene echoes accounts of Elizabeth's royal entry into London and that Heywood has made some changes involving the Lord Mayor's part, but he does not elaborate (*Civic Pageantry* 20, 25-26).

<sup>725</sup> David Bergeron notes that in the original procession, Elizabeth also emphasized the Englishness of the Bible (*Civic Pageantry* 25).

<sup>726</sup> Norton, "Instructions" 7.

<sup>727</sup> Norton, "Instructions" 8.

assume that as monarchs, they can direct officeholders' performances of their offices, deputizing them to speak and scripting their speeches. But Heywood and Shakespeare question the assumption that an officeholder is merely a monarch's mouthpiece. Early modern English subjects were engaged in constant negotiations with their monarchs over their role in England's polity; in their depictions of London's Lord Mayor and Recorder, Shakespeare and Heywood construe office as an important conduit for the representation of subjects.

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