

PIETISTS, JURISTS, AND THE EARLY ENLIGHTENMENT CRITIQUE OF PRIVATE CONFESSION IN LUTHERAN GERMANY*

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From the 1680s to the 1720s German Lutheran pastors' use of private confession and suspension from Communion as a means of disciplining wayward parishioners generated seminal theological and intellectual debates. They were driven by Pietists and secular natural law jurists and concerned ultimately the purported corruption in the early Christian church that led to the abusive, unwarranted, and centuries-long intrusion of clerical power into secular affairs. By investigating these debates, this essay reveals in new ways the constructive collision of two different intellectual predispositions—one clerical, the other legal—that propelled the early Enlightenment in Germany. Letters from the 1680s and other writings of Philipp Jakob Spener, the father of German Pietism, show how he and fellow clergymen wrestled with specific pastoral challenges regarding the disciplining of allegedly unrepentant and incorrigible sinners. Christian Thomasius, a central figure in the early Enlightenment, and other secular natural law jurists vigorously rebutted the Pietists' claims by critically examining the practice of confession in the primitive church, thereby exposing the historical origins of priestcraft. In doing so, Thomasius highlighted affinities between his work and that of the radical Pietist Gottfried Arnold, who had indicted the clergies of Christian churches for their unjust and inveterate persecution of religious dissidents. But Thomasius also faulted Arnold for weaknesses in his biblical scholarship. Thomasius's criticism points to the special form of biblical scholarship that secular natural law jurists had helped to develop and that predisposed them to embrace radical interpretations of Scripture, a potent stimulant of early Enlightenment thought.

* Earlier versions of this article were presented at the North Carolina German Studies Seminar and Workshop Series (Chapel Hill, NC, March 2010), the annual meeting of the German Studies Association (Oakland, CA, Oct. 2010), the Forschungszentrum Gotha für kultur- und sozialwissenschaftliche Studien der Universität Erfurt (April 2011), the Interdisziplinäres Zentrum für Pietismusforschung der Martin-Luther-Universität

During the early German Enlightenment the subject of Lutheran church discipline elicited considerable controversy, and much of it pivoted around the ecclesiastical rite of private confession.¹ Because of the requirement in most Lutheran territories that a pastor remit in private confession an individual's sins before admitting the person to the Lord's Supper, the rite served as a convenient instrument for the correction of a parishioner's moral failings. By refusing to hear confession and utter the formula of absolution, the pastor suspended the individual from taking Communion and receiving its attendant social and sacramental benefits. Some of the controversy played itself out in the city of Halle, epicenter of the early Enlightenment in Lutheran Germany, and the adjacent small town of Glaucha. In the latter the Pietist August Hermann Francke famously disciplined many of his parishioners by excluding them from the Lord's Supper,² while Christian Thomasius, the preeminent secular natural law jurist at the University of Halle and a tireless champion of reason and religious toleration, questioned in some of his writings the legitimacy of using private confession for that purpose. Pietists and jurists stood in opposite corners of the ring.

Recently Renate Dürr has suggested that this opposition was less direct than one might suspect. After rightly noting that the two parties formulated important but distinctly different critiques of private confession, she pointed out intriguingly that the jurist Johann Georg Pertsch (1694–1754), in a major treatise on private confession published in 1721, grounded some of his most trenchant criticisms of the religious rite by quoting extensively from the theological writings of Philipp Jakob Spener, the father of German Pietism. Pertsch's treatise in many respects crowned and synthesized the broadly similar work of other secular natural law jurists that had appeared in the previous two decades, and Pertsch's

Halle-Wittenberg (May 2011), the Seminar für Kirchen- und Dogmengeschichte der Evangelisch-Theologischen Fakultät der Johannes-Gutenberg-Universität Mainz (May 2011), and the Triangle Intellectual History Seminar (Research Triangle Park, NC, Sept. 2011). The author is grateful for the helpful comments received at these presentations and from three anonymous readers. Grants from the University of North Carolina at Chapel Hill and its University Research Council supported the research for this article.

¹ Unlike the Roman Catholic Church, the Lutheran churches regarded private confession not as a sacrament but as an ecclesiastical rite that did not entail the enumeration of sins. See Articles 11, 12, and 25 of the Augsburg Confession (1530) and Articles 11 and 12 of the Apology of the Augsburg Confession (1530). Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Minneapolis, 2000), 44–5, 72–3, 185–218.

² In 1698, six years after Francke had arrived in Glaucha, with a population of slightly more than five hundred souls, he refused to admit sixty-four men and women to the Lord's Supper. Veronika Albrecht-Birkner, *Francke in Glaucha: Kehrseiten eines Klischees (1692–1704)* (Tübingen, 2004), 20–22, 39–40.

frequent invocations of Spener seem to point to a deep connection between the Pietists' and jurists' calls for the overhaul of confession.³

Dürr's suggestion poses anew a venerable but still vital question in early modern German history: to what extent did Philipp Jakob Spener and the religious movement that he inspired contribute to the development of the early Enlightenment, whose origins centered around Christian Thomasius and other secular natural law jurists at the University of Halle?⁴ Investigating this question particularly with respect to the controversies about church discipline illuminates sharply a crucial dimension of the early Enlightenment: the struggle to determine the proper scope of the church's power and authority in Germany's cultural and intellectual life. Pietists and jurists also represent more than just synecdochically two distinct characterizations of Europe's Enlightenment that have, since the 1990s, elicited considerable productive debate. The recent scholarship that has limned the contours of the *religious* Enlightenment, in which theology and theologians occupy a prominent place, has greatly complicated and modified the older characterization of the Enlightenment as an overwhelmingly *secular* intellectual movement that turned away from church and religion.⁵ Critical study of a specific instance in which these two Enlightenments, early in their

³ Renate Dürr, *Politische Kultur in der Frühen Neuzeit: Kirchenräume in Hildesheimer Stadt und Landgemeinden, 1550–1750* (Heidelberg, 2006), 291–303. In general the Pietists found private confession wanting because pastors did not adequately examine the sincerity of confessants' remorse and their resolve to cease sinning and because parishioners confessed their sinfulness superficially and mechanically. The jurists, however, criticized private confession because pastors used it to exclude allegedly unworthy parishioners from the Lord's Supper. Exclusion, the jurists contended, entailed the use of force to compel acceptable behavior and thus amounted to a form of compulsion—a secular punishment over which the sovereign alone and not the church possessed exclusive authority.

⁴ Hans-Werner Müsing, "Spener's *Pia Desideria* und ihre Bezüge zur deutschen Aufklärung," *Pietismus und Neuzeit*, 3 (1976), 32–70, at 32–6, 38–42, reviews the early scholarship on Spener's relation to the early Enlightenment. See also Martin Gierl, *Pietismus und Aufklärung: Theologische Polemik und die Kommunikationsreform der Wissenschaft am Ende des 17. Jahrhunderts* (Göttingen, 1997), 261–93; Thomas Ahnert, *Religion and the Origins of the German Enlightenment: Faith and the Reform of Learning in the Thought of Christian Thomasius* (Rochester, NY, 2006), 28–9. On Halle and the origins of the early Enlightenment see Anton Schindling, "Die protestantischen Universitäten im Heiligen Römischen Reich deutscher Nation im Zeitalter der Aufklärung," in Notker Hammerstein, ed., *Universitäten und Aufklärung* (Göttingen, 1995), 9–19, at 15–16, 18; Martin Mulso, "The Itinerary of a Young Intellectual in Early Enlightenment Germany," in Martin Fitzpatrick et al., eds., *The Enlightenment World* (London, 2004), 117–33, at 117–18.

⁵ Jonathan Sheehan, "Enlightenment, Religion, and the Enigma of Secularization: A Review Essay," *American Historical Review*, 108/4 (2003), 1061–80; David Sorkin, *The Religious Enlightenment: Protestants, Jews, and Catholics from London to Vienna* (Princeton, 2008), 1–21.

development, actually ground against one another, thereby exposing some of the differences in their adherents' theological and intellectual predispositions—differences that stemmed partly from the adherents' professional callings—can lead to a deeper understanding of how thinkers in this period perceived and grappled with the porous boundary between secular and religious.

The controversies over private confession were such an instance, in which the protagonists published an abundance of material pertaining to some of the initial divergences between the two Enlightenments. In these controversies, which pivoted around crucial aspects of the relationship between pastor and parishioner that the Pietists strove to reconfigure, learned writings on the scope of clerical authority intersected with divisive issues about pastoral care in local churches. The protagonists responded to these issues, and the sources uniquely disclose specific ways in which troublesome matters about private confession in the parish contributed to the stimulation of Enlightened discussion. Thus the first part of the present essay critically examines Spener's reflections on church discipline from 1680 to 1690. Careful consideration of this difficult and formative period, when Spener ministered in Frankfurt am Main and Dresden, reveals new facets of his practical theology, provides a solid basis for contrasting him with the jurists, and offers fresh insights into positions that he took in Berlin during the tumultuous 1690s. The second part considers the jurists, beginning with Christian Thomasius and Nikolaus Hieronymus Gundling—Pertsch's two principal predecessors who criticized private confession and excommunication.⁶ In making their case, they hardly appealed to the theological arguments of church Pietists like Spener. Thomasius's, Gundling's, and Pertsch's writings show, however, that the jurists closely allied themselves with the radical Pietist Gottfried Arnold while also spotlighting his failure to detect the "true" historical origins of the clerical abuse of church discipline. Thomasius's criticism of Arnold on this score demonstrates the enormous importance that secular natural law jurists attached to critical biblical scholarship as a means of demonstrating that clerical authority had extended itself far beyond its proper bounds. In closing on the topic of biblical scholarship, the present essay thus complements significantly Ian Hunter's important study of Thomasius's writings on church–state relations.⁷

⁶ For the sake of brevity, the present article does not consider the related work of Gottlieb Gerhard Titius.

⁷ Ian Hunter, *The Secularisation of the Confessional State: The Political Thought of Christian Thomasius* (Cambridge, 2007).

I

Philipp Jakob Spener expressed two distinct views of the pastor's obligations respecting confession, absolution, and suspension from the Sacrament. The first view insisted that the pastor could never solely on his own authority suspend a parishioner; the second claimed that the pastor could do so under special circumstances. Although not mutually exclusive in the strict sense, the views do not harmonize with one another. A consideration of the specific pastoral and historical circumstances that relate to each helps in gauging the importance that Lutheran churches and clergymen attached to these obligations in the late seventeenth century and, more importantly, in clearly recognizing that Spener regarded private confession and suspension as an essential instrument of church discipline.

The first view emerged largely during a bitter conflict between Spener, who served as the senior pastor in Frankfurt am Main from 1666 to 1686, and some of his earliest critics. Soon after the publication in 1675 of *Pia Desideria*, which sketched his program of reform of the Lutheran church, he found himself confronted by the threat of separatism in Frankfurt's church. The threat came from a small group of devout men and women led by Johann Jakob Schütz, a prominent jurist, one of the individuals whose longing for earnest religious conversation prompted Spener in 1670 to establish a conventicle (*collegium pietatis*), and until 1684 his close friend. Unlike most of the academics who gathered in Spener's house during the conventicle's initial phase, Schütz still remained involved in 1675. Indeed some early observers regarded him, not Spener, as the conventicle's guiding light. After the publication of *Pia Desideria*, however, Schütz became disillusioned at the prospects for reforming the Lutheran church. Despite the broad approval of Spener's work, Schütz did not discern much concrete evidence in Frankfurt or elsewhere in Germany that churchmen were preparing to introduce specific measures that would bring about the necessary change. Most probably as an expression of his growing disillusionment, he decided in late 1676 not to receive Communion any longer in the Lutheran church, insisting that he would not partake if only a little prevented the unworthy from partaking. Although Schütz continued to attend Sunday services and did not question any of the Lutheran teachings about the Eucharist, his decision deeply troubled Spener, who recognized that it could lead eventually to calls for those who saw themselves as the true believers to separate from the official church.⁸

⁸ Andreas Deppermann, *Johann Jakob Schütz und die Anfänge des Pietismus* (Tübingen, 2002), 180–84, 186–7, 190; Brecht, "Philipp Jakob Spener, sein Programm und dessen Auswirkungen," in Brecht, ed., *Geschichte des Pietismus*, vol. 1, *Der Pietismus vom siebzehnten bis zum frühen achtzehnten Jahrhundert* (Göttingen, 1993), 279–389, at 317.

The situation worsened in 1682 because of an enormous scandal over the refusal of the jurist Christian Fende, an extremely close friend and colleague of Schütz, to receive Communion. Fende's spiritualist interpretation of the Eucharist embarrassed the clerical authorities in Frankfurt by providing proof, one could argue, that Spener's program of religious reform would lead inevitably to noxious disputes and the seeds of heterodoxy.⁹ Unable to persuade Fende to change his views, Spener thus broke off friendly relations with him, Schütz, and anyone else who refused to receive the Sacrament.¹⁰

In September 1684, Schütz finished writing *Abdruck eines Discurses über die Frage: Ob die Außerwehlte verpflichtet seyen, sich nothwendig zu einer heutigen grossen Gemeinde und religion insonderheit zu halten?* (Printed Account of a Discourse Concerning Whether the Elect Are Obligated Today to Belong to a Specific Large Congregation and Religion). Published anonymously soon thereafter, this short tract vigorously defends the need of the true believers to separate from the official church. In doing so, *Abdruck eines Discurses* also rebuts the principal arguments with which Spener had urged Fende and his followers to return to the fellowship of the Lutheran church. In the same month, Spener completed *Der Klagen über das verdorbene Christenthum mißbrauch und rechter gebrauch* (Misuse and Proper Use of the Complaints about Corrupted Christianity), which appeared in 1685. By no means brief, this work systematically develops the arguments that Schütz had attacked. Although neither author apparently knew in advance of the other's writing, the two texts present the most salient reasons given for and against separatism that had circulated in Frankfurt for a decade.¹¹

Schütz argued in *Abdruck eines Discurses* that Judas' presence at the Last Supper signified only that Christ's disciples could include hypocrites or potential sinners.

⁹ The inadvertent disclosure in the fall of 1682 of a letter that Fende had written in 1680 revealed his views and precipitated the scandal. Portions of the letter are in Philipp Jakob Spener, *Briefe aus der Frankfurter Zeit, 1666–1686, vol. 4, 1679–1680*, ed. Johannes Wallmann (Tübingen, 2005), 792–3. On Fende's relation to Schütz see Deppermann, *Johann Jakob Schütz*, 106, 123–34, 176, 180.

¹⁰ Deppermann, *Johann Jakob Schütz*, 187–9; Brecht, "Philipp Jakob Spener," 318. On Spener's farewell in 1686 to Schütz and Fende see Martin Friedrich, "Frankfurt als Zentrum des frühen Pietismus," in Roman Fischer, ed., *Von der Barfußkirche zur Paulskirche: Beiträge zur Frankfurter Stadt- und Kirchengeschichte* (Frankfurt am Main, 2000), 187–202, at 202; Klaus vom Orde, "Philipp Jakob Spener und sein Frankfurter Freundekreis," in *ibid.*, 203–14, at 204; Philipp Jakob Spener, *Briefe aus der Dresdner Zeit: 1686–91, vol. 1, 1686–1687*, ed. Johannes Wallmann (Tübingen, 2003), 85–90 (6 Sept. 1686).

¹¹ On these two texts plus related writings see Deppermann, *Johann Jakob Schütz*, 190–97; Dietrich Blaufuß, "Einleitung: Überlieferung—Zusammenhang—Inhalt," in Philipp Jakob Spener, *Schriften*, vol. 4, ed. Erich Beyreuther (Hildesheim, 1984), 11–67, at 18–33; Brecht, "Philipp Jakob Spener," 318–19.

But Paul showed in 1 Corinthians 5:11 that the elect and true believers should not associate at all with those who had manifestly sinned.¹² In *Der Klagen* Spener commented specifically on the separatists' abstention from Communion by parsing the relevant scriptural passages to affirm that Judas had indeed partaken in the first celebration of the Eucharist, during which Christ had announced that one of his disciples would betray him, and that Judas had already begun to carry out this betrayal. Strikingly, Spener presented his arguments without any qualification and thus concluded emphatically "that to communicate with the unworthy is not only not forbidden but to abstain from Communion on their account is wrong."¹³ Spener then turned to Paul's First Letter to the Corinthians for additional scriptural evidence that the worthy and the unworthy were to receive Communion together.¹⁴ Significantly, one finds no hint of compromise on Spener's part.

During this period Spener argued also that he could admit an undeniably unrepentant churchgoer to the Lord's Supper. One should interpret his claim as a weak corollary of his denial that the righteous should withdraw from Communion, as key elements of Spener's argument appear in a letter written most probably in 1683 or the first half of 1684,¹⁵ in which he sketched out his strategy for dealing with the threat of separatism. Spener stressed two points. First, pastors should explain often and clearly to their parishioners that the absolution given in confession was always conditional and could not benefit them if they lacked faith (Spener added "repentance" in later writings). As parishioners fully absorbed this teaching, the letter implied, those who made insincere confessions would realize that they still remained unworthy of receiving the Lord's Supper and thus would

¹² Deppermann, *Johann Jakob Schütz*, 195 n. 690, 199.

¹³ Philipp Jakob Spener, *Der Klagen über das verdorbene Christenthum mißbrauch und rechter gebrauch* . . . repr. in Spener, *Schriften*, vol. 4 (first published Frankfurt am Main, 1685), 103–398, at 248–53, esp. 252.

¹⁴ *Ibid.*, 253–6.

¹⁵ Philipp Jakob Spener, *Theologische Bedencken und andere Briefliche Antworten*, 4 vols. in 5 (Hildesheim, 1999; first published Halle, 1700), 1/2: 269–81, where the last page bears the incorrect date of "167–." The first four volumes of Spener, *Briefe aus der Frankfurter Zeit*, which cover the years from 1666 to 1680, do not include the letter, and Wallmann has noted that some letters in *Theologische Bedencken* that supposedly come from the end of this period are misdated. Johannes Wallmann, foreword to Philipp Jakob Spener, *Briefe aus der Frankfurter Zeit*, vol. 3, 1677–1678 (Tübingen, 2000), v–ix, at viii. Moreover, the letter addresses primarily issues that Spener would have confronted only after the disclosure of Christian Fende's missive in the fall of 1682. Spener mentioned near the end of his letter (at 281) the value of having a theologian publish a thorough and balanced treatment of these issues. On 4 June 1684 he disclosed his intention of writing such a work. See Blaufuß, "Einleitung," 20–21. Thus one should date Spener's letter somewhere between October 1682 and May 1684.

abstain willingly from partaking of the Sacrament. The grievance that offended the separatists would thereby vanish. Second, pastors had received no explicit scriptural command to bar the unworthy from the Lord's Supper. Spener observed that Christ did not exclude Judas from the Last Supper. Thus the admission of the unworthy, in and of itself, could not amount to a sin insofar as the Lord could do no wrong. Only under exceptional circumstances would sin result.¹⁶ Spener also glossed 1 Corinthians 11:27–32, which briefly discusses the unworthy who receive Communion and which apparently the separatists cited approvingly to warn of the judgments that the unworthy, the pastor, and the entire congregation would suffer together for the lax administration of the Sacrament. The judgments, Spener asserted, applied only to the unworthy, who desecrated the Sacrament by receiving it, and not to the other communicants or the minister. Since Paul had admonished the entire congregation (*die gantze gemeinde strafft*) for having allowed this desecration to occur, Spener acknowledged the ultimate desirability of barring the unworthy, but he suggested that, given the wretched condition of the Lutheran church, trying to bar them now would do more harm than good.¹⁷

Other letters present an additional key element of the argument: the Lutheran church's authority to suspend or excommunicate the unworthy. Writing in 1680 to Gregor Cephalius, a German pastor of the Lutheran congregation attached to the Swedish embassy in Paris, Spener explained that the authority to excommunicate a churchgoer rested not with the individual pastor or with the clergy as an estate but with the entire church. The Lord most wisely gave the church this authority because if it resided in the pastor, the pastor would let human emotions, including the desire for revenge, influence his decisions. Moreover, Spener recommended that church courts include simple laymen as members and that the entire congregation participate in judging cases involving the ban. Such participation would correspond to the institution established by Christ.¹⁸ In a letter from 1684 that deals in part with separatism, Spener affirmed that Christ had given the entire church—the clergy, the authorities, and the laity—the power of the keys. Moreover, as a servant of the church, a pastor can use this power only as long as no one challenges his judgment. If such a challenge occurs, then the pastor must step aside and let the entire church judge the matter. Thus he would not sin in admitting an unworthy parishioner to the Lord's Table if the church disagreed with the pastor and deemed the parishioner worthy and if the pastor had warned the parishioner of the consequences of receiving the Sacrament unworthily.

¹⁶ An example of such circumstances would be the pastor's failure to warn the confessant sufficiently of the spiritual dangers of unworthily taking Communion. Spener, *Theologische Bedencken*, 4: 202 (1684).

¹⁷ *Ibid.*, 1/2:270, 274, 276–77, 278.

¹⁸ Spener, *Briefe aus der Frankfurter Zeit*, 4: 756–7 (1680).

Spener remained troubled, however, because the clergy and the authorities had managed to exclude the laity from participating in reaching decisions about a parishioner's unworthiness. Nevertheless he could not abide by a church constitution that did not prohibit the individual pastor from excommunicating a parishioner.¹⁹ In a third letter, also from 1684, Spener not only emphasized Christ's institution of the ecclesiastical order in which the individual pastor—fallible and occasionally self-interested—lacked the authority to bar someone from Communion but also urged the reinstatement of lay elders who, as in the early church, would assist pastors; warn, admonish, and comfort churchgoers; and oversee and represent the entire congregation.²⁰ Presumably these elders would participate in decisions about suspension and excommunication. Significantly, all three letters asserted that Christ had constrained the pastor's authority.

All these elements stand behind Spener's resolute acknowledgment that he would let an undeniably unrepentant sinner take Communion. The pronouncement appears in a long letter written in December 1684 that deals with many topics, including separatism. After reiterating briefly that the congregation, but not the pastor alone, possessed the authority to bar the unworthy from the Sacrament, Spener noted that he regarded absolution and Communion differently: "I cannot knowingly grant the former [i.e. absolution] unconditionally ["absolute"] to the unrepentant; from the latter [i.e. Communion], a common resource ["einem allgemeinen gut"], I cannot bar anyone without [the approval of] those who possess this authority." If a notoriously godless person ("notorie ein gottloser mensch") should come to the confessional but did not promise to repent and turn away from sin ("will er

¹⁹ Spener, *Theologische Bedencken*, 4: 201–3 (1684).

²⁰ *Ibid.*, 4: 308–10 (1684). Spener's proposal for the reinstatement of lay elders probably came from Theophil Großgebauer's *Wächterstimme aus dem verwüsteten Zion* (1661), a work that influenced Spener enormously. See Jonathan Strom, *Orthodoxy and Reform: The Clergy in Seventeenth Century Rostock* (Tübingen, 1999), 201–6, 219; Johannes Wallmann, *Philipp Jakob Spener und die Anfänge des Pietismus*, 2nd edn (Tübingen, 1986), 162–3, 173–5; Brecht, "Philipp Jakob Spener," 284, 294, 297. Wallmann, *Philipp Jakob Spener*, 243–5, highlighted also the influence of Joachim Betke's writings. On Joachim Betke (1601–63), a pastor in Brandenburg, see Martin Brecht, "Die deutschen Spiritualisten des 17. Jahrhunderts," in Brecht, *Der Pietismus vom siebzehnten bis zum frühen achtzehnten Jahrhundert*, 205–40, at 221–3; Brecht, "Philipp Jakob Spener," 297, 320. In 1556, however, Erasmus Sarcerius had already called for the involvement of lay elders in church discipline. Erasmus Sarcerius, *Von einer Disciplin . . .* (Eisleben, 1556), 158r. On the importance of Sarcerius for Lutheran church discipline see Martin Brecht, "Lutherische Kirchenzucht bis in die Anfänge des 17. Jahrhunderts im Spannungsfeld von Pfarramt und Gesellschaft," in Hans-Christoph Rublack, ed., *Die lutherische Konfessionalisierung in Deutschland: Wissenschaftliches Symposium des Vereins für Reformationsgeschichte 1988* (Gütersloh, 1992), 400–20, at 403–6.

nicht buß und besserung versprechen”), “then I confess . . . that I must proclaim God’s wrath and point out to him that Communion will become for him his damnation, and one can do nothing other than admit him as Judas.” Here the godless, one should note, refused to promise repentance and improvement, and, a few lines later, Spener reaffirmed unequivocally that he would not absolve the godless (both those who refused to promise repentance and amendment and those who promised hypocritically) but would admit them to the Lord’s Supper. “Always standing before my eyes is the example of our Savior, who still admitted Judas immediately to the first Communion, which in truth did not happen without reason and bears within it a comfort for us.”²¹ In those circumstances in which a patently unrepentant parishioner insisted on receiving the Sacrament and the congregation did not object, the pastor on his own should grant absolution conditionally (not unconditionally) and should yield to the parishioner’s demand.

Fourteen months later Spener in effect stated the argument a final time, but the occasion apparently did not concern the threat of separatism. In a *responsum* that he wrote and that reflected the collective theological opinion of the Lutheran ministers in Frankfurt, Spener carefully judged a controversy concerning the respective authorities and responsibilities of the laymen and ministers who sat on consistories. His lengthy treatment of the many issues includes a discussion of suspension from Communion. Noting in particular that the procedure did not differ from that for excommunication, Spener insisted once again that only a consistory, in which laymen participated meaningfully, could rightfully suspend a churchgoer. Significantly, he praised the church ordinances of Burg-Friedberg and electoral Saxony. In these territories, a pastor alone under no circumstance could exclude an egregious sinner who refused to repent and amend. Instead the pastor had to report the person to the consistory, which would carefully deliberate the evidence and decide whether to proceed with suspension.²² As noted earlier, Spener had claimed in 1680 and 1684 that Christ had constrained the pastor’s authority; Spener’s final statement of the argument in 1686 showed that a significant body of church law reflected Christ’s institution.

But Spener carved out an exception so that the pastor could suspend a churchgoer, and it lies at the heart of his second view of confession and absolution. Defended largely after Spener had assumed in mid-1686 the

²¹ Philipp Jakob Spener, *Letzte Theologische Bedencken und andere Briefliche Antworten*, 3 vols., ed. Carl Hildebrand von Canstein (Hildesheim, 1987; first published Halle, 1711), 1: 140–41 (13 Dec. 1684).

²² *Ibid.*, 1: 579–81 (concerning consistories in general), 585–8 (17 Feb. 1686). For the relevant passages in electoral Saxony’s massive church ordinance of 1580 see Emil Sehling, ed., *Die evangelischen Kirchenordnungen des XVI. Jahrhunderts, vol. 1, Sachsen und Thüringen, nebst angrenzenden Gebieten. Erste Hälfte* (Leipzig, 1902), 115, 408, 428, 431–4.

prestigious appointment as senior court preacher in Dresden to the Elector of Saxony, Johann Georg III, this second view appears initially in a long letter from 1683, when Spener was contending with the separatists. In the section concerning the unworthy, Spener insisted again that a pastor alone, unavoidably buffeted about by his emotions, did not hold the authority to bar anyone from Communion; instead consistories that included clergymen, government officials, and representatives of the laity should decide whom to admit and to exclude. Thus a pastor, on the basis of his preaching of the Law and the Gospel, should only explain to churchgoers whether he regarded them as worthy or unworthy, leaving it to the individual to decide whether or not to partake in the Sacrament. But, Spener added significantly, “the Lord himself through the apostles” had declared that an unrepentant is an unworthy guest at Communion, and if a confessant did not want to promise to cease committing clearly undeniable sins, then “will he appropriately be denied . . . that [i.e. Communion], which no one who knows anything about Christian teachings can grant him.” In brief, the refusal to profess repentance manifested one’s unworthiness to approach the Lord’s Table.²³ Completing the discussion of the pastor’s responsibilities, Spener then argued that under all circumstances in which the confessant either denied guilt in committing a particular sin or admitted guilt but also averred (perhaps insincerely) repentance and amendment or in which the pastor and the confessant disagreed about the sinfulness of a moral adiaphoron, the pastor should not resort to using the ban.²⁴ Thus the pastor could suspend only churchgoers who did not deny their unrepentance.

Once in Dresden and no longer pressed by the specter of separatism, Spener consistently affirmed that church ordinances allowed the pastor to exclude men and women who admitted their unrepentance and unwillingness to turn away from sin. Spener still insisted that the entire church had received the authority to decide who was worthy and who was not, but with the new focus on ordinances he endowed the pastor with some power to suspend on his own. Thus, in a letter to a pious layman in 1687, Spener reiterated the familiar claim about the entire church but then stated that a pastor should bar from Communion churchgoers who admitted their unrepentance. In doing so, the pastor would act in accord with the will of the church as expressed in its own ordinances everywhere (“kirchenordnungen aller orten”). If the pastor only suspected unworthiness, however, he should admit the churchgoer just as Christ admitted Judas to the Last Supper.²⁵

In June and October 1687, Spener received from the minister of a parish near Leipzig letters asking for pastoral advice. A substantial portion of Spener’s long response, an epistle dated 27 February 1688, focuses on the power of the keys.

²³ Spener, *Theologische Bedencken*, 4: 60–62.

²⁴ *Ibid.*, 62–4. See also *ibid.*, 1/1: 675 (1686).

²⁵ Spener, *Briefe aus der Dresdner Zeit*, 797–8 (1687).

God, Spener averred, had given this power and the other treasures of salvation (“schätze des heyls”) to His church. Moreover, although Christ had ordained that the clergy would not only preach and administer the sacraments but also use the power of the keys, the entire church always holds the right to oversee their use. Regarding specifically the power to bind, a clergyman must use it in accord with the congregation.²⁶ Later in the letter, Spener again distinguished explicitly between churchgoers who, each time they confessed, affirmed their repentance and promised amendment, only to fall into sin afterwards, and churchgoers who admitted in confession that they did not want to amend their behavior by setting aside personal animosities with their neighbors or by renouncing particular sins. With the first group, a pastor could do no more than warn of the spiritual dangers of an insincere confession and then pronounce absolution. With the other group, however, Spener stated unequivocally that the church, in all its ordinances (“in allen ordnungen”), had expressed its will on the basis of God’s Word and had instructed the pastor to exclude the churchgoer.²⁷ Finally, in a letter from 1689, Spener affirmed that parishioners who presented themselves as unrepentant and would not abstain from behavior that they recognized as sinful should not receive admission to the Lord’s Supper. All godly order (“alle göttliche ordnung”) excluded such persons. But when pastor and parishioner honestly disagreed on whether a particular behavior was sinful, then the pastor had no authority to judge the parishioner’s unworthiness and bar him or her from the Sacrament. And if the parishioner’s unworthiness is hidden, neither the church nor the pastor is at fault for admitting the person; Jesus admitted Judas, whose evil had not manifested itself before the Last Supper.²⁸

In 1690, Spener stated the argument more assuredly. He was still serving as the senior court preacher even though he had fallen out of favor with the Elector of Saxony in the previous year. Moreover, the Pietist controversy had reached its most acute phase.²⁹ The religious movement that had originated in Frankfurt two decades earlier finally began to gain significant traction in many parts of Lutheran Germany, which led Pietism’s opponents to attack fiercely the movement’s alleged theological, pastoral, and social dangers. In his correspondence, Spener addressed all manner of questions that arose because of Pietism’s sudden and unexpected change of fortune. A few letters deal with issues about absolution and private

²⁶ Philipp Jakob Spener, *Briefe aus der Dresdner Zeit*, vol. 2, 1688 (Tübingen, 2009), 82–3 (27 Feb. 1688).

²⁷ *Ibid.*, 85–6 (27 Feb. 1688).

²⁸ Spener, *Theologische Bedencken*, 1/2: 297–9 (1689).

²⁹ Ryoko Mori, *Begeisterung und Ernüchterung in christlicher Vollkommenheit: Pietistische Selbst- und Weltwahrnehmungen im ausgehenden 17. Jahrhundert* (Tübingen, 2004), 1–4; Gierl, *Pietismus und Aufklärung*, 37.

confession but do not include any startling statements.³⁰ But one letter concerning suspension does.

The opening sections cover familiar ground. Scripture did not explicitly bar the admission of the unworthy to the Lord's Supper, Jesus allowed Judas to partake in the Last Supper, the entire church and not the pastor alone must decide who is worthy to receive the Sacrament and who is not. The entire church, Spener explained, meant ideally the whole congregation or—a notch lower—an ecclesiastical court instituted by the whole congregation and consisting of representatives of the three estates. But even the garden-variety consistory, which the authorities established, could serve the purpose.³¹ A few pages later, however, he stated explicitly that the pastor, without first seeking the approval of the consistory, could bar from Communion those who openly admitted that they did not want to renounce sin or to set aside personal animosities.³² Slightly bolder than Spener's earlier claims, this one did not bother to refer to church ordinances.

In this particular letter from 1690 Spener had relaxed the restrictions but did not remove them. Thus, although a pastor could bar some parishioners without first seeking the approval of his superiors, he needed to inform them as soon as possible. Spener wanted also to minimize any possible confusion about the authority that he had just ascribed to the pastor. Accordingly, the letter's next section describes broadly how the pastor and parishioner could disagree concerning what is a sin and the parishioner's blameworthiness, sincerity in repenting, and knowledge of Christian doctrine. In these and similar situations, the pastor lacked the authority to decide these disputes in his favor, and, if the congregation and the consistory found the parishioner repentant, then the pastor should abide by their decision and not plead his conscience.³³

The tension between Spener's two views is patent. One view strictly prohibited a pastor alone from suspending a churchgoer, while the other specified exceptional circumstances in which he could do so. Although Spener cited particular church ordinances to support one view but referred only vaguely to ordinances and godly order for the other, the contrast does not diminish the validity of the second view. In fact, the Württemberg church ordinance of 1559, the Mecklenburg church ordinance of 1602, and most probably others explicitly gave pastors the authority to suspend.³⁴ Thus Spener's views reflected the two different approaches taken

³⁰ Spener, *Theologische Bedencken*, 1/2: 195–7 (1690), 207–8 (1690), 208–10 (1690).

³¹ *Ibid.*, 251–54 (1690).

³² *Ibid.*, 254–5.

³³ *Ibid.*, 255. See also *ibid.*, 264–5 (1695).

³⁴ August Ludwig Reyscher, ed., *Vollständige, historisch und kritisch bearbeitete Sammlung der württembergischen Gesetze*, vol. 8 (Stuttgart, 1834), 192–3; *Revidirte Kirchenordnung . . . Im Hertzogthumb Meckelnburg . . .* (Rostock, 1602), 229r–v. See also Ernst Bezzel, *Frei*

by Lutheran territorial churches in the Holy Roman Empire in determining the extent to which pastors could discipline their parishioners. That the first view crystallized as Spener struggled with the separatists and disappeared from his writings after 1686 suggests that he leaned decidedly toward the second.

Understanding where Spener stood on confession, absolution, and suspension helps to clarify an important aspect of his relation with August Hermann Francke, who in 1692 introduced in Glaucha a severe form of church discipline in which he, as pastor, suspended parishioners who did not forsake the enjoyment of pleasurable pastimes. During the next four decades his method of controlling moral behavior then received, with the implicit support of the state, broader application in Brandenburg-Prussia.³⁵ When Spener learned of the first suspensions, he protested bitterly in a letter to Francke. But soon thereafter Spener reconsidered the matter, retracted his initial objections, and wrote to Francke accordingly.³⁶ In commenting on these letters, scholars have noted that Spener's protest points to a considerable gulf between the two men regarding their assessments of church discipline.³⁷ Without necessarily denying or diminishing the significance of this difference, one should observe, however, that Spener, in justifying his subsequent decision to retract his objections, invoked the principle that he had embraced firmly in the late 1680s: church ordinances gave pastors the authority to suspend men and women who admitted their impenitence. In accepting what Francke had done in Glaucha, Spener did not need to compromise his earlier views. Indeed, in his letter from 1684 that called for the reinstatement of lay elders, he had insisted that pastors had not received the authority to suspend but then admitted the outside possibility that a divinely inspired preacher could righteously bar the unworthy.³⁸

zum Eingeständnis: Geschichte und Praxis der evangelischen Einzelbeichte (Stuttgart, 1982), 76–8, 159.

³⁵ For a superb case study of this application see Ulrike Gleixner, “Die ‘Ordnung des Saufens’ und ‘das Sündliche erkennen’: Pfingst- und Hütetiere als gemeindliche Rechtskultur und Gegenstand pietistischer Mission (Altmark 17. und 18. Jahrhundert),” in Jan Peters, ed., *Konflikt und Kontrolle in Gutsherrschaftsgesellschaften: Über Resistenz- und Herrschaftsverhalten in ländlichen Sozialgebilden der Frühen Neuzeit* (Göttingen, 1995), 13–53, at 13–14, 15, 45.

³⁶ Philipp Jakob Spener, *Briefwechsel mit August Hermann Francke, 1689–1704*, ed. Johannes Wallmann and Udo Sträter (Tübingen, 2006), letter no 28 (9 July 1692), 118–19; no 31 (16 July 1692), 128–9. See also Spener, *Letzte Theologische Bedencken*, 3: 507 (15 July 1692).

³⁷ Udo Sträter, “Spener und August Hermann Francke,” in Dorothea Wendebourg, ed., *Philipp Jakob Spener—Leben, Werk, Bedeutung: Bilanz der Forschung nach 300 Jahren* (Tübingen, 2007), 89–104, at 100–1; Veronika Albrecht-Birkner, *Francke in Glaucha: Kehrseiten eines Klischees (1692–1704)* (Tübingen, 2004), 28–9.

³⁸ Spener, *Theologische Bedencken*, 4: 308–9 (1684).

This understanding also adds important nuance to the current interpretation of Spener's role in the *Berliner Beichtstuhlstreit* (Berlin confession controversy) in the mid-1690s. The controversy ended partly because Elector Frederick III in 1698 abolished the requirement that communicants in the residence cities of Berlin and Cölln had to confess privately before approaching the Lord's Table. For well over a century scholars had expressed mild puzzlement over Spener's failure to express any enthusiasm for the sentiments that led to the Elector's decision. Recently, however, Claudia Drese has plausibly suggested that this reservedness reflected the lessons that Spener had learned in Frankfurt while responding to the threat of separatism.³⁹ One could bolster Drese's argument by noting that Spener's view that pastors should suspend churchgoers who admitted their impenitence probably predisposed him against any arrangement that would completely eliminate pastors' limited authority to bar the unworthy.

Finally, the close consideration of Spener's two views shows that the father of German Pietism had not developed a consistent and principled critique of private confession. He had not cleared any ground from which the secular natural law jurists could launch their attack. In the context of the present essay, this finding far outweighs those concerning his role in the *Berliner Beichtstuhlstreit* and his relationship with Francke. Spener's pronouncements varied considerably in tone and substance according to the specific pastoral and ecclesiastical challenges that confronted him, either directly or indirectly, and only their careful examination permits an accurate distillation of his views. Indeed, in considering the particular shortcomings of private confession in Frankfurt in 1677, Spener preferred that the city would have the rite not at all than that it should have it in its current form.⁴⁰ But obviously neither this statement alone nor any other in isolation represents his views. Overall, however, he regarded private confession as a useful instrument of church discipline.

II

Argued mostly in private letters, the views of Spener on confession, absolution, and suspension from taking Communion eventually became accessible to early Enlightenment learned readers. With the publication of *Theologische Bedencken* (Theological Reflections) from 1700 to 1702 and the posthumous *Letzte Theologische Bedencken* (Last Theological Reflections) in 1711, a large portion of his pastoral letters in German and related writings in practical theology now

³⁹ Claudia Drese, "Der Berliner Beichtstuhlstreit oder Philipp Jakob Spener zwischen allen Stühlen?", *Pietismus und Neuzeit*, 31 (2005), 60–97, at 95.

⁴⁰ Spener, *Briefe aus der Frankfurter Zeit*, 3: 506 (1677); see also Wallmann, *Philipp Jakob Spener*, 220–21.

circulated widely.⁴¹ The jurist Johann Georg Pertsch drew selectively on this vast fund of material to suggest that his critique of private confession accorded with some of Spener's views. Christian Thomasius and Nicolaus Hieronymus Gundling—the two principal secular natural law jurists who criticized confession prior to Pertsch—largely ignored this epistolary legacy. Understanding the specific intellectual and politico-ecclesiastical aims of each of these jurists illuminates the early Enlightenment struggle in Lutheran Germany between church and state and provides additional insights into Pietism's contribution to this struggle.

The broader historical situation requires sketching. After Spener had moved from Dresden to Berlin in 1691, Glaucha and Halle became the principal bastion of German Lutheran Pietism. August Hermann Francke led the movement there and held academic appointments at the university, while Thomasius, through his prolific writings and programmatic reform of legal education, propelled the development of early Enlightenment thought. Between these two men, however, difficulties were brewing, and they became public in 1699. A series of increasingly bitter disputes followed that turned erstwhile allies into bitter rivals who competed for academic power and prestige. The outcome of the contest hinged ultimately on patronage and influence in Berlin, and in 1713, when Frederick William ascended the throne and the contest between Francke and Thomasius reached its decisive phase, the latter found to his regret that he did not hold the advantage. The famous alliance between Halle Pietism and the Prussian state now solidified completely, and Thomasius, who in 1710 had become the director of university, abandoned his hopes of curbing significantly the theology faculty's intellectual and institutional authority.

Fraught with major implications for Prussia's cultural and intellectual life during the early Enlightenment, the controversy between Francke and Thomasius began modestly. Almost immediately, however, private confession surfaced as a point of contention, although it touched Thomasius only personally. In 1699, as the irrevocable break between Thomasius and the Halle Pietists began to unfold, Francke threatened the jurist's wife with suspension. She found a new confessor, and Thomasius himself ceased to receive Communion and eventually stopped attending Francke's sermons. Under these circumstances, one would hardly expect Thomasius, six years later, to employ the arguments of church

⁴¹ All the letters cited in the current essay appeared originally in *Theologische Bedencken* and *Letzte Theologische Bedencken*. For an incisive commentary on these publications see Udo Sträter, "Von Bedencken und Briefen: Zur Edition der Briefe Philipp Jacob Speners," *Zeitschrift für Religions- und Geistesgeschichte*, 40/3 (1988), 235–50.

Pietists in his critique of private confession.⁴² From this moment on, at the latest, Thomasius could not have found any redeeming qualities in the Lutheran church's use of this ecclesiastical rite, and in 1706 he critically analyzed some of the most glaring and galling abuses that attended the power of the keys.

Thomasius wrote *Bedencken über die Frage: Wieweit ein Prediger . . . sich des Binde-Schlüssels bedienen könne* (Reflections Concerning the Extent to Which a Preacher Can Invoke the Power of the Keys) originally as a judicial opinion in response to a request from the Lutheran duke of Brunswick-Wolfenbüttel-Lüneburg Anton Ulrich for clarification of several prickly issues in church–state relations. The issues had arisen when two Pietist ministers, the court preacher and the court deacon in Wolfenbüttel, threatened the duke with suspension from the Lord's Supper because he was insisting that his granddaughter, Elisabeth Christine, convert to Catholicism so that she could marry Charles of Habsburg, one of the contenders for the throne during the war of the Spanish Succession and in 1711 the successor to his brother Joseph I as emperor. Averring that the duke would sin grievously by pursuing his dynastic ambitions in such a manner, the ministers insisted that the duties of their clerical office bound them to admonish and even suspend him.⁴³

Thomasius's *Binde-Schlüssels* hinges exclusively on arguments derived from secular natural law, the most important of which defined exclusion from Communion as a secular punishment, whose use lies exclusively under the authority of the prince and not the clergy. Most significantly, Thomasius strengthened his case by turning to church history. Drawing on the work of the English polyhistor John Selden (1584–1654), Thomasius asserted that the small and large bans used by the first Christians, namely Christ and the Apostles, did not involve exclusion from Communion and worship services, as the example of Judas shows, and amounted to nothing less than the Old Testament Jewish ban,

⁴² Carl Hinrichs, *Preußentum und Pietismus: Der Pietismus in Brandenburg-Preußen als religiös-soziale Reformbewegung* (Göttingen, 1971), 370–77; Walther Bienert, *Der Anbruch der christlichen deutschen Neuzeit dargestellt an Wissenschaft und Glauben des Christian Thomasius* (Halle, 1934), 162–71; Gustav Kramer, *August Hermann Francke: Ein Lebensbild*, 2 vols. (Halle, 1882; repr. Hildesheim, 2004), 2: 149–50.

⁴³ Luise Schorn-Schütte, *Evangelische Geistlichkeit in der Frühneuzeit: Deren Anteil an der Entfaltung frühmoderner Staatlichkeit und Gesellschaft: Dargestellt am Beispiel des Fürstentums Braunschweig-Wolfenbüttel, der Landgrafschaft Hessen-Kassel und der Stadt Braunschweig* (Heidelberg, 1996), 445–8. For Thomasius's own account of the affair and its consequences, plus a small selection of documents, see Christian Thomasius, "Von Laster der beleidigten hohen Obrigkeit, wenn Evangelische Priester derselben die Absolution und das Abendmahl zu versagen sich unterfangen," in *Ernsthaftte . . . Thomasische Gedancken und Erinnerungen über allerhand auserlesene Juristische Händel*, 4 (1721), 102–209.

whose origins and purpose were entirely secular.⁴⁴ Soon after the deaths of the Apostles, however, the church attached the penalty of exclusion, and the Christian ban began to diverge from the Jewish. Abuses sprouted, and they worsened significantly during and after the reign of Constantine as the ban became a bulwark of papal power and illegitimate clerical authority in society.⁴⁵ With this argument Thomasius bolstered significantly the broader interpretation of early church history that he had first outlined in the late 1680s—an interpretation stressing irremediable decay and deformation in Christian congregations since the first century after the Resurrection.⁴⁶

Later he attacked the claim that Christ's institution of the office of the pastor meant that ministers, in performing their duties respecting preaching, the sacraments, and the power of the keys, did not owe any obedience to secular authorities—a claim widely accepted by theologians and jurists in both Protestant churches. In noting, however, that several writers, including Grotius and Erastus, had already exposed the popish arguments supporting the clergy's claim of independence but consequently had to fend off suspicions of heresy and threats of censorship, Thomasius underscored the need for a critical and rather detailed historical study of the conflict between secular government and the priesthood—"Historiam Controversiae inter Imperium & Sacerdotium." He also spotlighted the celebrated and controversial spiritualist and radical Pietist

⁴⁴ Christian Thomasius, *Bedencken über die Frage: Wieweit ein Prediger . . . sich des Binde-Schlüssels bedienen könne* (Wolffenbüttel, 1706), 38–49. Thomasius's invocation of the Judas argument to claim that Christ and the Apostles would have used only the Jewish ban, a secular and civil penalty that did not involve the exclusion from worship services, differs from Spener's, which aimed to establish whom a minister could and could not exclude from Communion.

⁴⁵ *Ibid.*, 49–60.

⁴⁶ Ahnert, *Religion and the Origins of the German Enlightenment*, 60–61, claiming, however, that the decline began in the second century; Frank Grunert, "Antikerikalismus und christlicher Anspruch im Werk von Christian Thomasius," in Jean Mondot, ed., *Les Lumières et leur combat: La critique de la religion et des églises à l'époque des Lumières. Der Kampf der Aufklärung: Kirchenkritik und Religionskritik zur Aufklärungszeit* (Berlin, 2004), 39–56, at 42; Horst Dreitzel, "Christliche Aufklärung durch fürstlichen Absolutismus: Thomasius und die Destruktion des frühneuzeitlichen Konfessionsstaates," in Friedrich Vollhardt, ed., *Christian Thomasius (1655–1728): Neue Forschungen im Kontext der Frühaufklärung* (Tübingen, 1997), 17–50, at 29 n. 30, 34–5; Martin Pott, "Christian Thomasius und Gottfried Arnold," in Dietrich Blaufuß and Friedrich Niewöhner, eds., *Gottfried Arnold (1666–1714): Mit einer Bibliographie der Arnold-Literatur ab 1714* (Wiesbaden, 1995), 247–65, at 255–6; Bienert, *Der Anbruch*, 433, 435–6, 453, 456–9; Erich Seeberg, *Gottfried Arnold: Die Wissenschaft und die Mystik seiner Zeit: Studien zur Historiographie und zur Mystik* (Meerane in Sachsen, 1923; repr. Darmstadt, 1964), 509–10; Seeberg, "Christian Thomasius und Gottfried Arnold," *Neue kirchliche Zeitschrift*, 31 (1920), 337–58, at 351–2.

Gottfried Arnold (1666–1714), whose recent writings on the early church and the history of heresy revealed that papal corruptions appeared immediately after the time of the Apostles (“alsobald nach der Apostel Zeiten eingerissen”).⁴⁷ Thomasius rooted deeply his treatment of private confession, exclusion from Communion, and church discipline in a critical history of the church, especially the early church.

He returned to this point in 1721 in an account in his journal *Ernsthaffte . . . Juristische Händel* (Earnest . . . Juristic Controversies) of the circumstances surrounding the publication of *Binde-Schlüssels*. In recalling Duke Anton Ulrich’s satisfaction after reading the as yet unpublished text and a companion judicial opinion concerning the possible punishment of the court preacher and the court deacon, Thomasius wrote, “Your Highness was especially pleased that I deduced the origins of the small ban and how it was regarded in the first centuries and said that as you read the work, it was as if you let a passage from Arnold’s *Ketzer-Historie* be read.”⁴⁸ According to the account, Thomasius then reflected on the merits of publishing the text and on the need for a history of the conflict “inter imperium & sacerdotium.” Soon thereafter he began to lecture on the subject and to draft this history,⁴⁹ and in 1722 he published *Historia Contentionis inter Imperium et Sacerdotium* (History of the Strife between Secular Government and Priesthood), a compendium designed specifically for his students.⁵⁰ Thomasius regarded his critiques of church discipline and church history as extensions of Gottfried Arnold’s work.⁵¹

The importance of Arnold to the secular natural law jurists emerges also from the intervention of Nikolaus Hieronymus Gundling (1671–1729) in the dispute about excommunication. A polyhistor, university professor, and the most brilliant of Thomasius’s students, Gundling eventually became a Prussian privy

⁴⁷ Thomasius, *Bedencken über die Frage*, 4–6, 145–8, 150–51.

⁴⁸ Thomasius, “Von Laster,” 191.

⁴⁹ *Ibid.*, 192–7.

⁵⁰ *Historia Contentionis inter Imperium et Sacerdotium . . .* (Halle, 1722). The account of the work’s origins in the preface differs from, but does not necessarily contradict, that in “Von Laster.” Concerning the former see Stephan Buchholz, “*Historia Contentionis inter Imperium et Sacerdotium*: Kirchengeschichte in der Sicht von Christian Thomasius und Gottfried Arnold,” in Vollhardt, *Christian Thomasius*, 165–77, at 168.

⁵¹ On the many relations between Arnold and Thomasius see Ahnert, *Religion and the Origins of the German Enlightenment*, 63–4; Buchholz, “*Historia Contentionis*,” 165–77; Pott, “Christian Thomasius und Gottfried Arnold,” 247–65; Gertrud Schubart-Fikentscher, “Thomasius zur Kirchengeschichte,” in *Festschrift Guido Kisch: Rechtshistorische Forschungen* (Stuttgart, 1955), 189–202, at 192–3, 199–200; Bienert, *Der Anbruch*, 434–8; Seeberg, *Gottfried Arnold*, 498–516; Seeberg, “Christian Thomasius und Gottfried Arnold,” 337–58.

councillor and prorector of the University of Halle, and his scholarly publications in jurisprudence and history contributed enormously to the rejuvenation and eventual ascendancy of these disciplines in Germany's academic institutions in the eighteenth century.⁵² Although not directly related to his acclaimed contributions to German intellectual life, his involvement in the controversy over the ban merits particular note because of the link between criticizing church discipline and championing the early Enlightenment cause of religious freedom—a link that pivoted around Gottfried Arnold.⁵³

After completing his studies in Wittenberg in 1689, Arnold worked as a house tutor in Dresden and became a Pietist, largely through Spener's influence. He then resided in Quedlinburg, a Lutheran town, almost uninterruptedly from 1693 to 1701. There Arnold gradually embraced a brand of Pietist separatism infused with strong elements of seventeenth-century German mysticism and spiritualism; wrote profusely on various theological subjects; and, with the publication of his monumental *Unparteyische Kirchen- und Ketzer-Historie* (Impartial History of the Church and Heretics) in 1699 and 1700, won immediate recognition as one of the most trenchant critics of the persecution of religious dissidents by the Roman, Lutheran, and Reformed churches. Because of his avowal of separatism and, thus, his refusal to belong to any of the three confessions officially recognized by the Peace of Westphalia, leading orthodox Lutheran clergymen across Germany pressed for Arnold's expulsion from Quedlinburg. They included Johann Fecht, an elderly professor of theology at the University of Rostock, who stoked the campaign at decisive moments. In 1701, under mounting pressure, Arnold departed from Quedlinburg, and in 1702 he accepted from the Dowager Duchess of Saxe-Eisenach an appointment as castle preacher in Allstedt while steadfastly refusing to acknowledge the Formula of Concord as his confession. Because of this refusal, the attacks of the orthodox Lutheran clergy continued, the duke refused to confirm the appointment, and Arnold once again faced the threat of expulsion. His difficulties finally eased in 1705 when the Prussian king, Frederick I, who had been intervening diplomatically since 1701 on behalf of Arnold, allowed him to serve as a pastor and superintendent in the Altmark in Brandenburg. Even after this denouement, however, the orthodox Lutheran

⁵² Notker Hammerstein, *Jus und Historie: Ein Beitrag zur Geschichte des historischen Denkens an deutschen Universitäten im späten 17. und im 18. Jahrhundert* (Göttingen, 1972), 205–65.

⁵³ The following account of Arnold's career draws broadly on Hans Schneider, "Der radikale Pietismus im 17. Jahrhundert," in Brecht, *Der Pietismus vom siebzehnten bis zum frühen achtzehnten Jahrhundert*, 391–437, at 410–16; Schneider, "Der radikale Pietismus im 18. Jahrhundert," in Martin Brecht and Klaus Deppermann, eds., *Geschichte des Pietismus*, vol. 2, *Der Pietismus im achtzehnten Jahrhundert* (Göttingen, 1995), 107–97, at 116; Gierl, *Pietismus und Aufklärung*, 315–20.

clergy, including Fecht, continued to sally forth against this radical Pietist, who, without abandoning his theological convictions, had managed to secure a clerical office in a territorial church.⁵⁴

In two biting reviews that appeared anonymously in 1711 and 1713 in *Neue Bibliothec* (New Library), a leading journal for the dissemination of early Enlightenment thought that Gundling himself edited, he roundly criticized two works of Johann Fecht that defended excommunication and its use even against kings and princes. More importantly, the reviews reminded readers that Fecht had acted disreputably as a heretic-monger in the unjust thirteen-year campaign of orthodox Lutheran clergy to vilify Arnold because of his separatism and refusal to acknowledge the Formula of Concord as his confession. In short, Gundling was arguing in favor of religious freedom for everyone by asserting that Fecht and his kind, who threatened kings and princes with the ban, posed a greater danger to civil peace than did Arnold.⁵⁵

Only the second review touches specifically on the administration of Communion. This occurs in a brief discussion of Fecht's claim that the Christian church, throughout its history, had commonly barred the unworthy from the Sacrament. Moreover, to neuter Spener's argument in *Theologische Bedencken* that Scripture provides no evidence that pastors must exclude notorious sinners from Communion since Christ included Judas in the Last Supper, Fecht had alleged that Christ's sufferance of sinners became otiose after the descent of the Holy Spirit on the Apostles and all believers. To this Gundling remarked dismissingly that the dispensation established by the New Testament and the spirit of the early eighteenth century made the use of punishments (*Schrecken*) and harsh threats inappropriate as a means to discipline Christians.⁵⁶ Two points deserve note. First, Fecht, not Gundling, introduced Spener's argument, if only to dismiss it in the end. Second, Gundling apparently did not regard the argument as one that he should defend and turn against Fecht.

Gundling's defense of the controversial author of *Unparteyische Kirchen- und Ketzer-Historie* does not mean, however, that Arnold and the jurists agreed in

⁵⁴ On the sustained campaign against Arnold, including a work that Fecht wrote in 1714, see Gierl, *Pietismus und Aufklärung*, 321–3.

⁵⁵ Nic[olaus] Hieron[ymus] Gundling, "Bericht und Bedencken über D. Johann Fechts Theologische Abhandlung Vom Kirchen-Bann," in Gundling, *Satyrische Schriften* (Leipzig, 1738), 331–62, first published as [Gundling], review of *De excommunicatione ecclesiastica . . .*, by Johann Fecht, in *Neue Bibliothec Oder Nachricht und Urtheile von neuen Büchern . . .*, 3/21 (1712), 3–33; Gundling, "Vertheidigung Wider D. Johann Fechts Kurtze Nachricht Vom Kirchen- Bann" in Gundling, *Satyrische Schriften*, 363–426, first published as [Gundling], review of *Kurtze Nachricht von dem Kirchen Bann . . .*, by Johann Fecht, in *Neue Bibliothec*, 3/29 (1713), 739–802.

⁵⁶ Gundling, "Vertheidigung," 369.

their critiques of the power of the keys and the use of the ban. Their critiques differed, reflecting their divergent assessments of the origins of the corruption in the early church. This difference also highlights an important facet of Thomasius's methodological originality in interpreting the history of the primitive church.

In publishing *Die erste Liebe der Gemeinen Jesu Christi* (The First Love of the Congregations of Jesus Christ) in 1696, Arnold established his reputation as a formidable scholar of the early Christian church. Treating extensively the manifold changes that Christian social and religious practices underwent before and shortly after the fall of the Roman Empire in the west, the work includes a discussion of the confession and absolution of sins. There Arnold marshaled considerable evidence that the early church did not use private confession and absolution. This rite appeared not before the mid-sixth century and thus well after the onset of the church's steady decline under the Emperor Constantine. In the second and third centuries, however, early Christians, while recognizing that God alone could truly forgive sins, practiced the public confession of serious public offenses. In effect, all Christians heard and forgave the sins of one another. Thus the entire congregation held and exercised the power of the keys, which Christ had given the Apostles. Similarly, the entire congregation used this power to ban sinners, and Arnold explicitly praised this form of church discipline,⁵⁷ which corresponds to the ideal that Spener invoked repeatedly in his letters.

While still in Allstedt and gradually distancing himself from separatism in favor of a modified form of church Pietism, Arnold wrote *Die geistliche Gestalt eines evangelischen Lehrers* (The Devout Form of an Evangelical Minister), which presented his spiritualist views on major questions in pastoral theology. Regarding church discipline, Arnold affirmed absolution's conditional nature and warned that passions and emotions should not drive the pastor's actions. He stated also that the pastor should not use force to bar the unworthy from the Lord's Supper but instead should draw on the power of the Holy Spirit to convince the unworthy that they should of their own free will abstain from Communion. Thus the true ban, based on the example of Christ and the Apostles, works through an inner and spiritual power and should have nothing to do with the public exercise of force to exclude the sinner.⁵⁸ The papal corruption of the ban had its origin in Jewish and pagan practices, which first began to take hold in the late third century

⁵⁷ Gottfried Arnold, *Die erste Liebe der Gemeinen JESU Christi* . . . , Part 2 (Frankfurt am Main, 1696), 367–72, 374–8. See also Jürgen Büschel, *Gottfried Arnold: Sein Verständnis von Kirche und Wiedergeburt* (Witten-Ruhr, 1970), 64–5.

⁵⁸ Gottfried Arnold, *Die geistliche Gestalt eines evangelischen Lehrers* . . . (Halle, 1704), 456, 461–5, 470–71, 483–4. See also Büschel, *Gottfried Arnold*, 183–4.

and then gained rapid acceptance during Constantine's reign.⁵⁹ Johann Fecht had targeted Arnold in 1711 largely to rebut this particular understanding of the ban.⁶⁰

As noted earlier, however, Thomasius affirmed that the deformation of the ban began shortly after the deaths of the Apostles, when the clergy in early Christian churches grafted religious penalties onto the Jewish ban, which until then had served as a secular punishment only. In effect, he denied that the early post-apostolic Christian communities had ever exercised church discipline in an appropriate manner, whereas Arnold suggested that the early church used the true, inner, and spiritual ban for about two centuries and only departed from this practice when venomous temporal affairs destroyed the church's purity. Of the two, Thomasius's critique was significantly more radical, implying that clerical authority in the Christian church, at its inception, bore the seeds of corruption.

This distinction had not manifested itself fully in 1706, however, when Thomasius published *Binde-Schlüssels*, which praised Arnold for supposedly dating papal corruption immediately after the time of the Apostles. Within a few years, however, the assessment had changed. Thus in *Höchstnöthige Cautelen . . . zu Erlernung der Kirchen-Rechts-Gelahrheit* (Most Essential Precautions . . . for the Study of Ecclesiastical Jurisprudence) of 1713, Thomasius still credited Arnold for clearly demonstrating "how immediately after Christ's resurrection, and especially after the death of the Apostles, the Christian church . . . began to rot and that the rot grew significantly at the time of Constantine." Several chapters later, however, Thomasius noted that Protestant scholars of church history, including Arnold, have defended instead of rebutting the papal doctrine that Christ commanded the use of the ban and that Arnold in effect praised third-century abuses in church discipline that paved the way for "clerical domination . . . through which ultimately the authority in ecclesiastical matters slipped from the princes' hands." One of Thomasius's specific charges concerns Arnold's failure to recognize that third-century bishops exerted "compulsion" when they imposed the ban.⁶¹ In short, the radical Pietist had not detected the origins of the most dangerous form of church corruption: clerical control of the ban.⁶²

⁵⁹ Arnold, *Die geistliche Gestalt*, 474–8.

⁶⁰ Gundling, "Bericht und Bedenken," 335, 343.

⁶¹ Christian Thomasius, *Höchstnöthige Cautelen . . . zu Erlernung Der Kirchen-Rechts-Gelahrheit . . .* (Halle, 1713), 44, 161, 215, 216–17. Thomasius concluded later that control of the ban was practically "the sole and strongest means by which the clergy took the authority in ecclesiastical affairs from the princes." *Ibid.*, 289. *Höchstnöthige Cautelen* also criticizes Arnold's favorable treatment of mystics and mystical theology in the early church. *Ibid.*, 44–5, 54. See also Thomasius, *Cautelen zur Erlernung der Rechtsgelehrtheit* (Halle, 1713; repr. Hildesheim, 2006), 504 n. (p), which refers to Arnold's deficiencies in discussing the primitive church.

⁶² The claim in Buchholz, "*Historia Contentionis*," 167 n. 8, 172, that Thomasius in 1712 and 1713 drew heavily on Arnold's history of the early church lacks the needed qualification.

Johann Georg Pertsch (1694–1754),⁶³ the jurist whom Renate Dürr spotlighted in her work, reinforced significantly the robustness of Thomasius’s criticism. In 1721 he published two large volumes, one on confession and one on the ban. Thomasius’s influence infuses these writings. The volume on confession, *Das Recht der Beicht-Stühle* (The Law of the Confessional), for example, begins with an introductory essay on why jurists should augment their intellectual training by studying theology. There Pertsch emphasized repeatedly Thomasius’s dictums that the prince should not coerce his subjects in matters of religious belief, should practice religious toleration, and should punish those who encouraged intolerance.⁶⁴ But portions of the work exhibit also Spener’s influence. The chapter that searchingly considers the retention of private confession by Protestant churches cites Spener’s writings extensively to demonstrate that absolution was always conditional. Additional citations appear in the chapter on the right of princes regarding private confession, where Pertsch clearly stated his goal: the abolition of private confession itself. Following Spener, he maintained that absolution depended on the confessant’s fulfillment of the condition of repentance, that God alone effected the absolution, and that the pastor served merely as an instrument for its proclamation. Given these premises, Pertsch (but not Spener) concluded that the pastor fulfilled an incidental, inconsequential function that the sovereign could rightfully abolish in the interest of combating superstitious religious beliefs among his subjects.⁶⁵

Although the article refers briefly (176 n. 54) to Thomasius’s criticism in *Cautelae* of Arnold’s treatment of church discipline in the third century, Buchholz does not give the criticism its due. (He cites Thomasius’s original Latin text, *Cautelae circa Praecognita Jurisprudentiae Ecclesiasticae in usum Auditorii Thomasi* (1712).) The claim may have contributed to the erroneous statement in Martin Kühnel, *Das politische Denken von Christian Thomasius: Staat, Gesellschaft, Bürger* (Berlin, 2001), 154, that Thomasius originally dated the onset of the church’s decline from the early fourth century. Schubart-Fikentscher, “Thomasius zur Kirchengeschichte,” 198–9, also implied this dating by Thomasius. Concerning the link between Thomasius’s break with religious mysticism and enthusiasm around 1700 and his criticisms of Arnold’s treatment of church history see Pott, “Christian Thomasius und Gottfried Arnold,” 262–5.

⁶³ Pertsch studied law in Halle from 1713 to 1716 under Thomasius and Justus Henning Böhmer, taught law in Jena, served as the first syndic in the city of Hildesheim from 1732 until 1743, and ended his career teaching at the university in Helmstedt. *Allgemeine Deutsche Biographie*, s.v. “Johann Georg Pertsch”.

⁶⁴ Johann Georg Pertsch, *Das Recht Der Beicht-Stühle* . . . (Halle/Saale, 1721), 23–6, 28–41.

⁶⁵ *Ibid.*, 160–70, 369–71. Twenty-five years earlier, Spener had struggled to demonstrate that the pastor in confession served a meaningful function. Spener, *Theologische Bedencken*, 1/1: 199–202 (1696). If and how Spener’s letter relates to the *Berliner Beichtstuhlstreit* are unclear.

Pertsch's appeal to the authority of Spener is noteworthy, but also merely a sideshow that embellishes the jurist's two truly radical arguments, which Dürr did not elucidate. They reflect elements of both Arnold's and Thomasius's discussions of the degeneration of the early church. The first argument, presented in the initial chapter of *Das Recht der Beicht-Stühle*, contends that the Holy Spirit bestowed upon the Apostles the power to bind and loose as an extraordinary gift that they could not and did not pass on to their successors. Besides God, only the Apostles possessed the power to forgive sins, and in the first and second centuries bishops and elders never claimed such a power.⁶⁶ Here Pertsch has presented an incisive account of the early church that accords fully with Arnold's claim in *Die erste Liebe* that the earliest Christian communities did not use anything resembling the rite of confession. So fundamental is this first argument, a denial that the apostolic succession could theologially legitimate private confession, that Pertsch defended it vigorously in a short tract in 1740, two years after the second edition of *Das Recht der Beicht-Stühle* had appeared, against the attacks of an anonymous critic.⁶⁷

The second radical argument appears in the second chapter of the volume on the ban, *Das Recht des Kirchen-Bannes* (The Law of the Ecclesiastical Ban). Here Pertsch presented a more detailed exposition of Thomasius's claim that Christ and the Apostles had used the Old Testament Jewish ban, a civil penalty that the clergy in early Christian congregations would soon abuse and twist into a spiritual penalty. In particular, Pertsch labored to show that Matthew 18:17 and 1 Corinthians 5:5, the church's proof texts for maintaining that the ban originally entailed exclusion from religious services, did not refer at all to the Jewish ban, the only one that the Apostles would have known.⁶⁸ Even more than Thomasius had done, Pertsch supported his claims by drawing on the work of John Selden, the scholar of ancient Jewish practices.

Selden is significant. In turning to his writings, Thomasius and Pertsch were also showcasing the sober and rigorous biblical scholarship that would undergird a truly *unparteyische* church history and expose fully the origins and early manifestations of priestcraft. When Thomasius reviewed in 1721 his own writings on the power of the keys, he praised without restraint Pertsch's disquisition on private confession, which had just appeared. Asserting that *Das Recht des Kirchen-Bannes* consummated what he had only sketched out fifteen years earlier,

⁶⁶ Pertsch, *Das Recht der Beicht-Stühle*, 53–70.

⁶⁷ Johann Georg Pertsch, *Gründliche Vertheidigung der Lehre, Von der Macht Sünde zu vergeben . . .* (Hildesheim, 1740).

⁶⁸ Johann Georg Pertsch, *Das Recht Des Kirchen-Bannes . . .* (Halle/Saale, [1721]), 31–40, 44–60.

Thomasius then summarized the contents of each chapter in Pertsch's volume. Significantly, he also added,

Finally one should not forget the famous Englander [John] Selden, who, in his erudite work *De Synedriis Hebraeorum*, was one of the first to show completely that the ban was always nothing less than a clerical punishment [*eine geistliche Straffe*], and thus Hr. D. Pertsch did well that, in the execution of his project, he again and again referred frequently to Selden throughout his entire treatise, as one can see from the index *sub voce* Selden.⁶⁹

In the review Thomasius, now in his mid-sixties, was both trumpeting his earlier assaults on the ban as a bulwark of clerical authority and heralding a much younger jurist who would now take up the mantle. An early secular natural law jurist, and regarded as “seventeenth-century England’s greatest Erastian” and “greatest humanist scholar,”⁷⁰ Selden receives unrestrained praise because his formidable philological and historical researches in the 1630s, 1640s, and 1650s had greatly advanced talmudic scholarship, particularly respecting early Judaic legal institutions and their relation to secular and religious life. In the first of the three volumes of the *De Synedriis Hebraeorum*, a massive study of the Sanhedrin, the supreme council and tribunal of the ancient Jewish state, he examined meticulously the historical sources on excommunication in order to show that it did not originate from a divine precept, thereby demolishing a key argument of English Presbyterians in the 1640s who insisted that ministers should exercise the unrestricted authority to excommunicate. Selden thus gathered and interpreted a vast fund of material that Germany’s secular natural law jurists drew on to assert that clerical abuse and corruption began shortly after the deaths of the Apostles.⁷¹

Thomasius did not detail how the use of this scholarship related to his other arguments about the initial deformation of the primitive church, but the relationship deserves consideration. Since the late 1680s he had claimed that the decay began with the insidious introduction into early Christianity of Jewish religious ceremonies and pagan philosophy, the germs of empty ceremonialism and of religious doctrines based on abstruse teachings that reputedly only the clergy could understand and communicate to the laity. The doctrines in particular

⁶⁹ Thomasius, “Von Laster,” 209.

⁷⁰ Jason P. Rosenblatt, *Renaissance England’s Chief Rabbi: John Selden* (Oxford, 2006), 244.

⁷¹ G. J. Toomer, *John Selden: A Life of Scholarship* (Oxford, 2009), 692–4, 698–719, carefully details Selden’s treatment of excommunication. Rosenblatt, *Chief Rabbi*, 244–53, highlights the stylistic difference between Selden’s scholarly writings on excommunication and his discussion of the subject in February 1644 before the Presbyterians in the Westminster Assembly. On Selden and the Westminster Assembly see also Reid Barbour, *John Selden: Measures of the Holy Commonwealth in Seventeenth-Century England* (Toronto, 2003), 282–5, 288–94.

nurtured the development of priestcraft.⁷² But he had refrained from even suggesting that the pre-Constantine clergy had abused its disciplinary powers.⁷³ In 1706, however, Thomasius significantly sharpened his critique and identified a third cause of the church's deformation soon after the Apostles' demise. By invoking Selden in *Binde-Schlüssels*, he averred that the clergy misused confession and the ban and thus acquired an instrument for forcing Christian congregations to accept certain teachings as doctrinal truth and to reject others as heresy.⁷⁴ Having thus taken root, clerical domination would extend its reach inexorably and eventually deprive princes of their legitimate powers over ecclesiastical matters.

A more profound scholarly affinity links Thomasius and Selden, and it opens up a wider perspective from which to contrast the Pietists and the jurists. As a legal scholar, Thomasius was particularly receptive towards biblical antiquarianism, the dominant branch of late Renaissance biblical scholarship, to whose development earlier jurists, especially Hugo Grotius and Selden, had contributed significantly. As seen in the case of Selden, biblical antiquarians studied Jewish texts in order to identify the laws and customs that guided the various social behaviors recorded in the Old and New Testaments. Thus this branch of scholarship was essentially a "historical discipline" with legal dimensions that made it both intellectually appealing and professionally relevant to jurists.⁷⁵ Developed primarily as means for acquiring a richer and more

⁷² Ahnert, *Religion and the Origins of the German Enlightenment*, 61, 146 n. 18; Dreitzel, "Christliche Aufklärung," 29 n. 30, 34–5; Pott, "Christian Thomasius und Gottfried Arnold," 256; Bienert, *Der Anbruch*, 433, 435–6, 453, 456–9; Seeberg, *Gottfried Arnold*, 510; Seeberg, "Christian Thomasius und Gottfried Arnold," 351–2. Thomasius discussed pagan philosophy in the church before Constantine's reign much more than he did Jewish ceremonies. See Christian Thomasius, *Rechtmäßige Erörterung der Ehe- und Gewissens-Frage . . .*, in Thomasius, *Auserlesene deutsche Schriften: Zweiter Teil* (Frankfurt am Main, 1714; first published in 1689; repr. Hildesheim, 1994) Alr–A6v, 1–102, at 8–18; Thomasius, *Abhandlung vom Recht Evangelischer Fürsten in Mittel-Dingen oder Kirchen-Ceremonien*, in Thomasius, *Auserlesene deutsche Schriften: Erster Teil* (Halle, 1705; repr. Hildesheim, 1994), 76–209, at 87–8 (original Latin text appeared in 1695); Thomasius, *Cautelen zur Erlernung der Rechtsgelehrtheit*, 124–8.

⁷³ Thomasius, *Erörterung der Ehe- und Gewissens-Frage*, 18, 19–20; Thomasius, *Freimütige, lustige und ernsthafte, jedoch vernunftmässige Gedanken oder Monatsgespräche . . .*, vol. 3, *Januar—Juni 1689* (Dec. 1689; repr. Frankfurt am Main 1972), 1063, 1078.

⁷⁴ Thomasius, *Binde-Schlüssels*, 50–51, stated that the clergy used the small and large bans to punish not only vices but all forms of obstinacy toward the clergy. In 1713 he averred that second-century bishops and presbyters began to exclude from Communion Christians who held false beliefs or who disagreed with them over minor matters. Thomasius, *Höchstnöthige Cautelen*, 179–80.

⁷⁵ Debora Kuller Shuger, *The Renaissance Bible: Scholarship, Sacrifice, and Subjectivity* (Berkeley, CA, 1994), 34, 51–2.

nuanced understanding of Scripture, this discipline enabled jurists over time to attach greater historical specificity to particular biblical periods, to contrast them tellingly with one another and with the early church, and thus to judge the latter more severely. Viewed broadly, biblical antiquarianism provided the scholarly tools and framework that enabled Thomasius and Pertsch to argue so trenchantly that the church's corruption began immediately after the deaths of the apostles.⁷⁶

The recourse to this discipline distinguishes the two jurists from the radical Pietist Arnold. Although clearly influenced by the writings of Grotius, Samuel Pufendorf, and Thomasius,⁷⁷ Arnold, in his own work, did not use knowledge pertaining to the Old Testament and the ancient Jews to sharpen his criticism of the church and its history. He and other Pietist theologians regarded the primitive church as a sacrosanct model of Christian purity that should guide them in reforming the contemporary church. They perceived no need for a "historical discipline" with which they could comb through the Old Testament and glean information that would possibly complicate or question their understanding of this paragon. As a result, Arnold and the Pietists occluded specific ways of reading the Bible that remained open for the jurists, and Thomasius explicitly criticized Arnold for neglecting "the church history of the Old Testament."⁷⁸

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In the late seventeenth and early eighteenth centuries, major controversies about private confession in the Lutheran church arose partly because of uncertainties about the purpose and enforcement of church discipline. The tangle between Spener and Johann Jakob Schütz shows that these uncertainties

⁷⁶ When Thomasius used the methods of biblical antiquarianism, he did not necessarily seek to criticize the pre-Constantine church. In his controversial publication in 1714 on the *Kebs-Ehe*, in which he drew significantly on another of Selden's works, Thomasius argued nonjudgmentally that both the Old Testament and the early church did not prohibit all sexual relations outside marriage. See Christian Thomasius, *Juristische Disputation von der Kebs-Ehe*, in Thomasius, *Auserlesene deutsche Schriften: Zweiter Teil*, 437–521. Concerning this publication and the controversies see Eva Schumann, "Christian Thomasius' juristische Disputation 'Von der Kebs-Ehe' 1714," in Heiner Lück, ed., *Christian Thomasius (1655–1728): Wegbereiter moderner Rechtskultur und Juristenausbildung. Rechtswissenschaftliches Symposium zu seinem 350. Geburtstag an der Juristischen Fakultät der Martin-Luther-Universität Halle-Wittenberg* (Hildesheim, 2006), 267–96; Stephan Buchholz, *Recht, Religion und Ehe: Orientierungswandel und gelehrte Kontroversen im Übergang vom 17. zum 18. Jahrhundert* (Frankfurt am Main, 1988), 189–229.

⁷⁷ Seeberg, *Gottfried Arnold*, 312–27, 506–9.

⁷⁸ Thomasius, *Höchstnöthige Cautelen*, 25.

troubled the Pietist movement from its inception. In 1684, needing to discredit the separatists' arguments that the unworthy should not receive admission to the Lord's Table, Spener went so far as to suggest that he would not exclude a notorious and impenitent sinner. But a consideration of Spener's many other comments on the issue through 1690 leaves little doubt that the father of German Pietism preferred that pastors suspend parishioners who admitted their impenitence. His position did not differ markedly from the starting point for August Hermann Francke's efforts to discipline parishioners in Glaucha.

But the subject of church discipline raised profound uncertainties about the scope and nature of clerical authority. On this issue Pietists and secular natural law jurists parted company, for the latter regarded private confession as an instrument of unwarranted clerical domination. Thus Thomasius and Gundling did not draw on Spener's writings in any significant way, and the copious citations of Spener serve only an auxiliary function in Pertsch's truly radical attack on confession that reflects the separate influences of Arnold and Thomasius. Working in tandem and harvesting the fruits of Selden's exemplary erudition, Thomasius and Pertsch produced a critique that greatly surpassed Arnold's in trenchancy and historical accuracy.

The foregoing analysis of the natural law jurists complements and extends important arguments in Ian Hunter's recent and highly illuminating study of Thomasius's political thought. In *The Secularisation of the Confessional State*, Hunter examines how Thomasius sought in his various writings to undermine the theological and philosophical presuppositions by which theologians and pastors in Germany's Lutheran confessional states claimed exclusive legitimate authority to determine and police the doctrinal boundaries between religious orthodoxy and heresy. In challenging these presuppositions, Thomasius postulated a uniquely original form of religious toleration that suited the political and constitutional arrangements within the Holy Roman Empire and that stemmed ultimately from a prince's single most important duty: maintaining peace and civil order within his state.⁷⁹ Hunter's work in effect identifies two ways in which Thomasius invoked historical evidence to support his project. First, to illustrate the dangerous consequences of allowing clergies to exercise illegitimate religious authority, Thomasius recalled Germany's tragically destructive conflicts in the sixteenth and seventeenth centuries between Catholics and Protestants.⁸⁰ Second, Thomasius wove together the history of heresy and the "historiography

⁷⁹ Hunter, *Secularisation of the Confessional State*.

⁸⁰ *Ibid.*, 22–3, 153. See also Ian Hunter, *Rival Enlightenments: Civil and Metaphysical Philosophy in Early Modern Germany* (Cambridge, 2001), 256; Hunter, "Christian Thomasius and the Desacralization of Philosophy," *Journal of the History of Ideas*, 61/4 (2000), 595–616, at 609–10.

of philosophy,” claiming that the unholy mixing of Platonic and Aristotelian philosophy with Christian revelation spawned in clergymen the arrogant assumption that they could know religious truths and thus defend them against heretics.⁸¹ Hunter attaches considerable significance to the historiography of philosophy, which, based on his citations of Thomasius’s writings, relates to heresies as far back as the reign of Constantine. Without in any way challenging Hunter’s discussion of these topics, the current essay has shown that Thomasius acutely recognized the need to investigate impartially the clergy and its activities in the centuries before Constantine in order to acquire a proper understanding of the history of church–state relations.⁸² To appreciate fully the political secularization that Thomasius championed during the last two decades of his life, one must brightly highlight critical biblical scholarship as a tool for interrogating the origins of clerical domination.

Finally, juxtaposing Pietists and jurists yields a richer and more robust understanding of the religious and secular roots of the early Enlightenment. In critically examining and assailing the nature of clerical authority, the jurists in Halle did not draw meaningfully on Spener’s writings but clearly regarded Arnold as a doughty comrade-in-arms. Despite this alliance, Thomasius called pointed attention to the weaknesses in the radical Pietist’s biblical scholarship because they mattered. Having cultivated, during the seventeenth century, biblical antiquarianism much more than theologians had, secular natural law jurists developed intellectual predispositions that eventually led to truly radical interpretations of Scripture. Jurists set the tone for the early Enlightenment partly because of their ability to braid theology and church history in new ways for an assault on clerical domination.

⁸¹ Hunter, *Secularisation of the Confessional State*, 15, 58–60, 61–3, 65–6, 159–61.

⁸² Perhaps symptomatic of an inattention to the finer points in Thomasius’s discussion of the pre-Constantine period, Hunter, *Secularisation of the Confessional State*, 77 n. 78, in emphasizing the jurist’s high estimation of Arnold as a church historian, refers to Thomasius’s *Cautelen zur Erlernung der Rechtsgelehrtheit*, 504 n. (p), without mentioning that the note criticizes the radical Pietist’s deficiencies in treating the Old Testament and the primitive church.