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OATHS, CASUISTRY, AND EQUIVOCATION: ANGLICAN RESPONSES TO THE ENGAGEMENT CONTROVERSY*

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ABSTRACT. *This article addresses a neglected facet of a familiar political debate, the contribution of Anglican royalist writers to the Engagement controversy. A new interpretation of the core issues at stake in the debate is offered by focusing on these Anglican responses. The work of Quentin Skinner, Margaret Judson, and John Wallace concentrated on the discussion of the duty of obedience to* de facto *powers. This article contends, however, that it was a debate over the nature of oaths and the lawfulness of taking apparently contradictory sworn promises which was at the heart of the controversy. Writers offered competing interpretations of the bond of oaths and covenants, the supporters of the Rump claiming that they were conditional and dependent for the obligation on circumstantial considerations, the Engagement's opponents claiming that these sworn bonds were non-reciprocal and indissoluble. In this debate both pro- and anti-Engagement authors used casuistic arguments to urge their readers either to take or to refuse the declaration of loyalty to the Commonwealth. Yet, whilst in print Anglicans had counselled against subscribing, in two manuscript cases of conscience they allowed correspondents to take the Engagement.*

Discussions of the controversy over the imposing of an Engagement of loyalty to the Commonwealth largely focus on the arguments made for and against allegiance to *de facto* powers centred on the Pauline injunction to obedience given in Romans xiii. 1–2. Quentin Skinner saw this debate as the English context for the writing of Hobbes's *Leviathan*. Margaret Judson suggested that these pamphlets, especially the works of Anthony Ascham, represented a new, more secularized, kind of political thought.[1] The controversy over *de facto*

* I would like to thank Dr Mark Goldie, Dr Jonathan Powis, Dr Robert Beddard, and the readers appointed by the journal for their comments on earlier drafts of this article. Unless otherwise stated, works printed before 1800 were published in London.

[1] M. A. Judson, *From tradition to political reality* (Ohio, 1980); Q. Skinner, 'History and ideology in the English revolution', *Historical Journal*, 8 (1965), pp. 151–78; idem, 'The ideological context of Hobbes's political thought', *Historical Journal*, 9 (1966), pp. 286–317; idem, 'Conquest and consent: Thomas Hobbes and the Engagement controversy', in G. E. Aylmer, ed., *The Interregnum* (London, 1972), pp. 79–98; J. M. Wallace, 'The Engagement controversy 1649–52: an annotated list of pamphlets', *Bulletin of the New York Public Library*, 68 (1969), pp. 385–465; idem, *Destiny his choice: the loyalism of Andrew Marvell* (Cambridge, 1968), pp. 9–69.

powers was not though, as Glenn Burgess has shown, the sole or even the dominant theme in this debate.[2] Many works in the Engagement controversy did contain lengthy and abstract discussions of the origins of political power and the nature of legitimate government, but some readers clearly felt this material was superfluous to their actual concerns. The Cheshire minister Adam Martindale recalled that the tendering of the Engagement had 'occasioned many little pamphlets pro and con' but he found these 'little to my satisfaction'. Too much, he said, of these works 'was spent in the charge of usurpation upon the governours by one partie, and warding it off by another'. This meant little to Martindale 'who was satisfied of the usurpation, but doubted whether, notwithstanding that, the engagement was lawful'.[3] For many Anglicans and presbyterians the issue of whether they continued to be bound to previous oaths and covenants, and were thereby foresworn if they took the Engagement, was of greatest importance. Anglicans feared that by taking the Engagement they would be breaking the oaths of allegiance and supremacy, which bound them to give allegiance, not only to the king, but also to his rightful heirs and successors. Presbyterians balked at taking a declaration of loyalty to the Commonwealth which seemed in contradiction to the third clause of the Solemn League and Covenant of September 1643 that obliged them to defend the king's person and authority.[4]

By focusing on the responses of Anglican divines to the Engagement controversy, this article will uncover the element of the pamphlet debate which was concerned not with *de facto* powers but with the obligations of oaths and covenants upon the conscience. Casuistry, the moral theology devoted to resolving problematic cases, offered general rules to swearing lawfully. It will be shown that whilst pro- and anti-Engagement authors offered different interpretations of the bond of oaths and covenants, all authors relied to some extent on casuistic reasoning. However, the importance of circumstantial and prudential considerations to the application of casuistic reasoning in individual cases led to a divergence between writers' private and public conclusions. Through looking at two manuscript cases of conscience written in response to Anglican scruples over taking the Engagement, it will be demonstrated that whilst in public Anglican writers generally condemned the use of tactics of equivocation to take the Engagement, in private they adopted a more accommodating approach. In permitting individuals to take the Engagement, these casuists limited their resolutions to the case in point but, as will be shown later, the Rump's supporters were not so circumspect in their use of equivocation.

[2] G. Burgess, 'Usurpation, obligation and obedience in the thought of the Engagement controversy', *Historical Journal*, 29 (1986), pp. 515–37.

[3] W. Urwick, *Historical sketches of nonconformity in the county palatine of Chester* (London, 1864), p. xxx. [4] J. P. Kenyon, ed., *The Stuart constitution* (Cambridge, 1966), pp. 263–6, 458–9.

I

The Council of State had discussed drafting an engagement to be faithful to the English Republic as early as March 1649. In October of that year, it was decided that the Engagement ought to be taken by all males, and finally in January 1650 an act for nationwide subscription was passed. It was probably originally adopted as a remedy for the Leveller agitation of 1649. However, by the time it was imposed nationally the Engagement was clearly tendered by a regime which was feeling deeply insecure in the face of the Stuart–presbyterian alliance in Scotland. The Engagement was thus aimed at securing presbyterians to the Commonwealth government and at isolating the committed royalist critics of the regime. It was designed as far as possible to broaden the base of support for the fledgling Republic. The Engagement did not even oblige those who took it to 'swear' their loyalty but only required that they 'declare and promise it'. The oath had originally required the subscriber to swear to be faithful to the Commonwealth of England, 'as it is now established against a King and Lords'. This was changed to the less politically charged 'without a King and Lords'. Despite these efforts at leniency, the imposition of the Engagement spawned a vigorous pamphlet debate.[5]

Oaths in early modern England were used to underpin almost every element of church and state. The gravity of the sins of perjury and scandal, as much as the possibility of being found guilty of treason, showed the danger of breaking promises before God. This divine witness was essential to the character and power of an oath. The frequent demand for subjects to express loyalty to both the political and religious policies of the monarchy through swearing oaths necessitated some system whereby individuals might know how best to fulfil their obligations without at the same time perjuring themselves. This need was fulfilled by casuistry, a branch of moral theology which devoted itself to the resolving of ethical dilemmas in particular cases. English Protestant casuists followed the church homily against rash swearing and perjury, stating that oaths had to be taken 'according to the Prophet's teaching in justice, judgement and truth', citing Jeremy iv. 2.[6] Oaths should not be taken rashly without due consideration of their contents and the circumstances in which they were to be made. An oath could not be taken in justice if the matter sworn to was unlawful. English casuists were agreed that an oath to an unlawful thing should not be kept. It was better to sin once in breaking an evil oath than to sin twice by keeping it.[7] The puritan William Ames and the Anglican Robert Sanderson

[5] See B. Worden, *The Rump Parliament* (Cambridge, 1974), pp. 226–32.

[6] *Certain sermons appointed by the Queen's Majesty to be declared and read*, ed. G. E. Corrie (Cambridge, 1850), p. 617.

[7] W. Ames, *Conscience with the power and cases thereof* (n. p., 1639), pp. 48–59; W. Perkins, 'The whole treatise of cases of conscience', in T. F. Merrill, ed., *William Perkins 1558–1602 English puritanist* (The Hague, 1966), pp. 140–2; J. Hall, *Resolutions and decisions of divers practicall cases of conscience* (1649), pp. 73–81; R. Sanderson, *De juramento: seven lectures concerning the obligation of promissory oathes*, trans. Charles I? (1655), pp. 47–8.

were agreed that a subsequent oath which conflicted with a former obligation, 'as if it be repugnant unto the obedience due unto a Parent, or the Prince', could not be lawfully taken.[8]

Some Catholic casuists, on the other hand, had developed doctrines of equivocation and mental reservation to allow recusants to take oaths of allegiance without incurring the sin of perjury or denying papal authority. These tactics had first been fully explored by the Spanish theologian Navarrus. Mental reservation allowed that there were two kinds of statements, those that were given orally and those that were assented to only mentally. In certain circumstances, Catholics might be allowed to give a full answer only in this mentally cogitated statement. Equivocation involved using internal ambiguities within an oath to loosen its binding power. Alternatively, the addition of qualifying remarks in swearing, such as 'as far as lawfully I may', could be used to effect the same purpose. The use of these tactics by Catholics first gained notoriety in England during the trial of the Jesuit priest Robert Southwell in 1595. In the aftermath of the Gunpowder Plot, with the discovery of Henry Garnet's treatise on equivocation, the use of mental reservation became a key component of the archetype of the treacherous papist (although some Catholics, like the Jesuit Azor, condemned the indiscriminate use of 'mixed speech').[9]

Owing to this association with treason and sedition, Protestant theologians largely proscribed these practices. However, Protestant authors, though they generally opposed the use of mental reservations, did not flatly condemn employing verbal equivocations that exploited the ambiguities in words. Henry Mason and Thomas Morton, the leading Anglican polemicists in the attack on mental reservation, distinguished between the 'Jesuitical' notion of mixed speech and 'lawful' verbal equivocations.[10] Later, Richard Baxter, in his *Christian directory* (1673), stated that it might be lawful at times to 'answer … in such doubtful words as purposely are intended to deceive him, or leave him ignorant of my sense, so be it they be not lies or false in the ordinary usage of those words'.[11] He even allowed the use of equivocations in swearing, saying that if an oath was imposed by 'a robber or usurper' the person swearing was 'not then bound at all' to keep their oath in the imposer's sense, provided they had sworn to it 'according to the common use of the words'.[12]

[8] Ames, *Conscience with the power*, pp. 54–5; Sanderson, *De juramento*, pp. 55–8.

[9] On oaths see J. Spurr, 'Perjury, profanity and politics', *The Seventeenth Century*, 8 (1993), pp. 29–50; on casuistry, A. R. Jonsen and S. Toulmin, *The abuse of casuistry: a history of moral reasoning* (University of California Press, 1988); on equivocation and mental reservation, J. P. Sommerville, '"The new art of lying": equivocation, mental reservation and casuistry', in E. Leites, ed., *Conscience and casuistry in early modern Europe* (Cambridge, 1988), pp. 159–85, and P. Zagorin, 'England and the controversy over mental reservation', in idem, *Ways of lying: dissimulation, persecution and conformity in early modern Europe* (London, 1990), ch. 9.

[10] T. Morton, *A full satisfaction concerning a double romish iniquitie* (1606), p. 54; H. Mason, *The new art of lying* (1624), pp. 7–9.

[11] Baxter, *Christian directory*, p. 430.

[12] Ibid., pp. 700–13.

None the less, with the exception of Baxter, most Protestant casuists did not sanction the use of equivocations in taking oaths. Both the Cambridge theologian William Perkins and his pupil William Ames forbade the use of equivocations and mental reservations in swearing.[13] Robert Sanderson, in his lectures on oaths and the conscience delivered as regius professor of divinity at Oxford in 1646, stated that those who presumed to swear with provisos or sought to exploit the ambiguities in the wording of oaths were bound, none the less, to the sense intended by the imposer.[14] Yet this general prohibition was not necessarily binding in all instances. The importance of circumstantial and prudential considerations to casuistry meant that what was generally unlawful might be rendered permissible in individual cases. Aristotle, in his *Nicomachean Ethics*, had first described moral arguments as essentially rhetorical. This meant that such arguments should be designed to engage with their audience's current preoccupations, address their specific concerns, and take into account their particular backgrounds.

Moral axioms were further qualified by the application of notions of prudence, first fully categorized by Aquinas. All law, according to Aquinas, flowed from the first principle, 'good is to be done and evil is to be avoided'. This 'first principle' was followed by other precepts which arose as practical reason apprehended natural inclinations, as for creatures to preserve their own existence. These natural inclinations were followed by the *jus gentium*, conclusions from natural inclinations, which were known generally but not universally. It was at this last level that flexibility was introduced into natural law. Different circumstances would lead to different arrangements for satisfying natural desires. People might achieve the aim of gathering in societies by many forms: democracy, aristocracy, or monarchy. This element of inconstancy introduced the idea of exercising prudential choice. Using prudence meant not only judging soundly about the best means to a given end, but also implied the execution of that decision. Circumstantial considerations were vital to the exercise of prudence. This created an early modern casuistry, which, in its regard for its audience and for the immediate circumstances of a case, might allow considerable exceptions from the strictures of human laws.[15]

According to Richard Baxter, during the Engagement controversy Anglicans were advocating (at least in private) the use of equivocations in swearing. Baxter said that of the parties tendered the Engagement, 'the Sectarian Party swallowed [it] easily', as did 'the King's old Cavaliers'. The presbyterians and the 'moderate Episcopal Men', on the other hand, refused it, along with, Baxter said, the 'Praelatical Divines of the King's Party'. Though Baxter claimed that the episcopalian clergy, like the presbyterians, generally refused the declaration of loyalty to the Commonwealth, he also alleged that some of them 'did write for it [the Engagement] (private Manuscripts which I have

[13] Perkins, 'The whole treatise of cases of conscience', pp. 140–2; Ames, *Conscience with the power*, pp. 51–3.
[14] Sanderson, *De juramento*, p. 184.
[15] Jonsen and Toulmin, *Abuse of casuistry*, pp. 59–72, 125–34.

seen) and plead the irresistibility of the imposers'. Baxter suggested that these writers had equivocated with the wording of the declaration. These divines, he said,

> found starting holes in the Terms, *viz*. That by the Commonwealth they will mean the present Commonwealth *in genere*, and by (Established) they will mean only *de facto*, and not *de jure*, and by (without a King, &c.) they mean not *quatenus* but *Esti*; and that only *de facto pre tempore*; (q. d. I will be true to the Government of England, though at the present the King and house of Lords are put out of the Exercise of their power).

Baxter claimed that these expositions on the Engagement were made by many Anglican divines and used by many of those that took the declaration. He complained that by making 'such Interpretations and Stretchings of Conscience, any Treasonable Oath or Promise' could be taken, and that 'no Bonds of Society' could 'signifie much with such Interpreters'.[16] As will be shown later, the paradox that episcopalian divines refused to take the Engagement but allowed others to subscribe was a product of Anglican casuists tailoring their resolutions to the specific circumstances of individual cases.

II

Royalist responses to the tendering of the Engagement were few in number in comparison with those made by presbyterian writers. Partly this can be explained by Charles II's willingness to allow his supporters to take the declaration in order to preserve their lives and estates. In March 1650 Colonel Keane, Sir Nicholas Crispe, and others had written to the king suggesting that there might be some 'connivance' allowed for taking the Engagement. In April the king replied that, as to the Engagement, he would allow his supporters 'what liberty their consciences shall give them to do, to preserve themselves for the King's service'.[17] This royal dispensation seems to have become common knowledge. References were made to it in both private letters and printed pamphlets.[18] None the less, a number of royalist writers did contribute in print to the controversy. Leading Anglican divines Henry Hammond and Robert Sanderson, and Sir Robert Filmer, the author of *Patriarcha*, wrote in response to the tendering of the Engagement.[19]

These writers distinguished between those powers that ruled legitimately by

[16] *Reliquiae Baxterianae*, ed. Mathew Sylvester (1696), pp. 64–5.

[17] *Calendar of State Papers Domestic* (*CSPD*), 1650, pp. 88–9.

[18] R. Sanderson, *Works*, ed. W. Jacobson (6 vols., Oxford, 1854), v, p. 23; *A copie of a letter against the Engagement* (n. p., 1650), p. 8.

[19] R. Sanderson, *A resolution of conscience by a learned divine* (1649); idem, 'The case of the engagement', in *Works*, v, pp. 17–36; H. Hammond, *A brief resolution of that grand case of conscience* (1650); idem, *To the right honorable the Lord Fairfax and his councell of warre*:- *the humble address of* (1649); *Modern policies taken from Machiavel* (1652) (This pamphlet is often attributed to William Sancroft but this is doubtful. See my supervisor Dr R. A. Beddard's forthcoming article on Sancroft in the *New DNB*); R. Filmer, *Observations upon Aristotles politiques*, *touching forms of government*, *together with directions to obedience to governours in dangerous and doubtfull times* (1652).

God's ordinance and those that held power only by his permission. This was in reaction to the claims of their opponents that the Almighty's providential design had been clearly evinced by the victories of the parliamentary forces. Henry Hammond warned that it was often the way of 'evill spirits' to 'constantly pretend they come from God, and assume divine authority to recommend and authorise their delusions'.[20] The author of another royalist anti-Engagement tract, *Modern policies taken from Machiavel* (1652), noted that there was 'no Argument more popular than success, because the abilitie of men is not able to distinguish the permission of God, from his Approbation'.[21] In spite of these distinctions, Anglican writers still had considerable problems in establishing the criteria that defined lawful authority. On the subject of obedience to *de facto* powers, the position defined by this small group of writers was not significantly different from that urged by the conservative supporters of the newly founded English Commonwealth. Sanderson and Hammond allowed that the subject could lawfully pay taxes and submit 'to some other things (in themselves not unlawful) by them impressed or required'. Of the royalist authors who commented on the Engagement controversy, Robert Filmer argued for giving the greatest degree of obedience to a usurper. He stated that to 'obey an usurper, is properly to obey the first and right governor'. The title of the usurper was 'before and better than the title of any other than of him that had a former right'. The emphasis on the title of the usurper led Filmer to state that the subject was obliged not only to obedience in indifferent or lawful things 'but sometimes even to the preservation of the usurper himself'.[22]

Anglican authors evidently had considerable problems in defining a just power. Partly this was a consequence of the unwillingness of pro-Engagement writers like Francis Rous, John Dury, and Marchamont Nedham to claim that the Rump was really a legitimate authority. Rather, their aim was to win over a sceptical audience to the proposition, in Rous's words, that 'though the change of government were believed not to be lawfull, yet it may be lawfully obeyed'.[23] However, it was also the case that during the 1640s, royalist writers had themselves affirmed the power of conquest and divine providence to confer a lawful title.[24] The earlier stress on the right acquired by force or conquest led Robert Filmer to support offering positive obedience to usurpers. The Anglicans who opposed taking the Engagement, Hammond, Sanderson (in print), and the author of *Modern policies*, also permitted giving obedience to usurping powers in things lawful and necessary but argued against pledging loyalty to the Commonwealth on the grounds that the oaths of allegiance and

[20] Hammond, *Humble address*, p. 2.

[21] *Modern policies*, princ. v.

[22] Sanderson, *A resolution of conscience*, pp. 1–2; Hammond, *A brief resolution*, p. 5; Filmer, *Directions to obedience*, pp. 46–7.

[23] F. Rous, *The lawfulnesse of obeying the present government* (1649), p. 1.

[24] H. Ferne, *Conscience satisfied that there is no warrant for the armes now taken up by subjects* (Oxford, 1643), pp. 32–3; idem, *A reply unto severall treatises* (Oxford, 1643), p. 19; D. Digges, *The unlawfulnesse of subjects taking up arms against their soveraigne* (n. p., 1643), pp. 13, 47–8, 116.

supremacy remained in effect. By focusing on these oaths, the writers tackled the personal dilemma facing most of those who were asked to subscribe: whether they could take an Engagement seemingly in conflict with earlier sworn obligations. The Engagement controversy was as much a dispute over the nature of oaths as it was about the legitimacy of the powers that imposed them. Royalist writers claimed that the execution of the king and the dispossession of his son from the throne had not abrogated the oaths of allegiance and supremacy. Hammond stated that subjects must not in any way 'acknowledge the lawfulnesse of the present usurped power, nor act as ministers or instruments thereof'.[25] Leoline Jenkins, a future secretary of state under Charles II, argued that even a forced acceptance of the Engagement was as much a recognition of the legitimacy of the new regime as a freely made subscription. In reply to a letter querying the lawfulness of taking the declaration he wondered 'whether there can be an involuntary signing [of the Engagement] … 'tis an Axiome of Philosophy, *voluntas non cogitur*, this Reason and Experience do confirm'. Here Jenkins seemed to deny that a subscription could be made even under duress.[26]

Similarly, presbyterian authors opposed to the Engagement focused on the continued obligation of the Solemn League and Covenant. This in itself involved a retreat from the view of the Covenant that presbyterians had formed in the 1640s. The Solemn League and Covenant had required the swearer to promise to defend 'the King's Majesty's person and authority, in the preservation and defence of the true religion and liberties of the kingdoms'.[27] The Covenant presented the subject's duty of allegiance in highly equivocal terms. Pro-Covenant writers often explicitly stated that obedience was conditional on the king's continued defence of the Protestant religion and the kingdom's liberties. Richard Ward gave the definitive version of this doctrine in his *Analysis*, *explication and application of the sacred and Solemne League and Covenant* (1643). Those who endeavoured the preservation and defence of the true religion and the liberties of the kingdom also sought the preservation of the king's person and authority, 'they being the best friends and strongest supporters of his person and power', who stood for these things. In this way the covenanters had promised to defend the king's person and estate 'so long as he really endeavours the preservation, and defence of the true religion, and Liberties of the Kingdom'.[28]

Of course, not all presbyterians believed that Charles had failed to defend religion and the laws. None the less, in the Engagement controversy, Edward Gee and other presbyterian anti-Engagers stressed the unconditional nature of oaths and covenants. The king's invasion of the subject's rights had not, they

[25] Hammond, *A briefe resolution*, pp. 5–6.
[26] W. Wynne, *The life of Sir Leoline Jenkins* (2 vols., 1723), II, pp. 647–50.
[27] J. P. Kenyon, *The short constitution* (Cambridge, 1966), pp. 263–6.
[28] R. Ward, *The analysis*, *explication and application of the sacred and solemne league and covenant*, (1643), p. 2.

argued, freed subjects from their obligations. The Solemn League and Covenant had been set up when it was claimed that the king was violating his trust but the clause in defence of the king's person and authority made it clear that the subject's obedience had not been forfeited.[29] The author of *A pack of old puritans* (1650) employed the same argument with reference to the oath of allegiance. Both Gee and Henry Hall allowed that subjects might co-operate with the usurping power in paying taxes and have recourse to their courts but argued they must not swear loyalty to the Rump.[30]

Anglican and presbyterian opponents of the Engagement both urged that oaths were essentially non-reciprocal and indissoluble. Conversely, pro-Engagement authors tended to stress that oaths obliged only so far as their object remained relevant to current circumstances or beneficial to the public good. In order to win over presbyterians who continued to adhere to the Solemn League and Covenant, the supporters of the Rump used two basic arguments; that all or most of the duties contained in the Covenant had ceased to be obliging; or that the promise of loyalty to the Commonwealth could be reconciled with previous oaths and covenants. In the case of the Solemn League and Covenant, advocates of the republic argued that the various articles of it had to be weighed according to their importance, creating what John Sanderson has described as a 'hierarchy of obligations'.[31] The latter argument was supported by the idea that covenants could be kept whilst making new and apparently conflicting promises of loyalty as long as their 'primary intention' was being fulfilled.

Thomas Paget, in *A faithfull and conscientious account for subscribing the Engagement* (1650), stated that the 'main and chief scope and end of the oaths of Supremacy and Allegiance formerly; and of the Protestation and Covenant lately, and likewise of the Engagement at the present was, and is the just safety and preservation of the Common-wealth of England'. Those who pleaded against subscribing to the Engagement on the basis of the Covenant should ask themselves whether the safety of the king was really to be placed above the cause of reformation and the safety of the people.[32] John Dury also insisted that the specific articles of the Covenant must be made subordinate to the primary intention of all law, the public good. If 'the change of circumstances alter the whole care of your business' the oath was 'made *ipso facto* void'. Dury stated that the key to understanding the primary intention of an oath or covenant lay in the first intention of those that framed it, not any subsequent gloss that was attached to it. So, in the case of the oath of allegiance, the intention was to

[29] E. Gee, *An exercitation concerning usurped powers* (1650), pp. 12, 56.

[30] *A pack of old puritans maintaining the unlawfulness and inexpediency of subscribing the new engagement* (1650), p. 20; Gee, *An exercitation*, pp. 22–3; [H. Hall], *Digitus testium, or a dreadful alarm to the whole kingdom* (1650), p. 26.

[31] J. Sanderson, '*But the people's creatures': the philosophical basis of the English Civil War* (Manchester, 1989), p. 157.

[32] T. Paget, *A religious scrutiny … together with a faithfull and conscientious account for subscribing the Engagement* (1650), pp. 21, 32.

defend the king and the kingdom against popish oppressors and conspirators, not to defend the king and his papist cohorts against the kingdom.[33] Some authors reminded the presbyterians of the religious content of the covenant. The writer of *Certain particulars* (1651) insisted that subjects 'distinguish between the letter of the covenant, and the intent of it'. The ends of the Covenant were the safety of the covenanters and the preservation of religion, which the Engagement itself was in no way opposite to.[34] There is evidence that some actually swore loyalty to the Commonwealth in this sense. Ralph Josselin wrote that he 'subscribed the engagement as I considered it stood with the Covenant, while the government actually stood establisht, and my faithfulness, is not to create any troubles, but seeke the good of the Commonwealth'.[35]

Dury was also the leading advocate of the doctrine that all promissory oaths had to be taken with certain 'tacite conditions'. He argued that oaths of loyalty must be taken with the implicit understanding that they will only be kept so long as they continue to benefit the cause of religion and public safety. As a result, some oaths whose matter was lawful would be made non-obliging as circumstances rendered the consequences of keeping them prejudicial to the public good.[36] Marchamont Nedham listed these 'tacite conditions' comprehensively. In all 'promissory State-Oaths', Nedham said, 'there lurk severall tacit Conditions, inseperable from the nature of all Oaths and Engagements'. The words of the oath were to be interpreted in a 'fair and equitable construction' not wrung by the imposers into a persecuting new sense. The swearer himself, in the absence of other guidance, was to use a 'prudentiall latitude' in ascertaining the oath's meaning. The second tacit condition was that oaths could only oblige so far as God permits or as far as things stand. Neither was the subscriber to swear to anything without 'this Reservation, as far as lawfully he may'. Finally, all promissory oaths were at the mercy of divine providence as to their performance. If such an alteration should happen 'that neither the same persons nor things are in being which I swore to maintaine my Oath is at an end and the obligation ceaseth'.[37] Dury stated likewise that in 'things *de futuro*, and of a contingent nature, we may not draw conclusions absolute and peremptory, but with subordination to the Divine Majesty'. A number of the clauses of the Covenant had clearly been voided by events; the union between England and Scotland had been annulled by their declaration of war; the king had forfeited his right to allegiance by waging war against his subjects. Yet as long as subjects remembered that the Covenant was to be pursued according to their individual callings there was no reason that the

[33] J. Dury, *Considerations concerning the present Engagement, whether it may be lawfully entered into, yea or no?* (1649), pp. 9–10; [J. Dury], *A disingag'd survey of the Engagement in relation to publike obligations* (1650), p. 3.

[34] *Certain particulars further tending to satisfie the tender consciences of such as are required to take the Engagement* (1651), pp. 3–4.

[35] *The diary of Ralph Josselin, 1616–1683*, ed. A. Macfarlane (British Academy, 1976), p. 186.

[36] [Dury], *A disingag'd survey*, pp. 4, 8.

[37] M. Nedham, *The case of the commonwealth of England stated* (1650), pp. 25–31.

remaining articles of it could not be fulfilled.[38] Anthony Ascham shared Dury's reasoning. The Covenant was not, he said, 'an eternall obligation', but was 'involved in [the] tacite conditions and accidents of the world'. Subjects, Ascham said, were not obliged to give their lives in defence of an impossibility. He used the example of an army that had sworn allegiance to a prince who having been beaten had fled the field. The soldiers could do more in fulfilling their promise to their prince 'than die [for him] which indeed is to do nothing at all'.[39] Samuel Eaton took this doctrine further, arguing that the oaths of allegiance and supremacy were unlawful, as they were not mutual and conditional. As with the Covenant, Eaton argued that the Engagement also contained the tacit condition that it would become non-obliging if it failed to promote the public good.[40]

The argument that covenants and oaths of allegiance were conditional and subject to circumstantial factors has been seen as a major development in theories of political obligation.[41] However, the idea that promissory oaths might contain 'tacit conditions' did not represent a fundamental challenge to Protestant casuistry's view of the obligation of an oath. In fact, the whole notion of 'tacit conditions' was taken from Robert Sanderson's lectures on oaths and the conscience, *De juramento* (1647).[42] As Sanderson was a highly respected Protestant casuist, Engagers freely advertised using him as a source to give their arguments the stamp of authority.[43] The section in question formed just two pages of Sanderson's lengthy treatise, which in general was very strict on the lax interpretation of oaths. Oaths, Sanderson said, were only to be taken in the sense intended by the imposers.[44] Those who kept some reservation against what they had sworn verbally rooted 'all faith and assurance out of men' and made 'God an imposter'.[45] He did, none the less, state in section ten of the second lecture that all promissory oaths must be taken with four tacit conditions; 'if God permit'; 'as farre as is lawfull'; saving the decision of a superior power; and so long as the matter of the oath remained the same.[46] Earlier in the seventeenth century the puritan casuist William Ames had applied the same four conditions to promissory oaths.[47] Equally, the notion

[38] [J. Dury], *A second parcel of objections against the taking of the Engagement answered* (1650), pp. 26–34.

[39] [A. Ascham], *The bounds and bonds of publique obedience* (1649), pp. 40–2; A. Ascham, *A discourse* (1648), p. 81.

[40] S. Eaton, *The oath of allegiance and the national covenant proved to be non-obliging: or, three several papers on that subject* (1650), pp. 1–2, 36.

[41] J. A. W. Gunn, *Politics and the public interest in the seventeenth century* (London, 1969); J. Scott, *Algernon Sidney and the English Republic, 1623–1677* (Cambridge, 1988), ch. 13.

[42] Nedham, *Case of the commonwealth*, p. 26.

[43] Sanderson was a close associate of Laud and a favoured chaplain of Charles I, I. Walton, *The compleat angler, the lives of Donne, Wotton, Hooker, Herbert and Sanderson*, ed. G. Keynes (London, 1929), p. 480, but was also adopted by moderate puritans as a shining example of a good Calvinist bishop, F. D., *Reason and judgement: or, special remarques of the life of … Dr. Sanderson* (1663). He was also highly respected by European theologians, H. R. McAdoo, *The structure of Caroline moral theology* (London, 1949), p. 72.

[44] Sanderson, *De juramento*, pp. 42, 48.

[45] Ibid., p. 199.

[46] Ibid., pp. 54–6.

[47] Ames, *Conscience with the power*, pp. 54–5.

of primary intentions had its roots in casuistry. The idea that the primary intention of all oaths should be the public good stemmed from Aquinas' theory that all law flowed from the first principle that 'good is to be done and evil is to be avoided'.[48] In general, Engager authors seem to have chosen to borrow selectively from case divinity rather than fundamentally challenge its principles.

III

The debate over the nature of oaths addressed the dilemma facing many Englishmen (and at least some women) between 1649 and 1652. In May 1661 the Cavalier Parliament ordered that, along with returns for the Solemn League and Covenant, subscriptions to the Engagement should be destroyed.[49] None the less, enough evidence remains to suggest that in many areas the Engagement was imposed on the general public, not just on local office-holders. Returns exist for Wigan, the parish of Rye in Sussex and for parts of Gloucestershire.[50] The broad impact of the Engagement was reflected in the large number of letters written by those who had doubts over taking the declaration. Sanderson and other Anglican divines were involved in resolving scruples over whether or not to take the Engagement. Henry Hammond wrote to Gilbert Sheldon on 1 April 1651: 'Mr. Lovel, … came from the Isle of Wight hither to me to advise about the En[gagement] (and I could not advise him to take it, though I think his excuse is more justifiable than any man's).'[51] Philip Sidney, Viscount Lisle and a member of the Council of State, wrote several letters to his father, the earl of Leicester, on the subject.[52] Lisle thought that there was 'no probability that any man of note or estate' could 'live in England without subscribing, unlesse some great change of things happen, which would involve 'an entire overthrow of the gouvernement'.[53] Following news that other lords had subscribed Leicester took the Engagement before two local JPs in April 1650. His reasons for subscribing were entirely pragmatic. Leicester noted in his journal that, as Sir Edmund Leech was suing him in a court of law, he could not afford to deny himself legal redress (one of the penalties for refusing the Engagement was the loss of the protection of the law).[54] One anonymous correspondent complained that he could not 'forget our vows to god in the day of our distress and those many engagements that lie upon us'. These previous obligations precluded him 'from entertaining any dispute about change of government in this kingdom'. His fear was of offending God

[48] Jonsen and Toulmin, *The abuse of casuistry*, pp. 125–34.
[49] *Commons Journal* (*CJ*), VIII, pp. 256, 259.
[50] British Library (BL) Add. Roll 7180 'Engagement to be faithful to the Commonwealth taken at Wigan'; F. A. Inderwick, 'The Rye Engagement', *Sussex Archaeological Collections*, 39 (1894), pp. 16–27; Gloucestershire Record Office D1571 F116.
[51] 'Illustrations of the state of the church during the Great Rebellion', ed. N. Pocock, *Theologian and Ecclesiastic*, 6–15 (1848–54), 8, p. 286.
[52] Historical Manuscripts Commisssion (HMC), *De L'Isle MSS*, VI, pp. 466–78.
[53] Ibid., VI, p. 472.
[54] Ibid., VI, p. 598.

and so he would not be moved by 'any argument taken about the several forms of government'. The writer's hope was that his correspondent might satisfy him that the Engagement could be taken without violating earlier oaths and covenants.[55] Richard Baxter, renowned as a Protestant casuist, received letters from the presbyterian minister Richard Vines who confessed to being lost in conscientious difficulties over the Engagement.[56] It was not only divines who performed the role of casuists. As has already been noted, Leoline Jenkins replied to a number of letters requesting advice on the point of subscribing to the Engagement. Samuel Gott, a Sussex lawyer, was also plagued by demands for help from London friends.[57]

Much discussion of the Engagement was carried out through the spoken word. In March 1650, Richard Bradshaw, mayor of Chester, wrote to John Bradshaw, president of the Council of State, stating that the delay in sending in the city's Engagement returns had been caused by the 'deterring arguments from pulpits whence the rigid presbyterians shake the minds of men, setting the engagement directly in opposition to the covenant, charging covenant breaking and perjury upon all that have subscribed, and labouring to render them odious to the people'.[58] This kind of trouble was clearly not isolated to Chester. In November 1650 the Council of State noted that it had demanded the removal from army garrisons of 'some ministers who, by refusing to subscribe the engagement, and disowning the present government, are an ill example to others'. The order had not been effective as ministers had simply continued to preach outside the garrisons and a new order had to be passed for removing these seditious clergymen to a safe distance from garrison towns.[59] On 23 November 1650 depositions were made accusing Constance Jessop, a presbyterian minister in Bristol, of preaching against the present government. On 14 December it was recorded that Jessop was to be allowed to preach again, having apparently taken the Engagement, provided that he did not return to Bristol and remained 'well-affected to the government in his sermons'.[60] However, on 7 January 1651 it was ordered that Jessop should be examined again as to 'miscarriages' of his party in Bristol. On the 24th of the same month the minister was ordered not to come within ten miles of the city.[61] Casuistic conferences were also used during the Engagement controversy. A pamphlet printed in 1650 reproduced the memoranda of a conference between 'brethren that scrupled at the Engagement; and others who were satisfied with it' held on 15 and 22 February, and 1 March 1650.[62] John Wallace suggested that Edward Reynolds's call for a 'solemn debate' on the Engagement in his *Humble*

[55] HMC, *Ormonde MSS*, new series, I, pp. 144–6.

[56] *Calendar of the correspondence of Richard Baxter*, ed. N. H. Keeble and G. F. Nuttall (2vols., Oxford, 1991), I, pp. 58–9.

[57] A. Fletcher, *A county community in peace and war: Sussex, 1600–1660* (London, 1975), pp. 296–7.

[58] *CSPD*, 1650, p. 20. [59] Ibid., p. 427. [60] Ibid., pp. 440, 470.

[61] Ibid., 1651, pp. 5, 22.

[62] *Memorandums of the conferences held between the brethren that scrupled at the Engagement; and others who were satisfied with it* (1650).

proposals of sundry learned and pious divines (1650) may have instigated these discussions.[63]

Printed works mirrored the efforts of casuists in resolving the scruples of their correspondents by adopting the language and methods of case divinity. The casuistic slant of these Engagement tracts can be confirmed by a quick survey of their titles: *The grand case of conscience stated* (1650); *A case of conscience resolved* (1649); *Conscience puzzel'd* (1650); *Objections against the taking of the Engagement answer'd, or some scruples of conscience* (1650).[64] One of the most prolific of the pro-government authors, John Dury, produced all of his pamphlets as resolutions of cases of conscience. His *Objections against the taking of the Engagement answer'd* was given in the form of a reply to a specific case of conscience from a 'godly minister in Lancashire'. Most of Dury's works were framed as resolutions of the scruples of the conscientious godly. One pamphlet, which has been ascribed to John Milton, was able to reduce the objections to subscribing to the Engagement to a single 'Grand case of conscience'.[65] Books were exchanged as a means of helping friends in dilemmas of conscience. In March 1650 William Lowe thanked Colonel Edward Harley for the pamphlet he had sent him, stating that he could not 'but approve of it, finding nothing in it that forbids us to … live quietly in our callings under this present Government'.[66] William Sancroft was sent Robert Sanderson's judgement on Anthony Ascham's work as a support to his decision to refuse the Engagement when it was tendered at Cambridge.[67]

Although a great deal of printed and manuscript material was produced relating to the Engagement only two genuine individual cases of conscience written by casuists in response to letters concerning the declaration remain in existence. (This is possibly because, as has already been shown, many presbyterians were using sermons and conferences, rather than the written word, to disseminate casuistic advice.)[68] The better known of the two cases is by Robert Sanderson. It offered a hand written reply to a series of queries about the lawfulness of taking the Engagement from Thomas Washbourne, a Gloucestershire minister.[69] The case was not published until 1668, five years after Sanderson's death.[70] However, it was hotly discussed in Oxford shortly after having been written as a result of Washbourne's university connections

[63] Wallace, 'Engagement controversy', p. 395.

[64] See K. Thomas, 'Cases of conscience in seventeenth-century England', in J. S. Morrill, P. Slack, and D. R. Woolf, eds., *Public duty and private conscience: essays in honour of Gerald Aylmer* (Oxford, 1993), pp. 29–57; *The complete works of James Harrington*, ed. J. G. A. Pocock (Cambridge, 1977), 'Historical introduction'.

[65] Ascribed by Thomason to Milton, *The grand case of conscience concerning the Engagement stated and resolved* (1650).

[66] HMC 14th Report, *Portland MSS*, III, p. 172.

[67] Bodleian Library, Oxford (Bodl.), MS Tanner 56 fo. 257.

[68] Though the parliamentarian administrator William Jessop recorded the process of self-examination by which he cleared his own scruples over the Engagement, see G. E. Aylmer, *The state's servants: the civil service of the English Republic, 1649–1660* (London, 1973), pp. 234–8; BL Add. MS 46190 fos. 190–3.

[69] Sanderson, *Works*, V, pp. 20–35.

[70] *Two cases resolved by the late learned father in God, Robert Sanderson* (1668).

(he was married to the daughter of the dean of Christ Church).[71] It has often been thought of as unique because of its remarkable conclusion, which seems to allow that, in some circumstances, the Engagement might be taken. However, a similar case exists in the hand of Sir Robert Filmer.[72] References to the benefits of mixed government make it unlikely that Filmer was the author.[73] James Daly suggested that Sanderson himself might be the writer. The volume of the Tanner manuscripts that contains this case also features a number of resolutions of conscience by Sanderson. However, the transcriber makes clear these cases were not by him, and Sanderson would be as unlikely as Filmer to make reference to the benefits of mixed monarchy.[74] A more probable candidate is Sir John Monson, as Filmer transcribed another political treatise attributed to him in the same volume.[75] Whatever the doubts about its authorship, the resolution seems to be an answer by a royalist casuist to a genuine case of conscience over the Engagement and worthy of further examination.

Protestant casuists denounced the use of tactics of equivocation and mental reservation in taking oaths. Sanderson himself had spent a large proportion of his lectures on promissory oaths in attacking these practices.[76] None the less, in the resolution of his case Sanderson appeared to be coming close to advocating their use. He began 'The case of the Engagement' conventionally enough. Challenging Washbourne's assertion that the oaths of allegiance and supremacy did not bind to impossibilities, Sanderson said that no subject who had taken the oaths could 'without sinning against his conscience, enter into any Covenant, Promise or Engagement to put himself into an incapacity of performing the duties of his bounden Allegiance'.[77] However, Sanderson quickly went on to introduce several caveats to this blanket prohibition. He stated that though typically oaths ought to be taken in the sense intended by the imposer, when it seemed that an oath was intended to snare the takers into a deeper obligation the swearer may take it 'in the more favourable construction, and that which bindeth to less'.[78] Sanderson followed this by offering both a loose and a strict interpretation of the Engagement. By this

[71] *Theologian and Ecclesiastic*, 6, pp. 224, 7–8, 51.

[72] Bodl. MS Tanner 233 fos. 135–47.

[73] It was first ascribed to Filmer by G. J. Schochet, 'Sir Robert Filmer: some new bibliographical discoveries', *The Library*, 26 (1971), pp. 135–60; but James Daly noted that allusions to the benefits of mixed government, distinction between the nature and exercise of power, and questions of written style cast serious doubt on Filmer's authorship, *Sir Robert Filmer and English political thought* (Toronto, 1979), pp. 194–8. Daly suggested that Sanderson might be the author but this is clearly not the case. Folios 148 to 172 in the Tanner volume are copies of cases of conscience by Sanderson (see *Works*, v, pp. 84–8, 104–22) but they are titled as 'A discourse upon a Case of Conscience *not mine*; but by a learned divine.' My suggestion is that the volume was a notebook of Sir John Monson's which had been copied by Filmer as preparation for work on the subject of *adiaphora*, see Daly, *Filmer*, pp. 108–9.

[74] See Sanderson's preface in James Ussher's, *The power communicated by God to the prince* (1661).

[75] [Sir J. Monson], *A discourse concerning supreme power and common right* (1680).

[76] Sanderson, *De juramento*, pp. 194–200.

[77] Sanderson, *Works*, v, p. 22.

[78] Ibid., pp. 26–7.

process he was able to show how the ambiguity of the terminology used in the declaration might mean that it 'importeth no more as to the present Governors but to live peaceably under them *de facto*'.[79] He allowed that those who could see the Engagement in this more favourable light might take it, given that there were no means by which subjects could fulfil their obligations of allegiance to the lawful sovereign.[80]

Sanderson's resolution in 'The case of the Engagement' has been treated as an exceptional example of a Protestant casuist making use of tactics more often associated (rightly or wrongly) with Jesuits.[81] The resolution of a similar query in Filmer's hand shows that Sanderson's decision in the case cannot be taken as unique and confirms the importance of casuistic reasoning in the Engagement controversy. In both cases, the casuists were replying to correspondents concerned that the Engagement could not be subscribed, as it was contrary to the oath of allegiance.[82] As in 'The case of the Engagement', the writer began by stating that if his correspondent imagined that the declaration required an approval, implicit or explicit, of the setting up of the republican government, they ought not to take it.[83] Like Sanderson, the writer followed this caution by opening the meaning of the Engagement into a broader, far less obliging, reading. As in 'The case of the Engagement' the meaning of the word 'commonwealth' was explored. The writer stated this could either signify the paternal government of a legitimate monarch or a republican government founded upon popular consent. The government of the present junta could no more claim to be a commonwealth in either sense than a conventicle could claim to be a national church. He argued that this meant that by taking the Engagement, the correspondent would be 'so far from ingaging to be true and faithfull to the present Government (to w[hi]ch the word established can only refer) As on the contrary in promising to be true and faithfull to the Commonwealth; (the Commonwealth being the same as it ever was) you engage to endeavour the restoring of it to the most glorious and happy being it is capable of'.[84] This writer had succeeded in reinterpreting a promise to be faithful to the newly formed republican government as a pledge to restore the monarchy.

There was one important difference between the two cases. Both Sanderson and the writer of the Tanner case agreed that the subscriber did not need to inquire into the imposer's sense of the declaration. Sanderson argued that if an equivocation lay on the imposer's part it did not lie with the promiser to make out the true meaning. Indeed, if the promiser felt that the ambiguity was an intentional snare to lead him into a far deeper obligation he might take it 'in the more favourable construction and that which bindeth to less'.[85] The case in

[79] Ibid., p. 28.
[80] Ibid., pp. 34–5.
[81] P. G. Lake, 'Serving God and the times: the Calvinist conformity of Robert Sanderson', *Journal of British Studies*, 27(1988), pp. 81–116; Jones and Toulmin, *Abuse of casuistry*, pp. 211–12.
[82] Bodl. MS Tanner 233 fo. 135.
[83] Ibid., fo. 136.
[84] Ibid., fos. 138–10; Sanderson, *Works*, v, p. 28.
[85] Sanderson, *Works*, v, p. 27.

the Tanner manuscripts also permitted the subscriber to take the Engagement in a looser sense than that intended by the imposers but on the grounds that the present power was unlawful.[86] English seminary priests who counselled that full answers did not need to be given to inferior or unlawful magistrates had used the same reasoning.[87]

In these manuscript resolutions, two royalist writers appeared to have contradicted the advice given in printed pamphlets against the Engagement. They seemed to have allowed presbyterians and royalists not only to offer passive obedience to the usurping powers but also to take the declaration of loyalty to the Commonwealth. In the case of Sanderson, his resolution went against what we know was his personal practice. Sanderson was one of those 'Episcopal Divines' that Baxter said had refused the Engagement. Sanderson referred to himself in the case as a 'refuser' of the declaration and both George Morley, bishop of Winchester, and Henry Hammond confirmed this.[88] The reason for the difference between Sanderson's conclusions in his printed and manuscript works on the Engagement lay in the need in casuistry to target individual cases specifically to the inquirer's circumstances.

In 'The case of the Engagement', Sanderson tailored his resolution very closely to Washbourne's own predicament. He flattered Washbourne's hopes by suggesting that it was possible, as rumoured, that Charles II had sanctioned subscribing to the Engagement and that it might be defensible for him to take it as it was only a 'civil' declaration. Nowhere was his targeting of his audience more clear than in the section in which Sanderson argued that swearing to the Engagement might be permissible because many wise members of the presbyterian party had already subscribed. This was not a precedent that Sanderson himself would have followed. He had described the presbyterians as worse in their beliefs than sects like the Brownists and Anabaptists.[89] Both Sanderson and the author of the case in the Tanner collection stated that their resolutions were only applicable to the circumstances of the individuals in question. In 'The case of the Engagement', Sanderson made clear that he would not offer a definitive judgement on whether the Engagement could be taken and waived making 'any positive Conclusion, either Affirmative or Negative, touching the Lawfulness or Unlawfulness of subscribing *in universii*'.[90] The writer of the case in the Tanner manuscripts was equally circumspect. The Engagement could not be taken if the correspondent still felt 'any inward check, or doubting of the lawfullnes of it; for what ever is not of faith is sin'. Due regard was to be given to when, where and to whom the Engagement was taken so that the least scandal was caused.[91]

Sanderson and the author of the Tanner case are still left open to Baxter's charge that they were making use of proscribed practices of equivocation. In

[86] Bodl. MS Tanner 233 fos. 141, 144.
[87] *Elizabethan casuistry*, ed. P. J. Holmes, *Catholic Record Society*, 67 (1981), p. 65.
[88] Sanderson, *Works*, v, pp. 20, 37–60; vi, p. 330n.
[89] Ibid., v, p. 23; vi, pp. 368–71.
[90] Ibid., v, p. 34.
[91] Bodl. MS Tanner 233 fos. 146–7.

the 1640s Anglican divines, including Sanderson himself, had argued that the internal contradictions of the Solemn League and Covenant were such that the conscientious must refuse to swear for fear of setting a snare for themselves.[92] Now Sanderson claimed that the inconsistencies in oaths were not the concern of the subscriber, indeed that he might use them to his own advantage. In justifying this practice Sanderson drew an interesting historical parallel with the response to the 1642 Protestation. In subscribing to this oath (ostensibly in support of the Church of England but containing an implicit threat to use force if the Church was not defended against the forces of 'Popery'),[93] royalist heads of houses at Oxford had attached their own equivocating caveats to its original form. These 'Marginal notes and interpretations' denied any right of resistance and demanded that the liberties of the subject should be clearly defined by the imposing party before the subscriber could be obliged to defend them.[94]

It seems that Sanderson here might have been suggesting, not that the subscriber should make some internal reservations about the Engagement, but that he should produce this kind of declared equivocation with its terms. The Tanner case provides some corroborating evidence. The writer said that the Engagement was not to be taken 'out of any compliance with the present power'. When taking it the writer insisted that the subscriber must 'declare his sense upon it; as much as he may with safety; (at least to a disapproving of the present Government)'.[95] In print, Anglican authors still refused to condone the use of limitations in swearing[96] but some apologists for the republican regime publicly suggested that equivocal subscriptions could be made to the Engagement. John Dury hinted that he had taken the promise of loyalty to the commonwealth with reservations concerning earlier oaths and covenants.[97] In another of his pamphlets, Dury offered just this kind of equivocal gloss on the Engagement, rendering it compatible with the ends of the Covenant.[98] The author of *Certain particulars* (1651), like Sanderson and the author of the Tanner case, interpreted the words of the Engagement in the broadest sense possible. The word 'Commonwealth', the author said, only meant 'the publicke Affairs and welfare of the place where his [the subscriber's] lot is cast to inhabite'.[99] Some royalists appear to have made use of declared equivocations. The lawyer John Wenlock claimed he was allowed to take the Engagement 'so far as it was

[92] *Certain observations upon the new league or covenant* (Bristol, 1643), p. 9; *The iniquity of the late solemne league* (Oxford, 1643), p. 7; [R. Sanderson], *The reasons of the present judgement of the University of Oxford* (1647), pp. 22–3.

[93] C. Russell, *The fall of the British monarchies* (Oxford, 1991), p. 295.

[94] *Oxfordshire and North Berkshire Protestation returns and tax assessments, 1641–1642*, ed. J. S. W. Gibson (Oxfordshire Record Society, 59, 1994), pp. 149–72.

[95] Bodl. MS Tanner 233 fos. 146–7.

[96] *Modern policies*, princ. VII; *A copie of a letter against the Engagement*, pp. 10–11. Some Anglicans privately condemned the use of equivocations as well, see Samuel Dillingham's letter to William Sancroft 11 Dec. 1650, *Theologian and Ecclesiastic*, 8, pp. 162–3.

[97] [Dury], *A second parcel of objections*, p. 26.

[98] [Dury], *Considerations concerning the present Engagement*, passim.

[99] *Certain particulars*, pp. 2–3.

not contradictorie and repugnant to the word of god, and the fundemental Lawes of the kingdom' so that he could continue to pursue his profession. Wenlock said that this protestation 'did passe for currant, though certainly I was not thereby any more engaged then I was before'.[100]

IV

The two Anglican cases of conscience concentrated on the issue at the heart of the Engagement controversy, whether the declaration conflicted with previous oaths or covenants. Discussions about the legitimating power of divine providence or the duty of obedience to powers in possession were certainly part of this debate, but to the readers of these pamphlets they did not always seem pertinent to the personal choice facing them. For this reason much of the pamphlet literature was also devoted to discussing the nature of oaths and covenants. Presbyterian and Anglican opponents of the Engagement argued that oaths and covenants were indissoluble and that those who took the declaration of loyalty to the Commonwealth would be forsworn. Conversely, the Rump's supporters urged that the obligation of promissory oaths was dependent upon certain 'tacit conditions'. The basis for this argument could be found earlier in the casuistry of William Ames and Robert Sanderson. However, in contradiction to the public writings of most English casuists, some of the Rump's supporters, notably John Dury, suggested that it was also possible to make equivocal subscriptions to the Engagement. Yet, although Anglicans continued to maintain in print that it was unlawful to use equivocations in swearing, in individual cases circumstantial and prudential considerations led both Sanderson and the author of the Tanner manuscript to permit employing declared reservations. The political impact of these Anglican cases remained limited whilst they were kept from being public knowledge, but after 1688 Sanderson's resolution was to be heavily discussed in print and widely circulated in manuscript.[101] With the eruption of another pamphlet controversy, this time over taking the oaths of allegiance to William and Mary, the issue of taking oaths to rulers of doubtful legitimacy would again seem relevant. The distinction Sanderson had maintained during his life between his private and public resolutions would be erased.[102]

[100] J. Wenlock, *The humble declaration of* … (1662), pp. 96–7; for evidence of similarly equivocal subscriptions being accepted see the case of Dr John Conant, vice-chancellor of the University of Oxford from 1657 to 1660, *Register of the visitors of the University of Oxford*, ed. C. M. Burrows (Camden Society, n. s., 29, 1881), pp. xlvii–xlviii. However, bare promises of good behaviour seem to have been insufficient, ibid., p. 274n.

[101] BL Add. MS 32093 fos. 272–5; BL Add MS 746 fo. 146; Bodl. MS Tanner 461 fos. 54–5; M. Goldie, 'The revolution of 1689 and the structure of political argument', *Bulletin of Research in the Humanities*, 83 (1980), pp. 473–564, at pp. 522–3.

[102] Sanderson, *Works*, VI, p. 411.