5

Necessity, Free Will and Conscience

Robert Sanderson

5.1 Logician and Theologian

5.1.1 An English Casuist

Dealing at this point with a real theologian enables us to imagine the greater picture that any pious and well-read English natural lawyer – and there were many in existence in the period under discussion – would have in mind when referring to primary knowledge as 'necessary'. Furthermore, this chapter explores the formidable efforts that Christian theologians made to maintain a unified sense of the world's view, with coherent science, politics, and faith, in the face of rampant scepticism, mechanistic philosophy and fragmentation of faith and political representation.

This chapter explores how the divine Robert Sanderson (1587–1663) sought to develop a theological doctrine of free will that made sense of the moral life of a free individual. Sanderson simultaneously posited a metaphysics of necessity and a doctrine of free will, while developing a notion of conscience founded on mechanical laws. By many accounts, his work was an inspiration to John Locke.[1] Scholars have written about its influence on conscience and natural law in John Locke's early writings and have shown, in particular, that Sanderson's *Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford* was a main reference for Locke in the writing of the unpublished *Two Tracts of Government* and his foundational *Essays on the Law of Nature*. However,

[1] Wolfgang von Leyden, 'Introduction', John Locke, *Essays on the Law of Nature*, The Latin text with a Translation, Introduction and Notes, together with Transcripts of Locke's Shorthand in his Journal of 1676, W. von Leyden (ed.) (Oxford: Clarendon Press, 1954); Philip Abrams, 'Introduction' in John Locke, *Two Tracts of Government* (Cambridge: Cambridge University Press, 1967); Robert Horwitz, 'Introduction' in John Locke, *Questions Concerning the Law of Nature*, with an Introduction, Text and Translation by Robert Horwitz, Jenny Strauss Clay, and Diskin Clay (Ithaca and London: Cornell University Press, 1990); Harris, *The Mind of John Locke*; Stanton, 'Authority and Freedom'; Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism'.

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none of them has engaged with Sanderson's ideas in their own right. This is the aim of the present chapter.

In the dangerous decades from prior to the death of Charles I to the Restoration of Charles II (1640–1660) Sanderson developed a complex understanding of conscience and *the laws* by which it worked that stood somewhere between classical and reformed theology, civil religion and natural philosophy. Influenced through several channels by a metaphysics of necessity, that inspiration was nowhere more conspicuous than when he grounded the definition of legislative power as a right and as public jurisdiction on the fact that '[t]he Law hath a necessitating power' – that is, law carries the sword.[2] Sanderson's metaphysics of a dual structure of the world composed of necessary truths and contingent or indifferent things has complex roots. What might seem its most obvious source – fashionable seventeenth-century French mechanistic philosophers – does not, in view of his biographical writings, appear to tell the whole story about the origin of his ideas.

Peter Lake once highlighted Sanderson's Calvinist, 'dourly pessimistic view of human nature', evidenced by his zealous preaching against sin, which often bordered on Puritanism.[3] Sanderson's life, however, shows that by temperament he could hardly share the Puritan radicalism displayed during 'the English troubles'. His biographer Izaak Walton described him as a virtuous man who led an innocent life and found just one fault in his character, which was that he was 'too timorous and bashful'.[4] Certainly, moderation and humility were his constant message, and despite his theological and philosophical tendencies, he abhorred social radicalism. Lake argues that Sanderson remained within Calvinist orthodoxy, alarmed

[2] 'Seventh lecture: Concerning the Obligation of Humane Laws, in relation to the Efficient Cause thereof,' Robert Sanderson, *Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford* (London: Printed by Tho. Leach, and are to be sold by John Martin [etc.], 1660). Hathi Trust, p. 236; p. 240. Sanderson substituted 'compulsive' by 'necessitating power' in his quote of Aristotle, *Nichomachean Ethics*, Book X, 1180a18–22: 'the paternal command has not the required force or compulsive power (not in general has the command of one man, unless he be a king or something similar), but the law *has* compulsive power, while it is at the same time a rule proceeding from a sort of practical wisdom and reason.' Aristotle, *Nichomachean Ethics* David Ross trans., Revised with an Introduction and Notes by Lesley Brown (Oxford: Oxford University Press, 2009).

[3] Peter G. Lake, 'Serving God and the Times: The Calvinist Conformity of Robert Sanderson' 27 *Journal of British Studies* (1988), p. 82; p. 89; 'Sanderson, Robert (1587–1663)' J. Sears McGee, 23 September 2004 https://doi-org.libproxy.helsinki.fi/10.1093/ref:odnb/24627

[4] Izaak Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln; to which is added, some short tracts or cases of conscience written by the said Bishop* (London: Printed for Richard Marriott, 1678), Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A67467.0001.001 p. 16.

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by the pride and social disruption he witnessed in communities of radical Puritans. Lake also explains that in the face of the high level of anxiety caused by the fact of sin, the Puritans developed a sort of comforting strategy in the experimental predestinarian tradition, which they reinforced in the practice of peers' assurance by the godly Puritan community.[5] As discussed in the following text, Sanderson's Calvinism was certainly not uncompromising, and Lake's point is, in short, that to describe Sanderson as an *Anglican* divine obscures more than it tells. However, Sanderson's Anglicanism can be seen in his respect for the law and preference for order and public peace.[6] In fact, it may be argued that from the ample palette of Reformation England, Sanderson used what he thought could be helpful to his own soul, to his pastoral care, to his Church, and to his country.[7]

Sanderson's very widely read ten lectures, *De obligatione conscientiae*, were delivered at Oxford in 1647, but only published in 1660 after thorough revision.[8] The editor of an 1851 reprint of the Latin text and translator of a summary of the lectures was no other than the professor of Moral Philosophy and Master of Trinity College at the University of Cambridge, William Whewell (1794–1866), well known among international lawyers for having endowed the first ever chair of international law. Whewell praised Sanderson's adequate use of Aristotle and, but for Sanderson's approach to the issue of the divine rights of kings, described the lectures as probably the best example of the Ethical School that 'preceded the influence of Hobbes and Descartes'.[9] The prestigious Latin translator Robert Condrington produced the English text of 1660. Both the Latin and the English editions are dedicated to Robert Boyle who paid a pension to Sanderson to enable him to prepare them for publication.[10] The first half of the lectures cover moral philosophy while the second half cover legal and

[5] Lake, 'Serving God and the Times', p. 100; McGee, *The Godly Man in Stuart England,* p. 173.
[6] McGee, *The Godly Man in Stuart England,* pp. 114–170.
[7] In the preface to his Sermons of 1657 'in zeal for the safety and honour of my dear Mother, the Church of England, which hath nourished me up to become a Christian and a Protestant, that is to say, a pure Christian without any other addition or epithet'. Robert Sanderson, 'Preface', in William Jacobson (ed.), *Robert Sanderson Works*, (Oxford: Oxford University Press, 1854) vol. 2, p. liv.
[8] Sanderson, *Several Cases of Conscience*; Robert Sanderson, *De obligatione conscientiae. Praelectiones decem,* with Notes and abridged Translation by William Whewell (Cambridge: Cambridge University Press and London: John W. Parker, 1851).
[9] Whewell, 'Editor's Preface', in Robert Sanderson, *De obligatione conscientiae,* p. iii.
[10] Michael Hunter notes the express request of Boyle who, as noted before, suffered from an scrupulous conscience and personally welcomed the relief provided by Sanderson's advise, Hunter, 'The Conscience of Robert Boyle', p. 74; Hunter, *Boyle: Between God and Science*, p. 100.

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political teaching, but, due to their casuistic character, involving focus on boiling political cases, they rather belong to the genre of political treatise.

Ahead of the content, Sanderson wrote in the Preface to the reader that a 'Necessity did inforce' him to close himself into his study and review the text. He had been practically forced to publish the lectures since they were about to be published both in England and on the Continent without his permission. A candid request from a publisher convinced him that it was best to take the process into his own hands, despite his doubts and evident modesty. Sanderson was a Royalist.[11] He was appointed Regius Professor of Divinity by Charles I in 1642 and later ejected from his Professorship by the Parliamentary Commissioners. Harassed by members of the new regime, the affronts and violence he suffered only convinced him further of the value of religious moderation. Charles II reinstated him in 1660 and soon afterwards made him Bishop of Lincoln. Sanderson had assisted the King's father, Charles I, in diverse tasks in the 1630s and, in captivity along with other divines during 1647 and 1648, on points on conscience.[12]

From 1606 to 1619 Sanderson was a fellow at Lincoln College, coinciding in Oxford with Thomas Hobbes, who lived at Magdalen Hall, at least from 1603 to 1608. He became a Reader of Logic in 1608 and his lectures were first printed in 1615. They reached eleven editions by 1741 and became a sort of textbook in 'both Universities' (Oxford and Cambridge).[13] Sanderson's *Logicae Artis Compendium* follows the Neoplatonist Porphyry's reading of Aristotle, a practice common among scholars in the history of philosophy.[14] However, the characteristics of his later deployment of the causal principle of necessity were not yet apparent in that text on logic.[15] As a

[11] Together with the 'counsel of his Peers', 'the will of the Prince, from whose Arbitration and Command alone, all Rogations of Lawes are either established, or made void, is the only adequate, and efficient Cause of Publick Laws'. However, as he noted, in England kings never 'exercise their Legislative power as to impose any Laws on their subjects without their own consent', Sanderson *Several Cases of Conscience,* p. 246; p. 264.

[12] Whewell, 'Editor's Preface', in Robert Sanderson, *De obligatione conscientiae*; Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln.*

[13] William Jacobson, 'Introduction', in William Jacobson (ed.), *The Works of Robert Sanderson in Six Volumes* (Oxford: Oxford University Press, 1854), vol. I, p. 24; Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln*, 19.

[14] Robert Sanderson, *Logicae Artis Compendium* (Oxon: Iosephus Barnesius, 1615); A. C. Lloyd, 'Neoplatonic Logic and Aristotelian Logic I, 1 *Phronesis* (1955), p. 58.

[15] In Chapter 19, *De Locis à Causa et Effectus* in the explanation of the five principles Sanderson did not employ the method of 'necessity'; his epistemology back then made it superfluous: 'I. Posita causa, ponitur effectus'; II. Posito effectu ponitur causa; III Qualis causa, talis effectus; IV. Propter quod unumquodque est tale illud est magis tale; V. Causa Natura prior est effectu' (Sanderson, *Logicae*, p. 183).

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logician, it was only natural that he would follow the common contemporary method of syllogism to resolve cases of conscience. However, the mark of Erastian modernity in his series of lectures on cases of conscience, which were soon to become a theme only bothered about by antiquarians, was remarkable. English moral casuistic would not survive to the eighteenth century, making the reedition by Whewell the more interesting.

Sanderson deployed modern mechanistic philosophy to overcome scepticism, and insisted on obedience to positive law, in which he recognized the will of God. Moreover, he attributed the right to make ecclesiastical laws to the bishops, but he concluded that the complete exercise of that right and power, even the organization of the initial meeting of bishops, depended on the supreme magistrate.[16] Without knowing the extent of the revisions he undertook in 1659 it is impossible to decide whether the lectures of the future Bishop of Lincoln were a case of Hobbism predating Hobbes– another expression 'of the genius' that governed the unhappy and fascinating age, according to Skinner's description of the context of Hobbes's political thought. Instead, Sanderson might simply have been a political proselyte of the philosopher of Malmesbury.[17] Notwithstanding the allegiances involved, Sanderson's thought (vis-à-vis that of Hobbes) shows clear originality in terms of the method by which he rooted the moral duty to obey the law in a complex theory of a mechanical conscience and moral uprightness.

5.1.2 Predestination, Necessity and Free Will

The particular context of Sanderson's early interest in the category of 'necessity' was worthy of the 'laberynthine religious history of the period' and quite to be expected from a politically engaged young English

[16] Sanderson, *Several Cases of Conscience*, p. 272.

[17] The seventh chapter dealing with obligation of human laws starts with Prov. 8.15 'Per me reges regnant, et Legum conditores justa decernunt', Sanderson, *Several Cases of Conscience*, p. 67. The same quote that already Hobbes had used in *De Cive*, as early as 1641, Howard Warrender, 'The Early Latin Versions of Thomas Hobbes's *De Cive*', s6-II *The Library* (1980). Hobbism of Anglican divines and Dissenters appeared more developed during the second decade of the Restoration, notoriously in the case of Samuel Parker's, *Discourse of Ecclesiastical Polity* see for this Richard Ashcraft, *Revolutionary Politics & Locke's Two Treatises of Government* (Princeton: Princeton University Press, 1986); Quentin Skinner, 'The Ideological Context of Hobbes's Political Thought' 9 *The Historical Journal*, (1966) p. 296.

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theologian.[18] By the 1620s, the epicentre of English theological debate had a clear doctrinal focus. After the rise of Arminianism, King James's attack on it prompted by a Calvinist impulse of his – and also for political reasons – and the international Synod of Dordt (1618–1619) organized by the Dutch Reformed Church, the tone was set for further discussion.[19] 'The Quinquarticular controversy' between the Calvinists and the Armenians related to the doctrines of predestination and grace, that ramified into five different points concerning the following: (1) original sin; (2) 'irrespective' election and reprobation ('irrespective' indicating whether someone had listened to the good news of the Gospel or not); (3) particular redemption; (4) irresistible grace; and (5) final perseverance.[20] Sanderson's theological positions on these questions appear in a letter-testimony he wrote to the Dean of Salisbury, Thomas Pierce, before the Restoration. His theological stand in turn offers valuable insight into the origins of the unique metaphysics of the English casuist. The reputed Royalist divine Henry Hammond (1605–1660) published part of that letter in a collection together with the thoughts and letters of friends.[21] The other part was obtained directly through another letter, dated 15 March 1678, this time from Pierce, due to the efforts of Sanderson's biographer. Reportedly, Sanderson resisted Pierce's entreaties to publish that information for a long time.[22] After all, he had been sharpening his ploughshare in the forges of the Philistines. But eventually he yielded to his friend's petition.

In the part of the letter in Hammond's possession, Sanderson described his theological path and his radical change of views from 1625 onwards.[23] As a young divine, he had read the 'learned Hooker', followed by Calvin's *Institutions*, which had greatly guided him in relation to his belief in predestination. Sanderson had accordingly become a 'sublapsarian', which

[18] Nicholas Tyacke, *Anti-Calvinists: The Rise of English Arminianism, C. 1590–1640*, (Oxford: Clarendon Press, 1990), p. xiv.

[19] Tyacke, *Anti-Calvinists,* p. 41; Hillel Schwartz, 'Arminianism and the English Parliament, 1624–1629, 12 *Journal of British Studies* (1973).

[20] J. B. S Carwithen, *The History of the Church of England* (London: Baldwin and Cradock, 1829) vol. II, p. 245.

[21] Henry Hammond, *Charis kai eirene, or, A pacifick discourse of Gods grace and decrees in a letter of full accordance / written to the reverend and most learned Dr. Robert Sanderson by Henry Hammond* (London, for R. Royston, 1660) Early English Books Online Text Creation Partnership, 2011 http://name.umdl.umich.edu/A45400.0001.001

[22] Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln*; The letter in *The Works of Robert Sanderson in Six Volumes*, vol. VI, p. 351.

[23] Jacobson, 'Introduction' in *The Works of Robert Sanderson in Six Volumes,* vol. I, p. v.

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is to say that he held the belief that God had foreknowledge about the Fall when He decreed who was predestined to achieve salvation.[24] In 1625, Parliament was convened and he was chosen as one of the clerks of the convocation for the diocese of Lincoln. His participation there gave him occasion to study the doctrine of salvation for himself, rather than simply continuing to rely on Calvin. As a result, he entirely abandoned Calvinist predestination views, although, as we will see in the following text, he retained other aspects of Calvin's theology.

During the parliamentary session, he discussed these issues with an unidentified man who recommended to him a work entitled *Variarum difficiliumque speculativae* (1623) that had recently been published in Paris by a Spanish bishop, Francisco de Arriba.[25] The Spaniard claimed in an introductory letter to the Pope Gregory XXV that the argument proposed a solution of a different, but related controversy, that of *de auxiliis*. *De auxiliis* had stirred up Catholic theologians after the Council of Trent ended in 1563, on the topic of the proper balance between divine sovereignty and free human will, between determinism and Pelagianism. The controversy *de auxiliis* started with a debate in Salamanca in 1582 between the Dominican Domingo Bañez and the Jesuit Prudencio de Montemayor, and the polemic arrived in Leuven with the Jesuit Leonard Lessius (1554–1623), when he contested the determinism of Michael Baius. It took definite international flight with the publication of *The Reconciliation of Free Choice with Gifts of Grace, Divine Foreknowledge, Providence, Predestination and Reprobation* (1588) *for several Articles of the* Prima Pars *of St. Thomas Aquinas* by the Jesuit Luis de Molina. A papal commission was established. In a pastoral move to avoid further dissension, it concluded in 1607 with a universal prohibition by the Pope Paul V to publish any more on the question. Robert J. Matava has written on the controversy *de auxiliis* recently, contrasting the theocentrism of the Dominicans with the

[24] In contrast to supralapsarians: 'a person who believes that God decreed the election or non-election of individuals to salvation even before the Fall', *Collins Online English Dictionary*. In the Introduction to Sanderson's letter, Dr Pierce wrote to Mr Walton that 'Sanderson discerned a necessity of quitting the Sublapsarian way, of which he had before a better liking, as well as the Supralapsarian, which he could never fancy.' *The Works of Robert Sanderson in Six Volumes*, vol. VI, p. 352. For the history of the controversy of Arminianism, Calvinism, the Quinquarticular controversy and James I in England Carwithen, *The History of the Church of England*, generally ch. 22. According to Sanderson, John Calvin was a supralapsarian.

[25] Francisco de Arriba, *Variarum difficiliumque speculativae theologiae quaestionum libri quatuor* (Parisiis: apud Laurentium Sonnium, 1623).

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anthropocentric position of the Jesuits.[26] It might be that the death of the Pope in 1621 cleared the way for new publications on the question, and de Arriba's was one of them.[27] De Arriba's *Variarum* seemed to have been a popular work in England in the seventeenth century, since bequests of at least three copies are registered as having been made before 1648 to the libraries of three Oxford colleges.[28]

Initially, Sanderson was baffled, feeling that he was reading the work of a charlatan. However, he persevered until he finished the work. Although inspired by Scotus, de Arriba's *Variarum* has neither the depth nor the density of style of Scotus. Nonetheless, it amounts to around 3000 pages of metaphysical reasoning about time and God. Moreover, de Arriba was no nebbish. First bishop of Segovia, then elected bishop of Ciudad Rodrigo – he died in 1623 before he could accept the bishopric – he was a doctor in theology and, as a biographical note in the book asserts, confessor to the French queen, the Spanish Anne of Austria, future mother of Louis XIV. Sanderson's letter highlights the content of books III and IV, the former arguing in support of 'the coexistence of all things past, present and future, *in mente Divina realiter ab aeterno*' and 'not simply *praesentialitatem objectivam*'. The fourth book contains an argument as to the

> twofold manner of God's working ad extra; the one, *sub ordine Preadestinationis*, of which Eternity is the proper measure; the other, *sub ordine Gratiae*, whereof Time is the measure. And that God worketh *fortiter* in the one, though *not irresistibiliter*, as well as *suaviter* in the other, wherein the Free Will hath his proper working also.[29]

In other words, predestination was not irresistible and human beings possessed free will to respond to grace – a statement by which in effect Sanderson stopped being a Calvinist. Apparently, the issue was not momentous enough for Sanderson to take a strong political position in

[26] Matava actually calls for a recovery on the unresolved question R. J. Matava, 'A Sketch of the Controversy *de auxiliis*', *7 Journal of the Jesuits Studies* (2020) p. 422; p. 446; Jackson, *Hobbes, Bramhall and the Politics of Liberty and Necessity*.

[27] Another book was, for instance, by Diego Álvarez, O.P., *De avxiliis divinae gratiae et humani arbitrii viribus, et libertate, ac legitima eivs cvm efficacia eorvndem avxililiorvm concordia liberi duodecim* (Cologne: Antonius Boetzerus, 1622).

[28] Among others from different religious inclinations, bequested to Jesus College on his death by the 1st Baron Herbert of Cherbury (1583–1648) the Deist philosopher and diplomat regarded highly by Descartes, Grotius, Gassendi, and Marsenne; by William Paddy, the royal physician, in 1634 to St John's College, and another of Ralph Kettel, the third president of Trinity College bequested to that college in 1643. From the database of the libraries at Oxford University.

[29] *The Works of Robert Sanderson in Six Volumes*, vol. VI, p. 353.

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relation to it since he remained private on the question his entire life. Instead, the reading of *Variarum* probably helped the good bishop to appease his conscience. Sanderson concluded that the acts of the Synod of Dordt remained in his study afterwards 'only to fill up a room to this day' and that

> from the result of his whole performance I was confirmed in this opinion, that we must acknowledge the work of both Grace and Free Will in the conversion of a sinner. And so likewise in all other events, the consistency of the infallibility of God's fore-knowledge at least, though not with any absolute, but conditional Predestination with the liberty of man's Will, and the contingency of inferior causes and effects.[30]

Sanderson's doubts concerning the extreme Calvinist views of a divine decree of predestination and the way in which he resolved them show that in the early decades of the seventeenth century, Catholic, Anglican and Reformed theologians might possess sturdy arguments that helped their consciences and their pastoral work and endowed their understanding of moral life with a common sense approach.[31] Beyond that metaphysical discourse carried on by theologians, the office of the magistrate as a legislator was supposed to determine and fixed 'in time and place' much of that contingency.

5.2 The Mechanical Conscience

5.2.1 *The Age of Conscience*

In his *Several Cases of Conscience* Sanderson set out the method by which right moral behaviour may be ascertained. He articulated, in a remarkable manner, the way in which contingent moral action became necessary in a framework of thinking in which God's will is necessary, and moral reasoning is guided by necessary syllogisms.

Margaret Sampson argued some years ago that in the seventeenth century Hugo Grotius and other eminent natural lawyers transformed casuistry into modern political thought.[32] Kant poured scorn on the political moralism of this group in his *Perpetual Peace*, describing them as 'miserable

[30] *The Works of Robert Sanderson in Six Volumes*, vol. VI, p. 353.

[31] See also David S. Sytsma, 'Aquinas in Service of Dordt: John Davenant on Predestination, Grace and Free Choice', in Jordan J. Ballor, Matthews T. Gaetano and David S. Sytsma (eds.), *Beyond Dort and De Auxiliis. The Dynamics of Protestant and Catholic Soteriology in the Sixteenth and Seventeenth Centuries* (Leiden, Boston: Brill, 2019).

[32] Sampson, 'Laxity and Liberty in Seventeenth-Century English Political Thought'.

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comforters'.[33] I argue in this chapter that in mid-seventeenth-century England, Robert Sanderson devised a method of assuring the tranquility of conscience that drew on natural philosophy and a command of positive law. Along with many of his contemporaries, Sanderson suffered many doubts about the simple 'postlapsarian recognition of the natural law through right reason' – that is to say, that after the weakness following original sin it was possible to know how to practice moral good.[34] On the one hand, the illumination of the light of reason was commonly considered to be no more than a faint spark in Reformation England. On the other hand, in a politically divided nation, the rationalist method of submitting people's consciences to the practice of reasoning through complex causal syllogisms, deprived of life, was not only an exhausting practice, but one that could lead to ominous political results. Sanderson's final proposal was then to complement the syllogistic method with a way of guiding one's conscience through human ordinances and, in this manner, end the tortuous process of inquiry to find the right action.

Izaak Walton mentioned the books that Sanderson always had to hand and knew almost by heart: Aristotle's *Rhetoric*, Aquinas's *Secunda Secundae*, Cicero's *De officiis* and the *Elementa Jurisprudientiae* by the Oxford civilian Richard Zouche, his contemporary.[35] In his lectures on conscience, however, Sanderson preferred Scotus and Durandus 'and some other of the most subtile School-men' over Aquinas. Further, he simplified many of the traditional notions, importantly *synderesis*, meaning conscience or the light of nature.[36] Nevertheless, Sanderson's lectures on cases of conscience are an ambitious and multifaceted work in which he proposed an original philosophical method to explain what he calls 'the Rule of Conscience', where he was mainly concerned with the *how* of the moral reasoning. I emphasize next the ways in which Sanderson employed the principle of logical

[33] Martti Koskenniemi, 'Miserable Comforters: International Relations as New Natural Law' in 15 *European Journal of International Relations* (2009).

[34] Greene, 'Synderesis, the Spark of Conscience, in the English Renaissance', p. 196.

[35] Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln.* Zouche's *Elementa* is a quite well-arranged systematic study of the civil law, with little theory, containing private and public law, ecclesiastical law and a good section on maritime commercial law. Richardi Zouchei, J. C., *Elementa Jurisprudentiae, definitionibus, Regulis & Sententiis selectioribus Juris Civilis, Illustrata* (Lugd. Batavorum, Johannes & Daniel Elsevirii, 1652). Richard Zouche was a Royalist civil lawyer, described as 'clearly the most distinguished civilian [lawyer] that Oxford produced in the seventeenth century' quote in P. Stein, 'Richard Zouche (1590–1661)', *Oxford Dictionary of National Biography* (2004, September 23). On Zouche's patriarchalism and on his *jus inter gentes* see Martin Clark, *The 'International' and 'Domestic' in British Legal Thought from Gentili to Lauterpacht* (PhD London School of Economics, London, January 2020), p. 66.

[36] Sanderson *Several Cases of Conscience,* p. 19.

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and causal necessity as a method by which to attain security of conscience. This standpoint went far beyond the theological doctrine under which certain truths and morals were necessary for salvation. The core message of Sanderson's lectures on conscience was ethical in nature.[37]

The will of God is the rule of conscience, and the way to fulfil that law in the practice of morality is to do it mechanically – that is, by following necessary reasoning according to a hierarchy of laws. This, in a nutshell, was Sanderson's message. He devoted many pages to a theory of conscience based on the rule of the Supreme Legislator – God – and to the method of ascertaining it. In the very substantial second part of the lectures, Sanderson made a sort of de facto case, stating that not only were human laws the surest guide for conscience, but that it was necessary, even in politically disrupted times, to obey human laws as the embodiment of the will of God.

According to Camille Slights, Sanderson's *De obligatione conscientiae*, together with Jeremy Taylor's *Ductor dubitantium* (1660), constituted the main reference work of seventeenth century Anglican casuistic moral philosophy.[38] This gives a sense of his position among contemporary moral philosophers, in a century that has been referred to as 'the age of conscience' – and casuistry has been argued to be the context of the main changes in political thought during that period, while even Hobbes is discussed seriously as being a casuist.[39] Anglican casuists' position about how to produce evidence in doubtful moral cases was termed *probabiliorism*, and its focus was on reason. Probabiliorists insisted that in case of doubt, it was safer to consider themselves bound in the face of an obligation, while they decried the laxity of (Jesuit) probabilism.[40] Sanderson explained it as follows: 'it is safer to obey the conscience doubting, than the Conscience doubting not to obey.'[41] The inviolability of individual conscience was

[37] Sanderson's biographer felt incapable to describe the immense value of the work stating only 'That they continue to this day, and will do for ever, as a compleat standard for the resolution of the most material doubts in Casuistical Divinity.' Walton, *The Life of Dr. Sanderson, Late Bishop of Lincoln,* p. 45.

[38] Camille Slights, 'Ingenious Piety: Anglican Casuistry of the Seventeenth Century' 63 *The Harvard Theological Review* (1970).

[39] Keith Thomas, 'Cases of Conscience in Seventeenth Century England', in John Morrill, Paul Slack and Daniel Woolf (eds.), *Public Duty and Private Conscience in Seventeenth Century England. Essays Presented to G. E. Aylmer* (Oxford: Clarendon Press, 1993), p. 29; p. 44; Margaret Sampson, '"Will You Hear What a Casuist He Is" Thomas Hobbes as Director of Conscience' 11 *History of Political Thought* (1990).

[40] George L. Mosse, 'Puritan Political Thought and the "Cases of Conscience"' 23 *Church History* (1954) 109–118; Slights, 'Ingenious Piety'.

[41] Sanderson, *Several Cases of Conscience,* p. 216.

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paramount for them and they also acknowledged the inability to grasp the innumerable circumstances of human affairs. Hence no categorical decision for or against sin was usually asserted.[42]

Certainly, not every casuist was a political thinker. Furthermore, only those authors that were ready or had the skills to produce theoretical novelties to justify a case of conscience developed national and international political thought in any significant way.[43] In view of Sanderson's lectures on the obligations of conscience, there is a strong case to be made that he aimed at doing precisely that to develop a moral philosophy compatible to *Leviathan*'s Erastian politics from within the ranks of the English Church. However, in the very ambiguous role that Sanderson attributed to the light of nature ('the *light* proceeding from this *law* is extremely obscured by that grievous ruine which followed the fall of Adam'), his own obscure use of the notion of synderesis and his employment of the Gersonian-Calvinist concept of 'instinct of Nature', Sanderson's lectures on conscience also embodied a rationalist epilogue in the decline, during the English Renaissance, of the idea of synderesis as a spark of conscience.[44]

5.2.2 *Albert the Great, Aquinas and Ralph Cudworth on the Agent Intellect*

Sanderson's light of nature is distinct from the light of the agent intellect of Aristotle, Albert the Great and Aquinas.[45] It is clear from his reworking of the light of nature and of the notion of conscience that he was knowledgeable

[42] Slights, 'Ingenious Piety'. Probabiliorism is one of several commonalities between Sanderson and earlier Puritan casuists such as William Perkins (1558–1602), see Mosse, 'Puritan Political Thought and the "Cases of Conscience"'.

[43] García-Salmones, 'The Disorder of Economy? The First Relectio de Indis in a Theological Perspective'; Mónica García-Salmones Rovira', 'The Impasse of Human Rights' 21 *Journal of the History of International Law* (2019); Sampson, 'Laxity and Liberty'.

[44] 'The *light* proceeding from this *law* is extremely obscured by that grievous ruine which followed the fall of Adam, and from hence arise those thick clouds of *Ignorance* and *Error* in which all his posterity whilst we live in this World, are invelopped. But the providence of God hath so most wisely ordered it, that in the common wrack it hath some off more unhurt that many other of the Faculties: for it hat pleased God that certain propositions, and practical principles … a spark of the Divine Fire which in the great conflagration was preserved in the ashes of it, should still remain, that so in our breasts and most inward parts, he might have the Preachers of his will.' Sanderson, *Several Cases of Conscience,* p. 132; Greene, 'Synderesis, the Spark of Conscience, in the English Renaissance'.

[45] Albertus, *Ethica*; *Aristotle's De Anima with the Commentary of St. Thomas Aquinas*; Jonathan Lear, *Aristotle. The Desire to Understand* (Chicago: University of Chicago Press, 1988); Hellmeier, *Anima et intellectus,* p. 217.

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about the tradition but wanted to reshape it according to the new ideas and the political situation. Conscience worked under the 'rule of the Law' and 'ordained' previous actions.[46] Thus, conscience could be explained as like 'the science of the heart' and 'no more than the heart's consciousness'. In both cases, it referred either to the fact that many individuals have the same knowledge, or that an individual knows many things. Furthermore, conscience applied 'the universal knowledge, or knowledge of the law' to the particular knowledge or 'the knowledge of the fact'.[47] Adopting Luther's position, Sanderson rejected the Biblical reference to the illuminative act of the light of reason – 'Thy light of Lord is signed over us' – and with it, the classical integration of philosophy and the Bible.[48] Hence Sanderson would propose a 'syllogisticall' conscience as we will see in detail.[49]

Therefore, Sanderson's description of the light in the mind seemed at the outset like a rule of law, to be applied to the particular case at hand. The light of intellect of the Christian theological tradition relates to knowledge, virtue and human nature in more complex and richer ways than being a rule of law. Albert the Great was, significantly, one of the first authors to take Aristotle up on that and Aquinas followed suit. Aristotle's description as a light of the potential intellect and the agent intellect in *De anima* III is one the most commented upon chapters in the history of philosophy:[50]

> Since just as in every nature there is something that is the matter in each class (this is what is all those things in potentiality), but another is the cause and agent (by causing all things, e.g. art with respect to the matter that has undergone it), it is necessary also that in the soul these differences belong. And there is one such mind by becoming all things, another by making all, as some sort of hexis, e.g. light; for in some way also light makes potential colours actual colours.[51]

[46] 'The Law which is written in our Hearts, and is as it were a rule of well living may be called Conscience'.

[47] Sanderson, *Several Cases of Conscience,* p. 5; p. 7.

[48] 'I here shall willingly take no notice of that Text in the fourth *Psalm* and sixth verse, which is commonly produced by the Latin Fathers especially of the latter *times*, and by the Schoolmen, for a proof of this Conclusion, the words are *Signatum est super nos lumen vultus tui domine*, *Thy light oh Lord is signed over us*, because that interpretation of the words are grounded on a bad translation, & seemeth not to appertain to the mind and scope of the Prophet.' Sanderson, *Several Cases of Conscience,* p. 117; that this was from Luther's inspiration, in Greene, 'Synderesis, the Spark of Conscience, in the English Renaissance', p. 203.

[49] Still he sometimes appears to remain within tradition: 'The proper act of Conscience, to wit, the *application* of the light which is in the mind by the discourse of *reason* to particular Acts.' Sanderson, *Several Cases of Conscience,* p. 13; p. 29.

[50] Lear, *Aristotle. The Desire to Understand*.

[51] Aristotle, *De Anima*, 430a10–17. Polansky, *Aristotle's De Anima: A Critical Commentary*, p. 460; Wilkes, 'Psuchē versus the Mind', p. 125

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For Albert and Aquinas this sort of light – the agent intellect and its counterpart the potential intellect – was (a) participating in God and, at the same time, (b) a new living being in the sense that the intelligent being in question was a particular woman or man. The light of the agent intellect depends on God. It is alive and is akin to a light that illuminates the truth of the particular thing. Their position broke the link with the idea defended by the Andalusian philosopher Averroes (1126–1198) about an intellect connected with human beings but 'separated from the body, as a substance that exists on its own'. In his commentary on Aristotle's *De anima*, written between 1267 and 1268, Aquinas summarized his intense polemic against the Averroist separated intellect, noting, that 'the theory in question (of Averroes) is an implicit denial of the existence of thinking in the human individual'.[52] In this context thinking, also thinking about the moral act, is a core notion as between God, the human spirit and the human body.

Albert also followed Aristotle in respect of the idea that we need to accept 'the virtues as innate in us, and that according to the act of thus accepted virtues, we are not changed, but perfected'. The reasoning behind this was that as 'in every nature each thing was perfected and not altered, when it acquired the virtue of its natural power, then the virtues cannot be a gift that reaches man from the outside'.[53] Albert wanted to explain in this context the connection between the virtuous act and the light of the agent intellect, with the tenets of his theory of creation as a hierarchy of forms (influenced by Neoplatonism) that participate in the divine light in gradual descent.[54] The closer the individual was to the first source (*fontem primi*) of the light, the more simple, spiritual, more authentic and pure would be the manner in which she would be illuminated in order to be virtuous in his or her actions. On the other hand, at a greater distance from the prime source, the individual's intellectual light would be perceived as no more than a faint image, and ultimately only something similar to an obscure reflection. 'The agent intellect' Albert explained, 'is a divine particle' but not one that had divine substance and nature, rather, according to a participation

[52] *Aristotle's De Anima with the Commentary of St. Thomas Aquinas;* Gauthier, 'Introduction' to Aquinas, *Sententia Libri De Anima*, §689–690; §694–695; the same Neoplatonist explanation in Avicenna : 'Même l'acte de pensée n'est pas exclusivement une initiative humaine, il s'explique toujours par l'intervention d'un principe transcendant à l'homme', Verbecke, 'Le "De Anima" d'Avicenne. Une conception spiritualiste de l'homme', p. 73.

[53] 'sed nos sumus virtutes innati suscipere, et suscepta virtute secundum esse actu non alterati, sed perfecti sumus: sicut in tota natura omnis res non alterata sed perfecta est, quando suae naturalis potestatis virtutem attingit: igitur virtutes non possunt esse donum quod extrinsecus hominibus adveniat.' Albertus, *Ethica,* Liber I, t. 7, c. 5.

[54] Hellmeier, *Anima et intellectus,* p. 216; p. 221.

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in God of quality and power. Albert noted the fact that human beings' agent intellect was separated from the first source of light and pinpointing this as the origin of our freedom: 'This divine particle is free due to its separateness and it makes us to be lords (*dominos*) of our acts.[55]

In the dense, barely one and a half pages constituting Chapter 5 of his *Ethica*, Albert raised at least four relevant points. First, the dependency of a virtuous human's action on a light in the individual's intellect participating in God. Second, the manner in which this dependency occurs within human nature, i.e. through the participation of human understanding in divine understanding. Third, the freedom of the acting individual. Fourth, the way in which a human being may understand everything in the world by means of the light of the agent intellect, since the world is potentially in our intellect. Moreover, as the intellect individuates human beings that is, constitutes each human nature, enables knowledge and moral perfection – being the source of happiness, prudence and wisdom – the idea of the agent intellect connects in Albert natural philosophy, metaphysics and epistemology.[56] It seems to be the case that Albert was asserting that human beings are created to think, decide and act as God had done when creating the world.

Arguably, Albert's and Aquinas's emphasis on the light in the intellect did not result in an intellectualized conception of human beings, for the 'thinking' referred to by the theologians was for both speculative and practical purposes. Aquinas's conclusion that the cause and root of goodness in human beings is reason must be placed in the context of the light-truth-goodness chain.[57] Physical body appears relevant when Aquinas buttresses goodness in the will of acting human beings. The human virtues perfect the human desires in using (the world) in a manner that allows the human being to perform good acts. Prudence, as the virtue of acting on the basis of the right reason, requires that the human being possesses good principles guiding action, which is to say that they have good aims when acting – and in a virtuous individual, desires follow these goals. The virtuous individual has therefore good

[55] 'Hoc quidem modo dicendo divinam particulam, intellectus agentis divina particula est non quidem per substantiam et naturam divinam, sed secundum participationem proprietatis et virtutis, et analogiam typicae imagines ad prototypum, quod omnium est causa efficiens et formalis per aliquem modum. Haec divina particula ex separatione libera est, et facit nos esse dominos nostrorum actuum. Et ex quod divina est, formalis est ad esse et bene esse. Divinum et certissimum est hoc quod omnis causa est in nobis.' Albertus Magnus, *Ethica*, Liber I, t. 7, c. 5; Hellmeier, *Anima et intellectus*; Lee, 'St. Thomas and Avicenna on the Agent Intellect'.

[56] Henryk Anzulewicz, 'De Intellectu et intelligibili des Albertus Magnus: eine Relektüre der Schrift im Licht ihrer peripatetischen Quellen' XXV *Przegląd Tomistyczny* (2019).

[57] *Summa theologiae,* I, q. 79, a.11; I–II, q. 66. a.1. co.

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desires. It is the good or right will of a human being that possesses these good aims, which also depend on knowledge.[58] In this wider picture *conscience is an act*: the application of knowledge (not of a rule). It is also an acknowledgement or judgment of what we did or should not have done.[59]

The way in which 'body' comes into the picture is more original in Albert's thinking. Although he repeatedly expressed the idea that the pinnacle of perfection in human being is a vital process in which the intellect is perfected to the point at which one no longer needs the resources of knowledge acquired by the senses, he was not a spiritualist. As Wieland has argued, to avoid the impression that Albert's work expresses a 'denaturalizing' theory of the human being, one should also consider Albert's extensive works on nature and animals, which adduce the idea that human beings' senses are completely penetrated by the rational.[60] This, Wieland continues, amounts to a statement on Albert's part that it is through the sense of touch that the human being is the most intelligent of living beings. To put it in more precise terms, the issue concerns a 'theory of penetration of reason' in the entire human being, body and soul, whereas reason is understood in this ample sense of intellect, speculative and practical reason.[61] As Albert wrote concisely in *De bono*, 'human nature is reason'.[62]

The Cambridge Neoplatonist Ralph Cudworth accepted the existence within the human mind of a universal 'innate cognoscitive Power', a view he acknowledged as having been inspired by the famous passage about mind as light in Aristotle's *De anima*.[63] However, he explicitly rejected

[58] *Summa theologiae*, I-II, q. 56, a.3.6.

[59] *Summa theologiae*, I, q. 79, a.13.

[60] For instance, when Albert states that the intellect penetrates and impregnates all soul and body: 'Et similiter intellectus qui in homine excellentissum est, omnes animae particulas et corporis ad se format'. Albertus Magnus, *Ethica*, Liber X, t. 2, c. 3; Wieland, *Zwischen Natur und Vernunft*.

[61] Wieland, *Zwischen Natur und Vernunft.*

[62] 'Natural right is thus nothing else than the right of reason as it is its due (*sive debitum*), in as much as nature is reason' Alberti Magni, *De bono*, in *Alberti Magni opera omnia*, tomus XXVIII), Henricus Kühle, Carolus Feckes, Bernhardus Geyer (Prolegomena), Wilhemus Kübel, ediderunt (Aschendorff: Monasterii westfalorum in aedibus, 1951), n. 270.22.

[63] 'For the Soul having an Innate Cognoscitive Power Universally (which is nothing else but a Power of raising Objective Ideas within it self, and Intelligible Reasons of any thing) it must needs be granted that it hath a Potential Omniformity in it. Which is not only asserted by the Platonists, that the Soul is *all things Intellectually*, but also by *Aristotle* himself *That the Souls is in a manner All Things*'; 'they (Created Intellects) have them all (the Actual Ideas of all things) Virtually and Potentially comprehended in that one Cognoscitive Power of the Soul, which is a Potential Omniformity' Cudworth, A *Treatise Concerning Eternal and Immutable Morality*, p. 134.

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the idea that that power could be active or alive, and that, thereby, it was divine. Indeed, accepting the testimony of the Neoplatonist interpreters of Aristotle, he rejected the notion of the agent intellect:

> As for that Opinion, that the *Conceptions of the Mind* and intelligible Ideas or *Reasons* of the Minds should be raised out of the Phantasms by the strange Chymistry of an Agent Intelligence; This is founded on a Mistake of *Aristotle's* Meaning, who never dreamed of any such a Chimerical Agent Intelligence, as appears from the Greek Interpreters that best understood him.[64]

Despite the pioneering Neoplatonic project that Ralph Cudworth carried out, his scepticism prevented him from following Albert's ambitious project of 'nature as reason'. Thus, Cudworth lowered the bar in the endeavour of ever ascertaining what really happens in the collaborative work between brain, mind and soul and how does it happen – in other words, with what tradition has called natural law. The disenchantment with what is best in a human being, the divine element in us, would bring thinkers to search for rationality through other means.

5.2.3 *Necessary Discursive Reasoning*

Sanderson's philosophical efforts and minutely logical description of how to achieve purity of conscience may be explained, from a theological perspective, as promoting an alternative safest moral way, in the face of scepticism, both for the individual and the community. In Biblical terms, Sanderson linked evidence of a truth with its necessity for the achievement of salvation.[65] In turn, his study of morality integrated the causal principle of necessity into syllogistic reasoning to create a secure guide on how to act. The way a philosopher such as Buridan explained the rationality of ethics through its inscription in a causal order was, though similar, less ambitious than Sanderson's, since the former recognized our imperfect access to the knowledge of that order, and the multitude of circumstances

[64] Cudworth, A *Treatise Concerning Eternal and Immutable Morality,* p. 146.

[65] 'The most necessary truths and such as sufficed to bring our forefathers (in the primitive and succeeding times) to heaven are so clearly revealed in scripture and have been so universally and constantly consented unto by the Christian church in a continued succession of times as that to doubt of them must needs argue a spirit of pride and singularity at least … But in things less evident (and therefore also less necessary) no man ought to be either too stiff in his own private opinion or too peremptory in judging those that are otherwise minded' from the Sermon preached by Sanderson before the King at Berwick in 1639, quoted in Lake 'Serving God and the Times', p. 105

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that would remain beyond our grasp.[66] Sanderson's employment of causal necessity in moral philosophy and metaphysics gave his work a particular mechanical bent, which must surely have appealed to pious students of the new science such as Robert Boyle and John Locke.

Sanderson delimited the sphere of conscience as dealing with things 'spiritual' or 'supernatural', but also with things *moral* which he defined as entailing 'whether they be *good* or *evil*, *lawfull* or *unlawfull*, *free* or *necessary*', and essentially depending on whether they led to or avoided sin.[67] His moral categories of good, lawful and necessary are categories drawn from voluntarist theology – the same categories he also transferred to the human legislator as wholly contingent on God's will. Crucially, these are not moral categories operating in the sphere of practical reason and allowing one to discern right from wrong. Sanderson's scepticism, visible in his description of the obscured light of reason, forced him to develop every moral category from elaborations deduced from the supreme law, i.e. the will of God. His clarification of how the liberty of conscience pertained to the judgment and not to will is a good example of this. He considered that only a positive law requiring that *one thinks in a certain manner* about the world – absent a necessary truth backing it – would force or violate the operation of conscience. Sanderson drew a sharp distinction between the situation in which the magistrate commanded something because it was thought to be 'necessary', or prohibited something because it was considered 'unlawful', which was contrary to the freedom of conscience; and the situation in which the thing begun to be classified as 'necessary and lawful' only after the command of the magistrate, but not before:

> The first Necessity which anteceded the Law, and is supposed by it to be some cause of it, is contrary to the liberty of the Conscience; but the other, which followeth the Law and proceedeth from it as an effect thereof is not repugnant to it; The reason of this difference is, because the antecedent necessity which the Law supposeth, doth necessarily require some assent of the *practical judgment*; but to the following necessity which proceedeth from the Law, the consent of the will is sufficient to the performance of that outward work which by the Law is commanded.[68]

[66] About Buridan on this point see Christophe Grellard, 'Probabilisme et approximation du vrai au xiv^e siècle' in Jean-Philippe Genet ed., *La vérité. Vérité et crédibilité: construire la vérité dans le système de communication de l'Occident (XIII^e-XVII^e siècle)* (Paris: Éditions de la Sorbonne, École française de Rome, 2017), p. 70.

[67] 'I call that *lawful* which may be done without Sin, and that *free*, which without Sin may be omitted; now the same thing (any one circumstance being added or taken away, or anyways changed) may be made *unlawful* of that which was *Lawful*, and *necessary* of that which before was free', Sanderson, *Several Cases of Conscience,* p. 82; p. 121.

[68] Sanderson, *Several Cases of Conscience,* p. 202.

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An act *indifferent* in its own nature, when it was commanded by the law, became 'honest and necessary'; when forbidden, 'evil and unlawful.' The action did not change in itself or in its own nature, physically or morally. But the obligation that the law brought into existence changed an act from one freely carried out into a necessary act.[69]

Therefore, only the will of God was the measure of good and of what was necessary, and anything that was God's will was necessarily good.[70] Human will was absolutely free, 'blind' and undetermined, but was in 'potential to another', and this meant that 'it is necessary that there should be some Law or Rule, which may direct it in the acting'. Thus the 'office' of the conscience: of examining, judging, and informing must be guided by a certain rule. In all cases, one must follow 'the rule of law which is certain', and not the example of other men, which was uncertain.[71] In the account of Sanderson's *Lectures*, the 'proper Rule of Conscience' was obviously solely the will of God, the 'supreme law-giver', in whatever way God had revealed his will to human beings. Furthermore, the will of God was disclosed in two ways: through 'authority' and 'the discourse of reason'. Next to the will of God ('the immediate rule of conscience') was 'the light of reason'.[72] But the bottom line was how an individual's conscience could discover, through a clouded and obscured light of reason, what was good, lawful or necessary – or the opposite – in any given case. Initially, Sanderson framed the knowledge of the moral act as a dual syllogism of demonstrative knowledge.

> Every thing that is unjust is to be eschewed.
> Every theft is unjust, therefore
> Every theft is to be eschewed.

The first is provided by the law of nature, the second by reason and the third is the conclusion that conscience brings. The second syllogism is the application of the previous conclusion to a particular fact.

> All Theft is to be eschewed
> This which is now propounded to me to be done is
> a Theft, therefore it is to be eschewed[73]

[69] Sanderson, *Several Cases of Conscience,* p. 225.
[70] Quoting Damascenus approvingly, he wrote 'Quod vult Deus id bonum esse necesse est; cujus scilicet Voluntas boni mensura est'. Sanderson, *De obligatione conscientiae,* p. 112.
[71] Sanderson, *Several Cases of Conscience*, p. 81.
[72] Sanderson, *Several Cases of Conscience*, p. 116; p. 126; p. 143.
[73] Sanderson, *Several Cases of Conscience,* p. 14. (emphasis Sanderson)

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Sanderson viewed the most proper definition of conscience as being when 'the last conclusion in the course of both syllogisms' was established.[74] The light of nature had a crucial role in this dual syllogism. As noted, Sanderson was inconsistent with regard to the 'light innate' – a sort of sparkling or fire that made human beings the image of God – claiming at times that it was practically obscured, while affirming at others that some principles may be 'known by the light of Nature, or Revelation'. Thus, the light of nature made it possible for individual human beings to grasp the principle that 'no unjust thing is to be done'.[75] At any rate, he placed greater emphasis on what he termed 'the light acquired' through the discourse of reason. In summary, Sanderson employed four main types of notions of the light of nature in his lectures on conscience: the 'light of nature' per se, which sometimes referred specifically to the obscured image of God in human beings, while at other times described any type of light in human reason; the 'light innate', which was the spark of the divine image in human beings; 'the light inferred', which established what was necessary for every Christian to believe; and 'the light acquired', which determined what was necessary for any human being according to natural law and discursive reasoning.

The first sentence of the first syllogism – '[e]very thing that is unjust is to be eschewed' – was as a matter of fact the main, and apparently sole principle of the law of nature that human beings captured almost intuitively or innately – it was nevertheless quite a powerful one.[76] The 'upright conscience was the conscience capable of reaching the conclusion of the second syllogism with true and certain knowledge of the passions involved and could 'demonstrate it by the next cause'. If the upright conscience could conform itself to the next rule in the syllogism it was upright respectively. If it could also do so in relation to the superior rule – i.e. the first syllogism – it was absolutely so.[77] Sanderson applied here his mechanical idea that rules like 'causes' worked with 'a kind of subordination':

> From the *Law of Nature* many particular Propositions of things to be done, like so many *Conclusions* from their *Principles,* are deduced by the *discourse of Reason* to the use of the Conscience*;* In which, unless we orderly

[74] Still three other relative ways to understand conscience were: the knowledge of the first universal principle about avoiding evil, the very process of reasoning contained in the two syllogisms and, a final definition, adequate to the era of empiricism, 'the aggregate knowledge of many particular acts of which the whole account of our life and conversation doth consist', Sanderson, *Several Cases of Conscience*, pp. 13–16.

[75] Sanderson, *Several Cases of Conscience,* p. 15; p. 132.

[76] Sanderson, *Several Cases of Conscience,* p. 15.

[77] Sanderson, *Several Cases of Conscience*, p. 108.

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> proceed from the first unto the last, we shall be apt to erre, as already I have expressed; we must therefore be very carefull, that in every part of the *Discourse* the proceeding be legitimate, that those things that follow, may aptly depend upon those which go before, *and that the consequence be necessary*; lest the Conscience being mis-led, do not dictate *this* or *that* or otherwise to the *will* than what it ought to do.[78]

If the conscience had to proceed mechanically following a sort of necessary chain of propositions in order to be upright, when the 'discourse of reason' did not operate properly, remorse would automatically ensue:

> Those things, which being violated, do leave a Remorse upon the Conscience, do oblige the Conscience for so it must necessarily be, that all remorse, or reproof of Conscience must proceed from the sense of some obligation, as all other effects do follow their causes.[79]

With the classics, Sanderson saw that the process of reasoning was key to acting well. He departed from their view that we already possess all the knowledge but fall short of truth through passions and imagination. Sanderson's theory was constructed by diminishing analysis of desires and imagination, and by laying stress on faulty reasoning – failure to follow the necessary steps – as causing the frustration of God's will in human beings and deviation from our obligations.[80]

5.2.4 *The Necessity of Obedience*

Notwithstanding the value attributed to the principle of freedom of conscience, it is startling how Sanderson made freedom of conscience

[78] Sanderson, *Several Cases of Conscience*, p. 144 (emphasis mine); 'E Lege naturæ deducuntur per discursum Rationis ad usum Conscientiæ, multæ particulares de rebus agendis Propositiones; velut Conclusiones ex suis Principiis. Qua in re, nisi a primo ad ultimum rite procedatur, proclive est errare; ut ante dictum est. Quare diligenter videndum, ut in singulis partibus *discursus* legitimus fiat *processus*; utque posteriora quæque a prioribus apte pendeant, et ex eis necessario consequantur: ne Conscientia in errorem prolapsa voluntati aliud aliterve, quam oportuit, dictet.' Sanderson, *De obligatione conscientiae,* p. 125.

[79] Sanderson, *Several Cases of Conscience,* p. 179.

[80] 'Next at "All intellect then" he [Aristotle] applies what has been said to a particular accidental factor in movement or action, explaining why we go amiss in our actions. "All intellect" he says, "is right", by which he means that we never err about the first principles of action, about such truths as "it is wrong to do harm to anyone" or "injustice is never right", and so on. Those principles correspond to the equally infallible first principle of the speculative reason. But as for the consequences of these first principles, if we apprehend them aright it is because our thought is consistent with our grasp of the principles, whereas if we deviate from the truth the fault lies in our reasoning. Appetition and imagination (motive-principles likewise) may be, on the other hand, either right or wrong. Hence if we

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compatible with an absolute insistence on external obedience to the law, as the 'safer' way in all doubtful cases he presented. As soon as the method of functioning of the mechanical conscience in necessary matters was established, he moved on to explain why human laws had binding force. Positive laws that determined particulars and dealt with 'things indifferent' – such as tariff levels, what merchandise may or may not be lawfully exported or imported in such and such a country, what garments were suitable for what university degree, what statutes were dispensable – had no binding force per se, because 'God alone is that Law-maker.'[81] Only things that were binding as a consequence of the nature of the matter – as an internal cause – were obligatory in themselves. Things indifferent were binding by virtue of God's commandment to obey the lawgiver.[82] As a matter of fact, Sanderson wondered whether 'these things indifferent' were not 'the most proper and the only most fit matter of Humane Laws', a large field in which 'the power of man might exercise it self'.[83]

Firstly, there was Sanderson, the natural lawyer, condemning the presumption of a human lawgiver who, on a matter that was in itself 'morally indifferent', would dare to impose an obligation founded 'on the truth of the thing'. Morally indifferent things could only become obligations 'that induce a necessity' on the basis of the possession of legitimate authority, and not on truth – i.e. 'formally' but not 'materially'. Although the subject must obey outwardly, in cases of this type his or her conscience remained free. Secondly, Sanderson decried that 'wild Reformation', the 'Innovators' that would rather 'against all common sense' take 'away from the world all indifferency' rather than 'grant unto the Magistrate any power of determining of Rites & Laws altogether'. In Sanderson's view, to deny the magistrate that power amounted to 'fight[ing] against the Laws and Constitutions of both Kinds' ecclesiastical and political'.[84]

Instead, he argued that human law must always be binding, at least formally, due to 'the inbred depravity of the human heart' and 'the craft of the old serpent' – the innate depravity of the human heart also made

act amiss it is, in the last analysis, because we fall short of what we intellectually know; and our previous conclusion stands, that the final motive-impulse comes from the object of desire.' *Aristotle's De Anima. In the version of William Moerbecke and the Commentary of St Thomas Aquinas* (1951, Book III, Lectio 15, § 826).

[81] Sanderson, *Several Cases of Conscience,* p. 176.

[82] Sanderson, *Several Cases of Conscience,* p. 177.

[83] Sanderson, *Several Cases of Conscience,* p. 222.

[84] Sanderson, *Several Cases of Conscience,* p. 223; p. 227.

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punishment necessary.[85] Sanderson's insistence on obedience was characteristically Anglican.[86] However, Sanderson's peculiarity lies in his transferal of that Anglican ideal to a civil commonwealth. In his lectures on conscience, he applied the religious requirements of obedience to church laws, sincere participation in rituals and avoidance of theological controversy to the moral demand to submit to and obey civil laws and to the obligation to avoid conflict. John William Packer once distinguished the 'spirit of martyrdom' of the Laudian cleric Henry Hammond in 1649, when dealing with the same issue of obedience to the Conqueror, from Sanderson's 'spirit of accommodation'.[87] The correspondence between the two men is also indicative of the consistency of Sanderson's doctrine rather than only of Sanderson's accommodation. The violation of any just obligation 'only in the Case of Necessity, not otherwise to be avoided' was framed within an imaginary conversation

[85] 'Furthermore, seeing both are certain, that the Consciences of Men are free, and ought to be so, which Liberty no Humane Power can, or may infringe; And that an *Obligation* is a kind of a Bond, and doth induce a necessity, which seemeth to be opposite, and to fight with *just Liberty* (for neither is the any ways free who is bound, neither can he be free to both, who by some necessity is bound to either) that it plainly may appear that this Obligation of Conscience, of which we now do treat, may consist with the just Liberty of Conscience, we must necessarily in this place give you another distinction, which is, that the *Precepts* of Humane Law may be taken two ways, either *formally* for the *Act* it self of giving the precepts, or *materially* for the thing precepted; If the Law giver therefore should intend an Obligation, or impose on the Subject a necessity of obeying, from giving the Precept of this Law taken *materially*, that is, from the necessity of the thing it self which is precepted, which notwithstanding in the truth of the thing, was not necessary before that Law was made, he in that very fact should lay a force upon the Conscience of the Subject, which should be repugnant to the Liberty of it; But it he should derive his Obligation from giving the precept of his Law taken *formally*, that is from the legitimate Authority with which he himself is invested that gives it (a moral indifferency of the thing precepted in the mean time remaining, and in the same state in which it was before the Law was made) although the obligation followeth which imposeth on the Conscience a necessity of obeying, yet the inward Liberty of the Conscience remaineth uninjuried and intire'. Sanderson, *Several Cases of Conscience,* p. 200; p. 217; p. 286.

[86] McGee, *The Godly Man in Stuart England*, pp. 94–100.

[87] John William Packer, *The Transformation of Anglicanism. 1643–1660, with Special Reference to Henry Hammond* (Manchester: Manchester University Press, 1969), p. 180. On Sanderson's counsel for 'accommodation' see: 'so it is more likely, and it is to be presumed that the lawful Heir hath a greater care of the safety of his people (…) than he who having newly usurped the supreme Magistracy will be more careful, it is likely, to establish his newly acquired Greatness, than to procure the safety of the publick, and therefore the lawful Heir had rather that as modestly as they could they should accommodate themselves to the present affairs for their own safety, than to run into a certain destruction, by making an unreasonable, and an unsuccessful opposition against one that overpowers them.' Sanderson, *Several Cases of Conscience,* p. 175.

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between one's conscience and 'the oppressed power, to whom my Obed. is justly due', who observing the 'Necessity of the present case, & of all the Circumstances thereof' would consent to one's manner of external compliance.[88] This position about political obedience was not far from Hobbes's *de facto* theory.

> As far therefore as the peace and safety of that society of which that Citizen is a Member doth require, so far he is bound to obey the commands of that person, who *de facto* is the chief Magistrate in that society.[89]

Secondly, human law must be binding, since in Sanderson's architecture the lawgiver was the supreme power:

> The Law-giver out of the plenitude of his power doth prescribe and constitute the Law, which the inferior Judge is no lesse bound for the future to observe than the people themselves.[90]

To all appearances, by the time the Royalist Sanderson gave his lectures he had already accepted the defeat of Charles I, who was still alive at that point.[91] Hence he pleaded with his audience to adopt a position of passive civil obedience to the usurper for the sake of the survival of the nation, but without giving him anything belonging to the rightful heir or to the Church.[92] In fact, as a casuist, he argued extensively that people were bound to obey the usurper's law. Subjects were not bound on the grounds of the tyrant's law, which, lacking right, was unlawful, but only to law 'equivocally'. However, 'according to the condition of humane affairs, there may be such an exigency of necessity', which meant that subjects were failing in their dual 'duty' to themselves and England, if they did not obey – any citizen in this situation was 'not bound to the law but to himself and to his Country'. The reasons he adduced were to avoid provoking the wrath of the holder of the sword that at his pleasure could take lives and fortunes away, 'from hence is the first necessity of obedience'. The obligation of any 'prudent' and 'honest man' was to consider the

[88] Packer, *The Transformation of Anglicanism,* p. 181.
[89] Sanderson, *Several Cases of Conscience*, p. 172; see on Hobbes de facto theory, Hoekstra, 'The de facto Turn in Hobbes's Political Philosophy'.
[90] Sanderson, *Several Cases of Conscience,* p. 250.
[91] Charles execution occurred on the 30th January 1649. His references to the suffering Christ killed for reasons of expediency, implying the impersonation by the captive King, a common theme of the Restoration, may have been added later when he revised the text. Sanderson, *Several Cases of Conscience* p. 66; see on this Collins, *In the Shadow of Leviathan*, p. 33.
[92] Sanderson, *Several Cases of Conscience*, p. 173.

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real 'present situation' and endeavour 'to live safely, and in peace' and also to safeguard 'Fields, Houses and possessions': in a word, the issue at hand was 'the advantage of himself and of his fellow-Citizens'.[93] Other reasons were gratitude for government and the much worse situation in which everyone would end up otherwise, and Sanderson went on to describe the dreaded state of nature without giving it that name.[94] He ultimately adopted the same reasoning in his resolution of 'the Case of the Engagement', when Parliament, frightened by the growing Royalism of Scottish Presbyterians, imposed a new oath of allegiance in 1650. Camille Slights termed Sanderson's appeasing attitude in the Engagement controversy 'ingenious piety'.[95] It may equally be described as a divine's common sense, sowing unity and peace of conscience after a civil war, instead of promoting a war of all against all.

The last reason from which arose 'the third necessity of obeying the *present power*' was that 'no man is born only for himself, but for public profit'.[96] In this way, Sanderson described the extent to which 'the duty of Conscience' bound Charles's subjects to the dictator who sat 'in the throne of supremacy'. Interestingly, in Sanderson's theoretical explanation de facto rule was an imperative not limited to the state of exception of 1647 but a general feature of government: '[w]hatsoever is to be done in a peculiar reference to its end, ought to be done, as shall appear most necessary and profitable' for achieving that end, he wrote in a clearly Hobbesian turn.[97] Since the 'tranquility and safety of Humane society' were both the purpose of civil government and of obedience to it, Sanderson distinguished 'three things very necessary' for their preservation: the 'defence of our Country', 'the administration of right' and 'the care of Commerce and Merchandize, concerning buying, selling, exchanging, and all manner of contracts', respectively 'Distributive' and 'Commutative Justice'. Without these three elements, human society would again be in a terrible state of nature:

[93] Sanderson, *Several Cases of Conscience,* p. 169; in the almost absence of latitude for resistance to authority, to those whom God has given the power to make laws, Sanderson resembles also William Perkins although Sanderson has more of a pragmatic approach, Mosse, 'Puritan Political Thought and the "Cases of Conscience"', p. 114.

[94] See in next page, quote of note 98.

[95] Slights, 'Ingenious Piety'.

[96] Sanderson, *Several Cases of Conscience,* p. 171.

[97] 'When therefore our refusal to obey, frustrates the End for which the Sovereignty was ordained; then there is no Liberty to refuse: otherwise there is.' Hobbes, *Leviathan*, Noel Malcolm (ed.), ch. 21, p. 338.

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> all things presently will run to ruine, all things and all places will be filled with Plunder, Slaughter, Deceit and Injuries, the lives of the most innocent Citizens, their Wives and Fortunes will become prey, and a sport unto the lusts of our armed Superiors.[98]

The solution to this particular moral case, no doubt weighing heavily on the consciences on many of the King's subjects in 1647, offers another perspective on Sanderson's method of describing the necessity of certain aspects of the functioning of the world that bound conscience. He articulated, in the contemporary idiom of necessity, what was perceived by many to be the contemporary 'common good' in stressing the need to obey the government and human laws and in the reasons he gave for doing so. This perspective was expressed when he gave his lectures in 1648 at which point obedience to the Commonwealth was stressed, and again at the beginning of the Restoration in terms of obedience to the returning King.[99]

According to Sanderson, also, certain rules applied in respect of doubts of conscience over compliance with the law – essentially concerning the necessity of the law in question. Laws that were possible to the majority but impossible to a minority could be lawfully made when 'some extraordinary great cause, and a manifest necessity' required it. However, those who could not comply – for instance, in relation to the payment of a large tax 'for the necessary use of the Commonwealth' – were exempted from the application of the law, though obliged to disclose with simplicity 'the slendernesse of their Estate' and pay what amount they could. In respect of 'a very grievous law', an honest citizen ought to see all the qualifications and clauses of the law to avoid being snared, but 'if any evident or necessary cause for the good of the Commonwealth' so required one had to obey the law, even 'with the ruin of his whole Estate.' Sanderson gave many appropriate examples, but his conclusion was clear: 'every good man is to prefer the publick above all private interests.' On the face of an extremely burdensome law, the bottom line for a private individual to decide between economic survival and compliance was the presence of 'some remarkable necessity or fear of publick danger.'[100]

Several Cases of Conscience evidenced a very learned scholar, a devout and moderate divine, and an eirenic politician. But Sanderson could be also uncompromising about certain things. First, that preserving rightfulness

[98] Sanderson, *Several Cases of Conscience,* p. 172.
[99] Sanderson, *Several Cases of Conscience,* p. 240; Kempshall, *The Common Good in Late Medieval Political Thought*.
[100] Sanderson, *Several Cases of Conscience,* p. 204.

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of a pure conscience in business and in politics according to the 'Purity of the Gospel of our Saviour Christ' was in all respects fundamental. Second, that the pursue of the ends of the Civil power, the preservation of the people, ought to be done in peace, tranquility and with honesty and godliness, and not by 'the enlargement of Empire' as 'the Politicians of this world do affirm'.[101] Evidently, Robert Boyle and, to a great extent, John Locke did not share the latter point. But they fully agreed on the first of these points, which constitute an English type of model for a good Christian and peace-loving politician, characterized by rigour, honesty and piety.[102]

A Hobbesian politician of sorts as well, Sanderson felt that his world had fallen apart but not his God, and found in piety, reason and country what he valued most: moral uprightness. Moreover, the Anglican divine and the Reformers dealt with in the two previous chapters shared a foundation of a metaphysics of necessity embodied by the pursuit of necessary knowledge, obedience to the magistrate and the necessary mechanical reasoning for human conscience. Thereby they compensated for the fall of tradition and scepticism of reason while enlarging the possibilities of action in their troubled and stimulating world.

[101] Sanderson, *Several Cases of Conscience,* p. 208; p. 209.

[102] In the *2021 Carlyle Lectures* by Mark Goldie Locke's ambiguity about the Empire was apparent, but also how in a certain way that model of politician shaped Locke's actions. The impact of that model in the development of the British Empire would deserve further study.

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