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MORE'S DISCUSSION OF PERJURY

"It is a large & a long mater to speke of periury"

(*Dialogue Concerning Heresies*, Book III, chapter 7)

The following discussion of perjury is printed here for the first time from the text preserved in British Library MS. Royal 17. D. XIV.¹ Two other versions of the passage occur in British Library MS. Arundel 152,² a collection of materials for a life of Bishop John Fisher. Of the two Arundel MS. versions, that on fol. 300 would appear to be the earlier. Its cancellations and revisions, all minor, pull the text towards the readings of the version given on fols. 293-293^v, which is itself, except for spelling and punctuation variants, very close to the text presented in the Royal MS. In the transcript given here, abbreviations have been silently expanded and spelling and punctuation variants have not been recorded. The English translation facing the text is my own.³

There is every indication that this essay was composed by More as a kind of briefing to himself during his incarceration in the Tower. In the Royal MS., it comes between More's English letter to Master Leder (Rogers, no. 213) and Latin letter to Antonio Bonvisi (Rogers, no. 217). In MS. Arundel 152 (fols. 293-93^v), the passage follows a transcription of More's indictment and immediately precedes Rogers, no. 214 (May 2 or 3, 1535). The version on fol. 300 in the latter MS. comes after More's letter to Cromwell (Rogers, no. 197) and is followed by Dame Alice's letter to Henry VIII (Rogers, no. 212). More's postscript refers to the wrong book of the *Dialogue Concerning Heresies*, where perjury is discussed in Book 3, ch. 7. The lapse of some six to seven years between the *Dialogue* and the Tower memorandum is ample time to account for More's inexact recollection. In both passages More deals specifically with the circumstances in which a man may be lawfully bound to take an oath, and in each he adduces the case of the priest who might be compelled to reveal crimes that were made known to him in sacramental confession.

1 Omne periurium est (vt mihi videtur) mortale peccatum
2 citra vllam exceptionem prorsus.

3 Sed puto periurium esse violationem iuramenti liciti. Alio-
4 qui qui se iurat occisurum quempiam peccaret, si non occidat. Si
5 quid arcani cuiuspiam committatur fidei, iure diuino tenetur celare : nisi sit tale maleficium vt etiam non requisitus teneatur prode-
6 re. Cuiusmodi sunt foedera prodicionis aut homicidij et similia, ni-
7 si talia reuelentur in confessione sacramentali : Cuius secreti sigil-
8 lum habet aliam prerogatiuam ex iure diuino praeter sigillum se-
9 creti de iure naturae. Si quid ergo secreti (fol. 437) licite extra
10 confessionem cuiusquam fidei committatur, et sit eiusmodi, vt
11 eius reuelatio nocere possit ei, qui fidei eius credidit, duplici vin-
12 culo stringitur vt celet. Et quia commissa res est eius fidei seruan-
13 da velut depositum, et quia celare tenetur omne, quod non celatum noceret proximo, vnde cunq; rescierit : dummodo non sit
14 malificium, quod proditum esse reipub. intersit. Nemo habet potestatem vt alij de tali arcano quod celari potest et debet iuramentum cuiquam deferat, de prodendo. Si deferatur iuramentum vniuersale, semper intelligitur de malificijs ita comparatis iuranti, vt licite possit proderere. Si speciatim deferatur iusiurandum, adiecta etiam clausula nominatim, siue licite possis siue non licite possis, tu iurabis quod de facto prodes : debet hoc iuramentum recusare, quia illicitum, non minus illicitum, quam si adigeretur iurare vt occideret hominem. Si vi victus iuret, tamen non solum non tenetur praestare quod iurauit, sed etiam tenetur non prestare. Quid ergo, licebit ei mentiri ? Negabo hoc ex Augustini sententia. Ex Hieronimi non negabo. Neque enim eorum sententiae conueniunt in officioso mendacio. Sed interim hoc pronuncio, si mentiatur, (fol. 437^v) non esse reum periurij quia non violat iuramentum licitum. Ex Augustini sententia debet etiam post iuramentum perstare in hoc, vt dicat se etiam si quid arcani sciret, nolle reuelare. Et hoc dico ex Augustino, non quod hoc meminerim eum dicere disertis verbis, sed quod hoc plane mihi videre videor ex eius ratione consequi. Nam hoc habeo pro comperto, quod Augustinus etiam si nolit quenquam, vel ad seruandam vitam vel alterius vel suam mentiri, non vult tamen quenquam potius quam mentiatur, aut se aut alium quempiam occidere, vel occidendum sua voce producere. Ergo nec secretum licitum, sui fidei commissum ex cuius reuelatione possit ei qui credidit oriri detrimentum, proderere.

40 Hac de re tractaui in quarto libro Dialogi mei, sed opinor
41 haud satis pensiculate, nec tamen memini.

Every (act of) perjury is (as it seems to me) a mortal sin without any exception whatsoever.

But I think that perjury is a violation of a lawful oath. Otherwise, he who swears to kill someone, would sin if he did not kill. If anything secret is entrusted to someone, he is bound, by the divine law, to conceal it : unless it be such a misdeed that, even if he is not required to do so, he is bound to reveal it – of which sort are plots of treason, or homicide and the like, unless such things are revealed in sacramental confession, where the seal of secrecy has another prerogative from divine law beyond the seal of secrecy born of natural law. If therefore any lawful secret is entrusted to anyone outside of confession, and if it is of such a kind that the revelation of it might harm the person who entrusted it, then he is bound by a double bond to conceal it: both because the thing was entrusted to him for safekeeping as a deposit, and because he is bound to conceal everything which, if it were not concealed, would harm his neighbor, no matter how it came to his knowledge, provided it is not a misdeed which it would benefit the state to reveal. No one has the power to tender an oath to anyone else binding him to reveal such a secret as can and should be kept hidden. If a general oath is tendered, it is always understood that, where misdeeds are concerned, the man swearing the oath can lawfully reveal them. If a particular kind of oath is tendered, even with a name – including clause saying : “whether you can lawfully or cannot lawfully, you will swear that you will indeed reveal”, he ought to refuse this oath, as unlawful, no less unlawful than if he were constrained to swear to kill a man. If, overcome by force, he swears, nevertheless he is not only not bound to discharge what he has sworn, but on the contrary he is bound not to discharge it. So where are we then ? Will it be lawful for him to lie ? I shall deny this if I follow Augustine’s opinion ; if I follow Jerome’s, I won’t deny it ; for their opinions regarding the “officious” lie do not agree. But in the meanwhile I decide as follows : should he lie, he is not guilty of perjury because he is not violating a lawful oath. In Augustine’s opinion, he must also, once he has taken the oath, stand fast on this point – that he will say that, even if he knew anything secret, he is unwilling to reveal it. And I say “according to Augustine”, not because I remember that he said this in so many words, but because it seems to me clearly to follow from the way his thought develops. For I have satisfied myself that Augustine, even though he is unwilling that anyone should lie to preserve either his own or another’s life, does not, nevertheless, want anyone, rather than he should lie, either to kill himself or someone else, or to bring that killing about by what he had said. Neither could he, therefore, betray a lawful secret, entrusted to him, if the revelation of it might harm whoever entrusted it to him.

I have treated this subject in the fourth book of my Dialogue, but not thoroughly enough, I think, nor do I anyway remember it.

The precise way in which More's gloss fits into his own decision not to take the oath to the Act of Succession when he was "before the Lordes at Lambeth", (Rogers, no. 200) and during his imprisonment is a matter which must be left to his future biographers. It may not be amiss here, however, to quote some of the other works where he discusses perjury.

Interestingly enough, the first example of the use of the word "perjury" cited by the *Oxford English Dictionary* in the meaning "applied to the violation of a promise made on oath, the breaking of a vow or solemn undertaking; a breach of faith,"⁴ comes from More's *Confutation of Tyndale's Answer* (CW 8, 28). One form of "perjury" which was especially repulsive to More was the breaking of monastic vows by the religious who left the old church⁵. Perjury is mentioned for the first time⁶ by More in his Latin poems (*BL*, nos. 195-97; cf. no. 208, in which Herod is ironically praised for *keeping* his oath), where "Arnus", who takes oaths on every occasion, is satirized. The theme surfaces again in More's quarrel with Germain de Brie (*BL*, nos. 170-79), whom More accuses of lying in his *Chordigeræ nauis conflagratio* of 1513. In his *Antimorus* of 1519, de Brie charges More himself with perjury, in so far as he had broken his allegiance to Henry VII by writing a poem (*BL*, no. 1) on the abuses of power during that king's reign. More's reply (Rogers, no. 87, pp. 230-32) is spirited, a strong defense of his own integrity.

To trace More's every usage of the word "perjury" must await the compilation of a concordance to his works, but two additional passages may be noticed here. In the *Dialogue of Comfort*⁷, More takes up the disagreement between Augustine and Jerome about the "harmlesse lye, the *mendacium officiosum* of the perjury memo. Was the memo perhaps jotted down in the Tower while More was composing the *Dialogue of Comfort*, that most revealingly personal of all his works?

More embodies his deepest feelings about perjury in the Tower letters, most characteristically in the Margaret Roper to Alice Alington letter (Rogers, no. 206), where he tells the story of "a poore honest man of the countrey that was called Company."

The little anecdote dramatizes a trial held at a county fair, with a packed jury that somehow included one lone dissenter -- "Company" -- who has a soul of his own that will not, when the time comes to vote, go along with the rest of the perjured jurors, "for the passage of my pore soule passeth all good cumpany" (Rogers, pp. 521-24). More's application of the story to his own situation is as fine an affirmation of his own integrity, and of his views on perjury, as that which he was to make later at his trial on July 1, 1535.⁸

1. Fols. 436^v-437^v. For a detailed description of this manuscript, see *CW 13*, xx-xxvi. The text presented here will appear, with full textual apparatus, as Appendix B in the Yale Edition of the Dialogue (vol. 6 in the *Complete Works*, ed. by T.M.C. Lawler, R.C. Marius and G. Marc'hadour) scheduled for publication in 1979.

2. Fols 293-293^v and fol. 300. Each passage is in a different hand. This manuscript is fully described by Franciscus Van Ortroij in *Analecta Bollandiana*, 10 (1891), 121-365 and 12 (1893), 97-287, where the *Life of Fisher* is edited.

3. My thanks are due to Professors G. R. Elton and Germain Marc'hadour for their careful checking of both transcript and translation.

4. Evidently a development from earlier usages where the term was applied to a false verdict delivered by a jury. More did, of course, encounter many such cases as they came before the Council and Star Chamber. See John A. Guy, *The Cardinal's Court: The Impact of Thomas Wolsey in Star Chamber* (Hassocks, Sussex, 1977), especially pp. 52-53.

5. Hence the constant refrain in his polemical works against Luther's marriage. See *CW 8*, 1476-77.

6. One may also recall the lying hypocrisy of Richard III who, More tells us (*CW 2*, 42), "sayd in that of likelihod as he thought" when he welcomed the Duke of York from sanctuary. For intentional lies versus objective falsehoods, see *Utopia*, (*CW 4*, 40-41 and 291-92).

7. *CW 12*, 132 f. The editors' note (*CW 12*, 389) gives a full discussion of the sources in Augustine and Jerome.

8. For More's speech at his trial, see Roper, pp. 92-95. I have discussed More's grappling with his conscience in "Conscience and Conscience: Thomas More," in *The Author in His Work: Essays on a Problem in Criticism*, ed. L. L. Martz and Aubrey Williams (New Haven, 1978).

In COLLEGE LITERATURE (IV, 1, Winter, 1977, 98-9) Warren W. Wooden reviews Robert M. Adams' Norton critical Edition of *Utopia*. The volume is divided into three parts: the text itself, a "Backgrounds" section, and a selection of modern criticisms. The reviewer finds Adams' translation an improvement upon Robynson's pre-Elizabethan prose -- for the modern university course, the advantages are fewer textual notes and "a comfortable yet accurate English". The "Backgrounds" are an assortment of classical and medieval sources for Utopian communism, as well as some extracts of More's correspondence. The critical commentary, in contrast to the other two sections, is markedly conservative. Wooden finds the shortcomings of the new volume "relatively minor", its strengths "impressive".

In the *Canadian Journal of History* (X, 2, 1975, 255-6) Peter Bietenholz reviews Emile V. Telle's *L'Erasmianus sive Ciceronianus d'Etienne Dolet*. Erasmus' 1528 *Ciceronianus*, a dialogue attacking the limiting imitation of the Latin style of one author, encountered much opposition; Etienne Dolet entered the fray in 1535 with his *Dialogus de imitatione Ciceronis adversus Desiderium Erasmum*. The interest of the young Latinist's work lies more in the contemporary assessment of Erasmus than in its virtues as a Ciceronian dialogue. Dolet found Erasmus the symbol of "much that was fashionable, yet painfully inadequate". Though the reviewer picks several bones with Prof. Telle (e.g., that he does not use the Amsterdam *Opera Omnia* for his cross-references), he concludes that the volume "is indeed a boon both to the Erasmus scholars and to students of French humanism".

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