THE IDEOLOGY OF MERCY IN ENGLISH
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Volume I

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This work is dedicated to

Ruth E. Roberts--scholar, teacher, friend
I am grateful for the direction offered by Diane Owen Hughes, Thomas Tentler, and Thomas Garbaty in those areas in which my interest exceeds my knowledge. I especially appreciate Marvin Becker's ability to encourage the pursuit of each new idea, and still explain the limits of practicality. To Tom Green I owe more than I can say--for the topic, his kind and careful criticism, his example, and his friendship. I also would like to thank Bill Miller and Michael MacDonald for their guidance. Mary McCune provided childcare at a crucial time, and intelligent discussion about general problems with the dissertation. My greatest debt is owed to my constant source of encouragement, Ed Stein--a man whose generosity, in its many forms, is matched by few.
PREFACE

When I began my research for this dissertation I conceived of the project as a history of ideas—a description of attitudes concerning mercy and its relationship to justice in medieval and late medieval England. The allegory of the Four Daughters of God was intended as the centerpiece in an analysis of popular literature. However, as I read I became convinced of the link between the ideas expressed in the literature and the reality of mercy in the courts; of the effect the transformation of those ideas had on legal development and consequently English governance. The result of my attempt to elucidate those relationships is an unfortunate "sandwich" structure: the literary exegesis is held between a lengthy introduction to features of contemporary law and society, and a conclusion obliged to make many connections. As I develop the work for publication, I will integrate these elements. Although for now the reader is asked to make frequent leaps between literature, practice, and theory, I believe it is worthwhile to treat the sources on their own terms, and allow that to dictate the dissertation's structure.
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CHAPTER 1

INTRODUCTION: THE PLACE OF MERCY IN ENGLISH LAW

In medieval and Early Modern England, jurors often were loath to convict the accused men and women who came before them. Execution was the prescribed punishment for all felonies, which were broadly defined and widely inclusive. Yet the history of the administration of criminal law in the royal courts is notable for jury behavior that frequently ran counter to the dictates of the law, practices that were described by contemporaries as merciful. Not only were acquittal rates high; jurors often tried to find the accused guilty of a lesser charge that would qualify him or her for non-capital punishment. There were a number of ways in which the bench and Crown, as well as the jury, could mitigate the law's sanctions. Royal pardons were available and judges could exercise discretion favorable to the accused in sentencing. Such practices were used to avoid a law of sanctions that allowed few exceptions. The history of crime has been a popular field during the last two or three decades; as a result of the careful attention it has received in both analytical and interpretive studies, many writers have touched on the fact that men involved in the royal courts were noticeably reluctant to condemn. And yet
this phenomenon of merciful behavior has received relatively little attention. For the people of those times, however, it was a matter of great importance. In the law courts, in the royal household, in the pulpits, and the taverns, people complained incessantly about the merciful behavior that only served to aggravate what they felt was an increasing lawlessness. At the same time, mercy, pardon, and forgiveness were considered the obligation not only of one person to another, but of the king to the English people.

This dissertation uses literature from the thirteenth through sixteenth centuries to illustrate contemporary meanings of mercy in the context of judgment, to trace the effect of those ideas about mercy on the administration of the law and, ultimately, on the governance of England.

This is an inquiry into notions or definitions of mercy in medieval and Tudor England, into the connection between ideas expressed in literature and actual legal practices, or the development of the law. It also is a study of governance and the growth of the state. The questions concern kingship and the nature of the relationship, expressed through the law, between ruler and ruled. I trace one element in England's metamorphosis from a society structured on communities, on multiple, complex bonds between kin, and between lords and their men, to a commonwealth comprised of individuals giving allegiance to one authority which spoke for God and Englishmen. The subject of mercy's role in judgment has been chosen for two
particular reasons. First, the governance of England was achieved to a great extent through the medium of the courts. Second, the king's most important obligation to his people was to keep the peace, and it can be argued that in pursuit of this end, his most useful prerogative was mercy. These features of governance came to the fore in the later middle ages in what modern historians have termed the crisis of disorder. Whatever the objective reality of social conditions, there was widespread complaint about increasing violence in everyday life, about the Crown's failure to maintain order and enforce the law, about royal abuse of the king's pardon, and about the Crown's inability to restrain the corrupting forces of "bastard feudalism." By examining this crisis of disorder in terms of the apparently degenerating and impotent royal courts, historians have neglected to ask whether contemporaries had a different perception of the conditions that prompted the complaint. The sources used in this dissertation suggest that the men and women of late medieval England felt customary practices pertaining to charity and forgiveness no longer were able to counter deficiencies in human society. There was a failure of mercy corresponding to a failure of justice. Ideas were changing about justice and mercy in the context of secular courts as well as religion. This affected ideas about how the king could best meet his obligation to keep the peace. Following the development in those ideas affords another perspective on the striking level of complaint that suggests
a crisis of disorder. We can see the effect these changing notions of justice and mercy had on the form of English governance.

The complexity of this phenomenon of merciful behavior in the administration of justice—and the complexity that any successful study of it must have—is obvious. We should be careful to distinguish among the many factors involved in the motivation behind this behavior, the working out of pardon and forgiveness in the courts, and contemporary descriptions of mercy. The people of medieval and early-modern England were aware of the low conviction rates, the frequent recourse to mitigation, the flow of royal pardons, and they characterized all this as merciful. However, attributing such practices to mercy must have been due in part to the dominating presence of Christianity. Because mercy featured so significantly in the religious culture, the representation of behavior that seemed similar to mercy was subsumed in the comparison. Writers were constrained, to a large extent, by the rhetoric available to characterize such behavior. There were many reasons behind the practices described as merciful, and couched in the terms of religious mercy. At all levels of the administration of criminal law corruption and fear of reprisal masqueraded as clemency and forgiveness; so, too, did ignorance and simple lack of interest. There is the possibility, too, that the administration of law was never meant to include mercy. Perhaps the prescribed punishment was intentionally...
exaggerated, providing latitude so that men might separate the truly criminal from the less offensive wrongdoer. This was not necessarily the same as a system based on mercy, though it may seem so. And it was commonplace to seek political power and to exercise various types of social control through the law. Mercy is a form of generosity, and it was used to secure differing kinds of return: villagers could forgive in the expectation of calling in future favors; kings could use their pardon to increase their majesty in a system of exemplary punishment.

That those administering the criminal law had values and objectives that sometimes were in conflict with those of the Crown is apparent at least from the reign of Henry II, and the conflict continued to occur for centuries. This examination of changing ideas about mercy and the effect they had on the relationship of ruler and ruled is based on the assumption that beliefs about mercy's role in judgment are best seen where law called for the most extreme punishment. That is why the discussion will so often turn to mitigation in cases of homicide and theft. Although the law pertaining to felony was relatively simple and severe, it appears that for those administering the law matters were more complex. The worst offenders may have been singled out for hanging, but jurors, as well as justices and kings, had ways to mitigate the severity of the law. There was a cultural preference for forms of punishment and restitution that allowed the wrongdoer to rejoin the community. This is
not to deny that frequently opinion was divided about how to resolve disputes involving crime. However, there were traditional, accepted norms pertaining to the particular nature of such crimes and the character of those wrongdoers deserving the death penalty. These norms, and the intentions that formed them, coincided infrequently with those of the king's law.

At the same time that we see the dialectic between ruler and ruled in the administration of criminal law, we also see a notable period of development, a growing sophistication of the law, especially in the period between 1350 and 1550. And in considering all the changes in jurisprudence, and in the processes and personnel used in the courts, we must question the extent to which this was directed at least partially by the Crown's efforts to cope with a crisis of violent crime and social disorder. The use of special commissions of justices, the powerful position that justices of the peace came to hold, the continuing use of the appeal of felony, secular regulation of benefit of clergy, the emergence of the conciliar courts—all are features of an increasingly puissant and refined English law administered by jurors, officials, and justices but, it seems, controlled by the Crown. However, no matter how much we understand about the machinery of the law, we are still left with the question of mercy's role in those courts.

We cannot assess the reasoning behind a medieval jury's or judge's apparent act of clemency; we could not assess the
reasoning of their equivalents today. What we can do, though, is develop our understanding of the social and cultural circumstances in which Englishmen administered the criminal law. We must approach, as nearly as possible, the constraints within which jurors acted, and the psychology they typically possessed when making decisions of life and death. Though sometimes it must have been easy to pronounce a criminal guilty and other times impossible, most often jurors must have been forced to translate cultural norms into a "special language of justification" that would meet the conflicting claims of justice and mercy.¹ The language of justification is a means to approach the contemporary conception of mercy's role in judgment. With a knowledge of this language we can understand the function of mercy in the context of the law, and the effect of those beliefs and practices pertaining to mercy on governance.

These cultural values and attitudes about mercy can not be uncovered completely if we are limited to the sources favored by legal historians. Traditional legal and sociological research must be supplemented by the contemporary literature that provides another dimension for the historical imagination. This dissertation is based on an analysis of a popular allegory of judgment, and on representations of mercy in a wide variety of sources from the thirteenth through sixteenth centuries. The generous time span has been chosen because of certain features of the medieval literature of mercy. There are striking and
powerfully suggestive changes evident in the sources by the early decades of the sixteenth century that encourage an interpretation of the relationship between the discourse on mercy and justice and actual legal developments. I intend to use sources and techniques that will identify what have been called the more interesting and difficult questions about what observed changes mean in terms of social structures and systems of value and belief.

The nature of the sources should not be taken as a sign that the topic is better suited to literary studies. These questions about medieval and early-modern notions of mercy, and its function in society, have particular value for England because of England's use of the jury, and because many aspects of the late medieval polity and social order were conceived of in terms of the law. The English legal system during these centuries involved the participation of people from almost every level of society at some stage in the administration of the law. The ideas of English men and women about pardon and punishment were vitally important to governance: "Ultimately good order did not depend on law courts of any sort but on people's attitudes to their neighbours."2 The form of this institutional structure allowed the exchange of ideas and expectations between ruler and ruled, as well as an ongoing dialogue among members of the community at large. The execution of the Crown's intent in criminal law always was through the men who gave the verdict, men who often had beliefs and goals that differed
from those of the Crown. Jurors knew that their power resided in the conclusion they reached about the accused, and that the judge had the ultimate disposition of those who were convicted. Jurymen had to tailor their behavior to fit the cultural norms and the outcome that seemed fit; the bench had to adjust its decisions to the beliefs of those who administered the law, yet still conform to the law of the royal courts. Instead of asking yet again about social disorder and crime in the later middle ages, about weak kingship and corrupt juries, in this dissertation I shall turn my sights to contemporary ideas about maintaining the peace, and the obligation to pardon.

I

Before we can discuss ideas about peacekeeping, justice, and social obligations, we first must understand something of the reality of mercy in English courts in the thirteenth through sixteenth centuries. That is, we have to look at the forms that merciful behavior took in the administration of criminal law. The term mercy has been used, by contemporaries as well as historians, to describe a wide range of practices used by the Crown, bench, juries, and others administering the law. These range from outright pardon of a capital crime, to insuring that a lesser sanction is imposed than the one called for by law. The motivation for such behavior—whether it is piety, clemency, pity, practical forgiveness, disregard for or corruption of the law—can rarely be determined. However, the means of
mercifully treating a felon were many, and often the subject of criticism. There were endless complaints about violence and disorder throughout these centuries, and the mercy shown to accused felons was considered a significant factor contributing to these social ills. In the early sixteenth century it seemed that as a result of a wide range of legal developments royal courts would impose order: the scope of felonies widened, restrictions were placed on the qualifications for mercy, and the machinery was developed to better prosecute and punish offenders. Yet merciful treatment of the accused remained central to the system of English justice; in fact, the options for lesser sanctions that could be substituted for the death penalty multiplied under the Tudors. What do these changes indicate about the meaning mercy had for English men and women, and the purpose they thought it had in the courts, by the end of the sixteenth century?

The level of violence in both medieval and early modern England has been the subject of debate, and is of primary interest to anyone writing the history of the period. The fourteenth and fifteenth centuries are frequently characterized as an age of violent social disorder. Legal historians may see this disorder in terms of the abuse of offices and the negligence of royal courts in punishing criminals; political historians focus on the failure of king and Parliament effectively to address the disorder; social historians have sought to assess the effects of a high level
of violence on everyday behavior, and even questioned whether there were effects. As a result of the interest in social disorder from different quarters during the last twenty years, substantial evidence has been established concerning the behavior of Englishmen in administering the law.4 A variety of studies have been produced, with an emphasis on statistically-oriented works based on legal records from a particular court or region. These are revealing in terms of actual practices as early as the thirteenth century. One of the most striking features is the degree to which juries, judges, and the Crown pardoned or mitigated the sentences of the accused. A small percentage of those convicted were hanged: frequently the procedures of accusation, prosecution, judgment, and sentencing were manipulated to avoid the harsh penalties of the law.

The penalties were harsh by almost any standard, although the law was made more sophisticated over the centuries, its penalties were calibrated to suit the circumstances and the individual accused, and as a result the means of avoiding those harsh sanctions multiplied. The men who served in the courts certainly did not consider all felonies in the same light. Felony in the medieval period included treason, petty treason, rape, homicide, arson, burglary, robbery, and larceny.5 The crimes for which men and women were less likely to be convicted and executed were less serious forms of homicide (what came by the sixteenth
These felonies were committed with great frequency throughout the country. The Crown demanded the capital sanction for manslaughter and simple larceny, yet those who had committed these crimes had acted in a way that, though it was not acceptable, at least was very familiar and perhaps even understandable to the men who served in the courts. Other felonies requiring more stealth and planning, such as murder, robbery, and burglary, were less common, more in conflict with societal norms, and certainly treated more severely.

Studies of conviction and execution rates strongly suggest that men often were repudiating capital punishment, though there were other factors contributing to low conviction rates, such as a lack of evidence, failure of the accused to appear, or prosecution of the offense as other than a felony. Granted, these studies are based on only a small portion of existing court records, and are limited to different courts in different times and places. Nevertheless, the desire of English jurors as well as the bench to mitigate the legal sanction for felony is indisputable. Here are just a few examples. Given found that 17.4% of those charged with homicide at thirteenth century eyres were convicted. Pugh examined the rolls from Newgate gaol delivery courts from 10 years during the reign of Edward I. He found 21% of those charged with homicide only were convicted and 31% were convicted for all forms of
theft. Hanawalt, using gaol delivery records from the early fourteenth century, concluded that 12% were convicted for homicide, and 30% for theft. Using records from trailbaston proceedings in 1328, McLane found that 81% of the alleged felons tried were acquitted and released; 18% were found guilty; only 53% of the convicted were sentenced to be hanged.

In medieval England, capital punishment was mitigated in a variety of ways by juries, judges, and the Crown. Whatever their motivation, the men who administered the law often took advantage of the opportunities for merciful treatment of the accused. There were some institutionalized means, and others that were informal, perhaps sometimes even unintended. An essential part of the English justice system was the king's pardon, a royal prerogative. It was meant as a way to counter the unintended rigors of keeping the peace. Although royal mercy usually was described as a Christian act, its motivation could be more complex than a purely religious one. The king's pardon was a vehicle for the power of generosity, and expectations of the return received for that largess could range from political favors, to control of one's enemy, to eternal salvation. There were two types of royal pardon. Through the thirteenth century, pardons of course (de cursu) were available to all entitled to have them under the law. These were defendants charged with excusable homicides--those committed in self-defense, by accident, or by the insane. In the early fourteenth
century, the king no longer personally took part in the granting of these pardons; they would be issued by Chancery on judges' recommendations. Pardons of grace (de gratia) were more characteristic of royal prerogative. They were granted by the king to felons not technically entitled to pardons in return for a fee, or in response to the mediation of influential friends or family members. In actuality, at least in the medieval period, the king's pardon was available to almost anyone before trial if he or she could pay for it in Chancery. A significant change occurred in 1294 when Edward I regularly began to offer, on a large scale, pardons on condition of a term of military service. In the fourteenth and fifteenth centuries pardons frequently were used as a convenient way to raise troops. As a result, many habitual criminals escaped the gallows to serve on the Continent, returning in so many years to resume their crimes. It was for this seemingly indiscriminate and undeserved granting of pardons of grace that there were frequent complaints and attempts in Parliament, beginning in the fourteenth century, to restrict the granting of pardons. As early as the Ordinances of 1311 there was an effort to limit the terms of pardoning to customary practices. In 1328 the Statute of Northampton attempted to restrict pardons for homicide to those who had killed in self-defense or by misadventure. Recurring complaints and similar statutes appeared periodically in Parliament throughout the fourteenth and fifteenth centuries. Some legislation, such
as a statute of 1390, set high standards for enforcing the conditions for pardons of grace, but subsequently enforcement broke down under practical difficulties. Sovereigns in the fourteenth and fifteenth centuries also continued to offer, through Parliament, general pardons on such occasions as coronations or after subduing widespread revolts. Although they often included exclusions, they were used by the Crown as a political tool, to reward supporters or raise funds, and so often were available to all who wished to purchase them.

Judges could assure that at least some of the condemned were not executed. This was achieved through the application of a privilege meant for the clergy, in which the bench played the decisive role. Benefit of clergy originated in the conflict between Henry II and Becket. Clerics were to be tried in royal courts, and if found guilty turned over to the Church for punishment. But this special exception for clerics was used to mitigate the law for all men. In theory allowed only to men in holy orders, in practice benefit of clergy also was granted to many laymen who claimed it. This clerical privilege could be claimed before or after trial. The qualifying tests to determine eligibility became less demanding in the course of the fourteenth century. At the same time, control of the whole process increasingly came into the hands of secular judges. By the late fourteenth century it frequently was allowed to anyone who could pass a literacy test to the
satisfaction of the bench; even literacy often was feigned by memorizing the psalm used to determine if the accused could read. This wide application of benefit of clergy became the object of complaint; like the king's pardon, it was considered corrupt, and a tool used by professional criminals. Judges also could mitigate punishment in other ways. These options grew in number and complexity throughout the middle ages. Judges could override a jury's verdict of guilty, and sentence the accused to some lesser form of punishment. Reduced sentences included such sanctions as outlawry, corporal punishment, imprisonment, and fines. Judges were unable to grant pardons; they only could recommend the defendant to the Crown. However, they could use a number of strategies, such as allowing benefit of clergy or a claim of pregnancy, to provide a reprieve until a formal pardon could be obtained.

Jury mitigation is perhaps the most interesting form taken by merciful treatment of accused felons. Although the nature of the evidence largely obscures the reasoning and behavior that led to such verdicts, juries regularly adjusted the law and the facts to insure that the defendant would not be executed. Jury nullification of the law occurred when jurors favored a defendant who they thought had committed the crime charged. It might indicate that the jury felt the law was wrong, or the punishment inappropriate, or the accused a worthy exception. Jury mitigation could result, therefore, from objections to the
legal rules, or to the sanction, as well as from some feeling that the person whom they must judge deserved clemency. There were a number of ways in which jurors could mitigate the law. They might simply acquit the accused. Or jurors could return a special verdict, which reserved difficult cases for full judicial discussion, or a partial verdict, in which the accused was found guilty of a lesser offense. Jurors might also restate the facts in cases of homicide, sometimes even persevering in their verdict against the evidence, so that they might find the defendant guilty of self-defense or accidental killing--verdicts that qualified the accused for a pardon. In cases of larceny, jurors might undervalue the goods that had been stolen; if the value was less than twelve pence the crime was not a capital one. Jurors claimed that there simply was insufficient evidence on which to convict, and often this was true.

There also were other means in the royal courts, and outside them, to save the accused. Not all criminal suits were brought on behalf of the Crown. Victims or surviving kin could bring appeals (private suits) against a suspect. Appeals often resulted in private arbitrations and settlements between the parties involved; it seems that the intention of the appellor rarely was to secure the death of the felon. Of course, many disputes over wrongs never reached the courts at all, but rather were resolved through concord and some form of restitution. Trial jurors were
not the only people engaged in mitigation and merciful treatment. The administration of English justice relied to a great extent on lay participation, and there were many ways that the people involved could attempt to frustrate prosecution and punishment. For example, the presentment jury could decide there was not even enough evidence to bring a charge; neighbors could fail to raise the hue and cry. The legal system depended on witnesses and officials, all of whom had means of non-cooperation that would benefit the accused.

Finally, there was another privilege of the Church that might be used to merciful ends. Every church and churchyard enjoyed the privilege of sanctuary. Anyone who fled there was to remain unmolested for forty days, and could be supplied with food by clergy or friends. Those who tried to interfere during this period of sanctuary could be excommunicated. After that time the person either had to surrender to authorities for trial, or to abjure the realm and leave by the nearest port. If neither action was taken, the person could be seized for trial. There was a second type of sanctuary, often confused with the first, which came to be the cause of bitter public complaint. Some places had the right of permanent sanctuary, originating in a royal grant. This was a secular and jurisdictional privilege, and such sanctuaries were independent of royal justice. Over the centuries the Crown gradually removed most such protective jurisdictions from laymen, but not from the
Church. Attempts were made throughout the fifteenth century to eliminate these permanent homes for criminals.

The people of sixteenth-century England were no less concerned with crime and its control than those of the previous two centuries. However, over the centuries the government had increased its ability to deal with the exigencies of crime. During the same period a new ideal pertaining to peace-keeping had gained ascendency. As a result of this improved capacity to control, and the associated cultural value placed on an obedient populace, the English government in the sixteenth century was able to galvanize efforts to contain criminal activity. Perhaps we are justified in drawing contrasts between the ways in which the people of late medieval England and the Tudor era dealt with the problem of crime. The attempts of the fourteenth and fifteenth centuries seem haphazard; all too often the Crown was obliged to delegate authority for keeping the peace to the private initiative of a politically fragmented aristocracy and gentry. The Tudor era is notable however for repeated joint efforts by Crown and Parliament to eradicate through statute and courts the worst abuses of the justice system, and to improve its administration.17

Under the Tudors the definitions of felonies were refined.18 One reason was the obvious intention to widen by statute the scope of offenses that would earn execution. Throughout the sixteenth century the category of capital felony repeatedly was expanded to include more crimes, such
as buggery, witchcraft, theft by servants, and horse theft. Of course, this required a more precise understanding and agreement on the elements that constituted a felony; a capital crime had to be distinguished from a lesser offense. The processes of mitigation also necessitated that distinctions be made in the seriousness of acts. For example, the category of homicide came to include manslaughter, which was clergiable; that is, the capital sanction did not apply for the first offense for literate males. Further definition of homicide also included examination of causation, the mental element, excusable homicide, and misadventure. Most felonies came under such scrutiny; the significant features of robbery, burglary, and rape were settled during the reign of Henry VIII. The Crown and Parliament apparently sought to achieve greater order in society through executing the worst offenders. The actual process of refining the definitions of felonies probably occurred in discussions among justices, in such contexts as Readings at the Inns of Court and examination of reserved cases. By the sixteenth century the responsibility to adapt the law and devise just sanctions for crime had shifted to the bench.  

Despite the increasing emphasis on the use of capital punishment, it does not seem that there was a corresponding inclination among sixteenth-century juries to condemn the accused to death. It is possible to provide some indication of how Englishmen administered the law, though the
computation of acquittal and execution rates for the
sixteenth century is a complex matter; so too is a comparison
with medieval rates. For example, Cockburn found that at
the Home Circuit Assizes during the second half of the
sixteenth century and the early seventeenth, only 24% of
those charged with felonies were condemned. And not all of
these were actually executed; some were reprieved, some
pardoned, and some escaped. 20 Although the government
continued the attempt to tighten the administration of the
law and eliminate the worst criminals, many forms of
mitigation remained in use, and some even multiplied.

The royal prerogative to pardon was employed throughout
the sixteenth century, often just as it had in the past, for
political ends. Parliament, however, continued in the
attempt to bar the worst offenders from qualifying. Public
complaints of the Crown's abuse of the general pardon
prompted Parliament in continuing efforts to impose
restrictive terms on that pardon's availability, and to
legislate the restoration of capital punishment for the most
offensive felonies by specifically listing them as crimes
that did were barred from mitigation. By the end of the
century Parliament did manage to exert closer control over
the availability and qualifications for pardons, but the
Tudor sovereigns never stopped issuing general pardons to
commemorate events such as their coronations in order to
increase popular support. 21
Unlike the king's pardon, benefit of clergy rapidly came under the control of the Crown through legislative efforts that finally wrested the clerical privilege from the Church. This secularization gave the Crown a new measure of control over achieving a fixed death penalty. Both bench and Parliament were eager to reduce the Church's authority—to co-opt and refine the use of this privilege to the government's ends. Restrictions on the use of benefit of clergy were imposed beginning in the late fifteenth century. In 1489, a statute limited its availability to laymen: it could be claimed only once for homicide, rape, robbery, theft, and "other mischievous deeds." Offenders were branded with an M or T on first conviction, and this perhaps was followed by a term in prison. Other felonies and restricting conditions were added to the list in 1497, 1512, 1533, and 1536, further limiting the availability of benefit of clergy to those society thought the most destructive offenders, such as murderers, horse thieves, and burglars. In 1576 an Act finally gave lay authorities complete control over benefit of clergy; in addition, they were given the power to impose up to a year in prison on successful claimants when they felt it necessary that the defendant be penalized in some way.

The assault on the privilege of permanent sanctuary also took on full force under Henry VII and his son. The final judicial assault began in 1516, with the case involving Sir John Savage and his son. Both men secured
pardons in 1520, but the financial and territorial costs were high--clearly intended as punishment, and part of the king's strategy to use existing legal means in new ways in order to break his enemies and maintain political control.23 Sanctuary rights were whittled away under the Reformation Parliament, but not completely abolished until 1623.

The transformation of benefit of clergy at the hands of Parliament certainly had the goal of restricting mitigation for certain classes of criminals, but that was not its only purpose. Such changes also ensured that the bench had available lesser sanctions for those deemed worthy of merciful treatment. Throughout the sixteenth century judges continued to use all available means of avoiding execution for such lesser offenders, and still were able to impose some type of sanction. Imprisonment, fines, and corporal punishment were ordered with increasing frequency. And new methods of sanctioning were introduced: transportation and forced labor could be the sentence for those who had been reprieved from execution.24 The availability of lesser sanctions also served to encourage the process known as plea bargaining: in return for a guilty plea the prisoner was sentenced to a reduced charge, to a non-capital or clergiable offense. Little if any use was made of this prior to 1575, but assize records show a great increase between 1575 and 1617. Since guilty pleas avoided the need for a regular jury trial, it is probably no coincidence that
the increase in confessions occurred at times when the assizes were under great pressure from extended business. Juries continued to mitigate capital punishment throughout the sixteenth century. Yet we must ask whether the changes in criminal prosecution, trial, and punishment that reinforced the authority of the Crown actually overshadowed the influence of ideas men generally shared about the role of mercy in the administration of the law. Was the reality of mercy in the criminal courts substantially altered during the sixteenth century? This question often has been considered in the context of the "new monarchy" of the early Tudors, and the increasing powers of the state. However, recent studies of various aspects of the criminal trial from the fourteenth through seventeenth century suggest that these sovereigns did not suddenly reorder the administration of criminal law in royal courts; rather, they may have directed the use of practices that arose from slowly evolving changes in criminal prosecution and trial. The legal administration seen under Elizabeth may have been the end result of two centuries of change. If so, we must ask whether sixteenth century juries still were expressing popular values about criminality, as well as question the degree of control that the bench had over the outcome of the trial.

Very little is known of the criminal trial in medieval England, and historians have had to depend to a large extent on treatises, occasional references gleaned from court
records, and more ample information from later centuries. There is little indication of the materials and practices of prosecution before the sixteenth century. This is part of the reason that the Marian bail and committal statutes of 1554 and 1555 (1,2 Phil. and Mary, c. 13 and 2,3 Phil. and Mary, c.10) seem to mark the institution of administrative procedures that gave the Crown real control over the prosecution of felons; it was surmised that new means to control crime rapidly had been devised only under Henry VII and Henry VIII. The first of these statutes required the justices granting bail to examine the prisoner and those accompanying him or her, and to send a written examination to the judges at the next gaol delivery. The second statute concerns the actual pretrial activities of justices of the peace. It extended these examinations and depositions to suspects held without bail, and obliged justices to bind over witnesses to appear at trial and give evidence. This then would have produced prosecution evidence for the Crown's use during trial. Yet it is probable that these statutes did little more than formalize practices that long had been customary.

A number of practices that gradually developed during the later middle ages contributed to an active and independent prosecution by the Crown in the sixteenth century. The methods of bringing a complaint that would initiate proceedings against a felon were expanded. There was presentment by jury, on the knowledge of an individual
or on bills prepared by clerks, and the appeal of felony which was initiated by a writ or bill. In the early thirteenth century, the members of the jury, theoretically drawn from the area in which the crime had been committed, themselves were to testify as to the facts. But the gradual shift, from the public to magistrates and officials, in the responsibility for the preliminary investigation, and the co-ordination of the proceedings involved in prosecution, may have been related in part to the fact that, increasingly, jurors no longer were drawn from the locality of the crime.27 Recent studies of jury composition indicate that, by the early fifteenth century, few jurors would have come to the courtroom personally acquainted with the facts, if indeed they had any knowledge at all of the matter involved.28 It is suggested that there must have been an increase in the evidence at trial to compensate for the decline in the self-informing aspect of the jury. Such testimony must have come from accusers; from those who brought in the suspect; perhaps from local officials such as the coroner, bailiff, and constable; from prosecution witnesses. But there is practically no evidence of this process.29 Evidence could have been obtained at any of stage in the process that brought the accused to the trial, and potential witnesses in contact with magistrates: at the coroner's inquest, when the accused was indicted, arraigned, appealed, bailed, or committed to jail. The theory is that, between the thirteenth and sixteenth centuries, there was an
ever-increasing tendency to obtain written testimony during the course of investigation, and this sometimes included the deposition of witnesses. The officials, too, who were involved in all the activities that led up to trial were a likely source of evidence. Unfortunately, at this point historians can base their accounts of the development of prosecution and criminal trial before the late sixteenth century on little more than speculation. We may come closest to the past reality by imagining a complex rate of maturation, with practices varying throughout the realm until finally prescribed in the sixteenth century. And we should not assume that the evolution of prosecution testimony in court, and the securing and producing of evidence by the Crown, quickly supplanted the power and influence of a jury that remained to some degree self-informing. A good case has been made for the claim that, by the second half of the sixteenth century, the materials gathered in preliminary investigation and subsequent prosecution were organized by "bureaucrats," court officers such as the clerk of the peace, and that this enabled judicial control of courtroom procedure and directed the outcome of the trial.

The procedural innovations that eventually transformed the administration of criminal justice were introduced in the functions of court officials. The justice of the peace may be the crucial figure in the development of prosecution procedures for criminal trials. At least we can detect in
the expanding duties of these justices gradual growth directed by practical need. The office originated in the keeper of the peace in late thirteenth century; their duties simply required them to record breaches of the peace. Beginning in 1329 they intermittently were given the power to determine felonies and trespasses, and this became permanent in 1389. Much of the local influence of justices of the peace was rooted in their power to determine offenses against labor laws after 1349. In 1361 the officials were permanently made justices and give expanded powers. By the end of century they regularly were commissioned to deliver gaols. Due to their use as agents of social control in the last half of the fourteenth century, and because of the social structure of late medieval English society, by the late fifteenth century they had become powerful figures in the administration of criminal law. Increasing numbers of gentry were appointed to the peace commissions and they held positions of influence in local and regional politics. The responsibilities of the justices of the peace had grown from arresting those suspected of trivial offenses to trying felons. The role of prosecutor may well have grown out of the manifold duties and types of investigation required of these justices. The question remains how much of the growth of criminal prosecution was intentionally directed by the Crown in its efforts to combat the vicissitudes of public disorder.
When we look at all the changes in legal administration and development during the period 1350-1550, it does seem that development of the law must have been shaped in part by the government's efforts to address the crisis of disorder. Particularly, if we look at some of the wider changes, such as the continuing presence of personal compensation in felonies and the use of equity in conciliar courts, it does seem that under the Tudors, Crown and Parliament consciously tried to keep the peace and bolster royal authority by directing the growth of criminal law instead of simply relying on the enforcement of customary practices. Consider late medieval and sixteenth-century developments in the appeal of death. The appeal did not fall out of favor after the thirteenth century. There is no evidence that, as it has been claimed in the past, the appeal was considered a form of blackmail. The process of criminal appeals was simplified in the early fourteenth century: means had been devised to evade the penalties for false appeals, and trial by battle eliminated. As a result the appeal continued to be used throughout the fourteenth and fifteenth centuries. Ideas about the public prosecution of felony were grafted onto the private action for personal remedy. In the late middle ages, the appeal of death was an action sued in King's Bench and not the local court, except for appeals by bill before the commissions for gaol delivery. This changing use of the appeal of death shows the integration of at least one of the Crown's goals--control over crime--with
traditional means of settlement and punishment. As a private action it could be compromised. However, in medieval common law, if the initial prosecution by either appeal or indictment ended in acquittal or a manslaughter conviction, the defendant could not be prosecuted again by either means. This meant that the defendant would be tried only once, by one form of prosecution. Justices favored the appeal in that, if both an indictment and appeal were pending, the justice stayed the indictment until the appelloeor prosecuted. To save the suit, justices would not arraign an indicted killer within a year. Nor was the appelloeor's satisfaction obstructed by a royal pardon; the king could not pardon an execution on an appeal, except for cases of self-defense or misadventure.

The Crown's intention to gain tighter control over prosecution of homicides is obvious in a statute of 1487 (3 Hen. 7, ch.1). The interests of the private prosecutor were displaced by the intention of the Crown to try and to punish criminals. The statute directed prosecutors to arraign suspects on indictment immediately. However, if within a year and a day the survivor appealled a suspect prosecuted by indictment, the plea was removed which would bar the appelloeor's suit. The appeal for the same killing was barred only if the accused had had benefit of clergy. As a result of the statute, killers could no longer buy a year of freedom from the survivors. The Crown was interested in
delay proceedings on indictment if an appeal was being pursued. And it still allowed an appeal of death if the prosecution on indictment had not ended in hanging or benefit of clergy. But whatever the survivor's intent, the coroner would investigate and report to royal justices. The statute had restated the coroner's role in prosecution: he received a fee to view the body and was to be fined for default. The statute of 1487 acknowledges that the survivor's interest in compensation is in conflict with the public interest in prosecuting homicide; the statute favored the public welfare.

The evolution of the conciliar courts, although they did not have jurisdiction over felonies, do provide another clear example of the Crown's manipulation of the law to bolster its authority in the later middle ages.35 Following the breakdown of the eyre in the last quarter of the thirteenth century, the Crown came to rely upon a legal system that delegated responsibility to justices from the central courts as well as men from the localities. The business of the eyre was gradually transferred, during the late thirteenth and early fourteenth century, to assize justices and special commissions of justices for gaol delivery, oyer and terminer, and trailbaston. These special commissions heard charges brought on presentment as well as querelae, bills of complaint presented by individuals. One of the results of the shift to special commissions was a decrease in centralized authority. The power to try civil
and criminal matters was increasingly shared with local aristocrats and gentry. Just as royal prosecution and maintenance of public order came to rely on the initiative of private accusers, the Crown also depended on local powers to administer the courts. Yet at the same time, during the period 1350 to 1500, the Crown gradually developed a new set of courts, ones that operated outside the common law, and particularly appealed to those who felt they were not being given justice in the common law courts--courts so often seen as the tools of local factions. By the early sixteenth century the magnate councils that had been important in promoting arbitration and forms of equitable jurisdiction were superseded by new royal courts.

The conciliar courts include the courts of Chivalry, Admiralty, Requests, Star Chamber, and Chancery; for our purposes the last two are the most important. Chancery court originated in the mid-fourteenth century. Common law procedure needed reform; it was complex, rigid, dilatory, and antiquated in face of social and economic complexity. Reform that met the deficiencies of the common law resulted when the Crown provided new procedures that still followed the principles of common law. Suitors gave a bill or petition to the Crown in seeking redress, and this in turn was given to the chancellor. The bill procedure was well-developed by the fifteenth century, and procedurally superior to the common law. Chancery also had better methods of examination, and better machinery for bringing
people into court and enforcing judgments; in addition, it was relatively fast and less expensive. Lawyers then saw to it that new procedures were assimilated by tradition and the call for reform was met within the bounds of custom. The real expansion in Chancery's business began in the reign of Edward IV, and greatly increased under Henry VII. Prerogative courts did not take business away from the older courts; rather, they attracted the suitors unwilling to tolerate the expense and delay of common law procedure. They offered the alternative remedies that good lordship did. Chancery's power and distinctiveness lay in its administrative powers. It was a forum similar to many other informal ones for arbitration and mediation that sought equitable judgments; its appeal was in the force of central bureaucracy, not in a special kind of justice. The king responded to the public demand for expanded equity and prerogative jurisdiction. Just as in previous centuries the jury had been absorbed and used in the struggle for authority, so were the conciliar courts shaped to provide people with what they wanted in return for strengthened support of the Crown's government.

The Council in Star Chamber, which evolved in the fifteenth century, also used procedures not available in the common law courts, and heard cases initiated by bills based on the complaints of private individuals. Among the matters it handled, Star Chamber had jurisdiction over riot, so that was the label used to get cases before this court that were
actually property disputes in battles of litigation between local powers. More importantly, for our purposes, Star Chamber had jurisdiction over cases of corruption in offices and institutions. This meant that it investigated and punished those who tampered with the administration of justice; not only those who tried to corrupt jurors but jurors who were suspected of giving a false verdict as a result of bribery, embracery, extortion, or perjury. Star Chamber was able to fine and imprison jurors. Those who had reached a verdict that seemed in opposition to the evidence could be bound over to Star Chamber by the trial judge; but it does seem that the court was primarily interested in outright corruption rather than perverse interpretation of the evidence. Not only the development of the courts of Chancery and Star Chamber, but the very nature of these courts, suggest that their origins and guided growth are rooted in the Crown's attempts to control social disorder and reinforce the government's authority. Nor do these courts illustrate a piecemeal effort. They are another element of the widespread changes in legal administration—in the definition of crime, in procedure, in personnel—used to great advantage by the Tudor monarchs.

When we consider the reality of mercy in the courts in the period 1350 to 1550, and changes in the law and its administration, we are faced with questions about the fundamental nature of English criminal law and the relationship between the Crown and the men who served in its
courts. Legislation for "law and order" is in a sense the hallmark of the Tudor era. Yet it is likely that the roots of these changes in the law go back to the time of the Black Death. Can we identify the impetus behind the shift from the public to the Crown of the primary responsibility to keep the peace and preserve those less deserving of death? The reality of mercy in the law remained the same: the law was harsh, but mitigation of its penalties was a regular part of its administration. Was merciful behavior in the courts on the initiative of bench by the sixteenth century, or were judges responding to societal pressure, conforming to public attitudes about crime and punishment? Frequently the reality of merciful treatment in the courts is understood as an indication of a corrupt system and weak government. Perhaps we are misled by thinking of the administration of justice only in terms of the punishment administered, of the number of convictions and executions. Instead we could ask what preserved this tradition of mitigation in the face of such powerful forces for keeping the peace and enforcing obedience to central authority through exemplary punishment. Let us turn now to see what some historians have made of this apparent paradox of justice and mercy in English law.

II

Legal and social historians who discuss the phenomenon of mitigation in the royal courts of medieval and early modern England rarely present it in terms of mercy, of
clemency, or forgiveness, or largess.\textsuperscript{36} Instead, they view mitigation in one of two ways: as the mark of corruption, the breakdown of the administration of the law and central authority; as an indication that the law was being used in a way only partially directed by the Crown and perhaps for differing purposes. Most historians have explained merciful behavior in the courts as a response to the harsh sanctions for breaking the king's peace, and by citing lenient attitudes toward violence and criminality. Almost all writers have focused exclusively on the ideas and machinery of justice. What discussions of mercy there are usually come under the rubric of religion—medieval requirements of piety or the effect that protestantism had on the common law. Studies of mitigation to date have ignored an entire dimension of this merciful behavior in the courts. They fail to see that the system of justice was not confined only to administering punishment, and mercy was not defined solely by religion.

Following are some examples of the ways in which historians of crime in medieval England account for mercy. In his study based on thirteenth century records from the eyre, Given concludes that the punishment meted out by the royal courts would have deterred few intent on murder. The justice found in the king's courts was "more than tempered with mercy; it was extremely lenient." In general jurors were very reluctant to hang those accused of homicide. This attitude may have been caused, Given suggests, by the
harshness of a law which insisted on capital punishment without distinguishing the nature of the crime. "Had the jurors been able to impose lesser penalties on some killers, they might have done so with greater frequency." However, he posits that this leniency was a sign of an essentially approving attitude toward violence as the usual way of settling certain conflicts. Pugh also insists that judgment in thirteenth century courts be seen in the context of the "crude and inflexible punishments then prevailing." He claims that there is not enough evidence to suppose that compassion lay behind the leniency; yet he cites examples of what he terms clemency by the bench. McLane suggests the possibility that jurors had a live-and-let-live attitude to accused killers, particularly if a fight in a public place resulted in death. The element of fairness may have been a crucial factor. This would account for the fact that robbery and burglary were considered so heinous; stealth aggravated the offense and led to harsher judgment. Hanawalt, too, thinks that conviction rates show jurors' attitudes to types of crimes, and that the legal system was used primarily for social control within the local community. In this view, conflict theory explains the corruption of justice and the manipulation of law to obtain power. Still, she suggests that the "acquittal rate was so high because the punishment for conviction was too severe. There also seemed to be mutual agreements not to convict in order to avoid reprisals within the villages." The
conviction rate with benefit of clergy, she suggests, might indicate what conviction-acquittal patterns would have been if jurors gave their true opinions. Bellamy feels that the severity of punishment caused jurors to convict few of felony but many of trespass. Men hesitated to condemn their neighbors, but not to fine them. The accused most likely to be convicted were those taken in the act or with the goods, notorious men and women with prior records, and strangers. Bellamy draws attention to a curiosity in a legal system that relied on exemplary punishment. Rarely did authority suggest that increasing the severity of sanctions would better maintain order. Compared to the Continent, and England in the Tudor age, recourse to torture and physical punishment in medieval England was negligible. There were no statutes to limit it, because, according to Bellamy, sanctions were kept in bounds by custom.

Theories about the administration of justice in early modern England have been dominated by the work of two historians, Cockburn and Herrup, whose works contain essentially opposing views. Cockburn believes that in mitigation, as in every relationship between judge and jury, the bench controlled the outcome. Both judge and jury had discretionary powers, yet the balance of power in the courtroom was indisputably in the judge's favor. He attributes the high rate of acquittals and mitigation to corruption, and general negligence in a system that required the cooperation of many non-professionals and poor quality
jurors. Yet Cockburn also writes of the mercy shown by jurymen and judges. Juries, though they probably were ignorant and impressionable, did play a significant role in mitigating the severity of capital sanctions. For example, Cockburn believes the behavior of seventeenth-century grand juries indicates that in felonies punishable by death, they preferred just to reject the bill "rather than to hazard the life of the accused by sending him to trial." The bench too showed a "tendency toward compassion" and "practical humanity."45 For assize judges at least, it seems that they "ordered the execution of the death sentence only if the felony was particularly heinous or after all possibilities for mitigation had been exhausted." Underlying all such merciful behavior, perhaps, was the "sterility of a system which in practice allowed no meaningful punishment short of death."46

In contrast to this picture of a rigid and negligent system driven to the extravagances of mercy, Herrup concludes that the common law was in fact operating as it was meant to be. Mitigation was not the result of corruption, but a necessity in administering the law. In a system that relied on many people to enforce the law, she argues, a more practical definition of criminality had developed. This gave weight to the circumstances of the crime and the condition of the accused.47 The process of selective enforcement "worked to offset the formal rigidity of legal categories." It was assumed that men would apply
these informal standards in passing judgment. In Herrup's view, legal decisions embodied the social ideals of justice, and the religious intensity behind those values. The many opportunities for pardon and mitigation were an intentional feature of the law. A system of rigid rules and flexible application was necessary if legal administration was to "reflect both human potential and human frailty." By the late sixteenth century the English legal system was driven by the protestant idea of justice. The lesson of capital punishment did not consist only in terrifying potential wrongdoers, but also in "the hope of regeneration." Herrup comes closest to considering legal administration in a fuller societal context. Though Cockburn and Herrup reach very different conclusions about the distribution of power in the courts and the way law was meant to be used, they both write from the same perspective, one that conceives of the legal system in terms of justice--a justice comprised of sanctions that either succeed or fail in forcing people to obey.

III

We can approach social and legal questions central to the history of late medieval England with a greater sense of dimension and context by including mercy in our investigation of the law. Asking about the element of mercy instead of concentrating only on the failures of justice allows us to take a fresh look at some familiar problems. For example, in light of what is now known about the extent
of mitigation, the endurance of a harsh penal code of capital sanctions is puzzling, to say the least. About all that can be said with certainty is that it served to retard the development of substantive criminal law and a more finely calibrated system of punishment appropriate to the crime. It is difficult to find an explanation for the rise of universal capital sanctions and their persistence. A simplistic account is that the Crown believed capital punishment would be an effective deterrent. There are a number of flaws in this argument. If the system relied on exemplary sanctions, we might expect penalties to escalate with each offense—the logic of the system being that the offender required a more dire warning since the prior one had been insufficient—but they did not. And as the level of crime supposedly rose in the late middle ages, punishment did not become more frequent or severe. Rarely did authorities suggest that increased punishment was necessary for the effectiveness of the system of justice. Some have concluded that the lavish use of mercy in the face of a law that prescribed such extreme sanctions was consciously intended to inspire awe of the rulers. Yet if punishment was meant to control behavior through both paternal forgiveness and fear of execution, then repeat felons were "proof of the system's failure to socialize effectively." What message would contemporaries find in recidivism? We might be forced to conclude that from the twelfth century right through the sixteenth, the administration of criminal
law was consciously organized on the assumption that the Crown and lay participants would act in certain ways, regularly using mercy in the courts for particular purposes. Mitigation and selective enforcement were not flaws in the legal system but rather intentional practices rooted in generally shared beliefs.

This willingness to pardon, whether born of the Christian sense of mercy or of customary practices that became a necessity in legal administration, draws attention to the systemic tension resulting from the extensive use of the lay community in royal courts. The process of experimentation with the early forms of the jury seems to indicate a "strong commitment to community lay judging." We must ask whether the Crown truly had a conscious commitment to the use of the lay community in royal courts. Kings might have intended it as a stop-gap measure after 1215, or as part of a long-term plan to operate and control administration of the law. One feature of this system grounded in lay participation is a "screening process" resulting from the multi-level procedures that lead to judgment and execution. Community members were required to report crimes, identify and detain suspects, assist in the presentation of a case against the accused, and reach a verdict. They also served as officials, such as bailiffs, reeves, and sheriffs, for the locality and the king. There were many ways in which gradations of punishment could be imposed, even in the face of the capital sanction. For
example, it seems that merely presenting someone was considered a lesser but sufficient punishment, and a warning from the community. In this way the penal code was countered. At the same time, this screening is another possible cause of the severity of the law: the Crown might have preferred harsh sanctions in the effort to override community manipulation. People used participation in the courts for their own purposes, too, whether in regional struggles between magnates or in village disputes between elites.

The question of who controlled the law in English society is the center of a long-running historiographical debate. For some, the multiple ways in which members of each estate could and did turn the law to their own purposes indicate that the law was a much-used mechanism of social control. Others view it in more traditional terms of the struggle for power in the Crown's relationship with the magnates and gentry. Here the basic premise is that the king exercised his rule through mastery of the law; any breakdown or corruption in its administration is therefore the result of weak kingship. From this perspective, the reality of a central royal authority powerfully articulated through the law is an unquestioned given. English history from the twelfth century is a linear process with periodic setbacks resulting when kings were unable to maintain control due to war, fiscal disaster, and incompetent planning. Some historians see legal development as
consciously directed by the Crown; the course is one of a long downward curve following the death of Edward I brought up again only by the brilliance of Henry VII and his son. Yet this vision of legal development requires that the extensive use of the lay community in the process of judgment, and the tension inherent in it, be completely ignored.

Just how misleading it is to gloss over the involvement of the lay community in the courts, and the influence of customary ideas about the process of judgment, becomes clear in works on the crisis of disorder. For the majority of historians, late medieval England is dominated by violence and social disorder, tied to the failure of central authority to meet the demands of changing social and economic structures--changes that caused the disintegration of political order and corruption at every level of governance. Yet studies of the aristocracy and gentry of the period force us to consider whether the historical processes at work were something considerably more complex than this. The bonds of older forms of social organization, in fact, remained strong in the later middle ages. What we are looking at is not simply the corruption of the aristocracy; it is also the endurance of a world based on ties of obligations and generosity. We can trace the structure of a fragmented society and its archaic practices under the superimposed ideal of central royal authority, exercised through the courts, that reached
throughout the kingdom. We may have been premature in assuming that royal courts, their laws and practices, had been solidly established, and more traditional customs and beliefs supplanted. This is not to deny that there was corruption and widespread disorder. However, the important question is why these centuries, the fourteenth and the fifteenth, saw such vociferous complaints and fears about order, corruption, and the inability of the king to maintain the peace. Clanchy has questioned whether the king's supreme authority in medieval England was anything more than a claim, and whether the Crown's efforts to exercise judicial control were more disruptive than effective. Rethinking the reality of the Crown's central control of the law, and thus of the kingdom, demands a different approach to the period, one that allows for the co-existence and continued development of other social formations and relationships, and of legal arrangements that were centered on older, customary practices in local and regional communities. Studies of arbitration and settlement, and the role of the great lords in dispute resolution and general peace-keeping, speak persuasively for such a reassessment. In fact, conflicting attitudes about the meaning and use of mercy underlie what seem to be unrelated issues of social disintegration, legal corruption, and a failure of authority.

The attempt to uncover the function of mercy opens the door to a new perspective on the use of law in late medieval
governance, and on the nature of English polity in these centuries. We must look not only at complaints about the failure of justice in the late medieval England, but also at the forms in which a feeling of crisis was expressed, the chronology of those expressions, and the estates and social relationships of those who voiced complaint. We must keep our attention on pardon as generosity, on mercy as largess. The power of forgiveness had a crucial function in law and government in the entire period, at all levels of society, and it is a power too often overlooked by historians. Tracing the language of mercy, its dominating presence and complex uses, will show the importance of the dialectic between Crown and community that took place in the royal courts. Their differing values and notions about the use of the law--and the way these changed over time--had a reciprocal influence which directed the process of legal development in some ways and restricted it in others. This dialectic is clearly played out in the discourse on mercy found in so many forms of literature from the twelfth century through the sixteenth. An analysis of mercy's place in judgment, as represented in these sources, enables us to see the complexity of exchange between Crown and community about pardon, punishment, and their role in governance.

IV

In a violent world in which exemplary punishment was touted as the means to discourage crime, why were men so lenient in their judgments, apparently so willing to help
criminals avoid the gallows? Literature is used here to uncover contemporary ideas that might have influenced such behavior. The sources are texts most likely to embody the social attitudes widely shared by men of the estates which supplied jurors, judges, and other court officials. The discussion throughout is limited to men, since women did not serve in the courts. We can never know with certainty what medieval men thought as they judged their neighbors, or what beliefs motivated their behavior, but we do know what these men read, heard, and wrote.

The long-standing bias among historians of the law against the use of certain types of texts, though weakening, is still formidable. The categorization of sources itself has resulted in confusion about literature's "viability" for historical study, and a prejudice favoring particular kinds of documents. Some studies that attempt to describe the cultural values informing the medieval understanding of law and justice provoke sympathy with that bias. However, these are more than balanced by others that have made estimable use of varied sorts of literature, especially from the early-modern period, to supplement and flesh out our knowledge of the intellectual and cultural framework supporting the legal system. The subject of judgment was continually worked out in verbal and plastic form by clergy and laity during these centuries. It is not difficult to locate sources that focus on justice, mercy and punishment;
all figured so largely in the culture and consciousness of this period that they would be hard to avoid.

These sources are contemporary literature in the broad sense of the word. Legal treatises and clerical authorities have been employed, but are of limited use because they are more likely to represent the views of a small, highly educated sector of society. Much of the literature is referred to as popular, but this is not meant to have class connotations or to signal mass culture. Rather, popular is used here to indicate that these works—or those by which they were influenced—enjoyed wide currency among men who were literate or had frequent exposure to reading of the works. One way of defining medieval literature is by its audience, not its style. Although many people from the educated estates may not have read to themselves for information or entertainment, they often formed an audience for others’ reading. Some degree of instruction in the rudiments of reading and writing was available to a large part of the English people, and this portion increased throughout the centuries. Though hardly on par with the literacy rates of modern industrial countries, this was a significant percentage of the population, even in the thirteenth century. The dominant feature of English literacy was pragmatism. These were not cultivated readers but rather people who needed to understand the records—mainly legal—that continually assumed greater importance in everyday life. At least in the thirteenth and fourteenth
centuries, these writers, readers, and audiences largely came from the orders of the clergy that served as administrators, not only for the Church but also the Crown and lesser lords. It is important to understand the contemporary meaning of the terms *litteratus* and *clericus*.

Sufficient education and exposure to texts were not limited to clerics; the gentry and nobility kept records and owned books. The growing estate of well-to-do laymen, most of them merchants and men practicing law, greatly influenced book production and the availability of education.

The modern ideal of virtuosity—the value accorded to works that are aesthetically "superior"—was not a factor in the selection of texts used in this study of mercy. For the medieval period, there are not many sources that would appeal to present-day audiences, although works by Chaucer, Langland, Gower, Skelton, and Marlowe have been used. This is not because of a bias against modern aesthetics, but because the tastes of the day were radically different from our own. Medieval and early-modern audiences thrived on didactic works that were moral or religious, though sometimes only nominally, in orientation. The texts from the thirteenth through fifteenth centuries come from a variety of genres: homiletic pieces, sermons, pastoralia, chronicles, mystery, morality, and academic plays, devotional entertainment, court poetry. The tastes that predominated among the medieval reading public continued long into the sixteenth century. The choices of Caxton and
de Worde, among other early printers in England, are
evidence of this. Although the sixteenth-century sermons
and morality plays reflect this continuity, influential
works by humanist and protestant reformers as well as other
innovative forms such as royal propaganda have been
included. The selection of sources may appear eclectic or
capricious, but the intent has been to use those texts
familiar to and favored by audiences that included yeoman
jurors, gentry who served as court officials, and the
professional administrators in Chancery; texts which
embodied the beliefs they shared about the purpose of mercy.

Legal historians might have dealt differently with the
subject of mitigation if they had begun with the literary
tradition regarding mercy. In elite and popular works, in
treatments by legal and clerical authorities, mercy featured
largely in medieval English culture. Major legal treatises
have at least some discussion of mercy, almost always in
connection with the king's obligation to ensure that justice
is done for his subjects. Mercy is rooted in the duty of
the king and his officers to provide justice, and at the
same time to temper those judgments with clemency. Mercy is
clearly an obligation owed to the people, but it is also the
prerogative of generosity, part of the power of royal
majesty. Theologians wrote about mercy in three contexts:
God's willingness to forgive the repentant sinner; the plan
of salvation which turned on the paradoxical operation of
divine justice and mercy; formulations of how mercy operated as a virtue in the human sphere. Scriptural and clerical authorities made it very clear that mercy, in the forms of charitable treatment and forgiveness of others, was essential for obtaining God’s mercy and so salvation. The Church’s teaching about mercy entered the lives of most people through some aspect of religious instruction or participation in the rituals and sacraments, and especially in relation to the sacrament of penance. Thirteenth-century changes in penitential theology and practice generated a vast literature of mercy for the use of parish clergy, friars, and lay men and women motivated by personal piety.

A popular allegory known as the Four Daughters of God serves as the focus for this study of the literature of mercy in medieval and early-modern England. The allegory about the Christian plan of salvation was also a vehicle for discourse on the function of mercy in the law, and the place of punishment in governance. The allegory originated in Psalm 85:11, "Mercy and truth have met together; justice and peace have kissed each other." There are two basic versions, both patterned on twelfth-century sources. The allegory began its development prior to the Christian era, and acquired currency in both literature and art throughout Europe during the middle ages. It continued to influence drama and poetry in England through the seventeenth century. Here is the framework of the story. God is the heavenly king with four daughters—Mercy, Justice, Peace, and Truth.
They come to plead before their father concerning the fate of the one who transgressed his laws. Justice and Truth argue for strict adherence to the law, and so for man's death; Mercy and Peace beg for clemency. The divine judge always favors Mercy in the end; with the help of his son, a way is devised of satisfying the demands of Justice while pardoning the transgressor.

The two basic versions of the allegory may differ in some points, but both versions and all their variations convey the same meaning in their representation of the Four Daughters' debate. Justice and Truth are often negative characters; sometimes they are severe to the point of cruelty in their zeal to fulfill the letter of the law. As might be expected, Peace and Mercy are gentle and compassionate. The solution that is devised meets the demands of both Justice and Mercy, yet it is clear that the heavenly king seeks an answer that will satisfy both parties because he wants to grant the petitions of Mercy and Peace. He cannot simply release the prisoner in order to please them; some satisfaction, some restitution, must be made for the wrong, or strife will continue to destroy order in the kingdom. The substitution of the son's suffering is a way to placate the demands of Truth and Justice: the king said he would punish an offender and he is obliged to do so. However, his real concern is that order be maintained in the kingdom. These allegories reveal an ideology of mercy: pardon and reconciliation must be preferred over penalty and
strict enforcement of the law as the most effective means for avoiding strife in society. This subtext in the allegory reveals the contemporary conceptualization of the options available to the king and his officers. There were benefits and dangers in both implementing the prescribed punishment and mitigating it. Medieval English society truly felt that royal power would be vain if it lacked the prerogative to pardon. Yet there was an abiding fear that the king eventually would be seen as impotent if he did not rule consistently under the established law. This discourse insists that the fundamental obligation of justice is to insure order in the kingdom; competing claims are met when the king uses his pardon to maintain the integrity, the peace, of society.

This ideology of mercy that left its imprint on the Four Daughters allegory is evident throughout the medieval literature of mercy. The texts reveal a full description of what mercy was understood to be, its role in the relationship between God and man, and its function in secular society. But they also provide more. Because this literature expresses anxiety about mercy's place in the process of judgment, and about how mercy was used by rulers in the effort to maintain peace, it reveals contemporary concerns about the actual effects of putting this ideology into practice. Although the fear of civil disorder was constant, and the paradigmatic strategy was to rely on the reciprocal benefits of pardon and forgiveness, nevertheless the
literature indicates that the definitions of mercy and justice were changing in terms of their relationship to each other, to temporal authority, and to that authority's use of reward and punishment.

Though mercy in the form of charity or almsgiving appears frequently, most representations of mercy involve pardoning the actions of another. Mercy was forgiveness for those wrongs construed as sins, those seen as criminal, and other types of behavior that resulted in a breakdown of social relations. The reciprocal nature of mercy is always emphasized; its benefits included the salvation of the forgiver as well as the restoration of harmony to the community. Though some motivations for mercy are deemed more worthy than others, the texts emphasize that what is important is the end result. The literature repeatedly underlines the complementary character of the Christian obligation to have pity on the unfortunate and to forgive others. At the last judgment, God would pardon only men and women who had shown mercy to those who had wronged them. Salvation could be achieved by extending to others the forgiveness one hoped to secure from God. Self-interest was accepted and even shown as the fundamental reason for being merciful.

New concerns first begin to find forceful expression in these works on mercy in the decades between 1380 and 1420. A rising note of anxiety is heard as questions are raised in the literature about the place of mercy in secular judgment.
The problem was how to justify passing judgment on other members of society when Scripture specifically warns not to judge lest one be judged. With increasing frequency throughout the fifteenth century, there is a tendency to apologize for the fact that the dictates of reality in secular society require men to judge one another. And here the influence of penitential works is very clear. There is advice on how to judge, who ought to do it, and the manner of doing it properly. Not surprisingly, the question who ought to be judged was accompanied by a parallel concern with whether the recipient truly deserved mercy. Late medieval literature reveals a growing anxiety about the detrimental effects of both lax pardoning and overzealous enforcement of the law. This usually took the form of criticism of Crown and Church officials corrupted by bribery, and a king who would pardon anyone for a fee. Yet at the same time there were endless complaints about representatives of Crown and Church who saw only the rules and had forgotten their Christian obligation to be merciful. Despite the challenges that one might say were being made to the ideology of mercy, the traditional wisdom continues throughout the fifteenth century. The fundamental advice given to all who must judge does not vary: justice must be tempered with mercy, and it is better to err on the side of mercy since its rewards here and in the next life are more valuable than those of justice.
However, beginning in the first half of the sixteenth century a transformation appears in the literature. This is a volte face: justice must be chosen instead of mercy. The strategy of reciprocal pardon is abandoned, and instead the strict letter of the law must be enforced by the royal government for the good of the individual soul and the commonwealth. Unmerited pity and forgiveness will bring on social disorder. The anatomy of this change can best be seen in Tudor morality plays in which the allegory of the Four Daughters lived on into the early-modern period. Much of the moralities' appeal came from their use as the public vehicle for social criticism. The pre-Reformation moralities are, at heart, about the salvation available to humankind through Christ's atonement. These earlier moralities are about learning to rule the individual soul, to repent and be saved by God's mercy when overwhelmed by corrupting influences. But the vast majority of sixteenth-century moralities are concerned with maintaining order in the secular world. The focus is on eliminating corruption and securing righteous rule in the commonwealth. Order in the kingdom is achieved through a virtuous ruler. The underlying assumption is that rulers are chosen by God to lead or punish the people. These plays are concerned more with retribution than repentance.

The majority of the moralities contain at least one of the figures of the Four Daughters allegory and something of the structure. The altered importance of each Virtue is
indicated by a number of changes; the most important is that they do not continue to be used with equal frequency. Peace is almost completely gone, Truth found only occasionally, Mercy recedes in importance, and Justice is the dominant figure. Justice is the king's most valuable advisor; justice, judgment, and punishment secure order for society. The daughters' debate was adapted to new purposes: to Calvinist pieces about faith and good works; to propaganda on the relation of Church and royal government; to farcical works on the corruption at court. But all show evidence of a fundamental concern with the obligation to obey the law, and the necessity of using its penalties. Justice is no longer a personification of theological concepts; instead, she has been transferred to the temporal sphere, and represents the administration of justice in England's courts.

The ways in which both religion and government sought to master cultural anxiety, apparently rooted in social disorder, by replacing an ideology of mercy with an ideology of justice are evident in humanist and reforming texts as well as in other types of literature from the sixteenth century. English society turned to the royal government to execute justice and punish the wicked. In the public's imagination moral struggle no longer took the form of the individual's inner life and the effect his or her actions had on the community. Instead, it was focused on the king's authority to control, to judge and punish, the criminal and
sinful behavior of his people. This ideology of justice dominates the literature after the 1530s. The medieval, or perhaps one could say the traditional, ideas about mercy's role in judgment and in ordering of social life were transformed. The texts ring with an insistence on the individual's obligation to obey one authority in both spiritual and secular matters, and that authority's right to maintain the peace by enforcing the law. In Tudor literature we see a stronger emphasis than ever before on the idea that God's judgment can and will be executed in this world. We also see the unquestioned assertion that the Crown is the agent of divine justice. Medieval texts indicate a need to structure an apology or rationale for the punishment of one member of society by another. But any such reservations were swept aside in the Tudor period.

VI

The signs of intellectual and cultural changes embodied in the texts can be powerfully suggestive about the ideas that may have motivated or contributed to practices in court. The sources analyzed here show that in the thirteenth through fifteenth centuries people were using a genre and message traditionally associated with religion to treat secular problems pertaining to mercy and the law. An inherited ideal of pardon's worth in avoiding the destruction of vengeance appears again and again in the allegory of the Four Daughters of God; it also is found throughout other literature of mercy. There is an obvious
chronological discrepancy between these descriptions of mercy's role in judgment and actual practices in the courts. The common law began its gradual process of refinement in terms of sanctions by the fifteenth century if not earlier—perhaps these legal changes began about the same time that the literature of mercy began to express dissatisfaction with the traditional role of mercy in secular judgment. The discrepancy was due in part to the fact that literary expressions concerning mercy and judgment were largely dictated and controlled by available rhetorical forms and conventions. Nevertheless, the awareness of a disjunction in ideals and reality wore through the fabric of rhetoric. In the early sixteenth century the ideal of law's function in society had been adjusted; it more closely conformed to the reality of practice in the courts—to verdicts and sentences, to the way people chose to sanction wrongdoers. This adjustment seems to happen quickly because the discourse on mercy and justice had for so long been constrained by literary conventions, and because many changes occurred in English society in the first half of the sixteenth century—in religion, politics, the economy, and intellectual life. By the second half of the sixteenth century, the discourse mimics the fundamental reformulation of the ideal. It also signals pivotal features in changing cultural values.

The forms of merciful behavior seen in the courts, the technical features in legal administration that allowed such
discretion, were hardly static during the period. By 1600, as compared to 1200 or 1300, the common law's system of penalties for felonies had achieved a notable degree of sophistication. A gradation of punishments had evolved, calibrated to the nature and circumstances of the crime and the character of the accused. The law had been adjusted to reflect community attitudes about capital sanctions. The reality of circumstances affecting homicide and theft, and the element of intent, were taken into account, and the defendant sentenced accordingly. By the late sixteenth century, the processes of justice had been placed squarely within the human realm. The Crown, speaking for both God and England, used the common law and the justice it claimed as sovereign, to structure social and political life. The redefinition of mercy's role and relationship to justice had occurred in practice, and judgment had been domesticated. The Church said men had the obligation to instill righteousness in others; serving in the royal courts gave them the authority to judge. The legal system had become more fully refined, so that the means of reward and punishment were better able to reflect community attitudes about just deserts. Mercy could be expressed in controlled degrees by the king, judges, and juries who administered England's laws. This facilitated mercy's redefinition. Conflicts between passing judgment on others and cultural attitudes were muted; in addition, judgment had become a
civic duty. The literature of mercy is a reflection of the course of legal development.

The special language used to justify saving or condemning a person may not be accessible in court records, but it is amply available from more general use in other sorts of literature. From this we can become familiar with the cultural context in which jurors and judges rationalized behavior that was counter to the law. By tracing the development of attitudes about the relationship of mercy and justice in the literature, we can see indications of what generated changes in the administration of the law. The discourse on mercy reflects ideas behind the practices in the courts. There is a convergence in the sixteenth century of legal practice and literature. Consider the parallels between the growth of criminal law and the transformation in the allegory. The sixteenth century sees the culmination of the process in which the Crown finally removes the administration of justice into its own control, and restricts the use of options available to those who serve in its courts. The allegory, too, shows a domestication of Justice, the process of its metamorphosis from a theological to a secularized juridical virtue. Through this, Justice is brought completely into the human sphere and becomes the counsellor of kings. The act of judgment profoundly alters in nature. The medieval versions of the allegory represent judgment as a mysterious act that must be executed by the divine or supernatural powers. However, the morality plays
speak repeatedly of judgment as man's obligation delegated
by God. Mercy and Justice, in 1200, are equally powerful—and opposing—virtues. By 1600 they have been reconciled
through redefinition. Mercy has been subordinated to
justice; mercy is the equitable or Christian fulfillment of
the law. Justice is dominant, and mercy is subsidiary,
manifested in the gradations of punishment administered by
authority.

It must be emphasized that this does not mean that
essential ideas or attitudes about the profound importance
of mercy had changed. Not at all. We can see that in
actual practice the frequent use of mercy in the
administration of the law continued well into the sixteenth
century. What had occurred was a very gradual shift in
conceptualization that allowed customary notions of mercy to
be consistent with newer ideas about authority, about the
individual's reliance on the king and his law. The strident
demands for vengeance and retribution that pour from the
literature do not, in fact, mimic men's behavior or totally
obliterate their merciful impulses. This harsh insistence
on punishment might be the result of an increasing awareness
of a society that was now past, and the desire to enforce a
separation from it. The medieval ideal of reciprocal pardon
had been gradually converted under the pressure of changing
social realities. Mercy was incorporated into a new ideal,
that of justice available in this world through the king and
his courts.
With an understanding of this convergence between literature and the law in the early sixteenth century, we can move to more speculative historical questions. Using the literature of mercy can help us to trace the development between 1200 and 1600 of a calibrated system of sanctions that more closely resembled the attitudes of those administering the law. The literature also indicates how the dialectic between ruler and ruled in the courts generated justifications for mercy—and then for retribution. Finally, the discourse on mercy is a valuable tool in uncovering the significance of late medieval attitudes to mercy's place in society. The transformation in ideas about mercy signals the factors that engendered the change in governance—a change resulting in a commonwealth and greatly augmented royal authority.
Notes to Chapter 1


6 Given 133.


8 Hanawalt 59-61. She notes that the conviction rate was lowest the farthest from London.


13. See Green, *Verdict* chapters 1-4, and his reassessment in "Retrospective."


17. This is discussed at greater length below in Chapter 7.


24 See Philip Jenkins, "From Gallows to Prison? The Execution Rate in Early Modern England," Criminal Justice History 7 (1986): 51-72. Jenkins shows that mitigation could have very practical political motivation.

25 Cockburn, "Introduction" 65-70.


27 Baker, "Criminal Courts" 16.

28 For example, see the chapters by Groot, McLane, and Post in Twelve Good Men.
29 Bellamy, Criminal 33-53.

30 Green, "Retrospective" 361-75.

31 Cockburn, "Trial."


37 Given 105.

38 Pugh 89-90.

39 McLane 59-60.

40 Hanawalt 63.
Hanawalt 55.

Bellamy, Crime 58-60.

Bellamy, Crime 180-84.

Cockburn, "Introduction" 114-23.

Cockburn, History 121-27.

Cockburn, History 132.


Herrup, "Law" 108.

Herrup, "Law" 111.


The final chapter in Herrup, Common Peace is a notable example of this approach.

Green "Jury."

Lawson believes this is a sufficient explanation.

Bellamy, Crime 180-84.

Hay came to this conclusion for a later period; one is tempted to see whether this applies to medieval England.


The works of Herrup and Hanawalt cited above offer excellent descriptions of this process.

McLane 61, 64.
The growing interest in jury composition indicates the importance accorded to this question.

An excellent history written from this perspective is Richard W. Kaeuper, War, Justice, and Public Order (Oxford: Clarendon, 1988).


The work of K. B. McFarlane has been most influential in this regard; some of the pertinent essays can be found in K. B. McFarlane, England in the Fifteenth Century (London: Hambledon, 1981). A good example of more recent work in this vein is Christine Carpenter, "Law, Justice, and Landowners in Late Medieval England," Law and History Review 1 (1983): 205-37.

See the studies printed in Mervyn James, Society, Politics, and Culture. Studies in Early Modern England (Cambridge: Cambridge UP, 1986). This will be discussed at length in Chapter 7 below.

See below, Chapter 6.

Clanchy "Law."


Green, Verdict 366-83.

Even when there are good intentions, it seems, some historians are unable to make a case for employing a variety of sources; for example, see Kaeuper, "Law" 735-37.


77 Clancy, Memory 175-201.

78 Some notion of the popularity of compositions during the period may be gained from an appendix in the following text that lists the number of manuscripts remaining for particular works: Carleton Brown and Rossell Hope Robbins, The Index of Middle English Verse (New York: Columbia UP, 1943) 737-39.

CHAPTER 2

MERCY IN LEGAL AND CLERICAL SOURCES

The literary discourse on mercy found in popular literature from the period 1200-1600 must be read within the context of lay and clerical ideas about mercy and justice. Elite definitions of mercy and its function in temporal and divine judgment necessarily formed the basis for more popular representations of mercy's place in English law. Works of legal and clerical authorities on the nature of mercy were turned to the purposes of those who sought to explain, in popular literature, the particular role of mercy in judgment. The ideas of a well-educated minority served as the foundation for the general understanding of mercy's role in law and governance common to the Christian culture of medieval England. Chancery officials may have thought about mercy in terms of Bracton's description of a king's obligation to preserve his kingdom; jurymen may have drawn on their knowledge of mercy acquired from sermons. All men who served in the king's courts would have some familiarity with the notions of mercy preserved and taught by the country's elite.

In the work of both lawyers and churchmen, two characteristics of mercy are emphasized repeatedly: mercy
is an integral part of justice and judgment; mercy is an obligation with a crucial element of reciprocity. Secular traditions of mercy are most evident in the king's obligation to rule with justice, embodied in the coronation oath and some legal treatises. In these sources, mercy and justice almost always appear in tandem. The focus is on the essentially protective character of the king's duty to keep the peace and aid the powerless. The royal obligation to be both merciful and just is frequently presented in terms of its religious aspects; either a parallel is drawn between the earthly and heavenly king, or the king's position as God's vicar is emphasized. Unfortunately, the treatises are practically oriented, concerned largely with procedure. We are forced to glean from only a handful of references an approximation of contemporary attitudes about mercy's place in the law.

This clearly is not the case with works of the clerical elite. Generally speaking, theologians discussed mercy in three ways: as God's readiness to forgive the repentant; as a human virtue; in terms of soteriology. Mercy appears in explanations of the nature of good works and their effect on the last judgment, and in analyses of the importance of God's forgiveness and righteousness in his sacrifice which provided satisfaction for human sins. The authority for this mercy, inextricable from justice and an essential obligation for every Christian, was found in Scripture. The laity became familiar with the clergy's teaching on mercy
through certain prayers, portions of the catechism, discussion of vices and virtues, and the sacraments. The work of only a few theologians supplied the explanations of the operation of mercy that dominated until the later middle ages, when new intellectual developments began to effect the Church's teaching. The growth of penitential theology, and the continued emphasis during the thirteenth, fourteenth, and fifteenth centuries on the importance of participating in the sacrament, significantly affected notions of mercy's role in passing judgment on others. The roots of these changes are found in the penitential obligations instituted by the Fourth Lateran council which also generated a vast amount of related literature. This included aids for the clergy in the guidance of penitents as well as a vast number of works in other genres, all having their origin in the desire to guide the examination of the conscience. Concomitant with the increasing emphasis on the sacrament was the founding and subsequent popularity of the mendicant orders, and the dominance of the sermon as a medium for teaching and encouraging confession.

This promotion of the sacrament of reconciliation gave mercy a prominent place in the consciousness of the English people during the thirteenth through sixteenth centuries. The centrality of the social need to confess and effect amendment with others--and with God--was continually underscored in the Christian life of the community, perhaps more than any other aspect of the Church's doctrine. The
promise of divine mercy ever was held before the people. At the same time, as audience to the spoken and written word, they were taught and encouraged to judge, in the attempt to root out sin, and to evaluate their actions as well as intentions. The effect these changes had on customary lay attitudes toward mercy in judgment and the king's obligations to keep the peace through mercy and justice is a fundamental question examined in later chapters. Despite intellectual developments in religion in the later middle ages, one aspect of mercy always was found at the heart of the Church's teaching. In sermons, in prayer, and in moral instruction, the reciprocal function of mercy was endlessly repeated: For if you forgive men their trespasses, your heavenly Father also will forgive you: but if you do not forgive men their trespasses, neither will your Father forgive your trespasses.¹

I

Mercy as both a royal obligation and prerogative is present in the English coronation oath. That mercy was inseparable from justice, and justice owed to the people, is plain in the oath. Beyond that we only can conjecture about how that mercy was to be used and who was to receive it. At the ceremony that marked the beginning of his reign, the king made only a few promises. One of them was meant to insure that mercy would be part of the administration of justice.² The oath was essential in establishing the kingship of a new man over his countrymen. The exact words
of the oath may have varied, at least through the thirteenth century; the coronation charters of the twelfth and thirteenth centuries are elaborations of the promises made under oath at the coronation. Beginning with Edward II, the oath was delivered in the vernacular, and may have differed from the liturgical form. In the oath the king promised to uphold the laws and customs, protect the people and the rights of the church, and to exercise justice and mercy in his judgments. Mercy was considered one of the essential elements of English kingship. However, as will be seen below, references to justice and mercy in legal treatises that echo the form used in the coronation oath suggest that the protection of merciful judgment was meant not for all in the kingdom but for poor and powerless men.

In legal treatises the only consistent element in references to mercy is its pairing with the execution of justice. Otherwise, references are infrequent and often ambiguous. For example, a treatise from the later twelfth century, the *Leges Henrici Primi*, contains many brief allusions to the use of justice and mercy; they afford little more than a frustrating glimpse of contemporary ideas about mercy and the law. There mercy is described as being in opposition to a justice that punishes:

because of the many molestations by evil-doers it has been provided by way of a fit ordering of the peace that pleas concerning more serious charges and meriting greater punishment shall be assigned to the justice and mercy of the sovereign alone, so that more abundant pardon may be had for those seeking it and more abundant retribution for those transgressing.
But there is no indication of the circumstances which merit such mercy, or whether those pardoned were not actually transgressors. The treatise does suggest at another point that there are matters which, because they were not criminal in intent, deserve to be treated mercifully.

In these and similar cases where a man intends one thing and something else results (where what is actually done is the subject of the accusation, and not the intention) the judges shall for preference fix a compensation determined on grounds of compassion and intended to repair any violation of hnor, as appropriate to the circumstances.\(^5\)

There are sections that caution us against assuming that we know what sort of behavior or treatment was indicated by the word mercy: "If a woman marries two brothers, she shall be cast out until the day of her death; in her final hour, however, she shall be taken back into the church as a measure of merciful humanity."\(^6\) The *Dialogus De Scaccario*, probably written between 1176 and 1179, includes two stories that retail the merciful character of Henry II.\(^7\) Here is a different kind of royal mercy: we are given examples of Henry's generosity. In both stories the king refrains from pushing his advantage and taking vengeance, whether over a conquered enemy or an encroacher on royal land.\(^8\) Henry's clemency and largess are defined by reference to the parable of the Debtor Servant: those whom the king forgives for debt are warned that they in turn should imitate his generosity; they must not make demands on their tenants, or they will be punished many times over.\(^9\) The net of
reciprocal obligations usually can be found with mercy in any of its forms.

The treatise on the laws and customs of the realm of England commonly called Glanvill, which will be referred to here as Glanvill, was written during the reign of Henry II. The Prologue to this highly influential work was frequently adapted and appeared in later treatises. It contains a formulation, which echoes the coronation oath, of the way in which a king ought to keep peace through a combination of arms, laws, and justice tempered with mercy. That mercy is not to be shown indifferently. Successful rule involved "crushing the pride of the unbridled and ungovernable with the right hand of strength and tempering justice for the humble and meek with the rod of equity...." Much of the Prologue praises the king's prudence and impartiality in administering the law—though we may assume that he was not impartial toward those who were ungovernable—and his willingness to be guided by those learned in the laws and customs of the kingdom. Fear of favoritism does not trouble those seeking judgment; "indeed, a poor man is not oppressed by the power of his adversary...."

The most influential legal treatise of the middle ages on English common law, On the laws and customs of England, usually referred to as Bracton, was written in the mid-thirteenth century. Glanvill's description of the king's need to rule by arms and just administration of the law is
used here, in an expanded and more sophisticated form. In one section, the king's obligation to act as judge is explained in terms of his coronation oath. Bracton elaborates on the reasons a king must be just and merciful.

The king swore at his coronation that

\[
\text{he will cause all judgments to be given with equity and mercy, so that he may himself be shown the mercy of a clement and merciful God, in order that by his justice all men may enjoy unbroken peace.} \tag{16}
\]

We hear again the message of the Debtor Servant, and of the reciprocity involved in obligation to be merciful.

The king exists to do justice. He is God's vicar on earth; he must surpass in power all his subjects, and have no peer in doing justice. The king must "put on the bridle of temperance and the reins of moderation, lest being unbridled, he be drawn toward injustice."\(^{17}\) Mercy, in the guise of compassion and temperance, is an essential part of royal justice; without it, the king's judgments might be unjust. This is understood as integral to the meaning of the most famous lines in Bracton on the king's power: the king must imitate Christ and the Blessed Virgin, in choosing always to be subject to established laws. He is not under any man, but under God and the law, the law that makes him king and gives him power.\(^{18}\)

Unlike earlier treatises, Bracton provides a complex definition of justice, in God and the just man, and in the appropriate application of mercy. Justice in the world of men is described by distinguishing it from equity: "Equity
is, so to speak, uniformity, and turns upon matters of fact, that is, the works and acts of men. Justice, on the other hand, lies in the minds of the just." Where Bracton treats the element of intent in crime, we see an interest in analysis of the practical matters encountered in royal courts; this is a far cry from the abstract references to mercy in other treatises. In terms of the practices of mitigation in court, some passages seem to indicate that mercy should be preferred to a strict enforcement of penalties:

It is the duty of the judge to impose a sentence no more and no less severe than the case demands; he must seek a reputation neither for severity nor clemency but, having weighed the circumstances, should determine as each case requires. In less serious cases they ought to be more inclined to leniency; in the imposition of the heavier penalties to temper the severity of the law with a degree of benignity. Punishments are rather to be mitigated than increased.

Yet this is qualified in a subsequent passage. Mercy must not become debased by granting it indiscriminately. Given to the incorrigible it is unjust, and encourages regression instead of reform.

Let him therefore be merciful to the unworthy in this way, as always to feel compassion for the man. And let him not in judgment show mercy to the poor man, that is, the mercy of remission, though to him there ought to be shown, as to all men, the mercy of compassion. And to whom and in what fashion a judge should be merciful, the merits or demerits of persons shall instruct him.

We get some indication, in an unusual treatise, of what Bracton might have meant about the fashion in which a judge
should show the mercy of remission and the mercy of compassion. The *Placita Corone*, written about 1275, contains sketches of court proceedings, such as the following exchange between the bench and a defendant accused of stealing a horse. When the defendant asked for advice on how to plead, the justice replied, "tell us the truth in this matter, and we shall be as merciful as we can, according to the law." The defendant thanked him, and admitted that, pressed by great poverty, he stole a horse. In response to questions from the justice, he said he had never stolen before, admitted that he took this as a thief, and had no accomplices. The justice then told the bailiff to let the man have a priest; the passage ends, "let him be hanged." It is a hard mercy that accords with the law here. Presumably the judge slept better knowing he had the mercy of compassion recommended in Bracton. We may ask whether this distinction between types of mercy was in fact a means of justifying a harsh sentence.

The legal treatises from the mid-thirteenth through the mid-fifteenth centuries are mostly reworkings of Bracton, or manuals concerned with the techniques of procedure and land law. The exceptions are two works about England's law and governance by Fortescue, written in the mid-fifteenth century, *De Laudibus Legum Anglie* and *The Governance of England*. The treatises address, in part, political questions of the time. There are few direct statements about the operation of justice and the place of mercy.
However, Fortescue does give us one of the rare remarks that concern the use of mercy in judgments by the jury.

I should, indeed, prefer twenty guilty men to escape death through mercy, than one innocent to be condemned unjustly. Nevertheless, it cannot be supposed that a suspect accused in this form can escape punishment, when his life and habits would thereafter be a terror to them who acquitted him of his crime.26

Unlike discussions of royal mercy, this has the distinct air of practicality about it, though mercy and justice are no less entwined for jurors than for the king's justices. It is a given here that it is possible for guilty men to go free because of jurors' merciful behavior. And for Fortescue, the value of the jury system is that it can spare the accused from undeserved punishment. At the same time Fortescue thought the safeguard of the system was that those who represented the community were unlikely to return to their midst a hardened criminal who would subsequently prey on jurors and others. The passage leaves us with more questions than it answers. What did he think would or should happen to those accused who did not pose a threat after their release? Perhaps these are the potentially guilty who might escape death through the mercy of jurymen. Yet if mercy was an action that involved reciprocal obligations, might jurors mitigate punishment in the expectation that they would receive something in return? These are just the sort of questions unlikely to be answered by elite legal sources alone. All we can say for certain about contemporary attitudes toward mercy reflected in these
works is that mercy was thought an inseparable part of justice, both justice and mercy were fundamental obligations for the king, and people felt the recipient of mercy was required to be merciful in turn.

II

Definitions of mercy, its relationship to justice, and its place in the human and divine worlds abound in clerical works. Theologians discussed mercy in terms of God's readiness to forgive the repenting sinner; they also treated it as a human virtue, and most often as part of the Christian plan of salvation. Religious writers from Augustine to popularizing mendicant preachers of the fourteenth century endlessly stressed the inextricable bond between mercy and justice. And part of this was the belief that in order to receive mercy, one must be merciful to others.

For Augustine, mercy was a necessary part of justice. His *City of God* defines mercy as one of the human virtues. This is a response to the question of whether mercy as a passion which affects the *anima* (mind) is a virtue or a vice. Augustine explains that Scripture subordinates the higher mind to God, to be governed and helped by him, and puts passions into the keeping of the mind to be regulated, restrained, and turned to the purpose of justice.

But what is pity (*misericordia*) except a kind of fellow-feeling in our own hearts for the suffering of others that in fact impels us to come to their aid as far as our ability allows? This impulse is loyal to reason when pity is shown in such a way that justice suffers no encroachment, whether we
show it by giving alms to the needy or by forgiving the penitent.

For Augustine, mercy is ancillary yet vital to justice. True Christians would punish not with vengeance, but with good will. Although the correction of evil-doers is a duty, it must be performed with benevolence in order to avoid sin. Augustine states that judges must remember that they need God's mercy, and must show mercy to those they have the authority to punish or kill. In this context, mercy relates to his conception of the state as a divine gift to humankind, intended to help secure the earthly sort of peace. The state must be ordered through temporal justice, but those governing are to follow Christ's teaching and example. This, of course, was a familiar concept to readers of Bracton.

Aquinas also contrasts human mercy as the passion pity and divine mercy which lacks pity. In his treatment of agape, the theological virtue translated as charity, he concludes that mercy means compassion for another's misery. The same thing that makes a man merciful makes him sorrowful about another's misfortune. The only reason for God's mercy is love—he loves us as a part of himself. However, people are moved to mercy for another either because of love between them, or the awareness that they might similarly suffer. Those in terrible circumstances or in fear are so consumed with their own feelings they have no care for others. Similarly, those consumed with anger and pride are
not merciful.\textsuperscript{32} But mercy is not just an emotion; it is a movement of the intellective appetite, regulated by right reason, and so it is a human virtue, opposed to envy. Mercy is the greatest of the virtues that have to do with one's neighbor; mercy is the epitome of Christian good works. Interior charity, in the sense of love, unites us with God and this outweighs mercy for one's neighbors. We resemble God through charity in that we are joined with him through interior affection. This then is greater than mercy, in which we are similar to God only in external works.\textsuperscript{33}

Aquinas' presentation of the relationship between divine mercy and justice begins by explaining the character of human mercy. A person is called merciful (\textit{misericors}) when he is miserable at heart (\textit{miserum cor}); that is, as sad at the misery of another as though it were his own, so that he tries to dispel the other's misery--this is the effect of mercy. Though God does not feel sorrow at the misery of others, it is part of his nature to dispel that misery. Defects, Aquinas reasons, are only removed by the perfection of some kind of goodness, of which God is the first source.\textsuperscript{34} And if mercy is understood to mean the removal of any kind of defect, both mercy and justice are necessarily found in all God's works. God, out of the abundance of his goodness, gives his creatures their due more generously than what is proportionate to their requirements, even when less would be enough to preserve the order of justice.\textsuperscript{35} When God acts mercifully, he does not go against his justice, but
rather does something more than what is called for by justice. So it is when one pardons an offense committed against oneself; in its remission a gift is given. Aquinas, like Augustine, was very concerned with the potential problem of God's mercy negating his justice. Aquinas asserts that mercy clearly does not destroy justice, but in a sense is its fullness.  

The Church often had articulated the characteristics and purposes of divine mercy in its doctrinal attempts to address the contradictory demands of mercy and justice in the Christian plan of salvation. This is the essential paradox of justice and mercy inherent in the Christian religion: how can the judgment of Adam (and his descendents) and the righteousness of the last judgment not be nullified by the promise of God's forgiveness? The Church taught that God's goodness and mercy could not be consumed, and also that his knowledge and power could not fail in purpose. His mercy and justice both participate in the mysteries of predestination and salvation. The wicked who would be saved could be converted to good only by mercy, and the wicked who would perish could not abide in their sins except by justice.

Through the centuries the theories of soteriology reflected changes in societal notions of the crucial features of judgment. For Augustine, Christ's role as mediator is paramount, and he describes the redemption as man's release from Satan's bondage. In the centuries
following Augustine, the common feature is the idea of recapitulation, of Christ as the loving representative of the entire race. Among the fifth and eleventh centuries salvation was discussed in terms of the predicament of fallen humankind in the face of God's justice. Adam had the obligation not to sin, and in his refusal to obey had "dishonored" God by sin; so Adam owed a satisfaction greater than the diminution in honor. The relative roles of grace and free will in salvation were often the focus of debate. It was in the late eleventh century that the Church's fundamental teaching on the plan of salvation was set. Anselm, the exiled archbishop of Canterbury, wrote Cur deus homo in 1098 in an effort to explain the process and purpose of salvation. The work proposed to show that salvation was impossible except through one simultaneously true God and true man. Anselm intended to produce a rational view of the person and work of Christ that conformed to the greater authority of Scripture and dogma. This formulation of the operation of divine mercy and justice in the scheme of salvation expresses the increasingly christocentric aspect of the religion. His work fueled the cultural conception, which lasted throughout the middle ages, of a more human and compassionate God, hence as an approachable lord likely to grant forgiveness to sinners. Cur deus homo emphasizes the act of satisfaction, the restitution and amendment, that Christ provided for humankind. Christ is presented as a God-king, a God who treated humanity as a good lord would
his men, so that following Christ's teaching seemed more feasible to both Anselm's contemporaries and later audiences.42

The central ideas from Cur deus homo were employed by theologians throughout the fourteenth and fifteenth centuries, but with different emphases and interpretations of the meaning of Christ's life, teaching, and sacrifice.43 These had a profound effect on the general understanding of the operation of divine mercy. Most important in the later middle ages was the widespread emphasis on the sovereign will of God—his unity, freedom, and omnipotence. Critics said Anselm seemed to subject God to his own justice and law as if they were independent entities. In these later centuries, theologians underscored the idea that God willed whatever he wanted: "The mercy of God was also an expression of that immutable will and completely subordinate to it...." Anselm's image of a dispute between justice and mercy within the councils of the Trinity no longer really was necessary. God willed whatever he wanted, and "both justice and mercy were names for the expression of the will as it was perceived."44 William of Ockham was influential in promoting the theological emphasis on the doctrine of divine omnipotence. There was a concurrent growth in forms of devotion that featured an intensity of belief and personal religious experience. The writings of those such as Meister Eckhart exemplify a piety that threatened an exclusion of the Church's mediation through its authority
and sacraments. The manifestations of mercy in the human context received emphasis, but from a different quarter. During the fourteenth and fifteenth centuries, devotion to the human aspect of Christ and the imitation of his example became more intense; the *Imitation of Christ* was one of most widely read books of the period. This shows the influence of the mendicant orders, and partly is due to the fact that Churchmen asserted the sum of Christianity was to fulfill the teaching of him who was worshipped. Following Christ's example and obedience to his teaching had long been seen as a major component of salvation. There was an increasing emphasis on the imitation of Christ's works out of love, not in fear of a strict judgment, or as the means to insure a reciprocal reward. It might seem, in light of the works of such as Ockham and Duns Scotus, that by the end of the fourteenth century there had been a radical change to the conception of God as an unfathomable deity whose mercy was obscured by his will. Yet the contents of one of the most popular preaching manuals of the fourteenth and fifteenth centuries suggest that this was not the character of divine mercy to the majority of the English people. John Bromyard, an English Dominican, wrote his *Summa Praedicantium* during the first half of the fourteenth century, and probably completed it by 1348. This massive reference work is the product of half a lifetime devoted to study and practical oratory, and reflects the mendicant experience in England in the
thirteenth century. It contains an exhaustive range of topics, providing preachers with material suitable for almost every occasion. And no subject is given short shrift. The manual is regularly punctuated by references to Scripture, canon law, and a diverse collection of other authorities. Exempla, one of the rhetorical devices favored by preachers, frequently are used to illustrate the meaning of the lesson. Within the section titled "Misericordia" the refrain of reciprocity and reward is sounded throughout. The following themes are typical of Bromyard's material on mercy: mercy is exalted over judgment; those who are merciful in this life will receive mercy in heaven; there is judgment without mercy for those who will not be merciful to their fellows. The Summa Praedicantium repeatedly stresses the availability of God's mercy to all except those who trust in it too much, and those who sin in expectation of forgiveness. Bromyard underscores the dangers of procrastination in petitioning for mercy, and details the ways in which the devil deceives humankind about divine and secular mercy. For Bromyard, and probably for the majority of those who preached, the essence of divine mercy had been clearly revealed: God's mercy superseded his justice, and God's pardon could be obtained by those who followed his teaching, living a life of good works and forgiving others.

III

Scripture served as the authority for theologians'
discussions of mercy and justice, and for the Church's prescriptions for the place of mercy in Christian life. Mercy would have been more familiar to English women and men in the Scriptures, in fact, than in the works of theologians. Through devotional and didactic works, and most importantly through sermons, the people of medieval England would have known at least some of the dicta about mercy found in the Bible.50 The best-known verses about mercy are found in the gospels of Matthew and Luke, in the sections known as the Sermon on the Mount and the Sermon on the Plain, respectively. Two of Christ's commands were used to explain why people should treat one another with mercy. In the "golden rule" Christ said, "You shall love your neighbor as your self."51 Christ extended this obligation in the command to love one's enemies.52 The reciprocal nature of the mercy that is everyone's duty in this life is apparent in most of the statements about mercy's function and worth. For example, one of the Beatitudes is "Blessed are the merciful, for they shall obtain mercy."53 Another portion of Scripture known as the Pater Noster, taught as a prayer to the English people, was a basic part of their catechism.54 The fifth petition of the prayer is, "forgive us our debts, as we also have forgiven our debtors."55 The importance of forgiveness and the exchange involved are echoed many times.56 This obligation to pardon also resides in corollary teaching: "Judge not, that you be not judged. For with the judgment you pronounce you will be judged, and
the measure you give will be the measure you get." The theme of balance in human relationships is recurring. Christians must be careful that their treatment of others is not rooted in evil impulses but rather takes the form of good works. Scripture warns that acts of vengeance always belong to God, not to humankind.

The Bible is also the source of the best-known stories used to illustrate the mercy people were obliged to show. These exempla often were employed in sermons and found their way into many sorts of didactic and devotional literature. Four of the most common New Testament parables used to explain the meaning of Christian mercy were those of Dives and Lazarus, the Prodigal Son, the Good Samaritan, and the Debtor Servant. The obligation to perform specific works of corporal mercy, frequently repeated in religious instruction, also has its origin in Scripture. Christ instructed his followers to: feed the hungry; provide drink for the thirsty; welcome strangers; clothe the naked; visit the sick; attend those in prison. Custom added to this the obligation to bury the dead. There is a corresponding tradition for seven spiritual works of mercy. These are the acts usually listed: instruct the ignorant; counsel the doubtful; admonish sinners; bear wrongs patiently; forgive offences; comfort the afflicted; pray for the living and the dead. Only the duty to chastise the faults of another is found in Scripture. This work of mercy frequently was mentioned in the later middle ages to justify judging and
taking vengeance on another; the passage assumed great significance for the Reformation society of sixteenth-century England.

Although there is no Scriptural authority for the iconographic attributes of mercy, they were a valuable means for conveying elite ideas about mercy to the wider public. Literary or pictoral representations of Mercy personified were used to convey an understanding of the characteristics and qualities of mercy. Mercy appeared carved on baptismal fonts, in paintings on church walls, and in illustrated manuscripts, usually as one of the Four Daughters of God or in conjunction with the works of mercy. Particular objects are more likely to be associated with Mercy in such artwork than in verbal descriptions. Often these attributes indicate her qualities of succor and pity; she was presented holding a box or jar of balm. In France, Mercy personified begins to appear with her sisters in similar pictures only in the fifteenth century; there she carries a lily. In the later middle ages in England, the curtana, a sword with the sharp end broken off, often was used as the symbol of mercy. It was carried in pageants in the coronation processions of Richard III and Henry IV, among others. Though not common, there are written descriptions associating Mercy with particular objects. Best known was the appearance of Mercy in the Life of St. John Almoner; he sees her in his dream wearing a Crown of olive leaves or branches. Another instance is Robert Holcot's description
of Mercy's attributes in one of his commentaries. She is wearing a Crown of olive leaves, carrying six lilies in her left hand, and six shining lamps in her right. More idiosyncratic is Lydgate's description of Mercy in *The Pilgrimage of the Life of Man*. There she has one breast bared and is holding a special cord. Such images of Mercy may well have carried messages about this virtue that would have been more powerful for English people than any analysis of biblical authority.

IV

One feature of Christian life, the sacrament of penance, especially was responsible for the prominent place that mercy had in the religious instruction and culture of medieval England. The sacrament has four elements—contrition, confession, and satisfaction on the part of the penitent, and absolution from the priest. Satisfaction consisted of the performance of a penance imposed by the confessor. Also known as the sacrament of reconciliation, an important facet of its operation was reintegration on every level possible, not only in the relationship between the sinner and God, but also that between sinner and sinned against. The penitent was obliged to have resolved any differences with his or her enemies prior to confession; for how could one be truly sorry for sins committed when the sin of wrath remained alive? The desire to confess was facilitated by an understanding of the operation and availability of divine pardon, and of the role that works of
mercy played in the attainment of salvation. Clergymen at all levels, from the parish priest to the bishop, were expected to devote a significant part of their pastoral care to encouraging the laity to reconcile with their neighbors and with God through confession. The mendicant orders shared the same goal. Striking developments in penitential theology during the twelfth century saw a practical culmination in the early thirteenth-century papal program of reforms. As a result, divine and human mercy received a prominent place in the religious instruction of the people, at the individual and community level, for the next three centuries.

During the first thousand years of Christianity, the sacrament of penance had been characterized by the performance of external acts. The deeds of penance required for satisfaction were often very severe, and confession might only occur once or twice in a lifetime. Penitential manuals assigned an atoning punishment gauged to the action and not the sinner's state of mind. But during the twelfth century a shift in focus was instigated by some of the intellectual elite. Theologians showed a concern with the element of intention in the assessment of conduct. There was an emphasis on subjective elements in sin such as circumstance, intent, motive, and will. Similarly, factors such as genuine contrition and the resolution to sin no more featured more prominently in theories of the satisfactory completion of the sacrament. This change in penitential
theology was discussed most fully by Abelard in his *Ethics*. Some historians see in this new turn in penitential theology the origins of the sense of individuality in western culture. The concern with interiority also occurs in other theological works on matters of doctrine. Anselm formulated the theory of atonement that expressed Christ's personal suffering and the individual's relationship with Christ.

If the twelfth century saw a notable shift to the pursuit of an interior religion, at least on an intellectual level, then the thirteenth century saw the attempt to introduce the notion and practice of self-examination to all members of society. The starting point was canon twenty-one of the Fourth Lateran Council. *Omnis utriusque sexus* concerns the obligations of Christians pertaining to confession, and the manner in which priests should administer the sacrament. Partly due to the penitential practices of the early Church, and partly because there was little importance placed on frequent participation in the sacraments, the vast majority of Christians had considered confession to be something belonging to the deathbed and perhaps the Lenten season. In *Omnis utriusque sexus*, the Church made it mandatory, for the first time, for all Christians to confess to their own priests a minimum of once a year, to endeavor to fulfill the penance, and to receive the Eucharist at least at Easter. This canon also addressed the means in which priests were to hear confessions. They
were enjoined to be as skilled physicians in their healing of sinners through the sacrament. They were told to be careful, discreet, and diligent in the attempt to discern the circumstances of the sinner and the sin.

The episcopate of England not only met the challenge of enforcing the intent of the reform-minded council; throughout the thirteenth century English bishops required even more of the laity and the clergy in terms of the sacrament and the instruction it required. Diocesan constitutions issued by Richard le Poore, Bishop of Salisbury, were used as a model by other bishops. These state that confession is to be made three times a year, at Easter, Christmas, and during Pentecost. In subsequent decades other bishops, such as Walter de Cantilupe and Robert Grosseteste, adopted this requirement. In addition, they listed the rudiments of faith in which priests should instruct their parishioners. The focus of these statutes was the education of the clergy and the laity. All this was to aid in administering and receiving the sacrament of penance; priests were provided with fundamentals designed to assist their inquiries into the nature of the sins and the disposition of the sinner; the essentials of catechism were to be delivered to the parishioners, in the vernacular, at set intervals. The most popular and influential of these diocesan statutes in England were those issued by Archbishop Pecham at Lambeth in 1281; particularly important was canon nine, known as *Ignorantia Sacerdotum*. Copies of the canon
were widespread as a single item, popular with later legislators and didactic writers, and the subject of commentaries. It states that priests are obliged to speak to their parishioners four times a year on the following subjects: the fourteen Articles of Faith; the Ten Commandments; the Evangelical Precepts; the seven works of mercy; the seven deadly sins; the seven virtues; the seven sacraments. Archbishop Pecham's list differs from earlier outlines of religious instruction in that it omits commentary on the Pater Noster, Ave Maria, and the Beatitudes, and it added two articles to the creed. One of the ways in which Pecham's Constitutions became familiar to the lay audience was through Archbishop Thoresby's English translation, composed in 1357.79

This brief outline may obscure how truly ambitious was the reform program of the English bishops. It demanded profound changes and generated a vast amount of literature and sermons. In order for these reforms to be instituted, the clergy had to be sufficiently educated in the basics of doctrine and pastoral care before they in turn could offer instruction and administer the sacraments. What is important for this study of mercy is not the administrative side of the reform effort, but rather the literature it produced. It would be difficult to overstate the effect that these reforms had on Latin and vernacular literature in medieval England. Beginning in the twelfth century, the clergy began to write and compile pastoralia. This term has
been used to refer to the vast literature of pastoral care produced in Europe until and even through the Reformation, when it changed in character. These works are literary aids and manuals which were provided to help the priest with his own education or that of his people. Though such literature existed prior to 1215, the Fourth Lateran Council gave special urgency and encouragement to its production over the next fifty years.80

The two centuries following 1215 have been called the golden age of didactic literature.81 The works produced covered in great detail the fundamentals of catechism as well as a wide spectrum of devotional subjects. As the demographics of English society changed, and the literacy rate increased, a greater percentage of the laity were interested in reading and hearing about subjects central to Christian culture. By the fourteenth century, manuals concerning sin and the duties of the confessional were being written that had a more practical nature than before, and much wider appeal. They were written in the vernacular, and addressed to "lewed" folk and priests of "mean lore;" this did not mean they were illiterate, but referred to those who could not read and understand Latin. This demand for devotional and didactic literature was met with a variety of works that took many forms, from works of religious instruction such as the Pricke of Conscience, to the moralistic and entertaining stories of the Legenda Aurea, to the court-oriented belletristic pieces of the Confessio
Amantis. A common element in much of the literature produced in England in the thirteenth through fifteenth centuries, as the discussion in Chapter Four will make clear, is the insistence on the necessity for all people to have mercy on others, to pardon wrongdoers and perform acts of corporal mercy in order to achieve salvation.

Mercy was often the subject of sermons. With the instigation of reform at the parochial and diocesan levels, and the founding and immense popularity of the mendicant orders, the early thirteenth century saw the beginning of the ubiquity of the sermon in medieval English life. The cura animarum was, in theory at least, the primary focus for both the parish priest and the friar. The preparation for and administration of the sacrament of penance was one of their most important duties. In sermons delivered at Oxford, at the court, before the urban audience at St. Paul's Cross, from the pulpit of a rural church, or in the marketplace, mercy was an ever-recurring topic. Whether exempla were used to show the rewards of mercy, or a subtle analysis of the Scriptural authority for mercy displayed, people from all strata of English society heard of the availability of pardon from the heavenly king, and the need to pardon their offending neighbors.

It was through the total effect of these developments in penitential theory and practice that the "teaching of theologians and others on interiority reached every level of
Christian life..."\textsuperscript{83} Literature with a confessional orientation was intended to assist people in recognizing the sins they had committed, and in avoiding evil in the future. It encouraged penitents to discern an inner character, to consider intent and motivation for behavior. The former, passive role of the penitent was eradicated by the changes in penitential theology that had their seeds in the innovations of Abelard and other clerics of the twelfth-century renaissance in learning. The confessor in subsequent centuries had to attend to the "interior disposition" of the penitent as well as to the sins confessed. The self-analysis required by the sacrament of penance and the supposed self-awareness that accompanied it are reasons why some scholars locate the origin of a sense of individuality in the twelfth and early thirteenth centuries.\textsuperscript{84} Very gradually through the late middle ages repentance, a subjective action isolated in the individual, gained unusual prominence.

The act of confessing becomes more personal, more aware of self. Contriteness of heart is seen to be what matters in the long run, for it is by this that sins really are expiated. Sin, in the new view, is a diminishing of being. One therefore recovers one's integrity not by some long process of "physical" satisfaction for sin, as had been the practice for centuries, but by repentance, by a cleansing of the heart which one then presents to the priest as the representative of God and the Church.\textsuperscript{85}

We must ask what intellectual and social changes attendant upon this interiority, changes rooted in penitential theology and practice, might have affected secular notions
of judgment.

First, it is possible that this encouragement to scrutinize, evaluate, and condemn one's own actions directly inspired confidence in judging others. People were unlikely to limit such analysis of intent and behavior to themselves alone. Second, the literature discussed in the following chapters suggests one consequence of the separation of intent and behavior was that people accepted the notion that one could judge an act of wrongdoing and piously leave the evaluation of the true intent behind it to God at the final judgment. This facilitated the use of confession to control the religious life of others in the community, and to control the social order. Finally, we must take into account the chronological relationship between changes in penitential theology, and the intense fear of civil disorder that overshadowed England in the later middle ages. The sources used in the following chapters testify to the fact that there was a growing voice in society during the fourteenth and fifteenth centuries approving condemnation and punishment. This occurred at the same time that the structure of many communities, particularly in urban areas, was changing, and expressions of anxiety about outsiders were becoming more common. How did these developments in theories about judgment and interiority effect beliefs about the king's obligation to rule with mercy and justice?

There are other connections, admittedly more speculative, between penitential practice and wider changes
in society. For example, at least one historian has made a persuasive argument for the transformation in religion from a personal manifestation of societas in the Christian community to one that includes a more abstracted and isolated relationship between the individual and God, an argument that this transformation reflects profound changes in the structure of society. Some have seen a correlation between the movement from a gift economy to a profit economy, the innovative approach of the friars, and the altered sense of social responsibility—that shift from charity in the form of restitution to members of the immediate community to relatively impersonal acts of philanthropy. Accompanying such changing patterns of charity was the notion of the worthiness of the recipient: the giver ought to evaluate whether another deserved to be shown mercy. Both of these are themes of notable frequency in the literary sources. We must question whether one of the fundamental changes in society was an increased willingness to condemn, and encourage the royal government to condemn, others to punishment. Did the Crown gradually secure greater political power as a result of this affirmation of its authority, the endorsement of the idea that public order should be maintained by retribution, by a justice that was excluding temperance? In the following chapters we will consider whether securing justice through a more rigid application of the law's penalties gained priority in the sixteenth century, or whether the English
truly believed that maintaining public order in the local or national community—and securing forgiveness in this life and the next—continued to require mercy for the transgressor.
Notes to Chapter 2

1 Matt. 6.15.


4 Leges 115, c. 11, 6a; see also Leges 189, c. 59, 20.

5 Leges 285, c.90, 11d; also see Leges 283, c. 90, 11 and Leges 271, c. 88, 6b.

6 Leges 225, c. 70, 17; also see Leges 291, c. 92, 15.


8 Dialogus 75-77, 93.

9 Dialogus 48.


11 According to Hall's introduction, the Preface to Justinian's Institutes is the basis for the opening words of Glanvill's Prologue; see Glanvill xxxvi.

12 Glanvill 1: "effrenatorum et indomitorum dextra fortitudinis elidendo superbiam et humilium et mansuetorum equitatis uirga. noderando iusticiam...."

13 Glanvill 2: "Ibi etenim pauperem non opprimit aduersarii potentia, nec a liminibus iudiciorum propellit quemquam favor uel gratia."


Bracton 304: "ut in omnibus iudiciis aequitatem praecipiat et misericordiam, ut indulget ei suam misericordiam clementem et misericors deus, et ut per iustitiam suam firma pace gaudeant universi."

Bracton 305: "tamen cum cor regis in manu dei esse debeat, ne sit effrenata frenum apponat temperantiae et lor moderantiae, ne cum effrenata sit trahatur ad iniuriam."

Bracton 33.

Bracton 23: "Et dicitur aequitas quasi aequalitas et vertitur in rebus, id est in dictis et factis hominum. Iustitia in mentibus iustorum quiescit." See also p. 25.

For example, see Bracton 289-90.

Bracton 299: "Respiciendum est iudicanti ne quid aut durius aut remissius constitutur quam causa deposcit, nec enim aut severitatis aut clementiae gloria affectanda est, sed perpenso iudicio prout quaeque res expostulat statuendum. In levioribus causis proniores esse debent ad lenitatem. In gravioribus vero poenis severitatem legum cum aliquo temperamento benignitatis subsequi. Et poenae potius mollieandae sunt quam exasperandae."

Bracton 306: "Sic ergo misereaturo indigno ut semper homini condoleat. Item pauperis non misereaturo quis in iudicio, misericordia scilicet remissionis, cui tam misericordia compassionis est sicut et omnibus miserendum. Et quibus et qualiter sit miserendum, eum doceant merita vel demerita personarum." Compare this with *Fleta* 37-38.


*Placita* 17; see a similar case on pp. 21-22.


De Laudibus 65: "Mallem, revera, xx facinorosos mortem pietat evadere quam iustum unum inuste condempnari. Nec tamen reum quempiam sub hac forma reatus sui penam
evadere posse suspicandum est, dum eius vita et onores
timori deinceps erunt eis qui eum sic purgarunt a crimine."

27 Augustine, *The City of God against the Pagans*, ed.

28 Book IX, Chapter V.

29 Augustine 168: "Quid est autem misericordia nisi
alienae miseriae quaedam in nostro corde compassio qua
utique si possimus subvenire compellimur? Servit autem
motus iste rationi quando ita praebetur misericordia ut
iustitia conservetur, sive cum indigenti tribuitur, sive cum
ignoscitur paenitenti."

30 For the secular applications of Augustine's
theology, see Herbert A. Deane, *The Political and Social
Ideas of St. Augustine* (New York: Columbia UP, 1963); this
is based on a discussion of mercy in Deane 142-43.

31 The following edition of the *Summa Theologica* is
the one referred to below: Thomas Aquinas, *Summa
Theologiae*, gen. ed. Thomas Gilby, 60 vols to date.

32 Aquinas 2a 2ae, 30.1 and 30.2.
33 Aquinas 2a 2ae, 30.3 and 30.4.
34 Aquinas 1a, 21.3.
35 Aquinas 1a, 21.4.
36 Aquinas 1a, 21.3.

37 Jaroslav Pelikan, *The Growth of Medieval Theology
(600-1300)*, vol. 3 of *The Christian Tradition. A History of
the Development of Doctrine*, 4 vols. (Chicago: Chicago UP,
1971-84) 110.

38 J. N. D. Kelly, *Early Christian Doctrine* (New York:


40 Pelikan, *Growth* 106-57. This section of the work
is an excellent introduction to soteriology during the
period. The following statements about *Cur deus homo* are
drawn primarily from this.


46 Pelikan, *Reformation* 36.


49 One of them is about the Four Daughters of God appearing to St. Dominic in a storm; only Mercy can save him. Bromyard gives the *Legenda Aurea* as his source.

50 The Revised Standard Version of the Bible is the one referred to here.


53 Matt. 5:7. Note also Matt. 5:6 and 9, the Beatitudes about righteousness and peace.

54 See below pp.24-25.


56 For example, Matt. 18:21-22, and Mark 4:24-25; but note Luke 17:3-4.


58 As in Mark 4:24-25.


Matt. 25:34-46.


Matt. 18:15-17.

Adolf Katzenellenbogen, Allegories of the Vices and Virtues in Medieval Art (1939; New York: Norton, 1964) 40-41. There is also a chapter devoted to the personification of mercy in Samuel C. Chew, The Virtues Reconciled (Toronto: U of Toronto P, 1947). This is useful even though most of it concerns the sixteenth and seventeenth centuries; the book includes five plates of representations of the Four Daughters of God from the twelfth through seventeenth centuries.


Chew 119-24; also, Leopold G. Wickham Legg, ed., English Coronation Records (Westminster: Constable, 1901) xxv.

They are discussed below in Chapter 3.


This is described in Beryl Smalley, English Friars and Antiquity in the Early Fourteenth Century (Oxford: Blackwell, 1960) 176.


The two basic histories on the subject are: Henry Charles Lea, A History of Auricular Confession and Indulgences in the Latin Church, 3 vols. (Philadelphia,
1896), and John T. McNeill and Helena M. Gamer, Medieval

72 "Its central features may be found in many
different circles: a concern with self-discovery; an
interest in the relations between people, and in the role of
the individual within society; an assessment of people by
their inner intentions rather than by their external acts." 
Colin Morris, The Discovery of the Individual 1050-1200 (New
York: Harper Torchbooks, 1972) 158. Morris does state that
he is talking about the "urbane and intelligent society" not
"the peasantry, the great majority of the population."

73 Peter Abelard, Ethics, ed. and trans. D. E.

74 See note 84 below.

75 Morris 73.

76 Joseph Alberigo, ed., Conciliorum Oecumenicorum
Decreta (Basil: Herder, 1962) 221.

77 C. R. Cheney, English Synodalia of the Thirteenth

78 F. M. Powicke and C. R. Cheney, eds., Councils and
Synods with Other Documents Relating to the English Church,
part 2 (1265-1313), vol. 2 (Oxford: Clarendon, 1964) 900-
905. For a discussion of the influence of Pecham's
Constitutions, see Decima L. Douie, Archbishop Pecham

79 Thomas Frederick Simmons and Henry Edward Nolloth,
ed., The Lay Folks'Catechism, EETS, o.s. 118 (London: Kegan
Paul, 1901). Note that the Wycliffite version added to this
edition includes the Pater Noster and other items excluded
by Pecham.

80 For studies that describe the character of this
gene, and some of the works, see: Alexandra Barratt, "Works
of Religious Instruction," Middle English Prose, ed. A. S.
G. Edwards (New Brunswick: Rutgers UP, 1984); Norman F.
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and Tonges, ed. Michael Benskin and M. L. Samuels
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Raymo, "Works of Religious and Philosophical Instruction," A
Manual of the Writings in Middle English 1050-1500, gen. ed.
Albert E. Hartung, vol. 7 (New Haven: Connecticut Academy of
Arts and Sciences, 1967- ); Vincent Gillespie, "Doctrina and
Predicacion: the Design and Function of Some Pastoral


83 Boyle, Fourth Lateran 36.


85 Boyle, Fourth Lateran 34.


87 John Bossy, Christianity in the West 1400-1700 (Oxford: Oxford UP, 1985). This is a topic throughout the book, but see especially pp. 153-71.

CHAPTER 3

THE ALLEGORY OF THE FOUR DAUGHTERS OF GOD

Elite secular and clerical definitions of mercy, and of its function in temporal and divine judgment, are embodied in the allegory of the Four Daughters of God. It essays to explain the role of mercy in the administration of secular justice, and at the same time to explore the relationship of divine mercy and justice. The allegory has particular value for this study: it enjoyed notable popularity, and may well represent generally shared attitudes about mercy's role in judgment. The allegory of the Four Daughters was a familiar one in medieval England, found in many Latin and Middle English works from the thirteenth, fourteenth and fifteenth centuries. There are two versions of the allegory; both have their origins in the twelfth century. In one, God's four daughters--Mercy, Peace, Justice, and Truth--come before him to plead concerning the fate of the transgressor, man. Mercy and Peace, of course, seek forgiveness, and Justice and Truth demand punishment. Jesus intervenes, and the case is settled; God has favored Mercy and Peace. The other version has essentially the same plot, but it is set in the court of a temporal king, and the transgressor is one of his men. For ease of reference these versions simply
will be termed the heaven allegories and the kingdom allegories. This has been done in an effort to facilitate the argument as well as to discuss as a group those versions with a common source or influence. However, it is not meant to imply that there is any fundamental difference in terms of the conclusions to be drawn about each. When these works are carefully read they show themselves as more than simply an allegorization of a point of theology for general consumption. All of the Four Daughters allegories contain a subtext; they share certain features which indicate an ongoing discourse about the relationship of mercy and justice in this world, and the place of mercy in human judgments.

This discourse centers on the conscious parallel drawn between the conflicting claims of justice and mercy in Christian theology and the antagonism which manifested when men attempted to balance those same demands as they occurred in the context of the administration of justice in the secular kingdom. The versions of the allegory embodied in literature disclose an interest in the royal courts' need for both stringent enforcement of the law and lenient application of sanctions. They also are very sensitive to efforts of the Crown to maintain order in the realm through the operation of its law. The arguments presented by the Four Daughters are easily recognizable; they concern the age-old problem of whether it is better to adhere to the letter of the law and accept the possibility of its
attendant divisiveness, or to seek the spirit of reconciliation and make some compromise in principle. Ultimately, the debate in the allegories casts the question in terms of the demand for revenge versus the need for atonement. In essence, they convey the belief that allowing the transgressor to make satisfaction and be reintegrated into the community was more important than exacting justice as encoded in the law. Mercy was preferred as a means of maintaining peace.

All of the sources reveal some acquaintance with the context, machinery and terminology of the courts of their day. The divine tribunal was imagined to be similar to the courts known to the audience. Contemporary social relationships are mirrored in the fact that God and man are described as lord and liege. The servant's transgression is presented in a framework of treason and betrayal. The settings and language of the allegories indicate that the divine tribunal was conceived of in terms familiar to the audience; it is a world of sureties, and benefit of clergy, and charters of pardon. The descriptions provided of the Four Daughters, and the tenor and intent of their arguments, leave no doubt that in the allegories Mercy and Peace are favored by those in power and should be preferred by all. The sisters are contrasted as adversarial pairs, and the consistent representation of the Virtues suggests that they were understood to work often at cross purposes. Justice and Truth are characterized as possessing none of the beauty
of feature or spirit that their opponents display. Though it is never denied in the allegories that Justice and Truth have valid claims in the confrontation, they are almost invariably presented as unsympathetic figures, at best indifferent to men and at worst cruel. Mercy is always the favorite of her father and brother. With her understanding of the foibles of man's nature she is obviously the most sympathetic to the transgressor. Yet Peace, in the end, is actually the daughter with the pivotal role. Her verbal support of Mercy's position contributes to the solution of the dilemma. The strife resulting from her sisters' determination not to relent prompts Peace's flight from the kingdom, and in response the father and the son devise a compromise in order to secure her return.

The ultimate response of the father and son to the Virtues' pleas illustrates the proper object of the audience's sympathies. These benevolent and persuasive advocates win for man the reprieve from the judge that did not seem possible under the terms of the law. The substance of the Four Daughters' pleas do touch on matters of salvation, yet at heart they are about who shall have dominance in their father's court, and the effect that their sisters' requests would have on the kingdom as a whole. The subtext of the allegory rests in the extension of the sisters' arguments beyond the sphere of religion; adherence to divine justice or fulfilling the promise of God's mercy are not the only issues. The allegory speaks of the need to
secure peace in the realm, the need for the transgressor to achieve atonement so that all in the community may enjoy peace. The demands of Justice and Truth are not presented, in the end, as righteous, but destructive. Their claims are untenable for human society. The king realizes that above all else he must show mercy and pardon the wrongdoer, for without forgiveness there is no peace, and without peace he would have no kingdom.

I

The allegory of the Four Daughters of God had a long and complex development in Judeo-Christian literature. Scholars of the allegory consider Midrashic interpretation of Psalm 84:11 the earliest form of the Virtues' debate, the first time that they were personified for this quarrel. At least three versions are found in Midrash. This is an outline of the first. When God decides to create Adam, the angels form factions for and against. Love speaks for man, Truth against him, Justice for him and Peace against him. An angry God casts down Truth, and the angels ask that he be raised back up. Man is created during the argument, without the angels' knowledge. Another version is similar, differing only in that Truth is allowed to rise after the angels protest, and that God deceives the angels by not telling the whole truth about man: he said that mankind would be pious. A third version is important because here the subject is the judgment of man. When God begins to judge the world Mercy and Justice strive with each other,
Mercy pleading for mankind and Justice demanding the judgment of sinners. In the end, sinners are doomed to everlasting abhorrence and the righteous may go to everlasting life.

The development of the eschatological features of the allegory can be found in Jewish and Christian apocalyptic literature. In these apocalypses one can trace the growing preoccupation with a claim for mercy at the judgment scene, first for mankind and then for the individual soul. The stage is set for trial, with thrones and witnesses, scales for weighing the soul, books of good and evil deeds. These apocalypses often exalt mercy in judgment, and show the tendency to place mediators between man and God, such as intercessory angels or Virtues, Michael the Archangel or Mary the Virgin. The tendency to use juristic ideas in discussions of the atonement began with Tertullian; the Church Fathers discussed the atonement more fully as a reconciliation of justice and mercy. The wide variations in the arguments against mercy are not just the result of varied personal tastes of the authors; they also reflect the developing doctrines of the Church.

The allegory of the Four Daughters found its real popularity in medieval literature as the result of a few influential and much imitated versions of the mid-twelfth century. The introduction of the allegory into Christian theology seems closely tied to the rise of mysticism in the first half of the twelfth century. The wealth of symbolism
and imagery characteristic of this movement is certainly evident in the versions of the allegory produced by two of the best known exponents of that mysticism, Hugh of St. Victor (1097-1141) and Bernard of Clairvaux (1091-1153). Hugh included the Virtues' debate in his *Annotationes in quosdam Psalmos David*. In this commentary God, beginning to judge man, descends to earth with Truth. Because Mercy demands a pardon for man, and Truth objects, partial judgment and pardon are given: Truth remains on earth and Mercy goes to heaven. Truth enters man's heart and causes him to repent, then rises to heaven and is replaced by Justice, who remains on earth with man. Peace is then called by Justice and they kiss. In Hugh's allegory, peace is made through man's repentance and confession. In Bernard's version, resolution is achieved by the substitution of Christ for the sinner. This is the solution that would prove the most appealing to imitators in subsequent centuries. Bernard's version appeared some twenty years after Hugh's, in his sermon *In Festo Annuntionis Beatae Virginis*. This formulation is the one that underlies the versions referred to as the heaven allegories. Bernard tells the reader that before his fall, man was given the four Virtues as companions, but as a result of his disobedience he lost them all. Strife occurred between the sisters: Truth and Justice wanted no pity, Mercy and Peace wanted none of their zeal for punishment. They all met before the father and presented
their arguments. It was not seen how Peace and Truth could both be maintained. The father sent for the son to give judgment. He did so, and Peace read it aloud: Let it be a good death and both have what they seek. Truth traversed the earth and Mercy the heavens, but they could find no one suitable for such a death. But Peace understood who it would be. The son said he would become man and do penance for the man he created; he then sent Gabriel to Mary. Mercy and Truth came before the King. Justice prepared his throne and Peace came with the king. In the end, Justice and Peace kissed.

Bernard's sermon was one of the two versions that had the greatest influence on later reworkings of the allegory in Middle English literature; the other is known as *Rex et Famulus*. Although it is generally based on Bernard's sermon, it has some changes especially significant to the interests of this study. This version is behind the kingdom allegories. The departures are evident. The setting is not in heaven, but an unidentified kingdom where a powerful king had four daughters, Mercy, Justice, Peace, and Truth, and a most wise son. He also had a servant, who broke his lord's command and was handed over to four torturers and imprisoned. Mercy heard of the servant's suffering, and begged her father to have pity. Truth then presented an argument against this, and was joined by Justice. Because of this strife, Peace fled the country. The king asked his son for counsel and he promised to
resolve the dilemma. The son took Mercy with him to the prison, where he vanquished death and led the servant back to the king. Each of the daughters felt her demands had been met, and all were reconciled.  

Although the versions in Bernard's sermon and the Rex et Famulus were by and large the only forms of the allegory found in Middle English in the thirteenth through fifteenth centuries, they were rarely used as a direct source. Instead, their influence was felt by means of two other works based on them which supplanted the originals in popularity. These are the Meditationes Vitae Christi and the Chasteau d'Amour. Both were translated into English, and they also served as sources—first hand or a number of times removed—for a variety of works. The Chasteau d'Amour is an Anglo-Norman poem, written by Robert Grosseteste, probably between 1230 and 1253. This didactic work actually consists of two allegories, that of the Four Daughters and another concerning the Castle of Love, with passages of religious instruction preceeding and following each. The Chasteau d'Amour is clearly a version of the kingdom allegory. God gives Adam natural and positive law. If these are observed, Adam will preserve his seigneury; if they are transgressed, he will be punished by death. Adam sins, and he and his family lose their freedom. Here the exemplum of the Rex et Famulus is introduced. The king is not capable of keeping peace within his realm without his four daughters. The servant, imprisoned and
tortured, needs to be ransomed because the enemy had deceived him by false promises. The daughters Mercy, Justice, and Truth argue, and Peace flees the country because she cannot bear the dissension. All people are drowned, with the exception of Noah and his family. Peace tells the king that this terrible judgment was given in the absence of Peace and Mercy, and that she will stay by him until peace is restored. The son is influenced by Mercy, and devises the solution of suffering in the servant's stead; then war would be over and the people of the country saved. The allegory of the Castle of Love follows, and the poem finishes with a discussion of Christ's qualities, his contact with the Devil, how he overcame his suffering, and his role as prince of peace. Grosseteste's major contribution to the development of the allegory is the focus on law and feudal relationships. Adam holds paradise in return for faithful service to his lord; he disobeys his lord's law and goes over to the enemy, rather like the act of diffidatio in feudal custom by which one rejected an overlord in order to submit to another. The notion of the Devil's rights is evident in the Rex et Famulus. In this version the transgressor is imprisoned and tortured. Justice and Truth give a dreadful partial judgment while Mercy and Peace are absent. Peace reminds the king that the kingdom cannot be ruled without all four of the daughters. The son presents his solution as a way to stop war and bring peace to the people. Grosseteste and his imitators, by use
of the exemplum in the *Rex et Famulus*, placed these questions about mercy and justice in a secular context as well as a theological one.

The author of the *Meditationes Vitae Christi* did not make such changes in the pattern of his original. The allegory is found at the very beginning of a voluminous life of Christ which is filled with imaginative diversions. According to this work, mankind was in misery for over 5,000 years due to the sin of the first man. Feeling compassion, the angels prayed before the throne of the heavenly king for man's salvation and the reparation of their ranks. Having heard this, Mercy, with Peace on her side, incessantly begged her father for aid, but since Truth and Justice opposed her, a great dispute arose. Mercy and Truth presented their argument to God, who transferred these questions to the son. They argued before him, and Peace said they should cease their strife. The king wrote his decision and Peace read it out. Truth looked on earth and Mercy in heaven for one to die the good death, but none was found. Peace said that he who gave the advice should lend his help. The king said he must do penance for the man he had created, and Gabriel was sent to Mary. The allegory in the *Meditationes* actually varies little from Bernard's in outline. Nothing is said about Adam and Eve having been given the four Virtues as protectors before the Fall. The author had added an introduction in which the angels actually instigate this parliament of heaven. This they did
out of compassion and because they longed for the reparation of their ranks, depleted by the fall of some of their own. Mercy and Peace then take up man's cause in response to the angels' request.

II

Let us turn to look at the heaven allegories in detail. A review of the terminology of the law and contemporary social relationships found in the sources underlines the fact that this allegory of atonement was also a vehicle for anxieties about problems that were often were treated in secular courts. The transgression by man against God is discussed in the familiar idiom of a man who has wronged his lord. The injury is framed in terms of the relationship between liege and lord, or subject and king: a man committed a trespass against his lord; he failed to keep his lord's laws; he betrayed his lord by joining the lord's enemy. Some of the most detailed statements of this relationship are found in *Piers Plowman*. Here the devil, as the lord's enemy and the new lord to whom the man pledged himself, and the notion of his rights in the matter between man and God, figure largely in the event known as the Harrowing of Hell. This is when Christ, following his death on the cross, descends to hell to release mankind. The argument between the Four Daughters introduces a debate between various devils about whether Christ will actually come to take back Adam's children. Lucifer claims that if Christ does, he deprives the devil of his rights, because
Adam had broken the laws given him concerning eating the fruit of the tree.

    Thus this lord of liht such a law made,
    And sethe he is a lele lord, I leve that he wol nat
    Reven us of oure rigt, sethe resoun hem dampeede.
    And sethe we han ben sesed sevende thousand wynter.

But Satan doubts this, reminding Lucifer, "For thow gete hem with gyle and his gadyn breke....Thus with treson and with tricherie thow troyledest hem bothe...." Another devil, Gobelyn, reminds them, "We have no trewe title to hem, for thorough treson were thei damned." Upon his entry into hell, Christ announces himself as "lord of myhte and mayne...the kynges sone of hevene," and explains why his claim for man is just: he has come to guile the beguilers:

    So leve not, Lucifer, agaynes the lawe I feche
    Here eny synful soule sovere ynliche by maistrie,
    Bote thorw rjit and thorw resoun raunsome here myn liege.

The allegories frequently make reference to the fact that the lord's enemy had achieved victory over his man, who was either a willing or unwilling traitor. Man's sin is presented in the terms of an unfaithful follower who allowed himself to be drawn into the service of his lord's enemy. In *Vices and Virtues*, Justice argues that it is right Adam should suffer, for he was disobedient and allowed God's adversary to overcome him without force. Love's *Mirrour of the Blessed Lyf of Jesu Christ* gives the setting of the great council of heaven by stating that it happened

    After the tyme that man was exiled oute of the hige Citee of heuene by the rjitwis dome of all myȝty god souereyne kyng therof for his trespas and his synne
and so wrecchedly lay in presoun and was holden in the bondes of that tyraunt the deuel of helle...

Gabriel then reminds God that man was made to restore the company of the angels after the fall of Lucifer and his fellows, and claims "oure enemyes hauen the victories and of hem oure party is nozt restored...."26 The same is repeated in the Life of Christ and the Virgin.27 In Chaundler's drama, Liber Apologeticus, God is the king who states that though man was created to compensate for the fallen angels, he too transgressed the command and fell as the result of pride.28 Peace argues that he was overthrown by the wickedness of another; the man himself claims to being somewhat innocent, because he was seduced away from this lord by another.29

Some of the heaven allegories use other terms and situations which also indicate that the relationship between lord and man was conceived of in terms of the social and legal ties familiar to contemporary society. The Charter of the Abbey of the Holy Ghost states that God deeded paradise to Adam and Eve, along with the place called Conscience.30 In his Meroure of Wysdome, Irlande wrote that Adam and his lineage were not worthy of God's grace, considering the great trespass he had committed, "Fe cryme of hurt maieste."31 Lydgate, in the Life of Our Lady, describes the condition of Adam thus:

That shapen was, in paradise to dwell
Tyll he alas, was banschede into hell
Fer in exile, from his possession
And yerto abide, stoked in preson
....
And lay full seeke langwyssheng is care
So fer proscript, oute of his contre
That by the lawe, ther may noo recoverbe. 32

Both versions of the allegory make frequent use of the vocabulary of law and the system of enforcement. This is natural, since the settings of the story were a court or an advocacy situation concerning a wrongdoer before a council. Even the sources which least evoke the machinery of justice employ terms associated with the resolution of an injury. For example, the "Parliament of Heaven" section in the Ludus Coventriae closes with this statement from Mercy: "now is ſe loveday mad of us fowre fynialy / now may we leve in pes as wc were wonte." 33 After the Four Daughters have made their pleas to the heavenly father in Love's Mirrour, he sends them to his son for a decision. "And then the kyng, souereyn wisdom wroot the sentence and the dome in this matere and toke it to his Chauncelere Resoun to rede it in his name...." 34 Some of the heaven allegories are more specific about the fact that this takes place in a courtroom setting. Irlande asked his reader to imagine the godhead sitting as a judge and the four Virtues appearing before him as advocates. 35 Chaundler was very detailed in his representation of the divine judgment as a felon appearing in court. God states that on the complaints of Reason and Conscience he comes to judge man. Because man should not be condemned in absence, Justice is asked to have man appear for judgment. Man requests that Mercy and Peace be allowed to serve as his advocates. 36 Lydgate and Langland made
liberal use of legal vocabulary and succeeded in making it part of the fabric of the poem. When the sisters first begin to argue in the Life of Our Lady, Peace insists they proceed "affore the high Iuge" in the "high hevenly consistatory." She later requests that man be delivered from prison and have remission of this thralldom. This was the father's reply to the pleas of Mercy and Peace:

Ye must consyndre, with a prudent eye  
Of Rightwysnesse, it may nat me astert  
Lyke your askyng, by favoure to adverte  
Vnto the cause, that is Represent  
But Right and trouth, fully will assent  
With outyn whome, I may not procede  
To execute any Iugement.  

When the father gives his verdict, he explains how the son will be sent to Mary:

And Right shall leve, al his sturdinesse  
And Trouthes sworde, shall no more manace  
And fynally, mercy shall purchace  
A Chartour of pardon.  

In Piers Plowman, Peace explains to Justice that she is going to welcome all those who are being released from hell because Love, "such lettres he me sente / That Mercy, by syster, and I mankynde shal save... / Mercy and me to maynprisen hem alle." She then shows the appropriate patent. Probably the most striking equation drawn between the English king, his laws and administration, and the action of the heavenly king is a passage in which Christ refers to hanging felons. He points out that on earth a felon is not hanged more than once if this fails the first time, even if he was a traitor. It was a royal prerogative for the king to grant pardon if he were present. Christ,
calling himself king over kings, compares a king's pardon to his own pardon, and discusses his ability to "do mercy thorough rightwisnesse."^40

III

Attitudes about these Virtues which may not be explicitly stated can be disclosed through a review of the structure of the allegory. The action of the figures reinforces what is said by and about them. There can be no doubt that Mercy and Peace were viewed favorably, while Justice and Truth were seen in negative terms. This was not simply because Mercy and Peace were the ones to defend man. There was a negative response in these sources to the demands of Truth and Justice and the perils of the sort of judgment they request. This is accompanied by an appreciation of the benefits of a merciful court. Truth and Justice are represented as unpleasant and dangerous figures, while Mercy and Peace are favored by the king and are the dynamic elements in the achievement of both forgiveness for man and reconciliation within the kingdom.

Initiation of the debate over the transgressor's fate is an indication of whether the figure was viewed in a positive or negative light. Mercy instigates the debate between the Four Daughters, though not necessarily the plea itself, in seven of the ten allegories considered in this section. In the remainder, the father initiates the action and Truth is the first to speak; these are the exception to the rule for the allegories in general, since Mercy is
clearly the Virtue most sympathetic to man. The author of *Vices and Virtues* began by having Mercy ask Truth for her counsel concerning Adam and his offspring. When Mercy and Truth meet outside of hell in *Piers Plowman*, it is Mercy who knows what the light means, and explains it to her sister. In *Castle of Perseverance*, Mercy states that she heard mankind cry for mercy in his dying moment; she tells her sisters that she knows they all heard it, and she is determined he will get what he seeks. In the *Meroure of Wysdome*, Irlande asked his readers to imagine the godhead as a judge and these four Virtues as advocates: Mercy, knowing the great ire of the godhead and the miserable state of man, began the plea for forgiveness. Love's *Mirror* and the *Life of Christ and the Virgin Mary* show the direct influence of the *Meditationes Vitae Christi*. In both, Mercy brings her request to the father only after the angels have prayed for man's restoration. Truth is the first to argue in Lydgate's *Life of Our Lady*, but only after it was clear Mercy wanted to be an intercessor for man and Peace began to cry for his recovery. Although clearly based on the *Meditationes Vitae Christi*, in the "Parliament of Heaven" scene in *Ludus Coventriae* it is God and not Mercy who begins the discussion of reconciliation following the angels' plea. Then Truth is the first of the Virtues to speak. A similar pattern is found in the *Charter of the Abbey of the Holy Ghost*, though the angels' intervention does not occur. Chaundler's *Liber Apologeticus* is unusual in that the allegory begins when God
decides to try the transgressor and appoints Truth and Justice to charge him. Man then brings Mercy and Peace as his advocates.

Each of the Four Daughters has a basically equal part in the actual arguments in the majority of the allegories set in heaven. They are equal participants in the debate in six of the works. If anyone speaks more than the others, it is Mercy, either because she introduces the plea, or responds more often to the statements of Truth and Justice. However, in the remaining four works, Mercy clearly has the dominant role, sometimes shared with another figure. Instead of Justice being in opposition to Mercy as one might expect, Truth has this role and Justice is the least significant. *Piers Plowman* shows that Mercy and Peace evidently have been favored in receiving an explanation about Christ's death and the delivery of the souls from hell. Peace provides additional discussion about Christ's actions and motivation. Truth is the one to suggest they listen to the devils and to request a truce among the sisters. Justice has a relatively insignificant role. This is also true in the *Life of Our Lady*, in which Mercy has the most to say, then Truth, then Peace, but Justice contributes little. Mercy and Truth are the dominant figures in *Vices and Virtues*. Peace and Piety are brought in by Mercy to argue for her side. Justice seems to make an appearance just to give the opposing view, since Truth here co-operates with Mercy. In Irlande's *Moure of Wysdome*, the debate is
really between Mercy and Truth. Justice chimes in once to support Truth, and Charity speaks on behalf of Mercy. Peace does not take part until after Truth and Justice, ashamed of their arguments, desire concord.

Statements about which of the Four Daughters is most favored by God are also indicators of the value accorded to that Virtue in the scheme of this conflict. Neither Justice nor Truth are ever, in the end, the recipient of the father's special consideration, nor do they influence the father's decision. Only three of the ten allegories make no reference to one of the daughters being favored; in the remainder, it is either Peace, Mercy, or both. After the father has heard the arguments in Castle of Perseverance, he claims "Ego cogitaciones pacis, non affliccionis. / Fayre falle ye, Pes, my dowtyr dere. / On ye I Pynke and on Mercy."43 This same reference to Jeremiah 29.11 appears in the Life of Christ and the Virgin Mary. Following the debate, the father responds, "I thynke thougest of pes and noȝt wickidnesse." Earlier, the author noted that "Mercy meued the Inwariness of the fadre that he shulde helpe of remedie that mannes soule were deluyered of the peynes of helle."44 Chaundler chose to have God give this as his verdict, and when the decision is put to the son in Ludus Coventriae, he, too, refers to this portion of Scripture.45 Mercy's plea is so convincing in the Life of Our Lady that when she has finished, "The high Iuge, by mercy is encynede / To condecende, of grace, to hir will."46 Irlande's
Meroure has God say that Mercy is his best-loved daughter and child, and after considering each daughter's plea he is still greatly inclined toward Mercy. Piers Plowman makes it clear that Peace is the most favored; she is the one who received letters from Love, explaining that God would show forgiveness, and that Peace and Mercy were to save mankind.

When one of the sisters proposes the solution to this apparent impasse, it also indicates the relative worth of that Virtue. In the majority of the heaven allegories, the godhead in any of the persons of the Trinity decides that atonement can be achieved if one who was wholly innocent would suffer death out of charity in order to redeem the transgressor. Two of the allegories patterned after Meditationes Vitae Christi, Love's Mirrour and Ludus Coventriae, have the son declare this solution, then Mercy, Truth, and Justice search for such a man. When they claim that there is no such being, it is Peace who explains that the one able to achieve this is he who gave the sentence. In the Meroure of Wysdome, Peace explicitly requests that the father send the son to amend the offense and banish discord. Lydgate chose to have Mercy explain that the death of one clean of sin was required, and the difficulty of finding such a one; she then suggested that they pray to their judge to make this man so that no sister would have cause to complain.

Even though there is an evident element of favoritism
in terms of the father's decision about the fate of the transgressor, generally speaking the father and son are removed from the debate. They do not interfere in the actual arguments presented by the daughters. The active role of the godhead usually is at the beginning and end of the sisters' debate. As mentioned above, God actually initiates the action in three of the works. Ludus Coventriae has the Four Daughters debate only after the father has announced that it is time for reconciliation.49 In the Charter of the Abbey of the Holy Ghost, God takes pity on mankind, decides to renew the abbey and discusses the Incarnation with the Trinity.50 Chaundler's Liber shows God initiating the trial of Adam; he appoints Truth and Justice to charge him. Only two of the allegories show God interfering at all once the sisters begin their complaints; in both cases, this reveals his efforts to be impartial. Both Love's Mirrour and Lydgate's Life of Our Lady have him state, after Mercy and Peace begin their requests, that he cannot proceed without Truth and Justice.51 On the whole, then, we see a godhead which sits in judgment, and keeps its distance while each side presents its case. This God is not, however, a disinterested ineffectual audience. God is sitting in judgment, and after the arguments have been completed either the father or son takes direct action: he gives the verdict, the decision about the Incarnation, and the explanation of why this is a suitable solution.52

The only one of these ten allegories that does not
include any additional figures as either pleaders or counsellors is the Castle of Perseverance. Five of the works, clearly influenced by the Meditationes Vitae Christi, have the hierarchies of angels adding their requests for mercy to those of Mercy and Peace.\textsuperscript{53} A number of personified virtues also make appearances, drawn in to supplement the pleas of Mercy, as do Charity and Dame Sapience in the Meroure and Pity in Vices and Virtues; after the resolution of the conflict, as in Chaundler's Liber, when man is given into the care of the Four Cardinal Virtues; in the Charter when the Four Daughters are sent to the Convent, Mercy and Truth to be Charity's chaplains, Justice to work with the prioress, Wisdom, and Peace with the subprioress Meekness. The unusual figures are those of Reason as the chancellor to Sovereign Wisdom, the son, in Love's Mirrour, and Book and Love in Piers Plowman, who bear witness to the statements of Mercy and Peace.

IV

Descriptions of the appearance and characteristics of the Four Daughters are not especially frequent in those allegories set in heaven. Such descriptions that do occur, however, are consistent: Justice and Truth are represented as unpleasant figures. In fact, comments on personalities are usually reserved for these two daughters. Lydgate, in his Life of Our Lady, described only Truth, with her "sterne face" and "deynous chere." There is no doubt about her fierce character:
Truth be ganne, al most in a rage
Of cruell Ire, and of malencolye
And sayde schortely, that man for his outerage
of verrey Right, moste nede ye.54
Later in the debate, Peace claims she will "helpe faythfully
/ The Grete Ire, and Rancour to alay / Of Iugement, to put
it in delay."55 The Liber Apologeticus represented Truth
and Justice as having condescending attitudes. At one point
in her argument, Justice states that she must remain silent
concerning her other arguments lest they embarass the
defending sister. Truth claims there are other things she
could say if she did not mind offending Mercy. Peace
accuses Truth of having sharp speech and being full of every
severity of judgement.56 Irlande had Mercy accuse Truth of
having "cruell entent and stiff argumentis."57 The
exception among the allegories set in heaven to these
negative characterizations of Mercy's opponents is Vices and
Virtues which, we should recall, is from the earliest part
of the period. Here, Truth is described as being
customarily compliant in response to Mercy's request for
counsel concerning Adam and his offspring, and she readily
offers her assistance.58

In Piers Plowman, passus XVIII of the B text and passus
XXI of the C text include one of the most striking
depictions of the Four Daughters in Middle English
literature. Here they appear in the most visual terms and
certainly display some temperament. Each arrives on the
scene from one of the four points of the compass. Mercy,
coming out of the west and looking toward hell, is described as "a mylde thynge with alle, / And a ful benyngne buyrde, and buxom of speeche." Her sister moves out of the east toward the west: "A comely creature and a clene, Treuthe she hihte; / For the vertue that her folewede, afered was she nevere." These two interrupt their discussion when Truth sees Justice running "Out of the nyppe of the north," and requests they wait for her, "For heo woot moore than we--heo was er we bothe." Peace's arrival follows closely; she moves in from the south, clothed in patience. Justice reverences her because of her rich clothing. It is noted that Love long has coveted Peace. Both Truth and Justice have a difficult time gracefully accepting their sisters' explanation of what is about to happen in hell. Truth calls Mercy's analysis a "tale of waltrot," and she dismisses it impatiently: "It is but a trufe that thow tellest." When Peace states that she and Mercy will save mankind, Justice bursts out: "Ravest thou?...or thou art riht dronke!"

The other vivid description of the Four Daughters is found in the stage directions for the Castle of Perseverence. This includes the colors of their mantles: Mercy in white; Justice all in red; Truth in "sad grene;" Peace completely in black. This drama presents Mercy rebuking Justice, and her remarks suggest that Justice is too fierce in her reaction to Mankind's behavior:

Mercy, my systyr Rythwysnes!
You schape Mankind no schonde.
Leve syster, lete be thi dresse,
To saue Mankind lete us fonde.55

The implications of her rebuke are borne out in the
sharpness of some of Righteousness' statements. The
following abrupt dismissal is typical: "For to be dampnyd
it is hys vre, / On Man I creie wreche." Her nature shows
clearly in that, after she has accepted the forgiveness of
mankind, her ire is transferred to the Bad Angel:

Go You to helle,
You devyl bold as a belle,
Perin to dwelle,
In bras and brimston to welle!56

V

The actual content of the Four Daughters' arguments in
the heaven allegories consists, essentially, of four issues:
reasons for being merciful; each daughter's justification
for granting her request and so giving her the dominant
position; man's nature and his responsibility for his
transgression; God's verdict. Their arguments allow us to
draw in detail, within the framework already given, the
substance of the attitudes and beliefs about mercy's role in
judgment, at least in contemporary English literature if not
society. The allegory's subtext shows the tension between
the demands for justice and mercy, and notions of how this
ought to be remedied by pardoning the transgressor in order
to reconcile the parties in dispute.

The doctrinal content of the Four Daughters' arguments
in terms of the theology of redemption is not really a
concern here; that has been discussed at length by other
students of the allegory. It is important to note though that in many of the allegories the explanations of atonement, the function of the Incarnation, and divine history do not even come from the Four Daughters; they are given voice by the father or son, or more peripheral figures such as the angels, Reason or Book. There is some exception to this, and it centers on Mercy. In Piers Plowman, Mercy and Peace are the ones to describe how and why God took Adam's nature. They also tell what is to happen in the Harrowing of Hell. Mercy is the one, in the Castle of Perseverance, to remind her sisters why the Passion serves as satisfaction for all mankind's deeds. Interestingly, these two works, along with Vices and Virtues, are the only ones to emphasize mercy as a virtue which involves one's fellow man and is not only part of the father's largess and grace. The allegories generally present mercy only as something which is shown by God or the king to the transgressor. But these three sources show a special concern with drawing a connection between the man who receives mercy and who has, in turn, been merciful to others. The section on mercy in Vices and Virtues begins with examples of Christ showing mercy to Lazarus, the adulteress, and a thief. Then portions of Scripture are cited, such as, "Blessed are the merciful, for they shall have mercy from God, as they have mercy on men." The allegory follows and the particular sense in which the writer was thinking of mercy is evident. The Castle of
Perseverance closes with the father's speech to mankind about mercy: at the great judgment he will ask who did the seven deeds of mercy; those who do well in this world to others will do well in the next. This pointed reminder comes in the closing lines of the play: "To saue 3ou for synnynge / Evyr at Ye begynnynge / Thynke on 3oure last endyne! / Te Deum laudamus!"69 Piers Plowman is more subtle, yet more powerful. The Good Samaritan section immediately precedes the Harrowing, and a few passages give the audience a pointed message about mercy. During the sisters' argument, Peace tells Justice that she will pay for man's pain to end. She tries to explain that no one knows happiness until he has suffered; so God ventured to take Adam's place and to experience woe and joy. The passus closes with Peace saying that the sun is brighter after showers and love more precious after war.70 Piers Plowman emphasizes the lack among men of the mercy that springs from charity. We should show mercy because we understand that others suffer just as we do. This interpretation of "do unto others" certainly differs from the practical message in the other two works--that one must be merciful in order to earn mercy. Yet these are the only allegories that make direct statements about how mercy should operate in the temporal sphere.

There is an element in the Four Daughters' arguments that does not concern them but questions of human nature. First, how would people behave if they knew that mercy was
always available to them, and that they would not be held strictly accountable to the law that had been declared?
Second, to what extent should men be held responsible for their actions; should influences and circumstances be taken into account? Not surprisingly, these considerations are voiced by Truth and Justice. They refuse to see any benefit in granting forgiveness after a life of sin. Instead, they insist, the availability of reprieve would encourage misdeeds. In the Castle of Perseverance, Truth exclaims:

Late repentaunce if man saue scholde,
Wheny?yr he wrouth wel or wyckydnesse,
\( \text{Pann every man wolde be bolde}\)
To trespas in trost of for\(\text{\ae} \)venesse.
For synne in hope is damnyd, I holde;
Forgevyn is neuere hys trespase.

In this same drama, Justice questions what would happen if men did no good all their lives, but knowing of the possibility of mercy still caused grief and strife. In her opinion:

Whoso in hope dothe any dedly synne
To hys lyvys ende, and wyl not blynne,
Rytfully \( \text{Panne schal he wynpe}\)
Crystis gret vengaunse.

Chaunder had Truth clearly articulate these concerns in terms of judges and the law:

If now Mercy is able to deflect the judge so that he passes by the straight and narrow path of Justice from which it is suitable to turn aside neither to the right nor to the left, the path of righteousness will doubtless appear no path at all, and the constraint and rigour of the eternal law will seem widened to inordinate favors.

There is a range of opinion in the allegories pertaining to the extent of the transgressor's
responsibility for his wrongdoing. Some of the sources hearken back to Bernard's version of the allegory, and work with the notion that the Four Daughters are, or are not, involved in man's sin because the Virtues had been given to him by God. Others emphasize the involvement of the devil, and that man is either a traitor or was lured to another master. Some of the allegories insist that such was the situation, and man should get what he deserves. In Lydgate's Life of Our Lady, Truth maintains that she told man at his creation the peril for the offense but he gave her no "audience." Justice then says she tried to rule him, but he took no heed: "Wherfor of me he getyth noo helpe at nede." When he listened to the snake he put himself from Peace, Mercy, and Truth, and would have war. Irlande also had Truth remind the father that man would not follow the counsel of the Virtues but instead obeyed the false counsel of their enemy. Chaundler provided the most detailed explanation of this view. God states that man was created to compensate for the fallen angels, but he too fell from an excess of pride, transgressing the command. Truth explains that all Four Daughters were first given to man to watch over him, and he dismissed them of his own free will; he was not forced to do so. He lost Mercy when he damned his progeny to death, scorned Truth, as a consequence lost Justice, and Peace then could not remain. Truth and Justice are also quick to point out that the sinner had turned to their father's foe. For example, Justice claims,
in *Vices and Virtues*, that it is right Adam suffers, since he was disobedient and allowed God's adversary to overcome him by force. Truth says she warned him that if he broke the commandment he would die. Yet he had done so, and the devil had used no force.\(^76\) Irlande's *Meroure* has Justice complain that Adam and his lineage are not worthy of God's grace since he had committed the crime of "hurt maieste." The *Castle of Perseverance* claims: "Ful oftyn he hathe þe, Lord; forsake / And to þe Devyl he hathe hym take."\(^77\)

The majority of the heaven allegories characterize Justice and Truth as being more obviously interested in their positions and status than the other pair, and they are harsh in their disregard for any extenuating circumstances claimed for the wrongdoer. To them, it is a simple matter. Truth states that God said when man ate the apple he should die and go to hell; therefore if he delivers man from prison Truth will be destroyed.\(^78\) Likewise, Justice says that God is just and loves justice, so he can not save man: it is just that he gets what he deserves. He forsook the lord of pity and mercy, therefore he should not receive the same.\(^79\) Justice reminds Peace, in *Piers Plowman*, that God gave that doom himself. If they ate of the tree and followed the devil, their pain would be perpetual: "Forthy let hem chewe as they chose...."\(^80\) The *Castle of Perseverance* has Justice and Truth expressing their summary views just as curtly. Truth assures Justice that her judgment is good and true. No man was ever saved or damned by her unless it was due.
"Late hym hys owyn dedys rewe." For Justice it is equally simple:

Lete hym abye hys mysdede.
For ſou he lye in hell and stynke,
It schal me neuere ouyr ſynke.
As he hath browyn, let hum drynke;
Ye Devyl schal qwyte hum hys mede. 81

Another of the dramas, Ludus Coventriae, depicts this stony attitude. Truth reminds her father that man's offense grieved him sorely; he said Adam would go to hell if he sinned. "Pat wretche pat was to ſe so vnkynde / he may not haue to meche wo / ...Perfore in peynes lete hym evyr more endure." This is Justice's opinion:

man offended hum ſat is endles
Ther fore his endles punchement may nevyr sees
Also he for soke his makere ſat made him of clay
And ſe devyl to his mayster he ches
xulde he be savyd nay nay nay. 82

Peace and Mercy make the obvious defenses in an effort to prove that man is not completely responsible for his action or does not deserve the attendant punishment. Responding to the accusation that man was given the Virtues but then cast them off, Peace claims he was despoiled among his foes when the Four Daughters left him alone. Mercy says that he offended more out of ignorance than malice, and that Truth and Justice were absent when he was betrayed. 83 Sometimes it seems that man's advocates are claiming that he is only a pawn, as in Piers Plowman, when Mercy explains that in order to undo the damage of the devil's enticing, God will "bigile the gilour." In trying to make a case for extending pardon to the wrongdoer, Mercy states that the
devil has also gained power over man's offspring; whether they are good or evil they also are suffering punishment.\textsuperscript{84} A number of the allegories make the point that man should be reconciled with the father because he has already suffered for hundreds of years and is truly sorry. "For worldly veynglory / He hathe ben ful sorry, / Punchyd in purgatory / For all Ye synnys seuene."\textsuperscript{85} In fact, his contrition is such that it has moved almost all creation: "Hym greveth fful gretly his transgressyon / All hefne and erthe crye / ffor mercy."\textsuperscript{86} Once again, Chaundler's drama provides the most extensive formulation of why man should be forgiven. Those unwilling to repent should perish; the pride of the fallen angels barred their return. They were changed into a state of wickedness and did not sin through ignorance or infirmity. But man was created to compensate for them. He was overthrown by the wickedness of another; the charity of another should save him. Now is the time to be merciful, since man has thrown hirself in misery. What justice is greater than to forgive the sins of the contrite?\textsuperscript{87}

Most of the Daughters' references to Scripture or tradition are used to establish their place in the divine hierarchy and their role in the heavenly kingdom relative to that of their sisters. They try to fix their credentials to show why, according to the order already set by the divine father, one daughter's request should be given more weight than that of her sisters. The gist of these references can be briefly summarized. Mercy's claims are that she is
sovereign over all the others, and had been promised to assist man; hence, she was ordained to reign above all creatures since without her, paradise would be desolate and heaven would never increase. Peace states there can be no end to God's peace, that he can dwell only where she is. Truth reminds the father that she was ordained to last without end; she is the beginning of his words, teacher of the law and the one to weigh man's good deeds and sins at the time of death. Justice says he made her governor of his doom. She is perpetual until the world's end, and loved by the father night and day.

The most noticeable element in all of the Daughters' arguments is that they are much more concerned about maintaining their own position relative to the others than they are about man's salvation or the righteousness of adhering to the father's original judgment. All fear they will be forced to leave, their power will be destroyed, and that they will perish in the face of another's triumph. In some of the allegories, each sister's plea is substantially only of this sort; this can be seen best in Love's Mirrour, the Charter, and the Life of the Virgin Mary and Christ. Love's Mirrour has Truth reminding the father that she was wedded to man on the condition that when he broke the father's behest, he and his kind should be damned and done to death. "Wherefore sithen he forsoke me and betoke him to youre enemye and myne" she will lose her name and perish unless he has the death he deserves. Justice then likewise
reminds the father of her role, and accuses Mercy of wanting
to destroy Truth and her as part of her pity of the one who
greatly forfeited against the father.88 The statements of
the Four Daughters in the Charter and Life of the Virgin are
quite similar. Both have Truth stating that the father said
man would die and go to hell if he ate the apple, so if he
was delivered from prison Truth would be destroyed. She
pleads that truth should dwell without end; therefore let
him remain in hell and do not forsake her.89 Justice tells
the father that because he is just and loves justice, he
cannot save man. He forsook his lord of all pity and mercy,
so he deserves none. For the father to be merciful, he
would have to forsake her.90 Lydgate represented Truth, in
defense of herself and Justice, as insisting that "our bothe
liberty / Goethe vnto nought, and our iurement / But he
be punysshed, for his transgressyon."91 Since it is
impossible for the word of God to err, the "dome of dethe"
must stand; no mercy should be shown. The Castle of
Perseverance shows Truth and Justice being just as adamant
to keep their places. Justice insists that if the father
takes Adam's soul, he wrongs these two sisters and puts them
from their rights. She begs him not to distrust them by
force but to let his judgment put man in hell:

For Rytwysness dwellys euere sure
To deme Man afyr hys desuritute,
For to be dampnyd it is hys vre,
On Man I crie wreche.
Truth beseeches the father not have mercy, for then she would have not place at his judgment. She asks him not to make her power less and have her flee. "I pray ye, Lord, as I haue space, / Late Mankynd haue dew dystresse / In helle fere to be brent."93

Truth and Justice are not the only ones to show in their arguments a concern about maintaining their own place and power in the kingdom. Some of the sources depict a Mercy who has the same anxieties about losing her position. In the Castle of Perseverance, she also reminds the father that she is his daughter, and asks that she not be lost. "Ne had mans synne neuere cum in cas / I, Mercy, schuld neuere in erthe had plas." She also says, in response to her sister's plea:

Mercy, my systyr Rythwysnes!
   You schape Mankind no schonde.
Leve syster, lete be thi dresse.
   To saue Mankind lete us fonde.
For if Man be dampnyd to hell darknes,
   Ýanne myth I wryngyn myn honde
Ýat euere my state schulde be les,
   My fredam to make bonde.94

Consistent with her character, Mercy is the only one to include, in her pleas, the claim that the father must preserve them all. In the Charter and Life of the Virgin, she first says that God had stated his mercy was without end; therefore, if he is true, he must have mercy on man's soul. Later, in response to Justice's plea for reason, she claims it is not reasonable God should keep Justice and forsake her. His mercy is above all his works; if he
forsakes her, he does the same to Justice and Truth. She asks the father to save all three of them and have pity on man's soul. Another example of Mercy's reasoning is found in the Liber Apologeticus. If Justice should win completely, there is no place for Mercy; let Truth win completely and there is no place for Justice. She reminds them all that they are sisters, inseparable, and should cling to man since they were joined inseparably in God. Let Justice and Truth stand firm, but do not let Mercy be stamped underfoot. Mercy asks Justice if she also wishes her to perish. She questions why the Father created her if, because of Justice and Truth, he could not be merciful. She will perish if he does not lift up man.

Peace's arguments in some of the heaven allegories are different from those of her sisters: she is not concerned with the final disposition of the transgressor nor with her own place so much as with returning the divine kingdom to a state of order. This appears in its most basic form in Love's Mirror. Peace begins by blaming her sisters for their contrary words and strife. She tells them that the Father ordained and made his place only where she is, and she cannot abide where there is dissension. Therefore, she will leave her father, leave them all, unless they cease.

In Ludus Coventriæ she also explains why she favors Mercy:

It is not onest in vertuys to ben dyscencion
the pes of god ovr comyth all wytt
þow treyth and ryght sey grett reson
gett mercy seyth best to my pleson
ffor yf mannys sowle xulde abyde in helle
Aside from the element of self-interest, Peace also counsels the father to listen to Mercy, since otherwise there can only be discord. The *Castle of Perseverance* has her asking God to never let her flee from him, especially at the time of man's judgment because Truth and Justice have no pity. Since she and Mercy will never agree to what the other two want, there would always be discord. So her counsel is to have them all reconcile and restore man to his bliss, for if her sisters have their way, there will always be opposition.\(^{100}\) This same view is put forward plainly in the *Charter* and *Life of the Virgin Mary*:

> ...for als longe as mannys soule is in helle, ther is discorde be twyx three; Rightwisnes and treuth wille to hem stille and wille to hem enter so pat pes shalle be forsake amonge. Ther shulde also, if man were stille in helle, be discord be twix god & man and betwix man and aungel and be twix man & hym self. so pat I, pes, shulde be for sake ouer alle, and pat were no resoun.\(^{101}\)

The allegory is varied a bit in Irlande's *Meroure* in that Truth and Justice acquiesce to the insuperable petition of Mercy and desire concord before Peace ever comes on the scene. Irlande is quite explicit about the similarity between the heavenly kingdom and earthly ones. Peace claims "strif has distroyit pe gret empyre of the asserianis, or cartage, or grece, and the nobile empyre of the romanix....Na realme may lang stand na endure with discord and diuisione...."\(^{102}\) This attitude about Peace's influence and the overriding importance of living in an
ordered society is more subtle in *Piers Plowman*. After Christ has lead his people out of hell, Peace proclaims:

"Was nevere werre in this world, ne wikkednesse so kene, / That Love, and hym liste, to laughyne ne broughte, / And Pees, thorough pacience, alle perils stoppede."\(^{103}\) The passus closes with Love singing, "Ecce quam bonum et quam jocundum est habitare fratres in unum."

Although a few of the heaven allegories do not provide any reason for God making the decision in favor of Mercy and Peace, most are explicit about the motivation for his judgment, and half of them present his verdict in terms of the same verse of Scripture. Reason, the king's chancellor in Love's *Mirror*, reads out the doom which in this allegory specifically addresses the need for atonement and how that is to be achieved.\(^{104}\) *Vices and Virtues* has Truth (who here is also the second person of the Trinity) state that it is right God's mercy is ever higher than his right judgment.\(^{105}\) Lydgate had the father simply find that Mercy had the best case:

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And whan Dat she, had hir reason fyned
That groundede, was platly vpon skylle
The high Iuge, by mercy is enclyned
To condecende, of grace, to hir will.\(^{106}\)
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Five of the ten heaven allegories present the father's decision in terms of the reference to Jeremiah 29.11. God's verdict in the *Liber* is simply, "Sed ego cogito cogitaciones pacis." Here unity is emphasized. He acknowledges that all four Daughters are part of him, and requests that they let
their minds be united: "ut misericordia et ueritate redimatur iniquitas...." This is followed by many references to the Psalms concerning how God loves both Mercy and Truth, and about how they are joined together.\textsuperscript{107} In Ludus Coventriae, the Charter and Life of the Virgin Mary, the sisters had all decided before the father or son speaks that Peace's argument was best. It is the son who announces, in the first of these, "I thynke ye thoughtys of pes and nowth of wykkydnes." He is the one then to explain how another death is required. In the other two sources, God makes the statement, then says simply that he will keep the Four Daughters together and bring man's soul to bliss.\textsuperscript{108} The father's favoritism and reasoning is more explicit in the Castle of Perseverance. He announces, "sedens in trono,"

\begin{quote}
Ego cogito cogitaciones pacis, non affliccionis.
Fayre falle ye, Pes, my dowtyr dere!
On ye I yynke and on Mercy
....
To make my blysse perfyth
I menge wyth my most myth
Alle pes, sum treuthe, and sum ryth,
And most of my mercy.
Misericordia Domini plena est terra. Amen!\textsuperscript{109}
\end{quote}

The conclusion of the heaven allegories is unmistakable. Whatever the validity of the claims of Justice and Truth, the divine king finds that adhering to the absolute letter of the law is undesirable. The ideal state resulted from combining something of truth and right, most of mercy, and all peace.
VI

Now to the kingdom allegories.\textsuperscript{110} The same features will be discussed in these versions as in the heaven allegories, and in the same order: the terminology of legal and social relationships; the structure of the works; descriptions of the Four Daughters' appearances and characteristics; the substance of each figure's argument. Any significant differences between these versions and the heaven allegories clearly are rooted in the fact that the kingdom allegories remain in a temporal setting until the end of the tale when the allegory is explained.

Here the transgression is presented very specifically in terms of the relationship of a lord and his man. Adam was a favored follower of the king. The \textit{Four Daughters} succinctly describes the situation:

\begin{verbatim}
Ps kyng had wi\_hym a man
Bat he mykell avaunce gan,
And made hym of gret myght,
And he betaught hym a gret land
Tyll haue and holde in hys hand,
To be hus trewe knyght.\textsuperscript{111}
\end{verbatim}

\textit{Cursor Mundi}, closely patterned as it was after the \textit{Chasteau d'Amour}, depicts a similar scene. Adam was given two laws:

\begin{verbatim}
The first was the law of kynd
That is to sey kyndly to do
Alle that yms was dedyn to
The o\_er law hath posetyve to name
That was fully forbodyn Adam
Of this fruite god hym seid
I haue yt in my forbode leid.\textsuperscript{112}
\end{verbatim}

The King decided to prove whether his servant loved him: if he followed these laws, he'd be made a rich king; if he
broke the commandment he would, by right judgment, die for his deed. Out of pride, he soon broke it.

For defaute he lefte ye ioye suete,
And yat was skyll: so do men zete;
For defaute euery wyght
Hys herytage may lese ryght.
At kyngys courte in euery londe,
Zit men haue sych lawys fonde.\textsuperscript{113}

Adam's loss of paradise through sin is again given in familiar secular terms. "This foule synne was so unwrest/
That of his season yt gon hym cast.\textsuperscript{114}  \textit{Castle of Love}
explains that a servant and thrall may not claim his heritage through right; no one need answer him in court.
The question then was, who might speak for this man? This work is also concerned with the proper court for judging the transgressor.

In no court owyp thralle be herd
Ne stond in dome to be answerd
But in the lordes that hym ow
To deme hym oyer hie or low.\textsuperscript{115}

The form the allegory takes in the Middle English version of the \textit{Gesta Romanorum} is very similar to the exemplum \textit{Rex et Famulus}. The wise emperor, Agios, had a servant whom he advanced much, though he did not deserve it. One day the emperor decided to prove him, and committed to his keeping a certain country. There would be more advancement if it was kept well, but the emperor said, "'yf I fynde in the eny maner of tresoune, you shalte suffre ther-fore ye foulest dethe.'\textsuperscript{116}  The servant agreed, yet soon after he went to the country he did trespass against the lord's will. So the emperor "put a defaute to this
forsaide sarvaunt; the sarvaunte was proude, & sturdy, and yaf but litle credence to him." The emperor then called in four men to torture him in prison.

The *Court of Sapience* provides the least discussion of the relationship between king and transgressor, but it was obviously conceived in terms similar to the other kingdom allegories. The language used in the section in which the three hierarchies of angels pray on man's behalf demonstrates the direct equation between the secular kingdom and the divine one. They went to counsel so that man might "come to his old herytage." The first hierarchy claims, "assessours we ben to thyn estate;" the second hierarchy says it was made:

```
to observe thy lawe imperyal,  
As worthy lordees that in general  
With besy cure supporten thyn empyre,  
And with knyghthode obeyen thy desyre.118
```

The third hierarchy expresses its wishes in like terms. God is described in this passage as an excellent prince, mighty lord, source of right, noble king, glorious master and sovereign sire.119

Legal terms are commonly found in these sources. *Cursor Mundi* relates that after Adam was created, "ordeynyd was to him and his / lawis ii were set on syse." Adam later is described as a servant in the king's "bayly" who had committed a folly for which he was sent to prison. Justice attempts to remind the king, in the course of her plea, that this punishment is proper:
deth hym owith to thole for-\text{\textendash}y
The which deth you hym hight
In preson is he were by ri\text{\textendash}t
ffor dome hath yeven yt hym in si\text{\textendash}t.\textsuperscript{120}

As in many of the sources, the \textit{Myrrour of Lewed Men} has
Mercy begin her plea by claiming that she is driven by
compassion to "deliuer that prison;" she prays that the
prisoner "may be put til his raunson." Peace's words, too,
show that this argument was imagined as taking place in
court. She says of Justice and Truth:

\begin{quote}
Withouten vs thai be thaimself han gyuen a iuggement
That suld haue ben gyuen trewly with comune assent.
Therfor hit sal no t ben of recor
Til we four ben all of on acorde.\textsuperscript{121}
\end{quote}

A similar passage occurs in the \textit{Cursor Mundi}:

\begin{quote}
And of vs iiiie at this assise
Right-wysly to do Iustice
With-outyn our alle comyn assent
Ow to be no Iuggement
To haue record no dome ow
Ar we assent alle a-row
To oon mote we all concent
And sithen shape \textit{Pe Iugement}
Or els ow dome by callid ayen.\textsuperscript{122}
\end{quote}

Mercy and Peace are not the only ones to frame their
arguments to the father in terms of the need for a king to
adhere to the procedures of his court. In the \textit{Court of}
\textit{Sapience}, Truth reminds her father: "Thow must of force
observe thyne owne statute, / And thy promesse fulfylle for
any sute." Justice reaches this conclusion in her review of
the case:

\begin{quote}
And yf so were he brake his commandement,
My fader made a constytucyon
That prysoned and al quyck flene and rent,
Dede and devoured, shold be punycyon
For his trespaas and his transgressyon.\textsuperscript{123}
\end{quote}
There is much less variation in the structure of the kingdom allegory since all versions are patterned on the Rex et Famulus exemplum. In each, Mercy is the one to initiate the debate, going to plead before the king as soon as she is aware that the servant is in prison. The Four Daughters have fairly equal parts in the debate. The Cursor Mundi and the Middle English versions of Chasteau d'Amour perhaps give Peace somewhat more to say than her sisters. Justice is least active in the debate. Peace definitely has the most active role in Court of Sapience: she has longer speeches and her arguments are crucial to the resolution of the dilemma. However, Peace has no verbal part in the version featured in the Gesta Romanorum. This is not to say that she does not play an important role. Peace's activity is again crucial to the king's decision.

The solution to the impasse reached by the Four Daughters is provided in each of these versions by the son. In the Cursor Mundi and the translations of Chasteau d'Amour, the son volunteers to take the place of the servant after he has heard his sisters' arguments. Both the Court of Sapience and Gesta Romanorum specify that the king turned to the counsel of his son (Sapience takes over this part of the son's role in the former work) so that a solution might be obtained. Each of the kingdom allegories states clearly that the son reached his conclusion because he was moved by Mercy. The special relationship between the son and Mercy...
is most explicit in the *Court of Sapience* and *Gesta Romanorum*. In the latter, when the king transfers all his power to his son, the son calls Mercy to him and together they travel to the castle where the servant was in prison: “Thenne he myght not but have pitee of him, for he hadde mercy wit him, and Jlerefore he hadde no power but to take him oute of presoune....”\(^{124}\) In the *Court of Sapience*, when the son is ready to do the king's will, he first goes to Mercy and comforts her:

Thus shal I doo your herte to recomforte,  
Your soveraynte eke for to magnyfye;  
Ful manfully I shal my payne comporte,  
And thynk on you as on mun owne lady,  
Doo feete in armes, and obteyne vyctory.\(^{125}\)

After his death, he makes Mary his queen and commends Mercy to her, saying that if the servant is guilty again, Mercy can obtain what she wants through Mary who will intercede with her son. The king is a distant figure in these allegories; he has no discernible relationship with his daughters beyond the role of a judge who listens to the claims of each. He has an active role only in the *Gesta Romanorum* and the *Court of Sapience*. In the former, he asks his son for counsel when Peace flees the country, and in the latter he calls upon Sapience. The *Gesta* states that he gave all his power to his son and it is clear in these stories that the son is the dynamic and powerful one. His decision to suffer in the servant's place is prompted by his preference for Mercy, and he is the one to instigate the reconciliation of his sisters.\(^{126}\)
The structure of the kingdom allegory of the Four Daughters debate differs from the heaven allegory in two important aspects. Peace, and sometimes Mercy with her, flees the country because she cannot live with dissension and strife. Justice and Truth take it upon themselves to sentence man during Peace's absence. In the allegories based on Chasteau d'Amour, this involves the Great Flood and the death of all mankind except Noah and his family. Peace returns to plead with the king after she sees the destruction wrought by their judgment. The king and his son make an effort to resolve the sisters' arguments only as a result of Peace's departure or in response to her plea when she returns.

The Gesta Romanorum contains a rather bare bones version of this. When Peace heard the contention between her sisters, and that Mercy might not prevail, she left the empire for another country. The emperor, hearing she was gone and knowing of the dissent among his daughters, turned to his son for help. The Middle English translations of Chasteau d'Amour and Cursor Mundi provide more detail. The Castle of Love explains what happened:

And Riht com after wiþ hire dome.
Wiþ outen Merci and Pees heo con iugge,
Euer aftur Þat Soth wol sugge.
Ne Pees mot not mid hem be,
Our of londe heo mot fle,
For Pees bileueþ in no londe
Wher Þat is werre, nuþ, and onde,
Ne Merci mot not among hem liue,
Ac boþe heo beþ of londe idriue.128

The Myrrour of Lewed Men states that, for Peace and Mercy,
"When so forgifnes may be, / Thai may noȝt dwelle in cuntre." The composers seem to have had some ambivalence toward the judgment of Truth and Justice; though it had disastrous effects, it was not executed unjustly. "That was yan a reufulle syght, / And hit it was bote soth and ryght." The author of *Cursor Mundi* felt this way:

```
hyt is much drede to telle
Of eny dome that was so felle
And all was right in sothefastnes
With-outyn mercy or any pees.
```

Only one of the works suggests that the destruction was not simply the will of Truth and Justice:

```
So long wrought ye kyng of myght,
Be Sothnes and als be Right,
Vengeaunce for to tak,
Pat all pis wworld was fordan,
Sawe vii soules all alone.
```

After seeing the damage wrought by Truth and Justice, Peace returned to the king and complained about their carrying out judgment without her counsel. She claimed that she had returned to end the strife, and insisted to her father that this could not go on. In the *Castle of Love* she threatened to leave the kingdom until all her sisters were reconciled. The same occurs in *Myrrou of Lewed Men*. The *King and Four Daughters* shows Peace determined to stay with the king until peace is among all. The most elaborately worked out version of these themes is in the *Court of Sapience*. The Four Daughters argue over the servant's fate. Truth and Justice refuse to compromise, and Truth goes to their father, asking for his support. Justice, after
reminding him how the servant offended, concluded: "Wherfor I yeve sentence dyffynytyve: / In forme forsayd that peyne to deth hym dryve." At this, Mercy falls into a dreadful swoon; Peace proclaims that she herself is now exiled, "For Trouthe untrewe and Right unrightwisly / Ayenst us hath yeven sentence of dethe."\textsuperscript{131} This prompts the king to call on Sapience for counsel. She in turn explains why his son must die and ransom man. The king is moved by the pleas of his court, Mercy's condition, Peace's exile and his man's incarceration. The son offers to do the king's will, and goes to revive his sister Mercy. When the son has accomplished his task, Peace returns and the sisters are reconciled.

VIII

The sources in which the kingdom allegory is found do not often describe the Four Daughters. The most is said about Mercy and the least about Truth and Justice, though what there is does not make them seem very pleasant characters. Mercy calls herself, in the \textit{Castle of Love}, one full of humility, pity and sweetness; this also occurs in the \textit{Myrrour of Lewed Men} and the same description of Mercy is echoed in \textit{Cursor Mundi}. In the \textit{Castle of Love}, Truth also says that Mercy has mild speech. In the \textit{Foure Daughters}, when she sees man in prison, Mercy is so overcome with emotion that she tears at her hair and clothing. Similarly, in the \textit{Gesta Romanorum}, Mercy tears her garments, pulls at her hair, yells and cries as she runs with all her
might to her father.

The Court of Sapience is exceptional in that it provides a most vivid description of each of the sisters. When Mercy saw the servant in prison, her heart bled and she wept, tears marring her face. She undid her golden braid and bared her breast to her father. Mercy is described as having crystal eyes, rosy lips, a shining face and swannish throat—all marred by her distress. Peace is presented thus:

Whoos persone was patron of portrature;  
Her rosy lyppes, with chereful of grace,  
Offred kyssyng unto eche creature;  
Phesus hymself with al his bemed cure  
May not be lyke the lyght of her vysage.  
So pure perfyte was that hevenly ymage.

This, in contrast, is Justice:

On godely wyse, but ferful to behold  
...al bemed ful of lyght;  
For she ne spareth for hote ne for cold,  
For hyghe, for lowe, for to fulfylle al ryght.

Truth is not depicted in a similar manner, but her characteristics are evident in her speech. When the father explains what Mercy has requested, Truth is quick to contradict. She condescendingly tells Mercy that her argument is strong, but disputing is not one of Truth's arts. Truth's final retort to Mercy's questioning why her petition should not be granted is sharp and abrupt: "...For ye aske no reason! / Though ye al day argue for youre purpoos, / Troughe shall delyver at her owne volunte."
have some features in common with the heaven allegories. They make little direct use of Scripture. There is notably no reference to the need to show mercy to others. Again, the transgressor's behavior does come under discussion in terms of the extent of his responsibility for his action. Concern for the prisoner tends to assume secondary importance. As in the heaven allegories, their pleas focus on the significance of their roles in the kingdom and their efforts to maintain their places in the kingdom. Peace's plea, in the kingdom allegories, centers on the need to consider the well-being of the entire kingdom over the individual claims of priority and propriety. Yet the real difference between these two versions of the Four Daughters allegory lies in the degree of concern about the need for the king to secure peace and order for his people. Justice and Truth are actually seeking a destructive vengeance here, and the sources attempt to describe the true object of judgment.

Perhaps because this group of allegories is ostensibly the story of a conflict in the realm of a temporal king, there are few instances of use of Scripture in the Four Daughters' pleas. In fact, in the Middle English translation of the Gesta Romanorum each Daughter's argument consists solely of rehearsing the fact that she is the king's daughter, and shares a particular quality with him; she threatens to be his daughter no longer if he will not do as she asks. The translations of the Chasteau d'Amour show
some passing references to the Bible in regard to Mercy. For example, Mercy tells her father, "kyng of pyte & of mercy / Thyn eldist dowghter You wotyst I am / Ouyr alle Py werkes is my name."

The Court of Sapience is the only work to have a Daughter heap up Biblical references while describing her role. Again, this is done particularly in relation to Mercy: she is sovereign above all her father's works, the minister of his godhead, the sustenance that feeds all mankind, the treasure of his deity.

The Four Daughters in the kingdom allegories do try to persuade the king that the prisoner should or should not be held totally accountable for his actions, though not as much is made of this factor as in the heaven allegories, Emphasis is given to the fact that the king's servant had broken this commandment out of pride.

In the versions of the Castle of Love, the exemplum proper cites the servant's disobedience while the introduction discusses Adam's temptation and fall. Mercy's plea includes the insistence that the prisoner had been deceived by his enemies and led into treachery.

Truth and Justice, however, see no reason to pity the prisoner on this account. Truth insists it was his responsibility:

\[
\begin{align*}
\text{Milce and merci he haf forloren,} \\
\text{He was warned ferof biforen.} \\
\text{Whi scholde me helpe fulke mon,} \\
\text{Fat nedde of himself pity non?}
\end{align*}
\]

Justice claims that this thrall deserved to be damned, for when he was free, he had Mercy, Truth and Justice ever with
him until he banished them by his willful sin. In another version she declares:

Whyll þat he they hest held,
We were wiþ hym wiþ spere and scheld,
Both Mersy, Soth, and Ryght,
And Pese, my syster, wiþ alloure myȝt.
Vs all lîlî he hath forsake.142

Justice and Truth also try to convince the king that his power would be undermined by granting Mercy's request. If he were to acquiesce to her pleas for pity, "Neuer schal be misdede abouht, / And þou, kyng, schalt be douted riȝt nought." Justice neatly sums up her view of man's nature in Foure Doughters:

No man schuld stand aw for þe,
Ageyns þe byddyng for to be,
Nouþer in word ne dede.
þei schuld to mykill troit þeron
þat Mercy schuld þem saue ilkòn
Of nothung schuld þei drede.143

In the Court of Sapience, Justice's reasoning sets out an argument for capital punishment familiar from centuries of use:

My fader made a constytucyon
That prysoned and al quyck flene and rent,
Dede and devoured, shold be punycyon
For his trespaas and his transgressyon;
That both pure love and fere this just precept
Shold hym excyte that it were trewely kept.144

Only the Gesta Romanorum features similar arguments from all four Daughters. There, each one claims the characteristic they share with the king and threatens to be his daughter no more if he will not demonstrate this quality in terms of his servant's imprisonment. Otherwise, the sisters' pleas involve defining their role in the kingdom
and relationship to their father. Each daughter is concerned about maintaining her power and position, yet the claims they make to this end and the way they are presented reflect their basic characters. The Middle English versions of the Chasteau d'Amour show Mercy as one whose emotions are stirred not by the debate itself but rather the prisoner's woeful circumstances. She reminds the king of her good qualities, which she shares in common with him and which also compel her to help the wrongdoer. She is the only one to mention the felon's extenuating circumstances, that he was deceived by the king's foe. Finally, she claims that as the eldest, she takes precedence over the others, and insists that she will not cease until her petition is granted. Mercy is determined to achieve her goal, but her energies are focused on cajoling her father and helping the prisoner, not accusing or challenging the others.\textsuperscript{145} Only in the Court of Sapience is her role discussed for its own sake. Much of this is done by Peace:

\begin{quote}
For trespaas is to Mercy a meryour, \\
And ryght as swere hath his apryce by source, \\
Soo by trespaas Mercy hath al her myght; \\
Withoute trespas Mercy hath lak of lyght.\textsuperscript{146}
\end{quote}

Mercy herself is moved in the debate to remind the others of her value:

\begin{quote}
And yf so I were adnychylate \\
The heavenly court may not restored be; \\
My faders royalme were vayne and vacuæ, \\
power howshold it were withouten me.\textsuperscript{147}
\end{quote}

Truth and Justice show a derogatory attitude toward Mercy and confident insistence on the primacy of their own
roles and hers. Truth does not hesitate to tell the king what he ought to do:

...Fadir, wi出局yn me
Schuld *you do ryght noght,
Ne owe *you nought till her Mercy
Bot if Verite be hir by
In dede, worde, and thoght.148

Mercy's prayers should not be heard by the king unless they were in agreement with the ideas of Truth. As stated above, Truth is insistent that the king would not be feared by his people if Mercy persuaded him to overturn judgments. For Truth, it is a straightforward matter:

But *you art kyng evir to last
Of rightwysnes and alle sothefast
Thy wille is sothe evir and ay
This preson that I of say
That pyte on hym-self had nogt
How shuldist *you rew on him ought
With dome he mote thole for-thy
Alle his mysdedes Ær-with to by.149

The Court of Sapience vividly conveys the sense that Truth is angered by what she perceives as a challenge to her place in the kingdom. When Mercy finishes her plea, she is quick to contradict:

'Nay, nay,' quod Trough, 'fader it may not be;
Thow must of force observe thyne owne statute,
And thy promesse fulfylle for any sute.
....
Thy wyl is lawe, thy promesse is reason."

She encourages her father to be firm in his just judgment and put all variance from him. Her response to Mercy is sharp:

Trouthe shal delyver at her owne volunte:
My lyberte in no poynt wyl I loos!
I am my faders chyld as were as ye,
And Ryghtwysenes I wote wil holde with me.150
And she is certainly correct in believing that Justice will support her view. In the Middle English versions of *Chasteau d'Amour*, Justice first reminds the king that she is also his daughter and "you art kyng, riht domesman;" all his dooms were righteous. Her address to their father consists of emphasizing the fact that the servant certainly deserved to be found guilty and that she had already delivered the decision, in accordance with Truth. For her, it is a simple matter of her own qualities and a dependence on her relationship with Truth.

> All that sothfastnes tesses to me
> I mot dele to euerilkone,
> Gode or ill after their haue done.
> Thi wikkid servuant is in prison,
> As he was demed with gret reson.
> I may noȝt fro this sentence very
> Bot I to riȝt wald be contrary.\(^{151}\)

In the *Court of Sapience* Justice is coolly self-assured. She comes into the debate at the request of Truth. The narrator notes that "she spareth for hote ne for cold, / For hyghe, for lowe, for to fulfylle al ryght." Providing a succinct outline of all the king had done for the prisoner, his commandment and the servant's "ungentylnesse" she concludes: "Wherfor of ryght me thynkyth he must be dede."

Justice later explains to her father that this is her office:

> To yeve condygne remuneracyoun
> To evyl and good, to eche vertu and vyce,
> And not to spare for prayer ne for pryce,
> And if I shal thy godhede gloryfye,
> That Troughe askseth, I must nede justyfye.\(^{152}\)

Justice and Truth blatantly seek revenge against the
transgressor and his kin. The kingdom allegories state this in no uncertain terms. These two sisters do not have a disinterested concern. They seek a destructive retribution, not purely on behalf of the king: they wish to find satisfaction for their own ire. Both plainly express their feelings in the King and Four Daughters. Truth beseeches her father, "Kyng of sothnes, do than ryght / And late avenge ye of yat wyght!" Justice then repeats that plea: "Vs all iiii he hath forsake, / Right wyll perfor vengeans take."

Others recognize their attitude for what it is. When the three hierarchies of angels plead for man in the Court of Sapience, each ends its supplication by saying "For now is tyme of Mercy and of Pees, / And tyme is come that al vengeaunce shold cees!"

As Peace bids farewell to Mercy, she exclaims, "So weleaway tha vengeaunce shal prevayle!" The desire for revenge shows in a peculiar twist not found in the Four Daughters of God story set in the heavenly kingdom. Peace leaves the country as a result of the strife (and in some sources, Mercy with her), and while she is gone Justice and Truth take advantage of her absence and take revenge on mankind.

The dome hem come folowyng in hie
And Iugid hem in sothfast truȝe
Wyth-outyn mercy othir reuthe
Nor pees at home myȝt not lend
But of lond she must wend
ffor pees may nowhere abide
There hate wonnyȝ werre or pride
Nor of mercy made none myyne."
Justice and Truth decide to carry out their own punishment: they visit the world with a flood so terrible that Noah and his family are the only survivors.

Soth and Ryght wiȝouten les
Went wiȝ out Mersy and Pes,
And be contre as Þei wend,
All Þat wreches kynd Þei schent;
So fast Þei gan Þem doun dryue
That Þei left neuer one of lyue.
A flode ouer all dyd go;
viï Þat left of lyue and nomo;
....
That was Þan a reuffull syght,
And Þit it was bote soth and ryȝt.156

Foure Doughters is the only source in which the king is the force behind their destruction:

So long wrought Þe kyng of myght,
Be sothnes and als be Right,
Vengeaunce for to tak,
Þat all Þis werld was fordone,
Saue viï souls all alone.157

Although the action is somewhat different in the Court of Sapience, the underlying meaning is the same. Justice concludes her argument before the king by stating, "Wherfor I yeve sentence dyffynytyve: / In forme forsayd that peyne to deth hym dryve." At this, Mercy falls into a swoon and Peace cries out that she is exiled, "For Trouthe untreve and Right unrightwisly / Ayenst us hath yeven sentence of dethe."158 The sterner sisters achieved their goal of enforcing their desire to punish and ridding themselves of the two who interfered with the rigid order of the king's law.

The narrator of one version of the Castle of Love states the problem very succinctly:
Sothfastnes and Rijzt has geuen thair iuggement, 
Bot Mercy and Pes were nozt of that assent. 
If all go bi redzure of Rijzt and Sothfastnes, 
How sall Mercy and Pes sheve the kinges godenes? 
If al be thaim one deme Sothfastnes and Rijzt, 
Mercy and Pece sal loise al thair myzt. 159

Note especially that this writer considered the dilemma particularly in terms of the king: the function of mercy and peace is that they demonstrate the quality of a king in his roles as law-maker and judge. None of the kingdom allegories leaves any doubt as to the pivotal role of Peace in the kingdom. Her flight or threatened exile cause the king and his son to act decisively to end the dispute. Her speeches show that she was confident of the crucial task she performed.

I was the reyne that held yow al togyder, 
I brydled yow and set yow in acord; 
But now I goo, yyys and I not whyder, 
Wherfor of force ye must talle to dyscord.160

In fact, in her certainty she almost could be threatening.

Wiɔутen us ðer is bale to breme, 
For-þi, fader, þou nime þeme! 
.... 
Ne wisdam nis not worp an þawe 
þer Pees fayleþ to felawe.161

Peace has no doubt about the nature of her relationship with Truth and Justice when it came to the matter of what was best for the country:

Nouþr Verite ne Iustis 
No schuld wirk on no wys 
Ought wiþoutyn my rede, 
For all þei schuld do þeir meystry. 
Pese in lande Right schuld gy, 
For þerto wer all nede.162

Neither does she waver when it comes to the question of the balance of power between the Four Daughters in court:
Iustisy is neuer more needful
Bot when it is to pece spedeful.
How suld Right and Sothfastnes availe,
When thai wil nozt call me to thair counsaile,
Ne Mercy, my sister, that ay so gode is
That withouten his no gilt amended is?163

Peace does not have such as opinion of her importance without good reason. The son is the one to decide which of the Four Daughters was most persuasive in the debate, and in every one of these kingdom allegories he chooses Mercy, for the sake of Peace. A concord is sought between the sisters, and for this to be possible Peace must return, and some satisfaction be provided for Truth and Justice. In the Middle English version of the Gesta Romanorum, the son simply assures the king that "I shalle take good vengeaunce of this trespassor, and bring home a-yene pes, þi dowter." He calls Mercy to him and they travel to the castle of imprisonment "& thenne he myght not but have pitee of him, for he hadde mercy with him, and þerefore he hadde no power but to take him oute of presoune...."164 After telling Sapience that his heart has been pierced by pity, the son asks her for counsel, because "desolate is thys hevenly regyon/ But Mercy reygne, and Pees com from exyle." He later explains to Mercy how he shall become man and die:

Thus shal I doo your herte to recomforte,
Your soveraynte eke for to magnye;
Ful manfully I shal my payne comporte
And thynk on yow as on myn owne lady.165

The translations of Chasteau d'Amour are more specific and direct about the son's decision. "Mersy hath told me reson clere, / Wherof, fadr, I haue pyte." After explaining how
he will put on the servant's clothing, undergo his
punishment and so reconcile the sisters, he concludes, "I
shall cry Pes wiȝouten mys." The connection between
choosing Mercy to obtain Peace, and his role as ruler of a
country is made very apparent:

And al one ichul holde Þe doom,
As Iustise ouhte to don,
And maken ichule Pees to londe come,
And Pees and Riht cussen and be sauȝt and some,
And druyuen out werre, nuȝ, and øndé,
And sauen al Þe fold in londe.

The special relationship between the king and the Four
Daughters is clearly detailed in the beginning of each one
of the versions of Chasteau d'Amour. At the outset of the
allegory the narrator explains who the king's daughters are,
and why they are so important to him:

Foure Douhtren hedde Þe kyng,
And to vchone sunderlyng
He Þaf a dole of his fulnesse,
Of his mïht and of his wysnesse,
As wolde bifallen to vchon,
And it was al Þe folnesse on
Þat to himself bilay,
Wiȝoute whom he ne mai
His kindom wiȝ pees wysen
Ne wiȝ hit iustisen.

Wiȝ outen Þeos foure wiȝ worschipe
Mai no kyng lede gret lordschipe.

The allegory is deeply concerned with maintaining the unity
of a kingdom through right rule. And there is no question
that this rule involves all four Virtues, yet also a system
of judgment which allows for flexibility in dealing with
transgression of the law. The allegory declares the primary
goal of simply keeping the community in harmony so that
there will be a kingdom to rule.

Syth every royalme that hath dyvysyon  
Within hymself must nedes be desolate,  
And we be four for one conclusyon —  
For to sustene the reame and his estate —  
Amon us foure why shold thenne be debate?  
And syth that law wyl rather lessyn peyne  
Than it extende, lete Pees and Mercy reygne. 169

It is worth remarking that the composer chose to point out the function of law in particular, rather than referring again to justice and truth; the purpose of law in the realm is to reduce discord and distress. This the king can achieve by allowing mercy to dominate in the administration of the law.

X

The Middle English poems and prose works portraying the allegory of the Four Daughters of God speak eloquently. They afford a perspective on a consuming interest in medieval society: how was the Crown to answer the paradoxical claims for the place of mercy and justice in governing the kingdom? These composers used what is in essence an allegory of religious doctrine as a means to express attitudes about the function of mercy that were deeply rooted in the culture. The sources do present the theology of salvation and atonement through the use of Scriptural reference, allegorical figures, and circumstance, and they are imbued with traditional notions about the character and value of Christian mercy. Yet this does nothing to obscure the meaning of the subtext. In fact, the conceptual vocabulary of Christianity is worn through in
many places with the insistence of the secular vision.

The language of law and contemporary social relationships indicated for the audience that the allegories are concerned with the fate of the transgressor in the earthly realm as much as in the divine one. The competing claims of justice and mercy are imagined in terms of one of the great anxieties of the age--the rebellion of a king's subject. His motivation is ascribed to the sin of pride, and one of the primary issues under debate is the extent of his responsibility for his actions. Is the upstart totally to blame for his rebellion against the king's command? The daughters consider the question of extenuating circumstances; a certain degree of blame may be attributed to the enemy lord, who has beguiled the wrongdoer with false promises. Mercy and Peace seek to find acceptable reasons why the felon should be pardoned and given the opportunity to serve the king once again, and to rejoin the community. Truth and Justice focus their objections on the threat such forgiveness poses to the king's power: this disregard for the established law would undermine others' respect and fear for the king's authority. They attempt to persuade the king of the importance of using exemplary punishment to deter others from similar disobedience. The interest in practical problems with punishment and mitigation in executing the law stands out in every source.

These works also reveal what must have been very deep-seated feelings about the ideas encoded in these allegorical
figures. There can be no doubt about the cultural attitudes toward Justice and Truth. The positive and negative associations these virtues embodied for the medieval English audience and composers are unquestionable. Peace and Mercy are presented in the best terms. Their importance is emphasized in the structure of both the heaven and the kingdom allegories; they have the close associations with the father and the son, and they are the ones who influence the final decision. Justice and Truth are given a distant relationship to the father and son. They have a right to be there, and an obligation to advocate the opposing view, but there is no tenderness for them. In fact, Truth and Justice are represented as going beyond petitioning for a strict interpretation of the law: the harsh judgment they impose on their own nearly results in the destruction of all mankind. The descriptions of the appearances of the Daughters and the characterizations of their personalities reiterate the value accorded to each virtue. The sources present an unambivalent view of the forces considered detrimental to the interests not only of both the divine and temporal ruler, but also to all men and women in society.

To modern sensibilities the debate among the Four Daughters might be interpreted as a king or judge considering the options available to him. There were benefits and dangers in both implementing the prescribed punishment and mitigating it. Medieval English society truly felt that royal power would be "vain and vacant" if it
lacked the ability to be merciful and exercise the prerogative to pardon. Yet there was an abiding fear that the king eventually would be seen as impotent if he did not rule consistently and righteously under the terms of the established law. The rationalization for the ultimate choice of mercy is given by Peace: Justice's most fundamental obligation is to ensure order in the kingdom. Therefore, the demands of both sides are met when the king turns to pardon as the means of maintaining the integrity of society. Peace voices the most eloquent statement of this ideology:

Woo worth debate that never may have pees!
Woo worth penaunce that asketh no pyte!
Woo worth vengeaunce that mercy may not cees!
Wo worth jugement that hath none equyte!
Wo worth that trouth that hath no charyte!
Woo worth that juge that may no gilty save!
And wo worth ryght that may no favour have!170
Notes to Chapter 3

1 Considering its popularity and influence in both continental and insular literature, surprisingly few scholars have worked on this allegory. There are those who have written on the subject in relation to editing a source that includes the allegory or to works on theology, yet the bulk of the work on the historical development of and influences on the allegory has been done by the following: Mary Immaculate Creek, "The Four Daughters of God in the Gesta Romanorum and the Court of Sapience," PMLA 57 (1942): 951-65; Kari Sajavaara, ed., The Middle English Translations of Robert Grosseteste's Chasteau d'Amour. Mémoires de la Société Néophilologique de Helsinki 32 (Helsinki: Société Néophilologique, 1967); Hope Traver, "The Four Daughters of God: A Mirror of Changing Doctrine," PMLA 40 (1925): 44-92; Hope Traver, The Four Daughters of God (Philadelphia: Winston, 1907); Thomas J. Janecek, "The Parliament of Heaven," diss., U of Illinois, 1975.

2 Sajavaara 85-90. He cites earlier research that indicates this psalm had been given literary form in the first or second century BCE. He tried to trace the origins even further, and concludes that the tale had its origins in Egyptian myth.


5 Ginsburg, Legends 5: 73.

6 Traver, "Mirror" 47-58.

7 Traver, "Mirror" 42.

8 Traver, "Mirror" 68.

9 Traver, "Mirror" 45.

10 Traver felt that only Hugh drew his allegory directly from Midrash, but she was familiar only with the A version; see Traver, Four Daughters 13. But Sajavaara thought it probable that the features of the two allegories were already combined before Hugh and Bernard became acquainted with them; Sajavaara 75-76. There is evidence for other contemporary versions of the Virtues' debate, one by Julien de Vezelay, another by Peter the Venerable; see Matthias Tveitane, "The Four Daughters of God: A Supplement," Neophilologische Mittleunogen 81 (1980): 411-14.
Tveitane thought it would be strange if these four contemporaries independently had created these stories which are quite different in literary terms but thematically related. Similar pieces from the same period are discussed in G. R. Owst, Literature and Pulpit in Medieval England (Cambridge: Cambridge UP, 1933) 90.


13 This has been printed in Creek's article. She indicated that the only form in which she had seen the Rex et Famulus was in transcriptions from manuscripts in the Bibliothèque Nationale, MS Latin 14886 and MS Latin 5556. However, Sajavaara found that MS 5556 does not include this. It is available, though, in Migne, Patrologia Latina vol. 94, cols. 505-7, where it is mistakenly attributed to Bede. The manuscript from which the pseudo-Bede text had been printed is now lost. Sajavaara located a new version of the Rex et Famulus in the British Library, MS Royal 8.D.vi. He also found three versions that are similar to it: British Library MS Royal 6.A.xiii; MS Balliol College Oxford 228; Bibliothèque Nationale MS Latin 14958. In Sajavaara's opinion, it is impossible to know if Bernard's allegory was the direct source for the Rex et Famulus; see Sajavaara 27.

14 Creek analyzes the differences between the Rex et Famulus and Bernard's version, and the possible influence of another version by Stephen of Tourney; see Creek 955-56.


16 Sajavaara 48-53.


18 Isa Ragusa and Rosalie B. Green eds., Meditations on the Life of Christ, trans. Isa Ragusa (Princeton: Princeton UP, 1961). This work was long attributed to Bonaventura and printed among his works even after the author was designated a "pseudo" Bonaventura. There is agreement among scholars that the author must have been a
Franciscan living in Tuscany during the second half of the thirteenth century.


20 *Piers Plowman* 166, 11. 305-8.
21 *Piers Plowman* 166, 11. 312, 318.
22 *The Vision of Piers Plowman* 229, 1. 293.
23 *Piers Plowman* 170, 11. 392-94.
24 *Vices and Virtues* 114.
26 *Myrour* 14.
27 *Life of Christ* 92.
28 *Liber* 106.
29 *Liber* 116, 108.
30 *Charter* 348.
31 *Meroure* 111.
Life of Our Lady 11. 25-8, 33-5.
Ludus Coventriæ 11. 185-86.
Myrrou 17.
Meroure 108.
Liber 106, 108.
Life of Our Lady 11. 185-91.
Life of Our Lady 11. 332-35.
Piers Plowman 161, 11. 185-86, 188.
The Vision of Piers Plowman 232, 11. 380-90.
In Castle, Myrrou, Ludus, Charter, Life of Christ, and Liber.
In Myrrou, Castle, and Life of Christ.
Castle 11. 3560-62.
Life of Christ 94, 92.
Liber 128, Ludus Coventriæ 139.
Life of Our Lady 11. 283-84.
Meroure 123, 122.
Piers Plowman 160, 11. 185-86.
Ludus Coventriæ 99.
Charter 348-49.
Myrrou 15, Life of Our Lady 11. 185-91.
The exceptions are in the versions of Piers Plowman, in which the debate is associated with the Passion, not the Incarnation, and the Charter, in which the Trinity reaches its decision before the Four Daughters speak.
Myrrou, Life of Our Lady, Life of Christ, Ludus Coventriæ, and Meroure.
Life of Our Lady 11. 50-53.
Life of Our Lady 11. 101-103.
Liber 118, 124, 112.
See particularly Creek and Traver, "The Four Daughters of God: A Mirror of Changing Doctrine."

"Si iam misericordia flectare ualet iudicem ut pretereat strictam et rectam iusticie semitam quam quidem nec a dextris declinare nec a sinistris congruit, nimirum via rectitudinis facile apparebit inuia, districtioque ac rigor legis eternae in inordinatos uidebitur ampliari fauores." Lib er 122.
Ludus Coventriæ 11. 67-68, 73, 92-95.
Life of Our Lady 316-17.
Vices and Virtues 112.
Ludus Coventriæ 11. 77-78.
Liber 114, 116, 126. Note also that Irlande wrote at length about the equity of the father's sentence and forgiveness; Merour 113-15.
Myrour 15-16.
Charter of the Abbey 349, Life of Christ 93.
Charter of the Abbey 350, Life of Christ 93.
Life of Our Lady 11. 201-3.
Castle 11. 3340-43.
Castle 11. 3323-24, 3444-51.
Charter 350, Life of Christ 93.
Liber 120.
Liber 126.
Myrour 16.
Castle 106-7.
Life of Christ 94.
Merour 84.
Vision of Piers Plowman 233, 11. 45-71.
Myrour 17.
Vices and Virtues 114.
Life of Our Lady 11. 281-84.
107  Liber 128.
108  Charter 351, Life of Christ 94.
110  The following are the sources used for the
kingsdom allegories: Kari Sajavaara, ed., Foure Daughters,
King and His Four Daughters, Castle of Love, Myrour of Lewed
Men, The Middle English Translations of Robert Grosseteste's
Chateau d'Amour, Mémoires de la Société Néophilologique de
Helsinki 32 (Helsinki: Société Néophilologique, 1967);
Richard Morris, ed., Cursor Mundi, 4 vols. EETS, o.s. 57, 59,
62, 66, 68, 99, 101 (London, 1874-93); Sidney J.H. Herrtage,
ed., The Early English Versions of the Gesta Romanorum,
EETS, e.s. 33 (London, 1879); E. Ruth Harvey, ed., Court of
Sapience, Toronto Medieval Texts and Translations 2
111  Foure Daughters 11. 37-42.
112  Cursor Mundi 11. 9431-37.
113  King 11. 171-82.
114  Castle of Love 11. 9475-76.
115  Castle of Love 11. 9491-94.
116  Gesta 132.
117  Gesta 133.
118  Sapience 11. 613, 648-51.
120  Cursor 11. 9636-39.
122  Cursor 11. 9707-19.
124  Gesta 134.
125  Sapience 11. 757-61.
126  The continental version of the Gesta has the son
in an even more significant role, luring his wife to return,
and resisting the challenge of Truth and Justice. See
Hermann Oesterley, ed., Gesta Romanorus (Berlin, 1872).
Gesta 134.
Castle of Love ll. 346-54.
Cursor ll. 9677-80.
Foure Daughters ll. 157-61.
Sapience ll. 192-96, 211-17.
Sapience ll. 330-36.
Sapience ll. 295-98.
Cursor ll. 9584-86.
Sapience ll. 197-207.
Gesta 133, Sapience ll. 226-30.
For example, in Castle of Love ll. 167-274, 307-18.
Castle of Love ll. 333-42, King ll. 283-86.
Castle of Love ll. 389-92.
King ll. 335-39.
Foure Daughters ll. 145-50.
Sapience ll. 317-22.
Foure Daughters ll. 80-90.
Sapience ll. 368-71.
Sapience ll. 281-84.
Foure Daughters ll. 103-7.
Cursor ll. 9609-19.
Myrour of Lewed Men ll. 216-22.
Sapience ll. 297-98, 400-406.
Sapience ll. 643-44, 671-72, 699-700.
155  Cursor 11. 9669-76.
156  King 11. 349-56, 361-62.
159  Myrour of Lewed Men 11. 241-46.
160  Sapience 11. 477-80.
162  Foure Daughters 11. 175-80.
164  Gesta 134.
165  Sapience 11. 502-8, 757-60.
166  King 11. 430-57.
167  Castle of Love 11. 549-54. See also Cursor 11. 9749-52. Note that in the Latin Gesta ruling the country is obviously the issue under dispute.
169  Sapience 11. 344-50.
170  Sapience 11. 463-69.
CHAPTER 4

THE LITERATURE OF MERCY AND THE IDEOLOGY OF MERCY

The ideology of mercy seen in the versions of the Four Daughters of God is not limited to the allegory. The cultural preference, at least in theory, for strategies of reconciliation to those of retribution is present in medieval popular literature almost everywhere that mercy or judgment is the subject. In fact, a survey of England's literature from the thirteenth through fifteenth centuries shows us a discourse on mercy's function in society, especially in secular judgment, and on the deleterious effects that these traditional attitudes about mercy could have on the English polity.

There is a vast range of works containing stories about or discussions of mercy and judgment. Many of the sources drawn on here are of course religious in nature, such as sermons and pastoralia. But the sources include too a substantial portion of chronicles and texts that essentially were meant for entertainment. As expected, much of the literature speaks of mercy in its forms of almsgiving and charity—of the spiritual and corporal works of mercy. Even more common, however, is mercy as another form of largess, that is, as pardon and forgiveness. This is mercy as the
antidote to wrath and vengeance, as the unguent of political life. Underlying every form of mercy is the element of reciprocity. Far from being thought of as an altruistic act, mercy was understood to be something done in expectation of a return: either spiritual salvation or the restoration of a relationship.

This discourse allows us to go beyond a static description of mercy's meaning in medieval England. Particular elements became the focus of attention, complaint, and debate even in a body of literature so highly repetitive and imitative. Expanded or altered notions about mercy and its role in judgment never completely displaced earlier ones during these centuries; but these foci, which come to the fore in the period between 1380 and 1420, indicate subjects that were the cause of anxiety for contemporaries. Examining them in detail gives us a general picture of the chronology of change involved, and a sense of which features of the ideology and actual practices of mercy were most troubling. The literature voices questions about the importance of motivation and intent in merciful behavior. There was a marked ambivalence about the matters of how one should judge and who was justified in judgment and punishment. The discourse also allows us to trace the outlines of the process of redefining the seemingly polarized entities of lax pardoning or merciless judgment, and of the notion of that recipients of mercy must be deserving. These voices of anger and apology in the
literature come from the recognition that traditional practices of mercy were failing to keep public order.

Piers Plowman is examined here at some length because the central focus of the poem can be described as the relationship of mercy and justice in divine and secular terms, for the individual and for temporal authority. Piers Plowman affords a valuable perspective on the complaints of perceived failures and incipient changes. Still, the remedies that the author proposes for society's ills are out of keeping, perhaps in advance, of the general opinions of the times. There is clearly a consensus in this literature from the thirteenth through fifteenth centuries that the traditional use of mercy, pardoning a wrongdoer in order to reintegrate the community, was preferred as the means to maintain order. As in the allegory of the Four Daughters of God, these sources do not demand or endorse retribution but rather reconciliation.

I

Christianity taught medieval men and women that all people of whatever means were expected to contribute to the care of the poor, and there was special emphasis on the obligations of the wealthy; it was not expected that mercy be motivated by pity or true charity. At the very least, the action itself was given credit, as we see in this exemplum. Peter the Toller was very rich, and unmerciful to the poor: he not only did not give alms, he beat the impoverished. A poor man bet his friends that he could get
alms from Peter. One day when Peter was putting rye loaves into the pantry, this poor man asked for alms. Peter threw a loaf at him in anger, and he took it. Two days later Peter was near death and thought he saw Christ as the high judge. Fiends put all his sins on one side of the scale and angels put the loaf on the other. They told Peter he needed more almsdeeds to save his soul. On waking, he gave all his goods to the poor and later became a saint. He was given credit for the alms, even though it was done in anger. The theme of balance and exchange was part of an unending refrain, whether the story was about merciful or unmerciful behavior. We see it in Dives and Lazarus, a favorite throughout the centuries. At the gate of a rich man lay a leper, to whom he refused even the crumbs from his table. When they died, the leper went to the bosom of Abraham, and the other to hell. He begged for even one drop of water, and for a warning for his brothers to mend their ways. Abraham denied his requests, and reminded the rich man that each received what he deserved according to his behavior while on earth. A very pointed conclusion is provided in a Wycliffite sermon: "And marke we how pis gospel tellith pat pis riche man was not dammed for extorcion or wrongys pat he dude to hys neybore, but for he fayled in werkys of mercy." Care for the well being of others earned salvation; this was a moral that never lacked emphasis. The characters in these exempla are flawed, even wicked, but they are rewarded for understanding the necessity of aiding
the less fortunate. Consider the message of this one. Theobald, Count of Blois, had founded the house of Clervas. 

"Yis ilk erle disseyed a knight / And toke has land all with vnright; / Yat werk was noght to Goddes pay." While riding one day he came across a leper who sought alms. As soon as he saw the leper, he had pity; he not only gave him food and clothing for life, but built a place where the leper remained until death. It happened that, after both had died, a monk of Clervas saw the following one night.

Many were being judged before Christ in his throne. Next to Christ was seated the same leper--his reward for suffering patiently. Then two black dogs hurled Theobald down for judgment:

And als sune als Sir Tebaud come
He was ateynde of tresowne
And of wrangwise desirysowne,
For he had, als are said I,
Desirit a knight wrangwisly.

He was condemned to hell, but the leper asked Christ to forgive him.

'Sen he to me slike dedes did,
His mede, Lord, lat noght be hid.'
Of Thuebaud had God mercy \pan
Thurgh prayer of \pat pouer man.

Often the literature of mercy features the suffering, helpless members of society, and the powerful being taught a lesson. The latter come to realize the value and purpose of merciful behavior both for the donor and the recipient. Such is the exemplum of Constantine and the Innocents. The Emperor Constantine was told that his leprosy would be cured
by bathing in the blood of children aged less than seven, so he ordered a sufficient number brought to him. But when he heard the cries of the children and their mothers, "pite" was engendered in his heart and through "charite" he countermanded the order. He forsook all physicians but God. When the women prayed for him, God responded:

As he which doth al equite.
To him that wroghte charite
He was ayeinward charitous,
And to pite he was pitous:
For it was nevere knowe yit
That charite goth unaquit.

God cured him of his leprosy and sent Pope Silvester to instruct him concerning salvation.

The elements of motivation and intent became increasingly important through the fourteenth and fifteenth centuries. The Parson's Tale, closely patterned after one of the popular works designed for the clergy, describes mercy as "a vertu by which the corage of a man is stired by the mysese of him that is mysesed. Upon which miericorde folweth pitee in parfournynge of charitable werkes of misericorde." Mercy leads one to pity and compassion, "to lene and for to yeve, and to foryeven and relese." The insistent statement is often found that the man who does not truly forgive prays against himself when he says the Pater Noster. Compared to some thirteenth-century works which describe external works for the penitent, a late fourteenth century piece insists that for remission of sins one must be fully contrite, inwardly sorry
for sins, and intend to sin no more. Another sermon, from the early fifteenth century, enters into some of the finer meanings of intention and charity during a discussion of covetousness. One's intent is valueless if the coveting persists. Jacob's Well treats the subject of contrition in great detail. Much emphasis is placed on individual feeling and intent; good intentions must guide one to make amends. Sometimes this focus on intent almost seems to negate the value of the good works performed. A man who sins "haſ no power to paie it, for in al þis lif, þeyz he myȝt lyue an hundred wynter or more, je ne myȝt not do sufficiauntly penaunce fo on dedly synne...." The same work later insists that, in forgiving wrongdoers, it is the true feeling and not the outward action that has worth, for "God weieþ þe gifte after þe wille."

Royal men and women are often found in tales about mercy similar to the ones above; yet they also are associated with other forms of mercy, too. Medieval literature abounds with examples of pity and compassion moving a king or queen to mercy. Chronicles frequently show royalty whose generosity of heart moves them to help their subjects. Eleanor of Aquitaine selflessly attempts to protect her peasants from the dreadful effects of the interdict. The supplications of a pregnant wife apparently were known to touch the heart of the king, so that pardons were given even when the husband was a hardened criminal. Situations in which a queen begs her husband
for mercy on behalf of others are also common. The case for royal compassion and mercy in judgment is eloquently put forward by Alceste in the Prologue to The Legend of Good Women. She interrupts the god of Love's angry condemnation of the narrator, reminding him of his obligations in judgment.

For he that kyng or lord is naturel,
Hym oughte nat be tyraunt and crewel,
As is a femour, to don the harm he can.
He moste thynke it is his lige man,
And that hym oweth, of verray duetee,
Shewen his peple pleyn benygnete,
And wel to heren here excusacyouns,
And here compleyntes and petyciouns,
In duewe tyme, whan they shal it profre.
....
In noble corage oughte ben arest,
And weyen every thing by equite,
And every han reward to his owen degre.19

Royal mercy could take the form of simple largess. This is typified in the following anecdote from Walter Map's De Nugis.20 The chamberlain of Henry II drew an amount of wine for the king every night. Since he rarely asked for it, the chamberlain and pages drank it. One night, Henry called for the wine and the chamberlain had to confess the truth; he begged for the king's mercy. Henry told him to draw two draughts in the future—one for the king and one for the chamberlain and pages. His royal mercy was such that he forgave and then even rewarded his man for his honesty. More often the mercy of generosity is part of the complex funtions in the relationships between the powerful and their supplicants. Mercy appears in chronicles as a pardon for a social or political offense in the context of
war or power struggles. In the late twelfth-century chronicle of Jordan Fantosme, all references to situations involving mercy are framed within conflict: the disadvantaged party seeks quarter or attempts to establish a truce.21 This sense of mercy lasts down through the sixteenth century. It is common in the Brut, a very popular chronicle with continuations in the fourteenth and fifteenth centuries, later used by Tudor historians. Some portions of the Brut detail the procedures pursued by those wanting to re-establish peaceful relations with the king. Here we see the sort of gifts and promises that were offered, and expected, to demonstrate good intentions and the desire to make amends.22 Devotion or service to powerful individuals also meant that one could call upon them to act as intercessors when mercy was needed. The Chronica majora has numerous stories that show the importance of service to a powerful family able and willing to intercede with the king. Such is the case of Philip Lovel, who had been in service to the king and at least twice accused of corruption. He managed to be restored to his office through the petition of the King of Scotland, and the second time avoided punishment through the assistance of the many people for whom he had done favors.23 The Westminster Chronicle, a work from the late fourteenth century, also details such incidents. When John Northampton faced Richard II on a variety of charges, he almost ended his life as a result of his undisciplined behavior. But to his fortune, the queen was present and
chose to plead for his life by throwing herself at the king's feet. Northampton's connections saved him in the end; the chronicle describes how others intervened to secure royal mercy. A passage from Froissart's *Chronicles*, concerning the surrender of Calais to Edward III, clearly indicates the circumstances in which mercy was granted in political struggles as the result of intercessory pleas. During the course of negotiations, in which six of the city's burghers give themselves up to Edward's will in order to preserve the city, Edward's messengers frequently state that they will ask the king for mercy. The king denies their requests, and the burghers only are spared the execution that Edward demands when Queen Phillipa--advanced in pregnancy--throws herself at her husband's feet, praying for his mercy.

The character of mercy for those seeking divine pardon is not dissimilar in exempla from the twelfth and thirteenth centuries. The Church fostered the notion that one could be saved by devotion to not only God but to heavenly intercessors such as the Virgin and saints. Typically, the emphasis is not on repentance and forgiveness; rather, the sinners persist in their loyalty to a heavenly figure and are rewarded for it. For example, a thief devoted to the Virgin was hanged, but she held him up by his feet for two days until he was finally released; he then became a monk.

A corrupt judge, when facing God for judgment, was not only spared from damnation by the intercession of St. Preictus
but restored to life. Actual deeds are given little weight; it is the fidelity or devotion of the supplicant that earns the grace.

Almsgiving and charitable works motivated by pity, and pardons given out of compassion or religious devotion might seem to dominate the literature of mercy. Yet the most typical representations of mercy involve forgiving a dispute and forgoing vengeance. Perhaps this is best characterized in the exemplum of the Forgiving Knight. Two knights got into such an argument that they killed each other. Each knight had a son who swore to obtain vengeance. Eventually one drove the other into a castle where he was besieged for twelve months, so that he was unable to go to church for mass or matins. On Good Friday the knight in the castle saw men going barefoot to church, seeking mercy for their misdeeds. He decided he must do the same. While on the way, his enemy came against him and declared he must die. The knight fell on his knees and begged for mercy in Christ's name. "Y putte me now al yn Þy grace / Þat goddys grace be on Þe lent / At Þe day of iuggement." The enemy forgave him and they went to the church together. As was the custom on that day, each knelt before the cross to kiss it. When the forgiving knight did so, the figure came loose from the crucifix to embrace him. This exemplum enjoyed great popularity throughout the middle ages. All versions offer at least a brief explanation of the meaning, such as this one:
Ye may undelette that oure Lord aboue
Is highly pleased and best apaid
Whan men chaitable togedre loue;
In the Paternoster ye may it prove--
Whoso woll forgave shall haue relese
Of all his synnes bothe more and lesse. ²⁸

This commonly shared belief in the value of reciprocal forgiveness of enmity is found untold times in the chronicles. For example, here we see the role of mercy in making peace. The Earl of Pembroke, accused of avenging his brother's death, returned to court to make satisfaction to the king. At the same time, the Justiciar of Ireland, the one accused of killing the earl's brother, also came to court, seeking to be reconciled with him. The king agreed to mediate, with the goal of establishing peace. He told the earl that he was unworthy of his pardon unless he granted the same to the neighbor who was a supplicant, and was willing to clear himself of the crime. ²⁹

The exemplum of the Forgiving Knight embodies the most common attitude about mercy found in this literature. It is a *quid pro quo* that all can understand. The story is an embodiment of Christianity's basic teaching about mercy, and one that greatly benefitted society. The modern reader tends to assume that Christian mercy meant charitable alms given out of pity with no thought of reward except the knowledge that such works might assist in attaining salvation. Yet in these works mercy most often appears in the guise of pardon for an injury received or clemency shown to an enemy. The reciprocal element was strongly
emphasized. There was a patent acknowledgement that granting such forgiveness was motivated not by altruism but the desire to mitigate the destruction of vengeance and the intention call on an obligation if necessary in the future. This is mercy in its social function. Still, the hope of achieving the spiritual benefit always was there. The unceasing message behind all these descriptions of the operation of mercy is that one must be merciful in order to obtain it oneself. Mercy in its many forms was requisite for salvation; it paid off in this life as well as the next.

II

The Church acknowledged that there was more than one reason to be merciful. Ideally, people would imitate divine mercy out of love and appreciation for the forgiveness God had extended to man. Yet the clergy fully admitted that there were other more selfish reasons prompting people to be merciful. Mercy shown to one's neighbor would earn God's mercy at the time of judgment. The threat of Doomsday was used to inspire merciful behavior. As an incentive toward living a Christian life, all were reminded that the reward would be great, in this life and the next, for those who followed Christ's teaching. The expectation apparently was that most men and women would not be inclined to altruistic treatment of others; they needed the motivation of reward.

There were exempla meant to inspire a more elevated and selfless approach to mercy, such as the parable of the Prodigal Son. More common were lessons, such as that of the
Debtor Servant, that inspired anxiety or fear about one's fate. The exempla featuring those who despaired of God's mercy and those who were not properly or timely repentant were intended to instill the dread of God's judgment and urged counterbalancing sins with mercy. The Pricke of Conscience concludes a description of Judgment Day, which largely focuses on the horror of it all, with this:

Na man parfor suld in dispayre be; 
For alle yat has mercy here sal be save, 
And alle yat here askes mercy sal it have, 
Yf yat it sekes whilles yae lyf bodily, 
And tweuely trayste in Goddys mercy, 
And amende yam and yair syn forsake, 
Byfor ye tyme ar ye dede yam take, 
And do mercy here and charite, 
Yan gette yat mercy and saved sal be. 
Bot if ye dede byfor haf yam tane, 
Ar yat haf mercy, yam gette yat nane, 
Bot redure of right wysnes anely, 
For yan sal be shewed na mercy.

But the most frequent approach simply was to draw a parallel between merciful treatment of one's neighbors and God's gift of salvation. Mercy is one of the most common topics in a collection of orthodox sermons from the first half of the fifteenth century, and its value is presented in very plain language. For instance, a sermon on the theme Redde quod debes concludes:

Yan and we will haue mercye of God for oure detys, we muste haue mercye on oure even-cristen of here dettyes. And iff we so do, 
Yan we shall haue grace here of good lyvynge, and whan we goye hens, ioye euerlastyng.

In the Book of Vices and Virtues, there is a discussion of the things that move a man to mercy, followed by the fruits of mercy--forgiveness of sins and unfailing profit. "First
Whatever the motivation used to inspire merciful behavior, Christianity's demand for mercy was unwavering. The clergy took an unequivocal stand:

For, what maner vertu yat a man haue, but yf he be yn charyte, hit stondys hum in no vayle; for pogh he wepe and crye to God: whyll he ys wythout charyte to any of hys euen-cristen, God heryth hym not.

The reciprocal nature of Christian mercy, this quid pro quo of consideration for others in return for eternal life, had concrete results in terms of the well-being of society's less powerful members. But the Church was not only interested in the physical welfare of its people. This persistant goading and demanding was for two types of mercy. Popular literature did demand charity, but the most common expression of mercy in these sources involves the reciprocal pardon of enmity. Although the reward was to be spiritual, the texts frequently acknowledge that pardoning an enemy or transgressors also served to stabilize community relationships.

An awareness of the destructive nature of wrath is prominent in the literature. A verse sermon on the Pater Noster from the late twelfth century states that if any man does us wrong, we desire to have him put to death. Mirk's Festial contains a vivid and detailed explanation of the fifth petition of the Pater Noster.

An yn yat ze don mercy, ze sleyne Pe foule synne of dedly wrath, yat is so full of
vengeans and cruelte of maleyse, Þat hit woll neuer forçeue, but algate do Þe vtmasst and Þe vengeans Þat he may. Wherfor he schall haue no mercy yn Þe day of dome....for dome wythout mercy schall be don to hym Þat doþ eno mercy. 55

Mercy was the antidote to the sin of wrath, the vice that fomented strife between people and resulted in the destructiveness of vengeance. Such forgiveness benefitted the forgiver and the offender. A late twelfth-century homily suggests, among constructive acts for the penitent, reconciling with those at enmity as much as possible; this is true charity, and protects the soul of the penitent and of the others in conflict with him. 36 Another homily specifies the spiritual benefits of this mercy Christ requests. Although many may say that under the old "eye for an eye" laws, no one would dare to trespass, God set his law of mercy for our own good. For if you return evil for evil, the anger between you only grows, each sins more and reconciliation is delayed. Under Moses' law, a sinner was tormented to death and unable to expiate the sin. But Christ gave us a gift—we are able to make amends willingly. 37

Here is the means for avoiding strife. People were asked to treat others as they wished to be treated, and to resolve contention for the good of their souls and to benefit the community. There are few exceptions in devotional literature to this formula for secular harmony. 38 The sources generally emphasize the corrupting effect of social discord. A Good Friday sermon, after discussing
Judgment Day in terms of the corporal works of mercy, closes by reminding listeners to come and kiss the crucifix if they are in discord. "He who has discord with any man is like Judas." A sermon for Easter, from the same collection, states that all must reconcile with those in discord before receiving the host, or they bring judgment upon themselves. The priest is shown his obligation here. "In comonlynge it is grete nede pat the prest make a sermon to the peple, in the whiche he may move ye discordynge vnto a-corde, pat the discordyng ne comone noȝt til tyme he be reconsilid to his brother." Not only the priest is obliged to promote reconciliation. Another devotional work includes in a lengthy review of venial sins the failure to accord those "at debate." The author of a Wycliffite sermon was much more explicit about the form that this obligation to pardon took in every day life.

And ȝif ȝi broþur be fer fro ȝe, Godes lawe is so resonable pat hit suffise? Pat ȝow go owt of yre and be reconciled in herte wiȝ hym, and in hool purpos to maken assêp also sone as ȝow goodly maist. By ȝis lore may we see how fer hit is from ȝe scole of Crist for to chiden or to plete or to fiȝte as men now doon.  ⚹

In another sermon collection the preacher acknowledges the crucial role of restitution in this process of reconciliation:

And ȝif a man haue a-noþur mans good wrongefully, ȝan he is giltye in ȝis synne. He may neuer forȝeve anoþur mans dette pat he awys hym ne trespase ȝat is down aȝeyns [hym], as longe as he so holdeþ oþur mens good wrongefully. He ȝat dose ȝis may not goodly aske forȝeuernes of God for ȝoȝ trespasses ȝat he haȝ don to hym.  ⚹
This is underscored by following up with the parable of the Debtor Servant.

*Jacob's Well*, a homiletic collection for the mid-fifteenth century, reveals a particular awareness of contention and disorder in the secular community, of their consequences, and the element of reconciliation. One section analyzes the forms and degrees of wrath: private hatred in the heart, silently biding time until it can be avenged; malice of the mouth; fulfilling wicked will of the heart in vengeance; hasty or fierce vengeance, without any advisement; manslaughter, including defamation; complaining against reasonable chastisement; blasphemy--speaking against God in tribulation. The approach to working out forgiveness between people is more subtle than that found in most sources. For example, it explains that there are two ways to forgive a wrong. First, if there is rancor in the heart against a transgressor, one must let it go, even if not asked for forgiveness. Wrath in word or deed must be forgiven if one is asked for forgiveness. But a man is not bound to drop and forgive a rightful and lawful action against an adversary, though asked for forgiveness, unless the other will "make ye amendys vp his powere." In this last case, one does not need to forgive in order to secure salvation; however, to forgive the quarrel and action, to be the first to forgive and pursue an accord, earns two Crowns in heaven--one for having suffered wrong, the other for being the first to pursue an accord. *Jacob's Well*
acknowledges the complexities of fitting Scriptural injunction into the realities of life. It contains a forthright statement about those who break the peace. This is not about discord between neighbors, but the excommunication of lawbreakers. Those who trouble the peace of the king and his realm are cursed, as are any who plot or act against the king, queen, or their children. This includes not only common risers against the peace, but all open thieves and others who impugn against law and the right of the king and his realm.44 This is one of the rare instances in these sources in which anxiety about the violence of life in late medieval England directly showed in a homiletic work.

This use of mercy to maintain peace is not something advocated only by the Church and in devotional works. Time and again, chronicles recorded the circumstances under which men were reconciled with their enemies, the community at large, and the king. The following examples show some of the elements of reciprocal pardon, the important role of restitution, and convincing representatives of the community of one's contrition and good intentions. These entries bear out the reality that the Forgiving Knight tale had for medieval audiences. When the Earl of Pembroke wanted to return, he offered to clear himself of charges and make satisfaction to the king before the whole court. The king's brother interceded for him; it was thought that he also obtained favor by presents to the king. The justiciar of
Ireland was also prepared to clear himself in trial before king and court. Although he had a clear conscience, for the sake of re-establishing peace, he promised to found a convent for the benefit of the soul of the slain. The passage is concluded by the observation that the intervention of the king and nobles, and the justiciar wisely humiliating himself, brought about peace and concord. The *Westminster Chronicle* has a more dramatic scene. Sir John Holland, the half brother of Richard II, had killed Ralph de Stafford. When brought before the king he was arm and arm with the archbishop of Canterbury and the bishop of London. Three times before reaching the king he flung himself to the ground. Finally, on his knees, he stretched up his hands, cried and begged the king for mercy. Some of the observers were in tears. The bishops knelt by his side. The king, moved by compassion and the prayers of the nobles present, pardoned him. Holland had come to an agreement with the family about what he would do for the soul of the slain youth. Not long after this, Holland was given all that he had forfeited because of his misdeed. A chronicle from the late fifteenth century describes a situation involving a number of people on both sides. The young lords whose fathers were killed during the battle at St. Albans came to London, but they had to lodge outside the city; the citizens would not receive them since they came with great power and against the peace. The men whom they sought to destroy were inside the city. Some bishops and
other lords "tretyd betwyxt theym of the pease and accorde, and after long trete bothe partyes submitted theym to the laude and arbytre of the kyng and hin counselle." The settlement included payment and prayer in recompense for the deaths.

The dictates of religion were echoed in social practice, at least so far as believing in the utility of pardoning wrongdoers. We have seen in the descriptions of the practice of mercy the basic forms it took in secular society. The reason why mercy was ceaselessly enjoined is obvious: mercy earned salvation. Not only that, merciful treatment of others sometimes was said to improve even life in this world. Certainly, the literature does show mercy taking the form of almsgiving or pardon motivated by Christian love. However, there is always the blunt assertion that giving alms or pardoning a transgressor will result in a beneficial return on the effort. The currency of stories such as those of Theobald of Blois and the Forgiving Knight reflect a belief in the practicality of mercy, in the rewards that reciprocal pardon had for the individual as well as the community. The ideology of mercy proclaimed in the allegory of the Four Daughters of God is voiced persistently in medieval literature. Nowhere is the reality of this ideology more apparent than in the chronicles. The importance of reconciliation is repeatedly endorsed. The king, especially, serves as a facilitator in the attempt to restore order. When promises of contrition,
restitution, and amendment are ventured, parties can be reconciled and the king may grant his pardon in the effort to maintain peace.

III

This discourse on mercy has a continual interest not only in mercy's role in judgment, but in questions of secular judgment—how to judge, who should judge, when it is appropriate. There is an unexpected intensity of interest in the subject, and its social applications intrigued contemporary writers and audiences to a surprising degree. The relationship of mercy and justice that can be uncovered in this literature has some unexpected facets. Based on what has already been discussed here, it is not unusual to find that they thought mercy should be given precedence over justice, and that mercy should be used to quash vengeance and maintain order. But it is notable that throughout the period men were struggling with the conflict between the necessity for authority to pass judgment on society's transgressors and Christianity's obligation to refrain from judging. They were acutely aware of the problems facing secular judges in a Christian culture. This resulted in recurring apologetic explanations about how people were to judge one another. The literature of mercy contains repeated efforts to determine how punishment might be justified.

The purposes and benefits of forgiving others were clearly given. Whatever one did, or refrained from doing,
to others, one could expect the same in return. This included not only pardoning those who had transgressed, but also refraining from judging others. For some, it was a very simple equation.

Saint Luke vs kenes, als he wele kan,
Bese mercifull to ilk a man
Pat in pis werld er lifand now,
Als pe Fader of heuyn es vnto zow.
And luke ze iuge, ne deme no man,
And ze sal noght be demid fan.
Als ze zowre domes till ojer zemid,
Right so sall zoureself be demid.
Pat mesure sall ze haue by dett,
Als ze haue vntill ojer mett.
Als ze till ojer men do now,
Pe same sal be done vnto zow. 48

In this popular literature there is an obvious attempt to discourage the seemingly inevitable desire to pass judgment on others. The basic desire for revenge was recognized, and medieval Christian culture attempted to diffuse the escalation of reciprocal violence by threatening the respondent with punishment in the next world. Similarly, people were encouraged not to assume that they knew the intent behind another's action. This also was an attempt to obviate what might well be a very destructive response to a perceived wrong.

Mercy's part in the efforts to preclude vengeance, or repair the damage it caused to the community, are obvious in chronicle narratives that detail destruction following on the denial of mercy. One such tale concerns the King of France and his knights while on crusade. A jealous counsellor derided one of the knights. An argument broke
out; the knight was insulted; his son, in a rage, stabbed the offender and ran to a church for sanctuary. The father begged the king for clemency and pardon, and promised to submit himself to the judgment of the king's court. The king said he should find proper securities. While he did so, the son was dragged from the church by the king's agents, and hanged without trial or judgment. The knight returned with securities and saw what had happened. He voiced his shock at the king's lack of reverence for the church and justice. He resigned his homage and went to join the army of the pagans, afterward devoting himself to revenge which did great injury to the king. Another chronicler described the usurpation by Edward III, and the later strife between Lancastrians and Yorkists as part of the great vengeance that came on England; this was the result of the merciless judgment of Thomas of Lancaster by the deceived king, who was misguided by false counsellors.

Rejecting the desire for vengeance had spiritual benefits. One of the early sermons explains, in the context of patience, the necessity of avoiding revenge. Patience is defined here in terms of not seeking vengeance and tolerating an enemy's offense; it is a virtue that preserves the soul. The same message is echoed two centuries later in a Wycliffite sermon. Worldly warriors take it that they should harass their enemies however they can and hold it righteous to do wrong to another. But this is wrong in
God's law. Men should render not evil for evil but charity for evil. Men should forgive and not take vengeance. Men should forsake battles and "stryuyngus in ple." God said that he has reserved vengeance for himself. A mid-fifteenth century text instructs that meekness results in benevolence of deeds to one's neighbor; these are part of the composition of peace. Men are not to harm those who harm them, for that would be debate and not peace. Evil should not be returned for evil. It belongs to God to take vengeance. The working of peace will help to find obedience, to God, Church, and superiors. The promotion of forgiveness was an attempt to contain the disastrous effects of a decision to mete out punishment to an enemy or wrongdoer.

However, this hardly means there was a general agreement that judgment and punishment should be withheld. The necessity of judgment was accepted; the sources were engaged with questions of how and when men were to judge one another, and especially how secular officials were to judge others. Focused attention to these questions begins to appear in the sources in the mid-fourteenth century. As usual, the homily collections have the most to say.

No gude man suld snib his felaw
With no chisening ne missaw,
Or he wit wheyter Pat misdede
Be done by will or els for nede,
For many gude dedes euell semes
To euil men Pat lightly demes.
The most prominent concern was that men would base their judgments on the wrong grounds, on false or misleading elements, or really have no understanding of the crucial issues. And how to avoid these problems? Well, the advice repeatedly offered, as with mercy, is to pattern one's actions after God's.

For many men wenen to be merciful to yppocrites, and ßei don harm to men to whiche ßey wenen do profizt. And many men wenen to iuge ßer breßren, and ßet ßei iugen falsely and cruely of many. And yche man schulde tempre such iugement afthy God, for God in his iugement may not faylen from resoun.

A more useful distinction is made between judging the actions of a man, and judging what was in his heart. One preacher treated this subject at length. He informed his audience that it is foolish to attempt to judge the heart of another. This is for God, who warns us against it. Men judge by appearance and out of envy; God judges righteously. Man can also, if acting in the fear and love of God. But men are covetous and many judges are bribed.

Foly demynge is to deme a man of suche ſinges as he knaweß not of--the privete of mans hert and is dedis--for ßer knowes no man to what intent, with what temptacion, with what ſebulnes, or what forſyingynge ſat he hath for itt.

Though intent, motivation, and circumstance receive much speculation, almost nothing is said about passing judgment based on the transgressor's behavior. This unelaborated remark in a sermon is one of the few related comments:

Ze shall vndirstond ſat ſer ben ii maners of demynge, Pe wiche men vseß in ſis world. Pe first ys opon demynge, and ſat is of synnes apertly
This preacher also wanted to clarify how this first sort of judging was to be done. Christ said that if your brother trespassed against you, first correct him between the two of you. 

"And yeus may euery bro\puras deme o\puras when yat he do? amys and when you knawist yat he synnes a\zeyns Goddes will."

But there was one crucial factor that would keep judgment of a neighbor from being folly. 

"And yeus men may deme ryghtfull,y, but euermore with mercy and charite it owith to be don."58

We see here an important facet of the medieval representation of the relationship between justice and mercy: the acknowledgement of the need to judge others is accompanied by a justification for passing judgment. These sources contain *apologia* for not always choosing mercy over justice. Although there is an occasional reference to this problem even in works from the late twelfth century, they really are found in force a generation after the Black Death. Side by side with passages on the command to refrain from judging the behavior of another are those which try to provide a rationale for condemning others. The reasoning takes two tracks. The first is based on Matthew 18:15-17, which discusses the disciplining of other Christians. The second presents this as an obligation, curiously enough, that is one of the spiritual works of mercy. The bifurcation of the works of mercy into the spiritual and
corporal allowed one to fulfill the injunction to pardon wrongdoers, and at the same time righteously punish them.

This justification is adumbrated in an early thirteenth-century sermon. It solves any difficulties by reminding the audience that what they are to love are the souls of evil-doers. They are to hate the deeds of housebreakers, robbers, and thieves who will not change their ways, and put a stop to it, if possible, according to the law of the land. If the felons will never abstain nor repent, it is proper that they be punished, because it is better their bodies be punished than their souls perish in the devil's hand. But the topic is not given any real consideration until the mid-fourteenth century. Some texts sidle up to the problem. The Pricke of Conscience includes the following in the section on Judgment Day. The inner and outer man are the soul and the body; we must account for both. We must account not only for ourselves, but for those under our care; that is, neighbors one failed to succor, parents for children they did not chastise, lords for their households. We are all the limbs of one body, obliged to render mutual assistance. Other didactic works present chastisement as a spiritual obligation. One sermon informs the audience that since no man knows himself to be without fault, a man should not just keep quiet and let wrongdoers work their will. This is because St. Bernard taught that if you see a man make an error then fail to make amends, you should do as Christ bid in the Gospel: chastise him with
charity privately, and if he ignores this, take two or three with you to bear witness to this effort. If you do this, you are not responsible for his sins, and you will be rewarded for your deeds. In the section on justices, the Speculum Christiani insists:

Truly, ἢ be not more innocent if ἢ suffre ἢouer brethire to perrysch, which ἢ many correcte in schewynge here defautes....He that chastisez ἢ not hym that erres, he schal be demed of negligence; and he that prayez not priuylly for hym schal be condempnede of wickednēs and noyance.

The chastizing and the punishment of others are presented as charitable favors. Each man should pity another who is ill, and help him just as all limbs ease another when it is sore.

By ἢis vnderstand we wele ἢe slothe of rightwysnes to fele, Thurgh whilk men shuld ay be besy ἢe misdoers for to chasty, And ἢar sugettys ἢat duse ille, Men shuld puncy by law and skylle, And thole is neghure nozt be schent, Bot bryng him tille a mendment.

Every man should save another for the love he has for him. But of course there were always warnings about the importance of the intent that lay behind the punishment. It was not to be done out of zeal for vengeance or without the authority of God. It was easy to lose sight of the Christian way to chastise: "as many seien ἢei punyshe men for loue of ἢer amendement, but ἢei holden not ἢe forme of punyshyng as Crist heeld. Prechyng and paciense shulde be menes to scumfite synne." These rationalizations of the means and circumstances of judgment took a special form when it came to the topic of
secular judges. Here the problematic relationship of justice and mercy in human society came into focus. Judges were deemed to have specific duties and obligations as representatives of the Crown that distinguished them from all others in society. These sources directly address the question of how justices are to judge. One sermon given in the late fourteenth century underlines the fact that these warnings about judging others applied to those in public office as well as the average man; there were additional strictures as well. At the final judgment those who "kepynge ha\' of eny comunyte", such as kings, mayors, sheriffs and justices, must account for themselves and those under their care. Did they oppress the people, did they "take giftes to spare to punysche filke yat haued trespassed and so make\' hem partineres of here synnes"? Such men do not think they are the poor men's brethren; some, when judging in the causes of poor men, considered them in a harsher light because of their poverty, or favored the rich man for his wealth. The preacher decried the abuses in the secular and Christian courts. "But it is to drede ye word of Crist: 'In what dom z\'e deme\' z\'e schulle\' be demed' whan z\'e comen to zelde rekenyng of zoure baylie." Here once again the final judgment and salvation are kept firmly in view. The Speculum Christiani includes a fairly lengthy treatment of the subject.

It es writen: God schal zelde eche man afthyr his werke. If we be iuges, we owen to deme iustily and hardyly. Iustly that we oppresse not the pore man vnryghtfully. And hardyly that we drede not
vnwarly the myghty and rych man. Iuges ben ordeyned
to do rygour and veniaunce on wyckede men, and to
praysynge and defens of gude men.66

Therefore no prince should put fools or ungodly or cruel men
to be judges, since a fool cannot distinguish right and an
evil man subverts truth by his covetousness. "Knowe wel
that mannes doome is peruerted by foure maners: bi drede, bi
couetyse, bi hate, and bi loue."67 Elsewhere the discussion
about the requirements for being a justice comes in the
section devoted to the gifts of knowledge. The audience is
instructed that:

to iugge wel it bihoue? pat a man afferme noPing but
he haue wel enquered, and pat yer be no doute yer-ynne,
and pat a man entermete hym not to jugge pat pat
longe? not to hym, as pryue Yinges, as ententes of
mennes hertes or wommannes, and Yinges, pat a man
may not fynde on ri3t half ne on lift half pat any
man may vnderstonde what yei wolde mene, wher-of Yis
spirit bi Yis zifte make? ye resoun jugg wel.68

A sermon from the 1380s reminds justices as well as rulers
and their officials "?if yysel? do vnlawfulliche in demynge
ofer men, you dampnest yysel? si? you dost pat you
dampnest." Repeatedly, they are warned that they themselves
must live good lives if they are going to govern and punish
other people.69

Despite this insistance on mercy, the explanation of
the judge's role in society is accompanied by the assertion
that it is righteous for a judge to slay a wrongdoer, and in
fact is was merciful in terms of the whole society. The
notion is found, for example, in the Parson's Tale,
Confessio Amantis, and especially Dives and Pauper. When
the Parson explains how homicide and manslaughter are the
result of wrath, he reminds his audience that there is a
lawful manslaughter: "That oon is by lawe, right as a
justice dampneth hym that is coupable to the deeth. But lat
the justice be war that he do it rightfully, and that he do
it nat for delit to spille blood, but for kepynge of
rightwisnesse." Dives tells Pauper that three things are
needed for the killing ordered by a judge to be right and
lawful. The cause must be just and the man worthy of death;
it must be done in just order and by process of the law; the
death should be because he was convicted of his trespass.
The intentions of the judge and officers must be righteous,
so that they kill him for the salvation and example of
others, and not from vengeance or cruelty. When the guilty
man is killed righteously by the law, man does not slay him
but acts as God's officer and minister. God is the judge
and man only does his bidding. Gower had his Confessor
explain that a judge must carry out the sentence on a man
guilty of treason, murder or robbery:

For who that lawe hath upon honde,
And spareth forto do justice
For merci, doth noght his office,
That he his mercy so bewareth,
Whan for o schrewe which he spareth
A thousand goode men he grieveth:
With such merci who that believeth
To plese god, he is deceived,
Or elles resoun mot be weyved.

The law has been that a king's sword is a sign he shall
defend the "trew" people and make an end to those "as wolden
hem devoure." To succor the law and keep common right, a
man may slay without sin, "And do therof a gret almesse, / So forto kepe rihtwisnesse."\textsuperscript{73}

Yet these descriptions of condemnation and punishment as charitable acts stand in direct contradiction to the moral of other tales. One of the most prevalent attitudes about mercy is typified in the exemplum of the Merciless Judge, which enjoyed constant popularity from the thirteenth century through the fifteenth century. \textit{Handlyng Synne} contains an excellent version. There was a justice about whom everyone said he gave hard and wrong judgments. Good men often asked him, on behalf of the poor, to have mercy on them. "And pyll hem nat but mesurly, / That they myghte lyur un pees by hym." The justice always said, "'Y shal do hem no kepyng but lawe.'" However, the narrator points out: "And many lawes are out of skyll / But yf pyr be mercy tyll." Not long after this he fell terribly ill. Those who sat by his bed saw he would die soon. He tossed violently and cried to the Lord for mercy. A voice in the sky spoke and all who stood by heard it: "'Pou haddest neure of man pyte, / Ne y shal neure haue noun of Pe.'"\textsuperscript{74} God clearly demonstrated his feeling about those who adhered to the letter of the law. This type of tale also includes judges who were corrupt, who were

\begin{quote}
...in maner of a Iuge in vengeaunce feiers; 
He wrought be wylle, were it right or wrong. 
He had no conscience a true man to honge, 
And suffre a theif his lyf to purchace, 
To put in exile all mercy and grace.
\end{quote}
For this they received the eternal "stynkand sauour" of hell without mercy.\textsuperscript{75} This condemnation was not reserved only for judges. One section of Handlyng Synne includes others who have the power to pass judgment on their fellows. Mannyng wrote of doomsmen: "\textit{Fat man \textit{fat deme\textit{al to \textit{Ye ryght, / Of mercy get he no plyght." He also told of a bailiff:

\begin{quote}
For to do veniaunce he was euer bolde,
And whan he shulde deme \textit{Ye ryght,
To felunye he dede hys myght.
.....
Swyche ys goddys ordynaunce,
For veniaunce to take veniaunce.\textsuperscript{76}
\end{quote}

Some didactic works organized around the deadly sins give ample space to the corrupt behavior, not only of judges, but also plaintiffs, witnesses, lawyers, and defendants.\textsuperscript{77}

There is a patent ambivalence in a society that told the tale of the Merciless Judge, and also constructed detailed justifications for secular judgment. It seems that by the fifteenth century the tensions generated by the command not to judge and the need to punish wrongdoers had been somewhat relieved by the notion that the Crown and its judiciary were exempt from Scriptural injunctions to be merciful and not judge others because they were fulfilling other divine purposes. Yet the exempla such as the Merciless Judge suggest that whatever the reasons given for the need to administer punishment, the generally shared belief was that judges must err on the side of mercy. Despite all the discussion of and apologies for the need to
judge men in the here and now, medieval popular literature never wavers on the crucial point: the belief that mercy must remain dominant.

And us men may deme ryghtfully, but euermore with mercy and charite it owith to be don. Dan, Lord, sethe all oure drede hanggyÞ in Þi dome as in Þe last day, gitt Crist putte? Þis dome in-þo oure owne will, Þat ziff so be Þat we deme not folyly oure neygbours, as mucho folke done for hate, envie, and ewill will, we shall not be demed. 78

IV

These sources have the tendency to present the choices available to those judging as only merciless judgment or lax pardoning. They suggest difficulty in conceiving of secular judgment as something that could encompass both mercy and justice. Christianity required men and women to forgive wrongdoers; yet the harsh experience of daily life was often put forward as the reason that laws must be strictly enforced if some level of order were to be maintained. The popular literature of late medieval England indicates that at least a portion of the literate members of society felt the failure of traditional uses of mercy as a means to secure public order. There are occasional but significant changes in the definitions of mercy and justice, and in the king's obligation to safeguard those under his rule.

Throughout the Middle Ages people voiced complaints about serious shortcomings in the administration of justice; these grievances often focused on the royal courts. They are found most often in a particular genre known as
complaint literature. Such pieces must be used with caution because the form required generalized and stereotypical statements about the moral failures of society's estates. We can avoid many of the dangers complaint literature holds for historians by looking instead at chronicles, which also contain commentary on current abuses. For example, here are a few passages that deal with the abuse of the king's prerogative to pardon. The *Chronica majora* recounts an incident in which Henry III extorted money from the Earl of Kent. Seeing that the earl was growing old, the king accused him of serious wrongs so that if he died with such charges pending, the king could confiscate his property and possessions. Although the earl's clerk skillfully refuted every accusation and proved the earl's innocence to all assembled, the pleaders of the bench tried to prove his guilt. In order to allay the king's anger and for the sake of restoring the peace it was decided that the earl should give the king the four castles most valuable to him. In the same chronicle there is the lengthy story about a corrupt sheriff of Northampton. When first tried, the justices would not condemn him because of his power and authority. The king heard complaints about this and sent his own men to hold an inquiry. Since death by hanging was now imminent, the sheriff's wife begged the King and Queen of Scotland to intercede with Henry III. Even though the sheriff was patently guilty, the king did not want to upset intercessors of such standing. He gave the sheriff his
life, although it offended him and he did it under
compulsion. A different sort of misuse of the pardon is
indicated in this entry from the fifteenth-century Chronicle
of London. Richard II maliciously deceived many in this
regard: people who had made great fines and ransoms, and
had purchased patent letters for full pardons got no effect
until they made new fines and ransoms to keep their lives.
Many lost their goods and were destroyed, "which was gret
disgrace and hinderyng bothe to the name and estate off the
kyng." Such objections about the king's use of his
prerogative to pardon do not always assert that venality was
the motive; excerpts referred to in this chapter show abuses
also could have been prompted by political or familial
pressure, or religious conviction. These complaints, and
many others like them throughout the chronicles, suggest
that people felt there was a common understanding about the
proper uses of the royal pardon--though they may have been
hard put to define them. Nonetheless, such discourse on the
pardon served to flesh out a definition of mercy's role in
the law courts and governance of the kingdom.

The medieval sources also suggest that there were
widely shared notions about the circumstances in which the
sanctions of the law should be applied. The next three
exempla (not related to the complaint genre) are
representative of some of the more common types of stories
about justice; all promote the need to adhere to the law and
punish offenders. In addition, they afford other
perspectives on mercy's role in the process of judgment. Mirk's *Festial* retells this tale taken from Ranulf Higden. When St. Wulfstan was visiting his bishopric, men brought before him another man who would never be at peace. They asked the holy bishop to chastise him. After the bishop preached to him all he could, and found him even worse, he prayed to St. Matthew to give the man what he deserved. Then, in view of all, two fiends with burning hooks quickly pulled the man down into hell, "wherby ye pepull was well comfortet, and euer aftyr lyued yn pes and rest."\(^82\) If attempts at reconciliation had been involved, they occurred before the troublemaker was brought to the bishop. The people here are interested in the wrongdoer receiving his just deserts, and securing peace for the community in this way. Another exemplum features a king in his role as judge. The steward of King Philip of France coveted a neighbor's vineyard. When the man died, he went to the grave with two witnesses, put money in the corpse's hand, then took possession of the vineyard. The widow complained to the king; he had the witnesses examined and they gave judgment against her. She wept; the king pitied her and examined the witnesses himself. After separating them, he told one to say the Pater Noster; this was done. He put him aside and called to him the other, saying, your fellow said to me the truth as his Pater Noster; say your truth also--and if you differ, you will die. Because of the king's words, the witness thought that the other told the king what really had
been done. So he told the king what went on and begged for mercy. The king was angry; he restored the vineyard to the widow; the steward and witnesses were burnt.83 There is a noticeable lack of mercy in his treatment of the witness who one might think was worthy of a mitigated sentence since he cooperated and told the truth. But the story, of course, is really about obtaining justice for the king's subject.

Another exemplum, this one from the mid-fifteenth century, also shows the pursuit of justice, but with a notable twist. A great justice, who showed equity to friend and foe, kin and stranger, was lying on his deathbed. While there he heard the crying of a woman in the next room. He asked the cause, but all were afraid to tell him. He threatened to put out his son's eyes unless he told him the truth, and so the son did: the justice's nephew was trying to rape a woman. Although the justice told them to hang him, the sons just helped him escape. The nephew came to visit the justice five days later; as he was embracing his uncle, the justice slit the nephew's throat. Later, the bishop came to give the justice the sacraments at the time of death, but refused him the host since he would not confess concerning the nephew. The justice explained that he did it not for wrath or vengeance, but for equity of rightful judgment; for love of equity and law, and dread of God. Though the bishop refused him the host, it miraculously went of its own accord from the box to the justice's mouth.84 The justice is a hero, because he chooses to deliver, outside the law, the
punishment that the heart of the law requires. This seems
to warn against the evils of lax pardoning. This is in its
way an apology for administering punishment, an effort to
show the necessity of enforcing the law.

There are occasional instances in sources from the
later Middle Ages of mercy and justice being defined in ways
that indicate a reordering of priorities was taking place.
The ideology of mercy wanes in the ongoing effort to
delinate the necessity for justice in enforcing the law.
The presentation of mercy does not change in the context of
religion. For example, a sermon states that it behooves us
to run to the court of mercy and beg forgiveness, because by
right in a court of justice man would never be able to amend
for even one deadly sin. Another interprets the psalm
verse about the Four Daughters as representing the change
from the Old Law to the New Law, and mercy is still
triumphant:

\[
\text{For al } \textit{e rigoresnes } & \textit{te rithwuesnes } \text{at God } \\
\text{vsid } \textit{e Olde Testament, be now i-changed in-to} \\
mekenes & to mercy to vs, } \text{at ben vnder } \textit{Newe} \\
\text{Testament! For } \text{at tyme was e } \textit{e for e } \text{hollich} \\
\text{veniaunce with-owt ani mercy, but now, what so } \text{at} \\
\text{had don, ha } \text{ou synned neuer so sore, trispasid} \\
\text{neuer so gret lich, } \text{schalt ha mercy withoute} \\
\text{ani veniaunce, } & \text{te wilt loulich askyn hit.}
\]

However, throughout these centuries, it is not unusual to
find in this literature a description of mercy and justice
that reorders their divine roles. Perhaps the contradictory
demands of mercy and justice were met to some extent by
separating their spheres and altering the substance of their
meaning. This division was present even in a twelfth-century sermon, which contained such statements: the Lord was merciful when he made Adam lord over the earth as long as he was obedient, and in righteousness he drove him out of paradise; God showed mercy in sending his prophet to comfort the guilty and promising he would deliver them, and God showed truth when he came and performed his promises and delivered mankind by his own death. Occasionally we find the implementation of strict justice rationalized in terms of the need to save souls. Here, a preacher does just that:

Be resoun of mercy stondi? in pis: Pat men myzten do cruelly ßei don iustly for Godis sake to amendment of men. And so men may mercyfully reproue men and punyschen hem, and take of hem ßer iuste dettis for beturyng of ßese detowres. On ßis maner do? God ßat is ful of mercy, and seíp ßat he reprouey chastisu? his wantowne children ßat he loueý.

God's mercy then consists of passing judgment. Mercy is also described as part of the manipulations involved in the display of lordship. Echoes of this are found in a sermon from a collection that is noticeably concerned with the place of mercy in the secular and divine worlds. In this piece, the preacher attempts to explain the paradoxical operation of divine mercy and justice in this manner:

Syre, ßou may asshe why God woll suffre men to leffen ill ßat ben Cristen and so to deserue peyne. Syre, ßou may sey ße, for to shewe is lorde-shippe and ßat he ys lorde of all ße werlde. ßan in ßat, ßat he is lorde--quia Dominus vniuer-sorum tu es--ßan it longe? to hym to be ryght-wisse; ßat is to sey to ßelde goode men good ßinges, and to ewyll men evyll. ßis longe? to ryghtwysnes. ße moste also suffre men to done yll to shew ys mercy, ße wiche is chefe of ys werkes, as Dauid sey?; for ßiffe men trespassed not, ße
neded not to haske mercy. So ṣen for ryght and for mercy and fore oure beste he suffres vs to don evyll; for and we amende, ṣen oure ioye shall be encresed.

This passage has striking similarities to the Tudor monarchs' use of kingship's prerogatives: the Crown demonstrated its lordship through punishment and pardon.

Definitions of justice show more noticeable--and some unusual--changes after 1350. The following two examples are both from fourteenth-century didactic works, taken from sections that describe the virtues. Justice is presented as one of the four cardinal virtues: "Rightwysnes es in ņeldynge every man hys due and in helpynge and sustenyng nedy wreches; and this es to ben had ṣeyn the sotel wyckednes of the worlde." This definition has certain unexpected elements; so does the next:

Iustice make PROT a man lyue ordeynliche amonges opere. For, as Ploteus seip, ṣat is ṣe vertue ṣat make PROT a man werche alwey as he scholde. For sche ņele PROT reuerence to hem ṣat bey aboue, loue to hem ṣat bey bi-side, grace to hem ṣat bey bynefē.

In the first quotation, justice has co-opted one of the characteristics of mercy, helping the needy, providing charity in the face of a corrupt world. This is not a unique formulation of the qualities of justice for the later Middle Ages. The second passage shows a marked concern with social hierarchy and behavior, a concern that features prominently in two works discussed below, Confessio Amantis and Piers Plowman.
Let us return for a moment to the Equitable Judge, which displays an obvious concern for the maintenance of order in society. The exemplum is found in the chapter on the sin of anger in Jacob's Well. Here the reader is encouraged to purge the filth of anger until the secure ground of "equite or euynhed" is reached. Remember, the justice tells the bishop that he acted for love of law and equity. Equity is defined here as the virtue that accords reason with will; "equite in resoun will gouerne ye, yat in wretthe you schalt not demyn ne affermyn a thing, tyl you be syker of ye sothe." Pardon and forgiveness were usually described as the antidote to anger and envy. In this story the justice's action, which was outside of the law, is represented as being reasonable and equitable; it also was given divine approval. The justice's intention was to insure that true justice was carried out. The exemplum portrays mercy for a wrongdoer in a negative light, and counterbalances it by a definition of justice expanded to include the notion of equity.

New formulations of the relationship of justice and mercy being developed in some quarters cast their shadow on analyses of the manner in which the king, who was obliged by custom to ensure both mercy and justice, balanced those obligations and administered the law. This is one of the primary concerns of Gower's Confessio Amantis. An attitude of impending doom as the result of social disorder informs a substantial part of this poem. The prologue and closing
condemn the corruption of all estates and discuss the duties of the king. Seven of the eight books are devoted to a highly detailed review of the deadly sins, in the terms of courtly love, and their lethal effects on men both as individuals and as members of society. Book Seven is a speculum principis, and it draws into focus the meaning of the poem as a whole. Here we find a discussion of the virtues a king must have to rule properly, and in this context, of the relationship of justice to mercy. Justice is again presented in terms of equity.

Gower claims that the five principal points of policy for a king are truth (claimed to be the most important, though treated briefly), largess, justice, pity, and chastity. The confessor explains that the king must not go against the law for love nor for hate. He must first make sure his behavior is right in God's eyes, then he can set the balance of justice in governing. In one of the stories in this section, a good king states: "Yit into now my will hath be / To do justice and equite / In forthingre of comun profit; / Such hath ben evere my delit." Justice again is coupled with equity in the section on 'pity.' A king is urged to be merciful and gracious to his people, not to be vengeful or cruel.

Justice which doth equity
Is dredfull, for he noman spareth;
Bot in the land wher Pite fareth
The king mai nevere faile of love
For Pite thurgh the grace above."
But this contradictory stance is the exception in the *Confessio Amantis*. Throughout the discussion of 'pity,' the subject really is the danger of excessive mercy, that is mercy that interferes with the king's execution of justice in his realm. Gower insists that the king is righteous if he slays in the cause of justice: "For if Pite mesure excede, / Kinghode may noght wel procede / To do justice upon the riht." The king is obliged, in the interests of justice, to slay those who deserve it. "Bot above alle in his noblesse / Betwen the reddour and pite / A king schal do such equite / And sette the balance in evene." "If" is a crucial word in the next passage. The fact that mercy must be joined to justice indicates that it is not the virtue which must take precedence in royal rule.

And every governance is due
To Pite: thus I mai argue
That Pite is the foundement
Of every kinges regiment,
If it be medled with justice.
Thei tuo remuen alle vice,
And ben of vertu most vailable
To make a kinges regne stable.

There is a marked increase in medieval literature, in the period after 1350, in expressions of the anger engendered by the king's misuse of his prerogative to pardon; there is also anger at his failure to distribute the justice required of his office. Mercy was valued and desirable, but not when it was used to despoil, or resulted in the failure to punish the wicked. In this literature, the meanings with which justice and mercy, and many
associated terms, were laden are not always clearly distinguished. However, in late medieval England, the approval of punishment was moving to the fore. Generally speaking, the changes are discernible a generation after the Black Death. Justice is described in a way that justifies its use to maintain order. Increasingly, the characteristics of mercy—and other virtues—are co-opted and made subsidiary to justice. Justice appears in the light of equity. This sort of justice is presented as an element of lordship. These newer formulations assert the necessity for administering judgment and punishment in ruling the kingdom. Let us turn to a poem that features justice and mercy among its fundamental concerns so we may consider these changes in detail.

V

Piers Plowman was one of the most popular works in England in the later Middle Ages. Although it is at the risk of ignoring the spiritual complexity and disturbing vision of the work, the poem can be read as an attempt to solve the paradoxes of the relationship of justice and mercy in the secular as well as the divine sphere. The writer was consumed with questions about the failures of justice and mercy in contemporary England, about their relationship to salvation, and their contradictory aspects as part of God's being. This poem echoes the anxieties we have seen in other popular literature about the problems of lax pardoning and strict judgment.
None of the major concepts in the poem, mercy and justice among them, are defined outright. Rather, they are described over and over again, either in operation, as an allegorical figure, or in relationship to other principal concepts. Truth is a good example. An understanding of truth is necessary for subsequent analyses of human behavior and Christian society. The word is frequently used in the sense of *leute*, that is, loyalty, good faith, honesty. Truth is how people are to live righteously in order to be worthy of Christ's pardon. In Passus I, Holy Church shows Will that the key to his salvation and that of society is in truth's essence as love and the reciprocal rewards of showing mercy to others. This latter is emphasized. Holy Church reminds him: "For the same mesure that ye mete, amys outher ellis, / Ye shulle ben weyen therwith whan ye wenden hennes." The importance of deeds are underlined. "That feith withouten feet is feblere than nought, / And as deed as a dorenail but if the dedes folwe...." The section closes with this: "'Date, et dabitur vobis--for I deele yow alle. / And that is the lok of love that leteth out my grace.'"\(^{104}\) This is the same message--each man receives in spiritual benefits according to works done for others while on earth--seen in other works popular in medieval England. This belief is endlessly reiterated in the poem, and inextricably linked to the requirement of rendering what is owed. The focus on an economy of 'balance' is intense.
Mercy is depicted in many different ways, and associated with an extensive range of terms. We come to apprehend the meaning of mercy gradually as it is joined with certain figures and ideas. Pity, compassion, charity in words and alms—Piers Plowman shows us mercy as all of that. What is crucial is its repeated association with repentance and amendment: Piers Plowman presents a righteous mercy, one that in essence must complete a balance. The most vivid representation of mercy is in Passus XVII; this contains the allegory of the Good Samaritan which immediately precedes the episodes of the Four Daughters of God and Harrowing of Hell. It opens with Moses as Hope, seeking the knight who gave him a patent on a rock with this commandment, "Dilige deum et proximum tuum," and its gloss, "In hiis duobus mandatis tota lex pendet et prophete." In this passus the Samaritan explains to Will what actually heals a man—the mysteries of salvation—and it closes with attempts to explain the operation of grace, why and when mercy is granted, and the essential nature of charity.

'So grace of the Holy Goost and the greet myght of the Trinite Melteth to mercy—to merciable and to noon othere. ..... So wol the Fader foryyve folk of mylde hertes That rufullly repenten and restitucion make, In as mucche as their mowen amenden and paien; And if it suffise noght for assetz, that in swich a will deyeth, Mercy for his mekenesse wol maken good the remenaunt.'
While reminding Will of the dangers of wanhope, the Samaritan mentions mercy's primacy, yet underscores its relationship to justice and satisfaction:

...and his mercy is gretter
Thanne alle our wikkede werkes, as Holy Writ telleth--

Misericordia eius super omnia opera eius--
Ac er his rightwisnesse to ruthe torne, som restitution bihoveth:

His sorwe is satisfaccion for swich that may noght pae. 107

Will poses this question: if he had sinned terribly, but at the time of death was sorry, confessed, and asked for mercy, could he be saved? The Samaritan once again insists on the importance of repentance and restitution.

'Yis,' seide the Samaritan, 'so thow myghte repente
That rightwisnesse thorugh repentance to ruthe myghte turne.

Ac it is but seldom yseighe, ther sothnesse bereth witnesse,
Any creature be coupable afore a kynges justice,
Be raunsoned for his repentance ther alle reson hym damneth.

For ther that partie pursueth the peel is so huge
That the kyng may do no mercy til bothe men acorde
And eyther have equite, as holy writ telleth. 108

Repeatedly, the Samaritan's teaching on the nature of mercy involves restitution, a just exchange; whether he talks about Christ's atonement or mundane transgressions, he tells how mercy must be equitable.

In Piers Plowman mercy is available only to those who have earned it. Throughout the Harrowing, Christ makes it clear that he has not come to save all men indiscriminately. For example, he tells Satan: "'Lo! here my soule to amendes / For alle synfulle soules, to save tho that ben
In Passus XIX, Conscience explains the consequences of the Passion to Will:

'And whan this dede was doon, Dobest he thoughte, And yaf Piers power, and pardon he graunteede: To alle maner men, mercy and foryifnesse; To hym, myghte men to assoile of all menere synnes, In covenaut that their come and kneweliche to paye To Piers pardon the Plowman--Redde quod debes. 

.....

And rewarde hym right wel that reddit quod debet--
Paieith parfitly, as pure truthe wolde.
And what persone paieth it nought, punysshen he thenketh,

And demen hem at domesday.'

Passus VII, about Truth's pardon, is often discussed as one of the most curious portions of the poem. But once we grasp Langland's concept of mercy, the scene is no longer perplexing. In fact, it is a densely layered though forthright description of the operation of God's mercy. The passus opens with Truth sending a pardon to Piers. The first one hundred and five lines of the passus seem to be a gloss on the text, an explanation of the real meaning. The poem demands a social order based on justice and the fulfillment of duty by each estate and individual. Not only the form of law is required, but also its fulfillment in charity: "Quodcumque vultis ut faciant vobis homines, facite eis". However, the priest sees only two lines on the pardon, and declares it is no pardon at all. The dreamer describes what he sees on the bull: "Et qui bona egerunt ibunt in vitam eternam; / Qui vera mala, in ignem eternum."
The passus concludes with the dreamer reaffirming his belief in pardons and penance, yet insisting there is nothing so
certain as Do-Well. Each person will have to yield an account for this: "How thou laddest thi lif here and hise lawes keptest." Its closing advice is to cry to God for mercy, to give us the grace to do such deeds. Piers Plowman contains an innovative solution to the paradox of divine justice and mercy as it was understood in medieval terms. Clearly, this solution had direct repercussions in secular society; as the literature discussed in this chapter has shown, English medieval culture patterned its conceptualization of human justice and mercy on the model provided by Christianity. Langland insists that true or righteous justice is that which finds its origin in true charity. Gratuitous mercy is condemned. A righteous mercy is required, one that operates within the letter of the law and fulfills its true intent. This entails a crucial obligation for the recipient: one must be deserving of a pardon, one must earn it. The essence of the poem can be grasped more easily if the reader organizes the interpretation around the phrase that Langland endlessly demonstrated: redde quod debes.

Langland provides a solution to the paradox of God's mercy and justice by defining mercy as being subsidiary to, or a component of, justice. In the poem mercy operates as part of God's justice. Passus XVIII strives to explain that nothing Christ did as part of the Passion and descent into hell was against the law; rather, he was fulfilling it, and with love. But Christ's atonement does not guarantee
forgiveness for all, not is it extended freely to all. Rather, it makes it possible for men to receive divine mercy if they fulfill the attendant obligations. Man must pay what he owes—make satisfaction—in the scheme of divine justice. God's grace makes that satisfaction possible. The same requirement of balance stands in the secular world. Langland criticizes the reality of the traditional operation of mercy among his contemporaries. He condemns the gratuitous forgiveness and reconciliation without regard for principle or justice. All in society must follow the dictates of conscience, and with leute, with charity, conform to God's laws. A king can ensure mercy and justice in his kingdom only if he enforces the law, complying with its righteous intent. Piers Plowman offers a model for keeping peace in the realm that differed in significant ways from the traditional ideology of mercy. All members of society must make themselves worthy by meeting their moral obligations. Justice here is founded in the maintenance of order and balance, in equity. The poem defines justice as reason distributing to each what is rightly deserved, not as blind fulfillment of commandments or custom. Justice is manifested in that righteous moral action which is impossible without charity.

VI

Although Piers Plowman attracted a large audience, it is only one man's vision of the changing relationship between justice and mercy in late medieval England. We are
justified in assuming that it does reflect the existence of widespread anxieties about the Crown's maintainence of order, about the potential benefits in the strategies of reconciliation or retribution. However, the radical changes proposed by Langland were not generally echoed by the people of the late fourteenth and fifteenth centuries. Yes, there was a deep concern about who was entitled to pass judgment in order to limit crime; yes, there was debate about the largess of mercy and the worthiness of its recipients; yes, there was an increasing tendency to bifurcate both mercy and justice, redefining them. But in viewing the spectrum of opinion embodied in popular literature, one can say that the majority of people in late medieval England still preferred the traditional ideology of mercy that, they thought, functioned to maintain some measure of order in society.

The pastoralia and didactic works never cease to place the interests of mercy above those of justice. A fine example of this is in Jacob's Well. The writer insists that mercy excels three excellent virtues, penance, righteousness and charity: penance offers one's body to God, but mercy offers the soul; mercy is also superior to God's charity, for charity loves only goodness and good folk, but mercy and pity flow to both wicked livers and the good.

Mercy excellyth ryȝtwysnesse, for þif þou synnere be a-ferd to fallyn in þi cause in chapitle of ryȝtwysnesse, þou mayst apele thens to þe concys-torye of mercy, þat is, fro þe ryȝtfull dome of god to his mercy.
These statements about divine mercy have their counterparts in discussions of virtues rulers should have. Of the desirable qualities for a king described in the Book of Vices and Virtues, the fourth is to have "rewpe and pitee:"

\[...\text{for he shal more bowe by manhod to mercye yfan to make hymselfe harde herded bi strengye; for iustice wiȝ-oute mercye is crueltie, dispitousnesse, and mercie wiȝ-oute iustice is lachesse, Pat is slowpe; and yfere on of yes vertues is ofte y-felawschiped wiȝ Pat oþer in holy writ, but alwey seiþ holy writ Pat mercie ouergop iustice.}\]

These expressions of the dominance of mercy over justice are not only found in sources originating in religious instruction. Chaucer's Knight's Tale is a good example of the value placed on mercy in a king's character. When Theseus comes upon Palamon and Arcite fighting, they acknowledge he is a rightful judge in this circumstance, and that they deserve death for breaking the conditions they swore to him. But the women intervene, begging for mercy.

\[\text{And softe unto hymselfe he seyde, "Fy Upon a lord that wol have no mercy, But been a leon, bothe in word and dede, To hem that been in repentaunce and drede, As wel as to a proud despitous man That wol mayntene that he first began. That lord hath litel of discrecioun, That in swich cas kan no divisioun, But weyeth pride and humblesse after oon."}\]

In anticipation of the charge that this ideology of mercy was expressed only in religious instruction and the fancy of entertainment, let us consider an excerpt from the Westminster Chronicle that not only describes the actions of the parties at the time of the Peasants Revolt, but even
provides an explanation of the motives for their behavior. The narrator tells us that Richard II left the Tower, where he had been staying with the archbishop and treasurer, and in response to the threats of the mob met with them at Mile End. The mob demanded all kinds of liberty and even amnesty for all offenses up to that time. Fearing what would happen if he refused, the king agreed. Meanwhile, the treasurer and archbishop were beheaded by the mob. Later, at Smithfield, the king met with the leaders of the revolt. It was here that the mayor ran Wat Tyler through with his sword. The king silenced the outcry among the peasants while the mayor brought the commons from London to surround the peasants. Seeing the danger they were in, the peasants discarded their weapons, flung themselves on the ground, and begged for the king's mercy. They sought that the king not punish their guilt as deserved, but show them a mercy they did not deserve. The narrator states why the king showed his grace at this time: "His distaste for civil bloodshed at length secured for them an unmerited forbearance from the king...." He told them to return home or suffer the extreme penalty; the mob left. After the mob had withdrawn, Richard set out with an armed force to punish those in the Essex villages, where the uprising had begun. In spite of the amnesty, they were gathering again to renew the revolt. The king attacked and destroyed many; many others were hanged. The king next went to St. Albans; many prominent inhabitants were hanged. Soon royal judges were in session
everywhere, investigating and giving the guilty short shrift. More gibbets went up, for there were too few for the condemned numbers. "The populace shuddered at the spectacle of so many gibbeted bodies exposed to the light of day...."\textsuperscript{116} Even though the guilty were punished so, the king's temper was not mitigated. Instead, he increased the severity of punishment. The narrator was puzzled: "it was widely thought that in the circumstances the king's generous nature ought to exercise leniency rather than vindictiveness...."\textsuperscript{117} Yet he also admits that there were also those who thought the offenders should suffer in equal measure to that they had caused; this was supreme justice and would be a warning to others.\textsuperscript{118} The chronicle describes at length how the retribution visited on the rebellious grew more destructive. This resulted in prompting some to plot revolts again. The cruelty spread to the extent that many people charged those they disliked with conspiracy, using the pitiless treatment of those tainted with conspiracy as a way to get vengeance on their enemies. As a result, greed, opportunism, and envy were used to destroy many on the pretext of involvement in the revolt. Time seemed to bring no end to this. It was man against neighbor, wife against husband and subordinants against superiors. The narrator explained the resolution of such social disorder in this way:

\begin{quote}
In view, therefore, of the fact that the ingenuities of greed threatened the overthrow of the entire body politic, the king acted on the discerning advice of shrewd counsellors
\end{quote}
and mercifully decreed that henceforward nobody accused of the crime should suffer the rigour of the penalties prescribed by law without having been first condemned by the verdicts of three juries; in his liberality and sympathy he further granted general pardons to those who lay open to the charge of conspiracy, excepting only the authors of the actual revolt and those who were heavily marked by the stains of murder and arson.

The narrator was unusually fair-minded, and his sense of equity affords a rare perspective on the drama behind royal pardon and punishment. There is not an inkling of support for the peasants; neither did he blindly support the king's actions. It is as though he understood the motivation for the king's behavior but felt the need to point out that there was no unanimity of opinion regarding the results that followed in its wake. This account illustrates the variety of uses the Crown had for gestures of mercy and justice. The first time Richard II grants a general pardon to the peasants, it is in response to pressure and as a political tactic. When the mob seeks a pardon again under very different circumstances, the narrator indicates pardon was given because the king sought to avoid further bloodshed then. However, he does not take long to begin administering punishment. The narrator felt obliged to remark on the scale of punishment and the fact that at least some were horrified by it. The two camps of opinion are again described, those so familiar from the literature: some thought the king ought to show mercy and not seek vengeance, others felt justice was being shown and would frighten potential insurgents. The narrator chose to
detail the ways in which this display of power and royal retribution metastasized into vengeance in many quarters of society. We see the secondary effects of the state's decision to wield the sword of justice. Echoes of the allegorical Mercy and Peace are heard in the concluding explanation for the resolution of this frightening disorder and destruction. The Crown chose to employ the ideology of mercy.
Notes to Chapter 4


6 Northern Homily 197, 11. 12274-78.

7 Northern Homily 197, 11. 12291-94.


9 Confessio bk. 2, 11. 3327-32.


13 Festial 74-78.


15 Jacob's Well 168-213.

16 Book of Vices 112.


20 De Nugis 441.


22 F. W. D. Brie, The Brut or Chronicles of Britain, EETS, o.s. 131 (London: Kegan Paul, 1906) 129-30, 181, 191; these are only brief references, but what they describe is clearly part of the pattern of behavior in re-establishing order.


24 L. C. Hector and Barbara F. Harvey, eds. and trans., The Westminster Chronicle 1381-1394 (Oxford: Clarendon, 1982) 93. De la Pole helped him to avoid execution and he was kept in prison until the "king thought fit to show them increased mercy." See p. 97.


27 Handlyng Synne 96-99. There are also versions in the following: Liber Exemplorum 123-25; Festial 123-34;
Jacob's Well 252-53; Idlely's Instructions 165-67; Confessio bk. 3, ll. 2639-2739.

28 Idlely's Instructions 167.

29 English History 1: 296-97.

30 The exemplum of the Debtor Servant was often used; it is based on the parable in Matt. 18.23-35. A good version of this is in Middle English Sermons 36-45.


32 Middle English Sermons 45.

33 Festial 76.

34 Old English Homilies 64, 66.

35 Festial 285.

36 Old English Homilies 38.

37 Old English Homilies 14-16.

38 Festial 81-82.


40 Wycliffite Sermons 247.

41 Middle English Sermons 54-55.

42 Jacob's Well 92-94.

43 Jacob's Well 97-98.

44 Jacob's Well 15.

45 See n. 28 above.

46 Westminster 159-61.


48 Northern Homily 290, ll. 15470-81.

49 English History 3:32-34.

50 Brut 223-24.

Wycliffite Sermons 517-19.

Jacob's Well 265-68.

Northern Homily 262, 11. 15536-41.

Wycliffite Sermons 237.

Middle English Sermons 121; see also 139-40, 122.

Middle English Sermons 189.

Middle English Sermons 122.

Old English Homilies 14-16.

Pricke 158-60.

Northern Homily 294.


Wycliffite Sermons 612. Another Wycliffite sermon, however, has a perspective on the problem of judgment as vengeance that foreshadows the attitudes of the sixteenth century. In it the audience is told that men should remember all the goods they have are God's and they are his naked servants; so they should be wary to take their own vengeance, but rather revenge the injury to God and intend amendment. Wycliffite Sermons 311-12.


Speculum Christiani 236.

Speculum Christiani 236.

Book of Vices 157; see also 209-10.
Wimbledon's Sermon 84-86. Similar descriptions of suitable behavior for a judge are found in a treatise on the ten commandments, under the fifth commandment; see Priscilla Heath Barnum, ed., Dives and Pauper, EETS, o.s. 280, vol. 1 (London: Oxford UP, 1980) 36, 50.

Canterbury Tales 245, 1. 517.

Dives 36-37.


Confessio bk. 3, 11. 2233-34.

Handlyng Synne 137-38.

Idlely's Instructions 132.


Book of Vices 35-36.

Middle English Sermons 122.


English History 3: 187-91. The opposite is also found. For example, members of the king's household were found guilty of robbery. They had officers tell the king that he is responsible for their deaths since he withheld their pay when they were in need, and so they were obliged to steal. The king is said to have been filled with shame and grief, and still they were hanged. See English History 2: 294-98.

Chronicle of London 28.

Festial 81-82.

Jacob's Well 132-33.

Jacob's Well 95-96.

Book of Vices 112; Speculum Vitae 186-88.

D. M. Grisdale, ed., Three Middle English Sermons from the Worcester Chapter Manuscript F.10, Leeds School of English Language Texts and Monographs 5 (Leeds: School of English at the U of Leeds, 1939) 15. Note that justice is equated with vengeance.

Homilies of the Twelfth Century 38, 188.
88 Wycliffite Sermons 311.
89 Middle English Sermons 29.
90 Speculum Christiani 46.
91 Book of Vices 123-24.
92 Speculum Vitae 252-53.
93 Jacob's Well 94. In Passus XIX of Piers Plowman reason is joined with mercy and justice. Conscience explains to Will that at the time of Christ's birth, all the world's wisdom was in three kings, the Magi. "Reson and Rightwisnesse and Rutne thei offrede" (1.94).
94 The prologue refers to the Four Daughters. Lines 93-140 express a lament about how Fortune has turned her wheel; in the past rulers and all the people were better. "The poeple stod in obeissance / Under the reule of goverance, / And pes, which ryhtwisnesse keste, / With charite tho stood in reste" (11.107-110). He contrasts the law of the days of old, when truth was primary, with the double-faced law of his age.
95 Confessio bk. 7, 11. 1782-1984. Note that instead of the virtues of the Four Daughters, largess as an aspect of mercy has displaced peace, and chastity is joined on as something of a fifth wheel.
96 Confessio bk. 7, 11. 2955-58.
97 Confessio bk. 7, 11. 3125-34.
100 Confessio bk. 7, 11. 3918-21.
101 Confessio bk. 7, 11. 4195-4202. A similar joining of justice with equity occurs in Passus XIX of Piers Plowman. Here Spiritus Iusticie is the fourth seed that Grace gave Piers to sow, along with the other cardinal virtues. "Spiritus Iusticie spareth noght to spille hem that ben gilty....He dide equyte to alle evenforth his power" (11.299, 310).
102 Anne Middleton, "Piers Plowman," A Manual of the Writings in Middle English, gen. ed. Albert E. Hartung, 7 vols. (New Haven: Connecticut Academy of Arts and Sciences, 1967-86) 7: 2211-18. Also see J. A. Burrow, "The Audience of Piers Plowman," Anglia 75 (1957): 373-84. The following are just a few of the more recent valuable studies of the


104 *Piers Plowman* Passus I, ll. 177-78, 186-87, 201-202.

105 For a good example, see Passus XVI, ll. 4-9.

106 *Piers Plowman* Passus XVII, ll. 232-41.

107 *Piers Plowman* Passus XVII, ll. 314-18.

108 *Piers Plowman* Passus XVII, ll. 300-307.

109 *Piers Plowman* Passus XVIII, ll. 329-30; see also ll. 394, 401-402.

110 *Piers Plowman* Passus XIX, ll. 183-88, 194-97.

111 *Jacob's Well* 249-50.

112 *Book of Vices* 210.

113 *Canterbury Tales* 345, ll. 1773-81.

114 *Westminster* 6-7.


117 "Quare plurimis visum est quod in consimili eventu pocius regia benignitas uti deberet clemencia quam vindicta...." *Westminster* 14-15.

118 *Westminster* 16-17.

119 Perpendens igitur regalis clemencia ex cupiditatis ad invencionibus tocius civilitatis imminere jacturam, provido sensatorium consilio decrevit quod deinceps nullus pretacti facinoris accusatus aliter legalium penarum
tormenta subiret nisi prius trium duodenarum sentencia dempnaretur; concessit insuper rex ex sua pietate munifica universales indulgencias conjuracionis obnoxiiis, ipsius commocionis dumtaxat exceptis auctoribus pariter et allis quos cedis aut incendiorum labes multipharie resperserat. Westminster 18-19.
THE IDEOLOGY OF MERCY IN ENGLISH
LITERATURE AND LAW, 1200-1600

Volume II

by

Patricia Helen McCune

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CHAPTER 5

MORALITY PLAYS AND CHANGING SOCIAL VALUES

The intensification in anxiety over judgment found in the medieval discourse on mercy after 1350 signals a transformation in values. We can trace the anatomy of that change by returning to the Four Daughters of God and their use in sixteenth-century English literature. These allegorical figures were employed well into the seventeenth century, though they were often called upon by writers who were not completely conscious of the Virtues' roles in a time-worn literary tradition.¹ The reason that the Four Daughters have a place in English literature through the Tudor period is that they appear in a particular genre, the morality play, albeit in a notably transformed manner. Nonetheless, in the moralities the divine advocates and echoes of their debate serve to outline a crucial shift in public attitudes about the function and efficacy of both mercy and justice in the governance of the kingdom.

The personification of the Four Daughters and the characterization of their relationships are altered noticeably in the moralities. Their gender has been changed.² The argument or debate has been eliminated, and each Virtue unquestioningly supports the dominant one. The
prevailing role had been shifted among the sisters. A different emphasis in their significance is indicated by a change in the name of the figure. Often, it is diminished to only one characteristic of the Virtue's prior totality. For example, Mercy appears as Charity, and Justice as Redress. And the Virtues are not used with equal frequency. Peace is almost completely gone and Truth appears in the moralities only occasionally. Though Mercy and Justice often are found in a recognizable form, there is a vital difference. Mercy has receded in importance, and Justice is the dominant figure. Justice is the king's most valuable advisor; it is the justice, judgment, and punishment administered by the Crown's unifocal authority that secures order for the whole of society.

These sixteenth-century moralities reveal developments crucial to the medieval ideology of mercy and its theoretical place in the royal administration of the law. As the Four Daughters change, so do the moralities change their subject: from judgment in the next world to judgment in this one; from the welfare of the individual soul to that of the king and commonwealth. This sort of drama moved from criticism of the sinner to criticism of the social order, and the stock figures experienced a metamorphosis. Once placed in a secular context, the plot frequently revolved around the salvation of a flawed ruler and the maintainance of a righteous rule beneficial to the kingdom. These shadows of the Four Daughters recede in importance, taking
their places among the ranks of good counsellors. The plays are populated by evil counsellors, and thin personifications of England, its people, and government. No longer is mankind's redemption the message. Maintaining peace and good governance is the subject of the majority of these moralities.

I

The changes in the literary use of the Four Daughters of God, and the ideas they represent, cannot be fully appreciated unless they are placed in the context of the history of the moralities. Because this is not a history of literature or theater, a definition of the term morality play is necessary. It is broadly applied, not based on textual structure or aspects of production, but on the fundamentals of the plot and the type of characters presenting it. Moralities are works characterized by the "use of allegory to convey a moral lesson about religious or civil conduct, presented through the medium of abstractions or representative social characters."3 Usually the plot also involves the fall, judgment, and redemption of the protagonist. This definition of moralities accommodates such seemingly disparate works as the catholic description of redemption in Everyman, the protestant polemic of King John, and the warning against tyranny in Cambises. Whether the moral dilemma is couched in religious or civil terms, it is expressed as an allegorical conflict.
The development of the morality play and its place in the history of theater indicate how a genre that originated in religious drama came to be used as a vehicle for social criticism. The morality originated not in the *psychomachia*, the battle between vices and virtues, but in the traditions of sermons and penitential literature which urge repentance and taught about God's pardon for sin. The genre is based on the archetypal perception, the fall out of innocence and into experience; the drama is found in the unfolding of the innocence, fall, and redemption of the main character. The moralities are not part of a linear development out of the cyclic mystery plays, nor are they later in origin. They partly derive from the liturgy in the sense that, being based on the vernacular sermon, they feature an argument about ethics. Moralities, like other medieval entertainment, had a characteristic "ubiquity of performance." There was cross-influence among the types of public performance in the fourteenth through sixteenth centuries. The sermon-type plays of field and market place migrated indoors, and the interlude moved from courts to inns and village greens. There were no clear-cut distinctions between plays with origins in religion, polemics, and entertainment: "medieval theatre was designed for the community as a whole rather than for a privileged or educated section of it. It frequently constituted a venture in which large sections of the population were active participants...." The sermon was the cornerstone of the
morality play; the chanson de geste and comic jongleurs added romantic narrative and comic fantasy. All this allowed for a wide range of characters. The structure of moralities accommodated themes of social and political conduct as well as the personal. They eventually antagonized both Church and state in the sixteenth century.

The early moralities--eight plays written roughly between the mid-fourteenth century and 1520--are theological in intent, presenting a drama of ideas, not a mimetic representation of life. They seek to evoke the ritual of forgiveness of sin. This is a world in which man must sin and also must be saved. Man cannot avoid the necessity of the fall, yet it can be amended through forgiveness. "The action is thus an affirmation of the life process and the ultimate rationality of the human predicament." The hero is never really allowed to despair or be damned. The theological emphasis on repentance and mercy require redemption. The message of the moralities is that it is never too late to repent. "Their very universality compels them to a happy ending if they are not to shut the gates of mercy on all mankind and renounce thereby the whole gospel of Christianity." In essence, these eight early moralities are about the salvation available to all mankind through Christ's atonement. This is dramatized by means of an allegory of the progress through life of the mankind figure. He is corrupted by vices but always in the end seeks mercy, is repentant, and so is saved. These
moralities teach how to rule the individual soul, and where to obtain aid when overwhelmed by corruption.

The Castle of Perseverance, discussed at length in chapter three, is an excellent example of the structure and purpose of these early moralities.\textsuperscript{12} The oldest extant morality, known as the Pride of Life, exists only in a fragment; that fortunately includes the Prologue which gives a summary of the entire play. Rex Vivus suffers from pride, and his learned Queen warns him to think on the ending of life. When he pays her no heed, she sends for the Bishop. He preaches a similar message and is ignored too. Then Rex Vivus meets Death and is overcome. The Prologue concludes with references to the prayers and intercession of the Virgin.\textsuperscript{13} Mankind originated in the second half of the fifteenth century. It differs in that Mercy appears as a father confessor figure, and Mankind is no aristocrat, but a laborer sorely tried by four devils. They drive him to the edge of despair, but finally Mercy convinces him that it is never too late to seek God's mercy.\textsuperscript{14} Youth is quite similar. In this, Charity is a male figure that, by explaining the redemption, ultimately persuades the sinful Youth to leave his wicked life.\textsuperscript{15} Everyman, written at the very end of the century, shows the influence of the disputes about religion that were becoming more prevalent.\textsuperscript{16} The play is overtly occupied with theological issues, and ones which affected the presentation of God's mercy and justice. The play opens with an angry God, disgusted with mankind, to
whom he has offered so much. He sends a messenger, Death, to bring men to account. Death sees Everyman and gives him the news. Everyman tries to bribe him, to no avail. He then searches for someone to accompany him; all reject him when they discover what this really entails. Though too weak to help him, Good Deeds offers the aid of Knowledge, who leads him to Confession. When penance is completed, Good Deeds is able to accompany him. Everyman is abandoned by all others on the final journey. He dies with Good Deeds alone and is taken to heaven. This work shows a God who seems eager to exercise the rigor of his justice. Mercy is discussed in the context of the value of good deeds and a true confession.

These pre-Reformation moralities have been described because it is crucial to understand the extent of the transformation that occurred in moralities during the sixteenth century; they must be seen in this context. There was a process of division and specialization in the figures of the sixteenth-century moralities. The early moralities emphasize free will, God's mercy toward a "democracy of sinners," and the remission of guilt through repentance and the Church's sacraments. But the later, protestant, plays promote predestination, justification by faith alone, God's promises to the elect, and a divine mercy that is ever mysterious and more difficult to secure. Catholic moralities move figures through sin to the salvation available to all; protestant ones manipulate the figures to
show they are damned or saved from the outset. The theme of mercy endures as long as the morality convention, although it is qualified and redefined by the protestant emphasis on grace. The figure of Mankind does not last. Instead, it gives way to the individual character. Protestantism is just one of the intellectual influences on the moralities. Other factors were the forces of change inherent in this dramatic tradition, the influences of classics and continental drama, and the natural tendency of theater toward concreteness and personality which contributed to the disappearance of abstraction and generalization from the popular stage.19

The loss of eschatological concentration, and increased emphasis on mortal life and prudential ethics, qualified virtue for reward in this world. These plays also made transgression open to penalty in this life. Adversity afflicts the living in sixteenth-century moralities, and often is used as an omen of future penalties in the afterlife.

In almost every moral play of the sixteenth century the punishment for the transgressor, whatever else it may involve in the next world, rigorously afflicts his flesh and fortune in this one. With increasing frequency after the middle of the century, moreover, it becomes a punishment imposed by society rather than by God and administered by its agents rather than His.20

The striking element is that not all must be saved. As long as the central figure was mankind, a tragic ending was not possible; redeemed by Christ, he must repent and be saved.
But once dramatists bifurcated then individualized the mankind figure, setting him or her in particularities, the possibility of a tragic ending occurs.\textsuperscript{21}

At their deepest center, these plays are still about the mysteries of mercy and justice. The paradox of God's judgment was not removed by the doctrines of the Reformation.\textsuperscript{22} As a result of the influence of Calvin and Luther, the moralities are layered with new concerns: the punishment of the reprobate; reward and vengeance experienced in this life; innovative reasons for redemption through forgiveness. In the sixteenth century people were faced with new possibilities; the mysteries always facing intelligent Christians were unusually forced upon them during the Reformation.\textsuperscript{23}

Throughout the sixteenth century there were moralities that featured the traditional theme of the fate of man's soul. But the majority of moralities showed radical changes, even though their subject was still moral conflict presented through allegory. The theme of most moralities became one of social criticism, particularly the relationship of a ruler and the people. The fusion of courtly interludes and religious moralities resulted in the moral content being adapted to the occasions of production. The potential of this literary form

lay in the variety of possible arguments which the form could contain. Discussion of the state of a man's soul could easily be extended to the state of the body politic, and from there to discussion in allegorical terms of the relationship
of sovereign to subject, of Church to State, of one nation to another. Social criticism was hardly at odds with religious drama. These were combined as early as the mid-twelfth century in the Play of the Antichrist, which features the first appearance of Mercy and Justice on the stage. The subtle possibilities inherent in allegory were fully exploited in the sixteenth century.

It is easy to see how the contemporaneity of presentation made immediate room in the Morality for satire and social criticism; for something like the real-life scene is presented, and in a play whose business (if it has a moral) is judging the ways of the people it presents.

The morality was the ideal vehicle for polemical issues, with its didactic focus and popular form. There were efforts by the Crown to control this medium for social criticism. By an Act of Parliament in 1543, Henry VIII forbade discussion of religious doctrine on the stage, though the act was repealed by Edward VI in 1549. Elizabeth issued proclamations in 1559 demanding that performers not be licensed to treat matters of religion or the governance of the state. The moralities were seriously threatened with extinction because of censorship in the 1560s and 1570s. But unlike miracle plays, they were able to develop the farcical element, and absorbed and anglicized older traditions. The increasing popularity of academic drama assisted in this process of adaptation. The moralities certainly did not lose their vigor during Elizabeth's reign. Of the sixty-one extant English plays from 1558-86, twenty-
eight are connected with the morality tradition. They take many forms, such as the moral comedy, politicized historical play, and homiletic tragedy. We see the emergence of a didactic and ethical drama, concerned with human behavior and earthly justice rather than salvation. The writers applied humanistic and Calvinistic interpretations to social conditions. They attacked ignorance, injustice, and corruption in an increasingly complex society. 

The sixteenth-century moralities constitute a valuable source for tracing ideas about the role of mercy in judgment. They were not obscure plays, performed only for clerics, or academics, or at court. They do not preserve only the remnants of Reformation controversy over the relationship of God's mercy to his justice. Rather, these plays provide us with important clues to the purpose of mercy in secular courts during the Tudor period.

In the early decades of the sixteenth century the morality drama translates the individual problem of repentance and salvation into the collective problem of commonwealth and government. The central mankind figure emerges as an emblematic ruler and the auxiliary characters of the morality play assume their places easily in the microcosm of a courtly setting. Concurrent with this theatrical development, and related to it, come the historical rise of the Tudor monarchy and the revolutionary events of the English Reformation. Under these circumstances the morality play, like many another religious foundation, is diverted to political purposes.

Let us turn now to examine the substance of these moralities in some detail.
II

*Respublica* is the last literary work in England to use the Four Daughters in anything like their traditional roles. And the similarity to the medieval allegory is largely superficial. Their use had been greatly affected by political and religious upheaval. Written for a catholic sovereign, it contains many features that speak of a reaction to the reigns of Henry VIII and Edward VI. In addition, the play exhibits the fundamental changes that had occurred in the substance of moralities by the mid-sixteenth century. There are elements of plot and character that are quite familiar from the medieval allegory of the Four Daughters of God. The Virtues are brought in at the end of the tale to participate in rectifying the damage wrought by Vices on a once innocent figure; they bring all into conformity with God's laws. However, there is barely a word of dissent among the sisters. Mercy is no longer the dominant figure. The divine king has been replaced by Nemesis, the goddess of redress, a thinly disguised Queen Mary. The action of the play has been transposed to a strictly secular context. This affected not only the personifications used in the morality, but also its very intent. Beneath the political satire of current events resides a deeper meaning about the uses of justice and mercy by the Crown in administering the law and the kingdom.

The Prologue of *Respublica* outlines the matter to be presented, and closes by stating that Queen Mary came to
reform abuses. Act I presents the Vices, all of which masquerade as counselors: Avarice as Policy; Insolence as Authority; Oppression as Reformation; Adulation as Honesty. Avarice secures a place at court and brings in the others. In Act II, Avarice meets the widow Respublica, the personification of England, who is complaining about the state of the government. He gains her favor and introduces the other Vices. She wants them to eliminate vice in the kingdom. People, representing the poor commons, comes in during Act III, and also complains about conditions in the country. He sees the "advisors" for what they are, yet grudgingly accepts Respublica's explanation of their identities. Avarice then berates the other Vices for not bringing in enough money. He warns them to beware of Truth, Time's daughter. Act IV shows Respublica worse off than before; People is again quieted by the Vices. Resolution of the kingdom's ills occurs in Act V, which opens with Mercy explaining divine forgiveness and God's love for his people to Respublica, who is relieved, though Avarice and Adulation are now afraid. Mercy brings in Truth, who shows Respublica her counselors' true natures. Justice and Peace say they will restore order. After an argument with Respublica, the Vices remove their disguises. Nemesis arrives and accuses the Vices; the Four Daughters briefly discuss the Vices' fates. In the end, Nemesis is the one to decide the fate of each false counselor.
Certain changes in this morality are in keeping with developments in English drama that began in the early decades of the sixteenth century. The Vices are no longer deadly sins or devils but evil counselors. Respublica and People are not personifications of the human soul but of human society as a political body. The English ruler becomes joined with the divine; she herself is not corrupted, but instead is able to redress error. The use of the allegory of the Four Daughters still hearkens to the "catholic" traditional desire to mend the factions of society through the symbols of divine pardon; yet this cannot be, because mercy has been devalued as an ideal strategy for social order and control.

At first reading, little seems different in the use of the Four Daughters in this play. Mercy is the first to appear. She gives a long speech about divine forgiveness, punishment, and God's attitude toward the beleaguered Respublica; she then attempts to comfort Respublica. When Respublica meets the other Virtues, they give brief and familiar descriptions of their roles, and of that which they have come to accomplish. Yet the relationships among them—who is the most active, the most powerful—differ noticeably from the traditional ones. Mercy does little beyond bring hope to Respublica. On first appearance, she tells her she will go to fetch Truth, who will show Respublica the cause of her downfall and then overthrow the culprits. Basically, this is the end of Mercy's active
role; she recedes into the background as Truth and Justice take over. Peace has almost no place; she is merely a figure on stage making up the quartet. She removes herself even in her own introduction: "I peace whan thuncurable is clene cutte awaie, / and thyll made goode, shall flourishe for ever and aie."\(^{36}\) She will only step in when the others have corrected the situation. Truth and Justice are the ones to take on the Vices and their unmasking,\(^ {37}\) and to bring in Nemesis to punish them.\(^ {38}\)

The elements that flag the crucial difference in the allegory's meaning is the character of Nemesis, and the debate the Four Daughters have before her about the fate of the Vices. Truth states that punishment must be executed by Nemesis, goddess of correction. She has the power from above to redress all outrages: "tys hir powere to forbidde and punishe in all eastates / all presumptuous immoderate attemptates."\(^ {39}\) There is no question in the minds of Truth and Justice that the villains must be punished. A remnant of the traditional allegory remains in the closing scene.\(^ {40}\)

Mercy makes her typical plea for forgiveness:

\begin{verbatim}
Ladie Nemesis now have yee Occasion,
And matier to shewe youre commiseracion.
It is muche more glorie and standith with more skyl\(l\),
Loste shepe to recover, then the scabye to spill.\(^ {41}\)
\end{verbatim}

Justice gives the expected response, the demand for the fulfillment of the law and punishment:

\begin{verbatim}
But howe shall this redresse bee well prosecuted,
if Iustice with mercy shalbee executed?
Severitee muste putt men in feare to transgress;
Iustice muste geve eche manne that he dothe deserve.\(^ {42}\)
\end{verbatim}
Mercy, as usual, turns to her sisters for their support, but both are withdrawn and non-committal. Truth says, "mercie in one place with Iustice sometyme maie dwell, / and right well agree togither. Howe saie youe peace?" She replies only, "where althing is well emended I doo encrease." Nemesis pretends to respect each of the sisters' position, but her speeches and behavior belie that. Her decision is phrased in a politic manner: "But as theye are nowe known throughe ladie veritee / so shall theye receyve oure mercie or our Ire, / As the wealth of Respublica shall best require." Adulation is the only Vice spared punishment. He begs for mercy, promising to amend his behavior and "mooste duelie serve god and the Commonweale." Avarice seeks pardon, but clearly with no sincere attempt to provide restitution. Nemesis declares that People must see he returns every farthing falsely acquired, and then deliver him to the head officer with the authority to administer justice. Finally, Nemesis tells Justice that People will deliver Insolence and Oppression into safe custody, until Justice can call them before her, "and Iudge them by the lawse."

This allegory is about the restoration of order to the community, but not through the use of forgiveness and atonement. Employment of the familiar Four Daughters cannot conceal the subject of the play: the health of the commonwealth, and how the ruler must maintain it. Though Mercy's first speech has familiar elements, at heart it is
about God's concern for the kingdom of England. Mercy and Peace have deferred to Truth and Justice, who are the ones to grapple with the social ills affecting the government. Truth and Justice do not administer the punishment but they bring the transgressor to the authority. Justice no longer is a personification of theological concepts. Instead, with the entire setting of the play, she has been transferred to the temporal sphere, and represents the administration of justice in England's courts.

III

The appearance of the Four Daughters in Respublica may be the last with some semblance to the traditional allegory, but it is in no way atypical of sixteenth century developments in the morality. A review of some Tudor moralities in which the Four Daughters were used illustrates the dramatic change in the focus of concern: these works express a sharp anxiety about civil disorder, and the way in which a king should maintain authority and control.

Of the four Virtues, Justice clearly is deemed the most essential to king and kingdom. Peace's sharply truncated role in Respublica is indicative of her fate as an allegorical figure in these sixteenth-century plays. She does appear briefly in two moralities, Albion Knight and Impatient Poverty. Truth similarly recedes into the background. There are only five moralities in which Truth is used in any form. In Horestes she is brought in with Duty at the end to discuss the right way to rule the
Truth, along with Chastity and Good Counsel, helps the king in the *Satire of Three Estates* to overcome the influence of the Vices. A female figure, Verity, appears in *King John*, but represents religious truth or perhaps the Reformation spirit. A male figure, Conscience, along with Justice, attempts to correct the behavior of the wicked king in *Appius and Virginia*. Conscience also has a small role, resembling the usual function of Truth, in *Impatient Poverty*. Mercy, as a personification, continued to be used in moralities, albeit in a diminished form, or identified only by relict features and associations. No longer representing the full medieval meanings of the virtue, but only facets, Mercy can be detected as Charity and Humility in *All for Money* and as Charity in *King Darius*; as God's Merciful Promises in *Lusty Juventus*; as Good Hope in *Magnificence*; as Sapientia in *Sapientia Solomonis*. Only in *Warning for Fair Women* is Mercy featured under that name. Justice also continued to be used in moralities, and appears with a Mercy type in *Magnificence*, *King Darius*, *Sapientia Solomonis*, and *A Warning for Fair Women*. However, except for *Sapientia Solomonis*, the personification of Justice was male in these plays, as well as in *Albion Knight*, *Appius and Virginia*, and *Liberality and Prodigality*. More than the other three Virtues, Justice retains a fuller character. The other names by which the Justice figure is known in the moralities signal some of the important characteristics of the
sixteenth-century personification: Redress in *Magnificence* and Equity in *King Darius* and *Liberality and Prodigality*.

It is not simply due to chance that Justice is the one virtue used most often in these plays. Twenty-five of the morality plays written between the 1510s and 1580s have as their subject the maintenance of order in society and the manner in which a king ought to rule; both involve the exercise of justice through ecclesiastical law and common law. Although most moralities were influenced in some way by the religious and political ideas of the Reformation, they basically are concerned with authority and control in this world, not life in the world to come. There is a vital shift in the locus of reward and punishment to the temporal sphere. Some of these plays concentrate intensely on the obligations of the king to maintain the integrity of the Crown and kingdom to the advantage of its people. There was a fundamental shift in the basic message of the moralities: what Rex must do to rule well replaces what Mankind must to do in order to attain salvation. Mercy does have a place in the morality of royal authority. One of the recurring themes in these plays is the damaging effect of uncontrolled royal largess, and there are some curious scenes in which the Vices and wrongdoers are pardoned in the end. But generally mercy only contributes to the amendment of the protagonist; justice becomes the primary virtue required of a king.
John Skelton's *Magnificence* is one of eight moralities that can be used to show the evolving focus on the king and the virtues necessary for maintaining the realm in this new social criticism. *Magnificence* was contemporary with *Hickscornel* and *Youth*. Skelton used many conventions of the moral play; these include a complex of abstract evils indicated by terms combining ethical, political, psychological, and theological concepts, and the fall of a weak man corrupted by these vices. He was the first to turn this inheritance to social satire and criticism of the Crown. The king and courtly setting were of course traditional to the morality. The role of humanity was often compared to the ruler of a kingdom. This is based on the familiar idea that man's position in the world corresponds to a king's in state or God's in the universe. *Magnificence* was written for evening indoor performances before the nobility. There was a tendency in the sixteenth century toward a court setting for these plays, removed from the popular religious context. The development of the role of ruler did not limit the morality but instead gave a new dimension of social significance to the play's structure. As a result, the drama expressed the familiar paradox of the human condition in the guise of Renaissance statecraft. This play has long been considered a personal satire against the counselors of Henry VIII. Yet it is squarely in the tradition of the *speculum principis*, similar to the one Skelton wrote for that king when he was his tutor. Surely
he chose the morality genre because it required a moral response in an unambiguous and polemical fashion.62

The play begins with a debate between Felicity and Liberty about how the wise ruler handles wealth. Felicity says Liberty must use restraint, but Liberty says Felicity depends on complete freedom. Measure steps in to arbitrate, promoting moderation as the most important quality for a ruler. They agree all three are necessary to a prince. Measure then introduces Magnificence, a prince, to the other two, and Liberty is handed over to Measure. The next section features the Vices--such as Counterfeit Countenance and Courtly Abusion--trying to disguise themselves as counselors and corrupt the prince. Magnificence, ruined by these new courtiers, disdains Fortune and rejects Measure, and acts foolishly. Then Felicity is captured by the courtiers. Adversity comes to reprimand the prince, giving him to Poverty. Despair and Mischief encourage suicide, goading him with the knowledge of his sins. But Good Hope saves him, persuading him that there is no sin that will not be forgiven. Redress leads him to contrition and brings back a true counselor, Circumspection. Magnificence resumes his life of prosperity, guided by these new companions.

The message for Skelton's audience concerned the right and wrong way for a king to handle his nation's wealth. The opening scenes of the play present the benefits and disadvantages of royal largess.63 Note that the promotion of largess as a way to purchase pardon, the king's grace,
and the end to strife is voiced by the chief Vice.\textsuperscript{64} The downfall of Magnificence was not the indulgence in sin, but the rejection of the principal of measure; measure fends off disorder and riot, making certain nothing is amiss.\textsuperscript{65} His fatal error was the belief that he could have "welth at wyll, largesse and lyberte;" he thought he could live "without a mene."\textsuperscript{66} Unlike other contemporary moralities, the prince's sinful behavior in Skelton's play was punished by God in this life. Adversity states that he was sent by God to give Magnificence what he deserved. "For I stryke lordys of realmes and landys / That rule not be mesure that they have in theyr handys."\textsuperscript{67} Poverty reminds him that if he conforms his will to God's he may be restored to his former state.\textsuperscript{68}

Good Hope and Redress take the places of Mercy and Justice, respectively; both are male. Good Hope acts out Mercy's traditional functions by proclaiming the truth of God's forgiveness, reclaiming the protagonist from despair and returning him to the love of God via the recognition of his acts and the need for repentance. Redress, along with Perseverance and Circumspection, instruct the penitent man as to how a prince may properly rule his kingdom. Though there is reference to the need to reject sin, these advisors put more emphasis on a secular virtue: "For of noblenesse the chefe poynt is to be lyberall, / So that your largesse be not prodyggall....In your rewardys use suche moderacyon / That nothynge be given without consyderacyon."\textsuperscript{69}
King John is another well-known morality composed during the reign of Henry VIII. Its author, John Bale, was one of the great polemicists of the English Reformation. This play also concerns a king, evil counselors, and the abuse of the kingdom. Here the historical element of the plot has been twisted in the service of protestant propaganda. Bale combined the structure of the morality with the protestant conception of history as the eternal opposition between Christ and the Antichrist. John is poisoned by the papists, and evil in this play is punished in this world, by Virtue and temporal authority. England, a widow, complains to King John that she has been abused by the clergy and she seeks redress. A conversation with Sedition shows that the Pope and Church are much to blame. John says he will secure help from Nobility, Clergy, and Civil Order in a Parliament. Sedition claims that Nobility will not assist him because he is under the control of Church. John accuses Clergy, Nobility and Civil Order of troubling England. All swear to obey the king, but Clergy later says he will stay with his former practices. Sedition is joined by other vices (Dissimulation, Private Wealth and Usurped Power) in opposition to the king. They plot the interdict and excommunication. Rebellion is advanced by Nobility, Clergy, Civil Order, and Sedition. John tries to reason with them, while England and her son, blind Communality, bewail their oppression. The king finally capitulates to his enemies' demands, for the sake of his
people. Dissimulation then poisons him. The play closes with Verity praising the king, and leading Nobility, Clergy, and Civil Order to repentance. Imperial Majesty exiles all the Vices but Sedition, who is caught and hanged.

Bale emphasizes the role of the king as one appointed by God to insure law and order in society. King John describes his worldly purpose in this way:

> For non other cause God hath kyngs constytute
> And geyn them the sword but forto correct all vyce.
> I have attempted this thyng to execute
> uppon transgressers accordyng unto justyce.

Verity takes Nobility, Civil Order, and Clergy to task for abusing the lawful king sent to do God's will. Verity seeks to brings them to repentance and to reform their ways; they are told that if they amend, God will forgive them. Correction, and reward, are to be found in this life.

In a number of the moralities there are references to pardoning the wrongdoers. King John contains an odd juxtaposition of pardons. When King John is the one to pardon, the scene reflects traditions seen in medieval literature. He quickly and graciously forgives those who seem repentant, and even pardons his enemies. However, at the close of the play, when Nobility calls for the hanging of Sedition, the Vice says he will tell all if pardoned, and Imperial Majesty agrees to this so that he will tell the truth. But when Sedition is finished, Imperial Majesty tells Civil Order to draw him to Tyburn to be hanged and quartered, and his head put on London Bridge.
The biblical story of Esther is used, in Godly Queen Hester, to make an unavering statement about the qualities needed in a strong ruler, and about the king's relationship with his counselors. The play closely follows the traditional tale. However, it does not concern itself only with Esther's virtue, but particularly with justice being shown to the good, and with the proper way to exercise sovereignty. The Esther story is prefaced by a debate before King Assuerus on the merits of riches, noble birth, and virtue; all agree the last is the most desirable, and justice the most important virtue for a king:

A virtue as excellent as may be.
For all things it ordereth in such wise,
That where it is, is peace and tranquility,
Good order, high honour, wealth and plenty;
And, where it faileth in the prince or king
The commonwealth decayeth without tarrying.

The plainest statement of the role of justice in the king's administration of his realm is given by King Assuerus to Hester when he has chosen her to be queen. He tells her that together they: "All thing in this realm shall compass so, / By truth and justice, law and equity, / That we shall quench all vice and deformity."

One might think that Hester was meant to exemplify the qualities of mercy. When Mardocheus advises her to show the King obedience, true love, kindness, and so on, he reminds her that other queens have been good to the commons when they sought mercy to "temper the fire of rigorous justice." Yet the villain is shown none of it. As soon as Aman is
informed that his deceit has been discovered, he immediately turns to ask Hester for mercy, acknowledging that he deserves dread punishment for his offense, and saying it will increase her heavenly reward. Here the contrast with medieval notions of mercy is striking: Hester will not even speak to him, and the King has him taken straight out to the gallows Aman had constructed for Mardocheus.80

A Satire of the Three Estates was written by David Lindsay, a member of the Scottish court, but there is little difference between this work and contemporary English moralities. The play employs the obvious morality conventions in the service of social satire. Rex Humanitas has been corrupted by false courtiers, the Vices Wantonness, Placebo, Solace, and others; by the end of Part One he has received Chastity, Good Counsel, and Truth and sought their aid. Divine Correction demands that the King convene a Parliament of the Three Estates to reform the country. Some of the courtiers are pardoned when they claim ignorance and cite the poor example of the clergy. In Part Two, Pauper seeks justice against the clergy. John the Commonweal lays down charges of injustice; he is instated in the Parliament. The reforms are read and the Vices are punished. The tone of the play is light, and the protestant influence heavy; clerics are blamed for almost every woe in the country. Still, the focus is on the false counselors and the need to seek justice by sanctioning wrongdoers in order to restore balance to the kingdom. There is no question that Divine
Correction is the all-controlling figure, and the king a fairly passive agent, albeit with a very specific function. The initial description of Divine Correction sums up his power: he makes reformations in Christian nations; God sends him to punish all that offend his majesty; he likes to take vengeance in many ways; when people repent and are obedient, he gives them grace. The king's office is repeatedly explained as a tool of divine vengeance.

* Quhat is ane King: Nocht bot ane officiar, To caus his leiqes live in equitie: And under God to be ane punischer Of trespassours against his Majestie.  

* Albion Knight exists only as a fragment, but what remains of this morality shows that the topic was again the connection between the sovereign, the use of justice, and the welfare of the kingdom. In the remaining portion, an argument is taking place between Justice and Injury, masquerading as Manhood, about judging a man by his looks. Justice claims that appearance can indicate certain faults. Albion Knight intervenes and all swear a pact of friendship. Injury convinces Albion of the potential for trouble in a kingdom in which Principality is favored by the law. Justice suggests they all work to correct current evils. After all leave but Injury, he tells how he will destroy Justice and exile his brother Peace. Albion sends Justice to talk to Principality, and Injury to the Lords Temporal. Injury turns to Division, who tells how Double-Device will get Principality to think Commons denies money when he needs
it, and tells how Commons will think Principality acts for his own benefit. Old-Debate plans to get Lords Spiritual and Temporal to argue about power and the right to rule. The Vices also plot to separate Albion from his intended wife, Dame Plenty who is Justice's niece, and also from Rest and Peace. Division exhorts Albion to turn to a life of wantonness. Here the fragment ends. Nothing that is said by the figures is as important as what they represent, and the plot of dissension promoted by the Vices. Injury unfolds his plan to cause mayhem in the government. Commons, Lords Temporal, Lords Spiritual, and Principality are all to be set against one another, "That peace amongst them shall not reign." Principality, especially, is to be accused of not choosing equity, of following the laws indifferently, "that the law should be but after his liking." Again, the message is in stark contrast to that in medieval literature: Peace is to be obtained by the king's use of the law and righteous judgment. The fears are not for man's soul but for the state of a government threatened by internal strife.

Two other plays from early in Elizabeth's reign also featured the drama of the king's relationship to justice and its effect on his people. Appius and Virginia is about a tyrant, one which again is punished in this world. As in certain other plays from the period, it explores the nature of tyranny; historical and legendary topics were used to mirror the contemporary world in order to avoid overt
political equation. They negatively define the qualities of an ideal prince, flattering Elizabeth with the contrast.\textsuperscript{83} In this morality, Virginius, his wife, and daughter Virginia are a virtuous, happy family. Appius is a wicked judge who rules the kingdom. He develops a lecherous obsession for Virginia. Together with the courtier Claudius, he plots a false charge and trial against her father. The pleas of Justice and Conscience fail to dissuade him. Claudius accuses Virginius of having stolen his thrall at birth and raised her as his daughter. Appius then insists Virginia must be placed in his own custody. She refuses, and instead has her father decapitate her. Virginius gives Appius her head, at the advice of Comfort. Appius is sentenced to prison by Justice and Reward; there he commits suicide. Virginius seeks mercy for Claudius.

Justice's true character is easily seen in his encounter with the lusting, plotting Appius.\textsuperscript{84} Justice holds a sword to Appius' breast and warns him that eternal fire will destroy his soul. Justice describes himself thus:

\begin{quote}
I Justice am, and prince of peers,
The end of laws and strife:
A guider of the common weal,
A guerdon to the poor;
...:
In the end we shall aspire
To see the end of these our foes
With sword and eke with fire.\textsuperscript{85}
\end{quote}

Justice's companion, Reward, makes plain the belief that punishment has its virtues. When the Vice is condemned to death, Reward remarks: "Then those that with you to this
did consent, / The like reward shall cause them to repent." At the close of the play Justice says he will reward those who imitate Virginia's virtue; Reward promises to "punish those that move such dames to strife."  

An interesting contrast to this sort of drama are plays performed for Elizabeth that underscored the benefits of life in a kingdom without dissension. The subject is not the downfall of a king beset by vicious counselors, but the security that comes with a virtuous ruler who seeks peace. Horestes is a retelling of the Greek story of Orestes. The focus of the play is the breaking of the cycle of revenge with his marriage to Hermione, and the reconciliation on personal and national levels. The play concludes with a speech given by Duty and Truth as they Crown Horestes:

A kynge dyme kept in Amyte, and voyde of dissention, Ne deuydyd in him selfe by aney kyde of waye, Neather prouokd by wordes or reprehention, Must nedes long contyne, as Truth doth saye. For desention and stryfe is the path to decaye.

Then they pray for Elizabeth and her council to pursue virtue and correct vice, and also pray for the nobility, spirituality, lord mayor and commons to do their duties. In Sapientia Solomonis, Wisdom, Justice, and Peace are the companions of King Solomon. The play does little beside extol the virtues of this king and the benefits they brought to him and his kingdom. The Prologue and Epilogue are to the Queen, another ruler similarly blessed, "and likewise administering justice and law to the people whom God have given her to rule over."
Liberality and Prodigality does not feature a king and his efforts to rule well, but it does have as its primary focus the potentially damaging effects of largess. This time, Virtue, Equity, and Liberality are the ones to restore order. The play opens with a discussion of the conflict between Dames Fortune and Virtue, joined by Liberality, Virtue's chief steward. Prodigality and Tenacity both seek Money from Fortune; she bestows him on the former, by whom he is sorely used. Liberality gives a sermon against Fortune, and urges the Captain and Soldier not to rely on her. Money, now skin and bones from overuse, goes over to Tenacity who in turn keeps him locked up. Prodigality tries to storm Fortune's castle; failing, he murders Tenacity and steals Money, now fat and flabby. Finally, Money is rescued and is happy to be given over to Liberality, who then rightly rewards Captain and Soldier. Prodigality is sent to trial by Equity and found guilty. Yet the sentence, it seems, it mitigated when he repents his dreadful life.

Here the woes of the world are not the sins of men and women, but the conflict between the followers of Virtue and Fortune:

How seldom is it seen, that Virtue is regarded,
Or men of virtuous sort for virtuous deeds rewarded!
So wonts the world to pamper those that nought deserve,
While such as merit best, without relief do starve. 90

It may seem curious that Liberality is one of the virtuous figures in the play, but the speeches make it clear that this is not a wanton or excess largess, but due and rightful
payment. And more than that, it is the grease that allows
the smooth operation of the kingdom:

Let states therefore, that wish to maintain stately
dignity,
Seek to acquaint themselves with Liberality;
For what is it that wins the subjects' faithful love,
Which faithful love all harms from them and theirs
remove.\textsuperscript{91}

The struggle between Prodigality and Tenacity shows that
there is meant to be a balance in the use of largess within
the state. At the beginning of the trial, Virtue and Equity
attribute the poor state of government to man's failure to
use reason. Equity exhorts the same sense of balance, of
measure, promoted in Magnificence: "Where reason rules,
there is the golden mean."

At first it does not seem that the meting out of
justice here is going to follow this advice. The Sheriff
that brings Prodigality into court assumes he will be found
guilty, and sees a distinct purpose in his trial: "Praying
the party may have the law with speed, / That others may be
terrified from so foul a deed." Virtue also assumes his
guilt and the outcome: "So horrible a fact can hardly plead
for favor."\textsuperscript{92} Even Equity has a very particular view of
justice: "That Prodigality is guilty of the fact, no doubt.
/ And therefore for furtherance of justice effectually, / My
lord the judge comes to sit upon him presently."\textsuperscript{93} The
description of the trial is very detailed for the literature
of the period.\textsuperscript{94} We are given a glimpse of the actual
process of mitigation. Despite the fact that all have
condemned him, the defendant's typical plea for mercy may save him. Prodigality confesses and appeals to the prince's mercy. He admits there is no reason why, according to the law, he should not die. When the Judge sentences him to be hanged he asks God for mercy and confesses to a wicked life, admitting and lamenting his "lewd and vile misgovernment."

He begs that the Judge "of pity condescend / To be a mean for him that meaneth to amend." He claims that it is because so many have already known the prince's ready mercy that he makes this bold appeal. The play closes with the Judge announcing that he favors this disposition and will petition the prince; the punishment will not be fully remitted but some part of it may be qualified.

IV

There are many other moralities that, although they may not feature a king or figure of justice, express a similar underlying fear about the threats that disorder poses to the welfare of the commonwealth. Though at root they all derive from the morality tradition, the plays take many forms. Some are directly concerned with disturbances in the government of the country. Skelton's **Good Order** is now only a fragment of a little over one hundred lines.\(^9_5\) In this, Good Order brings Riot and Gluttony before Old Christmas on charges of rebellion; he later banishes them. **Temperance and Humility** is an even shorter fragment.\(^9_6\) Temperance and Humility are questioned by Disobedience, who is powerful throughout the land. They ask God to banish the Vice and
restore Obedience to the country. Disobedience says it will not happen, and that he will bring in others such as his brother Adversity. There is a play described by Hall, for which no written work remains, that is quite similar to the above moralities. This "goodly disguising" was played at Gray's Inn at Christmas time. In it, Lord Governance was ruled by Dissipation and Negligence. Because of their misgovernance and evil order, Lady Public Weal was put out from governance. This caused Rumor Populi, Inward Grudge, and Disdain of Wanton Sovreinty to rise with a great multitude, expel Negligence and Dissipation, and restore Public Weal to her estate. 

Impatient Poverty concerns the debate between Peace and Envy about whether the country prospers economically more in peace than in war. Peace converts Impatient Poverty, who becomes Prosperity. Envy and Misrule victimize and corrupt Prosperity, who again becomes Poverty. Finally, he is reformed by Peace.

Gentleness and Nobility is not a morality, but worth mentioning because it is a pre-Reformation play that features these topics. It is not an allegory, but a debate between a Ploughman, Knight, and Merchant about the substance of nobility and how men come to authority. Basically, it voices the lowest estates' concerns about the structure of power. It emphasizes that, though at the pinnacle of power, the Crown is prone to the evils that all men are, if the sovereign is not ruled by virtue. The play closes with eleven stanzas that praise to the heavens
justice, laws, and punishment as the means to enforce order and authority. Cambises, like Appius and Virginia, depicts the downfall of a tyrant. It is particularly interesting because his only righteous act is punish a wicked judge; this incident was a popular medieval exemplum. Judge Sisamnes is placed in charge of the country while King Cambises is in Egypt. On the king's return, Commons Cry informs him of the judge's oppression, and Commons Complaint, Proof, and Trial make their case against him. For his punishment, Cambises has him flayed alive before his son, who is to be the next judge; so the son is duly warned. The Epilogue of the play makes this request of the Queen and her council:

To practise justice and defend her Grace eche day;
To maintain God's woord they may not refuse,
To correct all those that would her Grace and Grace's lawe abuse;
Beseeching God over us she may raigne long,
To be guided by truth and defended from wrong.100

Like Will to Like features Vices in the guise of common criminals. The play describes their wicked behavior and authority's final judgment of them. It emphasizes that God's vengeance is made manifest on earth as certain punishment, and should be a warning for other lawbreakers. Both criminals give little scaffold speeches in which they repent and exhort others to amendment. Indicative of the basic message of the play is this speech by Severity, the judge:

That upright judgment without partiality
Be minist'red duly to ill-doers and offenders!
I am one, whose name is Severity,
Appointed a judge to suppress evil-doers,
Not for hatred nor yet for malice:
But to advance virtue and suppress vice.
Wherefore Isodorus these words doth say:
Non est Judex, si in eo non est Justicia!
He is not a judge that Justice doth want,
But he that truth and equity doth plant.
Puly also these words doth express,
Which words are very true doubtless.
Semper iniquus est judex, qui aut invidet aut favet:
They are unrightful judges all,
That are either envious or else partial. 102

Even a brief description of these morality plays indicates
that all attention is on the use of the legal system and the
enforcement of law to counterbalance the forces of disorder.
There is not an inkling that mercy serves any purpose in
governing the country; at best, it may keep a criminal from
the gallows, or comfort one facing execution. The authors
and audience of these plays were consumed with the questions
of maintaining peace in the kingdom, and the solution called
on each time is the justice wielded by secular authority in
the form of punishment.

One of the most telling indicators of a shift in the
locus of concern in these plays is the metamorphosis of
personifications from theological to secular. In the
sixteenth century the allegorical figures drawn from
Christianity were crowded off the stage by those
representing the interests of the temporal world. The
Virtues of course retain their moral nature; such are Duty,
Measure, Circumspection, Temperance, Equity, and Constancy.
The Vices undergo a more complete transformation. Many
represent social disorder, as do Misrule and Disobedience.
By the time of public theaters, they have become simply wicked individuals, such as Pierce Pickpurse. Most notable is that a significant number of the Vices take the form of Sedition and other false counselors. The bifurcation of the mankind figure for the purposes of illustrating the fates of the elect and the reprobate is related to the general division and multiplication of protagonists. Many take the form of the country's sovereignty: Magnificence, King John, Imperial Majesty, Principality, Lord Governance. The truly striking innovation in the use of personifications is that of representing the country and the people of England. Not only do they suffer the actions of the Vices and the protagonists, they also complain on their own behalf, and seek satisfaction from the state. Respublica, England, People, Commons Cry, John the Commonweal, Lady Public Weal, Communality—all speak for the audience's dominant interest. The weight of their anxiety had tipped the balance from the problems of securing salvation in the next life to those of governing this one.

Even moralities that are considered typically protestant in nature, that is overtly concerned with Reformation doctrine and accompanying demands for social reform, exhibit the same cultural anxieties about public unrest, authority, and social control seen in those moralities that primarily criticize the royal government. They equate ordering the civil sphere with that of the
divine. Just a brief consideration of one of these reforming moralities will show that basic changes in ideas about the place of mercy in judgment were not limited to either religion or government. *Nice Wanton* shows that the ideology of justice had permeated lay and clerical concerns and could operate on different levels in the same work. In form, *Nice Wanton* is a youth morality, intended to educate the audience in the proper way to bring up children. It spells out the moral: "He that spareth the rod, the chyld doth hate." The plot centers on Xantipe and her three children, Barnabas, who is good, and Ismael and Dalila, who are wicked. A neighbor tries to show the mother that she is harming them by spoiling them, but to no avail. Time passes and Dalila enters—lame, starving, and ravaged by venereal disease. Barnabas comforts and forgives her. Ismael is tried for felony, burglary, and murder; he is hanged. Dalila dies, and grief-stricken Xantipe attempts suicide. Barnabas offers her God's forgiveness.

Obedience to religious and secular authority is demanded in the same breath. The Prologue begins by stating how children should be educated:

To be taught to fear God and theyr parents obey,  
To get learning and qualities, thereby to maintain  
An honest quiet lyfe, correspondent alway  
To God's law and the kynges....

The sentiment that this applies to all members of society is echoed in the judge's response to an attempted bribe:

"...he shall haue the law, / As I owe to God and the kyng
obedience and awe. The judge sees himself as an agent of God and king simultaneously. If the law is not followed, the sanction it prescribes must be used to instill fear. When the jury has found Ismael guilty, the judge sends him be hanged tomorrow, "for ensample." This should be a lesson to those who flout the laws of Church and king. Even the image of God as the merciful judge has been overshadowed by that of the royal magistrate strictly enforcing the law. Barnabas' efforts to console his family reveal concepts about mercy at odds with those found in medieval literature; they are bound closely to punishment. As Barnabas intercedes in Xantipe's attempt at suicide, he asks her not to exclude God's mercy:

God doth punysh you for you negligence;
Wherfore take his correction with pacience
And thanke him hertely that, of his godnes,
He bringeth you in knowledge of your trespas.

God is merciful not because he forgives her sins, but because he made her aware of them. There is no question of postponing divine justice and punishment until the next life. Ismael has been punished by God's agents in the courts, and his sister by natural afflictions. Dalila and her brother have no doubt that her ravages are the sign of God's judgment. She claims, "Al this I haue deserued for lacke of grace, / Iustly for my sinnes God doth plague me." Yet this sentence is not irrevocable: Barnabas then urges her to "repent and amend" while she stil has time, and God will restore her health and grace.
Mercy has been resoundingly returned and limited to the heavenly realm; the major concern is whether one might be the necessarily undeserving recipient of God's grace. The value of good works in the form of mercy to one's fellows has no place in the protestant moralities. For God's mercy no longer is available to all; forgiveness is not simply there for those who sincerely request it. A contemporary audience would not consider the plight of the reprobate unjust. "For them the need for authority and punishment overrides the claims of equity and generosity." Mercy had to change its image and definition, and its role in secular society, in order to accommodate this hunger for authority and order.

The doctrine of predestination had a striking effect on the morality genre. The division of all society into the elect and reprobate had immediate consequences in the substance and structure of these plays. The mankind figure became bifurcated into representatives of the saved and damned. This leads to a division of both the former Rex Humanitas and Everyman types into multiple figures, all of which may have different fates. As a result of this, the audience is shown characters who merit salvation, and those who deserve punishment. Contrary to the endorsement, seen in medieval sources, of the teaching that one can never know whether one's neighbor deserves mercy or judgment, these sixteenth-century moralities portray men and women who deserve salvation and--more tantalizing--punishment. We
have a parade of transgressors who are visited with God's vengeance; such are Cambises, Appius, Pierce Pickpurse, Aman, and Prodigality. "Once the figure of mankind is reduced to individual human terms, justice insists that reward, correction or retribution be carried out, according to the circumstances." The writer is obliged to admonish the unrepentant and show his or her fate. Two ideas corollary to predestination embody in the moralities the force behind the ideology of justice in the administration of the law: first, that man experiences his reward or penalty in this life; second, that God's just vengeance can be administered by his temporal agents. Not one of the Vices or sinful, criminal characters is left to the judgment of God after death. Retribution finds them in the here and now. Often the equation between earthly and divine justice is drawn to the extent that there is a trial in a royal court or at least before a judge. Many of the moralities reiterate the notion that this will serve as a deterrent to potential wrongdoers: it is meant to both save souls and keep down the crime rate. Entwined with these rationalizations for administering sanctions are the endless demands for obedience to authority; again and again the claim is made that they are not meting out reward and punishment as individuals or officials of the Crown, but as agents of God's will.

The moralities are a map for locating the ways in which both Church and the English polity sought to master the
cultural anxiety about social disorder by replacing an ideology of mercy with an ideology of justice.

The exhortations to virtue in the morality drama are always contingent on the reward of virtue and the punishment of vice. As early as "The Castle of Perseverance" the maintenance of order in human society is seen as dependent on the certainty of a justice which punishes the wicked. The history of the subsequent morality drama is the history of a search for reassurance that such judgement is forthcoming. No longer content to await the Last Judgement, the sixteenth century sought assurances from civil authority.  

At the same time society's frame of reference for virtue and vice shifted from the divine to the temporal; consider the fact that Vices had become venal counselors and pickpockets. The transformation of the Four Daughters of God allegory indicates that sometime in the decades surrounding the start of the sixteenth century, the public imagination conceived of moral struggle in a very different way. It no longer involved only the individual's inner life, the struggle to control personal behavior, and the effect it had on the community. Moral struggle was externalized and made widely public. English men and women sought from the Crown a force to control violence and discord, an authority that truly would maintain the peace. Idealized notions of necessary virtues changed, the balance tipped, and theory favored secular authorities that consistently used the power to judge and sanction wrongdoers. The personifications of the English people and commonwealth mark this externalization and acknowledge a new relationship between all the people in the kingdom and one ruler. We can detect the desire for the
individual and community to be absolved from the obligations to keep order. The English people were strongly attracted to the idea of investing the king with the absolute authority and responsibility for reward and punishment, for the maintenance of peace. So it is that morality plays presented the struggle of a king threatened by mortal weaknesses and evil counselors. Justice, representing judicial and not theological virtues, must be the king's most valued advisor. Finally, in our reading of these morality plays, we must not lose sight of the fact that mercy still has a function. Relegated to the debate over the value of grace versus good works, or appearing as the threat of unmerited largess, mercy nevertheless continues to be shown in judgment scenes when at least some wrongdoers are pardoned.
Notes to Chapter 5


5 Potter 7-9.


7 Wickham, Shakespeare's 3-22, 25-28.

8 The cosmic patterns of fall, redemption, and judgment, and of the ethical conflict of vices and virtues survived to provide Shakespeare and his contemporaries with models. Wickham, Shakespeare's 22-23.

9 Potter 30-33.

10 Potter 57.


17 For example, *Everyman* 11. 28-29 and 11. 58-62.


20 Spivack 243-44.

21 Potter 117.
"The mystery changes its nature but in the process becomes more intensely terrifying than it was in its Catholic version, for how can we possibly call just the judgments of the God described to us by Calvin?" Robert G. Hunter, *Shakespeare and the Mystery of God's Judgments* (Athens: U of Georgia P, 1976) 32.

Hunter 33-34.

Wickham, *Early English* 236.

Bevington explains that "religious drama was the first great sponsor of political dramaturgy. The impulse was natural and inevitable. Political concern was not at first a worldly antithesis of true religion, or forward-looking "secularization," but an expression from within the Church of a desire for reform." David M. Bevington, *Tudor Drama and Politics* (Cambridge: Harvard UP, 1968) 28.


Potter 105-107.

Potter 78.


Bevington, *Tudor Drama* 115; Potter 89-94.

The Four Daughters certainly would have been familiar to Mary Tudor. For instance, they appeared, with other female personifications of virtues, in pageants presented to Mary in Paris in 1514; see Wickham, *Early English*, 394-95.

*Respublica* 11. 1169-1208.

*Respublica* 11. 1395-1430.

*Respublica* 11. 1236-38.


*Respublica* Act V, Scene 9.

This work has only the briefest of descriptions of the Four Daughters. Avarice warns the other Vices that Truth is Time's daughter, a "long tongued girle" who brings all things to light; if men are praiseworthy she declares it, if otherwise, she does not spare them (11. 909-14).
After the Vices first encounter the Virtues, Adulation and Avarice argue about their course of action. Avarice says maybe they should stand up to them, since they are women and Peace is quiet. Adulation responds that Truth and Justice are not for their "diet." Avarice says that he likes Mercy, but the other replies that she often turns her face away (11. 1461-66).

40 Respublica Act V, Scene 10.
41 Respublica 11. 1856-59.
42 Respublica 11. 1860-64.
43 Respublica 11. 1869-71.
44 Respublica 11. 1875-77.
45 Respublica 11. 1878-1929.
46 Bevington, Tudor Drama 115-18.
47 Respublica 11. 1193-1208.
48 McCutchen 406.


50 Alois Brandl, ed., Horestes, Quellen des weltlichen Dramas in England vor Shakespeare, Quellen und Forschungen zur Sprach und Culturgeschichte des germanischen Volker 80 (Strassburger, 1898).


52 John Bale, Kyunge Johan, Specimens of the Pre-Shaksperean Drama, ed. John Manly (Boston: Athenaeum, 1900).


54 Thomas Lupton, All For Money, Literature of the Sixteenth and Seventeenth Centuries, ed. J. O. Halliwell (London, 1851); John Farmer, ed., King Darius, Anonymous Plays, 3rd ser. (1906; Guildford: Traylen, 1966); John Farmer, ed., Lusty Juventus, The Dramatic Writings of Richard Weyre and Thomas Ingeliend (1905; New York: Barnes,


56 *A Warning for Fair Women* is from the latter part of the sixteenth century. This play is late to be included here, but it contains marks of the traditional elements of the morality. Justice and Mercy appear in a dumb show, and signal the righteousness of pursuing the murderer.


59 Potter 67, 69.

60 Potter 77.


62 Bevington, *Tudor Drama* 56, 58.

63 For example, *Magnificence* 11. 50-54, 11. 68-75, and again at 11. 2113-20.


65 *Magnificence* 11. 121-25.


70 For a discussion of the works of Bale and the background of the play, see the introduction to Barry B. Adams, ed., *John Bale's King Johan* (San Marino: Huntingdon Library, 1969). The edition referred to in the following discussion is Manly's; see n. 52 above.
This is similar to a situation described in the late thirteenth-century legal treatise *Placita Corone*; see chapter 2, n. 23.


*Godly Queen Hester* 251.

*Godly Queen Hester* 259.

*Godly Queen Hester* 281-82.

*Satire* 11. 1490-1504.

*Satire* 11. 1615-18; see also 11. 1892-95 and 11. 3810-13.

Bevinton, *Tudor Drama* 156.

*Appius* 20-22.

*Appius* 22.

*Appius* 43, 45. *King Darius* has the three figures Charity, Equity and Constancy; however, its plot is a poor patchwork at best, and not worth recounting here. Yet the morality is interesting because the weight of the protestant influence can be detected in the speeches of these three Virtues, and their emphasis on faith and God's grace; see pp. 45-47, 52-54. The spirit of the times can also be felt in the delight they take in the punishment and damnation that God's vengeance visits on the Vice; see pp. 77-80.

*Horestes* 11. 1164-68.

*Horestes* 11. 1192-1205.

*Sapientia* 53.

*Liberality* 343.

*Liberality* 344.
There is another trial scene at the end of John Manly, ed., *Nice Wanton*, Specimens of the Pre-Shaksperean Drama, vol. 1 (Boston: Athenaeum, 1900).

See the summary of the play in Houle 45-46.

See the summary of the play in Houle 132-33.

Edward Hall, *The Union on the Two Noble Families of Lancaster and York* (Menston: Scolar, 1970). The play is described under "The xviii yere of Kyng Henry the viii," fol. cliii. Hall wrote that the play was highly praised by all but the Cardinal who put the author and one of the actors in the Fleet. Yet Hall insists it was never directed at the Cardinal.

Kenneth Walter Cameron, *Authorship and Sources of Gentleness and Nobility* (Raleigh: Thistle, 1941).


Alan Sinfield, *Literature in Protestant England 1560-1660* (London: Croom Helm, 1983) 10. Sinfield also thinks these beliefs "created a universe of strife and tension." Perhaps that is the reason that Tudor drama seems inherently more interesting to most modern audiences.
For a basic example of this, see W. Wager, *The Longer Thou Livest and Enough Is as Good as a Feast*, ed. R. Mark Benbow (Lincoln: U of Nebraska P, 1967).

Potter 117.

As in *Respublica*, *King John*, *Magnificence*, and *Appius and Virginia*.

These include *All For Money*, *Appius and Virginia*, *Cambises*, *Liberality and Prodigality*, *Like Will to Like*, *Nice Wanton*, *A Satire of Three Estates*, and *A Warning for Faire Women*.

As in *Appius and Virginia*, *Cambises*, *Liberality and Prodigality*, and *Like Will to Like*.

For example, in *King John*, *Godly Queen Hester*, and *Like Will to Like*.

CHAPTER 6

SIXTEENTH-CENTURY LITERATURE AND THE IDEOLOGY OF JUSTICE

There is a fundamental change in the discourse of mercy in the sixteenth century. The literature turns from the themes of the reform and salvation of the individual to the reform of the commonwealth and the authority of the king; specifically, to an authority that could save England from the evils of social and political discord. The movement is from religious to political concerns, although they are often clothed in the interests of the Church. Tudor audiences continually were presented with the importance of avoiding civil disorder and keeping the king's peace. Literature voices social criticism in almost every genre or form; this is condemnation of those in the commonwealth, and not an examination of sinners who can be saved through repentance and atonement. Medieval texts express the need to structure an apology or rationale for the punishment of one member of society by another. But this is overcome in the sixteenth-century by the beliefs that God's judgment can and will be executed in this world, and that the Crown is the agent of divine justice. These were the ideas behind the sense of empowerment and obligation for retribution that resonate in the Tudor literature of mercy and judgment.
Obedience to political authority and the Church it represented, not the reconciliation of society's members, became the primary concern when maintaining peace and order was the subject. In medieval literature, the assumption is that the temporal world is patterned after the divine: there may be debate and strife, but ultimately God's plan requires mercy and reconciliation, satisfaction on the part of the transgressor and pardon from those in power. Just as God forgives humankind, the king forgives wrongdoers in order to achieve the reintegration of the community. That same assumption holds true in the sixteenth century. The transformation of the Four Daughters allegory in the morality plays reflects the development of a very different conception of the roles of mercy and justice in God's plan, and in the governance of England. Every genre of literature shows the mark of this development. The duty to cooperate with and submit to the Crown's authority is repeatedly emphasized in plays, chronicles, didactic poetry, sermons, political propaganda, and reformers' polemic. The vengeance of God's wrath, in the guise of the administration of royal justice, was intended to awe a violent and turbulent people and inspire compliance with the king's law. The theory was that this authority was best expressed not in pardon but in punishment.

The survey of literature presented in this chapter is more selective than in preceding chapters, though this is not due to a paucity of relevant texts. A detailed
description has already been provided of the medieval
discourse on mercy and judgment, and the changes that occur
in the fifteenth and sixteenth century as they are signaled
in morality plays. The specific concerns here are to check
whether those major changes are consistent in other forms of
literature, provide a chronology of the transformation, and
trace the continued appearance of themes associated with the
medieval ideology of mercy. This chapter examines
particular representative or influential works in order to
clarify the timing of that shift in prevailing or dominant
ideals. It is possible to indicate the years during which
an ideology of justice found its voice and took a
distinctive public form. The argument is not that popular
opinion changed in toto at one particular time; the purpose
is to identify the markers and contours of that change. The
ideology of justice did not supplant older beliefs and
practices, but the strident promotion of fulfilling the law
as the means to secure order and maintain authority
increasingly overshadowed prior traditional practices of
mercy, especially after the 1520s and 1530s. Interest in
the topics of equity, repentence and the notion of deserved
and undeserved mercy continues unabated in the sixteenth
century. After the first few decades these features of
mercy and judgment assume their forms distinctive of the
culture of Early Modern England. The notion of equity
becomes tied to the typical restatement of the relationship
of mercy and justice: justice dominates and mercy is a
subordinate element in its realization. Sanctioning wrongdoers has come to be seen as an orthodox form of mercy. In its improper form, mercy is the unmeasured or undisciplined generosity of kings, or in fact of any member of society, whether it takes the form of forgiveness or material goods. Emphasis is placed on exemplary punishment as the preferred means to awe the people and perhaps inspire compliance with the law; the inspiration of mercy, in the king's pardon and the jury's forgiveness, has been devalued. As we have seen in the moralities, repentence is still an important feature in judgment, but now as a sign that the transgressor may be a worthy recipient of forgiveness.

It would be wrong to assume that, because important features of the ideology of justice dominate in the literature after the 1530s, society's centuries-old nexus of attitudes and beliefs about mercy had disappeared. The predominating ideal may have shifted to one that promoted executing the law and maintaining the peace through the sanctions of royal authority, yet frequent contradictions are evident in these sources that indicate a very gradual transformation was in process. This confusion is seen in an ambivalence about the king's prerogative to pardon which surfaces again and again. The conflict of values signals the complexity and interdependence of legal notions of pardoning wrongs and general cultural values about the prerogative for generosity. A new ideal had taken hold, but the people had yet to find ways of instituting the demands
of justice that would accommodate the continuing realities of the English concept of mercy's role in judgment.

I

The development of printing has no small part in facilitating speculation on the identities, extent and tastes of Tudor audiences. It enables historians to draw more reliable conclusions about literacy than are possible for earlier periods, and to correlate popular reading material and popular opinion with more assurance.¹

Sixteenth-century printers addressed a wide variety of interests, and their product was available in forms ranging from cheap pamphlets to large, expensive folio volumes. They met the demands of every kind of taste and audience.² Not surprisingly, works of a religious nature, whether didactic, devotional or polemic, heavily dominated the market. The demand for religious texts was continuous; only toward the end of the century did the call for other types of literature equal it. There was a fundamental change in the nature of printed works, however, during the course of Elizabeth's reign. Gone were the saints' lives, breviaries, works of guidance for religious, and the like. Instead there were English Bibles, innumerable guides to its use, manuals for godly living and similar works generated by protestantism. The other categories of books available and in popular demand during the second half of the century also were largely didactic in purpose. These were works for use in law and education, and informative texts of all sorts,
such as those about husbandry, geography, popular science, and history. And of course, there were the bellettristic compositions; that is, creative or fictive texts intended, though not solely, for entertainment. For the twentieth-century reader, these are precisely the sort of works that seem to typify sixteenth-century England, familiar in the brilliant drama and poetry from the latter part of Elizabeth's reign. However, it would be very misleading to allow the shadows of Marlowe, Sidney, Shakespeare and the like to extend over all the century and distort our perception of what the public sought and favored in literature. In the first half of the century, medieval compositions continued to be in great demand; the choices for publication of Caxton and his successors bear witness to this. Of contemporary writers, the works of Hawes, Skelton, Barclay and Wyatt went into a number of editions. The trade in cheap romances was also very brisk. There is evidence that before 1560, thirteen percent of all publications were literature in the more restricted, modern sense of the term. But from then until the end of the century this portion rose to twenty-five percent. However, the increased demand was selective in nature; formerly popular forms and their writers rapidly lost favor with the public. There was a sharp decline in the demand for medieval romances; Langland, Gower and Hoccleve went unpublished; Lydgate and Malory appeared only in single editions; even Chaucer was barely published. The citizens of Elizabethan England had lost
interest in works from their country's past and turned to contemporary authors to fulfill their demand for entertainment, in which, one must not forget, the didactic element still featured prominently.

This transformation in the interests of the reading public, as well as the metamorphosis of attitudes about mercy and justice, are evident in a comparison of two popular works, one from the reign of Henry VII, the other from the time of Elizabeth's rule. Alexander Barclay's metrical version of *The Ship of Fools* was printed by Pynson in 1509. His was not an attempt at a strict translation but rather was an adaption of Sebastian Brandt's *Narrenschiff*, which was first published in 1494 and soon translated into many languages. This verse satire is very much in the tradition of the medieval moralist's demand for reform. It intended to instigate reform through a rehearsal of the extensive faults of human society. The loss of virtue is bemoaned and vices are catalogued. This is not a satire of individual characters but of stereotypes. The work concludes with verses by Barclay in honor of the Virgin: he praises her role as merciful mediatrix. He also occasionally lauds the virtues of Henry VIII. All criticism in *The Ship of Fools* is generalized, and anything that could be construed as an attack on the Crown in notably absent.

In his prologue, and in another exhortation by Barclay, we find the standard statements of the author's intent and the work's purpose. He asks the reader: "Amende your lyfe
and expelle that vyce away. / Slomber nat in syn. Amende you whyle ye may." He echoes the sentiments of Langland and Gower: "Wysdome is exyled, alas blyne folysshenes / Mysgydeth the myndes of people hye and lowe / Grace is decayed, yll governaunce doth growe." The Ship of Fools opens with the section "Of evyl Counsellours, Juges, and men of lawe." Such men are berated for their corruption by riches and favor. The beliefs it embodies are the same expressed two hundred years before:

Loke in what Balance, what weyght and what mesure
Thou seruest other, for thou shalt serued be
With the same after this lyfe I the ensure.
If thou ryghtwysly Juge by lawe and equyte
Thou shalt haue presence of goddes hyghe maistye
....
Ill Juges so iuged, Lo here theyr trauayle
Worthely rewarded in wo withouten ende,
Then shall no grace be graunted ne space to amende.12

This is a work poised at the terminus of a long tradition, showing earmarks of both the old and new ideals. There is no mention of the need for a judge to show mercy or pity, yet neither is there anything about a magistrate's exalted position, or the legal necessity for administering punishment. Judges are enjoined to follow law and equity--those tag words of the ideology of justice--and still the warning is about the reciprocal aspect of judgment.

There are two other sections dealing with mercy and justice, "Of them yt synne trustynge vpon the mercy of god," and "Of them that gyue jugement on other;" both are typical of the attitudes and exempla found in medieval sources.13 "Of the contempt and dispysynge of pouertye" also has a
familiar ring. It makes no mention of vagabonds or worthless beggers but decries the lust for material goods that has spawned a hatred of the poor. A section headed "Of the erudicion of neglygent faders anenst theyr children" is notable in that it makes no equation between the need for familial discipline and the civil disobedience that results when fathers and other masters are delinquent in their duties. There is no mention of the damage to society that comes of failing to punish children; the concern is with the individual life and soul.

The Mirror for Magistrates was also, like Barclay's verse satire, intended to instruct its audience in the need to mend their ways, yet the underlying ideology is markedly different. The work was conceived as a continuation of Lydgate's Fall of Princes, and its form shows the marks of tragedy, and of vision literature. William Baldwin was the editor of sorts; he and three others wrote the nineteen tragedies of the 1559 version. The Mirror was quite popular, going into a number of editions over the next few decades. The work consists of de casibus histories, each one speaking an individual's story. They are examples of the patterns of successful and defective behavior for both people and nations. The speakers urge their fellow men and women to learn vicariously rather than through hard experience. The reflections shown in this mirror are intended to admonish and move the reader to amendment. However, the work is not solely intended for moral and
spiritual reparation. History here serves as political instruction. The *Mirror* does not feature only princes but those from a variety of estates. The analysis of each individual's story served "to expound the current political philosophy, and substituted an analysis of divine justice for the older philosophizing on the uncertainty of fortune."¹⁷ Kings and their officers are the agents of divine vengeance. Each figure's moral failings are used to describe the operation of God's justice in the temporal sphere. The paramount importance of justice is evident in this scheme of human society. Baldwin claims in his dedication that good governors have never lacked renown nor the bad escaped infamy. God may suffer them for the punishment of the people, but he does not allow them to escape unpunished because they dishonor him.

For it is Gods owne office, yea his chiefe office, whych they beare & abuse. For as Iustice is the chief vertue, so is the ministracion therof, the chiepest office: & therfore hath God established it with the chiepest name, honoring & calling Kings, & all officers under them by his owne name, Gods. Ye be all Gods, as many as have in your charge any ministracion of Iustice.¹⁸

As in the *The Ship of Fools*, the first segment concerns judges; here it is Robert Tresilian, chief justice under Richard II, who tells of his own sorry career. It has some similarities in tone with the piece in *The Ship of Fools*, and Tresilian warns his readers not to be corrupted to serve man, but instead keep to the service of justice and the law. Yet there is no word about the reciprocal element in passing
judgment on one's neighbor; the emphasis is on political corruption. Tresilian had determined, for material benefit, to serve Richard, a king who had "set his lustes for lawe, and will had reasons place." The chief justice provides the moral of his life:

Ye Judges and ye Iusticers let my most iust punycion, Teache you to shake of bribes and kepe your handes pure. Ryches and promocion be vaine thynges and unsure, The fauour of a prince is an untrusty staye, But Iustyce hath a fee that shall remayne alwaye. what glory can be greater befor god or man, Then by the pathes of equities in judgement to procede, So dulye and so truelye the lawes alwayes to skan, That ryght may take his place without rewarde or mede, Set aparthe all flattery and vaine worldly drede: Take god before you eyes the iust iudge supreme, Remembre well your reckening at the day extreme.20

The service of justice has been elevated to the ultimate glory, and the fulfillment of its laws the issue on which God will pass judgment. The favor of a prince and the rewards of office here are cast as corruptions that work against justice.

The fate of Richard II is employed as an object lesson; the Mirror tells how he "was for his euyll gouernaunce deposed from his seat, and miserably murdred in prison." The evil governance is characterized as disregard for the law. The whole meaning of his life is summed up in this lesson: "Thus lawles life, to lawles deth ey drawes. / Wherfore byd Kynges be rulde and rule by right, / Who wurketh his wil, & shunneth wisedomes saues / In flateries clawes, & shames foule pawesshal light."21 The wicked
king, the evil tyrant, is used as an example of the consequences of failing to maintain justice and comply with its rule. Yet the righteous king suffers too. The tragedy of Henry VI, "a vertous prince," is used to explain the meaning of suffering in this life. He claims that there are two causes of our misfortunes:

The chiefe the wil divine, called destiny and fate,  
The other sinne, through humours holpe, which god doth highly hate,  
The first appoynteth payne for good mens exercise,  
The second doth deserve due punishment for vice:  
This witnesseth the wrath, and that the love of God,  
The good for love, the bad for sinne, God beateth with his rod.  

The section closes by Henry telling the reader to learn how deeply dangers pierce, how frail worldly honors are, and how frail good fortune is; men should thus fear to do wrong for God's judgment is delivered in this life. The Mirror contains a justification for retribution and sanctioning that suits either the righteous or the sinner.

The opposite side of the coin is shown in the tragedy of Jack Cade. It underscores the danger in acting against the ordained hierarchy of obedience and obligation. Kings and their ministers have been warned by this work of the price for not following the dictates of justice and the law of God. Cade warns the audience of the danger of failing to yield patient obedience to secular authority:

Full litell knowe we wretches what we do.  
When we presume our princes to resist.  
We war with god, against his glory to,  
That placeth in his office whom he list,  
Therfore was never traytour yet but mist  
The marke he shot, and came to shamefull ende  
Nor never shall til god be forst to bend.
God hath ordayned the power, all princes be
His Lieutenauntes, or debities in realmes,
Against their foes still therfore fighteth he,
And as his enmies drives them to extremes,
Their wise deuises prove but doltish dreames.
No subiect ought for any kind of cause,
To force the lord, but yeeld him to the lawes. 23

In the prose section following the story of Cade, the author
details how common men are sometimes used as agents of
divine justice. 24 As for those killed by Cade, "God would
never have suffred him to haue been so used, exept he had
fyrst deserved it." Not that God causes such men to be
evil: "Although the deuyll rayse theim, yet God alwayes
useth them to his glory, as a parte of his Iustice." The
Ship of Fools depended on provoking the individual to amend
personally his or her moral behavior, assuming the
reformation of society as a whole would follow on this. But
the Mirror for Magistrates was intended to warn or even
frighten the people into compliance with the laws of secular
authority through the illustration of the dominance of
justice and the working out of divine judgment in this
world.

II

The Mirror for Magistrates bears some resemblance to
the Tudor chronicles which retail the stories of famous men
in order to provide the reader with the lessons of the past.
The study of history was promoted as being profitable to
those who have authority in the commonwealth; history taught
by example how to live and govern. Renaissance
historiography is often characterized by those features that
stand in contrast to the chronicle form, but England hardly can be said to have experienced a sharp break with the medieval tradition of narrative history. Chronicles thrived during the fifteenth century, particularly the secular ones such as those compiled in London, and continuations also were created for earlier works, as with the Brut. Most popular works of history written in sixteenth-century England were based on earlier chronicles. Stow and Holinshed drew extensively on their predecessors' works, and so medieval tastes and attitudes influenced the scholars and readers of the English renaissance. Sixteenth-century chronicles encompass many of the familiar medieval values relating to the king's prerogative to pardon; at the same time they are a vehicle for newer messages about obedience, authority and righteous punishment.

In some ways, Tudor propaganda encouraged the study of the past: the fifteenth century was depicted as a prelude to the wondrous reigns of Henry VII and his son. John Rous and Robert Fabyan voiced the official Tudor viewpoint. Their chronicles may be partly genuine in the attitudes expressed, but they voiced political indoctrination, too. Fabyan's New Chronicles on England and France was the main conduit by which the historiographical tradition and factual content of the earlier London chronicles were transmitted to Tudor England. Completed in 1504, the work begins at Creation and ends in 1485. This periodization featuring the Tudor dynasty as its culmination reached its full
development in Edward Hall's chronicle, completed about 1532. He divided his history into seven reigns, beginning with Henry IV and ending with Henry VIII. The entire fifteenth century is presented in terms of the theme of concord moving to discord, and finally achieving resolution. Tudor historians exploited, more than writers from any time since the early Middle Ages, the notion of history as the manifestation of God's will on earth.

Two humanist works, Thomas More's *History of Richard III* and Polydore Vergil's *Anglica Historia*, are excellent sources for tracing the anatomy of some of the critical intellectual and cultural changes we have been discussing that occurred in the early decades of the sixteenth century. Granted that in some ways these histories are outside the mainstream of English historiography; later writers used their factual content, though Vergil's critical approach and More's literary form were not imitated. Even so, these humanist works resemble medieval histories in a number of ways: history is seen as a manifestation of God's will; the future is predicted by portents; time's passage is described as the process of Fortune's Wheel. Vergil and More do, however, put more emphasis on natural causation, and understanding that God worked through secondary, natural causes. This approach lead to an analysis of motives, of psychological and political factors. Humanist historians still saw past events as exempla, yet with a distinctive change in focus; events were used more as examples of
political rather than moral behavior. They showed an increasing interest in man as a social and political being and less concern with his salvation. Abstract morality was displaced by political expedience as the indicator of virtuous behavior. These works by More and Vergil especially are revealing about the king's pardon in cultural and political terms.

Thomas More wrote his *History of Richard III* between 1514 and 1518; the first English version was published in 1543. He probably relied to a great extent on oral first- and second-hand accounts. Some think that his history expresses current sentiments and not More's own politics. The sentiments expressed by figures in the work can be seen as "evidence of the sense of insecurity suffered by the writers in his day." The *History* returns frequently to the subjects of lawlessness, social disorder and retribution. It emphasizes the transitory nature of success; as an exemplum it concentrates on political rather than moral behavior. This is an apologia for an idea—the nature of tyranny and its evil consequences. It is the story of the political machinations of a criminal mind. The belief that a tyrant will be punished on earth by divine justice is set out here in fine literary form.

The *History of Richard III* offers a perspective on the place that mercy and pardon had in a political order based on the centrality of law and authority. Yet this is a perspective that affords a view of contrasting and even
conflicting notions of mercy's role. All of the characters in the history are treated mercilessly by others, and the few references to mitigation of punishment are in a negative cast. The one exception is Jane Shore. Among the list of her good qualities is that she would intercede with those out of favor for the king's pardon and grace. The text is layered with questionable meaning, and we are sometimes left wondering what the work intended to convey about the right and wrong uses of mercy. For example, Sir Richard Ratcliff, in directing the execution of Lord Rivers and the others, brought them on the scaffold and showed them to the people, "not suffring them to speke & declare their innocence lest their words might haue inclined men to pity them, & to hate the protectour & his part...." This hints at what we know of the Early Modern tradition of scaffold speeches, and its important element of public repentance; yet it also refers to the unchristian nature of Ratcliff, and the dangerous outcome of stirring the people to clemency. Buckingham, in a speech to the council urging the removal of the boy king from sanctuary, justifies such an action with a long diatribe against the abuse of sanctuary. We must question whether this was simply a condemnation of the villains' attitude toward this form of mercy, or, more likely, was meant to convey public attitude to this ecclesiastical privilege. Another passage shows the use of the king's pardon to manipulate and direct power, and the different reactions this prompted. More writes that as part of his
coronation, Richard III placed himself in the court of King's Bench in Westminster and gave a speech to all estates of men, but one that especially was directed at lawyers:

And fynally to thentent that no man shoulde hate hym for feare, and that his deceitful clemency mighte geat him the good wyll of the people, when he had declared the dyscomoditie of discorde, and the commodityes of concorde and vnitie, he made an open proclamacion, that he did put oute of his minde all enmities, and that he there did openly pardon all offences committed against him.36

Richard then had brought out of sanctuary a man he was known to hate, and made a show of forgiving him. More states that the common people praised this, but the wise saw it as a vanity.37 Is this a condemnation of custom, or just of Richard? His mercy is false; false in that there is no true feeling behind his pardon, that this display of forgiveness is only an empty, hackneyed gesture used in the hope of eliminating discord and paving the road to power. More imagines that the general populace valued this use of the pardon, but that the "wise" knew it was meaningless in the attempt to secure authority.

The portions of Polydore Vergil's *Anglica Historia* concerning Henry VII and Henry VIII contain many references to and descriptions of their use of the prerogative to pardon. In these we see suggestions of conflicting ideas about mercy's function. Vergil had received a commission from Henry VII and started work on a comprehensive history. This first version, which goes down to 1513, was completed in 1531 and dedicated to Henry VIII. The subsequent
continuation, rewrites and editions were due to the author's careful attitude about politics and those in power. In its treatment of events down to 1400, the Anglica Historia is fairly objective; the remainder is biased, and includes some willful misrepresentation. For Vergil, the fifteenth century was intended to serve as a prelude to the awe-inspiring reign of Henry VII. Yet his criticism of this king worked its way through. Though initially praiseworthy of his son, the history came to express Vergil's bias against Henry VIII and his ministers.

But the value of the Historia as a source is not confined to the facts it preserves, and the reasonable explanations it offers. It is also important as an indication of popular opinion. Even Vergil's caution is revealing—it is evidence of the awe in which the new monarchy was held, evidence corroborated by Thomas More who showed similar circumspection as an historian.

The Anglica Historia is peppered with references, albeit brief, to the king's pardon being widely granted for political ends, usually with the aim of securing the obedience and submission of his subjects. The pardon was used in a variety of circumstance and in different ways, as we see in these examples involving Henry VII: as part of taking the crown, he pardoned all who would swear obedience; a rebellion is avoided when he pardons those who would put down their arms; he was prudent to initially offer pardons to a group involved in treason and revolt; he had the leaders of an uprising hanged, but the other captives were spared due to their "rustic simple-mindedness;" Empson and
Dudly were executed, but others involved were treated leniently since they were considered less guilty. Occasionally Vergil's description of a series of events reveals more of what he considered to be the reasons for granting pardon. For example, he writes that when Lambert Simnel and his mentor were captured, both were granted their lives since the boy was considered innocent and too young to have committed an offense, and the other was a priest. In the case of Peter Warbeck, Vergil states he had left sanctuary on Henry's promise of clemency, and was given over to be permanently guarded. He later escaped and fled to a monastery. A priest interceded for his life with the king, and obtained it. Warbeck was placed in the Tower, then later tried to escape. This was too much for Henry, and Warbeck was hanged. Another conspirator was not given such latitude. When his guilt was discovered, William Stanley admitted his offense and hoped his open confession would prompt the king to pardon. Vergil thought that Henry might have done so, partly moved by clemency and partly to avoid alienating William's brother. But the king feared leniency in this case, thinking that William would never be truly reconciled and others might be encouraged to similar acts. Henry had him beheaded. One of Vergil's statements neatly sums up one of the primary purposes the prerogative to pardon served for Henry VII: "Henry was a lover of peace whenever it could be secured without much damage to himself,
and especially desired it at that time when he was embarrassed by treason among his people."44

Vergil did not hesitate to describe the more unpleasant facets of Henry's approach to pardon and punishment; notably, these all were instances of what Vergil perceived as the misuse and perversion of royal generosity. He tells of the Cornish uprising in support of Peter Warbeck, and how the people were severely punished by the imposition of fines. "Thus, on account of the crimes of a few, it is the custom to ruin indiscriminately the whole population."45 Typical of Vergil's attitude is a very lengthy aside concerning a negative change in Henry's character toward the end of his life. He wrote that after subduing the final conspiracy and making peace with other countries, Henry began to treat his people with more harshness and severity. Henry said this was to secure their complete obedience. But the people attributed it to greed. He eventually set aside moderation and sank into avarice. The king said he sought to obtain obedience through fear. He severely punished all who committed any crime, and the punishments were drastic fines. This eventually spawned evil informers, who had the king's ear. He gradually lost all sense of measure and moderation.46 Vergil suggests that Henry had been contemplating reform when he was overtaken by death.

The portion of the history that concerns the reign of Henry VII ends with a description of the man and his character. There is not a word about mercy or clemency.
Vergil praised his prudence, shrewdness, hospitality and majesty. Henry was "more inclined to peace than war. He cherished justice above all things; as a result he vigorously punished violence...." The descriptions of Henry VII's use of the prerogative to pardon has the distinct color of pragmatism about it. Unlike earlier kings whose use of the pardon was often presented in terms of religious devotion, Vergil clearly presents Henry's pardons as political tools in the effort to maintain sovereignty. Henry VII is a man who was careful to limit the severity of his judgment through royal mercy and yet also is one who zealously seeks retribution against those who violate the law. This sanction, however, was seen as taking an unsuitable pecuniary form. That Vergil attributes this to avarice is indicative of the wide-spread transformation in values pertaining to generosity and obligation that pervaded English culture.

III

Tudor sermons demonstrate perhaps more clearly than any other type of contemporary literature the change that had occurred in the ideal of mercy's place in judgment. The influence of protestant reformers obviously accounts for the theological differences between most sixteenth-century sermons and those discussed in chapter four. The doctrines at issue still resulted in frequent discussion of the nature and operation of mercy. For example, reformation beliefs about the function of good works included the command to
love one's neighbor. The debate on predestination called up the need to define the relationship of God's justice and mercy. Criticism of the sacrament of confession required an explanation of God's forgiveness and merciful pardon. English sermons also exhibit an intense concern with authority and obedience, endlessly pursuing civil order by means of the power of the Crown, which has become the unquestioned agent of God's vengeance. Sermons reflect the same development that moralities do: justice increasingly appears as a juridical virtue essential to the operation of the English commonwealth. The virtue mercy has been relegated almost entirely to the divine realm.

We can see this development by comparing representative sermon collections. The works of John Fisher, Bishop of Rochester, can be considered typical of those from the reigns of Henry VII and Henry VIII who declined to participate in the latter's reformation; honored as a Catholic martyr, he was executed in 1535. His sermons speak of an all-forgiving God, familiar from medieval sources, whose mercy dominates all. His descriptions of the character that mercy assumes in temporal life are similar to others we have seen in fifteenth-century sources. For example, he claims that nothing is more likely to prompt a man to be merciful than an offender humbly submitting himself, acknowledging fault and begging forgiveness. Fisher's expectations of the behavior of powerful men and
judges are found in an analogy to the vengeance that God could demand in response to man's sins:

For grete men in power of this worlde the more myghty and ryghtwyse they be so muche the more they exercyse and use vengeaunce and punysshement upon them that be wycked and brekers of the lawe. Therefore syth almyghty god is moost ryghtwyse and moost myghty of all, how maye he haue mercy and not auenge his quarell....

Only God has such pity and no malice. He is merciful, and being above his laws is not subject to them, so he can forgive whom he will. Yet Fisher clearly thinks that those who exercize authority will punish criminals. This passage states that the powerful, if righteous, are obliged to punish transgressors. Greater value is not placed on pardoning wrongdoers. God's mercy, however, still surpasses his vengeance. Fisher contrasts the nature of divine and human judgment:

Iuges of thys worlde (yf ony be without falsnes and malyce) be so obedyent and subgecte unto the lawes whiche alwaye they must obey, that it is not lawfull to them at theyr owne wyll and arbytrement to forgyue suche as shall please them. Also many of them and almoost all haue so muche cursednes and malyce set in theyr myndes that yf they myght they wyll not forgyue those that hath offended them in ony condycyon. For why they haue but lytell mercy and almoost none.

Nevertheless, he feels mercy still should be foremost. Note that although Fisher thinks that judges cannot be merciful because their first obligation is to the law, he also believes that they would not show clemency even if they were able--an expression of some ambivalence about their duties and behavior. Fisher's attitudes about mercy essentially
are traditional. Instead of using the divine virtues of truth and justice to justify the subjection of mercy, as often occurs in sixteenth-century sermons, Fisher tells how they actually insure forgiveness for penitents. They seem to indicate God will not forgive sinners, but actually his truth guarantees grace to penitents; it promises pain but also forgiveness. God will not call to mind the sins of the sorrowful. Those who live by his laws and are repentant will be saved through God's righteousness.  

His definition of equity is one of the most intriguing elements of Fisher's sermons on the psalms. It is similar to those cited in late medieval sources in that he separates justice and equity, making the former harsh and the latter charitable. This definition comes in the course of an explanation of the parable of the Prodigal Son; the son was revived by the equity of his father. "Equitas...is properly the mynde of the lawe. A Iuge ought rather to folowe the mynde of the lawe than the extremyte of the wordes wryten in it." He gives an example of a circumstance in which the letter of the law calls for the execution of the innocent. "Thus after Iustyce wryten he sholde dye, but accordynge to equyte he were worthy to haue a grete reuarde."  

This suggests that the demands of Fisher's society involved the increasing expectation that the law--God's and man's--would be strictly enforced in the effort to maintain the peace. Yet mercy was not banished entirely; it was being worked
into a definition of how justice was to operate within the law.

Robert Latimer, Bishop of Worcester, was a protestant reformer who shared Fisher's fate; he was executed as a heretic by Mary in 1555. His preaching was favored both by the general public and by King Edward VI. The content of his sermons stands in contrast to those of Fisher. They do show a particular interest in the crucial role of restitution and amendment in the forgiveness of sins. But this concern with the obligation to love one's neighbor is the only aspect similar to the more traditional theology. In a sermon on the petitions of the Lord's Prayer, he insists that works cannot earn salvation; loving one's neighbor is a way of measuring the likelihood that one has been saved. For if one is able to love one's enemies, it indicates that faith is very strong, and helps one to imitate Christ. Latimer explains that the works of mercy include forgiving those who do you wrong as well as admonishing those in error and bringing them to the right way. This may seem that malefactors ought not to be put to death. God does require private mercy, but he requires differently from the king and his magistrates. They must not bolster wickedness but punish evil-doers according to their deserts. Just as Latimer meets the dilemma involved in forgiveness by bifurcating a Christian's obligation to be merciful, he explains the need to reconcile with others in the context of re-ordering priorities. He states that we
should seek to be peace-makers, to eliminate discord between neighbors.

Therefore let us set by unity; let us be given to love and charity; but so that it may stand with godliness. For peace ought not to be redeemed jactura veritatis, with the loss of truth; that we would seek peace so much, that we should lose the truth of God’s word.°

Here the order of virtues set out in the Four Daughters allegory is turned around: peace must now give way to truth. Truth carries this importance because of the function it has in establishing political authority. Foremost among these truths is the obligation to render total obedience to the king and his magistrates who have been placed in authority by God.° The people must be content to suffer whatever the king, parliament and magistrates say. In addition, the people must not rebel against hard laws but wait until God corrects them.° Latimer often emphasizes the obligation of those in authority to be righteous, do no harm, and not be subject to their own wills. He voices a concern for the proper administration of justice, criticizing judges, officials and juries, and exhorts the king personally to redress these problems. The people, however, were to do nothing more than pray to God that this corruption might be eliminated.°

Reformer’s attitudes about mercy and justice, such as those of Latimer, became those of the Anglican state. The sermons of Edwin Sandys, Archbishop of York from 1576 until his death in 1588, are typical in this regard. Sandys
presents the Anglican God, one which continues to have a loving and merciful side. Yet this God has a notably vengeful aspect. Human suffering has been provoked by sin; God's wrath and indignation must be appeased by repentance, craving pardon and promising amendment. In sermons that treat the reciprocal aspects of mercy, the virtue is presented in terms of almsgiving, not pardon and reconciliation. These good works are accepted by God and rewarded because the person is faithful. The rare occasion on which mercy and justice are given equal weight is when they are used in the rhetoric of majesty. Sandys praises these virtues in the Queen; in his opinion, she desired that all men in authority under her
give to every man his own according to justice, matching always with justice mercy; which two are so linked and coupled together, that they may not be severed. Justice without mercy is too sharp and rigorous; and mercy without justice is not mercy but folly.

Yet this notion of the relationship of justice and mercy is contradicted when the Queen is not the subject. For example, he insists that for those who judge, affection "is the cut-throat of all justice." Pity and commiseration will corrupt justice. A magistrate is meant to be the minister of God's wrath. Sandys' essential attitude toward the role of mercy in judgment can be seen in a sermon preached at an assize, which states that judges must not favor the rich or the poor. "The judge may not give place to commiseration: his place is a place of equity, and not of
foolish pity." They should not be partial to the mighty or the powerless. "Spare not traitors, murderers, or thieves, lest you be partakers of their sins. Your leniency towards them is cruelty towards the commonweal, the enemies of whose peace they are." Sandys explains that *nolite judicare* refers to the forbidding of uncharitable private judgment, not that of public ministers, parents or masters. Although forgiveness is a fruit of mercy, "such as sit in judgment ought to correct and not to remit; because they deal not with injuries done to themselves, but to the laws and commonwealth, or church...." In a sermon preached before the Queen, Sandys explains that Moses was a "worthy magistrate," no less severe in God's cause than gentle in his own.

He did wisely consider that, as it is a point of mercy to pardon private wrongs, so not to punish public transgressors against God and the state were great injustice; it being in doubt whether their deeds were more pestilent, or their example, if it were strengthened by impunity, would be more pernicious."

The root of this degradation of expressions of mercy can be found in the consuming fear of social disorder that haunted the sixteenth century, and the ideology of justice it spawned that bolstered the Crown's power. Sandys' fear, the rationalization of punishment it produced, and the empowerment of political authority, frequently surface in his sermons:

> For if laws be not executed without respect of person, if sin be not severely repressed, if the people be not kept in order, it will shake the state, all will be in an uproar, no man shall be
master of his own, or in any safety of his life, all iniquity will abound, all honesty will be exiled, and the magistrate shall bear the sword in vain. To neglect it is to neglect that thing for which this ordinance of God was first appointed. For if men without these means might be kept in order, surely God would never have established government to keep them in order by these means.\(^72\)

Sandys' sermons are not at all unique in presenting this vision of justice, in the form of retribution, as the only way to obviate social chaos. In the earliest stages of the English reformation, the Crown understood the value of promoting this vision of the king as the agent of divine vengeance, and vengeance as the only way to secure social cohesion. And the Tudors made direct and explicit use of sermons as one of the vehicles for this ideology of justice. Henry VIII and his children were convinced of the worth of promulgating official statements from the new church on a variety of controversial issues.\(^73\) *Certain Sermons or Homilies* was one of the most influential instruments of the Henrican Reformation.\(^74\) It was very much a settlement between extremes in the English reformation. The sermons were divided into short portions and were intended to be read on successive Sundays. The *Book of Common Prayer*, the use of which was compelled by the Elizabethan Act of Uniformity, required the use of these sermons. They were not simply intended to supply sermons for those parishes that lacked a preaching ministry; they were the standard for measuring conformity and were a means of controlling preachers.\(^75\) These homilies, read in every church along
with the *Book of Common Prayer*, were probably as well known and influential as any other writing produced between 1547 and 1640. Generally speaking, the language found here does not indicate a particularly different conception of God's mercy (and its relationship to his just punishment) than that found in the preceding two centuries. The prayerbook contains the basic petition for pardon and forgiveness to a God whose mercy is primary and infinite. The *Book of Common Prayer* however does include an innovative emphasis on the notions that the king is God's direct agent whom all must obey, and that one may suffer God's punishment in this world. The obligation to obey secular authority is repeatedly stressed; a righteous life consisted of duties to fulfill, and the prayerbook constantly stresses the command to obey secular and divine authorities.

In these sermons some features of God's mercy and justice, and the salvation of man, are similar to sermons from preceding centuries. There are many references to the need to forgive and even love one's neighbor, to give alms, to secure amendment and reconciliation with man and God. Yet the sermons never cease to interject explanations of the proper understanding of the relationship of faith to works: faith alone saves the soul. These sermons not only were meant to convey the substance of doctrinal changes; obedience to secular authority and the avoidance of civil disorder receive equal emphasis. "A Sermon against contention and Brawling" is concerned with the effects
that the sin of wrath has on English society, not just on
the soul of the offender:

And because this vice is so much hurtfull to the
society of a common wealth, in all well ordered
cities, these common brawlers and scoulders be
punished with a notable kinde of paine. And they
bee unworthy to liue in a commonwealth.

In another of the sermons punishment is defined as charity;
the concern here is also for the well-being of society as a
whole, not just with the correction of the sinner. We see
the endpoint of the redefinition of mercy that apparently
began in the late fourteenth century. Charity is described
as having two offices: to cherish, defend and not oppress
good men; to rebuke, correct and punish vice without regard
to person. Punishments are not evil in themselves, but
necessary and good for an evil man. Unless punishment is
given in due time, offenders fall into other mischief and
draw others to sin with them. The preacher with the word
and the governor with the sword must fight against the
kingdom of the devil. True Christian charity includes
seeking the correction of the evil, "that they may thereby
either bee brought to goodnesse, or at the least that God
and the commonwealth may be lesse hurt and offended." 83

_Certain Sermons and Homilies_ demands total obedience to
secular authority. Justifications for this are frequent.
For example, the tenth sermon in the collection, "An
Exhortation concerning good Order, and obedience to rulers
and Magistrates," begins with a description of the chaos
that would result if the order in which God has arranged the
world was disturbed. Without this order no house, city or commonwealth could endure. If kings and their magistrates were removed no man could go unrobbed on the highway, or unkill in his house, or keep his wife, children and possessions in quiet. All things would be in common and souls, bodies, goods and commonwealths be destroyed. God is to be blessed because the kingdom of England does not feel this disorder, thanks to the king he has given, and the estates arranged in godly order. The sermon explains why all owe duty and obedience, submission and subjection to the high powers ordained by God. It describes the origin and powers of that authority, making parallel, again and again, the obligation to keep God's laws and the king's laws, and to submit to the king's punishment which is nothing less than divine judgment. The final sermon in the collection, written in response to the Northern Rebellion, is perhaps the most patent political application of these religious teachings. Elizabeth understood their value and promoted the use of the sermons. It was she who had commissioned the "Homily against Disobedience" following the Northern Rebellion. The polemical purpose was obvious. "To include it among the other sermons was to concede more or less openly that the government conceived of homilies, first and foremost, as political measures." The audience is told that obedience is the principal virtue, the root of all virtue and the cause of felicity. When it is breached, vice overwhelms the world. Therefore, rebellion is the first and
greatest of all sins, the principal cause of worldly miseries and of eternal damnation. Evil kings as well as the good reign by God's ordinance and all must obey them. A good king is a blessing of God's mercy to his people; the evil king is the plague of God's wrath and punishment of his justice. The people must either deserve a good one or patiently suffer and obey the wicked king they deserve.87

This message in the final sermon in the Anglican collection is not simply something that evolved from decades of change following the institution of the English reformation. This ideology was fully formed even in the 1530s. A similar crisis for the Crown in another uprising forty years earlier, known as the Pilgrimmage of Grace, prompted numerous propagandistic tracts. In 1536, shortly after Richard Morison had obtained a post in Cromwell's service, he was called upon to produce two pieces that represented the Crown's response to the insurgents' demands and the situation at large. The second of these, "A Remedy for Sedition..." contains the same arguments for the nature of the Crown's rule, and the same description of society, seen in later sermons.88 Morison said that the commonwealth is the product of a divinely ordered existence; each should be content with his or her estate and glad to profit the "quietness of the realm" even at the expense of the individual; people are ignorant and must be content with the rulers appointed by God. God, nature, and all humanity are trampled where there is civil dissension.89 The tract
concludes with a paean to the benefits of concord, something of an unusual expression in a literature that tends to focus on the horrors of discord. Here we see once more the ambivalence toward the function of mercy in society indicated by contradictory stances in the same text. What is most striking about Morison's "Remedy" is the solution that he suggests Henry will use to meet the turmoil caused by the insurgents: it is not punishment, but instead total pardon. The tract includes the story of the traitor Lucius Cinna who had conspired in the death of Augustus. Morison wrote:

His Grace will, I doubt not, follow the clemency of Augustus. He seeth his noble progenitors have oft punished rebels and done no more but cut away the branches of sedition; for their time His Highness intendeth to put away the root.

We encounter the same paradoxical approach seen in other sixteenth-century sources. When political and social control was discussed in the abstract, in terms of the ideal approach, the ideology of justice was vigorously promoted; when actual means were retailed to resolve the circumstances at hand, we see a tendency continually to rely on the customary practice of pardoning in the effort to achieve concord and reintegration within society.

IV

We have seen strong indications in the literature discussed so far that during the course of the first half of the sixteenth century, in theory, the administration of secular justice and the execution of divine judgment firmly
became fixed in the king. The sources frequently endorse the idea that all efforts to eradicate sin and secure civil concord were to be directed by the Crown. Let us turn now to three texts that deal specifically with the virtues and qualities desirable in a ruler, and the preferred means for maintaining peace. They speak directly to the problems of the relationship of mercy and justice in governance, and of the function of mercy in the context of judgment. These are the works of humanists, three of the most influential from the reign of Henry VIII. This dissertation has not considered many elite sources, but these three are valuable for focusing on the chronology of change. They show the intensity of opinion involved in the shifting ideologies, and the ambivalence that remained. They highlight a remarkable change in attitude that occurred between the second and fourth decades of the century, at least among men of their estate, a movement away from beliefs that endorsed pardon and reconciliation as the means to secure civil order to those that promoted the execution of justice through the law. Although the work of these writers might not be representative of social attitudes at large among their contemporaries, they do illuminate the roots of a vital development that gradually affected the whole culture during the next half century.

Though a work generated by religious reform and not a political treatise, William Tyndale's *The Obedience of A Christian Man*, written in 1521, contains very strong
statments about authority and yet still conveys many of the traditional attitudes to mercy.\textsuperscript{93} This work was the source, for many writers during the English reformation, of the archetypal statement of the genesis of a ruler's power in God's ordinance, and of the hierarcy of authority and submission in English society. For example, the sections on the obedience of subjects to rulers, and on the duty of kings and their officers, set out in detail how princes rule the world in God's stead; the Crown and its officers alone are empowered to pass judgment and enforce punishment.\textsuperscript{94} Yet for all the thunder about the rigorous demands of justice, the work echoes time-honored statements about the mercy available to the contrite, and the need to forgive one's neighbor in order to obtain the mercy of God.\textsuperscript{95} Of note are the few passages on reconciliation and merciful judgment which break through the reformers' rhetoric and indicate a discrepancy between theory and practice. In a discussion of the duties of sheriffs and other legal officers, Tyndale instructions are that they "may let no man that hurteth his neighbor scape, but that they bring them before the judges; except they in the mean time agree with their neighbours, and make them amends."\textsuperscript{96} In the context of the duty of landlords, Tyndale advises that they should not favor one tenant over another, whatever the business. Tenants should be treated as though they were sick people: as a merciful physician, heal them with wisdom and good counsel. Be pitiful and tender-hearted unto them, and let not one of thy tenants tear out another's throat; but judge their causes indiffer-
ently....For if such an order were not, one should slay another and all should go to waste. 97

Protestant reformers exerted a controlling influence on the political ideology that was used to secure power in the first half of the sixteenth century, but this did not obliterate accustomed notions remained of forgiveness and reconciliation as the way to keep civil order.

The genre of the speculum principis enjoyed a continued popularity in the sixteenth century. Despite radical developments in the intellectual underpinnings the form continued to show similarities with its medieval antecedents. 98 Both Erasmus' Education of a Christian Prince and Thomas Elyot's The Boke Named the Governour are in this tradition. Such works, if short on the particularities of political analysis, do set out the ideal means of personal rule in a kingdom, and maintaining peace and civil order was one if its most important elements. The relationship or balance between the exercize of the virtues of justice and mercy in personal rule continued to be one of the primary topics in this genre. A comparison of the advice on governing given by these two men, whose works were so influential, can narrow the chronological frame for the period during which a crucial theoretical change occurred.

Erasmus wrote the Education of a Christian Prince in 1516 while in service to the young Charles V. This work was popular with the general public; it went into a number of editions in the next few years. 99 In essence, it presents a
prince the source of whose abilities is his supremely virtuous nature. Erasmus felt that the teacher who instructs the prince should present an idealized portrait of a man more divine than mortal: "who holds the life of each individual dearer than his own; who works and strives night and day for just one end--to be the best he can for everyone...." The lengthiest section is the first, which details the qualities of a Christian prince and the education he should have. The objective in guiding a state is plainly put: "A king has this one interest: to foster peaceful relations between his subjects and straightway to adjust such dissensions among them as chance to arise, for he believes that they are the worst menace to the state that can happen." There is no question but that the best means of maintaining the state is to have a truly Christian king, a moral man who himself obeys the law, who rules by law.

The subject of good laws and their administration occupies a central place in Erasmus' theory. Balance and reason—a sense of equity—are vital to securing peace in the kingdom. He is careful to define equity.

Neither is it a state of servitude to live according to the letter of just laws. Nor is that a peaceful state in which the populace bows to every whim of the prince; but rather [it is peaceful] when it obeys good laws and a prince who has a keen regard for the authority of the laws. Equity does not lie in giving everyone the same reward, the same rights, the same honor; as a matter of fact, that is sometimes a mark of the greatest unfairness.
This formulation of equity attempts to remove the
destructive image of the fulfillment of the letter of the
law by using equity to color the law, softening it as just,
moral and righteous. The character or nature of just laws
receives careful attention. For Erasmus, the key is the
morality of the operation of the whole system of justice.
Laws were meant to see that wrongs are done to no one.
However, this did not remove clemency or empathetic pity.
"But they should lean more in the direction of leniency to
the weaker, for the lot of those in lower stations is more
exposed to injuries. What is lacking in the protection of
fortune, that the humanity of your laws should equalize."105
The laws proposed by the prince should not punish only the
source of the crime, but work against the sin itself; the
law should restrain crime by reason, not punishment.106
The orientation of the system of justice should not simply
be to punish transgressors but also to reward good conduct
in the service of the state.107 It was the obligation of
the state to enforce penalties, yet the line between
forgiveness and retribution was a fine one. The prince had
a duty to inhibit wrongdoing by inspiring a fear of divine
vengeance and by threatening to sanction transgressors. If
punishment was necessary, the less severe should be
employed; if nothing was effective, the "incorrigible must
be sacrificed by the law...so that the sound part is not
affected." Capital punishment was to be the last resort.108
Though the prince was obliged to inhibit crime, the law
should always be more prone to pardon than punish: this more nearly accords with the law of God; an escaped criminal can be brought back for punishment, but nothing can help the innocent man who was condemned. "Even if he does not lose his life, who can judge the suffering of another?"  

The importance that law and a system of justice had for Erasmus should not overshadow the fact that his concept of governance still centered to a significant degree on the king's use of mercy. The qualities of a suitable king listed here include wisdom, justice, moderation, magnanimity, temperance and integrity. Clemency or mercy may not be in this list, but the value he placed on this virtue is apparent. Twice an analogy is made to the "king bee," which was said not to have any sting. "Nature did not want him to be cruel and seek vengeance appropriate to a great personage, and so she withheld his weapon and left his wrath ineffectual. This should be a great pattern to mighty kings."  

The character of a prince's mercy generally is put in terms of his lack of vengeance. A prince should be generous and magnanimous; vengeance is proof of a small and weak character, and nothing is less appropriate in a prince. There are indications of the nature of this generosity in some of the statements about the king's pardon: "out of respect for his own position he will sometimes pardon an unworthy man and with a thought for his own reputation will be lenient to those who deserve no clemency." Erasmus emphasized that one who ruled with
Christian virtue would lose no prerogatives. He believed that the real subjects were those who would yield obedience of their own accord. Those oppressed by a prince were not really his, for it is common agreement that makes a prince: "when you hold people bound to you through fear, you do not possess them even half. You have their physical bodies, but their spirits are estranged from you...." The practical aspects of pardon and mitigation had great value for Erasmus. He advised that a prince who wants to avoid the people's hatred and encourage their affection should delegate "odious duties" to others and keep for himself the ones that win favor. This is because gratitude for granting favors appears quickly. If there was need to refuse a favor, it should be done affably, and without offense. "If it is necessary to impose a punishment, some slight diminution of the penalty prescribed by law should be made, and the sentence should be carried out as if the prince were being forced [to act] against his own desires." For Erasmus, the prince who would succeed to maintaining his own sovereignty and peace in his kingdom was one who exemplified mercy's finest qualities--generosity, clemency, empathy, forgiveness.

Thomas Elyot's description of and guidebook for the consummate ruler contains a strikingly different opinion about the functions of mercy and justice. The Boke Named the Governour probably is known best as a treatise on the education suitable for gentlemen, those who would wield
authority in an England increasingly dominated by a class of "new men." Actually, only the first of its three books deals with the subject of education as we now think of it; the other two define and give examples of the virtues and character befitting those who rule. The work begins with a definition of what he terms the "publike weale" which is ordered by equity and governed by reason. This is followed by a justification for why there ought to be only one "governor" for every such state. The arguments are familiar from other coeval sources, calling on the order of divine providence and the natural tendency of the commons to violent disorder. The recommended virtues are also well-worn, bearing the mark of classical influence and contemporary notions of the sort of chivalry suitable for men of this estate. Justice and mercy still appear as virtues necessary in those who rule; the crucial difference from earlier works of counsel is that both have been carefully redefined, so that mercy is something to be nearly avoided, and justice through the law is the keystone in the structure of English governance.

Book Three begins by discussing justice.

The moste excellent and incomparable vertue called iustice is so necessary and expedient for the gouernour of a publike weale, that without it none other vertue may be commendable ne witte or any other manner of doctrine profitable.

It is divided into two categories: distributive and commutative justice; Elyot treats only the former. According to him, there are three precepts that persuade man
to receive and honor justice, and knowledge of justice is not so difficult to obtain if they are used. "Reason bedynge him to do the same thinge to an other that thou wouldest haue done to the" is the first, and the second is almost the same: "Thou shalte loue thy neyghbor as they selfe." The third precept is "know thyself." The religious injunctions that usually were applied to mercy appear in a new guise here; once again we see customary aspects of mercy being appropriated and made subordinate to justice as that virtue is newly construed. Elyot believes the virtuous leader need have no concern that his "benevolence" will be extinguished by executing punishment according to the law. Condemnation and retribution are for the purpose of aligning wrongdoers with virtue, or to preserve the multitude by causing fear in those prone to offend--both righteous and reasonable objectives.

A story Elyot uses to illustrate the virtue of placability actually reveals much about his attitude toward the administration of justice and the centrality of its role in England's government. It is supposed to show how Henry V could control his anger; set in the context of the court, it also gives an indication of the primary value placed on a sense of justice that was rigid and would vary for no cause. When Henry was still a prince, one of his favored servants committed a felony and was arraigned at the court of King's Bench. Henry came in a fury to the bar and demanded this man's liberty. All were intimidated except
the chief justice who told him the man must be treated according to law unless he could obtain the king's pardon. Henry was angered and tried to take the prisoner; the judge commanded him to depart. He would not, and the judge reprimanded him and sent him to prison for contempt. The prince complied, impressed with the judge's behavior. When the king was told of the whole affair, he thanked merciful God for a judge who did not fear to administer justice, and a son who would obey the command of the law.123

Elyot first mentions mercy in Book Two, in the section on placability: a man with this quality, though moved to anger, either by his own reason or persuaded by counsel, does not seek revenge, and often receives the transgressor into more favor following reconciliation. Elyot wrote that nothing becomes a noble and honorable man more than mercy and placability. Its value is best known by its opposite, ire or wrath, the ugliest vice in humanity. So far this echoes the medieval description of mercy and its opposing vice.124 The section devoted to mercy per se begins much the same way. He writes that mercy always has been so esteemed by man, that not only reason persuades but experience proves that in one who lacks mercy all other virtues are lost and lose their "iuste commendation." The vice cruelty, the opposite of mercy, is the most odious of vices. Governors must consider the peril they would be in if God was not full of mercy but instead took vengeance when offended. The most noble emperors conquered the hearts of
their enemies by showing mercy beyond expectation. The story of the pardon of Lucius Cinna is given at this point. Elyot praises the emperor for putting the pardon to brilliant use: he vanquished an enemy and eliminated any rancor in the city which might have fueled further treason.

However, as Elyot continues with the definition of mercy, it becomes obvious that this is not mercy as men understood it a century or two earlier. The real meaning it had for Elyot becomes apparent in the complaint it provokes:

He that hastily puniteth, ofte tymes sone repenteth. And who that ouer moche correcteth, obserueth none equitie. And if ye ask me what mercye is, it is a temperaunce of the mynde of hym that hath powar to be auenged, and it is called in latine Clementia, and is alway ioyned with reason. For he that on euery litle occasion is meued with compasion, and beholdynge a man punitished condignelie for his offence lamenteth or waileth, is called piteous, whiche is a sickenesse of the mynde, where with at this daye the more parte of men be diseased. And yet is the sickenesse moche wors by addyng to one worde, callyng it vaine pitie.

He begins by defining mercy in terms of equity. Elyot quickly turns to the issue that occupied him—what he saw as the misuse of mercy, a misplaced compassion for those who deserve punishment. In fact, this section is really devoted to "vain pity." Elyot continues by claiming that he could explain what this is, based on his daily experience. An infinite number of English men and women were wandering throughout the realm, as brute beasts, abandoning occupations, service and honesty. He wondered how many "semely personagis" were induced to theft, robbery and
sometimes murder, disturbing good men and finally destroying themselves. There existed statutes, ordinances and acts, noble and enacted by mature consultation, for the punishment of idle people as well as the moderation of unlawful games and reducing apparel. Yet he questions how many were proclaimed and not obeyed. Good laws were being frustrated by disobedient subjects and negligent governors. Elyot was disturbed by the behavior of his fellow men when they were faced with lawbreakers. He claims that a man, first hearing of a crime against his neighbor, abhors it and thinks punishment by law is due. But when he beholds the transgressor, he changes his opinion and prefers his condition or person before the example of justice, condemning a good and necessary law, excusing a damnable offense. And this is done not only by the common people, but also by those in authority committed to executing the laws. Those who excuse wrongdoers see the ever-increasing number of vagabonds, and the obstinate resistance of those who daily transgress the laws. Yet if a commissioner is moved with zeal to duly execute a law which involves sharp punishment some of his companions rebel, saying he is a flatterer or ambitious and so they try to make the people hate him. This is called vain pity, "wherein is contayned neither iustice not yet commendable charitie, but rather therby ensueth negligence, contemp te, disobedience, and finally all mischiefe and incurable misery."
The specter of social chaos appears again. Although Elyot initially is content in his scheme of instruction to repeat the old adages about the function of mercy in ruling a kingdom, the anxieties that characterized his age forced their way through. Even though he found it suitable to repeat the familiar tale about treason and the prerogative to pardon, he contradicts its message by belittling the merciful impulses of his fellow citizens, which he perceived as dangerous and pervasive. Elyot sees mercy as a corrupting influence that must give way to the law, to the justice of society's authority, and ultimately to God.

The literature discussed here expresses the underlying cultural realization that the vicissitudes of crime and the civil disorder that accompanied political and religious dissent could no longer be countered simply by attempts at reconciliation of the parties and their reintegration with the community. Although it ran counter to centuries of religious instruction, the members of English society had accepted the idea that they could judge others and need not have mercy on wrongdoers, at least in the form of mitigating punishment. Medieval sources indicate that in the late fourteenth century people began structuring an argument for investing one segment of the community—the Crown, its officers, and the jurymen who represented the community—with the right to pass judgment on others, and to exact retribution for offenses. Those in the secular
administration of justice were to be exempt from the obligation to pardon others for their transgressions. This reconstruction of Christian teaching assumes its full-blown character by mid-sixteenth century: secular authority voices the judgments of the divine, and is invested with the sword of vengeance.

The medieval sources also show a keen awareness of the improper uses mercy, and the destructive effects that misuse of the virtue could have. Bestowing personal favor could result in pardon for heinous crimes; excessive mercy, or mercy motivated by the wrong intent, added to the corruption that seemed to threaten people of each estate. In Tudor literature, these concerns appear in the guise of social criticism and of moral education for those in authority. They are focused not on the reformation of corrupt individuals, so much as on a fear of wicked counselors, of a king who cannot observe moderation, and on the damage done to the commonwealth by wrongdoers. We see in works from the late fourteenth century that the notion of the worthy recipient of mercy begins to come to the fore, especially in connection with corporeal alms. This anxiety about what eventually is described as unreasonable charity becomes the fear and hatred of the poor so pervasive in the Tudor world. Just as the ideal of reciprocal pardon is being abandoned, so is the belief that unfettered charity for the poor will benefit the provider's soul. The needy no longer are imagined as the special recipients of God's grace; instead,
they are idle vagabonds who destroy the order of the realm.\textsuperscript{129} By 1550, the qualities of mercy have been strained, diminished, and relegated to the province of the divine. In literature, the virtue of justice was no longer an idea in the mind of God which mysteriously ordered creation; nor was it only a theological virtue after which human governance should be patterned. Justice was entrusted to the Crown, and expected to temper, through law, judgment and punishment, the excesses of an increasingly changed society.

We have seen the domestication of justice in this analysis of the allegory of the Four Daughters of God and other literary sources that hold the discourse of mercy. We traced the literature of mercy, following the course of ideas about mercy's role in judgment and function in society. And the texts disclose the medieval ideology of mercy, and its displacement by an ideal that features a justice achieved through the fulfillment of the law. The paradoxical demands of the virtues had been reconciled, not by preferring mercy, but by choosing justice and subordinating mercy to its interests. Beyond that, justice had been removed from the exclusive orbit of the divine, and taken into the hands of the men who governed in this world, to use for their purposes as well as for those of the Anglican God. The next chapter will show that this process of domestication and rise of a new ideology was not something that occurred only on an intellectual plane. In
fact, when this domestication is placed in the context of legal practices and developments between 1200 and 1600, we see that it reflects widespread cultural changes. The perspective of legal history also shows that although an ideology of justice may have been set in theory, the behavior of kings, justices and juries did not change radically to suit that new ideal, at least not in the sixteenth century. Yet traditional attitudes about mercy's role in judgment were able to be accommodated to the new ideology of justice. The ideal means of governance does not change in England because of the religious reformation; the same deep transformation in social values underlay them both.
Notes to Chapter 6


2 The following remarks on the printed literature favored in Tudor England are drawn mainly from H. S. Bennett, English Books and Readers 1485 to 1557 (Cambridge: Cambridge UP, 1952), and H. S. Bennett, English Books and Readers 1558 to 1603 (Cambridge: Cambridge UP, 1965). Bennett felt that a general figure of 6,000 volumes was not an overestimate of the number of books published prior to 1557, and that publications on this scale are evidence of a "considerable reading public." Bennett, 1485 to 1557 20.

3 Bennett, 1485 to 1557 54-151, and Bennett, 1558 to 1603 112-258.

4 Bennett, 1485 to 1557 146-50.

5 Bennett cites Edith Klotz, "Subject Analysis of English Imprints for Every Tenth Year from 1480 to 1640," Huntington Library Quarterly 1 (1937-38) 417.

6 Bennett, 1558 to 1603 249-50.


8 The definition of this genre is a complicated and sometimes contentious one. Works in this tradition have been termed estates literature, complaint literature, the literature of social unrest and of contemporary conditions. The substance of these definitions and debates can be found in the following: Janet Coleman, "The Literature of Social Unrest," Medieval Readers and Writers (New York: Columbia UP, 1981); John D. Peter, Complaint and Satire in Early English Literature (Oxford: Clarendon, 1956); Rossell Hope Robbins, "Poems Dealing with Contemporary Conditions," A Manual of the Writings in Middle English, 1050–1500, gen. ed. Albert E. Hartung, vol. 5 (New Haven: Conn. Academy of Arts and Sciences, 1975).

9 More than once Henry VIII is praised for securing peace: "In hym is iustycie with petye sociate / Vpon the poor he spareth no expence." Ship 2: 17.

10 Ship v.1, 2.
Ship 1: 11.


Lily B. Campbell, ed., The Mirror for Magistrates (Cambridge: Cambridge UP, 1938). The 1559 version is the one referred to here. Eight more tragedies had been added in 1563; the new edition of 1571 simply rearranged the text; editions in 1574, 1575, and 1578 were each enlarged; the edition of 1587 had even more additions and further rearrangement. Mirror 9-19.


Gransden 469.


one in Latin and one in English; they are not translations one of the other. The edition used here is based on the 1557 version.

31 Hay lxv-lxxx.
32 Gransden 444-45.
33 For example, see the description of how he began to suffer after the "abhominable deede" of murdering the boys (p. 87). His downfall soon arrives in the form of the "conspiracy or rather good confederacion" headed by the Duke of Buckingham.

34 History 56.
35 History 57.
36 History 81.
37 History 82.
38 Gransden 431-32; see also Hay's introduction.
39 Gransden 442.
40 Anglica Historia 5, 11, 17, 97-99, 153.
41 Anglica Historia 25.
42 Anglica Historia 111, 115, 117, 119.
43 Anglica Historia 75, 77.
44 Anglica Historia 101.
45 Anglica Historia 109.
46 Anglica Historia 128. This has the distinct echo of the same complaint in some of the morality plays, such as Magnificence and Liberality and Prodigality.
47 Anglica Historia 145, 147.
48 The edition of his sermons used here is John Fisher, English Works, ed. John Mayer, EETS, e.s. 27 (1876; Millwood, NY: Kraus, 1973). These sermons include: one against the doctrines of Luther, written at the request of the Cardinal of York and published in 1521; two written while imprisoned in the Tower; a series on penitential psalms, written for Margaret of York and published in 1509. The following references are from the sermons on the penitential psalms.
49 English Works 161.
50 English Works 95.
51 English Works 95.
52 English Works 237-38.
53 English Works 261.
55 For example, see Works 13, 404, and 452-53.
56 Works 413-27.
57 Works 474-89.
58 Works 486-87.
59 As did nearly every Tudor preacher that discussed the topic, he cited Romans 13 as the authority regarding this duty.
60 For a discussion of this, see the "Fourth Sermon on the Lord's Prayer."
61 For example, see "The Fifth Sermon before King Edward." In another sermon before the king, he referred to the story of Cambises flaying the wicked judge, and remarked that this sign would be a good thing in England. However, he urged prayer and obedience, and reminded that we are not to judge judges, for they would have their own accounts to make; Works 146-48. In another sermon on the parable of the wicked judge, he defined charity in the context of not judging the acts of judges; Works 160.
63 This is found in a description of man's reconciliation with God; Sermons 153.
64 Sermons 346-69.
65 See Sermons 256-92 and 92-111 for treatment of these themes.
66 Sermons 58.

Sermons 198-99.

Sermons 226, 227.

Sermons 228-29.

Sermons 147.

Sermons 85.


It was the fruit of Cranmer's effort that began in 1539. The First Book, consisting of twelve sermons, was published in 1547. The Second Book, with twenty-one sermons, was published in 1563, then the final piece, "A Homily against Rebellion," was added in 1571. They actually were not printed all together until 1623.

See the introduction to the edition referred to here: Certaine Sermons or Homilies, ed. Mary Ellen Rickey and Thomas B. Stroup (Gainsville: Scholars Facsimilies, 1968). The Crown's political use of these sermons is also discussed in Ronald B. Bond, introduction, Certain Sermons or Homilies (1547) and A Homily Against Disobedience and Wilful Rebellion (1570) (Toronto: U of Toronto P, 1987).

Certaine viii.

The dissimilarities in the representation of mercy shown by the Church of England and that shown in contemporary drama are analyzed in James A. Reynolds, Repentance and Retribution in Early English Drama, Jacobean Studies 96 (Salzburg: Institut fur Anglistik un Amerikanistik, 1982). He argues in part that the Church was able to continue presenting divine mercy as available to all because the darker side of reformation theology was shown in the theaters.

For examples, see: portions of Scripture chosen to begin the morning prayer (49-50); the instructions for the administration of communion (247); statements to the congregation during communion service (257); portions of the visitation of sick (303,304). "A Commination Against Sinners" particularly features this ever-merciful God.

This is notable in passages in the communion service (250, 254), and the confirmation service (286).
This joining of themes from medieval and Tudor sermons are seen in "Of the misery of all mankinde" (7-12); "A Sermon of the salvation of mankinde..." (13-20); "An Homilie of Almes deedes, and mercifulnesse toward the poore and needy" (154-66); "An Homilie for good Friday..." (175-80); "An Homilie of Repentance, and of true reconciliation unto God" (256-74).

Certaine 89-98.
Certaine 97-98.
Certaine 43-45.
Certaine 69-70.
Certaine 71-77.
Bond 11.
Certaine 275-80.


Berkowitz 112, 117, 121-22.

"Concord brought them together that wandered without places ever in fear one of the other. Concord made laws, concord built cities, increased and conserved them. Concord brought in all honest crafts. Concord bringeth riches which by dissension we seek madly. In time of peace wits attain unto learning, virtue, and wisdom. Concord maketh us the friends of God, the inheritors of heaven, partakers of all the joy that God hath prepared for them he best loveth." Berkowitz 145.

Elyot also uses this story; see below n.126. The emperor knew the details of this treason but was unsure of the best course of action. His wife Livia told him that since punishment so far had achieved nothing, he should forgive the traitor "and see what clemency may do," since Cinna could not hurt him now, and it might redound to the emperor's honor. Callling Cinna before him, Augustus reminded him he had already pardoned him once, restored his patrimony, and given him offices and authority. Yet now he pardoned him again and hoped for friendship. Following this, Cinna was a true friend, and eventually was made heir.

Berkowitz 125-26.


95 See the sections on penance; Obedience 265, 267.

96 Obedience 204. Yet just following this he states: "If any man have broken the law or a good ordinance, and repent and come to the right way again, then hath Christ power to forgive him: but license to break the law can he not give; much more his disciples and vicars, as they call themselves, cannot do it." Obedience 205.

97 Obedience 202.

98 For a detailed comparison of medieval works of counsel and complaint to those of the first half of the sixteenth century, see Arthur B. Ferguson, The Articulate Citizen and the English Renaissance (Durham: Duke UP, 1965).


100 Education 189.

101 Education 162.

102 Education 164.

103 "The best laws under the best princes make a city or a kingdom most fortunate. The most felicitous condition exists when the prince is obeyed by everyone, the prince himself obeys the laws, and the laws go back to the fundamental principals of equity and honesty, with no other aim than the advancement of the commonwealth." Education 221.

104 Education 212.

105 Education 227-28.

106 Education 222.

107 Education 223.

108 Education 224-25.

109 Education 231.

110 Education 140, 151.

"A publike weale is a body lyuyng, compacte or made of sondry astates and degrees of men, which is disposed by the ordre of equite and gouerned by the rule and moderation of reason." *Boke* 1.

"For lyke as the communes, if they fele some seuerite, they do humbly serue and obaye, so where they imbracinge a licence refuse to be brydled, they flynge and plunge: and if they ones throwe downe theyr gouernour, they ordre every thynqe without iustice, only with vengeance and crueltie: and with incomparable difficultie and unneth by any wysedome be pacified and brought agayne in to ordre." *Boke* 8.

Note that largess and charity have been weaned away from mercy, and here benevolence, beneficence, and liberality are the subjects. They are only vitues if used in moderation, and they require "good election and iugement." The ingratitude of one who fails to acknowledge receiving a benefit, who lies and does not give recompense, is the "moste damnable vice and moste agayne iustice." *Boke* 147-48, 158-61, and 186.

"That it be rytwyse, that it be good, and that it be with honestie. That which is rytwyse is brought in by reason. For nothing is right that is nat ordred by raison." *Boke* 292.

Another interesting use of a story is a variation of the Wicked Judge tale. Elyot intended it to show the value of affability in a ruler. Instead of showing the role mercy can have in passing judgment, in this version the judge finds the woman had been wronged, and reverses the
judgment, "and accordyng to truthe and isucice gau to her that she demaund." Boke 135.

124 Boke 136.
125 Boke 141.
126 Boke 142-45.
127 Boke 145.
128 Boke 145-47.

There are many references to the problem of the poor and vagabonds in the sources treated in this chapter. For instance, "An Homicie Against Idlenesse" (Certaine 249-55) explains how this repugnant sin destroys the commonwealth through the corruption of the individual. It paints vagrancy and its attendant poverty and crime as a great threat to the well-being of the country. The sermon justifies the severe laws and punishments designed to curb the problem, and insists that to ignore it all would be to kindle God's wrath against the nation. Erasmus did not see the problem as residing with those who were already poor; he saw idleness as the root of corruption (Education 225). He wrote of the need to keep down the number of idlers at a prince's court, to keep them busy or banish them: "The great mass of the worthless crowd in every state is created through idleness, which they all seek in different ways. Those who have once become accustomed to [an idle] life will resort to any evil course, if they have no other means of supporting it."
CHAPTER 7

CONCLUSION: AN INTERPRETIVE ACCOUNT OF THE RELATIONSHIP BETWEEN MERCY IN LITERATURE AND IN THE COURTS

The allegory of the Four Daughters of God was a suitable metaphor for society's need to resolve conflicts in the Christian plan of salvation, and in the Crown's use of law; it also speaks of conflicts between the two. The ruler is faced with discordant obligations in fulfilling the law, and also in the prerogative for mercy. Although the ruler has claimed to secure order in the kingdom through the judgment his law demands for transgressors, fulfillment of the law threatens to destroy rather than restore the peace. The entire literature of mercy wrestles with the dilemmas that arise when either sanction or pardon is used to maintain order. Contemporary literature records the articulation of changing cultural values during the period 1200 to 1600, showing us the movement of ideas and how those ideas changed the way society functioned. That the shift in values pertaining to mercy was fundamental and had a profound effect on society is evident in the fact that both Christianity and secular governance abandon an ideal of reconciliation for one that threatens retribution. This change in cultural values did not follow from the English
reformation and humanism, but actually set the groundwork for the rapid social change of the sixteenth century.

In order to understand the significance of the late medieval conflicts about mercy, we must begin with the process at work in the allegory of the Four Daughters of God and in the discourse of mercy generally. This is a movement that ends in a kind of domestication—-the Virtues are drawn within the human ambit and become part of English secular culture—-that involves the reconciliation of justice and mercy and the redefinition of their relationship.

The medieval ideology of mercy was the paradigmatic strategy for maintaining social and political order by relying on the reciprocal benefits of pardon and forgiveness. Mercy was valued as the antidote to the destructive nature of wrath, and functioned as the unguent for political and social life. The medieval sources emphasize the reconciliation of the parties involved, and of the offender with the wider community. In the medieval versions of the allegory, the Virtues are placated, but the judgment is always in Mercy's favor, and the sisters continue to embody the opposing views that brought them into conflict. Justice and Truth often are shown as remote and threatening. Yet there are suggestions, in the apologies for the need to judge others and fears about improper and corrupt forms of charity, that Mercy does not have an untarnished character. Despite its endorsement of an ideology of mercy, the literature reveals an awareness that
the definitions of mercy and justice were changing in terms of the relationship of mercy and justice, and of authority's use of reward and punishment.

The seemingly abrupt volte face to an ideology of justice evident in the first half of the sixteenth century involves more than the simple substitution of justice for mercy by those who believed that mercy no longer had a role in keeping the peace. In popular literature the emphasis on reciprocal relationships between individuals and the associated community is replaced by an insistence on the obedience owed by all to a single secular authority which in return enforces the peace. Mercy and justice are no longer in opposition: mercy has been brought under the control of law, and in this way the forces are reconciled. Justice, in its metamorphosis from a theological to a juridical virtue, is politicized, becoming the counsellor of kings. In the sixteenth-century remnants of the allegory, judgment is solidly within human jurisdiction, wielded under the aegis of a God infinitely more distant than a heavenly father or king.

Tracing the evolution of cultural attitudes toward mercy allows us to see the growing response of late medieval England to the complex forces of religious, political, economic, and social change that had emerged since the thirteenth century. By 1600 we can see the congruence between popular attitudes about punishment and pardon and the Crown's use of the law to govern England. Both centered
on an ideology of justice that did not preclude forgiveness for an offender, but still made clemency subordinate to--or in the service of--the law. Among these popular attitudes was the conviction that mercy was to be given only to the deserving individual who showed repentance and the intention to conform. Punishment of the truly wicked bettered the commonwealth. We see in the literature of mercy that in the second half of the fourteenth century those who perceived a failure of mercy began to argue for the right of one segment of the community, the Crown and its representatives, to judge others and exact retribution. The gloss on mercy's function contained in the literature shows the process in which the cultural ideal of reciprocal pardon gradually lost dominance.

Ideology was reformulated, giving primacy to the obligations of members of the commonwealth to their king and his church. By tracing the conversion of the allegory and discourse of mercy we can uncover at least part of the process of a profound restructuring of society. Historians often mark the beginning of the early modern era with the "new monarchy" of Henry VII. But in England this formulation of the points of contact and separation between the spiritual and temporal worlds took place during the fifteenth century. The English Reformation and wide scale introduction of humanism provided the impetus for the final structure of that formulation, and the voice to insistentily announce it.
This chapter recapitulates in brief the course of legal development outlined in the first chapter; however, it is an interpretation, retold in light of the process revealed in contemporary texts. In the medieval period the ideal of reciprocal pardon voiced in the literature of mercy only partly fit the actual practices in the courts. By the sixteenth century there was a greater degree of correspondence between values expressed in literature and the administration of the law. Divine and temporal justice both had their source in the king. The Church said men had the obligation to instill righteousness in others; serving in the royal courts gave them the authority to judge. The Crown, speaking for both God and England, used the common law to structure social and political life. The legal system had become more articulated: crime was defined with greater sophistication and detail; the array of sanctions imposed were multiplied and refined. The means of reward and punishment were better able to reflect community attitudes about just deserts. Mercy could be expressed in more controlled degrees by the king, judges, and juries who administered England's laws. By 1600 the Crown, and the men who assisted in administering the law, had control over justice in theory as well as in practice.

When we conceive of law in England between 1200 and 1600 as something imposed from above that should have been controlled by the Crown and counsellors, ensuring order through sanctions, we are inhibited in other
conceptualizations of the function of law and the development of legal procedure. If we think of the law as originating in and being administered by the Crown, we are required to explain discrepancies as signs of a disordered and failing government. The historical imagination is dominated by the characterization of a late medieval failure of justice and crisis of disorder. But the gaps that exist within this account of the law should prompt us to look for other explanations. The literature used here suggests we should be asking if contemporaries also conceived of the troubling changes in society as a failure of mercy, if they had begun to doubt the values associated with generosity and the reciprocity it traditionally had engendered. There was anger and confusion over indulgences, royal pardons for felony, the obligation to forgive an enemy, the possibility of earning salvation through charity, the need for a measured exchange in restitution, and the duty to return a lord's mercy and favor. Sources that call for the use of pardon and forgiveness are matched by those that complain of the corruption of justice and the need to sanction wrongdoers. The preceding analysis of the literature revealed a cluster of anxieties about the manifestations of mercy in English society that centered on three themes: who was entitled to judge others, and how that judgment should be carried out; how to define justice and mercy, and their relationship to each other; how to gauge whether the recipient was worthy of mercy. They indicate where we
should look for the nature of the cultural metamorphosis that resulted in a new ideal for maintaining order.

Understanding the transformation in mercy's function in society, the gift of mercy, helps us to conceive of the law in medieval and Early Modern England in an alternative way. English law in these centuries remained a law of custom, rooted in the way the bonds of society were regulated, despite the ever-increasing extent of royal cooptation. What follows in this chapter is conjecture based on the assumption that English men and women saw a failure of mercy pervading their culture in the late middle ages; that what underlay contemporary expressions of fear about disorder and corruption was the disintegration of a centuries-old system of traditional values centered on reciprocal mercy and generosity. These anxieties were a response to the evolution of a society newly configured, reflecting the belief that the archaic bonds once ordering English society would no longer function, and uncertainty about the nature of the law that would replace them. At the same time, English kings sought to establish, with periods of greater and lesser success, a system of central courts through which to exercise sovereignty. This required the accommodation of behavior originating in the dominant ideology of mercy. Throughout these centuries the Crown continually tried to fashion the customary practices and premises of English law into the means for securing their immediate goals and increasing royal authority. The shift toward an ideology of
justice facilitated the growth of a law that could meet expectations about just deserts and further the interests of the Crown.

I

In order to understand generally shared attitudes about the use of law, and the function that mercy had in the law, during the thirteenth and fourteenth centuries, we must go back to the centuries before Henry II. For English kings exercised their authority through the manipulation of customary law, and we see this most notably beginning in the reign of Henry II.¹ It is during this time, too, that we can see the origins of the conflicts that arose from the differing goals and values of the Crown, on the one hand, and, on the other, the men who administered the law. The tendency is to think of law only as a creation of the Crown, "rather than something which grew from below by the extension and reinforcement of bonds of affection beyond the immediate family."² But traditional law has its origins in the community and its needs, not in the legislation of a sovereign and his advisors.³ This community was not an idyllic one of cooperation and solidarity, but rather one of tension, driven by the need to control social relationships through mutual obligation. Law was normative custom, practices that evolved from the needs of the community, usually relying on some kind of collective judgment. The goals of reconciliation and justice were not polarized in this social context; the administration of justice was not
limited to vengeful punishment. In the framework of small communities bound by reciprocal ties between kin and neighbors, the meaning of justice may well have been satisfaction for the wronged parties, though this certainly would not preclude the execution of one who had gone beyond the pale of community norms. The concern with the injuries of the victim, as well as with vengeance, was appropriate in this social context, though it may seem irrational to later societies unaware of contemporary realities. Legal practices cannot be labeled irrational "simply because they responded to needs which we do not know, or took for granted values which we do not share." The late twelfth century often is presented as a period of drastic change because we see procedures imposed by the king. Customary law and practices from the twelfth century and earlier seem rooted in an irrational nature: methods of proof were often based on physical ordeals; slayers bought off the victim's family and suffered no court-imposed punishment; the king was a figurehead rather than a force for securing the peace. An elite conception of law as centered on the king and organized around rational procedure may overshadow the continuing presence of traditional practices and the way they shaped the growth of the common law.

Consider the use of the ordeal in criminal trials, and its replacement by the jury. The character of these means of community judgment, and the process by which the jury was absorbed into the Crown's peacekeeping efforts, typify the
dynamic at work to maintain order in English society. The essential question in understanding the place of the ordeal is, who was being satisfied in its use?

The greatest explicit ideal of the early Middle Ages is a minimal one of peace and, above all, concord: this amounted to the maintenance of a minimal consensus in a face-to-face society built up of evenly balanced family groupings. In such a society the ordeal takes on its meaning as an instrument of consensus and as a theatrical device by which to contain disruptive conflict.

The nature of the ordeal allowed participants to manipulate the effects. The issue involved was the status of the individuals or groups in conflict. The ordeal functioned best in small communities where the character and standing of each were public knowledge and affected the well-being of the others. The goal was to reestablish balance in the community, redress grievances, and obtain a workable peace. There were varying strategies, from an honorable compromise to the final elimination of the offender. The criminal ordeal worked at times not as an investigation of the truth but as a public sanction. It was based on the subjective perceptions of the participants rather than on an objective reality. The ideal was to publicly secure a practical solution acceptable to the people at large. God’s judgment was being sought on the righteousness of the claims involved, not the facts of a particular crime. Recourse was made to the general judgment of the supernatural in a ritual intended to avoid the ambiguity and tension of law courts. A verdict given by God was more likely to be accepted as a
final authority and provoke a lasting settlement in cases most difficult to resolve.

That the use of the ordeal atrophied is usually attributed to the twelfth-century renaissance in the use of logic. But rationality is not necessarily the motivation for public decisions in legal change. The twelfth-century saw the beginning of the shift from consensus to authority. Old ordeals were transformed by political needs within communities on a local and national scale, and the dominant political need was to control others. The thirteenth-century outcome was that the "ruler was no longer a peacemaker in this old-fashioned manner; he was the imposer of law and order." The world in which the ordeal had originated withered; new political and legal arrangements were devised as the social and economic boundaries of communities gradually were enlarged. What had been rational in the context of the old system was eventually rejected because of a new perspective. The ordeal was gradually replaced through the twelfth century; the Fourth Lateran Council delivered the final blow.

The Angevin use of the jury can be seen in the light of the transformation of proofs: the jury was in a sense a new type of ordeal. The origins and continuation of trial jury discretion--its merciful practices--might be found in its development out of earlier forms of community judgment. The traditional view is that the ordeal asked God a factual question, and such questioning fell out of favor with the
Church by the early thirteenth century. The increased use of the jury is seen then as the outcome of a jurisdictional change: the question of guilt no longer was put to God but to the neighbors of the accused. But a jury's verdict was in the present tense and may have been concerned with guilt largely in the sense of the moral standing of the offender in the community. Thus jurors might take into consideration such elements as the offender's past record of behavior and attempts to make satisfaction. This would be consistent with prior forms of proof. In this theory that sees continuity and not disjunction in late twelfth century use of the jury in royal courts, the presentment jury was not a feature of jurisdictional change, not strictly an alternative to but a supervisory mechanism for appeals. Therefore the bench would not be surprised that the juries functioned largely as the ordeal had, and that the royal interest in facts "would generate some tension." However, it does represent a change in jurisdiction in the sense that when the king exerted control by means of supervision he asserted the increased power of his sovereign authority. There was a change from private to public restitution and revenge. The reforms that evolved from the Assize of Clarendon in 1166 came to overshadow the practices associated with the private compensation of wergild, and even extended royal authority to the lesser felonies such as casual theft. When the Crown seized the responsibility for controlling crime, it also began the process of usurping the
discretion embodied in the community's collective judgment. The discord between the jury's and Crown's understanding of judgment began when kings insisted that factual questions were the most important, and the rights and rewards of prosecution belonged to the Crown.10

The conflict between the royal courts and the juries who passed judgment on their neighbors originated in the Angevin efforts to supervise the existing customary law. The use of the jury did not make an immediate difference. It was because jurors could ask and be asked questions, do injustice and be seen to do it, that trial by jury began to "demystify the process of adjudication."11 At the outset, however, jury verdicts would have operated in the same way that the ordeal and other forms of community proof, judgment, and sanction did. The jury could act as a vehicle for enforcing the traditional values of the community, pursuing the goal of reconciliation, and acting as a means of social control to persuade transgressors to conform to traditional norms. And, of course, to eliminate those whose crimes were unforgivable. As time went by, the jury also might embody the goal of the royal courts: to control crime by means of harsh laws that relied on the sweeping application of exemplary punishment. The law was transformed in the long term by the strengthening of government; the only source of authority and law enforcement was to be the king—a king who meant to maintain the peace. Throughout the twelfth and thirteenth centuries, an
increasing number of crimes came in for formal punishment, overshadowing or curbing mutual negotiations, at least as far as we can determine from the records. Maintenance of the law was still dependent on collective action, but it was the king's peace that was violated.¹²

The Crown increasingly made its presence known through the legal machinery devised to articulate the royal prerogative to ensure justice. Governing the realm consisted in large part of keeping the peace by resolving civil disputes and attempting to suppress crime. The king provided everything from the chancery in which to sue out a complaint, to the judge and jury which tried the matter. Though the common law courts operated on the king's writs, officials, and records, they still relied for decisions on the jury. Collective decision-making was an ancient responsibility, and twelfth-century legal changes were not very influential in regard to that duty. Intellectual developments in the law did not create new legal norms but did clarify old ones. The impact of the imposition of royal jurisdiction and administration was not so much in revolutionary principles as in clarity of distinctions. Even taking into consideration all the changes that had occurred by 1200, we can assert, with one historian, that people still believed "reconciliation was better than conflict, that wise and honourable men should be able to harmonize apparently conflicting interests, and that justice should therefore be attainable."¹³
Although it can only be guessed at from the records, conflicts in thirteenth century England could be settled effectively by informal means, without having to charge and try a person for felony or some lesser offense. The mediation of friends and neighbors could be as productive as prosecution in the royal courts. The informal mechanisms for peacefully solving conflict however required a small, closely knit community in which pressures for dispute resolution might be intense. And the character of these communities was subject to pressure even in the thirteenth century. The institutional and political innovations that formed the foundation for the incipient state, the growth of royal jurisdiction and administrative innovation in the twelfth and thirteenth centuries, are important but they tell only one side of the story. The emphasis on these changes tends to obscure the effects that contemporary social and economic developments had on the law; patterns of differentiation gave some groups more power and made others marginal. "English society was evolving in such a way as to produce new groups of people who were often beyond the reach of these mechanisms of dispute settlement." They were less likely, though, to be beyond the reach of the Crown. Yet in the thirteenth century it was still true that legal innovations and ancient custom were all employed to the same end: "a single principle can be seen as informing the legal sensibilities of the English villager: the obligation for maintaining peace was a personal one, incumbent on the whole
The Crown did not impose an alternative system of justice that eliminated prior practices; instead, it supervised peace-keeping operations and provided an additional—and successful, judging by the clamor for royal justice—means of dispute resolution that utilized many features of traditional law. But the reforms of Henry II, and the ensuing changes they spawned, did not only have positive effects. We also could interpret the changes as having "the long-term effect of weakening and straining the bonds of affection existing in feudal lordship and kindred loyalties and putting nothing as adequate in their place." At least those new bonds and loyalties were very gradually formed. Royal courts were an alternative to more ancient ways of dealing with wrongdoers, and a popular alternative, but it does not necessarily mean that all people were enthusiastic about this forum; neighbors in a community who would have to live together for years to come did not always welcome the snap judgments that came from the king's courts in which the winner took all. The introduction of royal courts was a source of tension as well as satisfaction. It was only one way in which the law was used to resolve conflicts that gave rise to civil and criminal actions.

The peace was kept, in so far as it was kept, by whatever means were at hand: sometimes by royal authorities and lawcodes; at other times by the moral and social pressures of kindred groups and feudal loyalties reinforced by the sanctions of the church.
The continuing use of collective judgment and lay officials within the framework of the royal courts ensured the survival, to some degree, of traditional values and customary practices. Older customary practices and expanding royal authority had been modified, each by the other. Mercy, in its varied forms of mitigation, remained a feature of legal practice, even in the face of a system of Crown pleas that relied on capital punishment. Avoiding the destruction of vengeance may have been as important as obtaining retribution. Although the English clamored for crime to be punished, another concept to the purpose of law endured: "And syth that law wyl rather lessyn peyne / Than it extende, lete Pees and Mercy reygne."\(^{20}\)

II

We can see now how the allegory of the Four Daughters of God would have suggested to some English men and women an appropriate metaphor for the state of law in England in the thirteenth century. There were conflicts between the recently imposed and burgeoning system of royal justice and the more traditional practices and values of customary law.\(^{21}\) The figure of Mercy would be an apt representative for older practices based on reconciliation, and the disturbingly zealous Justice for the law enforced by the king's courts. With the widening of royal jurisdiction that drew many felonies into the ambit of the king's peace, the severe sanctions and minimal consideration given to circumstance and intent may have fostered the negative
attitude toward Justice seen in the literature. The extension of royal authority that began under Henry II was seen, at least by some in society able to articulate their views, as a dangerous proclivity for attending to the voice of a justice that had become more demanding and more extreme. Through the thirteenth century we can follow the ascendency of the Crown in its formation of a centralized government that operated through the royal courts. Kings voiced their intentions and needs by claiming to provide justice in criminal, civil, and administrative matters; yet it was a government that relied on older, local processes and personnel. Private restitution, and the values it involved, continued, even if they are now lost from sight in official records. A reaction to the growing power of the king's courts, and the harsh punishment delivered, could account for the allegory's subtext which calls for continued adherence to the traditional ideology of mercy as the means to resolve conflict.

That growing power of the central royal courts can be seen in the institution of the general eyre. Initially sovereigns were overseeing their private interests and that of the men and women in their protection. They advanced their financial interests through royal servants in the counties and hundreds, and gradually expanded the king's peace by extending royal protection in piecemeal fashion. The general eyre was instituted under Henry II, when he sent itinerent justices on circuits throughout the realm. These
royal justices heard both civil and criminal pleas. The legal machinery used, particularly the inquest which put questions to a panel of local men, was easily turned to administrative purposes. By means of the eyre the Crown intensively cultivated its income. The justices collected what was due to the king in everything from feudal profits to all the fines and fees deriving from criminal and civil suits. The centralizing features of the eyre grew. By the middle of the thirteenth century the obligations of the sheriff, coroner, and other royal agents outweighed their other work in importance. There was an increased use in professional justices from the central royal courts of Common Pleas and King's Bench. The eyre also was used to implement the growing number of parliamentary statutes that governed criminal and civil matters. But the eyre began to break down in the decades around 1300 as a result of all the burdens it had assumed. Poorer litigants in ever greater numbers brought oral and written complaints to the justices, and these bills in eyre poured into the royal courts. Many such querelae concerned maladministration by the king's servants. Under Edward I, the general eyre made even more extensive inquiries into royal rights, official abuses, land-holding, and crime. It was too much.

The justices of the general eyre were first relieved of their administrative duties in the late thirteenth century. The remaining responsibilities were transferred to special commissions in the first few decades of the fourteenth
The commissions to take assizes assumed many of the centralizing functions the eyre had performed. Less ponderous and more frequent than the general eyre's seven year circuit, the assize, consisting of two professional justices from Westminster and four local knights, visited the counties twice a year. They were empowered, after 1285, to hear all civil cases pending in the central courts, and often were instructed to deliver the gaols. Most of the business that had been handled by the eyre was, by the mid-fourteenth century, the responsibility of men who had special commissions as justices for gaol delivery, oyer and terminer, and trailbaston. In contrast to the justices of the assizes who were predominantly professionals from Westminster, these men were more often prominent knights and great landholders of the county. The extent to which the character of royal courts had changed as a result of empowering local men of influence to act as royal judges can be seen in the ascendancy of gentry as justices of the peace.

The tension caused by the expansion of royal authority in the twelfth and thirteenth centuries and the Crown's use of local laymen to administer the law is crucial to our understanding of the course of legal development in the later middle ages. As the administrative apparatus that had developed through the thirteenth century weakened in the decades surrounding 1300, the administration of justice, which had seemed destined to be the domain of professional
justices and bureaucratic ranks of clerics, depended to a greater extent than ever on the co-operation of the upper ranks of society. In the thirteenth and fourteenth centuries, royal courts still were dominated by royal servants from Westminster who presided over the administration of justice in the localities, using customary practices and officials. When the promise of the law wielded by Henry II and Edward I failed to be realized on a continuing level of development, the features of lay administration moved to the fore again. Local gentry assumed much greater power through their commissions and as justices of the peace. In the view of one historian, when the coercive power of central courts was weak the function of justice would have been mediatory rather than punitive. Of course, the greater extent of local control over the courts also meant an increase in local manipulation and corruption of the law. Juries of local men gave their verdicts before local gentry who held commissions as justices. The courts were staffed by local men who held the offices of sheriff and the like. However, it was here that members of the community worked out their feelings about the guilt and just deserts of accused felons; all this was done in the framework of the king's law, and in his courts.

In part because of the physical separation of the king's government from his subjects, rulers often had claimed powers that exceeded what in fact they were able to implement. Perhaps punishments of extreme harshness were
used as deterrents because the Crown was uncertain of its ability to enforce its intentions.\textsuperscript{25} The allegorical presentation of justice as remote and even cruel makes sense in terms of the sanctions administered. The erosion of centralization indicates the insupportable strain imposed by the extension of royal authority—an authority not translated into the necessary bureaucratic capacity.

Another factor contributing to a shift in the momentum of state development was the increased emphasis on warfare. State ambitions and programs devised in the thirteenth century were never carried out in the fourteenth because of the scale of wars entered into with France. Given the Crown's limits on time, treasure, and administrators, the devotion to warfare had inevitably reduced the attention accorded other areas of government. This was most evident in the realm of justice and public order. It has been suggested that this altered political course can be epitomized in the image of the king in late medieval England: the dispenser of justice yielded to the warrior king.\textsuperscript{26} In addition to an altered program of political priorities and institutional development, fourteenth-century kings had to contend with the overwhelming devastations of nature: overpopulation, famine, and plague. No wonder that we see, in such works as the \textit{Confessio Amantis}, a notable switch to recommending punishment as the means of keeping the peace.

But by then new expectations of royal justice had been
fostered. Even in the early fourteenth century there was a considerable voice of complaint: English men and women thought there was a reasonable level of order the courts were failing to maintain. Whether this perception corresponded in reality to an increase in crime and social disruption is impossible to ascertain. It is possible that, in relation to other countries, more was expected of the king's justice in England because through the twelfth and thirteenth centuries more had been claimed and achieved there.\textsuperscript{27} The Crown's claims for what it could provide, and its demands in return for keeping the peace, outstripped its administrative abilities, and the Crown's objectives were deflected by political and demographic needs. Subsequently, as \textit{ad hoc} commissions of local men were used and local power struggles were involved, there was decreasing control from the center of government in the legal system that had been devised through the thirteenth century. The increasing disjunction between what the royal courts claimed they could provide for their suitors and what was actually achieved was becoming a major social and political problem. The hatred of lawyers that surfaces everywhere in the literature of late medieval England is only one illustration of this.\textsuperscript{28} However, landowners of every estate must have thought that at least the king potentially could deliver what they sought--or at least that recourse to royal courts was worth the effort--because they never ceased to call for the king's justice.
This should lead us to question what else might have been involved in the widespread perception of corruption in the courts. Remember that the adaptation of some existing practices to new purposes had not obliterated the character of the practices, nor did ideas about the way in which law should operate in society fade rapidly. The Crown's attempts to supervise land disputes and repress crime clearly drew wide support. We often exaggerate, though, the degree to which royal justice was expected to be a disinterested source of justice. Twelfth and thirteenth century kings sought to attract suitors to their courts and so strengthen their authority over English subjects, their lands, and their goods. Those subjects, in turn, tried to secure the king's aid in his courts, just as they had always sought his help in gestures of favor and grants of privilege. Even after those involved in the disputes that resulted in the Great Charter tried to end the king's use of the law as a political or financial weapon, landowners continued to demand that he adjust the laws to their purposes.\(^{29}\) In the fourteenth and fifteenth centuries royal courts relied more than ever on the power of local magnates. The landowners who held various offices or were commissioned as justices were, in many ways, the authority behind the law. The prominent role of jurors and lay officials ensured a mixture of public justice and the machinations of private interest. Through the later middle ages the Crown continued to rely on the social and political networks that these courts had used and
strengthened. Inevitably private relationships became an integral part of the public system, because without the existence of the vertical and horizontal links between minor and major landowners no government of any sort would have been possible.

More law meant more delegation, and legal authority was given to those who most actively sought the king's justice. Excessive focus on the Crown's role in the growth of the common law overshadows our vision of the dialectic in ideas and practices that continually shaped English law. We lose sight of the fact that, although a new standard of justice was being forged, the social practices associated with a belief in the values of reciprocal generosity endured. In fifteenth-century sermons we can see the continuing insistence on the traditional forms and uses of mercy. However, within courts that were increasingly sophisticated and directed by the Crown, the largess and practicalities of mercy could look like corruption.

The extent of the Crown's success in attracting litigants, and in providing, through the thirteenth century, a burgeoning system of competent administration, invites us to see royal justice as an achievement that very nearly failed because of the involvement of self-interested, feuding magnates and an increasingly violent population. However, the elements of continuity are there, in the royal courts and in how they were used by the Crown. We can see the strategies and processes of change in the survival and adaptation of other means of judgment outside the common law
courts. The devolution of some measure of power into the hands of local landowners and their social affinities, and the thriving presence of other forms of settling conflict, indicate the strength and adaptability of medieval English law. The Crown slowly but consistently adopted, once again, informal and customary practices to its own purposes. Two of the best examples of this are the continued use of arbitration and the rise of the conciliar court in Chancery. Arbitration was used alongside or in conjunction with royal --as well as local, private, and Church--courts. In the attempt to preserve some measure of authority, the Crown acquiesced in the methods and values of more traditional dispute resolution. Arbitration usually involved the network of private relationships among the upper gentry and magnates, and relied on the social pressure of affinities and communities to convince the parties to agree on terms satisfactory to all involved. The common law courts were becoming increasingly rigid and rule-bound, frequently delayed by the complexity of procedure. The need was felt for a court that would more reasonably address the actual circumstances of the issue, operate with more flexible procedure, and still be under the aegis of the king's justice. The Crown's response came in the form of the conciliar courts, especially that of Chancery. And those of the ruling estates were persuaded to bring their suits, as in the past, because they felt that the royal courts held something for them.
The necessity of using multiple networks of private relationships in administering the law did not result in a shift in the locus of political authority. This delegation meant participation in the power exercised by the Crown. Despite the changing fortunes suffered by the kings of late medieval England, the Crown managed to draw support. It not only developed new courts; it offered the opportunity to join in its authority and control. The inducements to share in political authority included increased legislation, especially following the devastations of the mid-fourteenth century. Yet this also was old wine in new bottles. That is, the Statute of Laborers and associated legislation "could function as a more rigorously pursued and formalized successor to previous communal sanctions."\textsuperscript{33} Governmental authority was expanded over many new areas, and the gentry easily stepped up to exercise that power. The intent behind this unification was social control: forcing the laboring people—as well as merchants and gentry—to meet their obligations and live by traditional standards. Authority, though shared among the upper estates, was still directed by the Crown. By the late fourteenth century the structure of English social and political relationships had changed irrevocably.

The gentry and magnates looked to the central government to preserve the society they were accustomed to against unprecedented pressures. The central government vigorously asserted its control over everyday life and incorporated the gentry decisively into the sphere of governance. In a full sense, English governance and law became paternalistic.\textsuperscript{34}
This is again the adaptive process involved when the royal
government shaped its goals to long-standing behavior; it is
related to other forms of the co-optation of criminal law in
general. The Crown, acknowledging cultural values and
customary ways in which the law was employed, adjusted its
methods to those who administered the law. Those men, in
turn, co-operated with the efforts of royal government in
their attempt to keep control over a changing world. It was
at the same time, generally speaking in the last two decades
of the fourteenth century, that we see in the literary
discourse of mercy the emerging sense of the need for
secular authority to administer justice in a way that would
compensate for the failures of traditional practices of
mercy.

The belief that the king was the origin of justice and
order remained, as had the belief that his landholding
subjects had the right to give him council. It is a paradox
that while there was such fluctuation in the power and
fortune of individual kings in late medieval England, the
institution of kingship remained the locus of authority.
The inherited ideals of the king as the source of justice,
and of his fundamental obligation to keep the peace--elusive
though they may be to us now--apparently made it possible
for the Crown to maintain authority during an extended
period of troubled reigns. Whether individual kings were
compelled by Christian teaching about their essential role
in the public peace, even in the midst of their
preoccupation with domestic and international conflict, or whether the tradition of kingship was a cultural icon invaluable to the workings of English constitutionalism, the ideal of the king's justice was a cornerstone of legal and political development in the later middle ages. For those who had property to lose, a clear rule of law was a necessity. The increasing complaints about self-help and corruption in all walks of life may well indicate a real respect for the king's law. The exemplum of the Equitable Judge indicates the growth of respect for the abstract values behind the law, and a decreased emphasis on personal bonds. The absolute standards imposed by the king's courts gradually became valued because they were seen as a means to measure the actions of the subjects—and the king, too.

The Crown made a continuing effort to bring all legal practices within its compass as the means for extending its authority and control. This was done very gradually over the long term; it is only apparent during the reigns of those kings who were able more rapidly and forcefully to adopt existing legal forms to their own purposes, and then intentionally fashion legal practice. One factor never changed: the Crown was the source of the machinery needed to revitalize the common law. In the late twelfth and thirteenth centuries the common law courts were rapidly developed, in part, because of the tradition that the sovereign was the font of justice. The same happened with the conciliar courts in the late middle ages. By the end of
the fifteenth century England had a legal system that could more easily accommodate a scheme that included degrees of sanction and mitigation.

III

During the sixteenth century, it seems, the community values involved in judgment came closer than ever before to converging with the Crown's goals in the administration of criminal law. Studies of English law and society done in the last few decades, and the sources analyzed here, suggest the following course of development. As a result of centuries of exchange that occurred in the process of judgment, mitigation, and sanction, it is possible that the dialectic between ruler and ruled had generated first justifications for mercy, and then for retribution. Popular literature indicates that governing elements in society may well have been nursing a powerful new ideology that began to emerge in the mid-fourteenth century; by the late fifteenth century, those who administered the law came to adopt this ideology--they believed that the salvation of society lay in obedience to a single, secular, authority. During the centuries between Henry II and Henry VII, a rapprochement between traditional law and its values, and the use of this customary law by the Crown, had become feasible. The change in attitudes about the role of mercy in the criminal law was not, of course, an abstract intellectual development, rising in isolation. New beliefs about the function of mercy were due in large part to institutional growth and procedural
innovation that facilitated a more sophisticated law, one better able to calibrate the process of judging and sanctioning the wrongdoer. By the end of the sixteenth century, the reality of mercy in English courts might well be characterized in this way: mercy was understood as equity, a controlled and necessary element of English secular justice, meant to be administered by governing authorities. Those who served on both bench and jury over the centuries had been involved in the gradual redefinition of the place of law, and of mercy, in English life. Even by the early sixteenth century we can detect a national law of shared powers and purposes.

When did this ideology of justice emerge? When were intellectual foundations set and legal practices developed that enabled bench and jury to believe they shared the same attitudes and goals? The traditional position of legal historians is that crucial legal reform occurred from the late fifteenth century to the mid-sixteenth century. However, the outline of changing ideas about justice, judgment, and mercy presented here, admittedly speculative, does suggest that we should see the century or so preceding the reign of Henry Tudor as the age during which the cultural groundwork was set that resulted in formal legal change. This would mean that what is usually seen as the period of law reform is actually the endpoint, the final manifestation of long-term transformations.38 The emphasis on the very gradual nature of these legal developments
eliminates the unnecessary insistence on the the first two Tudors as the sponsors of revolutionary reform. Even those inclined to discern features of continuity that blossomed into sixteenth-century law reform still tend to mark its initiation with the Tudor state. But why must legal change hinge upon the conscious action of innovating kings? Instead, we should be aware of the extent to which the transition was initiated between 1350 and 1450. Henry VII and his son capitalized on beliefs that had already evolved.

The first four decades of the sixteenth century were a period of enormous change in England. It strains the historical imagination to think that novel legal practices came rapidly with the spirit of a new age and were quickly adopted. The powerful obsession with order in the commonwealth that dominates the morality plays could not emerge in only a few years. Rather, we should see, concerning the relationship between the intellectual ferment and this age of legal reform, that "the humanist intellectual climate made it easier for the legal profession to react promptly and creatively to the new range of potentially lucrative problems thrust upon it by social, economic, and jurisdictional forces."39 Those forces and the resultant problems, however, were long in coming, and were not initiated in 1485. The focus on humanism and reformation in the first half of sixteenth century, and search for merely anticipatory features in the fifteenth century, has distracted attention from other long-term
political and legal developments that enabled Henry VII and Henry VIII to rule as they did: the growth of the legal profession; national courts and a concomitant national identity; the paternalistic social control exercised by the gentry and aristocracy through the courts and Parliamentary legislation; the tradition that Parliament had a share in the measure of the real authority of the Crown. Henry VII and his son capitalized on existing laws and attitudes about the place of law in English life. Both kings needed the power of the nobles and also needed to control them. They squeezed the last drop from every fruitful source of political power and social control.40

The typical understanding of early sixteenth century criminal law reform requires a legal system that is vague and primitive. The reality was otherwise. As we have seen above in Chapter 1, development in the substantive law of felonies occurred as a result of cases being discussed among judges and lawyers, legislation, and the emerging influence of Star Chamber and other conciliar courts. Though admittedly difficult to trace, nonetheless we can see throughout the fourteenth, fifteenth, and early sixteenth centuries the gradual refinement of the scope of felonies and the element of culpability. Much of the growth of substantive law and the calibration of sanctions was the result of regularizing the forms of mitigation. One of the striking peculiarities of the common law in the criminal context is that legal development came most often in late
medieval England from statutes which "elaborated the
evasions instead of reforming the law."41 The law was made
more sensitive by the emphasis on mitigation. Remember,
too, that by the sixteenth century popular literature
reflects the justification for judgment and punishment:
sanctioning one's neighbor is a form of mercy.

There are indications that, just as in the definition
of felonies and appropriate punishments, more general
changes which also effected the administration of criminal
law and seem to come in the first half of the sixteenth
century actually began long before. These, too, were
discussed in Chapter 1. For example, the king's prerogative
courts denote something of the nature of legal development
in these centuries. The conciliar courts met the need for a
forum for justice that ran on a different, simplified, and
more efficient procedure. Such procedural experiment bore
fruit not only for the legal system but for the general form
of governance as well. We can see that the use of bills
promoted the establishment of the conciliar courts, and
facilitated more complex forms of administration. The use of
bills eventually resulted in a productive amalgam of private
wrongs and royal interests. The king's prerogative could
only benefit when bills were used to by-pass local powers
and address complaints directly to the king's council.

The debate over the origins, composition, and control
of the jury has raised very useful questions about the rate
of procedural development in the criminal trial, with
particular attention given to the indictment process, and the initiation of certain practices in the Crown's prosecution. If it is true that late medieval changes in the administration of the law were crystalized, and did not originate, in early sixteenth century "reform," then we may be justified in presenting the process outlined here of calibration in judgment, sanctioning, and mitigation. That is, that society had reached a general consensus about the definitions of felonies and appropriate gradations of punishment by the early sixteenth century. The anxieties expressed in the fourteenth and fifteenth century literature of mercy about who and how to judge are gone. These widely shared attitudes were only encased in the law during the sixteenth-century reform because the shift in ideals had already occurred, and this new ideology invested the Crown with total authority to direct the use of the law. "For as Iustice is the chief vertue, so is the ministracion therof, the chiefest office....Ye be all Gods, as many as have in your charge any ministracion of Iustice."^2

Mercy was now a part of this law, not something outside or in opposition to it that must be used by Christian men and women. A striking indication of this basic reconceptualization of the relationship of mercy and justice, and the place of each in English law, can be seen in Christopher St. German's definition of equity. This is found in the beginning of the First Dialogue of Doctor and Student, which was written in 1523. The work is part of a
debate on the relationship of the spirituality and
temporality. It is also an apology for the common law. St.
German claims that the common law is in accordance with
conscience; therefore the common law, and not Church
decrees, should govern English consciences. The
definition of equity follows similar chapters on the laws of
God and man, on the fundamental grounds of the laws of
England, on reason, and on conscience. Equity, as
described by St. German in this treatise, bears startling
similarity to the formulations given in fifteenth century
literary sources.

Equytye is a ryghtwysnes that consideryth all the
pertyculer cyrcumstaunces of the dede the whiche
also is temperyd with the swetnes of mercye. And
such an equytye must alway be obseruyd in euery
lawe of man and in euery generall rewle therof &
that knewe he wel that sayd thus. Lawes couet to
be rewlyd by equytie. And the wyse man sayth: be
not ouer moch ryghtwyse for the extreme ryghtwysnes
is extreme wronge....

Mercy and justice have been reconciled in the notion of
equity. The relationship of the law to the essence of
justice also has been clarified and refined:

And therfore to folowe the wordes of the lawe were
in some case both agaynst Iustyce & the common
welth: wherfore in some cases it is good and even
necessary to leue the wordis of the law & to folowe
that reason and Justyce requyreth & to that intent
equytie is ordeyned that is to say to tempre and
myttygate the rygoure of the lawe.

It appears here that the letter of the law has been given
the harsh character justice had in the early thirteenth
century. Justice is now domesticated, fellow to reason and
counsellor of the commonwealth. Equity is a merciful, human
In the first few decades of the sixteenth century we see what are the final stages of a transformation in cultural values that profoundly affected the law. The dovetailing of what had previously been conflicting ideals becomes evident at this time. Unusually able sovereigns exploit available legal procedures and traditions that favor royal prerogative, and capitalize on the inchoate ideals that have shifted the locus of authority, formerly divided between the divine and the temporal—an authority that ruling estates feel they share entirely to the king. Through the remainder of the century the door is firmly closed on the remnants of the medieval vision of mercy and justice in opposition, of opposing goals in divine and temporal judgment. This has been replaced by a new ideology featuring a king who wields the sword of divine vengeance.

Through the reign of Mary the fear of disorder—a fear driven by the tumult associated with the English Reformation—fuels the establishment of the secular state's power. The rapid legal and political consolidation of authority is the culmination of the ruling estates' identity with the Crown. This identification is evident throughout the sixteenth-century sources discussed above. Those political orders that were vital to the Crown, the gentry and urban groups, came to equate their interests with the ideology of justice and its social discipline. The economic benefits enjoyed by the ruling estates distanced them from justice.
the commons. Eventually the elites were persuaded that all shared the dominant notion of the properly structured social order and the means to achieve and maintain it. Disobedience was labeled an activity of the brutal commons, people that must be controlled through the law's retribution. The Tudor achievement of order was not possible without the "collaboration of the majority of the governing class, who controlled the principal order-keeping forces available." And those governing needed to be assimilated and given compelling moral force. The changes in mentality resulted in the internalization of social controls and moral sanctions.

The administration of criminal justice continued to depend to a great extent on the involvement of non-professionals, on jurymen, local officials, witnesses and victims. The process relied on a pattern of decisions, on the way that the local community used the common law against those who had broken the king's peace. And though mercy was still an important component in the process of judgment, it was a different mercy than Englishmen knew in 1200, or 1300, or 1400. Men were not mitigating the Crown's sanctions with the reciprocal generosity intended to facilitate a web of social relationships in the local community. Mercy had been narrowed to the confines of religion, a religion that had different requirements for God's forgiveness, a different understanding of the nature of mercy in human and divine society, to a Church firmly in control of the Crown. Men
need not be as concerned with attempts to spare wrongdoers from an unsuitably harsh fate. The bench was no longer operating within a stunted range of extreme sanctions; judges had the machinery now to mitigate punishment with a gradation of responses that were more consonant with public expectations. It is no wonder that some historians see, during the last half of the sixteenth century, a jury controlled by the bench. If juries were not simply submissive, then they shared in the belief that punishment was the preferable and necessary tool for securing order through obedience to the Crown and the Church it represented. Men of the estates that administered criminal justice thought they shared in the goals and in a fundamental way the power of the Crown. Reciprocal mercy was no longer central to the language of social exchange. Mercy increasingly was limited to theological matters. The ideology of justice allowed men to think that retribution would best serve the interests of the commonwealth. This transformation of cultural values happened gradually but continuously throughout the sixteenth century. The litigiousness of Early Modern England has been claimed as a sign of a society increasingly conscious of "class" and fragmented by strife. Yet it is possible that many suits, predominantly civil but including criminal, still were initiated to secure extra-curial settlements and reconciliation, that they are a sign of the flexibility of the system for maintaining peace.49 We might be justified
in locating the origins of a new era in the last decades of the sixteenth century, as the social ties among all levels of society that had softened the face to face relations of the ruling estates and the commons disintegrated. The integration of secular and religious powers in the authority of the monarchy, and authority shared by the upper estates, marks the end of medieval English society.

IV

The emergence of a national instead of local political consciousness in the later middle ages is difficult to identify; the variety of ways in which this national consciousness was created and nurtured gives some sense of its complexity. For example, the opportunities for social and economic mobility available to all estates, beginning in the late thirteenth century, contributed to a familiarity with other communities and to the diffusion of ideas at many levels throughout the country. The web of connections that resulted from geographic and status migrations helped to form an integrated nation. The subjects of the English Crown formed a network of interrelated communities, yet they also had a common identity. This self-definition during the fourteenth and fifteenth centuries was shaped by such factors as the colonization of the Celtic countries and resultant focus on status, the Great Schism, kings' financial woes, and the end of the Hundred Years War. Perhaps as important were intellectual developments such as the growth of a consciously formed and directed body of
public opinion, and a royal ideology that made the English king God's most favored, a legate over subjects. 53

We cannot identify an abrupt change in political structuring or a discrete time during which a reformulation into a national political life was accomplished. The long-running debates on the role of the English gentry and aristocracy during the fifteenth and sixteenth centuries underscore the fact that there can be no simple delineation of the mechanics of change in social and political structures. Sometimes in the anticipation and search for the features of change we fail to see the continued operation of the old order, or to grasp its effects on the emerging order. So it may be that some of the very features of late medieval society that we consider the marks of disorder and corruption are actually the sinews of archaic society. In many ways the reciprocal mercy that pervaded medieval society—lordly largess, Christian generosity, forgiveness and reconciliation—were positive qualities of the old order. They shaped and informed the loyalties that were the focal points of stability and integration in a society organized on local bonds of dependence. These mutual ties exerted a strong influence and served as a source of identity longer than usually is thought. Instead of interpreting the fourteenth and fifteenth centuries only as a long period characterized by corruption, by the domination and mayhem of aristocrats and their liveried followers, we might expand that interpretation to include
the survival of the traditional ethos and organizational forms that were not completely overshadowed by strong kingship. Society long had been structured on ties of kinship, blood, and lineage. Aristocratic clienteles were often characterized by bonds of hereditary dependence on great aristocratic houses in the region. Good lordship, with its many uses of mercy, could be as constructive as it was destructive.

Why then do we find the final passing of this old order and its ideology of mercy in the first half of the sixteenth century? The high value once placed on honor and used to legitimize a politics of violence gave way to new attitudes. The state emerged with a monopoly over both honor and violence; there was a "moralization of politics." The Tudor public order was not possible without the assimilation and cooperation of the governing estates. In the late middle ages, the political culture of honor was still pluralist: there was no total sovereignty or unconditional obedience. One could change masters if that master could no longer freely and honorably be served. Under the Tudors, there was a "nationalization" of the honor system; the community of honor and the realm became the same. The Crown's authority was the only lordship, the source of honor, dignity, and gentility. Civil order depended on the internalization of a code of obedience by the governing estates. The moralistic and didactic character of late medieval literature in England signals the formation of a theory that encouraged
obedience and order. "The total emphasis was on conformity to law as the likeliest guarantee of political and social stability, and on obedience was the best insurance of personal survival."54

This formulation of the political and social theory providing the basis for the Tudor monarchy can be found in the idea of the commonwealth. In the commonwealth we see the resolution of conflicts that had surfaced in the literature of mercy, questions such as who is entitled to judge, and how that judgment should be carried out. An authority that formerly belonged to the divine was invested in temporal government, in the king and his ministers. The late medieval literature of counsel, advice, and complaint formed the basis of the ideal of a national community's wellbeing that must be maintained.55 In the fifteenth century, the commonwealth was represented as something to be recaptured through morality; however, by the end of the sixteenth century many Englishmen thought the good of the commonwealth could be achieved through an active policy.56

The existence of public forums for debate on the political questions of the mid-fifteenth century saw the development of a new vocabulary about the commonweal to express those ideas about the reform of governance. Significantly, the use of the word commonweal expanded from its use in reference to politics and government in the fifteenth century to encompass in the sixteenth century the reform of society in general.57
The political concepts associated with the ideal of the commonwealth typify the basic shift in ideology that is seen in the sixteenth century. An allegory that bears the mark of the Four Daughters of God strongly suggests that this transformation in cultural values occurred before and not during the sixteenth century. Edmund Dudley wrote The Tree of the Commonwealth while imprisoned in the Tower during the year before his execution in 1510. This palest of allegories uses the figure of a tree to treat the structure of the English body politic. He begins by claiming that the principal root in every Christian realm must be the love of God, and the kingdom's prince must be the chief ground for this root. The four roots that form the basis of the commonwealth are justice, truth, concord, and peace. Mercy has not disappeared, but has been displaced by concord in this quartet. The roots are described in terms of the obligations of the king and each estate.

The definition of justice here is inseparable from the English king: "And this roote of iustice must nedes come of our souereigne lord hym self, for the whole auctoritie therof is gyven to hym by God, to mynister by hymself or by his deputies to his subiectes." The second root, truth, is nothing other than a man being true and faithful in all promises, covenants, and words. The third root is called "concord or Vnitie." The greatest attention is devoted to concord; he discusses the obligations of the king, the clergy, the nobility, and the commons. The tree of
commonwealth cannot flourish where there is discord, which brings conspiracy, murder, riot, and rebellion. To establish concord, the king must administer justice and keep hospitality. The fourth root is peace. Since concord has taken the place of mercy and is used to describe the sort of peace that mercy was traditionally thought to bring, peace is no longer the resolution of the offense of wrongdoing, but is the absence of war with other princes and their realms. Just as mercy has been absorbed by the civic virtue of concord, and so defined as part of the administration of justice, it has also been displaced to a description of the right rule of the king, where it is joined with the proper use of the virtue of liberality.

And for that he wilbe content with his owne trew righte, and not to wrong and oppresse his subjectes, but be to them marciable, liberall and plentuous, as reason shall require, god will reward hym not only with sufficient plentie of worldlie riches but also with the louing hartes of his subjectes.... And for yt he is mercifull and piteous god him self will ponshe his enemies, perchaunce sorer than he hym self would, or at the least will induce them to be his true subjectes and seruantes....

The description of how the root of concord begins and grows in the king betrays concord's medieval origin in mercy.

And in cawses toching hym self to mynister his Iustice discreetly medlyd with marcye, or els his iustice wilbe sore, yt it will oftetymes appere to be crueltie rather then iustice. And I suppose ther is no christen kinge hath more nede so to do than our prince and souereigne lord, consydering the greate number of penall Lawes and statutes made in his ralme for thard and straighte ponyshement of his subjectes.
In terms of the reorientation of allegiance to a king who spoke for God and men, of ever more closely defined obligations to the commonwealth, mercy had to be carefully controlled. The ideal of maintaining social order and the king's peace was rooted in adherence to an increasingly refined law and the divine sword of vengeance held by the king to punish in this world. The amorphous power of reciprocal largess and pardon belonged to another world.

Mercy in this world was much more carefully defined and belonged in large part to the Crown, to be administered prudently with the country's natural rulers for the good of the commonwealth. Tracing the rise and fall of dominant attitudes about the place of mercy can significantly flesh out our vision of the contours of late medieval social change. The complaints about the failure of justice in the literature of these centuries are inextricable from those about mercy. Modern historians have focused almost exclusively on the failures of the administration of the law, on the fears of crime and disorder; it may well be that for contemporaries, the failure of mercy was deemed the more serious problem. Except within the more limited terms of theology, we have failed to ask why mercy was tied to the endless anxiety about corruption, why mercy needed to be redefined. The failure of existing forms of mercy to meet the needs and expectations of society was often described in economic terms, and certainly the evolution of a market economy beginning in the twelfth century was a significant
factor. Corrupt uses of mercy by the Church and courts were inevitably tied to money. However, the problem is not rooted only in economics, emerging bureaucracies, and "class" structure. During the fourteenth and fifteenth centuries, law had replaced largess as the language of social obligation.

And so we have the dual complaints and anxieties about the functions of justice and mercy in society. In a world increasingly governed by abstract and measured exchange, by laws that were quickly losing the flexibility of customary law, how could the value of mercy, and the worth of the recipient, be calculated? The depth of the intellectual and cultural change that caused the restructuring of society is suggested by the echoes of contemporary developments in the sacrament of penance and soteriology. Penitentials and related pastoralia show an intense concern with the elements involved in passing judgment. Beginning in the early thirteenth century there is an ever-increasing focus on intent and circumstance in the act of wrongdoing, on the objective and subjective aspects of sin, its effect on the individual and the community. Through familiarity with teaching about the sacrament of penance, men and women were encouraged to evaluate their own behavior, and inevitably that of others. From a social perspective, sin had basically been embodied in defective human relations, and penance was restitutive justice. But the shift from penance to discipline diminished consciousness of this, and the
sacrament eventually disappeared as a social ritual. The emphasis on the examination of the sinner's conscience resulted in the change in sacramental penance from satisfaction subsequent to the confession to interior discipline preceding it. The goal was no longer reconciliation with others but obedience to the sovereign authority.68

This social imperative for obedience is clearly seen in the phenomenon of scaffold speeches in Tudor and Stuart England. These speeches are a pointed indication of the extent to which a new cultural understanding of mercy had been made subservient to the ideology of justice.69 The practice became common, probably by the mid-sixteenth century, of insisting that felons be publicly penitent and contrite before their executions and acknowledge the justness of their execution from the gallows.70 Such speeches were perhaps common at executions for treason for some time before they were regularly given by felons immediately prior to execution. These confessions were given by men and women of all estates, common thieves, political zealots, and religious martyrs. There was a general pattern to this form of final address. Those facing execution announced they came to die, acknowledged they had been judged by law, and accepted the penalty. The speakers emphasized that their fate was representative of that in store for others who sinned against God and the king; often they confessed their guilt for a lifetime of wrongdoing.
They declared their true repentance and sought forgiveness. The reasons for a penitential address by the condemned may well have included duress and fear, and the genuine belief that such a confession was a necessary part of dying well. Belief in divine predestination, and the accompanying providentialist view that shaped the understanding of the course of private lives and history in general, meant that failure was the proof that one had disobeyed God, and therefore deserved retribution. Confession, repentance, and begging for forgiveness was then the only possible response in the final attempt to save one's soul. God revealed his divine will through the king, his Parliament, and the law: what other conclusion was there for the condemned but that he or she broke God's ordinances and so deserved this fate?\textsuperscript{71} Mercy had not been totally abolished from the theater of judgment. The accused felon had passed through a number of stages at which mitigation had been possible; however, throughout the process of the administration of justice, such mitigation had been understood as the equitable application of the law, a law the must be followed to preserve the state and adhere to God's will. By the time a felon had reached the point of execution, mercy was something that one could only hope would follow death. Mercy was relegated to the afterlife. Judgment in this life belonged to the Crown.
Notes to Chapter 7


3 Reynolds 2: "The kind of community...is one which defines itself by engaging in collective activities--activities which are characteristically determined and controlled less by formal regulations than by shared values and norms, while the relationships between members of the community are characteristically reciprocal, many-sided, and direct, rather than being mediated through officials or rulers."

4 Reynolds, 36-38.


7 Brown 137

8 Brown 143.

9 Hyams 100-17. Bartlett concludes that for contemporaries the ordeal was rational--intellectually coherent, not contradicted by available evidence, and suited to attaining its ends. In the twelfth century, then, the real issue "was not whether God could have ordained the ordeal but whether he had in fact done so." The debate was about authority, not rationality; Bartlett 164-65, his emphasis. Radding, however, attributes twelfth-century legal change to the development of logic, a new "moral consciousness," and "the rediscovery of an ethic based on


13 Reynolds 45.


15 Given 210.


18 Clanchy, *Law and Love* 57.


23 This is discussed above in Chapter 1, pp. 27-28.


27 Kaeuper, War 175.


29 Carpenter 211.

30 Carpenter 214.


32 See below, Chapter 1, pages 32-34.


34 Robert C. Palmer, "The Black Death and English Law." I thank Prof. Palmer for very graciously sharing this unpublished paper with me, and allowing me to make reference to it in my dissertation.


36 Carpenter 210-15.
37 For a sophisticated account of this process from the legal perspective, see Thomas A. Green, "Retrospective" Twelve Good Men and True, ed. J. S. Cockburn and Thomas A. Green (Princeton: Princeton UP, 1988) 359-75, and Green, Verdict 105-52.

38 Baker, in his introduction to Spelman, sets the crucial period of law reform between 1490 and the 1540s; for Ives, in Common Lawyers, it is from 1450 to 1530.

39 Baker, Spelman 51.


41 The phrase is from Baker, Introduction 279.


44 Barton xi-xlvi.

45 The classical English notion of equity has been described as the use of "conscience" that bypassed known but unwritten rules to administer justice in a particular situation, and so required procedures for investigating individual circumstances. Baker, Spelman 37.

46 St. German 95, 97.

47 Milsom 80-81.

48 A succinct description of this is found in the introduction to Peter Clark and Paul Slack, eds., Crisis and Order in English Towns 1500-1700 (London: Routledge, 1972), especially pages 13-14.

49 See J. A. Sharpe, "'Such Disagreement betwyx Neighbors'? Litigation and Human Relations in Early Modern England," Settlements and Disputes, ed. John Bossy (Cambridge: Cambridge UP, 1983), and Keith Wrightson and David Levine, Poverty and Piety in an English Village: Terling, 1525-1700 (New York: Academic, 1979). Note Wrightson 139: "It was the possibility of activating networks of personal connection of this kind and touching off a small explosion of conflict within the village that made prosecution of any but the most notorious of offenders so dangerous to local harmony."


"We ought to think, then, of a public opinion which was constantly being fed by directives, information and legislation sent down from Westminster, and of a local audience for the government's pronouncements not only in county courts but in some 200 county towns as well. It is one mark of the political awareness thus created that petitioners for redress, often men of no particular social importance, are frequently able to cite the statutes in support of their pleas to king and council." This description of the public opinion of the time is from J. R. Maddicott, "The County Community and the Making of Public Opinion in Fourteenth-Century England," *Transactions of the Royal Historical Society*, 5th ser., 28 (1978): 36. Also see Charles Ross, "Rumor, Propaganda and Popular Opinion during the Wars of the Roses," *Patronage, the Crown and the Provinces*, ed. Ralph A Griffiths (Atlantic Highlands, NJ: Humanities, 1981), and John W. McKenna, "How God became an Englishman," *Tudor Rule and Revolution*, ed. De Lloyd J. Guth and John W. McKenna (Cambridge: Cambridge UP, 1982).


For the best discussion of this literature of advice and complaint, see Arthur B. Ferguson, *The Articulate Citizen and the English Renaissance* (Durham: Duke UP, 1965). Note that Ferguson would not credit any pre-1530 writers with being anything other than moralists. He waits for the "applied humanism" and constructive policy that follows in sixteenth-century England.

Ferguson 408-409.

of a commonweal is treated in more detail in his chapter "Which Age of Reform?" in the same text.


59 Dudley 34-36
60 Dudley 37-39.
62 Dudley 48-50.
63 Dudley 30.
64 Dudley 41.


68 Bossy 126-40.


70 An example of such a scaffold speech can be found at the end of Like Will to Like.

71 For examples of other works that use cultural artifacts to interpret social attitudes to punishment, see Samuel Y. Edgerton, Jr., Pictures and Punishment (Ithaca: Cornell UP, 1985), and Steven Mullaney, The Place of the Stage (Chicago: U of Chicago P, 1988).
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