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The Principles of Fielding's Legal Satire and Social Reform

Fielding often comments on the law in his novels. He frequently refers to legal administration and to court-room procedures, and he commonly suggests that the litigious spirit does more harm than good to society. His legal commentary in the novels has a professional and constitutional significance, since it reflects his conscientious study of the law and his desire as a magistrate to bolster the Hanoverian settlement.¹ His commentary shows that Fielding regarded the legal profession both as a body of men possessing specific political responsibilities and as a set of judicial ideals the ultimate imperatives of which are Christian. He esteemed professional lawyers as men whose just operation of the law inevitably alerts them to think of legislation in terms of the constitution and social reform and to relate legal values to religious doctrine.²

Fielding's professional and constitutional understanding of law is implicit in the satire which appears in *Jospeh Andrews*. In this early novel, he criticizes the lawyer who wishes that he and his travelling companions 'had past by without taking any Notice' of the naked and forsaken Joseph.³ This lawyer, who is no good Samaritan, has no sense of religious imperatives; his concern for the law is purely selfish and legalistic, since his interest in Joseph derives only from the knowledge that to leave the scene of a capital crime is an indictable offence. When the lawyer threatens the coachman with legal action unless he takes up Joseph, Fielding draws attention to the poor postilion who, though a criminal because he is given to swearing and is eventually transported for robbing a hen-roost, is compassionate to Joseph. For Fielding, the lawyer, since he relies upon the law in a selfish, as distinct from professional, way, is more blameworthy than the postilion. Whereas the postilion is motivated by a practical religion, the lawyer enacts the letter of the law with no political or moral conscience.

His criticism of Lawyer Scout also implies Fielding's expectations of the legal profession.⁴ Scout is a pettifogger. Not a member of the pro-

profession, he degrades it in the minds of 'weak persons' who bear 'Ill-will' towards it (IV, iii). He renders the law vulnerable to those who are predisposed against the profession because he acts as a lawyer 'in defiance of an Act of Parliament' intended to regulate attorneys and solicitors and to exclude such people as him from legal practice. Prepared 'to prevent the Law's taking effect' and to maintain that the 'Laws of this Land are not so vulgar' as to grant poor men legal rights, Scout uses his technical knowledge of legal administration to subvert the law and to equate legal rights with social privilege. His calling for 'an Act to hang or transport half' of the poor and his antipathy to justices who scruple about committing the poor to prison where they soon starve to death betray a reactionary separation of law and social reform. His extremely callous legal proposal shows that Scout's sense of the law is unprofessional and unconstitutional.

Fielding's conception of the legal profession as a society of lawyers with special political responsibilities and a set of ideals authenticated by religion is conveyed by his anti-clerical satire. Consider the parson who, in a 'State of Civil War, or, which is perhaps as bad, of Civil Law' with Sir Thomas Booby and his tenants, impoverishes himself by resorting to litigation to have his stipend returned to the tithing system, yet congratulates himself that his suits have 'utterly undone many of the poor Tenants' (I, iii). This parson, whose self-interest is not served by litigation, employs the law in order to avoid his pastoral duties and to aggravate social problems. Parson Barnabas is a similar example. Although he does not love the public since he never delivers a sermon without remuneration, he pretends zeal for 'publick Justice' in his willingness to debate the nature of evidence all night. Without professional interest in the law, Barnabas exploits legal knowledge in order to show off to his parish, even though this posturing creates dissension in the community (I, xv). His dabbling in the law not only reveals an anti-social worldliness and betrayal of pastoral values but also suggests how open to corruption legal practice is. That the clergy tend to abuse the law is emphasized when Mrs. Trulliber advises her husband to 'shew himself a true Christian, and take the Law' of Adams (II, xiv). The latter's belief that the clergy's employment of law for revenge is a villainous betrayal of the clerical order (II, v) further implies Fielding's view that the clergy, far from providing the law with ideal justification, tend to distort its practice.

Fielding's conception of the legal profession can also be gleaned from the way in which he satirizes the arbitrary legal administration and irreligion of magistrates. That they lack a religious perspective on the law is suggested when Adams concludes that Joseph answers his catechism 'better than Sir *Thomas*, or two other neighbouring Justices

of the Peace could probably have done' (I, iii). Their religious hypocrisy is amusingly testified to by Lady Booby. Shocked by Joseph's defence of his chastity, she protests that 'Magistrates who punish Lewdness' do not scruple to commit it themselves (I, viii). That magistrates have a trite notion of religion is stressed when Fanny and Adams are brought before a justice (II, xi). Before hearing evidence, the justice reviles them; thinking them poor, he speaks in reactionary fashion about making them deterrents to highway robbery. On discovering that Adams is a clergyman, the justice reverses his attitude without considering legal process; he does not cross-examine Adams but accepts 'every Syllable of his Story on his bare Affirmation, notwithstanding the Depositions on Oath to the contrary.' On account of his social prejudice, which prevents him from committing a gentleman, this justice of the peace erodes both the practice of law and the religious values which are the law's ultimate imperative.

In Fielding's eyes, lawyers, clergymen, and magistrates debase the practice of law and the religious ideals which should underpin the law because they unquestioningly accept the acquisitive and callous attitudes of the rich. They succumb to people such as Peter Pounce whose greed causes him to attack the concept of Christian charity and to claim that 'the greatest Fault in our Constitution is the Provision made for the Poor' (III, xiii). To Pounce, the distresses of the poor are imaginary and it is foolish rather than virtuous to relieve their distresses. His desire to ignore Christian doctrine and to abolish the Poor Laws stems from his unwillingness to pay taxes and to recognize that the distresses of the poor are brought about by his amassing of country estates. Lady Booby also has harsh social attitudes which impel her to disregard that part of the legal constitution which involves the redistribution of wealth. The poor by whom she is acclaimed when she returns to her country estate she ruins, since their rents are drafted to London 'without a Shilling being spent among them' (IV, i). Lady Booby could remedy their plight, we are told, at very little cost to herself. But her avarice makes her rant against the parish poor whose hardship she has caused and induces her to try to deprive them of their legal right to settlement. Pounce and Lady Booby represent the economic and social power to which lawyers, clergymen, and magistrates succumb with the result that professional and constitutional aspects of the law are undermined.

Although legal satire is not prominent in *A Journey from This World to the Next*, this early work does evidence Fielding's commitment to legal and social reform. In his depiction of Julian the apostate as fiddler and beggar in Rome, Fielding, besides implying that religious imperatives should inform legal judgment, establishes a view-

point on social reform that is not simply benevolent.⁵ While he treats Julian with the sympathy which a poor man deserves, he also presents him as a criminal who merits punishment on account of his social subversion. As fiddler, Julian experiences arbitrary legal administration. He appears before a music-loving magistrate and is acquitted of a theft of which he is guilty. He 'now laughed at the law, and despised its punishments' since he found they 'were to be escaped even against positive evidence' (p. 66). As a result of reappearing before the magistrate when the charges are urged by a clergyman, Julian is whipped excessively, with the clergyman standing by and insisting that the severe punishment is essential for the good of his soul. But Julian's soul is hardened rather than mollified. Sympathetic to Julian and hostile to the magistrate's prejudices and the clergyman's cruelty, Fielding suggests that, once the law is perceived to be arbitrary, it can serve neither as a deterrent nor as an agent of rehabilitation. What makes the law arbitrary is that legal judgment is based on whim more than on principle and that there is little connection between justice and mercy. In this episode Fielding is sympathetic to Julian in order to show that the law fails to promote social reform because it lacks moral authority. When Julian is a beggar, Fielding is less sympathetic to him as a means of conveying the idea that charity should be a matter of social policy. As one of the undeserving poor, Julian scorns those individuals who offer him charity: he is prouder of his own manipulative solicitations than he is grateful to the donors of charity (p. 94). Although he gives Julian some ironical remarks about the clergy's failure to administer public funds properly, Fielding emphasizes the hardening effect upon Julian of incidental charity, since he wishes to maintain that social reform requires a more organized and institutional support for the poor. Fielding uses Julian as a means of arguing that reform can be effected only if there is a just administration of public funds. *A Journey from This World to the Next* is important to an understanding of Fielding's professional and constitutional ideas about the law precisely because it proposes that social reform depends upon the integrity of the legal and parochial systems.

In *Tom Jones*, Fielding's legal references also evidence that his concept of social reform derives from professional and constitutional ideas as much as from simple notions of benevolence.⁶ As in the earlier works of fiction, he frequently weighs inadequate against ideal legal standards. For example, although Partridge works for a lawyer who is 'an Honour to his Profession' because he performs many 'good and charitable Acts' and refuses 'poultry and oppressive' business, the ex-schoolteacher encounters a different aspect of the legal profession when his pig trespasses on neighbouring property and the neighbour

hires a lawyer to get revenge (XVIII, vi). Not only does this lawyer aggravate the case against Partridge by all sorts of prevarication, but also he brings his own action upon his victim with the result that Partridge is ruined financially and has to spend seven years in prison. In a note explaining that this incident is factual, Fielding condemns such unprofessional and inhuman legal conduct. Aware of the need to counter prejudice against the legal profession, Fielding insists, when he suggests that Lawyer Dowling has not shed his 'Humanity by being an Attorney,' that 'Nature works in Men of all Professions alike' in the sense that they are more humane in private life than they are at work. But, if it is unjust 'to carry our Prejudices against a Profession into private Life' (XII, x), Fielding is not content that there should be a gap between professional and private values in those who administer the law.

Much of the legal satire in *Tom Jones* arises from Fielding's awareness of this gap. Squire Western is the best example of a character involved in legal administration whose very evasion of the difference between public and private values reveals society's need to integrate them. Western nearly gets his way in having Tom committed for possessing Sophia's muff since he is prepared to take personal advantage of the justice who is ignorant of statutes and legal processes (X, vii). As a justice, Western confuses legal and private values. He is the only one in his parish to swear with impunity, for he puts 'the Laws very severely in Execution against others' (VI, ix): his legal severity allows him to avoid examining his own infringement of the law. Western is typical of justices of the peace who mistakenly presume that they have 'a large discretionary Power' in executing the laws. For instance, such justices operate the Game Laws partially; they 'often commit Trespasses, and sometimes Felony' in making these laws serve their self-interest (VII, ix). In Fielding's eyes, Western's lack of respect for the constitution helps to account for his moral hypocrisy and subversion of the law. Opposed to the Hanoverians and sympathetic to the Stuarts, Western rants about being a 'free-born *Englishman*' in a way which shows that his resistance to the constitution entails his view that he is above the law. For Fielding, the gap between public and private values in the legal system is attributable to faulty constitutional notions. This is substantiated by the episode in which the legal clerk affects being a lawyer in the debate about whether Tom is mad and should be sent back to Allworthy. At first, because of his affectation, the clerk adopts an unforthcoming legalistic cautiousness. When the debate touches on the relation of rights and law, he becomes assertive in refusing to grant the priority of rights; as he says, 'Who hath any Right but what the Law gives them?' (XII, vii). But his positive

reaction to the reported progress of the Jacobite rebellion proves him inconsistent since it shows him wanting to have 'Right take Place.' The gap between his subversive political notion that the laws of the state are secondary to natural rights and his debased professional conviction that the law alone establishes rights reveals an unintegrated sense of public and private values which, in turn, illustrates the clerk's refusal to consider the law from a constitutional perspective.

Fielding's conviction that the integration of public and private values is essential to social reform is conveyed by his incorporation of legal satire into his characterization and literary commentary. For example, when Sophia timidly mistakes Mr. Fitzpatrick for her father, Fielding likens her timidity to 'the common Fault of a Justice of Peace' who is 'apt to conclude too hastily from every slight Circumstance, without examining the Evidence on both Sides' (XI, viii). Again, when Tom is unable to jilt Molly, Fielding says that Tom's heart pleads Molly's cause not like 'a cold venal Advocate; but as one interested in the Event' (V, iii). So, too, when Mrs. Honour considers betraying Sophia, Fielding ironically compares the former to a judge who is 'too upright . . . to decree on one Side' (VII, viii): Mrs. Honour's superficial examination of the issues merely serves her calculating selfishness. That he builds such legal analogies into his characterization evidences Fielding's determination that, if the law is to be guided by moral imperatives, it must be based on a proper relation of public and private values. The legal satire embedded in his literary commentary makes the same point. For instance, by comparing classical critics to sound legal clerks who responsibly 'transcribe the Rules and Laws laid down' by judges and contemporary critics to judges who 'adhere to the lifeless Letter of Law, and reject the Spirit' (V, i), Fielding suggests a connection between the desuetude of traditional legal values and the decline of aesthetic appreciation. His allusion to the biblical text that 'the letter killeth, but the spirit giveth life' reveals that he sees the connection between public and private values from a religious perspective. Similarly, when he objects that theatrical criticism is practised by unsuccessful lawyers for whom judgment means condemnation 'without Mercy,' his objection is not just to the confusion of legal and aesthetic values, for it is also to the lack of moral sense which causes the debasement of these values and blocks social reform (XI, i).⁷

Fielding's beliefs that the administration of the law must be guided by religious imperatives, that justice must be tempered with mercy, and that social reform must be based on more than simple-minded benevolence significantly inform his attitudes towards his characters. He distinguishes between them on the basis of whether they are legalistic or they understand the relation of public and private values. Con-

sider the aftermath of Tom's striking of Blifil when the latter has called the former a '*Beggarly Bastard*' (III, iv). An 'indictment of Assault, Battery, and Wounding' is 'instantly preferred against *Tom*' by Thwackum. Tom defends himself 'against all Form of Law' and Allworthy refuses to 'sign the Warrant for the Execution of *Jones*.' Whereas Thwackum and Blifil are legalistic because they think of justice independently of mercy, Allworthy and Tom are morally discriminating because they temper justice with mercy. When Thwackum covets Allworthy's sister, he conceals his religious hypocrisy by thinking of 'Divine Law' only in terms of civil law (III, vi) and, when Blifil in his lust passes 'Sentence against *Sophia*,' he acts like an inhumane judge. By contrast, Allworthy can be merciful to Tom while exercising an 'inflexible Severity' towards Black George, and Tom balances justice with benevolence since he regards the law from the perspective of religious conscience. Tom resists Partridge's urging to appropriate *Sophia*'s money because '*in Foro Conscientiae*' such a crime warrants capital punishment (XII, xiii). Balancing this principled severity is Tom's compassion for Anderson the highwayman. Although Partridge urges him to kill Anderson, Tom is charitable on account of his sympathy for those whose 'unavoidable Distress' leads to 'illegal Courses' and a 'shameful Death' (XII, xiv). Partridge's callous opinion that the law should hang all robbers heightens Tom's distinction between robbery and robbery with violence. His visit to Anderson's house proves that Tom was right not to listen to 'the Voice of strict Justice' (XIII, xi). Another example of his unwillingness to think in merely legalistic terms occurs when Tom is imprisoned for alleged murder. Although he knows that he is not guilty in 'the Eye of the Law,' he still feels culpable for having shed Fitzpatrick's blood (XVI, x). Aware that false evidence may bring 'the Severity of the Law' upon him, he does not concern himself with the process of law because he is intent on respecting a 'Throne still greatly superior' to that of the court (XVII, ix). Tom's religious perspective on law clearly helps him to balance public and private values and to temper justice with mercy.

Like Tom, Allworthy balances rigour and clemency. He is lenient to Jenny Jones, even though he anticipates that his compassion will bring calumny upon him, because he is concerned for her reformation. By 'tempering Justice with Mercy' in his treatment of Jenny, he refuses to gratify the mob's desire to have her sacrificed to justice in order to have someone to pity (I, ix). Allworthy resists this empty sense of the relation of severity and benevolence. His treatment of Partridge, though fallible, manifests the same resistance to debased concepts of justice and mercy. The evidence on which he convicts Partridge is greater than 'would have satisfied a Bench of Justices' (II, vi). In

rendering his judgment, Allworthy is neither reactionary nor arbitrary. On the one hand, he opposes the view 'that Mercy consists only in punishing Offenders' and, on the other, he will not 'pardon great Criminals wantonly' or 'because the Offender himself, or his Friends [are] unwilling that he should be punished.' Allworthy's desire to promote the deterrent effect of the law is neither legalistic nor susceptible to social pressure. Fielding emphasizes how just Allworthy's principles are by comparing the way in which the squire tempers his judgment of Partridge by anonymously relieving his distresses to the manner in which the populace hypocritically compassionates Partridge while ignoring charity. Fielding similarly justifies the 'Rigour' of Allworthy's dismissal of Tom (VI, xi). Since the same people who originally censured the squire's adoption of Tom condemn Allworthy for the dismissal, the squire's severity and benevolence as a magistrate are beyond challenge. Allworthy successfully balances concern for legislation with concern for conscience. When he criticizes 'the Laws of our Country' for failing to proscribe forced marriages, he does not hold legislators solely accountable for social reform, since he insists that 'a good Conscience is never lawless in the worst-regulated State, and will provide those Laws for itself, which the Neglect of Legislators hath forgotten to supply' (XVII, iii). Allworthy's legal authority stems from this ability to balance public and private values. His authoritativeness is assured partly because he senses that unjustified mercy is as harmful to society as severe or arbitrary administration of justice. Hence, after being shocked that there is no legal penalty for Black George's fraud, he rejects Tom's 'forgiving Temper' as 'mistaken Mercy' and as 'pernicious to Society' (XVIII, xii). Conceding that dishonesty is forgivable, Allworthy convinces Tom that, when it is compounded with ingratitude, as in Black George's case, it is unforgivable. This severity illustrates Allworthy's belief that justice and mercy must be reciprocally related and that knowing when compassion is appropriate is part of judging how to uphold the deterrent effect of the law.

Fielding's narrative stance endorses Allworthy's legal authority. Alert to the need for compassion in society, Fielding is not dull to the harmfulness of inappropriate benevolence. For instance, when he describes Northerton's fear of the gallows, he refers to 'a certain wooden Edifice' in mock conformity to society's evasiveness about capital punishment. But he maintains that the gallows is 'of more Benefit to Society than almost any other public Erection' (VII, xv). Later, he does not scruple to condemn Northerton; he attributes the ensign's hardened conscience to the awareness that he had 'forfeited his Life to the Law' (IX, vii). Certain that the law can have no deterrent

effect upon ultimate offenders like Northerton, Fielding does not hesitate to propose that its capital powers should be preserved so that it may deter others. While his narrative stance insists that society not discount capital punishment, Fielding often addresses the reader in legal terms in order to get him to see the proper relation of legal severity and benevolence.⁸ For example, when Mrs. Partridge falsely accuses her husband and when the neighbours who constitute a court judge his astonished silence to be a 'Confession of the Charge,' Fielding asks the reader to 'bear Witness' for Partridge (II, iv). Moreover, when Square ineptly defends Tom, Fielding trusts that his 'Readers will be much abler Advocates for poor Jones' (III, viii). Speaking as a lawyer, Fielding approaches the reader as if the latter is a judge or a member of a jury. So, when pretending that it is hard to acquit Tom of the charge of backwardness as regards Sophia, he leaves the judgment to 'the Reader's Determination,' sure that he will accept the mitigating evidence, and, when requesting the reader to agree that Tom's supposition about Molly's love for him is probable and natural, he is persuaded that 'the Reader will allow' the evidence which he has presented (IV, vi). By thrusting such legal roles upon the reader, Fielding invites him to respect legal processes and to recognize that benevolent administration of the law should not exclude consideration of its deterrent effect.

Although *An Enquiry Into the Causes of the late Increase of Robbers* deals with the restrictions which government should impose upon the luxury of the lower social orders, its perspective on reform illustrates Fielding's ideas of justice and mercy.⁹ This tract proposes increased legal authority for government and magistrates in terms of an organic sense of the constitution. Holding that the constitution is made up of 'the original and fundamental law of the kingdom,' all 'legislative and executive authority,' all those 'municipal provisions commonly called *the laws*,' and 'the customs, manners, and habits of the people' (p 9), Fielding claims that, far from being 'uniform and permanent,' the constitution varies according to the 'order and disposition' of its elements. With this organic definition he challenges the sufficiency of a legal perspective on reform. He acknowledges that 'a competent knowledge of the laws' will provide 'a just notion' of the constitution, but he feels certain that the lawyer, because he ignores 'the genius, manners, and habits of the people,' views only the constitution's 'exterior form.' For Fielding, legal knowledge must be complemented with historical insights if it is to be recognized that 'the disposition of the several parts' of the constitution 'can never be altered without producing a proportional change to the constitution.' He suggests that the remoteness of the law from an historical awareness of

changes in the populace has brought about a decline in civil power and has caused the common people to laugh at magistrates and pettifoggers to flourish. Alert to the increasing commercial power of the lower orders and to their concomitant acquisition of political strength, Fielding castigates the lethargy of the government and magistrates. He opposes doing nothing as a 'wild' notion of liberty; he regards such inactivity as a destruction of 'true liberty' (p. 17). Convinced that the increased economic activity of the lower orders renders them susceptible to luxury and crime, Fielding urges the civil authorities to counteract this damage to society by more completely controlling the lives of the working poor.

In addition to expressing severe attitudes towards the poor, this tract is hard on those who administer the law because of its author's constitutional sense. In arguing that masquerades should be less available to the poor and that the proper licensing and inspection of inns will reduce gin-drinking, Fielding demands that legislators, magistrates, and parish officers be more conscientious. When he defends the Poor Laws, he accuses parish officers of regarding their work merely in terms of private emolument, and he blames tradesmen for failing to contribute to public charity. Rejecting the charge that the statutes which require the poor to work and magistrates to legislate wages are repressive, Fielding contends that it is preferable to control wages than to allow the poor to establish their own rates of pay. For he observes that, if the poor do not get what they ask for, they stop working and depend on public charity (p. 65). He directs this observation at magistrates who reprimand the lazy poor rather than sending them to prison. Agreeing that the poor should not be sent to prison since they are likely to be corrupted by criminals, Fielding regards the mere reprimand as a betrayal of magisterial trust. In his mind, magistrates should respect the Poor Laws by obliging parishes to construct workhouses and to enforce legal settlement. By opposing indiscriminate benevolence, Fielding recalls magistrates to a constitutional sense. He is certain that conscientious magistrates can make society more cohesive and can increase the deterrent effect of the laws. He concedes, however, that, if society does not adopt every conceivable way of using the law and the constitution to prevent crime and poverty, his proposals for regulating the poor are unjustifiable (p. 126). This concession reveals that his sense of reform is not repressive. While he thinks of the poor as the object of the renewed legal system, his constitutional perspective on reform insists upon the greater moral responsibility of all sections of society.

The constitutional perspective on reform and the implications about justice and mercy which are found in *An Enquiry Into the Causes of*

the late Increase of Robbers are pertinent to Fielding's last novel, *Amelia*.¹⁰ At the start of this novel, he applies his constitutional sense to unsettle political and legal complacency. He declares that there are 'defects of polity even [in] this well-regulated nation,' adding that these 'imperfections' exist in 'the laws themselves' as well as in their ill execution. Since he believes that good 'laws should execute themselves in a well-regulated state,' he maintains that the legislature which 'provides the laws' must provide for their execution (I, ii). That the watch is incapable of safeguarding property and that magistrates, like Justice Thrasher, know nothing of 'the laws of England' while they behave according to a debased sense of 'the laws of nature' reflect, in Fielding's eyes, the deficiencies of the legislature.¹¹

Fielding's commitment to legal reform is evidenced by the way in which he makes Captian Booth, the major character in *Amelia*, alert to deficiencies in the law. Booth does not possess a developed moral sense; he is not 'deeply learned in religious matters,' he disbelieves in providence, and he unorthodoxly upholds 'the necessity of human actions.' But, despite this lack, he is shocked to discover that the law treats perjury as a bailable misdemeanour while it regards stealing a loaf from necessity to be an unbailable felony (I, iv). This sensitivity to legal inequity is affecting because it belies his mechanistic ideas about human nature and causes him to judge the corrupt administration of the law. Although he knows little about the statutes, he recognizes when Lawyer Murphy misrepresents the charge against Miss Matthews in order to get her to spend more than she need. Booth accurately sees that Murphy disparages legal knowledge and the rules of evidence out of greed (I, x). In his dealings with Bondum the bailiff, Booth perceives that legal corruption erodes society; he understands not only that Bondum captures his victims for personal gain but also that the bailiff's affectation of a constitutional interest in liberty is absurd. At one moment, Bondum insists that everyone should be coerced into paying debts and, at the next, he vaguely equates 'the constitution of England' with liberty (VIII, i). The contradiction between Bondum's legal severity and political vagueness causes Booth to realize that imprisonment for debt is at odds with constitutional tradition and that the bailiff's notion of political liberty subverts society.

By so developing his central character's intuitions about the law, Fielding satirizes the arbitrary severity of legal administration. But he also employs Booth to point to the necessity of principled severity. As a result of trying to prosecute Betty, his servant, for theft, Booth concludes that the law is often too lax (XI, v). Discounting Betty as 'an object of mercy,' he holds it a 'charity to the public' to remove such

people from society, and he even adopts the severe religious view that such people should suffer capital punishment for their eternal good. When, however, he discovers that Betty has pawned the stolen shifts for five shillings whereas they are worthy thirty and has spent the five shillings on a silk-gown which is scarcely worth a farthing, he appreciates that severer laws must apply to pawnbrokers and shopkeepers as well as to criminals (XI, vii). Although Booth is outraged to learn that Betty cannot be charged with a 'felonious breach of trust' on technical grounds, he is angrier that the same legal inadequacies prevent the court from arraigning the pawnbroker. Booth's sense that the laws need to be more severe is reinforced by the justice before whom he brings Betty. In this justice's experience the laws seem to be made rather for 'the protection of rogues than for the punishment of them.'

While he exemplifies the need for legal reform through Booth's feelings, Fielding implies that irreligion limits his central character's understanding of reform. When he settles in Dr. Harrison's parish, which is an ideal Christian society because of the absence of profanity, beggars, and law-suits, Booth disrupts the community (III, xii). His ostentation and lack of principle provoke neighbours to trespass against him with impunity and to entangle him in law-suits. He brings destructive litigation upon himself. By contrast, Harrison's religion lets him see the connection between legal and social reform and between justice and mercy. Critical of the custom of rewarding bailiffs for 'not acting in an unchristian and inhuman manner' (VIII, x), he is appalled that such negative virtue should be rewarded, and he proposes new laws to punish bailiffs on the grounds that their office concerns mostly 'those poor creatures who cannot do themselves justice.' Harrison's religious perspective on reform is also in evidence when he condemns duelling as 'a direct and audacious defiance of the Christian law' (IX, iii) and when, while complaining that adultery is 'protected by law and countenanced by custom,' he insists that the 'governors of the world' and the clergy are not doing enough to make England a real 'Christian Society' (IX, v).

Harrison's religious perspective on legal and social reform is best revealed in his discussions with the young clergyman. This reactionary cleric holds that there must be 'an end of all law and justice' if a man is obliged to love his enemies. This clergyman would evade the biblical injunction because he wants to be free to prosecute 'his enemy in a court of justice' (IX, viii). Shocked by the cleric's impiety, Harrison insists that legal prosecution is a public duty and not a matter of revenge. When the young priest explains his proposal that the 'utmost severity' of the law should be visited upon those who criticize the clergy by claiming that 'Fines and imprisonments and corporal punishments

operate more forcibly on the human mind than all the fears of damnation,' his concern for social prestige induces him to subordinate religious to legalistic imperatives more obviously. But Harrison's principles prevent him from whitewashing the clergy; he argues that the clergy's 'grosser crimes' must be proscribed and that the priesthood must be newly modelled on the ten commandments. He is convinced that legal and social reform will be effected only if the clergy rids itself of worldly ambitions (IX, x).

Harrison's urgency about reform means that he cannot tolerate insignificant social distinctions and unprincipled political customs. This is best illustrated when he tries to secure preferment from a nobleman for Booth. This aristocrat, since he considers preferment a matter of political bargaining, is indifferent to Booth's qualities. Whereas this nobleman thinks it utopian to base preferment on merit because he assumes that political corruption is inevitable and that neither classical nor Christian virtues are relevant to the constitution, Harrison regards preferment independent of moral judgment to be a 'manifest act of injustice.' For Harrison, this 'kind of injustice' undermines society by destroying the moral incentives which promote the arts, sciences, and professions (XI, ii). That Harrison defies those social and political pressures which the nobleman cynically accepts is seen when he acquires the warrant to examine Murphy's house and arrests the corrupt attorney (XII, vi). In these actions Harrison demonstrates that no man descends below himself who protects an innocent person or brings a rogue to the gallows.

Harrison's conviction that reform depends on Christian fellowship explains how he successfully tempers justice with mercy and reconciles public and private values. This conviction also accounts for why he consistently denies that the well-to-do and powerful enjoy superior legal rights. In congratulating the Booths for their view that all men are brothers and for refusing to consider the poor 'as a species of beings of an inferior order of creation' (IX, v), Harrison voices a motif which gathers rhetorical force during the novel because it reflects Fielding's belief that people are equal before the law and his sense that sympathetic imagination is essential to reform. Like Harrison, the Booths understand that one barrier to reform is that 'great men' think of themselves as 'a distinct species' because they have 'no perfect idea of those common distresses of mankind which are far removed from their own sphere' (X, ix). Amelia considers herself a 'partaker of one common nature' with 'the wife of the honest labourer' (XII, viii) and Booth feels that upper class life is complimented 'with too much injustice' at the expense of the lower since 'greatness of mind' is found in beggars as well as in princes (III, vii). These and other examples of the motif of

moral equality accumulate rhetorical power because at the beginning of the novel in his presentation of Justice Thrasher Fielding suggests that a major cause of legal corruption is the prevalent assumption that truth is not the property of the poor. While Thrasher never sullies 'his sublime notions' of truth 'by uniting them with the mean ideas of proverty and distress' (I, ii), Fielding employs the motif of moral equality to defy legal prejudice and to insist that reform must be based on Christian values.¹²

Fielding's critical and intelligent commitment to the legal profession, to a constitutional perspective on reform, to the deterrent value of capital punishment, and to the poor is as evident in his final work, *The Journal of a Voyage to Lisbon*, as in his earlier writings.¹³ His imminent death certainly did not cause him to be either callous or self-sympathetic. In customary fashion, his tone in this work ranges between the judicial and the compassionate, between the severe and the benevolent.¹⁴ Proud of having curtailed street robberies, he yet complains about the difficulty of convicting known criminals, attributing this to inadequate laws of evidence (p. 33). He is proud, too, that his legal severity has been conscientious and that his arbitration of disputes among the poor has been charitable and not mercenary (p. 34). Obviously holding all ranks of society responsible for reform, he blames the barbarous conduct of the lower orders on 'an uncontroul'd licentiousness mistaken for liberty' (p. 45) and he accuses the higher orders of knowing little about social evils (p. 46) and of being indifferent to 'the regulation of the mob' (p. 82). While he reiterates his long-held view that the vagrancy laws should be imposed upon the poor and that their wages should be legislated to oblige them to work regularly (p. 85), he defends the interests of the poor by denouncing 'monopolizing fishmongers.' He condemns these men for overfishing the Thames to satisfy luxurious tables with small fish and for ignoring their duty to supply the London market with cheap, good-size fish. In order to guarantee the poor inexpensive nutrition, Fielding willingly classifies the fishmongers' conduct as felonious and insists that their subversion of the market and public charity is a capital offence (p. 109).

By detailing Fielding's comments on the law in his fictional and non-fictional prose works, this essay has opposed two views of his legal references. It has attempted to counter the opinions that he deals with legal and social problems in his fiction in a fanciful and sentimental manner and that he becomes increasingly reactionary in his non-fiction. By emphasizing his balanced concern for justice and mercy, by showing that his fiction argues for legal severity as much as his non-fiction does for benevolence, this essay maintains that Fielding expresses his ideas about law, reform, and religion thoroughly and

consistently in his prose. Certainly, he respected the legal profession even as he presented its degradation, and he constantly, because of his constitutional perspective, related legal to social reform. Moreover, his reciprocal sense of justice and mercy, in addition to preventing him from being reactionary, allowed him to argue that divine judgment is the ultimate imperative for law, and his attacks upon immoral ideas of justice and mercy prove that in all his works Fielding demonstrates a keen awareness of how legal, social, and religious values should be integrated.

NOTES

1. The major study of Fielding's legal and social ideas states that he was no reformer because his conservative views induced in him an almost slavish respect for the harsh criminal laws of the time: see, Malvin R. Zirker, *Fielding's Social Pamphlets* (Berkeley and Los Angeles, 1966), especially "Conclusion," pp. 132-40. Zirker claims that Fielding manipulated the plots of his novels to evade social problems. Zirker correctly dismisses the celebration of Fielding as a humanitarian reformer in B. M. Jones, *Henry Fielding: Novelist and Magistrate* (London, 1933). Jones unwarrantedly asserts that 'Fielding's views on punishment, and his emphasis of the value of prevention, were far in advance of the ideas and practice of the eighteenth century' (p. 226). Zirker also rightly challenges Jones's *Pamphlets*, pp. 37-42. But Zirker's dismissal of Fielding as a reformer neglects evidence that this writer integrated legal, political, social, and religious ideas. Although he concedes that Fielding came late and reluctantly to the legal profession, Pat Rogers, *Henry Fielding: A Biography* (London, 1979), insists that the author of *Amelia* made this novel reflect the 'reforming zeal' of his social pamphlets (p. 193). It is usual to allege an ideological gap between the novels and pamphlets. Claude Rawson in the introduction to *A Journey from This World to the Next* (London, 1973), for example, says that Fielding's 'morality transcends his own explicitly formulated socio-legal principles in contexts where the full human situation invited a deeper and larger view' (p. xxii). (All references to this work are to this edition.) But that such a gap really exists is what the present essay questions.
2. For helpful remarks about Fielding's concern for reform and interest in society as an organic whole, see George Sherburn, "Fielding's Social Outlook" in James L. Clifford (ed.), *Eighteenth-Century English Literature: Modern Essays in Criticism* (New York, 1959), pp. 251-73.
3. Henry Fielding, *Joseph Andrews*, edited by Martin C. Battestin (Middletown, Connecticut, 1967), I, xii. All references to this work are to this edition.
4. Glen W. Hatfield, *Henry Fielding and the Language of Irony* (Chicago and London, 1968), pp. 127-51, gives an excellent account of Fielding's attitudes towards the professions. Hatfield argues that Fielding's 'high esteem' for the professions made him 'painfully conscious' of the forces that threatened to corrupt them. Fielding's contempt for Lawyer Scout is matched by his criticism of the 'vile Petty-fogger' in *Tom Jones* (VIII, viii). Fielding's sense of their irrelevance to the law marks his desire to promote the integrity of the legal profession.
5. Martin C. Battestin, *The Moral Basis of Fielding's Art: A Study of Joseph Andrews* (Middletown, Connecticut, 1959), convincingly explains the 'rationalistic element' which separates Fielding's moral thinking from 'the cult of sensibility' (pp. 73-74) and Frederick G. Ribble, "Aristotle and the 'Prudence' Theme of *Tom Jones*," *ECS*, Vol. 15 (1981), 26-47, brilliantly shows that Fielding's moral thought successfully balances between sentimentalism and rigorism. These accounts support the notion that charity for Fielding entailed justice as well as mercy.
6. Henry Fielding, *The History of Tom Jones*, with an introduction and commentary by Martin C. Battestin and edited by Fredson Bowers (Oxford and Middletown, Connecticut, 1974). All references to this work are to this edition.

7. In this regard, it is significant that Fielding makes Allworthy 'a very competent Judge in most Kinds of Literature' (I, x) as well as an excellent justice of the peace.
8. Henry Knight Miller, "The Voices of Henry Fielding: Style in *Tom Jones*" in *The Augustan Milieu*, edited by H. K. Miller, E. Rothstein, and G. S. Rousseau (Oxford, 1970), establishes that Fielding 'conveys an attitude towards his materials by assuming the jargon-voice of a particular profession' (p. 278). In *Joseph Andrews*, when the robber escapes from Mr. Tow-wouse's house and the constable is alleged to be an accessory, Fielding impersonates a stupid magistrate who has a merely literal-minded sense of evidence (I, xvi). By this impersonation, Fielding implies that personal history, character, beliefs, motives, and circumstances should be considered as legal evidence. In *Tom Jones*, Fielding's various legal stances are important because he makes his characters' rhetoric an indication of their legal and moral attitudes. Mrs. Wilkins is an excellent example of someone whose legalistic sense of justice is transparent in her insensitive and ineffective rhetoric: see, for example I, iii and vi. In contrast with Mrs. Wilkins, Fielding appreciates the 'perfect Oratory' of the ancients (X, ix) and celebrates William Pitt as 'a Rival in Eloquence to Greece and Rome' (XIV, i) because he understands that sound rhetoric is essential to justice and public morality. For excellent accounts of Fielding's rhetoric, see Henry Knight Miller, "Some Functions of Rhetoric in *Tom Jones*," *PQ* Vol. 45 (1966), 209-35 and Jeffrey M. Perl, "Anagoric Surfaces: How to Read *Joseph Andrews*," *The Eighteenth Century* Vol. 22 (1981), 249-70.
9. References to *An Enquiry* are to the text contained in *The Complete Works of Henry Fielding*, edited by William Ernest Henley (London, 1903), Vol. XIII.
10. Henry Fielding, *Amelia*, with an introduction by A. R. Humphreys and edited by George Saintsbury (London and New York, 1962). All references to this work are to this edition.
11. Martin C. Battestin, "The Problem of *Amelia*: Hume, Barrow, and the Conversion of Captain Booth," *ELH* Vol. 41 (1974), 613-48, maintains that the novel is the product of Fielding's 'maturest thinking about human nature and about the grounds of order in society.' He sees, however, the novel ending in a 'comic apocalypse' which affirms that 'fiction is the mirror of a higher reality than life's tragic muddle.' The present essay attempts to stress that Fielding's social concerns derive from his awareness that legal and religious values must be integrated.
12. This motif is also important to the early chapters of *A Journey from this World to the Next*. When he describes the spirits of the dead meeting with the spirits about to enter life and when he presents Minos judging the candidates for Elysium, Fielding emphasizes the interchangeability of social ranks and the relative advantages and disadvantages of all stations because of his spiritual values.
13. Henry Fielding, *The Journal of a Voyage to Lisbon*, edited by Harold E. Pagliaro (New York, 1963). All references to the work are to this edition.
14. C. J. Rawson, *Henry Fielding and The Augustan Ideal Under Stress* (London and Boston, 1972), observes an 'intensified see-sawing between apparently contradictory elements' in Fielding's later social outlook, mentioning particularly the novelist's faith in benevolence and sense of natural depravity (p. 96). Such oscillations exist, but they neither become more intense nor reflect a loss of ideals, as Rawson suggests.