

# **HE DOESN'T EAT HERE**

**BY**

**ALBERT R. JONSEN, PH.D.**

**PRESENTED TO THE CHIT CHAT CLUB**

**SAN FRANCISCO, CALIFORNIA**

**NOVEMBER 1984**

On a wintry night, the stately house of the Bellamy's at Uxend near Harrow was visited by a sinister party. Led by the dreaded Topcliffe, the Lord Chancellor's man, these were pursuivants in search of outlawed Roman priests. They had been tipped off to the presence of a young Jesuit, Father Robert Southwell, who had come to minister to the Catholic family and household of Sir John Bellamy. The tip was correct. Southwell was discovered hidden in the "priest's hole" and taken off to London and Ludgate Prison when he emerged three years later to be dragged on a hurdle to Newgate where he was hanged, drawn and quartered.

Father Robert Southwell, known perhaps to those who peruse the *Oxford Book of English Verse* as a minor poet of the Elizabethan period and to Roman Catholics as one of the so called "English Martyrs," became notorious during the lengthy trial in the Lord Chancellor's Court as the Jesuit equivocator, exemplifying in his person two terms that have become almost synonymous in our language. He was a man of exceptional attractiveness, not in face, but in the beauty of his character and the quiet eloquence of his language. He was not an easy criminal to convict, turning aside the accusations of his adversaries with responses at once witty and disarmingly mild. But one accusation he could not refute and its telling impact, more than any other in the arraignment, led to his death.

His arraignment reads: "this priest instructed a gentlewoman that she might with holy conscience swear under oath that he, Southwell, was not hidden in her father's house having within herself the intension that he was not here so as she was bounden to tell them." Southwell was a classical equivocator: one who speaks, cryptic, evasive, ambiguous statements capable of several interpretations, any one of which might be true or false. Roman Catholics and particularly their Jesuit clergy, during the reign of Good Queen Bess, were branded as equivocators. The great Anglican theologian William Perkins wrote in 1598:

*In their doctrine, the Jesuits maintain equivocation and perjury, for they teach with one consent that a papist examined may answer doubtfully against the direct intent of the examiners: framing an other meaning unto himself in the ambiguity of his words.*

Robert Owens, in his 1629 volume, *Speculum Jesuitarum* (Jesuit's Looking Glass) says of these ecclesiastical villains, "they equivocate and so fable their oaths and faiths."

A most astonishing attestation of this claim is found in the State Papers (5 February 1606 14.18.66 Rose 90). The Dean of Durham writes to Lord Salisbury, Secretary of State, about the testimony of a certain Father Ward:

*...first, he swore he was no priest, that I, saith he (in a subsequent explanation), not Apollo's priest at Delphi. Second, he swore he was never across the sea, it's true saith he, for he was never beyond the Indian Seas. Third he was never at or of the Seminaries. Duplex est seminarium, materiale et spirituale, he was never of the spiritual seminary. Fourthly, he never knew Mr. Hawksworth: it is true, saith he, scientia scientifica. Fifthly, he never saw Mr. Hawksworth, true, he saith, visione beatifica.*

These words, complained the Dean of Durham, were "but childish shifts and impostures." Father Ward, too, went to the gibbet.

But just a moment. Men cannot put to death for fibbing. Why did not Catholic and Jesuit equivocation arouse mere amusement or at least indignation rather than drive the powerful machinery of state and judicial authority to grind these fibbers to death? The answer must be sought in the tumultuous, fierce political and religious history of the 16<sup>th</sup> century as it played itself out in Europe and England. Only the briefest summary can be reviewed here to set the scene for the enormity of equivocation.

In 1559, Queen Elizabeth signed the Act of Supremacy making separation from the Roman church definitive and empowering the ruler as Supreme Governor of the Church of England. The Act imposed an Oath of Supremacy on all officeholders, clergy and candidates for offices or degrees. The Lord Chancellor was authorized to demand this oath from any Englishman. In the same year, Parliament passed the Act of Uniformity, instituting the English Prayer Book as the sole ritual of the English Church, outlawing the saying or hearing of the Roman Mass and penalizing by fines all who failed to attend church services every Sunday and Holy Day. In 1570, Pope Pius V, abandoning hope for Elizabeth's reconciliation with Rome, issued the Bull *Regnans in Excelsis*, in which he excommunicated her, declared her to be no Queen and absolved her subjects of obedience. "This change in papal policy toward England was to bring great suffering to English Roman Catholics who would increasingly be forced to make the decision they feared and avoided: loyalty to the Queen or loyalty to the Pope." (Haugaard, p. 309)

In 1574, Catholics who had gone abroad to be educated at the newly founded seminary (a material, not a spiritual one) at Douai (later moved to Rheims) began to arrive in England. In 1580, the first Jesuit priests, Robert Parsons and Edmund Campion, arrived. The seminary priests and the Jesuits on the English Mission were dedicated to serving

and strengthening the Roman Catholics and attempting a reconversion of the realm to the Roman faith. In 1582, Parliament passed an Act that banished all Jesuits and seminary priests and declared it treason for any Englishman ordained overseas to enter England. Treason was a capital offense: the traitor was hanged, drawn and quartered. In fact, the first seminary priest had been hanged five years earlier under an Act of 1571. Campion was caught, tried under the ancient Act of Treason of 1352, and executed in 1581. 183 Catholics, of whom 123 were priests, were eventually executed during the reign of Elizabeth.

English Catholics were now in a difficult moral situation. Obligated by law to attend religious services they considered heretical and forbidden to attend those they held necessary for their salvation, required under certain circumstances to swear allegiance to a ruler whose claim to be Supreme Governor of the church they repudiated and from whose civil authority the Pope had released them, threatened on occasion with the dangers of harboring the outlawed priests whose spiritual offices they desired, English Catholics faced a serious crisis of conscience. As persecution intensified, fueled by the pro-Catholic Northern Rebellion (1569), by the Spanish Armada (1588), and by the Gunpowder Plot (1604), the crisis was felt more acutely by Catholics.

It is clear, then, that equivocation was not itself the capital crime. But it was the sin that raised suspicion of treason. In an era when morality and law were more intricately entwined than in our own day, the sin could entangle one in lethal legal processes. Treason was the crime and the Jesuits had to be seen as traitors; equivocation was the index of suspicion. Looking forward a decade, we find Shakespeare placing in the mouths of characters in *Macbeth* the sentiments of the ordinary Englishman. *Macbeth* was written in the year of the Gunpowder Plot, 1605, in which the Jesuit John Garnet was implicated. The young McDuff asks his mother what is an equivocation. She answers, "he who swears and lies. He is a traitor and must be hanged."

In the last three decades of the 16<sup>th</sup> Century, English Catholics increasingly felt pressure. They turned from a respectful dissent to an adamant refusal (whence they earned the title "recusants") of the religious settlement of 1559. Penalties for recusancy were stiffened; efforts at detection and prosecution were intensified.

The moral problem of whether to tell the truth was, in this situation, an excruciating one. Everyone with Catholic sympathies must have faced the problem as an almost daily occurrence. It became an acute problem on those occasions when, hailed before a magistrate, the Catholic interrogated about his, or her, beliefs or behavior. Some, usually priests, had to decide how, in conscience, they should answer the judge's "bloody" question: "If England were attacked, would you support the Queen or an army blessed by the Pope?" As the historian Haugaard says, "to Elizabeth this was a political question; to the priests, a complicated problem of conscience with no simple answer." The conscientious Catholic was plagued with many questions. Should I outwardly attend Anglican services while refusing inwardly or secretly hearing Mass? Should I, as a judge, swear the oath of Supremacy, withholding true allegiance in my heart? Should I, as a Jesuit, deny my name, my true reason for traveling hither, my religious profession,

my faith? What should I, as a Catholic gentleman, say to the pursuivants at my door when they inquire about the priest hidden in a secret closet of my house?

The last question was most poignant, for it placed these conflicted Roman Catholic directly before one of the most rigorous doctrines of Catholic morality: the obligation to tell the truth even in the most threatening circumstances. The dominating authority of Saint Augustine stood behind the doctrine. In his book, *On Lying*, he forges an argument that requires truth-telling, even when the truth will destroy the teller and damage other moral obligations that are, in Augustine's eyes, of lesser value. The centerpiece of the book is the drama of a man who hides in his house a friend who is being pursued by the authorities for a capital crime of which he is certainly innocent. Questioned by the authorities, the householder is bound, says Augustine, to answer yes to their direct question, "Is he here?"

How then could the devout Southwell instruct young lady Bellamy to answer with an outright "no" to that same question when Augustine's tale was no longer an instructive example but a terrifying reality in that country house on a dark and stormy night? How did Catholic teaching move from the authority of the master Augustine? Was it, in fact, a mere cynical evasion of what was known and accepted as true and sound morality? Was it pragmatism in face of danger and death? Or had the Augustinian doctrine evolved in ways that carved out exceptions and excuses? Let us follow the Augustinian doctrine down the centuries.

A lie, as St. Augustine defines it is, "a false signification with the intent to deceive," Lying, he maintains, is always sinful. No expected benefit, even if it be saving the life or the soul of another justifies a lie. There are, admittedly, degrees of gravity in the sin of lying. These degrees depend on the seriousness of harm and whether the one who tells the lie benefits from it or some other party does. Eight species of lie are differentiated, all sinful, but whose malice varies from the most serious; namely, a lie that leads another to deny religious belief, to the least, a lie that actually gives help to another without harm to anyone but the teller. (*On Lying* 25) This rigorous tradition prevails through the middle ages. St. Thomas repeats the doctrine with only minor modifications in definition. (*Summa Theologiae* II-II, v1-29 Q. 90). He adds, however, a qualification that will loom large in later discussions: "...it is licit to hide the truth prudently by some sort of dissimulation" (*licet tamen veritatem occultare prudenter sub aliqua dissimulatione*) S.T. II-II Q. 90. a.3 ad 4)

St. Thomas does not explain this "prudent dissimulation," but St Raymond of Pennafort writing a few years later, addresses the Augustinian case of the concealed innocent man. He suggests several approaches (some might say "ploys"). Like Augustine, he counsels silence in the face of a direct question. If silence would be dangerous, change the subject. Finally, "respond by equivocal words," such as "non est hic," meaning "he does not eat here." (The Latin word "est" being either the third person singular of "esse"—to be, to exist—or "essere," to eat.) This is an equivocation that can, to the best of my knowledge, be replicated only in German: er ist nicht hier / er isst. Thus, Raymond, a 14th century

Spanish monk, introduces the doctrine of equivocation that provides the basis for the dispute in Tudor England.

The theologians of the 14<sup>th</sup> and 15<sup>th</sup> centuries repeat the Augustinian and Thomist doctrine, but go further. One of these, Sylvester de Prieria asks “whether it is permitted to hide the truth?” (*celare veritatem*). The answer is “if one is not obliged to answer in accord with the question’s intent, certainly one may hide the truth—in a variety of ways.” For example, if several true responses can be made, the person questioned can state one response and be silent about the other or one may use an expression that has double meaning without clarifying which is meant. De Prieria provides examples of double meaning: “if someone seeking to kill another asks you ‘did he go this way, you may say, no, not this way, meaning his feet did not trod the exact ground you point at. Or a cleric, asked by customs whether he has anything to declare, answers, “no” meaning nothing that a cleric should pay customs on.” Finally, if one is asked something about which one ought not answer (*quod dicere non expedit*), he may say “he does not know, tacitly thinking (*subintelligendo*), so it may be revealed.” This Christ did when he said he did not know the day or the hour of the Judgment. Sylvester then remarks, “...about this manner of concealing, caution should be exercised; scandal should not be given; it cannot be used in a legal case before an authorized judge nor when the questioned person is bound by precept to answer truthfully to a lawful superior.” (*Mendacium*, 5)

De Prieria then repeats the oft discussed case of a person who arrives in a city from a place where plague is suspected. The traveler knows there is no plague in his home town and, on being questioned by the sentinels whether he comes from that city, answers, “no.” This answer is not a lie for it fulfils the ultimate purpose of the questioner, namely to keep out plague. (*Juramentum* 3,2: *Sylvestrinae Summa Summarum*, 1557)

This discussion is not very lucid, but it represents the state of the question about equivocation between the 13<sup>th</sup> and 15<sup>th</sup> centuries. However, in 1552, the Professor of Theology at Salamanca, Dominico Soto, gave a course on the subject that was magisterial. These lectures were later published as “Reasoning about Revealing and Concealing Secrets” (*De Ratione Tegendi et Detegendi Secretum*). Soto presents a carefully reasoned argument, posing first the clearest case. Is a witness under oath bound to reveal a committed secret when questioned by an authorized judge in the prescribed manner? In general, he is bound. The rare exception bears on the real threat that great public harm may be caused by the revelation. Soto moves confidently through progressively more complex cases. The interrogator who asks unjustly or illegally, need not be answered; one can use deception, but not a lie. If the justice of the inquisition is doubtful, one has no obligation to answer unless failure to do so would lead to great public harm; for example, if the secret concerns treason, a plan to assassinate the ruler, etc. Finally, Soto reaches the question, “May a person employ obscure and ambiguous expressions when questioned outside the law in order to delude the questioner?” He remarks, “...on this matter, I would prefer to listen to other’s opinions rather than offer my own: but I must attempt a response” (Q. XIII). After careful investigation, he permits equivocation, since a genuine equivocation does have, in one proper meaning of the word used, the sense intended by the speaker. He also permits one sort of “restriction” namely,

the answer “I don’t know” spoken with the unexpressed condition, “in a way in which I can state publicly.” He argues cautiously in favor of this. He is most certain it obtains in the case of a priest asked about information known only from sacramental confession, for the whole Christian world knows such information is spoken to the priest as to God. He is less certain, but still confident, that the same denial is ethically justified in a secular situation. However, he examines and repudiates more extended and elaborate forms of restriction. These do “violence to common sense.” (Q. XIII, p.274) Coming finally to the case of a person whom an unjust questioner threatens with death unless he reveal a secret, he answers, “...if I (here he switches to the first person) had no legitimate equivocation available, I ought to accept death rather than lie.” (Q. XIII, p. 279)

A famous author, Navarrus, writing several years after Soto’s lectures in the same university, is less scrupulous about the use of mental restrictions. In his influential “Humane Aures” (In Decretales II, c. 22, q. 5), he suggests that it is legitimate to withhold “in tacit thought” (*tacita cogitatio*) a phrase that if uttered openly would manifest the incompleteness (and thus the on the face of it falsity) of the spoken statement. This is so because “human ears judge words as they sound externally; divine judgment, however, takes the external sounds in accord with the internal intent: intention should not be made to serve the words, but the words the intention.”

Navarrus’ opinion does not long remain unchallenged. In 1602 the leading Jesuit Azor cites it, adding the apparent concurrence of Sylvestrina and Angelica, and then comment, “from this rule much can be inferred: some of it true and some false.” He illustrates the correct use of the rule by recalling the case of the man coming from the city incorrectly suspected of plague. But he advises that the “*tacita cogitatio*” is permissible only in certain sorts of cases: the priest asked about confessional matters and the accused asked by the unjust judge acting illegally. In such cases, the “*injuria*” done to the questioned allows one to evade a direct answer in this way. However, if there is no *injuria* (literally injustice not injury), “...we must answer frankly using words according to their usual and ordinary meaning” (On Oaths I, x, iv). Outside legal and confessional cases, when there is “no detriment or harm to us, it is not licit to use such tergiversation, because by such tergiversation, all lies would be excused and human intercourse as well as charity among neighbors would be abolished.” ( III, xiii, c.iii). From this time on the doctrine is stated in this fashion.

Now we encounter one of those tragic moments “in which time is out of joint.” Father Southwell studied his theology at the English College of Reims, a Catholic seminary in exile. When he was a student there, the text of moral theology was the work of that Navarrus who proposed and approved of the “tacit thoughts.” We have preserved in manuscript, the notes taken by seminarians about moral theology as it applies to the dangerous mission they will undertake when they return to their homeland. Among the prudent advice about how to deal with the many problems they will face in a land where their faith and presence is outlawed, we find the doctrine of Navarrus on the tacit thought. This doctrine young Southwell brought to England. It led to his death. It led also to the evil reputation of Catholics and Jesuits as equivocators.

In the very year of Southwell's execution, his companion on the mission, Father Henry Garnett, published a pamphlet "A Treatise of Equivocation" in defense of his martyred brother, that became notorious. It reinforced the evil reputation. It too repeated Navarrus' teaching, one that would, within a decade, be repudiated by almost all Roman Catholic theologians. The evil reputation was built upon an aberrant ethical opinion that appeared and vanished in a fifty year period; yet during those fifty years, men and women died as a result of it and many others were vilified.

The Jesuits would henceforth be tarnished as equivocators and even modern critics assert that equivocation is sanctioned by Catholic theologians. Yet this tragic moment in history and this aberrant doctrine seem to pale in significance before the massive distortions of truth and coloring of reality that modern politics, advertising and journalism produce. To these contemporary prevaricators and equivocators, rather than the Jesuits and Tudor Catholics, Shakespeare's apposite metaphor in *Macbeth* applies: "They swear in both scales against either scale."