

# Moral Theology, Culture of Counsel, and the Society of Jesus in the Seventeenth Century

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## Abstract

This paper explores the connection between the early modern debates over Probabilism and political counsel. It argues that the issue of counsel was important in the polemics against Jesuit moral theology. Theological challenges to Probabilism clearly show that many intellectuals were worried it could lead political counsellors astray and encourage them to defer to the whims of political authorities. This was not merely a theoretical issue. Three French cases evidence the fact that political counsellors could claim an obligation to put obedience to their sovereign before obedience to religious authority—the pope in particular—on religious grounds. The discussion between anti-probabilists and probabilists during the second half of the seventeenth century shows the degree of unrest among theological and ecclesiastical authorities confronted with the demands of the state on individual conscience, and on the conscience of counsellors in particular.

## Keywords

Probabilism – anti-Probabilism – confessionalization – political counsel – polemics – casuistry – Jesuits

In recent years, early modern theology and the issue of Probabilism in particular have increasingly attracted scholarly attention.<sup>1</sup> Historians of religion

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1 See Robert A. Maryks, *Saint Cicero and the Jesuits: The Influence of the Liberal Arts on the Adoption of Moral Probabilism* (Aldershot: Ashgate, 2008); Emanuele Colombo, *Un gesuita inquieto: Carlo Antonio Casnedi (1643–1725) e il suo tempo* (Soveria Mannelli: Rubbettino, 2006);

have primarily focused on the question of the historical significance of Probabilism within the dynamic environment of early modern Catholicism. The revival of Jesuit Studies has further fostered interest in the changing fortunes of a doctrine that was endorsed by many Jesuits, and identified by many Jesuits as well as their adversaries as part of the ideological patrimony of the order. That Probabilism has had a come-back as the object of historical study and religious history in particular, however, does not mean that it is not also significant from the point of view of political history. Nicole Reinhardt has remarked that the discussion of just war came “with a profound sense of insecurity of judgement” that coincided with “a spreading crisis of certainty that had touched moral theology in the form of Probabilism” and that political arguments—especially regarding the issue of political counsel—found their way into theological polemics.<sup>2</sup> Indeed, the prism of confessionalization made it difficult to ignore possible political overtones in the debates over Probabilism, particularly after works such as Paolo Prodi’s *Storia della giustizia*. Prodi insisted that the history of moral theology was a prime source for evidencing both the changes in the relationship between church and state and how these changes affected individuals in the early modern era.<sup>3</sup>

My own take on Probabilism has had much to do with understanding how Catholic confessionalization worked, and how it dealt with the shifting of boundaries between church and state. In this article, I would like to try to take things a little further, and argue that political issues may have been much more than mere background to the theological discussion over Probabilism. The focus is on the relationship between Probabilism and political counsel and on the politicization of this connection in contemporary debate. The evidence discussed here suggests that enemies and defenders of the Society of Jesus alike clearly identified Probabilism with the issue of counsel. I will argue that the debate over Probabilism ought to be analyzed in connection with an actual crisis of the traditional culture of counsel in early modern Catholic Europe. This crisis proved particularly decisive for the history of the Society, but also has religious and political overtones that offer a specific angle for furthering our understanding of the dynamics of Catholic confessionalization.

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Colombo, “Contro il probabilistico sistema: Lettere di Gaetano da Bergamo a Pietro Ballerini (1734–1738),” *Rivista di storia della chiesa in Italia* 72 (2008): 81–111; Daniel Schwartz, “Probabilism Reconsidered: Deference to Experts, Types of Uncertainty, and Medicines,” *Journal of the History of Ideas* 75 (2014): 373–93.

2 Nicole Reinhardt, “Spin Doctors of Conscience: The Royal Confessor and the Christian Prince,” *Renaissance Studies* 23, no. 4 (2009): 568–90, especially 576 and 582.

3 Paolo Prodi, *Una storia della giustizia: Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto* (Bologna: Il Mulino, 2000).

***Phèdre* and the Staging of the Bad Counsellor: The Connection  
between Theology and Political Counsel and Public Perception of  
the Society of Jesus**

Racine's 1677 play *Phèdre* offers remarkable insights concerning the importance of the issue of political counsel for the Jesuits in late-seventeenth-century France. Canonical criticism of the play has somewhat overlooked one of its aspects that may have been quite obvious to the seventeenth-century French public, and especially court and town at the time: *Phèdre* is obviously an anti-Jesuit play, and perhaps the most obviously and openly anti-Jesuit in Racine's oeuvre. The play is yet one more example of the importance of the relationship between the Society of Jesus and early modern culture and practice of counsel, and political counsel in particular. Racine's treatment of the matter points to the centrality of the role played by Jesuits serving monarchs and nobles, at least as far as the public perception of the Society of Jesuits in France at the end of the seventeenth century is concerned. *Phèdre* puts alleged practises of members of the Society of Jesus on stage and presents them as exemplary for the confusion of traditional boundaries between spiritual and political counsel.<sup>4</sup>

At a turning point in the play, Queen Phaedra dismisses her servant and confidante Oneone for having offered bad counsel—having encouraged her to endorse her passion for her son-in-law Hippolytus instead of keeping it at bay. Later, after the unexpected return of Theseus, Oneone advocates accusing Hippolytus himself of incestuous feelings so as to deflect any blame from Phaedra. This is the breaking point in their relationship: the queen refuses to have her son-in-law sentenced to death as the scapegoat of her passion and ends the relationship with her once-trusted advisor. Her dismissal of Oneone reflects on the bad counsellor of princes more generally:

No, not another word! Go, hateful monster;  
Away, and leave me to my piteous fate.  
May Heav'n with justice pay you your deserts!  
And may your punishment for ever be  
A terror to all those who would, like you,  
Nourish with artful wiles the weaknesses  
Of princes, push them to the brink of ruin  
To which their heart inclines, and smooth the path

4 Marc Fumaroli has noted the connection between *Phèdre* and French debates over moral theology; see Fumaroli, *Héros et orateurs: Rhétorique et dramaturgie cornéliennes* (Genève: Droz, 1996 [1991]), 501.

Of guilt. Such flatterers doth the wrath of Heav'n  
Bestow on kings as its most fatal gift." [Act. iv, sc. vi]<sup>5</sup>

This no mere generic portrait of the bad counsellor, though. Oneone's crimes are specific in that she has encouraged the hubris of royal passions where she ought to have discouraged and stymied them. One of the reasons the public cannot but have identified her as the theatrical representation of the Society of Jesus (and Louis XIV's [1643–1715] trusted Jesuit counsellors, particularly François de la Chaize [1624–1709] who was then acting as confessor since 1675) is that Oneone's behavior and Phaedra's interpretation of her behavior clearly allude to French debates over moral theology.

Oneone does not only offer bad advice. Firstly, she is not only a political counsellor, but is also privy to her mistress's heart and passions just as a confessor would be. Secondly, she mostly reasons in moral, especially casuistic terms: she is horrified when she first hears about Phaedra's passion, but once the king is believed to be dead she all the more encourages the queen to follow her heart as she believes the outcome will be beneficial both to the common good—by averting a possible war—and to Phaedra's and her son's personal interests. When Theseus returns and that course of action proves detrimental to Phaedra, she advises defamation against Hippolytus. Again, she does so in casuistic terms: if the queen's passion were to become public, Phaedra's dishonor would directly threaten her life and the inheritance of her son. The queen is therefore justified in seeking to deflect the blame even at such great cost as Hippolytus's life. What we have here, then, is clear allusion to one of the defining points of Jansenist criticism of Jesuit moral theology.<sup>6</sup>

The casuistic justification of defamation as a legitimate extension of the doctrine of self-defence in extreme circumstance is one of the strongest *exempla* of the perversion of Jesuit theology in Pascal's *Lettres provinciales*. Pascal turns to this particular issue on several occasions because it connects two major themes within the ongoing polemic: the question of honor as a social and political value to which the Jesuits concede too much importance, in his view, and the question of polemical deontology for which the theological and canonical issue of defamation provides a framework of analysis. Pascal dedicates

5 Trans. Robert Br. Boswell, [http://www.gutenberg.org/files/1977/1977-h/1977-h.htm#link2H\\_4\\_0006](http://www.gutenberg.org/files/1977/1977-h/1977-h.htm#link2H_4_0006) (accessed November 16, 2016).

6 On the Jansenist critique of casuistry, see Jean-Pascal Gay, *Morales en conflit: Théologie et polémique au Grand Siècle (1641–1700)* (Paris: Cerf, 2011).

the entire Fifteenth Letter to “how the Jesuits render calumny innocuous.”<sup>7</sup> He argues that there are few opinions the Jesuits have defended as much as the one allowing the use of calumny in defence of one’s honor. Pascal cites as the main source for this particular opinion the mid seventeenth-century Jesuit theologian Juan de Dicastillo (1583–1653) and purposefully quotes a passage in which Dicastillo insists that his views have been approved by prominent Jesuits including Johann Gans and Daniel Bastel, confessors to the emperor and the archduke Leopold respectively.<sup>8</sup> As is the case with many other issues discussed in the *Lettres provinciales*, the theme of political counsel looms large behind the discussion of calumny. Indeed, while Pascal firmly relies on an already elaborate set of anti-Jesuit and anti-casuist arguments, his particular contribution is to connect the criticism of Jesuit moral theology with what the Society’s adversaries deemed to be its thirst for political power.<sup>9</sup>

The writing and staging of *Phedre* was no accident. The play was first performed shortly before the end of the so-called Peace of the Church that had granted the Jansenists public toleration for a decade.<sup>10</sup> In 1677, therefore, polemic between the Society and the Jansenists (and their respective allies) was booming again. Besides, the late 1670s also saw the early stages of the quarrel between France and Rome over the *ius regaliae*. The conflict between Pope Innocent XI’s (r.1676–89) curia and the French court kept growing. Innocent’s entourage as well as those in France opposed to this policy blamed it on the religious counsellors of the king, particularly on the arch bishop of Paris, François de Harlay de Champvallon and the royal confessor François de la Chaize. Louis XIV’s most famous and influential confessor was not the only Jesuit caught up in this controversy. While Innocent and part of his curia seemed to open the doors of Rome to Jansenist influence, the already close relationship

7 On the Fifteenth Letter as well as the issue of calumny, see Olivier Jouslin, *Rien ne nous plaît que le combat: La campagne des Provinciales* (Clermont-Ferrand: Presses Universitaires Blaise Pascal, 2007), 537–44.

8 The quote in Pascal’s translation of Dicastillo’s *De iustitia et iure* goes as follows: “[...] je lui ai fourni en foule nos Pères et les Universités entières qui en sont composées, que j’ai tous consultez, et entre autres le R. Père Jean Gans, Confesseur de l’Empereur; le R.P. Daniel Bastelle, Confesseur de l’Archiduc Léopold; le père Henri qui a été précepteur de ces deux princes; tous les professeurs publics et ordinaires de l’Université de Vienne (toute composée de Jésuites), tous les professeurs de l’Université de Grats (toute de jésuites); tous les professeurs de l’Université de Prague (dont les jésuites sont les maîtres).” Blaise Pascal, *Les Provinciales*, ed. Louis Cognet and Gérard Ferreyrolle (Paris: Bordas, 1992), 277–78.

9 Gay, *Morales en conflit*, 171–202.

10 Philippe Dieudonné, *La paix clémentine: Défaite et victoire du premier jansénisme français sous le pontificat de Clément IX (1667–1669)* (Leuven; Leuven University Press, 2003).

between the king and the French Society of Jesus became even closer.<sup>11</sup> At the same time, the French monarchy was trying to assert its geopolitical pre-eminence by claiming political and military hegemony in Europe and beyond. The fact that the Society was subjected to criticism on stage, therefore, did not only echo already well-known themes in contemporary political and religious debate, but arose from a specific political context and situation.

Like most anti-Jesuit criticism of casuistry, *Phedre* points to yet another connection relevant to our discussion: the connection between lax morals and counsel, which was already essential to the argument of Pascal's *Provincial Letters*. Yet *Phedre*, again, added something to the critique. For Blaise Pascal (1523–1682) and, less explicitly, for Hieronim Zahorowsky (1582–1634) in his *Monita secreta*,<sup>12</sup> Jesuit commitment to lax morals was merely a political means to a political end: the advance of the Society through the favor of princes. In the later *Phedre*, at a time when the public had become accustomed to the idea of Jesuit laxism as well as some of the intricacies of the theological issues like Probabilism, Oneone's commitment becomes part of a tragic economy affecting both individuals and the political community. Her desire to maintain the favor of her queen and thus her own place at court at whatever moral cost is what ultimately causes her death (as well as that of most of the main characters). Oneone's fate is meant to issue another challenge to the Society of Jesus at a time when the Jansenist movement was gaining ground in early modern Catholic Europe, and was growing more influential at the Roman curia.<sup>13</sup> Yet if the adversaries of the Society of Jesus became more and more vocal in denouncing the relationship between Jesuit moral theology and Jesuit practice of political counsel, there is strong evidence that Jesuit theologians in turn became more concerned with this connection themselves. Indeed, the discussions of counsel and Probabilism appear as constantly intertwined.

11 Pierre Blet, *Les assemblées du clergé et Louis XIV de 1670 à 1693* (Rome: Università Gregoriana Editrice, 1972).

12 See in particular Ch. 2, point 8: "In conscientiis Magnatum regendis sequentur nostri Confessarii sententiam illorum auctorum qui liberiolem conscientiam faciunt contra opinionem aliorum Religiosorum, ut, relictis illi, a nostra directione et consiliis toti velint dependere". On the *Monita secreta*, see Sabina Pavone, *Le astuzie dei gesuiti: Le false istruzioni segrete della Compagnia di Gesù e la polemica antigesuita nei secoli XVII et XVIII* (Rome: Salerno Editrice, 2000).

13 Bruno Neveu "Culture religieuse et aspirations réformistes à la cour d'Innocent XI," in Neveu, *Érudition et religion aux XVIII<sup>e</sup> et XVIII<sup>e</sup> siècles* (Paris: Albin Michel, 1994), 235–76.

### Counsel and Probabilism: The Connections

Theologians—defenders and critics of Probabilism alike—shared a concern. They all felt the need to address the possibility that individuals, empowered by the new cultural conditions of the confessional era, could turn their newfound theological literacy against the religious requirement of obedience central to Catholic confessional culture. As individuals were becoming more and more theologically literate, theologians worried about the likely effect on their authority.<sup>14</sup> The fear was that a weakening of the authority of the religious as counsellor might benefit self-reliant individuals trying to circumvent religious doctrine, especially when it came to political counsel.

As is often the case, the evolution of theological discourse reflected theologians' concerns with social, political, and religious changes. Thus even the earliest criticisms of Probabilism showed some sort of discomfort with what their authors perceived as transformations of religious counsel offered to the sovereign, as well as a discomfort regarding the evolution of the authoritative position of the clergy in Catholic confessional culture. One of the most explicit texts in this regard is one of the earliest anti-Probabilist treatises, namely Antonio de Merenda's (1578–1665) 1655 *Disputatio de consilio*.<sup>15</sup> Merenda's stand against Probabilism was one of the first fully fledged attacks on what up to the middle of the century had remained a largely common—though never unquestioned—doctrine. Until Merenda, books such as the one published by the Jesuit Andrea Bianchi in the early 1640s under the pseudonym of Candidus Philalethus had remained of little influence.<sup>16</sup> Merenda's treatise preceded the later, determined attacks by Dominican theologians. It also came two years before the 1656 general chapter of the Dominican order, a watershed in the history of Catholic moral theology.<sup>17</sup> The *Disputatio* greatly influenced the first Dominican critics, particularly Prospero Fagnani (d.1678) and Giulio

14 Fernanda Alfieri, "Il destino delle opinioni: Un caso di manipolazione dei *doctores* tra medicina e morale (Cremona, sec. XVI–XVIII)," *Rivista storica italiana* 121 (2009): 271–314.

15 Antonio de Merenda, *Disputationis de consilio, minime dando extra casus regulae ex duobus malis, iuxta opinionem specificantem probabiliter actum pro licito... pars prima* (Bologna: ap. H.H. de Duciis, 1655).

16 [Andrea Bianchi], *De opinionum praxi disputatio auctore Candido Philaletho Genuensi Presbytero* (Cremona: ap. Paulum Pueronum, 1646). This edition quotes an earlier 1642 edition. I have not found any copy of this prior edition so far.

17 Jean-Louis Quantin, "Le rigorisme: Sur le basculement de la théologie morale catholique au XVII<sup>e</sup> siècle," *Revue d'histoire de l'église de France* 89 (2003): 23–43.

Mercori (d.1669),<sup>18</sup> by providing them with a list of commonplace arguments taken from scripture, the church fathers, and medieval and early modern theology. Merenda's commitment to engaging Probabilism did not go unnoticed and would be remembered by the eighteenth century rigorist theologians who tried—with great difficulty and little concern for the fact that Merenda was included in the Roman Index of 1661—to provide a genealogy of anti-Probabilism.<sup>19</sup> This makes the treatise all the more significant.

Merenda,<sup>20</sup> like Fagnani, was not a theologian but a specialist in canon law. Member of a prominent family from Forlì in the Papal States which included several noted jurists, he started his career in Rome, but soon gained a reputation among Italian law scholars. Cosimo II de Medici summoned him to the University of Pisa. He also enjoyed connections to the scholarly clientèle that surrounded the Barberinis.<sup>21</sup> His Roman protector, Francesco Barberini, included him in his effort to strengthen the curriculum in Fermo. In 1631, he joined the University of Padua before coming to Bologna in 1647 to take up one of the chairs in civil law. In Pisa, Merenda had already become an advisor to the local Inquisition. The Inquisition of Bologna approved the *Disputatio*. It came with a dedication to Vincenzo Preti, then commissary of the Holy Office in Rome and a key actor of the 1656 change of doctrine in the Dominican order. While he was inquisitor of Bologna, Preti had appointed Merenda as a consultant to the Holy Office. There was, then, a strong connection between the Dominicans and Merenda on the eve of the order's reversal of its theological stance on Probabilism, and at a time of growing politicization of religious controversies.

Two closely linked characteristics of the treatise interest us here. First, the treatise is violently and explicitly anti-Jesuit. This was the reason why it was put on the Roman *Index librorum prohibitorum* in 1661. The 1663 decree

18 Prospero Fagnani, *De opinione probabili tractatus ex commentariis Prosperi Fagnani super Decretalibus seorsum recursus* (Rome, s. Ioannis Casoni, 1665); Giulio Mercori, *Basis totius moralis theologiae, hoc est praxis opinionum limitata* (Mantua, ap. Osanas, 1658). On Fagnani's anti-Probabilism, see Julia A. Fleming, *Defending Probabilism: The Moral Theology of Juan Caramuel* (Washington, DC: Georgetown University Press, 2006), 73–76.

19 See, for example, Giovanni Vincenzo Patuzzi, *Regola prossima delle azioni umane nella scelta delle opinioni* (Naples: Girolamo Flauto, 1759), 2:154. On eighteenth-century anti-Probabilism, see Colombo, "Contro il probabilistico sistema."

20 See Margherita Palumbo "Merenda, Antonio," *Dizionario biografico degli italiani* 73 (2009), [http://www.treccani.it/enciclopedia/antonio-merenda\\_\(Dizionario-Biografico\)](http://www.treccani.it/enciclopedia/antonio-merenda_(Dizionario-Biografico)) (accessed November 16, 2016).

21 Peter Rietbergen, *Power and Religion in Baroque Rome: Barberini Cultural Policies* (Leiden: Brill, 2006).



that authorized the publication of a would-be-emendated edition noted that “in the entire book there is nothing bad except that it is full of evil-speaking against the Society”,<sup>22</sup> Merenda’s anti-Jesuitism is implicit and very explicit at the same time. The lengthy “Præfatio” does not mention the Society of Jesus or any Jesuit author by name, yet speaks quite transparently of an order whose casuists are strong proponents of Probabilism and argues that their position may violate not only their own constitutions but also the decrees of their Fifth General Congregation and the pastoral letters of two of their generals.<sup>23</sup> The allusion to the very contentious 1593/94 congregation that Clement VIII (1592–1605) summoned to temper the government of Claudio Acquaviva could not be missed by Merenda’s readers. The allusion to Acquaviva’s and Vitelleschi’s letters advocating prudence regarding opinions in matters of moral theology was less obvious to a wider readership, but could not be mistaken either by a Jesuit or by most adversaries of the Society. It is also worth remembering that the twelfth and thirteenth canons of the fifth general congregation were a major step towards the clarification of the position of Jesuits as political counsellors.<sup>24</sup>

Second, the treatise did not confront Probabilism merely as a false doctrine. One of the central issues was that of the practical applications of Probabilism and, more importantly, the possibility that counsellors advised according to a probable opinion. In Merenda’s view, the result was a reversal of the relationship that submitted the counsellee to the counsellor. In his view, those advocating advice on merely probable grounds did so out of fear of being rejected by those they advised. This fear originated in the excessive reluctance of clerics to confront the overbearing demands of politicians head-on: “Why, I ask, did the use of probable opinions extend as far as the *políticos* who say that, since the religious [writers] allow it, if we repudiate it, everyone will distance themselves from us?”<sup>25</sup>

22 Città del Vaticano, Arch. della Congregazione per la Dottrina della fede [hereafter ACDF], *Index, Protocolli*, III, c. 137<sup>r</sup>.

23 Merenda, *Disputationes de consilio*, Præfatio, § 485–95.

24 Robert Bireley, *The Jesuits and the Thirty Years War: Kings, Courts and Confessors* (Cambridge: Cambridge University Press 2003), 28–29.

25 “Quid, quaeso, adeo propagavit usum probabilitatum præter políticos dicentes, Religiosi N N N eum admittunt, si nos repudiabimus ipsum, a nobis omnes recedent? Quid difficilimum reddet eum extirpare, præter políticos dicentes, N N N expectant nostram declarationem, non licere sequi usum probabilitatum, nisi satisfiat motivis ipsi oppositis, ut nos passim appellent homines duros, imo scrupulosos, quod alienabit omnes a nobis cum magna diminutione rerum nobis necessariarum” (Merenda, *Disputationis de consilio*, Præfatio, § 43).

He adds, that those who favor Probabilism in their dealings with political authorities not only act out of fear of being deemed “severe” and “scrupulous,” but also in order to protect their economic interests. Another hallmark of Merenda is that he was one of the few to make explicit the connection between this issue and that of just war. He stressed vehemently that war cannot be waged legitimately on merely probable reasons:

Since the evils that come from war and the dangers with which it threatens the peoples are many, great and certain, it is mere adulation to say that it is not necessary to investigate to their fullest all the reasons that make it urgent. How then would this examination be complete, if you said that the Princes and their counsellors did not have to follow the light that they received from it? You would be turning the search of truth into mere speculation. This is the reason why we require that which suits virtue, namely that we abide by what we understand through contemplation, as Aristotle teaches.<sup>26</sup>

As Reinhardt has pointed out, the Spanish system allowed for issues identified by the princely conscience to be resolved within the political decision-making process. In France, on the other hand, the confessor was less included in decisions and had to accept the growing distinction between the private and public *personae* of the prince.<sup>27</sup> In the seventeenth century, interventions of theologians proved religiously, ideologically, and politically necessary for justifying Spanish military interventions and defusing claims of Spanish imperialism. For instance, the support of theologians had been essential with regard to the decision to go to war over the Mantuan succession. Those supporting and those opposed to Emperor Ferdinand intervening alongside Spain both put forward the diverging opinions of theologians.<sup>28</sup> Subsequently, the example of the Mantuan war was incorporated in the theological discussion. Juan de

26 “Cum vero mala, quæ oriuntur ex bellis, et pericula, quibus exponuntur populi, adeo sint multa, magna, et certa, mera adulatio esset dicere, non esse necessarium investigare plenissime rationes utrinque urgentes: Ubi autem secutum fuerit hoc examen, si dixeris, non teneri Principes, et Consiliarios sequi lumen, quod inde acquisiverunt, inquisitionem veritatis practicæ reddes meram speculationem: ideo enim quærimus, quid virtuti conveniat, ut operemur id, quod ex nostra speculatione cognovimus, eam iubere, ut docet Philosophus in principio postremi capitis lib 10 Ethicorum” (ibid., § 72–73).

27 See Nicole Reinhardt, “Existe-t-il une casuistique pour les princes,” in *La casuistique classique: Genèse, formes, devenir*, ed. Serge Boarini (Saint-Étienne: Presses de l’Université de Saint-Étienne 2009), 59–72.

28 Bireley, *Jesuits and the Thirty Years War*, 94–95.

Santo Tomás, for instance, in his theological memoirs discussing the sins of princes, argued precisely that the decision to go to war over Mantua was justified on probable grounds, thereby acknowledging that in this very instance there remained uncertainty as to whether Spain could deem its intervention a just war. When Merenda vehemently challenged the right of theologians and other counsellors to justify war on probable grounds, he directly challenged an actual decision and the theological elaborations that justified it.

This was part of Merenda's wider discussion of whether counsellors should be able to give advice based on authoritative probable opinions while renouncing their own particular opinion. He rightly identified such a trend in later Probabilism. This issue was, again, part of a much wider discussion regarding the possibility for individuals in positions of authority to base their judgments on a probabilist assessment of the possibilities open to them: while most theologians remained positive that probabilist judgment should not be possible for physicians and judges (though the case of the latter was much more open to debate) there was a trend to allow the confessor to abide by probable judgment and even by the penitent's own opinion if it proved more favorable to them. In authors like Antonino Diana<sup>29</sup> and Tamburini—both contemporaries of Merenda and strong proponents of Probabilism—it became a duty for the confessor to judge and advise according to the opinion most beneficial to the penitent. In his widely circulated *Methodus expeditæ confessionis* (1647), Tamburini, for instance, wrote that the confessor “can and even must follow the probable opinion of the penitent against his own, even when the latter is probable or more probable.” Tamburini and Merenda were on opposite sides on a number of issues. Tamburini's stance on war—though not without nuances—was contrary to Merenda's, too. In his most important work, the *Explicatio Decalogi*—a text commissioned by General Vincenzo Carafa—Tamburini argued that the monarch or the *res publica* could wage war when they had probable reasons to do so *in jure*.<sup>30</sup> Denouncing opponents such as Tamburini “political spirituals,” Merenda makes clear that the discussion concerning the relationship between counsel and Probabilism could not be separated from the particularly thorny issue of political counsel.

29 Antonino Diana (1585–1663), an Italian Theatine, was one of the shrewdest and most influential of mid-seventeenth-century casuists. See Paolo Portone, “Diana, Antonino,” *Dizionario biografico degli italiani* 39 (1991): [http://www.treccani.it/enciclopedia/antonino-diana\\_%28Dizionario-Biografico%29/](http://www.treccani.it/enciclopedia/antonino-diana_%28Dizionario-Biografico%29/) (accessed November 16, 2016).

30 Tommaso Tamburini, *Explicatio Decalogi* (Lyon: Huguetan & Ravaud, 1659), 25.

### Probabilism, Counsel, and the Problem of Obedience

Another issue from which these discussions could not be separated is that of obedience. The discussion of obedience is particularly relevant here as theologians considered political and religious obedience in the same framework and never distinguished between the two as a virtue. Merenda and some of his respondents—such as Francesco Bordoni<sup>31</sup>—strongly argued over the possibility that the subject might refuse to obey the superior. Starting with Merenda, one of the favorite arguments of critics of Probabilism was that the use of probable opinions could foster disobedience. Probabilists argued the opposite, pointing out that Probabilism was central to enabling obedience by allowing a subject to dismiss doubts about the morality of the command received. They also insisted that the risk did not exist, simply because the superior was always in possession of the right to be obeyed and should benefit from any situation of doubt.

This very intense disagreement over whether Probabilism enabled or undermined obedience provides us with some of the most telling evidence of a structural contradiction within Catholic confessional culture. Probabilists and anti-probabilists both bear witness to the fact that early modern insistence on individual conscience came with the risk of a type of agency which allowed individuals to turn their own perception and scruples against their duty to obey. Probabilism did allow for the dismissal of such scruples and enabled obedience. Anti-probabilists, however, considered Probabilism as part of the problem rather than part of the solution. The tension between insistence on obedience and insistence on conscience in early modern Catholicism was not merely dialectic. These two trends—highly characteristic of what German historiography has labelled as confessionalization<sup>32</sup>—are actually contradictory and homological at the same time. The history of the “conscience turn” of the early modern period, in turn, is neither linear nor homogeneous.<sup>33</sup>

The question of disobedience also appears in the context of discussions of both religious and political authority over individuals. Yet the debate was not

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31 Francesco Bordoni, *Propugnaculum opinionis probabilis in concursu probabilioris* (Lyon: Jean Antoine Huguetau, 1669). Bordoni dedicates an entire chapter to Merenda's objections, namely Ch. 13, “Motiva sexdecim pro opinione probabili impugnata a D. Merenda propugnantur.”

32 See Wolfgang Reinhard and Heinz Schilling, eds., *Die katholische Konfessionalisierung* (Gütersloh: Gütersloher Verlagshaus, 1995).

33 Nicole Reinhardt, “How Individual Was Conscience in the Early Modern Period?: Observations on the Development of Catholic Moral Theology,” *Religion* 45 (2015): 409–28.

only full of intricacies, it also highlighted the inadequacy of theological method and discourse in the face of the contradictions of the process of confession-ization. All the more so, as these contradictions originated in how difficult it was for religious institutions and individuals to handle growing demands from conflicting and competing authorities—including state, church, and individual conscience.

These difficulties permeated, for instance, the discussion of subjects' right to impose or evade tax.<sup>34</sup> Andrés Mendo—a staunch mid-seventeenth century Jesuit probabilist, and one of the theologians most favorable to the right of the monarch to bind *in foro conscientiae*—connected this issue to that of political counsel. In a discussion of the right of the individual to evade tax when it was probable that the ruler did not have the right to impose the tax in the first instance, he turned to one of the central probabilist arguments originating in a legal axiom: *melior est conditio possidentis* (the party in possession has a better case).<sup>35</sup> For Mendo, the one “in possession” was clearly the king. He opposed theologians who argued that those who have evaded taxes do not have a duty of restitution, especially when there is doubt as to the legitimacy of a particular tax.<sup>36</sup> His adversaries, too, used a probabilist argument: subjects were able

34 For a general discussion on this topic see Vincenzo Lavenia, *L'infamia e il perdono: Tributi, pene e confessione nella teologia morale della prima età moderna* (Bologna: Il Mulino, 2004).

35 Andrés Mendo, *Statera opinionum benignarum in controversiis, oralibus circa Sacramenta ac praecepta Decalogi* (Lyon: Horace Boissat & Georges Remée 1666), Dissertatio VI, Quaestio prima, “An Princeps sequens opinionem minus probabilem possit tributa imponere et subditi valeant ea defraudare non solvendo?” Mendo is also a strong opponent of clerics being in a situation of having to offer political counsel. On this, see Andrés Mendo, *Principe perfecto y ministros aiustados: Documentos políticos y morales* (Salamanca: Diego de Cosío, 1657).

36 “Dicunt, posse subditos sequi opinionem probabilem circa de obligationem solvendi, et solutionem subterfugere, aut clandestina uti compensatione, et cum plures condiciones requirantur ad iustitiam novi tributi, aut vectigalis, non facile cogendos esse fraudantes ad restitutionem in foro conscientiae, maxime cum in vulgo datur probabilis suspicio, quod iniusta sit exactio, et quod tributa convertantur in usus non necessarios; ac praeterea si nimis durum sit tributum, non debere solui, nisi exigatur, et exactio subterfugi, si absque periurio, aut mendacio id fieri possit [...]. Verum his assentio, quia ad privandum Principem possessione exigendi tributa, et vectigalia, necessum est constare, ea esse iniusta, nec ob suspensionem probabilem id fieri valet, cum sit melior conditio possidentis in dubio adhuc positivo. Et quidem alias via aperitur defraudationi fere omnium tributorum, et vectigalium, cum vulgus aegre illa ferat, et facile vox commoveatur, quod vel non sint iusta, vel in usus non necessarios convertantur, aut nimis dura sint; indeque suspicionem, aut opinionem probabilem dari non difficile sibi persuadebunt fere omnes; Nam quis

follow a probable opinion regarding their obligation to pay the tax. Mendo was thus caught between a rock and a hard place. Like most theologians of the time, he wanted to argue in favor of the right of the king to impose a tax and demand compliance—yet he also wanted to preserve Probabilism. He side-stepped the difficulty by arguing that the king was *in possession* of his right and to deprive the king of his right to demand payment would therefore require certainty of the injustice of the tax.

This way, Mendo integrated the issue of political counsel: the prince and his counsellors were not to be seen as unjust. Indeed, Mendo argued that the decision to impose a tax could not be made by the King or his counsellors on the basis of merely probable judgment. As a consequence, the people could not easily doubt the legitimacy of the tax and claim a probable right to evade it. To strengthen his resolution further, Mendo included a wider discussion found primarily in Vásquez, but very common among probabilist theologians as well. When there was doubt regarding the power to demand obedience, the doubt should benefit the superior and not the inferior.<sup>37</sup> Yet anti-probabilists consistently claimed against Mendo that Probabilism could always benefit the inferior rather than the superior. To the contrary, probabilist theologians and, again, Jesuit probabilists in particular would posit that without Probabilism obeying the superior could be very difficult. The discussion over Probabilism openly and inextricably linked the problems of counsel and obedience not on primarily doctrinal terms, but on the level of very practical and political consequences of theological doctrine.

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eam opinionem probabillem de iniustitia proferat; Aut quo fundamento ea opinio iacetur; Maxime cum ad eam enuntiandam necessum sit ex alia parte librare, et expendere rationum momenta, quibus Princeps motus est ad imponendum tributa, eaque non sint adeo noa vulgo, ut possit de eis ferre iudicium: Nec credi debet de viris sapientibus, et timoratis, qui Regis coscientiae consulunt in tributis imponendis, absque iustitia certa tributa imponi consuluisse. Serio introspectatur, pro quo sit praesumptio vehementior; An pro Rege, eiusque Consiliariis bono Regni consulentibus, et gnaris publicae necessitatis; An pro vulgo, eiusque hominibus, qui non libenter onera sustinent, et solvere tributa communiter renuunt? Sane rectum iudicium pro Rege, eiusque Consiliariis stabit. Plures quaestiones circa vectigalia, et tributa apud Authores, *hac quaest. relatos reperies*" (Mendo, *Principe perfecto*, 166–67).

37 "Dico tertio non solum in dubio an tributa sint iusta, sed etiam in dubio, an Princeps ea possit imponere solui debere; nam quando dubitatur de potestate praecipiendo, et an Superior limites excedat tenetur subditus ei obedire ut docent P. Vasquez [...]. Et enim quoties subditus licite potest aliquid agere, debet id agere si praecipiat superior; potest autem subditus licite illud agere, cum detur sententia probabilis de potestate superioris; quam valet sequi, et praeterea in dubio inter Superiorem, et subditum praesumptio stat pro superiore" (ibid.).

To illustrate this point further, one can turn to the later debate over obedience, disobedience, and Probabilism during the generalate of Tirso González de Santalla. I will not retrace here its long and protracted history,<sup>38</sup> but will point out a few issues relevant to our discussion. One of the specificities of González's Probabilism was its subjectivity. While González made the individual conscience the ultimate judge of the probability of opinions, his predecessors had favored an extrinsic understanding of probability. The main point of contention, therefore, was the *deponendum conscientiae* so central to the Jesuit culture of radical obedience: when in doubt whether or not it was morally acceptable to obey his superior, a Jesuit could always "depose" his own conscience insofar as it seemed possible. From this vantage point, doubt should and could always support obedience. González's opponents claimed that if his probabilist understanding of the matter was correct, the whole system of Jesuit obedience fell down. The individual Jesuit could no longer renounce his own opinion to abide by that of the superior.

A significant case in the whole González affair is that of his closest counsellor, Giles Estrix. Before González's rise to the generalate, Estrix was one of the strong defenders of Probabilism in the Catholic Netherlands. Yet under González he resolutely promoted the general's cause. He was instrumental both in the circulation of texts defending González's actions against his assistants,<sup>39</sup> and in saving González from the outcome of the 1693 congregation of procurators that had opened the way to his dismissal as general of the Society. Yet, Estrix never went as far as to convert to anti-Probabilism. He never wrote a theological defence, and acted only on a political and institutional level. By defending González, he essentially defended a monarchical understanding of the structure of the Society of Jesus. If my hypothesis is correct, it was this monarchical understanding of the Society that allowed him to set his own views regarding moral theology aside in order to defend a general he might have disagreed with—a case of *deponendum conscientiae*.

On the other side of the aisle, one of González's strongest opponents, Domenico Brunacci, pointed to a connection between the debate over Probabilism and how new political models were affecting cultural regard for counsel. In a memorandum opposing González's attempt to avoid a general congregation,

38 See Jean-Pascal Gay, *Jesuit Civil Wars: Theology, Politics and Government under Tirso González (1687–1705)* (Farnham, Burlington: Ashgate, 2012).

39 The assistants were the heads in the Jesuit administration at the Roman curia, each in charge of a set of provinces. Charles E. O'Neill and Joaquín M. Domínguez, eds. *Diccionario histórico de la Compañía de Jesús: Biográfico-temático* (Rome–Madrid: Institutum Historicum Societatis Iesu–Universidad Pontificia Comillas, 2001), "Gobierno. 11.1" (2:1751–53) and "Territorios 1" (4:3782).

he argued that González kept dismissing counsel, and that such behavior was rooted in his probabiliorist position:

There is a reflection that cannot be avoided, and it regards the connection that exists between His Paternity's ways and the doctrine that he has had printed regarding the right use of probable opinions. He resolves this question by two doctrinal statements. The first is that for the right use of a probable opinion it is required and suffices that the actor acknowledge it as true by a firm and unwavering judgement. The second, that probability must be understood subjectively, that is according to the judgement of the acting subject, and not according to the extrinsic judgement of others, even of doctors both serious and in greater number. [...] All this is confirmed by how His Paternity behaves in this whole controversy, when with such frankness and firmness and without leaving any room for surrendering to contrary opinions, he believes to have no obligation whatsoever to execute the decree of the Congregation of Procurators, to be allowed to regard it as dubious for this reason—regarded universally as of no weight—that it was made by a majority of only half a vote, and claims the resolution of the issue as his own [...]. [He acts] as if he deemed it licit for him to seek, against the rule of the Institute, to hinder the convocation of the General Congregation and that his manner of government be reformed; or even that it would rather be better for him to govern without recurring to the help that he can receive, and recuses that of the Assistants, of whom he is so defiant [...]. In all these things he judges preferable the subjective probability, firmly judged as true by the individual even though it goes against the authority and the reasons considered commonly as most decisive.<sup>40</sup>

Again, at this late stage in the debate over Probabilism, the question of who advised whom and how, particularly in the context of a monarchical structure such as that of the Society, seems to have been much more than “background noise.”

### Counsel, Probabilism, and the Relationship between Church and State

As a matter of fact, one of the questions central to the controversy over Probabilism was whether or not it weakened, counter-intuitively perhaps, the authority of the church and clerical counsellors over secular political agents.

40 Quoted in Ignaz von Döllinger and Franz H. Reusch, *Geschichte der Moralstreitigkeiten in der römisch-katholischen Kirche* (Nordlingen: Scientia Verlag, 1889), 2:40, § 24.



At a time when political authorities showed growing disregard for the traditional culture of counsel and required their counsellors to dissociate public and private matters, it was possible that Probabilism could prove more detrimental than beneficial to the assertion of pastoral authority over individual conscience, especially the princely conscience.

The closely related risk of advising a prince wrongly could not easily be discussed explicitly. Yet there is some evidence that the issue was already part of the discussion by Merenda's time. One of the scriptural arguments of early anti-probabilists like Bianchi's was the case of Rehoboam who by refusing the good advice of his late father's counsellors provoked the northern tribes to rebel and break away from the kingdom of Judah. He was used as an example both of the negative consequences of endorsing Probabilism and of favoring modern over ancient authors (as Rehoboam was supposed to have listened to the advice of the young rather than to that of old men). Francesco Bordoni, a Franciscan who in 1669 confronted Merenda, Bianchi (a discontented Jesuit who wrote anonymously against Probabilism) and "other recent canonists" dismissed this claim outright. He argued that Rehoboam was only following an improbable opinion, and that no counsellor could claim probability when arguing in favor of a cruel and unjust solution. This, however, appears a denial of the possibility rather than an actual resolution of the issue as raised by anti-probabilists. Again, the question here is that of the risk of counsellors turning to the *deponendum conscientiae*, though in favor of political rather than religious authorities.

That this risk was real and was noted as such is, again, evidenced by the dealings between France and Rome over the *ius regaliae*. There are the cases of three French royal counsellors who were not only involved in the conflict, but were themselves the subject of debate. Two were Jesuits, Louis Maimbourg (1610–86) and de la Chaize; the third was the Marquis de Lavardin, French ambassador to the papal court. Maimbourg wrote in defence of the French crown.<sup>41</sup> His attacks on Innocent XI and his entourage were so strong and his endorsement of Gallicanism so explicit, that the pope finally decided to have him cast out of the Society. While his situation was discussed in Rome, he remained in direct contact with the then general, Gian Paolo Oliva, who kept asking him to try and find a way to accommodate the papal curia. At one point,

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41 On Maimbourg, see Quantin, "Croisades et supercroisades: Les 'Histoires' de Maimbourg et la politique de Louis XIV," in *Les princes et l'histoire du xiv<sup>e</sup> au xviii<sup>e</sup> siècle*, ed. Chantal Grell, Werner Paravicini, and Jürgen Voss (Bonn: Bouvier, 1998), 619–44; and Jean-Pascal Gay, "Le 'cas Maimbourg': La possibilité d'un gallicanisme jésuite au xvii<sup>e</sup> siècle," *Revue historique* 672 (2014): 783–831.

Maimbourg answered that the general might be right to obey the pope by asking him to moderate his stance. At the same time, he himself, Maimbourg, was equally justified to obey a prince who asked him to write in his defence. The question was not one of Maimbourg's personal conviction, but rather of who had the right to require him to put his own opinions aside. The Jesuit effectively suggested that when it came to public debate, not even Oliva would challenge this assumption.

The issue of the *deponendum conscientiae* is likely to have been integral to what Jesuit historiography regarded as de la Chaize's extraordinary behavior during the 1680s and 1690s.<sup>42</sup> One of the most striking examples of de la Chaize's ability to prioritize claims to his obedience in favor of his king was his endorsement of a separation of the French Jesuits from the rest of the Society in the wake of the 1688 royal order to cease communication with the general in Rome.<sup>43</sup> De la Chaize wrote a lengthy memorandum defending the king's position, one that went against the position of other French Jesuits, even those who agreed that the king rather than the general was to be obeyed. It would be wrong to ponder whether or not de la Chaize actually supported the opinion of his memorandum. The essential point here is that he did support it publicly. De la Chaize was consistent in his behavior in that he consistently prioritized his duty to his prince over his duty to his general. Again, he did so without appearing as a disobedient Jesuit, but rather as a probabilist and a Jesuit who believed that a king could require his subject to depose his conscience and the subject's right to do so.

The case of Lavardin in turn shows that the whole issue was perceived in exactly those terms at the time.<sup>44</sup> When Lavardin was sent to Rome during the *ius regaliae* crisis, his task was to show that France would stand her ground. One of the first things he did after his arrival in Rome was to ensure that the diplomatic franchises around the French embassy were respected—despite the fact that Innocent XI had rescinded them.<sup>45</sup> Innocent responded by excommunicating Lavardin and placing the interdict on the French church of San Luigi dei Francesi, where Lavardin had been received for Mass despite his

42 Georges Guitton, *Le Père de la Chaize: Confesseur de Louis XIV* (Paris: Beauchesne, 1959); Pierre Blet, "Jésuites gallicans au xvii<sup>e</sup> siècle?: À propos de l'ouvrage du P. Guitton sur le P. de la Chaize," *Archivum historicum Societatis Iesu* 29 (1960): 55–84.

43 See Gay, *Jesuit Civil Wars*, Ch. 1.

44 For a more detailed account see *ibid.*, 291–92. The theological discussion of his case by the Inquisition can be found in ACDF, S.O., St. St. E 2 b: *Acta circa Protestationem Marchionis Lavardini*.

45 On the "franchise des quartiers," see S. Prakash Sinha, *Asylum and International Law* (The Hague: Martinus Nijhoff, 1971), 23 and n. 143.

excommunication. Lavardin answered by having a manifesto published in his defence. The manifesto was examined in Rome, particularly the claim that the pope could not excommunicate Lavardin for acting *ex officio* and obeying his king. This claim was the subject of much debate in the Inquisition. The first theologians who examined it considered it wrong, but not heretical: Lavardin, they concluded, had been wrong in favoring obedience to the king over obedience to both the pope and his conscience. Still, his claim did not match the criteria for heresy. Innocent XI, dissatisfied with this assessment, insisted that that the claim was heretical and had other theologians write in support of his own assessment. This indeed points to the importance of this issue for Innocent and his supporters, who were constantly confronted with individuals who favored obedience to their prince over obedience to the prince of the church. What the pope insisted upon was that Lavardin as a Catholic was bound in conscience by rules and by an authority other than that of his prince. What Innocent rejected, again, was the notion that Lavardin had a right to depose his conscience in favor of his king.

### Conclusion

The discussion between anti-probabilists and probabilists during the second half of the seventeenth century shows the degree of unrest among theological and ecclesiastical authorities confronted with the demands of the state on individual conscience and on the conscience of counsellors in particular. They were unsure not merely about the right of rulers to require the dissociation of the private and the public. Anti-probabilists worried that counsellors could go as far as not obey their own consciences and that by obeying their princes they could end up obeying their every whim. While probabilists rejected such claims, the examples above show that anti-probabilists had a point: what they claimed was not only possible, but was part of political reality. What is essential, though, is that the commitment to secular authority demonstrated by men such as Maimbourg and de la Chaize—worrying though it may have been to anti-probabilists—remained essentially religious. As Maimbourg and de la Chaize saw it, their disagreement with their critics and opponents was about who to obey and how to prioritize conflicting claims to obedience, and not about the religious virtue of obedience as such. Racine and other anti-probabilist and anti-Jesuit critics would continue to disagree. Oneone was meant to provide a polemical reminder of the moral and political havoc wreaked by counsellors ready to depose their conscience in favor of the prince.

The debate about Probabilism, political counsel, and how that debate and the parties involved came to be presented on stage and elsewhere in turn provides us with a new angle on the paradigm of confessionalization. We have been accustomed to analysing how Christian churches dealt with the pressure of the state and how the state imported models from the Church: what we have is a political history of religion. More recently, we have seen a steady increase in studies which show how the religious dynamics within confessional communities as such could be essential to the emergence of the early modern state—for example by highlighting that clerical counsellors could continue to understand their commitment to politics and service to secular political authorities as first and foremost a religious commitment.<sup>46</sup> What we are beginning to have is a religious history of politics. What we may still need to do is connect the two. I would argue that one way to achieve this goal is to embrace a cultural history of confessionalization that draws out further the mechanisms as well as the contradictions characteristic of the interactions between the political and the religious in the confessional era. The history of clerics as political counsellors—the story of their doctrines, debates, and predicaments as well as the story of how these were perceived and portrayed on stage and elsewhere—is a story tightly intertwined with the history of Probabilism. It offers a prime opportunity to start writing the cultural history of Catholic confessionalization that we need.

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46 For instance in the case of France, see Benoist Pierre, *La bure et le sceptre: La congrégation des Feuillants dans l'affirmation des états et des pouvoirs princiers (vers 1560-vers 1660)* (Paris: Publications de la Sorbonne, 2006); Benoist Pierre, *La monarchie ecclésiastique: Le clergé de cour en France à l'époque moderne* (Seyssel: Champvallon, 2013); Joseph Bergin, *The Politics of Religion in Early Modern France* (New Haven: Yale University Press, 2014); Sean Alexander Smith, *Faith and Fidelity: The Lazarists of Bourbon France, 1660–1736* (Farnham: Ashgate, 2015).