

**The Relation between Sacredness and Secularity
from Religious and Legal Viewpoints
—Focusing on the Buddhist Temples in the Edo
Period and the Anglican Church
in the Tudor Age—¹⁾**

Nobuyasu Kojima

【Contents】

Preface: Positive Doubt

I. Buddhist Temples in Japan

- ① Mahayana Buddhism: The Lotus Sutra
- ② Buddhist Temples connected to the Lotus Sutra
- ③ Buddhist Temples in the Edo Period

II. The Anglican Church

- ① Church and State
- ② The Anglican Church and Jurisdiction
- ③ Church Courts

III. Reason for Secularization

- ① Buddhist Temples
- ② The Anglican Church
- ③ History of Church Courts

Epilogue: Relation between Sacredness and Secularity

1) This article is a redaction of a paper presented as part of the Centre for the Study of Japanese Religions (CSJR) seminar series held at the School of Oriental and African Studies (SOAS) of the University of London on February 11, 2010. At that time, I was a visiting scholar there.

I am grateful to Senior Teaching Fellow Tullio Lobetti of the Department of the Study of Religions of SOAS for giving me the opportunity to report in the seminar, to Professor Mari Boyd of Sophia University for proofreading my English manuscript, and especially to Researcher Tatsuya Yamazaki of the Institute of Oriental Philosophy for his criticism and suggestions.

Preface: Positive Doubt

I think that philosophy or the science of religion begins with doubt, that is to say, doubt about the meaning of one's existence and the aim in life comprising the starting point. It is very important to doubt everything. French philosopher Descartes (1596–1650) attained the truth “I think, therefore I am (cogito, ergo sum)” by means of doubting the existence of everything. This is similar to making a strong hard sword. It is necessary to beat the hot iron many times. However, “wounds” appear on the surface when the iron is beaten. Wounds refer to the flaws made when trapped air rises to the metal's surface. When the flaws are smoothed out, a strong sword is completed. I think that we can compare doubt to the beating of iron. Nichiren (日蓮 1222–1282) said in ‘Letter to the Brothers’ (『兄弟抄』) that “... the flaws in iron come to the surface when it is forged.”²⁾

Nichiren also had a great doubt. He preached the teachings of Buddha according to the teachings of the Lotus Sutra. However, he never received the divine grace and in the end he was exiled to Sado Island. But after he thought thoroughly about this great doubt on the island, he realized that he was not to be defended by the divine grace but he himself was the real Buddha. Additionally, he said in *The Opening of the Eyes (II)* (『開目抄』下) that “I, Nichiren, am sovereign, teacher, father and mother to all the people of Japan.”³⁾ I call such a doubt ‘Positive doubt’.

Today is actually Japan's National Foundation Day. We should doubt this memorial day, too, and I want to research this subject profoundly in the future. As for today I will doubt the relation between sacredness and secularity in Japanese Buddhism and the Anglican Church.

Nowadays fundamentalism in some specific religions is expanding extremely on the one hand and secularization is going forward generally on the other. These changes have brought about serious

2) *Letters of Nichiren*, translated by Burton Watson and others ; edited by Philip B. Yampolsky, Columbia University Press, 1996, p.232.

3) *Selected Writings of Nichiren*, translated by Burton Watson and others; edited with an introduction by Philip B. Yampolsky, Columbia University Press, 1990, p. 146.

antagonism between sacredness and secularity. I will discuss the relation between sacredness and secularity in the viewpoint of religion and law. After that, I consider what the true relation should be.

By the way, I would like to explain why I chose the Edo period and the Tudor Age. I think that secular authorities controlled religious power and secularization advanced during these two periods respectively, although the start of the Tudor Age is more than one hundred year earlier than that of the Edo period. Moreover it is convenient to think about the relation between sacredness and secularity because the separation of politics and religion was not completed in these two historical periods.

I. Buddhist Temples in Japan

① Mahayana Buddhism: The Lotus Sutra

Mahayana Buddhism was firmly established in Japanese society already in ancient times. Mahayana Buddhism doesn't draw a sharp distinction between sacredness and secularity. For instance, Mahayana Buddhism acknowledged the value of commerce and so a merchant could appear as a character in the Mahayana sutras. The sutras preached Bodhisattva as a merchant sometimes. For example, Yuimalkitsu (維摩詰 Vimalakīrti)—a merchant bodhisattva—refuted the disciple of Shakyamuni (釈迦 Buddha) in the Mahayana sutra (維摩經 Vimalakīrti-nirdeśa-sūtra).

We can say that among all the Mahayana sutras the Lotus Sutra has been accepted most widely in Japan. Therefore there are many temples based on the Lotus Sutra all over Japan. Probably because, in the first, the Lotus Sutra doesn't discriminate between the Buddhist monks and the laity, in the second, a lot of people in Japan believe in the Kanzeon Bodhisattva (觀世音菩薩 Avalokiteśvara, Perceiver of the World's Sounds) who is preached in the Lotus Sutra.⁴⁾ The Glossary of *The Lotus Sutra* explains that the Kanzeon Bodhisattva is:

4) Chapter 24 of the Lotus Sutra is "The Bodhisattva Wonderful Sound", so called 'Kannon-bon' (「観音品」).

A bodhisattva... who assumes thirty-three different forms and manifests himself anywhere in the world to save people from danger and suffering. The bodhisattva was originally conceived of as a male figure, but in China and Japan frequently came to be depicted in female form and worshiped as a protector of women and children.⁵⁾

After Christianity was propagated to Japan, some people in the Edo period had worshiped Maria- Kannon (マリア観音), a blending of the Virgin Mary with Kannon. This worship displays one of the most unique patterns of belief.

It is said that Syotokutaishi (聖徳太子 Prince Shotoku 574–622) deeply understood the teachings of the Lotus Sutra and erected the Horyuji Temple (法隆寺) and the Shitennoji Temple (四天王寺). He was not a Buddhist monk but one of the laity.

Incidentally, I have so far researched the relation between the nation and the religion written by Nichiren. He approached this subject in a practical way in *On Establishing the Correct Teaching for the Peace of the Land* (『立正安国論』), which he submitted to the Kamakura-shogunate (鎌倉幕府). In this way, Nichiren tried to make positive advances into politics on the basis of the Lotus Sutra. However unfortunately he was sent into exile on Sado Island. I would like to address Nichiren later in this lecture.

Additionally, the Lotus Sutra had a great influence on Japanese art, literature and architecture, and so on. For example, *The Tale of Genji* (『源氏物語』) was deeply influenced by its teachings.

② Buddhist Temples connected to the Lotus Sutra

Now, I will report on the Buddhist temples connected to the Lotus Sutra. I would like to take up two Buddhist temples, that is, the Shitennoji Temple (四天王寺) in Osaka prefecture (大阪府) and the Sensoji Temple (浅草寺) in Tokyo (東京都).

5) *The Lotus Sutra*, translated by Burton Watson, Columbia University Press, 1993, p. 335.

It is said that the Shitennoji Temple was erected by Syotokutaishi in 593 A.D. Syotokutaishi constructed the Shitennoji Temple for the purpose of confessing his sin as he had killed a soldier in a battle. This temple is sacred to the Kuze-Kannon (救世観音). The Kuze-Kannon means the Kannon extending salvation to all of the people in the world and consequently this temple has played an important part both in sacredness and secularity from the ancient time to the present time. This temple's activities are not limited to its holy precincts, for it is also an institution for secular affairs. Nowadays this temple runs the hospital nearby. It runs the local secondary school and a university, too. Moreover it has published books about counseling serially.

It is said that the Sensoji Temple was erected in 623 A.D. This temple is sacred to the Sho-Kannon (聖観音). The Sho-Kannon means the main Kannon and this temple has played an important part both in sacredness and secularity from the ancient time to the present time, too. Nowadays this temple runs a hospital, a welfare center, and a kindergarten nearby. Moreover it has held a lecture series named 'The Sensoji Temple Buddhist Cultural Lectures (浅草寺仏教文化講座)' for lay people. In fact I lectured on the Japanese ancient temples as part of the series last summer.⁶⁾

Ever since the Medieval Period in Japan, the temple has played an important part in commercial and financial development because a lot of markets were set up in front of the temple's gate and at the precincts of the temple. From the Edo period to these days, the Nakamise (仲見世), the small shops in front of the Sensoji Temple's gate, has been very popular with Japanese people. The district near the precincts of the Sensoji Temple has been famous for entertainment, too. Moreover, the Sensoji Temple lent money to Buddhist monks and the common people in the Edo period. I think that so-called secularization had deeply advanced by the Edo Period. We can find the secularization at other temples, but we should say that the Sensoji Temple is one of the most secularized.

6) I gave a lecture at the 633st times of 'The Sensoji Temple Buddhist Cultural Lectures' on August 25, 2008.

③ **Buddhist Temples in the Edo Period**

The advance of secularization at the Sensoji Temple was brought about not only by the teachings of the Lotus Sutra but also by historical events. After Nobunaga Oda (織田信長 1534–1582) demolished the Enryakuji Temple in 1571 A.D., the power of Buddhist temples began to decline gradually. They were controlled by the Tokugawa shogunate (徳川幕府) in the mid-17th century. They were subject to the secular law of the shogunate and used by the shogunate to rule the people.

But the Buddhist temples were not completely regulated by the shogunate. I would like to quote from my own essay below.

Because Tokugawa Japan was not a unified country, Buddhist temples were able to exercise some power. For example, Buddhist temples had the power of legislation, judiciary and administration though these were considerably limited. Big Buddhist temples were able to enact the Buddhist temple's law (寺法 Jiho). Therefore, I have research-ed on the Buddhist temple's law. It seems that my research enables the clarification of the constitution and the system of law in the Edo period.⁷⁾

The Buddhist temples could maintain a little sacred territory inside. But they didn't have jurisdiction over the cases of marriage, succession and probate as the Anglican Church had previously.

II. The Anglican Church

① **Church and State**

Although the Anglican Church has a long history, we can say that the reign of King Henry VIII (1491–1547) inaugurated a new epoch in the advance of it. Henry VIII repudiated the jurisdiction of the Pope because the Pope refused to annul the marriage of Henry VIII and Catherine of Aragon. Under the Act of Supremacy of 1534 he became 'Supreme Head of the Church of England'. During the reign of Elizabeth I (1533–1603), this title was changed to 'Supreme Governor' (the Act of

7) Nobuyasu Kojima, "My research, My subject—Comparative research on religious institution and law—"; *The SOKA Law Review Vol.39 No.1*, August 2009, pp. 185–186.

Uniformity of 1558) which has been used to this day.⁸⁾

Here I would like to quote my essay, too.

Conrad D. Tatman compared Henry VII with Tokugawa Ieyasu and described the difference in the constitutional system between the Tudor period and the Edo period before (*Politics in the Tokugawa Bakufu*; Harvard University Press, 1967, pp. 239–241). I want to compare the reign of Henry VIII with the reign of Tokugawa Ieyasu from the viewpoint of control on religion by the power of the state.⁹⁾

Ieyasu Tokugawa (徳川家康 1542–1616) had placed Buddhist temples under his control. Henry VIII had placed the Anglican Church under his control, too. But as to the judicial power, there are different points between these two reigns.

② The Anglican Church and Jurisdiction

The medieval church had a mighty power. The legal historian F. W. Maitland describes in his book that:

The medieval church was a state. ...It has laws, lawgivers, law courts, lawyers. It uses physical force to compel men to obey its laws. It keeps prisons. In the thirteenth century, though with squeamish phrases, it pronounces sentence of death. It is no voluntary society. If people are not born into it, they are baptized into it when they cannot help themselves. If they attempt to leave it, they are guilty of the *crimen laesae maiestatis*, and are likely to be burnt. It is supported by involuntary contributions, by tithe and tax. That men believe it to have a supernatural origin does not alter the case. Kings have reigned by divine right, and republics have been founded in the name of God-given liberty.¹⁰⁾

8) P. A. Welsby, *How the Church of England Works*, London: Church Information Office, 1985, p.4; Martin Davie, *A Guide to the Church of England*, Mowbray, 2008, p. 3, p. 67.

9) Kojima, op. cit, p. 192.

10) *Roman Canon Law in the Church of England—Six Essays—*, Methuen & Co, 1898, p. 100.

However, when the modern nation was constructed, the church became subject to it gradually. In England the Reformation terminated the Papal authority and the King became ‘Supreme Head of the Church of England’.

I would like to describe especially the judicial power. In the late Middle Ages there were many Church Courts in England. P. A. Welsby notes in his book that:

In the Middle Ages there gradually grew up a network of Church Courts, whose jurisdiction covered a very wide field, embracing the laity as well as the clergy. Church worship, doctrine and property, marriages, wills, legitimacy, probate, oaths, and personal behavior and morals (e.g. adultery, sabbath breaking, drunkenness), were among the variety of matters which fell within their cognizance. Final appeal lay to the Pope, although such appeals were normally heard in England before a Papal delegate. The Reformation made surprisingly little change in the system and jurisdiction of the Courts, the most important being the substitution of the King in Chancery for the Pope as the final court of appeal.¹¹⁾

After the Reformation, “Church worship, doctrine and property, marriages, wills, legitimacy, probate, oaths, and personal behavior and morals (e.g. adultery, sabbath breaking, drunkenness), were among the variety of matters” which fell within the cognizance of Church Courts, too.

I would like to refer to the following statement when thinking about the reason for such a difference.

The Church should not attempt to usurp the role of the State, legislating for the temporal aspects of society. The State should not attempt to dominate or control the Church or to usurp its spiritual authority.¹²⁾

I think that there is a difference in the way of controlling the religion between the Edo period and the Tudor Age. Moreover we can say

11) Welsby, op. cit, pp. 70–71.

12) Paul Avis, *Church, state and Establishment*, London: SPCK, 2001, p. 62.

that there is a difference in the way of thinking about trial between Edo period and Tudor Age. The root of the differences lie in the relation between sacredness and secularity. So I would like to think about the relation looking from the religious and legal viewpoints.

③ Church Courts

Church Courts could try the cases concerning Church worship, doctrine and property, marriages, wills, legitimacy, probate, oaths, and personal behavior and morals as it was mentioned above. Church Courts formed a tiered system in the Tudor Age. For example, ‘Church Courts in the City and Suburbs of London, c.1500’¹³⁾ were Archbishop of Canterbury—Provincial Appellate Court of Arches—Consistory Court—Commissary Court.

We can say that the cases concerning Church worship, doctrine and property, marriages, wills, legitimacy, probate, oaths, and personal behavior and morals were in the area of sacredness as far as these cases were tried by Church Courts. However, the cases involving doctrine, ritual or ceremonial were distinguished from the others. The cases concerning the area of sacredness had a stratified structure. I would like to refer to this subject and describe the history of jurisdiction after the Reformation later.

The historical change in the jurisdiction over church trial is a suitable case to think about the relation between sacredness and secularity. Then, I will describe the reason for secularization as follows.

III. Reason for Secularization

① Buddhist Temples

It is said that there were many merchants in the Buddhist association when the Lotus Sutra was written in India. I would like to explain a little bit about the reason for such secularization.

To begin with, it is said that Shakyamuni did not deny occupations such as business. He didn’t preach to only Buddhist monks.

13) Richard M. Wunderli, *London Church Courts and Society on the Eve of the Reformation*, The Medieval Academy of America, 1981, p. 9. For the history of the ecclesiastical court from the Middle Ages, see R. B. Outhwaite, *The Rise and Fall of the English Ecclesiastical Courts, 1500–1860*, Cambridge University Press, 2006.

Consequently the Lotus Sutra uniformly explains the relation between sacredness and secularity. Nichiren described this subject in detail. He was one of the most famous Buddhist leaders in the Kamakura Age. Burton Watson described him in the Introduction, *Letters of Nichiren* that:

Nichiren, who lived from 1222 to 1282, was a figure of prime importance in the history of Japanese Buddhism. Through his forceful preaching and voluminous writings, he attempted single-handedly to change the direction and focus of Japanese Buddhism, for he believed that its erroneous practices were calling down destruction on the nation. His efforts laid the groundwork for a new sect of Buddhism, which now bears his name, the only major Buddhist sect to originate in Japan.¹⁴⁾

He strongly committed himself to the cause of national peace. He presented his writing, *On Establishing the Correct Teaching for the Peace of the Land* (『立正安国論』) to the Kamakura shogunate. Syotoku-taishi, Nichiren and other Buddhist monks, for example, Saicho (最澄 767–822) thought that the Buddhist temples should guard the nation. Why did Nichiren make appeals to the power of the state?

The teachings of Nichiren were based on “nondualism”, that is “Emptiness”, preached by the Lotus Sutra. Then he emphasized the teaching of “only the single vehicle or truth” in it.¹⁵⁾ Therefore, Nichiren didn’t discriminate between the Buddhist monks and laity, and didn’t deny the secular world. On the contrary, he tried to find the sacred world in the secularity. He described in ‘The True Entity of Life’ (『諸法実相抄』) that:

All phenomena are themselves manifestations of Myōhō-rengē-kyō. This is the meaning of “all phenomena reveal the true entity.” T’ien-t’ai states, “The profound principle of ‘true entity’ is the original law of Myōhō-rengē-kyō,” thus identifying the phrase “true entity” with the theoretical

14) *Letters of Nichiren*, p.1.

15) See the Translator’s Introduction, *The Lotus Sutra*.

teaching and “the original law of Myōhō-rence-kyō” with the essential teaching. You should ponder this passage deep in your heart.¹⁶⁾

I think that Nichiren regarded politics and daily life as important by thinking like this.

He had not tried to build the sacred world by denying the secular world. However, he did not unconditionally affirm the secular world. Politics and daily life are made the best use of according to the teachings of the Lotus Sutra. For the individual, it is necessary to practice Buddhist asceticism.

As many Japanese Buddhist temples were influenced by the teachings of the Lotus Sutra, they have had a profound effect on the Japanese society and people as mentioned above. In the Edo period, “large-scale mercantilism” made rapid progress and “the urban population” grew massively. Many people had stopped fearing the gods and Buddha (神仏), because “wealth had created a sense of self-sufficiency and self-esteem”. They had visited Buddhist temples in order to get Goriyaku (御利益 divine grace) of the gods and Buddha.¹⁷⁾

However, the Buddhist temples in Japan have not tried the cases concerning property, marriage and probate from the Edo period to the modern times. Because the secular authorities in Japan, I think, have thought that such a case was secular. In this point, there is a great difference in the jurisdiction between the Buddhist temples in Japan and the Anglican Church. I would like to describe the jurisdiction especially in the Tudor Age in the following section and think about the reason for secularization

② The Anglican Church

I would like to address the social background of the secularization in Tudor Age. Concerning the “Reformed Church”, Martin Davie notes in his book that:

16) *Letters of Nichiren*, p. 360.

17) Introduction, *Emerging from Meditation: Tominaga Nakamoto*, translated with an introduction by Michael Pye, Duckworth, 1990, pp. 18–20.

At the Reformation the Western Church became divided between those who continued to accept Papal authority and the various Protestant churches that repudiated it. The reason for this division were complex, but they included both the influence of the fresh theological insights offered by the Reformers, the existence of long-standing debates about the relation of the authority of the Pope to other sources of authority, ...The Church of England was affected by these wider European influences and it was among the churches that broke with Rome. The catalyst for this decision was the refusal of the Pope to annul the marriage of Henry VIII and Catherine of Aragon, but underlying this was a Tudor nationalist belief that authority over the English church properly belonged to the English monarchy.¹⁸⁾

We should pay attention to the establishment of the modern state in order to understand the background of the secularization. Moreover I will think about the judicial background of the secularization. Concretely I focus on Church Courts in London because London was already the most secularized town before the Reformation. The following description is based on *London Church Courts and Society on the Eve of the Reformation*,¹⁹⁾ written by Richard M. Wunderli. He notes in the Introduction that:

...I have analyzed a pre-Reformation ecclesiastical judicial system in London and have argued that records of these church courts give us good evidence of the secularization of people's attitudes in London just before the Reformation. ...English society was becoming secularized during the first half of the sixteenth century.²⁰⁾

I will address how and why the secularization advanced in London at that time by using his findings. In the first, the contents of secularization are as follows:

18) Davie, op. cit, p. 3.

19) See note 13.

20) Ibid., pp. 1-2.

1) Laity participated in parish business. Laity generally arrested a criminal and imprisoned him. Especially, the churchwardens played an important role in it. Wunderli actually notes in his book that:

Parish business, apart from divine services, was in the hands of parishioners, specifically the two lay churchwardens...Day-to-day business of the parish, the parish property, the parish festivals, the parish monies, and reporting parish criminals to the church courts were the responsibilities of parishioners and their representatives.²¹⁾

2) The role of civic courts had grown. It became impossible to distinguish temporal jurisdiction from spiritual one. Wunderli notes in his book that:

...civic courts—temporal jurisdiction—cannot be considered apart from church courts—ecclesiastical jurisdiction. In theory there were clear lines which separated temporal from spiritual jurisdiction; in practice these lines were blurred, especially in the reporting and prosecution of criminal cases.²²⁾

3) The power of the excommunication had already decreased by the late Middle Ages. Therefore, Church courts came to depend on secular authorities. Wunderli notes that:

We may, I think, accept Rosalind Hill's judgment when she wrote that excommunication by the late Middle Ages had "degenerated from a tremendous sanction into a minor inconvenience."²³⁾

Sanctions themselves are a crucial element in a legal system. A court must have a way to enforce its decisions through physical or moral force. Church courts depended on the secular arm for its physical force. ...Excommunication and other church court sanctions were effective

21) Ibid., pp. 29–30.

22) Ibid., p. 31.

23) Ibid., p. 46.

only against those who considered them effective. Any subtle shift in popular attitudes from acceptance of moral sanctions to disdain for or indifference to these sanctions would undermine the legal system.²⁴⁾

4) Witnesses came to play an important part in marriage suit. Moreover the meaning of marriage changed gradually. Wunderli notes that:

The use of witness to prove facts through *viva voce* testimony in open court was an entirely new procedure in commissary marriage suit.²⁵⁾

Marriage was a sacrament and, until the end of the seventeenth century when parliament began to grant divorces, was beyond the pale of secular jurisdiction.²⁶⁾

I would like to give more consideration to marriage later. In the second, the reasons for secularization are as follows:

1) The population of London increased dramatically in the first half of the 16th century and the urbanization of London advanced greatly. Wunderli notes in his book that:

A person belonged to one of London's one hundred parishes and he belonged to one of twenty-five political wards.²⁷⁾

Londoners, therefore, belonged to several social, economic, political, and religious groups, each of which bore some responsibility for the behavior of its members. These responsibilities often overlapped from one group to another. Just as loyalties to parish and ward overlapped, so did secular justice overlap ecclesiastical justice. It should not at all be

24) Ibid., p. 53.

25) Ibid., p. 120.

26) Ibid., p. 122.

27) Ibid., p. 29.

surprising if churchwardens were also constables and members of common councils.²⁸⁾

2) People came to think rationally because commerce had developed rapidly in London. As a result, people came to be conscious of their responsibility as individuals and insist on their interests strongly in secular trial. Wunderli notes in his book that:

...in London much of village social cohesiveness—the foundation of a compurgation system—was lost.²⁹⁾

I have suggested that the expectations of plaintiffs and claimants were not being met in London's church courts; that from the 1490s there were in London changing expectations or changing attitudes about justice in which plaintiffs and claimants began to demand stricter enforcement of norms.³⁰⁾

Londoners before the Reformation already had called into question, rightly or wrongly, the competence of ecclesiastical justice.³¹⁾

From the 1490s in London, litigants began to drift away from church courts and to seek justice in secular city courts.³²⁾

3) Henry VIII had placed the Anglican Church under his control as mentioned above and parliament came to participate in church administration. Wunderli notes in his book that:

...sitting from 1529 through 1536, parliament broadly attacked ecclesiastical jurisdiction and effectively legislated the English Reformation. The decision of this parliament concerning landholding, church admin-

28) *Ibid.*, p. 31.

29) *Ibid.*, p. 138.

30) *Ibid.*, p. 138.

31) *Ibid.*, p. 23.

32) *Ibid.*, p. 137.

istration, and royal power resounded for centuries in English society.³³⁾

...Londoners directly benefitted from the Reformation Parliament. Both mortuaries and church probate fees were reduced and regulated by statute, although probate in earlier years already had come under some regulation by the city.³⁴⁾

We can say that social change before the Reformation made the base of secularization because of the points given above. And secularization was completed by the Reformation and the development of the parliament following it.

There was a difference in jurisdiction though secularization had advanced in both the Edo period and the Tudor Age. I think that the reason lies in the difference of the idea concerning in the understanding of sacredness and secularity. Therefore, I would like to address this subject centering on the Anglican Church.

③ History of Church Courts

I would like to take the case of jurisdiction in order to think about the relation between sacredness and secularity. Before the Reformation, there were two kinds of courts, that is, secular courts and ecclesiastical courts. The secular courts had a temporal jurisdiction and the ecclesiastical courts had an ecclesiastical jurisdiction. What kind of case could the ecclesiastical courts try? Before and after the Reformation, 'Church worship, doctrine and property, marriages, wills, legitimacy, probate, oaths, and personal behavior and morals (e.g. adultery, Sabbath breaking, drunkenness), were among the variety of matters' which fell within the cognizance of Church Courts as mentioned above. Probably, we can understand that the things preached in the Bible fell within the cognizance of Church Courts as sacred cases.

For example, the New Testament explains that marriage is sacred because a married couple indicates one body. Concretely, Ephesians (5: 30–33) explain that:

33) Ibid., p. 133.

34) Ibid., p. 134.

for we are members of his body, of his flesh, and of his bones. For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh. This is a great mystery: but I speak concerning Christ and the Church. Nevertheless, let every one of you in particular, so love his wife even as himselfe, and the wife see that she reverence her husband.³⁵⁾

That is to say, marriage is related to sacraments.³⁶⁾ Therefore Church Courts could try the cases concerning marriage. In *Church and State—being the Report of a Commission appointed by the Church Assembly in June, 1949—*,³⁷⁾ it is noted that:

In the Middle Ages ecclesiastical courts were active and powerful, though they dealt mainly with questions of conduct rather than questions of doctrine or ritual. They were not only autonomous but pervasive, encroaching on what today seems obviously the business of the civil power. The law of wills and marriages was exclusively their concern and they exercised an inquisitorial oversight of personal conduct which not unnaturally led to a recoil. Appeals from them lay finally to the Pope.³⁸⁾

But secularization had advanced in the Tudor Age and the Reformation changed the jurisdiction gradually. *Church and State* notes successively that:

35) *The English Bible*, translated out of the original tongue by the commandment of King James the first.

36) Traditionally the Catholic Church defined sacraments as Baptism, Penance, Holy Eucharist, Confirmation, Matrimony, Anointing of the Sick, Holy Orders. The Anglican Church defined the sacraments as Baptism and Holy Eucharist. The Catechism in the Book of Common Prayer begins as follows:

Question. How many sacraments hath Christ ordained in his Church?

Answer. Two only, as generally necessary to salvation; that is to say, Baptism, and the Supper of the Lord.

See Davie, *op. cit.*, p. 98.

37) *Church and State—being the Report of a Commission appointed by the Church Assembly in June—, 1949*, The Church Information Board of the Church Assembly, 1952.

38) *Ibid.*, p. 50.

All such appeals were transferred from the Pope to the Crown (the King in Chancery) under Henry VIII. By him they were committed to the Court of Delegates, a mixed body which might include bishops, judges and civilians; and this court continued down to 1832. But between 1560 and 1640 it was virtually superseded by the concurrent jurisdiction of the formidable Court of High Commission; ...Still a vital principle was stated in the preamble to the Statute of Appeals, 1533. Here a distinction was drawn within the whole body politic, between the “spirituality” and the “temporality,” which have separate functions.³⁹⁾

Under the Ecclesiastical Courts Act of 1855 and the following Acts, secular courts came to try the cases concerning property, marriage and divorce. P. A. Welsby notes that:

...the history of the Church Courts in this country during the last 300 years has been a long story of a gradual loss of jurisdiction. Divorce and matrimonial causes and testamentary jurisdiction have been transferred to secular Courts, and a number of offences are now triable by the Criminal Courts. The abolition of Church rates and tithe has further reduced their business, while most of their jurisdiction over the morals of the laity has become obsolete. The result is that today the Ecclesiastical Courts ‘are concerned with the discipline of the clergy and of laymen holding office in the Church, questions of doctrine and ritual, protecting Church property, and civil disputes relating to ecclesiastical matters’. (Peter Archer, *The Queen’s Courts* (1956) p. 204).⁴⁰⁾

Consequently secular Courts came to try matrimonial causes in the modern era. In the end, I would like to think about the structure of sacredness in the Anglican Church and Buddhism, and the relation between sacredness and secularity.

39) Ibid., pp. 50–51.

40) Welsby, op. cit, p. 71.

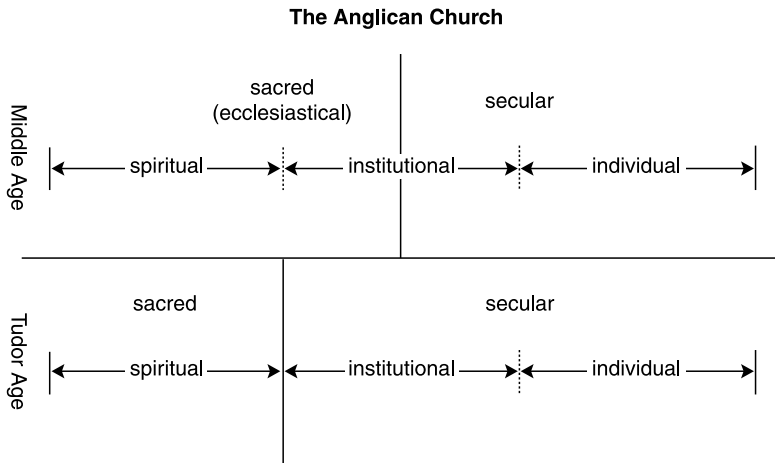
Epilogue: Relation between Sacredness and Secularity

Martin Davie notes that:

Like Article XXXVII (Book VIII of *Of the Laws of Ecclesiastical Polity* by Richard Hooker), Hooker is clear that the monarch does not have authority in spiritual matters. However, again like the Article, he does hold that the monarch has rightful authority in matters to do with the ‘outward government’ of the Church; ...⁴¹⁾

What are “spiritual matters”? In the first, I would like to illustrate the relation between sacredness and secularity on the graph.

This roughly-executed graphs illustrate the gist of what I want to say. I drew the graph about the Anglican Church and Buddhism. **[GRAPH 1]** In the Anglican Church, we should make a distinction between ‘until the Middle Ages’ and ‘after the Tudor Age’. In the Middle Ages, “sacred” and “secular” were distinguished clearly. We can think that “sacred” equals “ecclesiastical” at the time. In addition, “institution-

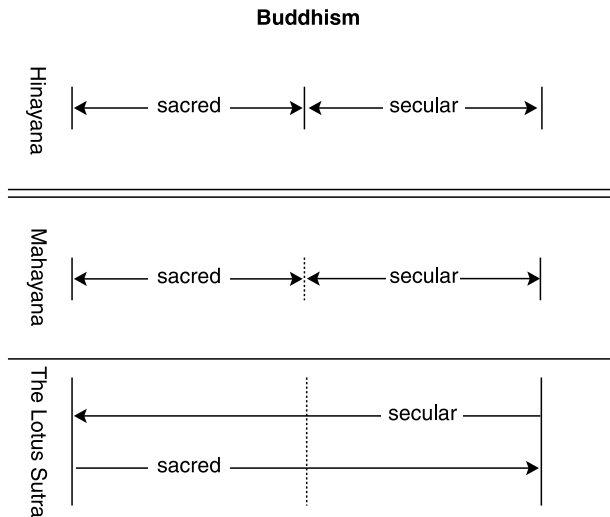


[GRAPH 1]

41) Davie, op. cit, pp. 65–66.

al” straddles “sacred” and “secular”. I think that “spiritual” has a relation to doctrine and ritual, and “institutional” has a relation to property, marriage and probate. We can say that the Tudor Age was a transition period and after the Tudor Age, “ecclesiastical” had been eroded by “secular”, and property, marriage and probate came to be controlled by secular Courts. Because property, marriage and probate caused relations between the person and the person, it was necessary to manage them by a social institution. We can say that such “institutional” matters which were deeply related to daily life and “spiritual” matters were both “ecclesiastical”. But “institutional” matters had become gradually subject to secular authorities.

[GRAPH 2] In Buddhism, we should make a distinction between Hinayana and Mahayana. In Hinayana, “sacred” and “secular” were severely distinguished. In Mahayana, “secular” had filtered into “sacred”. Furthermore, in the Lotus Sutra “sacred” spreads into “secular” and “secular” spreads into “sacred”. Consequently “sacred” and “secular” overlap. But the Buddhist temples in Japan had not tried suits concerning property, marriage and probate. Because in Buddhism, I think,



property, marriage and probate were not necessarily “sacred”. In the Lotus Sutra such matters were potentially “sacred”, but the secular authorities in the Edo period did not consider that property, marriage and probate were “sacred”.

The theology of the Anglican Church is based on Scripture, tradition and reason. Richard Hooker (1554–1600) expressed that the idea of the Anglican Church was *Via Media*. The Lotus Sutra explains ‘only the single vehicle or truth’. In the T’ien-t’ai Sect in Japan it is said that the idea of the Lotus Sutra is the middle road (中道 *Chudo*). Christianity belongs to a different sphere from Buddhism evidently. However in the relation concerning sacredness and secularity the Anglican Church is similar to the Lotus Sutra.

In the second, I would like to compare today’s situations between Japan and U.K. I think it is an ideal that sacredness is materialized in secularity and secularity is utilized in sacredness. This ideal is called “*Sousoku* (相即)” in Mahayana Buddhism. It seems that the teachings of the Lotus Sutra and those of the Anglican Church particularly in the Tudor Age had aimed at such ideal.

Sacredness and secularity especially in the political world and the courts have been completely separated in Japan since the end of World War II. It is not the same in the U.K. The Anglican Church is an established church and given “a particular place in the life of the English nation”.⁴²⁾ The secular authorities had relations with sacredness because property, marriage and probate were secularized and secular courts came to have jurisdiction over the cases concerning them. However the secular authorities don’t infringe on doctrine and ritual, while the Anglican Church keeps influencing politics and the trial.

Because secularization went forward too much in Japan recently, people are losing religious sentiment and a rich spirit. On the contrary, in U.K. the sense of volunteerism and stability based on religious sentiment is still alive.⁴³⁾ Secularization is not necessarily a denial of religion. However, when it becomes excessive, religious sentiment might be lost.

42) Davie, *op. cit.*, p. 59.

43) The Anglican Church also has problems such as the decline in its membership and the decrease of its financial resources now. See Davie, *op. cit.*, Foreword.

The Relation between Sacredness and Secularity from Religious and Legal Viewpoints

— Focusing on the Buddhist Temples in the Edo Period and the Anglican Church in the Tudor Age —

Nobuyasu Kojima

In recent years, serious antagonism between sacredness and secularity has arisen through the activity of fundamentalism in some religions. Investigating the historical connection between sacredness and secularity in various socio-cultural contexts will enable us to gain insight into their dynamics. In this paper, I will compare the Buddhist temples in the Edo period and the Anglican Church in the Tudor Age in terms of such dynamics.

In the first section, I will clarify the state of secularization in the Buddhist temples and the Anglican Church. I will show that secular authorities controlled religious power and secularization spread during these two ages respectively. In the second section, I will examine the reason for secularization from religious and legal viewpoints. I will focus especially on the transition of jurisdiction in cases related to religion.

Lastly, I will reflect on what the true nature of the relation between sacredness and secularity should be.