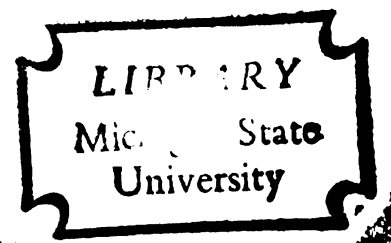


THE SOURCES OF THE POLITICAL IDEAS  
OF THOMAS STARKEY

Thesis for the Degree of M. A.  
MICHIGAN STATE UNIVERSITY  
THOMAS FREDERICK MAYER  
1977



LIBRARY

Michigan State

University

-562/589

Sta

sect

Mele

trin

nolo

Zeev

ise

oper

of St

ences

it de

adiap

study

final

duced

adiaph



## ABSTRACT

### THE SOURCES OF THE POLITICAL IDEAS OF THOMAS STARKEY

By

Thomas Frederick Mayer

This is a study of the general intellectual climate of Thomas Starkey, one of Thomas Cromwell's advisors. It is divided into two sections. In the first, the theory of Gordon Zeeveld that Philip Melanchthon exercised a decisive influence on Starkey through his doctrine of adiaphora or things indifferent is examined. Problems of chronology and difference of usage of this term make it unlikely that Zeeveld's thesis is correct. In the second, proceeding from the premise that intellectual history is the study of minds and personalities operating with ideas, but not of ideas in the abstract, the circumstances of Starkey's education are studied in order to isolate possible influences on him.

The wide currency of Zeeveld's thesis made an extensive study of it desirable. Zeeveld's understanding not only of the meaning of adiaphora, but also of natural law is found to be deficient. A careful study of the two important works of Starkey, the Dialogue between Cardinal Pole and Thomas Lupset, and his Exhortation to the People, produced a new date for the former, which contains no discussion of adiaphora but does discuss natural law. This date made it impossible

i

i

b

p

N

na

in

mo

to

in

may

side

civi

serv

fol

to l

ful,

Germa

of po

proved

telian

reveal

that Starkey could have been influenced by the 1535 edition of Melanchthon's Loci communes theologici, as Zeeveld argued. It was also found that one of Zeeveld's arguments in support of his theory was founded on a serious misunderstanding of a key Melanchthon text.

In order to demonstrate the unlikelihood of Melanchthon's having influenced Starkey, a study of the development of Melanchthon's thinking on natural law was also undertaken. Despite increasing conservatism between 1521 and 1535, natural law is still not a part of a rationally perceptible moral order, as it was for Starkey, and had been for Aquinas. Next, the idea of things indifferent, which Zeeveld seemed to think was nearly limited to Melanchthon and Starkey, was found to be a commonplace in the sixteenth century, and although the word adiaphora was not in common use before that time, the idea was widespread. The same was found to be true of the idea of epieikeia, or "equity," which, again, was used in different fashions by Melanchthon and Starkey. In short, though they may have used the same words, Melanchthon and Starkey were on opposite sides in the debate over adiaphora. Starkey was concerned to allow civil enforcement of adiaphora, while Melanchthon was attempting to preserve the highest possible degree of Christian liberty.

In the second part of this thesis, several lines of approach were followed and several conclusions developed. First, an attempt was made to locate a formula like Starkey's on adiaphora. This was not successful, although Jean Gerson and Starkey's contemporary, Christopher St. German, came very close. Second, Starkey was put into the continuum of political theory. Because of a lack of detailed information, it proved impossible to relate Starkey carefully to late medieval Aristotelianism, although a comparison with his contemporary, John Major, revealed more influence of Aristotle on the latter. It was found that

there was very little basis for the putative relationship between Starkey and Marsiglio of Padua. Third, Starkey's personal standing would seem to argue against his having exercised an important influence on later thinkers. Last, Starkey's career as Pole's secretary and his training as a civil lawyer were investigated. It appears that his legal education may have been very important, especially that at Avignon under Giovanni Francesco Sannazario de Ripa. Another unsuspected source was discovered in the Spanish legal thinker Juan Luis Vives, whose lectures Starkey may have heard at Oxford in 1523-24, and whose thought resembles Starkey's on many important points.

THE SOURCES OF THE POLITICAL IDEAS  
OF THOMAS STARKEY

By  
Thomas Frederick Mayer

A THESIS

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
for the degree of

MASTER OF ARTS

Department of History

1977

#### NOTE ON USAGE

All translations are by me, unless otherwise noted. I have made an effort to keep them as literal as possible.

I have modernized all English spelling, but have usually left all punctuation as in the original. My Latin usage is inconsistent: in most cases any oddities have been standardized, but a few may have slipped through. De Ripa's Latin has been reproduced as printed.

I

P.

PA

PART

REBI

## TABLE OF CONTENTS

INTRODUCTION . . . . .	1
PART I. A CRITIQUE OF THE ZEEVELD THESIS . . . . .	3
A. State of the Question: Zeeveld and his Supporters . . . . .	3
B. Critique of Zeeveld . . . . .	7
PART II. SOURCES OF STARKEY'S POLITICAL THOUGHT A PRELIMINARY SURVEY . . . . .	49
A. Man and Circumstance . . . . .	50
1. Conciliar Thought: Gerson and St. German . . . . .	50
2. The <u>Exhortation</u> in Context . . . . .	56
B. Starkey and Political Theory . . . . .	59
1. Antecedents: Medieval Aristotelianism; John Major; Marsiglio of Padua . . . . .	59
2. Personal Standing . . . . .	67
3. Training as a Civil Lawyer . . . . .	69
a. Giovanni Sannazario and Bartolism . . . . .	70
b. Padua . . . . .	80
4. Juan Luis Vives . . . . .	82
PART III. CONCLUSIONS . . . . .	89
BIBLIOGRAPHY . . . . .	92



1

1

1

t

n

i

tl

in

St

le

out

bet

con

pla

the

larg

inte

infl

stat

pland

## INTRODUCTION

This thesis began as an attempt to test the assertion that Philip Melanchthon exercised an important influence on the early stages of the English Reformation through the use made of him by Thomas Starkey. I later broadened my focus to examine the sources of Starkey's political and legal theory, in part because I found that, once put in context, there was no need to postulate any important influence of Melanchthon on Starkey, and in part because I found it impossible to exclude rigidly the possibility that Starkey may have borrowed something of his idea of *adiaphora* (things indifferent) from Melanchthon, though putting it to a wholly different use.

Thus the first part of this thesis will be about the relations of Starkey and Melanchthon, and the second will investigate the general intellectual context of Starkey as political pamphleteer. I have tried throughout to base myself as firmly as possible on the evidence of direct contact between Starkey and a given body of ideas, usually through the means of contact with a person known to represent such; or, at least, through the placing of Starkey's mind and some source of influence in approximately the same place. In short, from an originally revisionist approach, founded largely on semantic method, I turned to a broader study of Starkey's intellectual milieu, and attempted to trace out some of the formative influences in the education of a second-rank humanist.

It may appear from the standpoint of classical history of ideas that my study is founded on a faulty premise, both in that I insist on pinning ideas down spatially, and that a given idea, found in a given

mind,

cannot

facts

letter

tion.

many c

struct

Dialog

did not

to eith

a prope

we have

fore, fo

letters

construc

mind, must have some impact to be worth consideration. Likewise this cannot pretend to be a biographical study, partly because so few objective facts about Starkey are known. Many which could be extracted from his letters published by Herrtage, I have deliberately left out of consideration. In part I did so because of a lack of context for most of them—many cannot be even approximately dated—which made it impossible to construct a continuum which would allow relations between the letters and the Dialogue and the Exhortation to be sketched, and in part because Zeeveld did not found his case on any of them. Most which survive are addressed to either Pole or Cromwell: the former may be of critical importance to a proper assessment of Starkey's contribution. Here another problem arises: we have, almost exclusively, only Starkey's side of the argument. Therefore, for all these reasons, I have not considered the contribution the letters could make to an assessment of Starkey. If a time series can be constructed for them, my thesis may have to be substantially altered.

Zs

th

or

tr

to

the

cre

pol

nati

cite

Aug-

contex

1

Harvar

2.

3.

4.

## PART I. A CRITIQUE OF THE ZEEVELD THESIS

### A. State of the Question: Zeeveld and his Supporters

The thesis I set out to test was originally presented by W. Gordon Zeeveld in Foundations of Tudor Policy, published in 1948. He maintained that Melanchthon's notion of adiaphora was introduced into the English Reformation by Thomas Starkey, and that his work in turn became a major contribution to the "liberal tradition." Speaking of Starkey's Exhortation to the People, he says, "Since this, so far as is known to the writer, was the first official statement of the English via media, it may justly be credited with the formulation of the theoretic foundations of Anglican polity."<sup>1</sup> Starkey took Melanchthon's "plan for unity among Protestant nations on an adiaphoristic basis" and applied it to England.<sup>2</sup> Zeeveld cites as Starkey's general sources the natural law tradition, Paul and Augustine and continues,

But, more immediately, he found these traditions mingled in the position of the moderate Lutherans of his own day, more especially in Melanchthon's Loci communes theologici, just dedicated to Henry VIII, in which he identified adiaphora . . . with human or positive law under the law of nature. Melanchthon's Christian adiaphorism . . . became, through Starkey, the direct ideological forebear of the Anglican polity.<sup>3</sup>

Zeeveld attempts to put the Exhortation into a more international context as well. He notes a "liberal" policy of Henry toward the

---

<sup>1</sup>W. Gordon Zeeveld, Foundations of Tudor Policy (Cambridge, Mass.: Harvard University Press, 1948), p. 128.

<sup>2</sup>Ibid., p. 141.

<sup>3</sup>Ibid., p. 129.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

Schmalkaldeners,<sup>4</sup> and maintains that his appeal of his divorce to a future general council was not a matter of expediency.<sup>5</sup>

In intellectual terms, Zeeveld thought that Starkey made use of Melanchthon's adaptation of the "Thomist law of nature." In Melanchthon, as traditionally, natural law embraces all other laws, human and divine. On this basis Melanchthon identified essential articles of faith with "natural or divine law," nonessentials with human law, and all of these were "called significantly" adiaphora.<sup>6</sup> Starkey also made use of Melanchthon's ideas on epieikeia (equity) and its importance for order in the church.<sup>7</sup>

In Starkey's application, the Aristotelian polity needs the Christian for its perfection.<sup>8</sup> This is made clear in the Dialogue, completed between December, 1534 and February, 1535, in which Starkey followed "Melanchthon's distinction between natural and positive law."<sup>9</sup> In the later Exhortation, civil laws are founded on the law of nature, civil society is only necessary because of the frailty of man, and some ecclesiastical laws are grounded on natural law, although this ground is obscured by many papal abuses.<sup>10</sup> As Zeeveld sums up:

The Aristotelian theory of variable positive law operating within the law of nature was now reinforced by Christian adiaphorism, and one cannot doubt that the alembic was Melanchthon. Starkey distinguished between things good, things ill, and things indifferent. Things good are those things defined by God's word; things indifferent are neither prohibited nor commanded but are left to worldly policy, "thereof they

---

<sup>4</sup>Ibid., p. 119.

<sup>5</sup>Ibid., p. 135.

<sup>6</sup>Ibid., p. 137.

<sup>7</sup>Ibid., p. 138.

<sup>8</sup>Ibid., pp. 143-44.

<sup>9</sup>Ibid., p. 145.

<sup>10</sup>Ibid., p. 146.



Fi

an

hi

Re

sa

The

ta

Ana

adi

it

mod

the

hims

pern

done

(St.

(W

(new

Books

take their full authority, by the which as time and place requireth, they are sometimes good, sometimes ill."<sup>11</sup>

Finally, he takes note of the role of Cromwell, his interest in the mean, and his patronage of Taverner's translations (1538) of Melanchthon.<sup>12</sup>

Zeeveld's thesis has found wide acceptance. Carl S. Meyer adopts his whole argument in his study of the Elizabethan religious settlement.<sup>13</sup> Recently, his position has been adapted by Roland Bainton.<sup>14</sup> At about the same time as Meyer, A. G. Dickens also adopted Zeeveld's argument. In Thomas Cromwell and the English Reformation, he cites Zeeveld on the Exhortation, "which a recent writer has called the earliest manifesto of the Anglican via media."<sup>15</sup> Then citing Zeeveld directly, he speaks of adiaphora as Starkey's "most fruitful concept," and thinks that Starkey got it from Melanchthon "like Frith before him"—as will be seen, an important modification.<sup>16</sup> Later in his The English Reformation, Dickens says that the doctrine of adiaphora was found "not merely in Frith, but in Starkey himself, for it was he who introduced Melanchthon's doctrine . . . to a permanent place in the Anglican scheme," and calls this, as Zeeveld had done, one of the "liberal elements" in later Anglican thought.<sup>17</sup>

J. K. McConica, while admitting that Starkey got the idea of

---

<sup>11</sup>Ibid., p. 149.

<sup>12</sup>Ibid., p. 148.

<sup>13</sup>Carl S. Meyer, Elizabeth I and the Religious Settlement of 1559 (St. Louis: Concordia Publishing House, 1960), pp. 6-7.

<sup>14</sup>Roland Bainton, Women of the Reformation in France and England (Minneapolis: Augsburg Publishing House, 1973), p. 233.

<sup>15</sup>A. G. Dickens, Thomas Cromwell and the English Reformation (New York: Harper & Row, 1959), p. 83.

<sup>16</sup>Ibid., p. 86.

<sup>17</sup>A. G. Dickens, The English Reformation (New York: Schocken Books, 1964), p. 180.

a

b

c

s

it

En

di

es

re

Me

on

doc

hum

sci

he

see

Prot

rev

wide

Refor

disc

616.

adiaphora from Melanchthon, claims that the idea was not original to him, but that he got it from Erasmus.<sup>18</sup> He says it is "slightly generous" to credit Starkey with the introduction, on the basis of the Exhortation, since the "English humanist world [was] already thoroughly imbued with it."<sup>19</sup> Thus, Erasmus, and not Melanchthon, was the real sponsor of the English Reformation. "So the Erasmian gospel, undogmatic, yet definite and discoverable, provides the continuous thread . . . always retaining its essential identity as the link between the 'fellow-work' of the Oxford reformers and the peculiar climate of the Elizabethan settlement."<sup>20</sup>

J. K. Yost has alternately emphasized native, Erasmian, and Melanchthonian strains in the English Reformation. In his earliest work on Richard Taverner's translations, he found that Taverner's "approach to doctrinal reform strongly supported the moderation of the German Protestant humanists such as Melanchthon and Sarcerius,"<sup>21</sup> and that Taverner "consciously promoted the spread of Protestant humanism."<sup>22</sup> Against McConica, he argues that the English Reformation was not "official Erasmianism," and sees Taverner as the analogue of Starkey and Morison in the "application of Protestant humanism to the development of government policy in an age of revolutionary change."<sup>23</sup> In another article, he assigns the priority in

---

<sup>18</sup> James Kelsey McConica, English Humanists and Reformation Politics under Henry VIII and Edward VI (Oxford: Clarendon Press, 1965), p. 4.

<sup>19</sup> Ibid., p. 171.

<sup>20</sup> Ibid., p. 12.

<sup>21</sup> John K. Yost, "German Protestant Humanism and the Early English Reformation: Richard Taverner and Official Translation," Bibliothèque d'Humanisme et Renaissance: Travaux et Documents, 32 (1970), #3, 613-625, 616.

<sup>22</sup> Ibid., p. 613

<sup>23</sup> Ibid., p. 625.

the

not

the

con

ess

the

Eng

The

Star

clai

diff

treat

of th

natur

be ne

Melan

consi

before

presse

I will

2.

Intell  
Review

2.

the determination of nonessentials to Hugh Latimer,<sup>24</sup> though Latimer seems not to have spoken of either things indifferent or adiaphora. Latimer, then, is in the tradition of Colet and Erasmus, not Luther. "It can be concluded that Latimer's reform program in the early Reformation was essentially that of a Protestant humanist."<sup>25</sup> Yost also accepts Zeeveld's thesis for Starkey and Melanchthon.

To sum up, it seems that a great deal of the debate over the early English Reformation is still being conducted in terms of religious ideology. Therefore, there is a need for a closer examination of at least one figure, Starkey, from the angle of political theory, especially since such large claims have been made for him in that area.

#### B. Critique of Zeeveld

It will be the purpose of this section to discuss several manifest difficulties with Zeeveld's general thesis. Most glaring are those in his treatment of the natural law theory of all concerned, especially his idea of the "traditional view," which Zeeveld associated with Aquinas, that natural law embraces all other laws. In order to test this thesis, it will be necessary to examine its individual components, from Aquinas to Melanchthon. Since it seems that both of Starkey's writings which I will consider, the Dialogue and the Exhortation, were substantially completed before the end of 1535, I will only consider Melanchthon's ideas as expressed in print up to that point. In the consideration of Melanchthon, I will begin with the Loci 1535, since this is supposedly the form in which

---

<sup>24</sup>John K. Yost, "Hugh Latimer's Reform Program, 1529-1536 and the Intellectual Origins of the Anglican Via Media," Anglican Theological Review, 53 (1971), 103-124.

<sup>25</sup>Ibid., p. 114.

t

n

to

pa

he

div

when

2

6

0

2

(New Y

2

2

2

they reached Starkey. I will then backtrack in each case to present a chronological synopsis of other important discussions prior to 1535.

Aquinas does not seem to have held the view of natural law ascribed to him by Zeeveld, certainly not in his Summa, first part of the second part (Ia IIae), the section on law. In question 91, article 2, response, he says that natural law is subordinate to divine:

It is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. Now among all others the rational creature is subject to divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident for itself and for others. Wherefore it has a share of the eternal reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law.<sup>26</sup>

In the previous article, reply objection 3, he says, "the end of divine government is God Himself, and His law is not distinct from Himself, wherefore the eternal law is not ordained to another end."<sup>27</sup>

In the fourth article, he makes clear the function of divine law.

Besides the natural and human law it was necessary for the directing of human conduct to have a divine law. And this for four reasons. First, because it is by law that man is directed how to perform his proper acts in view of his last end. . . . Secondly, because, on account of the uncertainty of human judgment, especially on contingent and particular matters, different people form different judgments on human acts; when also different and contrary laws result. In order, therefore, that man may know without any doubt what he ought to do, what he ought to avoid, it was necessary for man to be directed to his proper acts by a law given by God, for it is certain that such a law cannot err. Thirdly, . . . human law could not sufficiently curb and direct interior acts, and it was necessary for this purpose that divine law should supervene. Fourthly, . . . in order, therefore, that no evil might remain unforbidden and unpunished, it was necessary for the divine law to supervene.<sup>28</sup>

---

<sup>26</sup>Dino Bigongiari, ed., The Political Ideas of St. Thomas Aquinas (New York: Hafner Publishing Co., 1953), p. 13.

<sup>27</sup>Ibid., p. 12.

<sup>28</sup>Ibid., pp. 17-18.



In conclusion, he says, therefore, "all laws proceed from the eternal law."<sup>29</sup>

To my knowledge, there is no tradition which subordinated divine to natural law in the Middle Ages, however much God's will, the source of divine law, might be circumscribed. In fact, the trend seems to have been more and more to the subordination of all law to God's will, de potentia absoluta, at least among the nominalists, although it seems there was still a certain, knowable, moral order, de potentia ordinata.

The sources of Melanchthon's idea of natural law and his development of it remain largely unexplored. Whatever may come out of these investigations, one most important statement may be made at the outset: Melanchthon did not say what Zeeveld said he did in the Loci 1535, or anywhere else that I have checked. According to Zeeveld ". . . Melanchthon laid down the traditional view that natural law embraces all other laws—human and divine, . . ." and cites as evidence a passage from the Loci 1535, "Now if the natural law is the whole of natural judgments, it contains many things, in which some are the higher precepts, which govern all laws, others are inferior laws, which sometimes yield to superior ones."<sup>30</sup> This is hardly a clear statement, especially when taken out of context. When put into context its meaning becomes obvious. The whole passage is from a discussion of the Seventh Commandment and concerns the debate among philosophers over usus and dominium. This statement is one of a number of attempts to distinguish between ius naturale and ius gentium and attributed to one of these schools of opinion, "Philosophi haec multo dexterius explicant." Melanchthon is engaged in a parody of scholastic

---

<sup>29</sup>Ibid., p. 33. Q. 92, Art. 3, Reply Obj. 3.

<sup>30</sup>Zeeveld, op. cit., p. 137.

o

it

Re  
to  
col

philosophy, which becomes manifestly clear from the end of this passage.

But we throw these [distinctions] back at the philosophers. Here, therefore, vigorously must the folly be rebuked of those who dream about distinctions of dominium in the Gospel, either prohibiting or censuring. Now they do an injury to the Gospel, who wish to defend in this fashion fanatical and seditious opinions by the authority of the Gospel. The Gospel teaches about eternal life and the justice of the spirit, but does not corrupt the bodily life. . . . Thus must the voices be exploded, not only of the Platonists, who praise community [ownership] against the judgment of reason, but even of theologians, who think to demonstrate or teach that platonic community in the Gospel.<sup>31</sup>

Melanchthon does present a very full, if rather incoherent, discussion of natural law in the Loci 1535.

The law of nature is the knowledge of the divine law, impressed on the nature of man. Neither is there anything in the whole nature of things better or more beautiful, nor any better presentment of God, than that God has impressed his effigy and image of his wisdom on human minds. . . . Just as a certain divine action (divinitus) impresses light on the eye, so is this knowledge impressed on human minds, by which they may know by themselves and judge.<sup>32</sup>

These judgments [of natural law], if they are knowledge written in nature, cannot be abrogated, but last with the very nature of man. . . . These [judgments] concerning marriage and similar things truly should be remembered, nor ought they to be violated on a pretext of Christian liberty.<sup>33</sup>

He also discusses divine law, devoting one section of his treatise to it.

The law of God is the extended instruction of divinity, laying down what we ought to be, what do, what should be omitted, and requiring perfect obedience. . . . And principally it requires a firm knowledge of God, a true fear of God, firm faith in God, perfect love; it accuses vicious affects. . . .<sup>34</sup>

---

<sup>31</sup>Philip Melanchthon, Loci communes theologici (1535) in Corpus Reformatorum, ed. by Carl Bretschneider et al. (Halle: C. A. Schwetschke & Successors, 1835—; reprinted Johnson Reprint Co., 1963—), v. 21, col. 403. (Hereafter CR).

<sup>32</sup>Ibid., cols. 398, 399.

<sup>33</sup>Ibid., col. 391.

<sup>34</sup>Ibid., cols. 388, 389.

Melanchthon's theory makes at least one point of contact with Aquinas' on the question of the area of concern of human law and the consequent necessity of divine law in order that no sin should go unpunished.

To such a degree human laws require or prohibit external deeds. Philosophy requires more than this, that is diligence not only in the containing of external members, but even in the bending of affects to a certain moderation and equitability. . . . But the law of God does not require that diligence, concerning which philosophy lays down precepts, in the curbing of affects; but it requires a natural consent to the law of God, just as now concupiscence repugns to the law of God.<sup>35</sup>

The question of Melanchthon's relation to Aquinas needs study; a few observations will be made in the course of this work. Nevertheless, it would seem that Cranz's observations on the superficial similarities, but essential differences, between Luther's and Aquinas' natural law applies equally well to Melanchthon and Aquinas. Cranz maintains that "Thomas and Luther place these similar descriptive statements in such different contexts that a comparison of their doctrines of natural law involves a comparison of two whole theologies." There are two major differences. First, Thomas always defines natural law in relation to divine law, as a law which guides men to a higher end; and second, man can attain salvation by obedience to this law. Luther, on the other hand, jettisoned the idea of natural law after his early works, and always maintained that man was too weak to obey any law sufficiently to gain salvation. The law of God serves only to reveal "to man his total condemnation apart from Christ."<sup>36</sup> Whatever his confusion on the nature of natural law, Melanchthon is quite clearly in agreement with Luther on this last point.

---

<sup>35</sup>Ibid.

<sup>36</sup>F. Edward Cranz, An Essay on the Development of Luther's Thought on Justice, Law, and Society (Cambridge, Mass.: Harvard University Press, 1959), p. 111n.

As if it were not enough that Zeeveld misinterpreted both Melanchthon and Aquinas so badly, there is a technical problem which at least deserves consideration. Zeeveld assumed, in effect, that since the Loci 1535 was dedicated to Henry VIII, therefore Starkey used it. Now it is possible that Melanchthon's position on adiaphora, taken wholly out of context, could be interpreted to give Starkey's usage. It remains necessary to place a work and a brain in the same place, or nearby, if it cannot be shown that the brains met directly. Ideas may float in the air of a given epoch, but they only touch ground in the mind or the writings of a given person. The problem is that it seems highly unlikely that Starkey could have known the Loci in time to use it in the Exhortation, or, in all likelihood, the Dialogue (which contains no discussion of adiaphora, but does contain Starkey's discussion of natural law, which is not contained in the Exhortation).

In the case of the Loci 1535 and the Exhortation there are two very firm dates: the presentation of the Exhortation to Henry at Winchester, September 11 to 14, 1535;<sup>37</sup> and Cromwell's reception of a copy of the Loci before August 31, as reported in his memo for Hereford's mission to Germany.<sup>38</sup> It is possible to pin the arrival down a little more precisely. The Loci was not completed on August 6 when Melanchthon wrote a friend that he wanted to have it done by the Frankfurt book fair September 1.<sup>39</sup> It is known that the Loci was "officially" carried to England by Alexander Alesius. Melanchthon reports this in an undated

---

<sup>37</sup>Zeeveld, op. cit., p. 148.

<sup>38</sup>Letters and Papers Foreign and Domestic of the Reign of Henry VIII, ed. by J. S. Brewer et al., v. 9 ed. by James Gairdner (London: H. M. Stationery Office, 1885; reprinted Vaduz: Kraus, 1965), #213, 5, p. 71. (Hereafter L & P).

<sup>39</sup>J. F. Mozley, Coverdale and His Bibles (London: Lutterworth Press, 1953), p. 111.

1

C

b

M

B'

La

or

to

it

le

Her

Sta

by

Cov

Tje

Pres

may

Scott

(-96

$\frac{H^2}{H^2}$

letter of August to Henry VIII,<sup>40</sup> as well as in another letter to Cranmer, in which Melanchthon also asks the archbishop to read the work before sending it to the king.<sup>41</sup> On October 1, Henry wrote to Melanchthon thanking him for the dedication of the Loci, which he had gotten from Alesius.<sup>42</sup> According to Strype, Cranmer kept Alesius at Lambeth with him, but he also says that Alesius carried two copies, so one could have been sent immediately to Henry.<sup>43</sup>

Therefore, there were at most twenty-five days to allow Melanchthon to finish the Loci, Cromwell to get it, and lastly, for Starkey to read it. We know officially of only two copies which followed this route, at least down to Starkey. One of these left at the end of August with Hereford, and the other went to Henry. Would there have been time for Starkey in between? Later, more copies of the Loci were sent to Cromwell by James Nicholson,<sup>44</sup> a printer responsible for the circulation of the Coverdale Bible in England, but not before October according to Tjernagel,<sup>45</sup> though Dickens thought the first sheets of the Bible may

<sup>40</sup>Melanchthon Correspondence, in CR, v. 2, #1310.

<sup>41</sup>Ibid., #1312. Abstract in L & P, 9, #225, p. 74.

<sup>42</sup>CR, v. 2, #1335.

<sup>43</sup>John Strype, Memorials of Archbishop Cranmer (Oxford: Clarendon Press, 1812), p. 578. J. T. McNeill, on unknown evidence, thinks Alesius may have reached England in "early September." "Alexander Alesius, Scottish Lutheran (1500-1565)," Archiv fuer Reformationsgeschichte, 55 (1964), 161-191, 175.

<sup>44</sup>L & P, 9, #226, p. 75.

<sup>45</sup>Neelak Serawlook Tjernagel, Henry VIII and the Lutherans: A Study in Anglo-Lutheran Relations from 1521-1547 (St. Louis: Concordia Publishing House, 1965), p. 114.

have arrived at the end of August.<sup>46</sup>

Thus it seems unlikely that Starkey could have known or, assuming he had, made much use of, the 1535 Loci. The possibility remains that he was familiar with some of the earlier works of Melanchthon. It is necessary to survey Melanchthon's views on natural law prior to 1535.

Natural law in the first edition of the Loci (1521) has been studied by Clemens Bauer.<sup>47</sup> Speaking in general terms of the theology of this youthful work, Bauer notes the heavy influence of Erasmus, but points out that the Loci contained "a new and a revolutionary element . . . the consummate adoption of the Theologia Paulina." "It becomes clear from the line of development that the geistige situation of his humanistic-theological beginnings remained decisive for the shape of Melanchthon's work, that it moves more and more in an outline analagous to the Erasmian philosophia Christi. . . ."<sup>48</sup>

Divine law in the Loci 1521 was "in the first place the Decalogue and beyond that the moral laws drawn from the Old and New Testament [which] constitute an effective morality," and in the second place, as for Luther, the knowledge of sin.<sup>49</sup>

About natural law Bauer says, "for the validity of the Lex naturae its rationality is less decisive than the circumstance that it as 'sententia communis, cui omnes pariter assentimus,' goes back to the divine act of creation." "Lex naturae is thus a natural moral law. . . .

<sup>46</sup>Dickens, Thomas Cromwell, p. 112.

<sup>47</sup>Clemens Bauer, "Die Naturrechtsvorstellungen der juengeren Melanchthon," Gesammelte Aufsaezte zur Wirtschafts-und Sozialgeschichte (Freiburg: Herder, 1965), pp. 266-67.

<sup>48</sup>Ibid., pp. 267-68.

<sup>49</sup>Ibid., p. 270.



All concrete human law has to respect these norms."<sup>50</sup> But the natural law is not integrated with Melanchthon's theology of justification because "its necessary preconditions—natural knowledge of God and relative freedom of the will—have been wholly abolished by it."<sup>51</sup> There are two possible modes of integration. First, there may not be any inherent natural law, but "instead only a revealed moral law"—the precepts "accepted by the fathers and as if through their hands handed down to posterity."<sup>52</sup> Second, natural law could be derived by reason, but this is impossible for Melanchthon because of the powerlessness of reason. He always tried to find a scriptural basis for the precepts of natural law.<sup>53</sup>

Throughout the Loci 1521, natural law is always dependent on divine law. Knowledge of natural law becomes a habitus concreatus "non inventam a nostris ingeniis, sed insitam nobis a Deo."<sup>54</sup> By way of proof that natural law is insufficient without divine, Melanchthon notes that even Roman law, the most perfect human law, does not always accord with the norms of natural law.<sup>55</sup> In short, "law means the divine ordinance as the expression of the divine will; the binding ground for the observation and fulfilling of individual norms is the act of God's will and his command, not the relation to an objective order of creation, or the belonging of

---

<sup>50</sup>Ibid., p. 272.

<sup>51</sup>Ibid., p. 273.

<sup>52</sup>Ibid.

<sup>53</sup>Ibid., p. 274.

<sup>54</sup>Ibid., p. 275.

<sup>55</sup>Ibid., p. 276.

individual commands to a total order."<sup>56</sup>

Bauer has also studied natural law in the last edition of the Loci (1559), but the intervening period has not been covered. In the Commen-  
tary on Romans (1532) to 2.14 ("Pagans who never heard of the law but are led by reason to do what the Law commands, may not actually 'possess' the Law, but they can be said to 'be' the Law") Melanchthon is still arguing against the inherent rationality of natural law.

The most erudite [person]<sup>57</sup> proves that the Gentiles have the law, because, he says, acts have an accusing or an approving "conscience"; therefore, they have a certain judgment of right and wrong. Thus this judgment of right or wrong acts is the law. But in this place it is to be observed that we have testimony from the Scriptures about natural law, which is the divine law. . . . Since therefore nature truly is the work of God, it is consistent both that these natural conceptions of right and wrong acts are the work of God, . . . and, because these divine conceptions are put into us and agree with the Decalogue, juris consults rightly call the law of nature the divine law; thus whoever violates the law of nature

---

<sup>56</sup>Ibid.

<sup>57</sup>I have not been able to establish if Melanchthon means Aquinas by "most erudite." In any case, the two definitely divide over the question of conscience, and the related question of the continuous revelation of natural law. On this latter point, Melanchthon is much closer to the nominalists and Scotus than to Aquinas: natural law is dependent on God's will and revelation, not on a given moral order. On the former, they agree on the existence of conscience, but Melanchthon's quotation marks around the word suggest that he does not consider it a universal phenomenon, or at least not a sufficient guide to conduct to bring salvation. Aquinas does consider conscience a sufficient moral governor. In his Romans commentary, he calls the testimony of conscience "one of the works of the law, which is nothing else than the application of the habit of cognition to the judging whether a certain act may be well or badly done." Now this is impossible, unless the Gentiles first have a knowledge of the law, since conscience cannot operate "without a knowledge of the law." The same is true for the second action of conscience, "accusatio et defensio," which also produces a "testimonium conscientiae," likewise an act of cognition. Thus given a rational, immutable natural law, man can hook himself up to it by means of his innate cognitive faculty of judgment, exercised in the act of conscience. Thomas Aquinas, In epistolam ad Romanos, in Opera Omnia, ed. by S. E. Fretté (Paris: Louis Vives, 1876), p. 418.

sins mortally, just as they sin mortally who violate divine law.<sup>58</sup>

In this passage Melanchthon does talk of natural as divine law, but he clearly means that the former is subordinate to the latter. The crucial point is that natural law is not enough, salvation is not a matter of fulfilling the law with the aid of the Holy Spirit, as Augustine had thought.

Paul, however, understood "nature" [as] concerning natural concepts and teaching, and when he said "They fulfilled the Law," he spoke correctly, because certainly external works of the law or civil works may be understood and done by natural men. . . . [But] he does not say that they are justified by the [natural or Mosaic] law coram Deo. . . . The conclusion is that external observances do not merit remission of sins.<sup>59</sup>

This is exactly the position Melanchthon had taken in the Augsburg Confession (1530). Melanchthon defines natural law in Romans 14 as "That ordination of nature itself, divinely instituted" or as "natural reason which governs the whole of politic life," and which has not been abrogated by the Gospel.<sup>60</sup>

Thus, whatever Melanchthon may say about natural law in 1532, it will be observed that he is at one with Luther in his view of the relatively minor importance of this law. At least through 1535, it is equally insufficient for both: it cannot contribute to justification. Natural law is the "natural knowledge" of God telling men what He is, what is good, what just, that God punishes the impious, and will exalt those who obey the law.

---

<sup>58</sup> Philip Melanchthon, Commentarii in epistolam Pauli ad Romanos (1532), Melanchthons Werke in Auswahl, 5, ed. by Gerhard Ebeling and Rolf Schaefer (Guetersloh: Gerd Mohn, 1965), 85.

<sup>59</sup> Ibid., p. 86.

<sup>60</sup> Ibid., p. 337.



Now this is the apprehension of God which men have naturally, which is an apprehension of the law, not of the Gospel. Thus men cannot establish through natural reason alone that God wants to remit sins, that he wants to reconcile the unworthy and worldly, that he reputes grace to the just, just as much as to the worldly. This is not a natural apprehension, but is revealed in the Gospel.<sup>61</sup>

Here can be understood what kind of apprehension of good natural reason has. It has the sort of the law, not of the Gospel, just as we test in our own struggle of conscience, where the Gospel fights most sharply with natural apprehension and apprehension of the law.<sup>62</sup>

But even this limited apprehension, as in the Loci 1521, is partly obscured by original sin, and so weak is human nature "that it cannot constantly assent to this apprehension," which in any case is only possible because God constantly puts it into the minds of men, a position also consistent with the necessity of continuous revelation in the Loci 1521.<sup>63</sup>

Given Melanchthon's rather poor opinion of natural law, it is time to hazard a comparison with Starkey's conception as it appears in the Dialogue.<sup>64</sup> The law of nature is an "inclination and rule of living"

---

<sup>61</sup>Ibid., p. 70.

<sup>62</sup>Ibid., p. 71.

<sup>63</sup>Ibid., pp. 74, 72.

<sup>64</sup>The Dialogue has been variously dated from 1538 (Herrtage) to 1535-6 (Gee), 1536 (Caspari), and late 1533-34 (Elton). Since Elton is the only one of these to have worked with the manuscript, I will give some consideration to his dating. He finds three breaks in the text, in Burton's edition at 134, 183, and from there to the end. He admits that the reference to Erasmus' "Book of the Preacher," apparently his Ecclesiasticus, which appeared in August, 1535, seems to date the last, very short, section after that. The rest of the work though must have been composed by the end of 1534, since Starkey proposes various reforms which were dealt with by legislation in that year. Using a reference to Sadoleto's De liberis in the second section, which was printed at Venice in 1533, Elton dates the first section later 1532, and the second sometime in 1533. G. R. Elton, "Reform by Statute: Thomas Starkey's Dialogue and Thomas Cromwell's Policy," Proceedings of the British Academy, 54 (1968), 165-188, 169. (It should be noted that Starkey must have known about the book, written in 1530, before it was published,

since Pole took a copy with him to Padua in early 1532, and Starkey stayed in Sadoletto's household in that period.) It seems possible that if another work of Erasmus had been meant, or if Starkey had advance (and premature) notice of its publication, then the whole of the Dialogue could have been finished in 1533. Erasmus worked on de ratione concionandi for twelve years, and was periodically announcing its imminent completion to various intimates. Could he have done so to, say Sadoletto, and Starkey have picked up his misinformation from him? One thing which suggests that this may have been the case is Starkey's call, also in this last section, for an English translation of Erasmus' Enchiridion. Tyndale produced one in 1533. Did Starkey not know about it, was he ignoring a heretic, or did he write before that?

One other important presumption points to an early date of composition, and that is the nature of the work. It has always been assumed that it was addressed to Henry VIII and was designed to secure advancement for Starkey. The text itself does not bear out this interpretation. The Dialogue is addressed, unquestionably, to Reginald Pole, and is of a pronounced occasional nature. The whole of the first part is an attempt by Lupset (died 1530) to persuade Pole to accept high office in England. Now we know he refused the Archbishopric of York in 1529, but there was another office open both in that year, and again in 1532—Lord Chancellor. It seems unlikely that Starkey would have used the first "occasion" to urge Pole to take up high office, but the second may have been too strong a temptation. Lupset urges Pole several times, in all three sections, not to "let this occasion slip" (190), and to have a proper regard to "time and place" (36), especially since the king has assembled Parliament for reformation of abuses (39). "Let not occasion slip; suffer not your time vainly to pass, which without recovery fleeth away: for, as they say, occasion and time will never be returned again. Therefore, as I have said before, . . . look to that which is above all your office and duty" (39). The conclusion of the Dialogue is a real exordium to Pole to act, and act quickly.

Another curiosity has already been mentioned: the persona of Thomas Lupset. Why use a dead man as interlocutor, especially considering the gravity of his function? Is Starkey recalling, very shortly thereafter, a real meeting between Pole and Lupset, in 1529? Might the Dialogue almost have been constructed from stenographic notes?

There is another bit of evidence which seems to support as early a date as 1529-30 for the beginning of the Dialogue: the terms Starkey uses to describe the state of the highest officers of the commonwealth. "As, to the head . . . I resembled the officers and rulers in every commonwealth, in whose fault to see here in our country it is nothing hard. . . . lucre and affection ruleth all therein [the law]. . . . in the head of this commonwealth there is reigning a great disease the which . . . may well be compared to a frenzy" (86-7). These are highly unflattering terms. Would Starkey have used them of More as Lord Chancellor? What about of Wolsey, universally unpopular at his fall in 1529? This latter seems very probable, especially in connection with emphasis on the assembly of Parliament, which could only be the Reformation Parliament, which met off and on from 1529 to 1536, but would only have been "assembled" in the earlier year, since it had a

u  
t  
t  
w  
t  
H  
h

5

Lu

to the civil life, motivated by a "great and continued grudge of conscience inwardly," which is universally applicable.<sup>65</sup> Nature by itself is not enough to guide human conduct; it "requireth the aid and diligence of man" by which civil laws will be instituted "as means to bring man to the perfection of the civil life."<sup>66</sup> These civil laws must be "resolved" to the law of nature or they are "of no value,"<sup>67</sup> and they must also not be contrary to the "law of God."<sup>68</sup> But this last is not very important since the keeping of the civil law is the keeping of natural law, and "everyone in his sect to be saved." Thus the following of the natural law may be enough for salvation.

The most part of them never [have] . . . heard of the law of Christ, wherefore, so long as they live after the law of nature, observing their civil ordinances as means to bring them to the end of the same, they shall not be damned. . . . But whether it be so

---

continuous life thereafter.

Thus, I would tentatively suggest that the Dialogue may have been begun sometime in 1529 (during the retreat at Sheen?—a definite "occasion"), substantially finished then, and picked up again in 1532 when another vacancy in the "head" gave Pole one more chance at serving his country. At most, a handful of pages at the end may have been added as late as 1535. Even this seems unlikely, especially if Starkey did intend some domestic use of the Dialogue, which contains some criticism, e.g. of unfitting music, not to mention the "frenzy" in the head, or the elective Kingship, or the Constable, which might not have appeared flattering to either Henry or Cromwell. If my interpretation is correct, and Starkey was assiduously trying to push Pole into high office, it becomes easier to understand his bitter disappointment when Pole turned against Henry. He would not have been the first press agent who had grand designs for himself and his patron.

I think a dating something like this is also borne out by the content as I have pointed out in the text.

<sup>65</sup> Thomas Starkey, A Dialogue Between Reginald Pole and Thomas Lupset, ed. by Kathleen M. Burton (London: Chatto and Windus, 1948), p. 31.

<sup>66</sup> Ibid., p. 32.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid., p. 33.



or not, let us, after the mind of Sain [sic] Paul, leave this to the secret judgment of God.<sup>69</sup>

This last could be very significant, since the reference would appear to be to Romans 2.14, for the "mind of Sain Paul." If so, Starkey gives an interpretation widely at variance with Melanchthon's, but very close to that of Aquinas.<sup>70</sup>

Starkey seems not to be entirely secure with this formulation, however, and lest there be any doubt about the salvation of Christians he continues

And of this be assured, of this be certain, that our laws and ordinances be agreeable to the law of nature, seeing they are all laid by Christ Himself and by His Holy Spirit. We are sure they shall bring us to our salvation if we give perfit [sic] faith and sure trust to the promise of God in them to us made . . . let us be assured that our laws, by Christ the Son of God and by His Holy Spirit increased and confirmed, shall bring us to such perfection as accordeth to the dignity of the nature of man.<sup>71</sup>

This is all Starkey has to say about the law of nature. He does not discuss the matter in the Exhortation, nor does he speak in the Dialogue specifically of ecclesiastical traditions as legal enactments. In short, Starkey will not be seen "in the classical tradition" or in

<sup>69</sup>Ibid., p. 35.

<sup>70</sup>In his Romans commentary, Aquinas says to c. 2.14, "ipsi sibi sunt lex," "and this is the highest grade of dignity in men, that is, not by others, but by themselves to be led to the good." To "naturaliter faciunt quae sunt opus legis," "i.e. what the law demands, in other words moral precepts, which are according to the dictates of natural reason." Aquinas is aware that this may sound like Pelagius "who, they say, thought that man could serve all the precepts of the law through his own nature." This, he explains, means "nature" as "reformed by grace." "Thus he [Paul] speaks of Gentiles converted to the faith, who by the aid of Christ's grace can serve the moral precepts of the law. Or it can be said, 'naturaliter,' i.e. through the natural law extended to them." Aquinas does not deny that grace is necessary, only that it is much less so than Melanchthon would have argued.

<sup>71</sup>Ibid.

any other way "to have drawn precedent from the law of nature" for his idea of indifferent things, except by a conflation of the Dialogue and Exhortation. This seems extremely dangerous, since it seems possible to argue for the same kind of shift from humanism to "reaction" between the two as some scholars have detected in More from Utopia to the anti-heresy writings. It is very likely that this difference derives from the different audiences to which the two tracts were addressed, which would also find a parallel in More, Utopia to the litterati, the anti-heresy pieces to "simplicibus et idiotis hominibus." Further, it seems that Starkey's religious outlook in the last section of the Dialogue carries over into the Exhortation. It may also be that his basically Platonic idea of the commonwealth including the subjection of the subditi to the virtue (power) of their masters, which in the Dialogue was directly at variance with an Aristotelian political science, may simply have come to be his exclusive viewpoint by the time of the Exhortation.

In short, Zeeveld's understanding of natural law seems hopelessly confused. I think I have demonstrated his mishandling of natural law and its "tradition" in all particulars, from Aquinas, to Melanchthon, to Starkey. One last point remains. Melanchthon never called the "vast range of human laws" adiaphora. They were only one of three sorts of human traditions which "we call not the edicts of civil magistrates, but the ceremonies in the church, instituted by men, not commanded by the express word of God."<sup>72</sup>

The idea of things indifferent was also far from being the extraordinary thing Zeeveld made it appear. It had both a long tradition and

---

<sup>72</sup>Loci 1535, CR 21, col. 510.

extensive contemporary usage. It was, to put it simply, a locus communis philosophiae. It is unnecessary to trace the idea to its origins. This has been done by several scholars, notably Johannes Stelzenberger for the classical period,<sup>73</sup> and Bernard Verkamp for some aspects of the intervening period.<sup>74</sup> It is not that Zeeveld was not aware of some of this, e.g. the usage of Augustine's letter to Januarius, which seems to have been one of the principal channels of diffusion, Gerson, Hus, Gansfort. But he was not aware of the necessity of distinguishing carefully between the various uses of the term. There were at least two different philosophic ones among the Greeks: rarely, true matters of indifference; and, in the later Stoa and Cicero, "preferred indifferents." The former conception seems to have been revived by the sixteenth century. Further, there were at least three religious senses, principally building on the second philosophical sense, but as applied only to ceremonies in the church. First, the most common usage before the sixteenth century, these should not matter, therefore they ought to be allowed in order to preserve Christian unity. Second, again, these should not matter, but there should be a principle of liberty in their use in order to save believers pains of conscience, but without scandal to the rest of the church. This is more or less the position of the "magisterial" reformers, also. Last, these ceremonies do matter, because they are "non expresso verbo Dei mandata," and are therefore to be

---

<sup>73</sup>Johannes Stelzenberger, "Adiaphora," Reallexikon fuer Antike und Christentum, edited by Theodor Klauser. V. 1, cols. 83-87. Stuttgart: Hiersemann, 1950.

<sup>74</sup>Bernard J. Verkamp, "The Zwinglians and Adiaphorism," Church History, 41, #4 (December, 1973), 486-504. I owe the inspiration and much of the material in this section to this article, especially the brief essay on the history of the term, 486, n. 1.

abolished without regard to scandal. This is more or less the position of many English Puritans.

All these uses agree that in the determination of things indifferent, the end is to be considered. Therefore it is not enough merely to describe something as "indifferent" without asking why this is so, and more importantly, what conclusions are to be drawn from the designation. In other words, words have meanings and cannot be treated as if they are all the same. Identity of name is hardly a certain proof of identity of substance. This, I think, is the trap into which Zeeveld fell.

To go back to our survey. Before the sixteenth century and after Cicero, I have found no use of the Greek term *adiaphora*. Thus it is possible that Melanchthon introduced the usage, which is not found in Starkey, not that it would be expected in a popular tract, although Melanchthon used it in the Apology for the Augsburg Confession.<sup>75</sup> In the classical period, one of the chief exponents of the adiaphoron was Cicero, especially in his De finibus bonorum et malorum. "Thus we define what is indifferent with the estimation of the middle; that they call *adiaphoron*, it occurs to me may be called indifferent." In other words, those things which while not necessary to human felicity, are

---

<sup>75</sup>The word adiaphoro (in the dative) does appear in a note to what is apparently a draft of a letter from Starkey to Pole. The note is dated January 12, 1537 (1536?) "Colleus presens cum polo cum scripsit librum confessus est mihi coram morisono se audivisse sepius ab eo, quod eo tempore cum primum scribere cepit iussus a rege, auctoritatem pontificis pro constitutione humana et pro *adiaphoro* habuit. . . ." Quoted in S. J. Herrtage, ed., England in the Reign of King Henry the Eighth, Part I, Starkey's Life and Letters (London: Oxford University Press, 1927), xxxviii. Thus this usage could be an important instance of the necessity of modification of my views on the basis of epistolary evidence. On the other hand, if, as I suggest, Cicero is the source of the sixteenth century use of adiaphoron, then Starkey could as well have gotten the word from him as from Melanchthon. Also, the basic difference in their uses of the term comes through here, since "adiaphoron" is coupled with "human constitution."

nonetheless to be preferred.<sup>76</sup> Further,

There is something probable (plausible) in these things, and anyone can render a reason for them; therefore, in order that a more probable reason can be offered for an act, it is our duty that [an act] be done in such a way that a probable reason can be given for it; from which the obligation in media (middle things) is to be understood to be that which is placed neither in good acts nor in the contraries. Wherefore in these things which are neither among virtues nor vices, and which yet have a use, [the obligation] is not to be abolished.<sup>77</sup>

Cicero's usage could be very important, since De finibus may have been widely recommended in the sixteenth century. Vives recommended it highly as an ethical treatise.<sup>78</sup> There is at least the possibility that Cicero could be the source of the revived interest in the idea of the adiaphoron. The dissemination of the Academica and its impact on skepticism has been studied, and Schmitt finds this treatise to have been tremendously popular.<sup>79</sup> There is no comparable study of De finibus. In any event, the adiaphoron of classical usage is much closer to Starkey's than to Melanchthon's meaning.

Although other fathers dealt with the concept, it received its most influential presentation in one of Augustine's letters to Januarius. "Other [customs] truly vary through places and regions of the earth . . . the whole of this genus has free observation. . . . Whatever is

---

<sup>76</sup>Marcus Tullius Cicero, De finibus bonorum et malorum, with an English translation by H. Rackham (London: William Heinemann, 1931), 3. 16. 53., 272. Rackham's translation is very free; in keeping with my attempt to produce very literal renditions, the translation given in the text is mine.

<sup>77</sup>Ibid., 3. 17. 58., 276.

<sup>78</sup>Foster Watson, ed., Vives on Education: A Translation of De tradendis disciplinis of Juan Luis Vives (Cambridge: At the University Press, 1913), p. 253.

<sup>79</sup>Charles B. Schmitt, Cicero Scepticus: A Study of the Influence of the Academica in the Renaissance (The Hague: Martinus Nijhoff, 1972).

demonstrated to be neither against the faith, nor against good mores, is to be held indifferently."<sup>80</sup>

In the conclusion of this letter Augustine hedges on "free observation."

. . . if authority prescribes [something] of the holy scriptures, it is not to be doubted that we ought so to do. . . . Similarly, besides, if the church makes frequent use of some of these throughout the whole world, now and here let it be so done, to dispute is the highest insolence of insanity.<sup>81</sup>

It will be noted that Augustine leaves the final determination of ceremonies up to the Church, again a usage much closer to Starkey's than Melanchthon's.

Building on Augustine, the establishment of what I will call the "normative" Catholic interpretation began in the twelfth century. Bernard of Clairvaux, in one of his letters to the renegade monk, Adam wrote:

Furthermore, between these [good and bad] are certain media, which for the manner, place, time or person, can be both evil, and good: and in these the law of obedience has been laid down, just as in the tree of the knowledge of good and evil which was in the middle of paradise. Neither a command nor a prohibition laid down by a prelate in media ought to be contemned.<sup>82</sup>

According to Verkamp this interpretation was "widely held,"<sup>83</sup> but he does not discuss one of the most important places where a similar view is found: the Decretum of Gratian.

<sup>80</sup> Aurelius Augustinus, Ad inquisitiones Januarii, I, in Patrologia Latina, ed. by J. P. Migne et al. (Paris: Garnier Bros., 1902), 33, col. 199. Hereafter PL.

<sup>81</sup> Ibid., col. 202.

<sup>82</sup> Jan Hus, Tractatus de ecclesia, ed. by S. Harrison Thomson (University of Colorado Press and Cambridge: W. Heffer and Sons, 1956), pp. 174-75.

<sup>83</sup> Verkamp, "Zwinglians," p. 502.

In his study of Gratian's ecclesiology, Stanley Chodorow deals with the question of obedience in the Decretum, as well as in several of Gratian's contemporaries, including Bernard. He notes that Bernard's view limited absolute obedience strictly to media, though he "recommended" that evil commands also be obeyed.<sup>84</sup> Similar ideas also appear in Gerhoh of Reichersberg, Peter Lombard and Hugh of St. Victor, across the spectrum of twelfth century theologians.

According to Chodorow, Gratian's theory of obedience was concerned with communal stability and the sin of pride. "The idea that underlies Gratian's doctrine of obedience is that the justice or injustice of a sentence is a secondary consideration. . . ."<sup>85</sup> In the Decretum I, D. 12, c. 4, he says "Consuetudines, que fidei non offitiunt, ut a maioribus traditae sunt, observentur." In c. 11, Gratian quotes Augustine in the canon heading "Quod neque contra fidem, neque contra bonos mores convincitur, indifferenter habendum," and follows this with a long excerpt from the letter to Januarius. In his dictum, Gratian modifies this view. "Thus this is to be understood of that custom, which either the use of the universal Church, or the length of time has strengthened. For the rest, if various customs are introduced because of the variety of times or souls, at [each] new opportunity, they are much more to be restrained than observed."<sup>86</sup> Still, the groundwork for a position

---

<sup>84</sup> Stanley Chodorow, Christian Political Theory and Church Politics in the Mid-Twelfth Century: The Ecclesiology of Gratian's Decretum (Berkeley: University of California Press, 1972), p. 115.

<sup>85</sup> Ibid., pp. 117, 123, quote at 122.

<sup>86</sup> Gratian, Decretum, Dist. 12, canons 4 and 11, in Corpus Iuris Canonici, ed. by Emil Friedberg (Graz: Akademische Druck- & Verlagsanstalt, 1955; reprint of 1879 edition), I, 28, 30.

identical to Starkey's had been laid and would become normative in the Church, different only in the final locus of the authority of determination.

In the first part of the thirteenth century, Innocent III took these various strands and constructed an all-embracing theory of obedience, for the moment even against the dictates of conscience, the idea of which was still something of a foreign body. In one of his decretal letters, Innocent took Romans 14.23 ("Omne quod non est ex fide peccatum est") as his text, but he also adopted the words of the Gloss "and whatever may be against conscience<sup>87</sup> stores up damnation" and then uses these two ideas combined with that of noncontradiction of divine precepts to found a claim of unlimited obedience, "humiliter."<sup>88</sup> As we have seen, obedience is nothing new, even in a virtually unlimited sense. What does seem to be new is the contention that an internal something (to try at this point to be more precise on Innocent's usage of conscientia would be presumptuous) also acts to determine an individual's actions, and that this something is amenable to outside control in order to bring the individual to act along lines laid down by the Church. In short, all Starkey had to do was to transfer this system to the state. As he concluded his Exhortation

---

<sup>87</sup>I am uncertain exactly what this word means here. By the sixteenth century conscience had become an "organ" of the human psyche, somehow responsible for moral judgment. It also retained much of its old meaning of consciousness. I suspect that this is principally the meaning for Innocent. The Latin, of course, is conscientia. Innocent's usage is from the Gloss to Rom. 14.23.

<sup>88</sup>Decretals of Gregory IX, Bk. 2, 13, 13 (Friedberg, op. cit., 287). A position exactly like Starkey's on conscience, indifferents and the precept of a superior became standard in the thirteenth century among theologians. See Odon Lottin, "Le valeur obligatoire de la conscience aux XIIe et XIIIe siècles," in Lottin, Le Psychologie et Morale aux XIIe aux XIIIe Siècles (Louvain: Abbaye du Mont Cesar, 1948), 2, 353-406, especially 381ff. for Gauthier de Chateau-Thierry.



You that be unlearned and ignorant, not having your conscience formed with light and knowledge, you I say are bounden by the law of God thereto of heart to give obedience, the which shall be to you ever a just defense. . . . For you that be unlearned are not bounden to search with curiosity the controversy of laws, but ever in all such as be not plain and evidently contrary to gods [sic] commandments, you are bounden to confer your judgments to theirs, which be in authority.<sup>89</sup>

I do not mean to suggest that Starkey took Innocent for his exemplar. The vagaries of this doctrine of obedience in media could be traced through canonists and theologians down to the sixteenth century, and, if anything, would probably be found to have reached even more extreme expression.

I have only one piece of evidence for the later application of this theory, specifically Bernard's. It was used by the theological faculty of Prague in its condemnation of Hus (1413).

According to the evangelical teaching and the apostolic, and that of the holy doctors, [it is the case] that the apostolic see, the Roman Church, and prelates are to be obeyed by their inferiors in all cases whatsoever, where a pure good is not prohibited, nor a pure evil prescribed, but in the middle thing, which for the manner, place, time or person can be good or evil.

The last sentence is an approximate quotation of Bernard. Then other authorities are cited, including Augustine, before the faculty concludes "whence obedience is much better than all the other moral virtues."<sup>90</sup>

Hus had argued in his De Ecclesia, building on Aristotle's

Ethics, II:

And the folly of those superiors to oblige the community to a singular degree in this manner, when according to the diversity of times, infirmity and health, youth and age, hot and cold, may in the same person be varied, how much the more in the community ought diverse

---

<sup>89</sup>Starkey, An Exhortation to the People instructynge theym to unitie & obedience (London: Thomas Berthelet [1540?]); STC #23236.

<sup>90</sup>Franciscus Palacky, ed., Documenta Magistri Joannis Hus (Osnabrueck: Biblio-Verlag, 1966). p. 478.

media to be adapted to disparate persons, according to Aristotle.<sup>91</sup>

Even so for Hus there are no true indifferents; he employs the third religious sense. He quotes Bernard's letter to Adam, and continues

But a neutral work is said to be a work which no more inclines a man to judgment, which may be no more good than bad, and not the contrary. . . . When a work simply good holds the first place, an act generically good the place as if a middle thing, and a neutral work the lowest place. . . . Besides, a neutral act is called that which no more declines from virtue than to vice, or contrariwise.

But since man has no choice of virtue or vice, in grace or out, therefore "no activity of man can be neutral."<sup>92</sup> He concludes, "Even more are we obligated to obey Paul and whatever authors of divine scripture than the Roman pontiff in mediate (indifferent) or neutral works."<sup>93</sup>

This same interpretation of obligation "in rebus neutris" was adopted by Wessel Gansfort, and used in the same way against the prelates.<sup>94</sup>

Jean Gerson discusses the problem of human traditions, but under the principle of epieikeia (see below), and in terms of a general legal theory. I found no usage in him of *adiaphora*, or any close equivalent.

A brief glance at the philosophical usage in the Middle Ages may be useful, since it seems so close to Starkey's. Aquinas, in his literal commentary on the Nichomachean Ethics, Book V, c. 7 says "he says that that justice is called legal which in the beginning, i.e. before it became law, is indifferent whether something is done in this way or that, but when it is laid down, i.e. enacted into law, then a difference arises because

---

<sup>91</sup>Hus, op. cit., p. 187.

<sup>92</sup>Ibid., pp. 175-76.

<sup>93</sup>Ibid., p. 177.

<sup>94</sup>Wessel Gansforth, Opera (Nieuwkoop: Bede Graaf, 1966: facsimile of Groningen ed., 1614), p. 756.

observing it is just, disregarding it is unjust."<sup>95</sup> This idea is taken over into the Summa. "Some acts are generically indifferent, and in respect of these the law permits; and all acts that are either not distinctly bad may be called indifferent. And it is the fear of punishment that law makes use of in order to ensure obedience."<sup>96</sup>

Aquinas expands his discussion in Ia IIae, question 95, article 2, reply to objection 1 that "it would seem that not every human law is derived from the natural law. For the Philosopher says that 'the legal just is that which originally was a matter of indifference.'" After noting the two means of derivation of positive from natural law discussed above, he maintains that

The Philosopher is speaking of those enactments which are by way of determination or specification of the precepts of the natural law. This argument avails for those things that are derived from the natural law, by way of conclusions. The general principles of the natural law cannot be applied to all men in the same way, on account of the great variety of human affairs, and hence arises the diversity of positive laws among various peoples.<sup>97</sup>

The notion of indifferents has been somewhat buried here; it would seem not to have been terribly important to Aquinas, given his insistence on intrinsic morality, i.e. the existence of an objective, rational moral order.

After playing a role in the twelfth and thirteenth century debate over "intrinsic morality"<sup>98</sup> both before and after Aquinas (e.g. Duns Scotus), I have next found the idea in Reginald Pecock, in both his

---

<sup>95</sup>Thomas Aquinas, Commentary on the Nichomachaen Ethics, trans. by C. I. Litzinger (Chicago: Henry Regnery, 1964), p. 442.

<sup>96</sup>Bigongiari, op. cit., p. 27.

<sup>97</sup>Ibid., pp. 57-59.

<sup>98</sup>Lottin, "Le problème de la moralité intrinsèque d'Abélard à Saint Thomas d'Aquin," op. cit., II, 421-65.

Donet, according to the Middle English Dictionary,<sup>99</sup> and in his Repressor of Overmuch Blaming of the Clergy.

The ninth rule or supposition is this: Each double thing belonging to moral conversation, which thing doom of reason or ground of faith approveth, is lawful . . . and each double thing done in moral conversation, which thing doom of reason or ground of faith reproveth, is unlawful . . . and each such double thing, which neither doom of reason neither ground of faith, approveth nor reproveth, is in it self neither lawful nor unlawful. . . . The 10th rule . . .: all double things which in proper manner now before set is neither lawful neither unlawful, and namely (namelich) if it be unlawful, not may and is woned [sic] conveniently enough as in as a larger speech to be said and called lawful . . . and so all such thing is woned to be called lawful, though not so properly as it is lawful which doom of reason or ground of faith approveth.<sup>100</sup>

The significance of this passage for Starkey's later experience is heightened when it is recalled that Pecock wrote the Repressor against the Lollards.

But it was only in sixteenth century England, as Verkamp has noted, that "the theory of adiaphorism came to be applied to the realm of doctrine."<sup>101</sup> But not only doctrine. The first philosophical sense of a true indifferent is found in Thomas Lupset's Treatise of Dying Well. "By itself death remaineth indifferent to be judged of diverse considerations, either a good end or an evil end."<sup>102</sup> It seems likely that further investigation of the ars moriendi literature might yield more examples.

In religious controversy, adiaphora had an important place. It was

---

<sup>99</sup>Reginald Pecock, Donet, quoted in Middle English Dictionary, ed. by Hans Kurath and Sherman M. Kuhn (Ann Arbor: University of Michigan Press, 1958).

<sup>100</sup>Reginald Pecock, The Repressor of Overmuch Blaming of the Clergy, ed. by Churchill Babington, Rolls Series, #19 (London: Longman, Green, Longman, and Roberts, 1860), v. 1, 135-36.

<sup>101</sup>Bernard J. Verkamp, "The Limits upon Adiaphoristic Freedom: Luther and Melancthon," Theological Studies, 36, #1 (March, 1975), 52-76, 56n.

<sup>102</sup>Thomas Lupset, A compendious and a very fruteful treatyse, teachyng the waye of dyenge well written to a frende, in John Archer Gee, The Life and Works of Thomas Lupset with a Critical Text of the Original Treatises and the Letters. (New Haven: Yale University Press, 1928).

used by the reformers in the second religious sense as a remedy for the evil of "superfluity," in the hope of reducing ecclesiastical ceremonies and heightening Christian liberty, while not disrupting continuity or public peace.<sup>103</sup>

It was used in this way by John Colet, not necessarily a Reformer, who emphasized the necessity of charity. In his first commentary on Romans 14 he said "And what this end and intention is, and in what manner each one is acting (in what may be done without danger as things indifferent—quae indifferenter agi possunt) is not for us to judge, but for God alone; for we are his servants, and do all in good faith as serving him."<sup>104</sup>

John Frith places a much heavier emphasis on the necessity of freedom in indifferents. In his Mirror of Baptism (1533) he attacks those who

are self-willed and obstinate, which put confidence in such indifferent things [i.e. ceremonies]. For I think them not needful unto salvation. . . . Wherefore we may conclude that all these things are but ceremonies that is to say exterior things which make Baptism neither the better nor worse of a mite, thus say I not to have these ceremonies that want judgment, disannulled which are not poisons to our faith, for fear of offending the weak but only that thou mayest know how to use them, as indifferent and to put no confidence in them. For then should they hurt and unquiet our conscience.<sup>105</sup>

Or as Frith explained in his apologia for his execution, "The cause why I die . . . is this: for that I cannot agree with the divines and other learned prelates, that it [transsubstantiation] should be necessarily determined to be an article of faith. . . . For there are many

---

<sup>103</sup>Verkamp, "Zwinglians," p. 488.

<sup>104</sup>John Colet, Enarratio in epistolam S. Pauli ad Romanos, Latin text with translation by J. H. Lupton (London: 1873; reprinted Ridge-wood, N. J.: The Gregg Press, 1965), p. 107. Latin text at 210. I have used Lupton's translation.

<sup>105</sup>John Frith, A myrroure or lokynge glasse wherin you may beholde the sacramente of baptisme described (London: John Daye [1533]; STC #11, 391), f. cii, ciii.

things both in the Scripture and other places, which we are not bound of necessity to believe as articles of faith."<sup>106</sup> Frith describes the pope as an enemy of Christian liberty because he compels "men against their wills to do the works which he commandeth them, through the which tyranny he is the author of many sins, because the works are done of no glad mind."<sup>107</sup>

Frith's stance is especially important because of his links with Lollardy. "Not to be dismissed lightly is the relationship between Frith's concern to distinguish essential beliefs from non-essential doctrinal opinion . . . and his contact with the late Lollard emphasis upon conscientious adherence to biblical doctrine alone."<sup>108</sup>

Zwingli, who is another important influence on Frith, made use of adiaphora in the second religious sense, at least according to Verkamp. In a sermon of 1522, discussing the classic case of Christian liberty with regard to food, Zwingli introduced a "heathen" argument from Aristotle to buttress his case: "mittel" things (media) are permitted. He repeats this usage in other places, e.g. his commentary on Romans and a treatise on baptism."<sup>109</sup>

In his early career Robert Barnes followed a line much like Frith's. In the 1531 version of his Supplication to Henry VIII he maintains

The other manner of statutes be when certain things that be called indifferent be commanded as things to be done of necessity under the pains of bodily sins as for example to eat flesh or fish this day or that day is indifferent and free. . . . Now if the bishops shall

---

<sup>106</sup>David Broughton Knox, The Doctrine of Faith in the Reign of Henry VIII (London: James Clarke & Co., 1961), p. 49.

<sup>107</sup>Ibid., p. 55.

<sup>108</sup>William A. Clebsch, England's Earliest Protestants 1520-1535 (New Haven: Yale University Press, 1964), p. 136.

<sup>109</sup>Verkamp, "Zwinglians," p. 492n. Both these appeared in 1522.

make any law or statute that these things shall be determinately used . . . here must be they withstood and in no wise obeyed for in this is hurt our faith and liberty of Christendom whereby we are free and not bound . . . except it be in such a case whereas brotherly charity or the common peace be offended.<sup>110</sup>

Barnes cites as authorities Paul and Augustine, but, while this is definitely the Lutheran position, neither Luther nor Melancthon is cited in the quite extensive Table of Authorities. Unfortunately, I have not been able to see a copy of Barnes' Wittenberg dissertation, on which the Supplication is based, and which may indeed contain passages from the two Germans.

Barnes specifically addresses the question of civil obedience in in-differents, and again follows the Lutheran line. As Clebsch observes, "Adiaphora commanded as necessary should be disavowed, not because such things were evil, but only because it was damnable to perform them as necessary. . . . So that Christian men are bound to obey in suffering the king's tyranny but not in consenting to his unlawful commandments."<sup>111</sup>

More important to the development of the "Anglican polity," the first religious sense was also represented, this time in positions of power, especially Archbishop Cranmer, who clearly acted as official apologist. In his speech on general councils, delivered sometime in November or December, 1534, and extant only in a secretary's summary transcription, he said,

The power of councils did not extend to prince's dominions, or secular matters, but only to points of faith, which they were to declare, and to condemn heretics; nor were their decrees law, till they were enacted by princes. . . . The determination of councils

---

<sup>110</sup> Robert Barnes, A Supplicatyon made by Robert Barnes doctoure in divinite unto the most excellent and redoubted prince kinge henrye the eyghth (printed at Strassburg, 1554), f. cxxa-cxxb.

<sup>111</sup> Clebsch, op. cit., p. 63, quoting the 1531 Supplication of Barnes. Emphasis added.

ought to be well considered and examined by Scripture; and in matters indifferent, men ought to be left their freedom.<sup>112</sup>

Thus, apparently acting on his own, Cranmer hewed the freedom line, but determination by the prince has been made the only effective standard.

In a sermon on ceremonies delivered at Canterbury on the instructions of Henry VIII, he amplified this position. Again, this sermon is extant only in transcript, and I reproduce Strype's summary. He

inveighed against the Bishop of Rome's laws: which were miscalled divinae leges. . . . He said, that those of his laws which were good, the King had commanded to be observed: and so they were to be kept, out of obedience to him. And here he descended to speak of the ceremonies of the Church: that they ought not to be rejected, nor yet to be observed with the opinion, that of themselves they make men holy . . . but that they were observed for a common commodity, and for good order and quietness, as the common laws of the kingdom were. And for this cause, ceremonies were instituted in the Church, and for a remembrance of many good things; as the King's laws dispose men unto justice and unto peace. And therefore he made it a general rule that ceremonies were to be observed as the laws of the land were.<sup>113</sup>

Cranmer's own report on his performance to Henry contains the same substance, concluding "and even so [as ceremonies in the Church] do the laws of your Grace's realm dispose men unto justice, to peace, and other true and perfect holiness."<sup>114</sup>

Cranmer also had a hand in Gardiner's De vera obedientia, in which the bishop of Winchester claims that Christ's vicar will obey the princes, if he will discharge his office properly, and will "acknowledge it [his subjection] not only when they order something aequa (this could mean approximately indifferent, and was so translated by John Bale), and

---

<sup>112</sup>The Works of Thomas Cranmer, Introduction by J. T. Parker, ed. by G. E. Duffield (Philadelphia: Fortress Press, 1965), p. 15.

<sup>113</sup>Strype, op. cit., p. 43.

<sup>114</sup>Ibid., Appendix to v. 2, 696, 698.



easily observed,"<sup>115</sup> but in anything whatsoever. Gardiner acknowledged Cranmer's help in a letter to Cromwell: "I will . . . add a good portion . . . as I devised with my lord of Canterbury to do."<sup>116</sup>

Starkey's usage in the Exhortation differs from the earlier one of Cranmer, and the contemporary one of Gardiner in only one particular: he makes explicit that civil ordinances about ceremonies bind in conscience. His purpose in the introduction of indifferents is to allow civil enforcement, not protect Christian liberty.

Such things, to the which we owe our obedience, and are bounden unto, other by gods word, general council, or prince's authority, be of three sorts . . . for either they be of their own nature, good and profitable: or contrary, by nature ill and damnable, or else indifferent, which of themselves be neither good nor evil. . . .

Things indifferent I call all such things which by gods word are neither prohibited nor commanded, but left to worldly policy, whereof they take their full authority, by the which as time and place requireth, they are sometimes good, and sometimes ill . . . [these] and all other like, which be not in scripture expressed by commandment, I note to be things indifferent, the nature of whom is of this sort . . . that though of themselves, they be neither good nor ill, nor to them we owe none obedience, yet when they be set out with authority, by them which bear whole rule in any kind of policy . . . then the people are to be bound, yea by the virtue of gods own word, who commandeth expressly his disciples to be obedient to common policy.<sup>117</sup>

The common people are not to be troubled about controversy over things indifferent, "wherefore their [learned men's] folly therein and controversies needeth not to minister any occasion of scrupulosity to the unlearned people and rude."<sup>118</sup>

Starkey then lays down Christ's advice on traditions, "bidding us

---

<sup>115</sup>Pierre Janelle, ed., Obedience in Church and State: Three Political Tracts by Stephen Gardiner (Cambridge: At the University Press, 1930), p. 132.

<sup>116</sup>Ibid., p. xxi.

<sup>117</sup>Starkey, Exhortation, p. 7.

<sup>118</sup>Ibid., p. 8.

to fulfill his commandment, and yet not to leave and utterly pretermitt  
[sic] the tradition, for such things which of long custom have been received are not so without order to be plucked away." While some traditions are

pernicious to all Christian civility . . . some other there be which be as good and convenient means to induce rule and simple minds to conceive the mysteries of Christ, to keep as signs the memory of the same . . . upon the other side . . . none of them be of such necessity, that the altering of them should bring in utterly the ruin of religion.<sup>119</sup>

Be this as it may, everything not expressly covered by scripture is in the power of princes.

The decree of princes in things indifferent bindeth us under pain of damnation. . . . The power in council general concerning the same, bindeth us only by the way of exhortation, for as much as thereto is given none other authority, we ought rather to give obedience in such things to princely authority here in our nation, than to such things as be propounded by general assembly and congregation, whereas is no power of commandment in things indifferent, but only instruction and brotherly exhortation, whereof Christ's doctrine taketh all his ground and foundation, without any civil punishment or compulsion.<sup>120</sup>

The idea of equity or epieikeia, so central to Melanchthon's treatment of adiaphora, has no place in the Exhortation, and the treatment of equity in the Dialogue is wholly in legal terms, not religious. In the two "extended" treatments, equity is bound up with justice, and made to provide the means first, by which "nations were brought to civil order

---

<sup>119</sup>Ibid., p. 43.

<sup>120</sup>Ibid., p. 70b. Emphasis added. This last phrase, my argument below notwithstanding, does sound very much like Marsiglio, as does the general discussion of councils and of princely authority. But this is the same argument employed earlier by Cranmer, so it is possible that Starkey got it from him. This resemblance to Marsiglio in the Exhortation only points up the difficulty of a conflation of the Dialogue and the Exhortation to represent Starkey's views. The temptation to make the discussion of law in the former do duty for the latter is very strong. But, as I hope to show below, there is little foundation for this attempt. It seems the Dialogue and the Exhortation must be kept rigorously apart on the topic of law and constitutional theory.

and political life," and second, that "whereby they are inclined one to do good to another."<sup>121</sup> In short, it seems very much as if Starkey were engaging in the same sort of rhetorical obfuscation that Hobbes later did on the nature of equity; this is a point I would not press—Starkey may very well merely have been confused. Whatever Starkey meant, he did not use equity in anything like Melanchthon's sense.

To sum up Starkey's usage of things indifferent before passing to an examination of Melanchthon's, it is certain that his was not a "liberal" one in any sense. His only difference from the arguments of papalists is that the authority to determine indifferents is vested in the king, not the pope or bishops, which certainly does not make for religious toleration or mean a step in the direction of freedom.<sup>122</sup> It seems most likely to me that Starkey is taking a term from the Protestant opposition and using it, in an orthodox fashion, against them. "All ceremonies they have in derision, and call them plain hypocrisy . . . all ecclesiastical laws they bitterly abrogate . . . all councils they utterly condemn, as things governed by plain and manifest tyranny." After a whole catalogue of further grievances, Starkey sums up the desires of "blind arrogance." "It covertly subverteth all good order and civility."<sup>123</sup> As must be

---

<sup>121</sup> Starkey, Dialogue, pp. 22, 30.

<sup>122</sup> One glaring example of Zeeveld's idea of "liberal" is his description of Pole and "liberal thought," including Cardinal Caraffa, later Paul IV (Zeeveld, op. cit., p. 116), the pope who has been called "insane" by Elton. G. R. Elton, Reformation Europe, 1517-1559 (New York: Harper and Row, 1963), p. 208. Dermot Fenlon says "suspicion, it would seem, was endemic to Caraffa's mind. . . . His temperament was absolute." Heresy and Obedience in Tridentine Italy: Cardinal Pole and the Counter Reformation (Cambridge: At the University Press, 1972), p. 249. C. G. Bayne calls his attitude to heresy "almost insane." Anglo-Roman Relations, 1558-1565 (Oxford: Clarendon Press, 1913), p. 18.

<sup>123</sup> Starkey, Exhortation, p. 24.

apparent, his usage is virtually identical to accepted Catholic doctrine on the authority of superiors, from Gratian to the Prague masters, to contemporary canon lawyers. There can be no doubt: Starkey is on the side of authority.

Could Starkey have found this usage in Melanchthon? A brief examination of the most important of Melanchthon's writings previous to and including the Loci 1535 will demonstrate the negative.

In the Loci 1535, in the discussion of divine law, Melanchthon begins with a crucial distinction between the genus and species of traditions.

This moral and natural mandate [the worship of God] certainly pertains to all men. Generically it is of divine law, that at a certain time we make use of divinely handed-down ceremonies, and that we assemble for the administration of the word. But, the species, on what day, at what time it may be done, now does not have a divine precept.<sup>124</sup>

Some ceremonies tend to the conservation of the minister's words, and ought to be preserved: the third commandment is partly moral, partly ceremonial—the latter has been abrogated.<sup>125</sup> Melanchthon does claim that obedience is the first virtue "even among philosophers, who call it by a honestissime name, universal justice." "Honos signifies, to grant to the other, from the spirit, wisdom and justice, that is to submit to his judgment and authority."<sup>126</sup> Thus obedience is far from unconditional; it presupposes moral authority—auctoritas in the classical sense—and indeed is conditional upon it.

This comes out clearly in Melanchthon's discussion of the three sorts of traditions, "not the edicts of civil magistrates, but ceremonies in the Church instituted by men." First are those plainly against God's

---

<sup>124</sup>Melanchthon, Loci 1535, op. cit., col. 394.

<sup>125</sup>Ibid.

<sup>126</sup>Ibid., col. 396.

word, as for instance, the abuse of the Mass, or the "impious cult of the saints."<sup>127</sup> Second are adiaphora. "In these the end is to be considered; if, therefore, the end is politic, they are licit."<sup>128</sup> Politic is the adjective politicus, which it would seem Melanchthon deliberately used in preference to civilis, and as meaning anything to do with the polis, or earthly community. For the moment, this remains an inference, but if Melanchthon meant civil for politicus here this passage would stand on its own, especially in view of his opening definition of traditions. Some of this second sort are necessary. "Wherefore, those who wish all ecclesiastical traditions to be abolished are fighting with human nature itself, which may not be ruled without ceremonies." But even in these traditions, "tamen non sunt laquei conscientiae iniiciendi, sed cognoscenda est libertas Christiana." "This epieikeia in traditions is tremendously important."<sup>129</sup> Third, there are adiaphora with harmful additions.

It is necessary to throw out bad opinions; truly, these mores of indifferent things can be retained, and charitas ought to moderate their use . . . it is necessary in the Church that this doctrine of liberty be retained: because traditions neither may be justice coram Deo, nor may it be sin to omit them without cause of scandal . . . neither ought nor<sup>130</sup> can the pastors abrogate this liberty, it is a divine ordinance.

Before discussing Melanchthon's ideas on adiaphora and epieikeia any further, it may be useful to put the latter in some sort of context. For the moment, since the idea of equity will be discussed more fully in the second section of my thesis, it is sufficient to reproduce Riley's summary of thought from Aquinas to Cajetan. "On the one hand, there is

---

<sup>127</sup>Ibid., col. 510,

<sup>128</sup>Ibid., col. 511.

<sup>129</sup>Ibid., col. 512,

<sup>130</sup>Ibid., col. 514.

an endeavor to clarify certain points in the teaching of the Angelic Doctor. . . . On the other, there is a broadening of the notion of epikeia, and in general an increased leniency with regard to its use." As to the precise nature of epieikeia, there was little agreement; many theologians used it interchangeably with aequitas. Epieikeia was different in one important respect: it could be used by a subject of the law, for reasons other than the common good, and without the intervention of a superior.<sup>131</sup> Obviously, Starkey's equity is much closer to aequitas than to epieikeia.

In the Loci 1521 Melanchthon places an even more radical emphasis on freedom than in 1535. "Out of the Gospel as the comfort of the assaulted conscience, he developed such a radical program of freedom, that he ignores the still remaining sinfulness of the Christian."<sup>132</sup> "In the second part of the Loci, Melanchthon equated freedom with 'the essence' of Christianity." It is important to note that originally the idea of freedom came to Melanchthon from Luther, according to Lohse.<sup>133</sup> Specifically with regard to "iis, quae sunt iuris humani et media" Melanchthon claimed that "non obligat traditio humana in casu necessitatis." Here Melanchthon does equate many more traditions with human law as media, the classical translation of *adiaphora*, but still far from the whole range of human law. Characteristically, this liberty does not apply to the natural man: "In

---

<sup>131</sup>Lawrence Joseph Riley, The History, Nature, and Use of Epikeia in Moral Theology (Washington: The Catholic University of America Press, 1948), pp. 66-67.

<sup>132</sup>Bernhard Lohse, "Die Kritik am Moenchstum bei Luther und Melanchthon," in Luther and Melanchthon in the History and Theology of the Reformation, ed. by Vilmos Vajta (Philadelphia: Muhlenberg Press, 1961), pp. 129-145.

<sup>133</sup>Ibid., p. 137 and note.

affectibus nullam esse libertatem experientia docet."<sup>134</sup> Thus,  
"docendae libertatis gratia violare licet traditiones humanas."<sup>135</sup>

Melanchthon next discusses the idea of adiaphora at length in the Augsburg Confession, which was certainly known in England, and was later translated by Taverner. On the question of traditions, he cites Augustine's letter to Januarius, but without the corollary of obedience to the Church. "And Augustine fears to burden the consciences by observances of this type, and prudently admonishes Januarius that he may know that these ought to be indifferently observed."<sup>136</sup>

Lohse thinks Melanchthon had shifted from "the freedom program" to "the doctrine of adiaphora" between 1521 and 1530, at least with regard to monastic vows.<sup>137</sup> Against this interpretation it may be argued that the idea of media was present in the Loci 1521, and therefore a continuous development of this aspect of Melanchthon's thought, at the expense of some measure of this "freedom program" seems more likely than a change of horses in mid-race. Further, this line of thinking clearly goes back to Luther, e.g. "Against the Doctrines of Men" (1522). "Neither St. Peter nor the Church institutes or teaches anything contrary to Christ. And if they did, we must not obey them. To do what they ask would indeed not be wicked; but it is wicked to make a necessity and a commandment of that

---

<sup>134</sup> Melanchthons Werke in Auswahl, ed. by Robert Stupperich, V. II.  
 1. Loci communes von 1521 and Loci praecipui theologici von 1559 (Pt. 1),  
 ed. by Hans Engelland (Gutersloh: C. Bertelsmann, 1952), 40, line 9ff.

<sup>135</sup> Ibid., p. 162, line 5ff.

<sup>136</sup> CR 26, col. 307.

<sup>137</sup> Lohse, op. cit., p.145.

which is free."<sup>138</sup> "Neglecting them [men's commandments] is not sin and keeping them is no merit, but both are free."<sup>139</sup> "The doctrines of men can command nothing but external things."<sup>140</sup> "Therefore, all the laws of monks and men concerning food, clothing and places and all things that are external, are not only blasphemy of God and lying and deceiving, but the buffoonery of apes."<sup>141</sup>

It may be relevant in passing, to observe that from the Confession, and even more from the Apology (also 1530) it appears that Melanchthon may have derived his notion of epieikeia not from Aristotle or Roman law, as Kisch has argued, but from Jean Gerson.

What execution of the best minds will have been that infinite multitude of traditions and ceremonies, if this consolation and epieikeia will not have been applied to them? Just as Gerson says. . . . Thus it is necessary in the Church, to teach this epieikeia of human traditions, and however much men abuse it, yet more is the ratio ecclesiae, and of the pious to be maintained. So Gerson judged, when he said, 'and if contempt arises from this relaxation among the evil, yet the other, well established, will give thanks.'<sup>142</sup>

In the Commentary on the Ethics (1532), Book V, c. 2, "De instituta particulari: de discrimine summi iuris et aequitatis" and in the Commentary on Romans Melanchthon follows much the same line of argument.<sup>143</sup>

---

<sup>138</sup>Martin Luther, "That Doctrines of Men are to be Rejected," in Works of Martin Luther (Philadelphia Edition), v. 2, trans. and ed. by W. A. Lambert (Philadelphia: Muhlenberg Press, 1943), 433.

<sup>139</sup>Ibid., p. 435.

<sup>140</sup>Ibid., p. 447.

<sup>141</sup>Ibid., p. 435.

<sup>142</sup>Apologia confessionis augustanae, CR 27, col. 314; Confessio augustana, CR 26, col. 306.

<sup>143</sup>This commentary could be very important if any influence of Melanchthon on Starkey is to be proven since Sadoletto, Starkey's host at Avignon (Carpentras) used Melanchthon's commentary while preparing and delivering his own. He had a copy of it by August 1, 1533. Amerbach Korrespondenz, ed. by Alfred Hartmann, v. 4 (Basel: Verlag der



"But the ranks of mutable things are such, [that] some are simply (i.e. absolutely) adiaphora, others are not simply adiaphora, but have in their nature some sort of probable causes, which lead men more to the one part, than to another. . . . Such therefore are to be referred to the natural law, or to the law of nations."<sup>144</sup> Later, as an illustration of aequitas, or mitigation of the rigor of the law, he notes:

Thus Paul teaches a true and explicit mitigation, namely, that the [opinion] of an observance, or of necessity never be attached to human rites; but adiaphora, which conduce to good order, he teaches us to preserve for the time, in order that we safeguard good order and tranquillity, nor disturb the Church by scandals. This is the simple reason that consciences are taught neither to attribute justice to those rites, nor elevate them by opinion to a necessity, while yet they retain a good order in public custom. This is the Pauline interpretation.<sup>145</sup>

Obviously, under the impact of the various antinomian controversies and other difficulties of the twenties, Melanchthon has moderated his position.

To Romans 14 he says:

The other genus is of traditions, which consist of such things, which by their nature are simply adiaphora. . . . In these the ends are to be considered. If the end of these observances is politic, they are licit . . . not because such a work is a cult ex opere operato, but the cause of order, in order that the people know at what time they ought to assemble to learn the Gospel and use the sacraments . . . when feasts are prescribed . . . [it is] in order that the day may be singled out by such ceremony, in order that the people can more

---

Universitaetsbibliothek, 1943), #1766, Amerbach to Sadoletto. It seems reasonable to presume that Starkey would have heard these lectures. It also seems possible that the final break in the Dialogue, which shifts almost in mid-stream (p. 185) to concern for religion, as if Starkey had suddenly been reminded of its existence, is due to the influence of Sadoletto. His De liberis recte instituendis appeared in print, from the press of Gryphius at Lyon, shortly after May 4, 1533, Hartmann, 4, #1747. Here the marked similarity of Starkey and Sadoletto on justification, the point where the Dialogue seems to break, may be highly significant. For the moment, suffice it to say that questions of natural law and conscience did not interest Sadoletto in his commentary, nor do I detect much other influence of Melanchthon. Still, this could be an instance where Starkey could have read Melanchthon.

<sup>144</sup>Philip Melanchthon, Enarratio in libri V ethicorum Aristotelis, in CR 16, col. 363-416, 393.

<sup>145</sup>Ibid., col. 406.

easily remember the [history] to be noted.<sup>146</sup>

These traditions are necessary as a teaching aid (paedagogia) for the people. "To struggle with this genus of traditions is to struggle with the nature of man. Human mores cannot be without this genus of traditions."<sup>147</sup> But Melanchthon still preserves as much freedom as he can.

When, therefore, traditions in adiaphora have bodily or politic use, it is to be understood that such traditions have been made licit by this end, namely because of a politic end. . . . But even though such rites may serve publicly the cause of tranquillity, nevertheless neither justice nor sin ought to be ascribed to such things.<sup>148</sup>

There are several elements in Melanchthon's theory with strong similarities to Starkey's, but the fundamental difference remains that adiaphora may be allowed, but are not to be enforced, and the people are to be taught their meaning, not told not to be bothered. Thus, as in the case of natural law, a basic divergence has been obscured by some verbal resemblances. It is possible that even these similarities can be explained by the fact of a common tradition, drawing on the political theory of Aristotle, whom even Luther, after earlier outbursts against "that rancid philosopher" and such like, could bring himself to recommend as a guide to political behavior.<sup>149</sup> Manschreck affirms the consistency of Melanchthon's usage of adiaphora,<sup>150</sup> and also points out in a note Melanchthon's specific difference from Starkey and the Anglicans: "he would not say that adiaphora should be controlled by the prince. He might

---

<sup>146</sup>Melanchthon, ad Romanos, op. cit., col. 331.

<sup>147</sup>Ibid., col. 332.

<sup>148</sup>Ibid.

<sup>149</sup>Cranz, op. cit., p. 109.

<sup>150</sup>Clyde L. Manschreck, "The Role of Melanchthon in the Adiaphora Controversy," Archiv fuer Reformationsgeschichte, 48 (1958), 165-187.

accept such control as a 'harsh servitude' but not gladly and humbly as Starkey advocated. Melanchthon would have agreed with Milton (here Manschreck opposes Zeeveld's interpretation) that requiring adiaphora is a denial of liberty."<sup>151</sup>

To sum up this section on adiaphora in Starkey and Melanchthon, suffice it to say that the commonness of the idea, and the difference in their respective uses of it make it unnecessary for Starkey to have gotten the idea from Melanchthon. The adjective was familiar in English and was

---

<sup>151</sup>Ibid., p. 181, n. 109. Since this section on Melanchthon was completed, Fr. Verkamp has published another article, based on a part of his dissertation (St. Louis University, 1972), which reaches the same conclusion about Melanchthon's usage, and also explicitly points out Melanchthon's difference from Starkey. Verkamp maintains that adiaphora could only be found in areas which Scripture had not covered (59); that the "free" should be left free argument of Luther and Melanchthon cut both ways, against biblical reductionists and papalists alike (62); and that, while allowing Church and civil authorities to legislate on adiaphora, they "did, however, emphatically reject . . . any claim that such laws could bind the Christian conscience" (63): such laws had merely a sub poena binding force (72). Verkamp also suggests (52-3) the possibility that Zeeveld may have reflected the prevailing interpretation of Melanchthon: all but matters of faith, and therefore all civil laws, were adiaphora. Thus Zeeveld may "merely" have relied too heavily on confessional theologians, and not enough on sources. I would like to thank Fr. Verkamp for taking time to see me almost on the spur of the moment. He informed me that in his dissertation he accepted Zeeveld's thesis on Starkey, but only because the matter was not really germane to his narrative approach. A revised version of his dissertation taking an analytical approach will be published, possibly before the end of this year, by Wayne State and Ohio State Universities Presses, in the new series Studies in the Reformation, ed. by Robert C. Walton. My copy of Fr. Verkamp's dissertation arrived too late for me to use it in this thesis, but it may be noted that he presents even more English evidence for the diffusion of things indifferent, including Tyndale and William Marshall, than I have.

used by Pecoock, More, Lupset, and Cromwell, at least.<sup>152</sup> As this presentation has attempted to show, the idea, designated by whatever name, seems to have been widespread.<sup>153</sup>

---

<sup>152</sup>Starkey himself was quite familiar with the adjective, using it in both the Exhortation and the Dialogue; in the former at aii, ai; in the latter 42. More used it in his Richard III, "friend and foe was much what indifferent" (9). Cromwell used it in a letter quoted in Herrtage, op. cit., xxvi, "have indifferent consideration."

<sup>153</sup>"Things indifferent" are discussed in the section "Of human traditions" in Erasmus Sarcerius' Loci communes (1528), trans. by Richard Taverner, STC #21753 (1538), p. 158.

## PART II. SOURCES OF STARKEY'S POLITICAL THOUGHT

### A PRELIMINARY SURVEY

In this part I will delve into the more general sources of Starkey's political thought in order to depict the environment in which his thought matured. In part I undertook this study because I wished to avoid mere revisionism, and in part because the point I had set out to revise, Starkey's employment of indifferent things, proved to be too minute to serve as a good point of attack on his political theory. Although I set out to locate an alternative source to Melanchthon for this idea, I have not as yet done so. For the moment, I have located several important sources for Starkey's general views; these make it highly unlikely that Starkey would have needed to borrow anything more than a word, at most, from an opponent. In short, I see Starkey as very much an Anglo-Catholic, moving in an orthodox circle of humanist reformers, lawyers, and statesmen, none of whom had much use for Lutherans, and very much in the medieval tradition on the question of authority and obedience. Melanchthon, on the other hand seems to allow a much greater latitude for individual action and to separate Church and State as far as might have been practicable.

I will also attempt to sketch the outline of a more accurate assessment of Starkey's impact, both as thinker and man of affairs. I will attempt to put him, despite the gross lack of objective facts about his career, into his proper intellectual and physical context, in order to achieve a better standard by which to judge his work. I will attempt to

use Starkey as an example of the formation of a second-rank state servant and political writer in the first half of the sixteenth century.

#### A. Man and Circumstance

It is my contention that the most important element in the production of Starkey's contribution to the Anglican ideology was circumstance, and that the man takes second place, as J. W. Allen argued. It was the peculiar concatenation of events in England after Henry's divorce which made the Exhortation possible, and Starkey's use of adiaphora. Within this context arose a new question of sovereignty, in the terms of the ongoing debate over the creation of new law by Parliament. The problem of legislative sovereignty had arisen in the fourteenth century in Italy, theoretically especially in Bartolus, but there, in practical effect, natural law restraints were left out of consideration. The same, of course, is true of Marsiglio's treatment of the question. In France, the question of natural law was also largely left out of the theory of absolutism. Only in England, for reasons still obscure, did natural law retain an important place. It is possible that the addition of a particularly volatile religious situation to the political was significant.

#### 1. Conciliar Thought: Gerson and St. German

It seems possible that a formulation like Starkey's might have come out of the somewhat similar circumstances produced by the conciliar movement in the fourteenth and fifteenth centuries, especially from Jean Gerson. Seemingly, however, few nominalists were prepared to admit the existence of indifferents, possibly, in the case of Ockham, because this would not have suited his polemical purposes, or because he, like Wyclif and Hus, was too much of a determinist, or possibly they were deterred by the

ecclesiastical reaction to the arguments of Hus, who was only employing a philosophical argument against his opponents.

Yet Gerson did come close. His whole conception of law was formulated under circumstances very similar to England in the 1530s. The burning question was how to preserve the unity of the corporate structure of the Church in the face of a conflict of laws and of allegiance.

In "De vita spirituali animae," Gerson discusses the hierarchy of laws.

Appropriately, preceptive natural law truly has such reason because it is a sign impressed on men . . . a notification of the divine will, willing the rational human creature to be held or obligated to the doing of something or the non-doing for the following of his natural end, which end is human felicity . . . man indeed is by nature a civil animal.<sup>154</sup>

Human, or positive preceptive law, is purely and appropriately described, because it is a true sign constituted by human tradition and authority, or because it is not inferred by a necessary deduction from the divine and natural law, binding to the doing or not doing of whatever, for the following of whatever human end.<sup>155</sup>

And indeed divine law differs from the others specially in two ways: first, because it principally rests upon divine revelation; natural law rests upon the dictates of reason because it is impressed on every man, his obligation in the use of reason not having been hindered. . . . But human law principally rests upon human tradition, or "quasi" human: and this is called "quasi-human" because of those purely judicial traditions, which God gave through Moses. . . . The second difference of divine law from natural is because divine law principally regards a supernatural end; natural law a natural; human law truly can guide to either because . . . some are purely human, yet regarding immediately the supernatural end of eternal beatitude.<sup>156</sup>

In the next lectio, Gerson defines the natural polity as "a community regulated principally according to laws purely natural." A human polity

---

<sup>154</sup>Jean Gerson, De vita spirituali animae, in Oeuvres Complètes, introduction, text, and notes by Msgr. Glorieux, v. 3, L'oeuvre Magistrale (Tournai: Desclée & Co., 1962), 135.

<sup>155</sup>Ibid.

<sup>156</sup>Ibid.

"is a community regulated according to laws purely civil or human."<sup>157</sup>

Gerson most clearly approaches later formulas in lectio 4, corollaries 6 and 7.

If any human law, canonic or civil cannot be concluded (i.e. drawn as a necessary conclusion) from the divine law unless by assuming a proposition or consequence which does not belong to divine law, consequently it is impertinent [to ask] whether the transgression of that law may be mortal [sin] or not. . . . No law is to be appealed to nor taken as necessary to eternal salvation which is not de jure divino.<sup>158</sup>

The "Tractus de unitate ecclesiae" introduces the idea of epieikeia, taken from Aristotle. The general council has proper authority in questions of equity (for convenience sake I will use the nearest English equivalent—it must be borne in mind that aequitas and epieikeia are not equivalent), and human constitutions. After maintaining that the unity of the Church under one head is no longer necessary, Gerson explains why.

But that general council can proceed with the summary concerning the great and good equity (aequitas) of Aristotle, [because] in it will reside sufficient judicial authority for the using of epikeia [Gerson's spelling], i.e. the interpreting of all positive rules, and the adapting them to the higher and more salubrious end of having union. . . . What is instituted for ecclesiastical peace and well-being . . . ought not to militate against it, nor there seem to be a power given to human constitution to the destruction of the Church, not to its edification. The doctrinal authority of using epikeia resides principally among those skilled in theology, which is the vault in respect to the others, and consequently among those skilled in the science of the canon and civil law, just as the foundation has to take from the principles of divine and natural law.<sup>159</sup>

In the application of equity, only moral, not mathematical certainty is required.

---

<sup>157</sup>Ibid., p. 144.

<sup>158</sup>Ibid., p. 162.

<sup>159</sup>Jean Gerson, Tractatus de unitate ecclesiae, in Glorieux, op. cit., v. 6 (1965), 138.



The unity of the Church is bound four ways by divine law, that is evangelical, natural, canon and civil; of which the last two it is necessary to regulate according to epikeia, i.e. good equity. . . . It is not required in these epikeia users (epikentes) or interpreters of positive laws that they have mathematical or demonstrative evidence; but it is enough that they attain moral, or civil and political certainty. A good epiekes considers all the particulars of the circumstances which the legislator could not foresee or express; in which attentions he looks at the end which would follow if the rigor of the literal expression were observed . . . it [written law] is flexible not immutable, nevertheless it is consistent that concerning moral circumstances certitude cannot be had unless moral.<sup>160</sup>

Thus Gerson does all but use adiaphora. Faced with the challenge of Hus, Gerson revealed clearly who the epikentes were and what their role was.<sup>161</sup> In essence, then, Gerson's position, in somewhat different terms, is virtually identical to Starkey's.

This is not to suggest influence, but it should be noted that Gerson was used by Christopher St. German in his Doctor and Student on the question of equity.

Also sometime a law made by man is called the law of god, as when a law taketh his principal ground upon the law of god, and is made for the declaration or conservation of the faith. . . . Yet nevertheless, all the law civil be not the laws of god, for many of them be made only for the politic rule and conversation of the people, whereupon John Gerson in the treatise of the spiritual life of the soul . . . saith thus: all the canons of popes nor their decrees be not the law of God for many of them be made only for the politic conversation of the people.<sup>162</sup>

Equity is a righteousness that considereth all the particular circumstances thereto necessary, the which also is tempered with the sweetness of mercy. And such an equity must always be observed in every law of man. . . . It is not possible to make any general rule of the law but that it shall fail in some case. And therefore makers of laws

---

<sup>160</sup> Ibid., pp. 142, 144.

<sup>161</sup> Lewis B. Pascoe, Jean Gerson: Principles of Church Reform (Leiden: E. J. Brill, 1973), p. 11.

<sup>162</sup> Christopher St. German, A Dialoge in Englysshe bytwyxte a Doctour of Dyuynte & a Student in the Lawes of Englande: of the groundes of the sayd lawes & Conscience (1531), STC #21567, xxxvi. This work is not a translation, but an expansion of the earlier Latin dialogue.

take heed to such things as may after come and not to every particular case . . . and therefore to follow the words of the law were in some case against justice and the common weal . . . and to that intent is equity ordained that is to say, to temper and mitigate the rigor of the law. And it is called by some men Epicaia. The which is no other thing but an exception of the law of god or of the laws of reason from the general rules of the law of man.<sup>163</sup>

Again, this equity is not a common property to be exercised by all subjects, since the civil law, once laid down, binds in conscience.

St. German defines conscience (as Aquinas had) as "an actual applying of any cunning or knowledge to such things as be done, whereupon it followeth that upon the most perfect knowledge of any law . . . and of the most perfect and most straight applying of the same to any particular act . . . followeth the most perfect, the most pure, and the most best conscience."<sup>164</sup>

Where conscience shall be ruled by the law is not as me seemeth to be understood only of the law of reason and the law of god, but also of the law of man that is not contrary to the law of nature nor to the law of god, but that is superadded unto them for the better ordering of the common weal: for such a law of man is always to be set as a rule in conscience so that it is not lawful for no man to go from it on the one side nor on the other, for such a law of man hath not only the strength of man's law but also of the law of nature or of the law of god whereof it is derived: for laws made by man which have received of god the power to make laws be made by god and therefore conscience must be ordered by that law.<sup>165</sup>

In a practical case in the second Dialogue, St. German makes clear that "if the law help him not conscience cannot help him . . . for conscience must always be grounded upon some law" or a custom, and if this cannot help the man can have nothing "by conscience, for conscience never resisteth the law of man nor added nothing to it. And therefore

---

<sup>163</sup>Ibid., fol. 26-7.

<sup>164</sup>Ibid., fol. 25.

<sup>165</sup>Ibid., fol. 31.

conscience is altered in like wise as the law altereth."<sup>166</sup>

Thus again without using adiaphora or something similar, St. German has discussed the problem which would exercise Starkey and has produced a formula almost exactly like his, and is again squarely in the medieval tradition, except that the civil power has taken over much of what for Gerson still belonged to the Church. It will be remembered that St. German engaged in an interminable pamphlet war with More over the prerogatives, including legislative, of the clergy.

The problem with this debate over civil or ecclesiastical obligation for my purposes is that it simply didn't use the proper terms: adiaphora, indifferentia, media, neutrae res or such like were not used despite the earlier popularity of the indifferens family in the intrinsic morality debate.<sup>167</sup> Why then were these terms revived in the fifteenth and sixteenth centuries? It is possible that they never passed out of usage and I simply have not looked in the right places. But if this "revival" is not spurious, it seems very likely that it is to be attributed to the renewed popularity of Cicero. In addition to Vives' recommendation of

---

<sup>166</sup> Christopher St. German, The secunde dialoge in Englysshe bytwene a doctour of dyuynytye & a student in the lawes of Englande (1530), STC #21565, xxxiv.

<sup>167</sup> Lottin, op. cit. Indifferentia is not used in the sense of adiaphora in this debate, as Verkamp has pointed out. But it is surely a very short step from the indifference of all human acts to the indifference of some. For example, Duns Scotus. His whole theology makes clear that there was no resolution of this debate with Aquinas. To Scotus all human actions are per se indifferent, except one: love of God. Is there a necessary connection between this stance and his attitude to ecclesiastical traditions? Ceremonies serve only for the conservation of order in the Church, and are purely of human institution.

De finibus,<sup>168</sup> Sadoletto<sup>169</sup> and Melanchthon<sup>170</sup> also recommended the work which contains the classical synthesis on adiaphora and indifferents. Thus far, the source of Melanchthon's usage remains unknown, though it seems possible the Cicero is his principal source, since in the Ethics commentary (see above) his discussion of adiaphora and "probable" reasons seems to be strongly reminiscent of Cicero's.

## 2. The Exhortation in Context

Most important to Starkey's situation, is the immediate milieu out of which the Exhortation came. Negotiations were being conducted with the German Protestants at Schmalkalden; Bishop Foxe had been sent on an embassy with instructions to hedge on the question of an alliance—the King's Great Matter was the real purpose of his mission.<sup>171</sup> Robert Barnes was also on an official mission to Germany in July, 1535, with instructions to dissuade Melanchthon from going to France, and to come instead to England.<sup>172</sup> Other negotiations were also conducted with Melanchthon throughout the summer to keep him away from France. Christopher Mont reported steadily from August through October on the state of these affairs.<sup>173</sup> All three of these missions stemmed largely from a fear of an international coup by Francis I, who was in possession of a bull of

---

<sup>168</sup>Watson, op. cit., p. 253.

<sup>169</sup>Zeeveld, op. cit., p. 48.

<sup>170</sup>Guido Kisch, Melanchthons Rechts- und Soziallehre (Berlin: Walter de Gruyter, 1967), p. 107.

<sup>171</sup>L & P, 9, #213, p. 69.

<sup>172</sup>L & P, 8, #1061.

<sup>173</sup>L & P, 9, #54, pp. 55, 281, 299, 521, 540, 775.

deprivation from Paul III by September because of the June-July executions of Fisher and More. Gardiner's De vera obedientia was finished between the end of August and October 1. The Loci 1535 was received in England sometime in the same period.<sup>174</sup> On October 1 Henry VIII wrote Melanchthon thanking him for the dedication of the Loci and sending him 200 crowns.<sup>175</sup> On October 15, Cromwell issued his injunctions on the course of studies to Oxford and Cambridge: Melanchthon and Agricola were to be read: therefore, clearly his logical and rhetorical works, which were already in use, were intended.<sup>176</sup> Cranmer delivered his speech on general councils in December, 1534, and had a hand in Gardiner's reply, Si sedes illa, to the bull of deprivation. In the 1534 edition of his Supplication Barnes removed the "Constitutions of men . . ." section, in which he had argued that adiaphora could not be commanded.<sup>177</sup> On October 29, 1535 Edward Lee, Archbishop of York wrote to Cromwell suggesting that Melanchthon's authority be accepted in matters of doctrine.<sup>178</sup>

---

<sup>174</sup>Ibid., #213, 5, p. 71.

<sup>175</sup>CR 2, col. 947. The tone of this letter is unctious, to say the least. "Quod Christianae religionis ipsiusque veritatis propugnandae studiosissimum te percepimus, sic eo nomine sincerissime istius tui animo instituto afficimus, ut nihil aequae in votis habeamus, ac aliquam sese afferre occasionem sanctissimos istos tui pectoris conatus quacunque nostra opera juvandi et promovendi."

<sup>176</sup>McConica, op. cit., p. 87 and for Erotemata dialectica (in 1540), p. 193n. He also observes the publication (1523) of De libero arbitrio adversus Melanchthonem of Alphonso de Villa Sancto, dedicated to Catherine (STC #24728 and 9). This is interesting in light of Latimer's recollection of a Cambridge debate in which he argued against Melanchthon, in 1524. H. C. Porter, Reformation and Reaction in Tudor Cambridge (Cambridge: At the University Press, 1958), p. 44.

<sup>177</sup>W. D. J. Cargill Thompson, "The Sixteenth Century Editions of A Supplication unto King Henry VIII by Robert Barnes, D.D.: A Footnote to the History of the Royal Supremacy," Transactions of the Cambridge Bibliographic Society, 1959-1963, (3), 133-42, 140.

<sup>178</sup>L & P, 9, #704.

Sometime in this period Starkey wrote Cromwell thanking him for his emphasis on the mean.<sup>179</sup> The year 1534 had seen the publication of Edward Foxe's De vera differentia and Richard Sampson's Oratio, in defense of the royal supremacy. In the Ten Articles of 1536 there are no indifferents. Ceremonies were

divided into two sorts; whereof the one part containeth such as be expressly commanded by God, and be necessary to our salvation; and the other containeth such things as have been of a long continuance for a decent order and honest policy, prudently instituted and used in the Churches of our realm. . . . Wherefore we will and require you to accept the same.<sup>180</sup>

In the early part of 1536 the Pilgrimage of Grace broke out, against which the Exhortation was printed as propaganda. Alesius lectured at Cambridge. Parts of the Coverdale Bible arrived in England. It should not be forgotten through all this that Starkey was in a somewhat unique situation by virtue of his civil law training.

All of this amounts to an atmosphere of political and diplomatic uncertainty, and it appears very much as if the exigencies of statecraft were directing the course of events. Consequently, there is a strong impression of Melanchthon as a pawn: on October 1 Henry sent him a generous present; by the beginning of November, when it was clear Melanchthon would not go to France, he was dropped. As for Starkey, he was a purely secondary figure. The big guns—Cranmer, Gardiner, Foxe, Sampson—were being used for the important difficulty, Francis I. Without the Pilgrimage, when a propaganda use came up, what would have become of yet another domestic tract?

---

<sup>179</sup> Herrtage, op. cit., lxxi.

<sup>180</sup> Charles Lloyd, Formularies of Faith Put Forth by Authority During the Reign of Henry VIII (Oxford: Oxford University Press, 1856), p. xvi.

## B. Starkey and Political Theory

1. Antecedents: Medieval Aristotelianism;  
John Major; Marsiglio of Padua

In intellectual terms, this discussion of legal and political theory belongs in the context of late medieval Aristotelianism, but this is a field which has hardly been touched. Walter Ullmann has theorized that the emergence of true political theory required the reconvergence of jurisprudence and political science, which he saw as being divorced in the fourteenth century.<sup>181</sup> In these terms, it is possible that Starkey represents an early example of the reborn political theory, at least in the Dialogue. He also seems to fit neatly into J. H. Hexter's definition of "constitutional thought," which "is not faced with a simple either/or option, but with the more prosaic task of shoving and hauling medieval normative theory on the one side and medieval legal thinking and administrative practice on the other into bridgeable distance of each other," and which does not treat either society or its concepts as immutable, but capable of "gradual modification and amelioration." Hexter also notes the medieval divorce between theory and practice, but he wonders, given the wide circulation of Aristotle's Politics why this divorce continued.<sup>182</sup> Ullmann suggests that the Politics was one of the reasons for the continued disjunction because of the authority it exercised.

On the other hand, Ullmann has argued that in the earlier middle ages the Politics played a crucial role in establishing the natural

---

<sup>181</sup>Walter Ullmann, "Juristic Obstacles to the Emergence of the Concept of the State in the Middle Ages," in The Church and the Law in the Earlier Middle Ages (London: Variorum Reprints, 1975), p. 62.

<sup>182</sup>J. H. Hexter, The Vision of Politics on the Eve of the Reformation: More, Machiavelli, Seyssel (New York: Basic Books, 1973), pp. 216, 229.

legitimacy of the state, especially in Aquinas, whose "great breakthrough" lay in his use of nature as "a fundamental notion." Therefore, the State, a natural creation, could stand autonomously. "Thomas set forth what in the end approached political philosophy proper."<sup>183</sup>

This point has also been made in a study of Hooker by Peter Munz, who thinks that the reason the full implications of Thomas' doctrine were not drawn was that De regimine principum was left unfinished. Munz also posits a sixteenth century revival of Aristotle in either Aquinas' or Marsiglio's version, but claims that the "Thomistic Aristotle" was much more important.<sup>184</sup>

Martin Grabmann has said much the same thing about the impact of Aquinas and has tried to outline the course of Thomistic political theory through the fifteenth century. For instance, in Andreas von Schaerding's Ethics commentary (c. 1460) he sees "evidence for the high estimation which the Thomistic political theory could arouse even at the close of the middle ages," and discusses in some detail, in what is basically an outline of names, the views of two other Germans, both Dominicans, Johannes Krosbein and Heinrich Versor.<sup>185</sup>

However much of an advance the double order concept of Aquinas was, it seems too much to see in it the legitimacy of the state sui generis,

<sup>183</sup>Walter Ullmann, Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas (Ithaca: Cornell University Press, 1975), pp. 271-72.

<sup>184</sup>Peter Munz, The Place of Hooker in the History of Thought (London: Routledge & Kegan Paul, 1952), pp. 117, 119.

<sup>185</sup>Martin Grabmann, Die Mittelalterliche Kommentare zur Politik des Aristotelis, Sitzungsberichte der Bayerischen Akademie der Wissenschaften, Philosophisch-Historische Abteilungen, 1941, Bd. II, Heft. 10, quote at 36; Versor and Krosbein, 64-73.



since there is still a higher end to which it cannot lead man.

Neither reason nor the natural order taken by themselves can be enough. Knowledge of the fullness of life can be acquired only by the addition of revelation. . . . The right ordering of human society must therefore take account of both the natural order which all men can interpret and the divine order whose understanding is reserved only to the priesthood.<sup>186</sup>

This is the case for Starkey, for whatever Aristotle he absorbed he finds it necessary to fall back on institution by Christ to prove the superiority of the Christian commonwealth.

Simply put the problem is the Politics without the Ethics, of Christianity and the State. How can the Greek polis be made to function in medieval western Europe?<sup>187</sup> I do not mean to suggest that the adaptation of Aristotelian ethics, especially by Aquinas, was not tremendously important, but rather that the Ethics of Aristotle were not very widely taken as a direct basis for discussion of ethics, at least after Aquinas. Whatever compatibilities Aristotle and Christian revelation may have, Aristotle in his pure form could not be reconciled to Western Christian society, since the latter was basically holistic in outlook and not really much concerned with politics as the management of conflicts in a society. Before the Renaissance, as the recent list of Aristotelian commentaries compiled by Charles Lohr makes clear, the Ethics was not very popular.<sup>188</sup>

---

<sup>186</sup>Michael Wilks, The Problem of Sovereignty in the Later Middle Ages: The Papal Monarchy with Augustinus Triumphus and the Publicists (Cambridge: At the University Press, 1963), pp. 122-23.

<sup>187</sup>Thomas White has recently suggested that More's Utopia was such an attempt. See "Aristotle and Utopia," Renaissance Quarterly 29 (Winter, 1976), #4, 635-675.

<sup>188</sup>Charles Lohr, "Medieval Commentaries on Aristotle," Traditio, 23 (1967), 313ff.; 24 (1968), 149ff.; 26 (1970), 135ff.; 27 (1971), 251ff.; 28 (1972), 281ff.

The discussion of epieikeia was known to Gerson, but another example relevant to my topic, comes from Book V, chapter 7: legislation on things originally indifferent. Aquinas' literal commentary has been discussed. This passage seems not to have aroused much interest in those commentators with whom I am familiar, Albertus Magnus, Buridan, Nicole d'Oresme; the inference was not drawn by Melanchthon in his Ennaratio. The conclusion would seem to be that the general political situation had to change before a specific question of legislation could need answering. This is a dangerous conclusion, especially since it looks like reinforcing my earlier suggestion about the uniqueness of sixteenth century England, and given the paucity of evidence I have seen, I will not make it. Still, the possibility that Allen's circumstance before the man argument can indeed be generalized cannot be dismissed.

Thus, if no meaningful statement about Starkey's relations with earlier Aristotelian thinking can safely be made it is still possible to put him into a personal context, in order to get a proper measure of his accomplishment, which it seems to me Zeeveld blew all out of proportion. J. W. Allen has called the political theory of the Henricians in general "medieval." "It is true to say that, under Henry VIII and Edward VI, there was formed a conception of what the commonwealth should be, or if you like to put it so, of what it really is. It would be more fully true to say that medieval conceptions received at that time a fresh expression." Or as he sums up his synthesis of this commonwealth, "Increased emphasis on the Prince alone separates all this from medieval conceptions."<sup>189</sup>

This seems largely true of Starkey. Leaving aside the question of

---

<sup>189</sup>J. W. Allen, A History of Political Thought in the Sixteenth Century (New York: Barnes and Noble, 1960), pp. 134-35.

Tudor despotism real or imagined, his monarch was certainly not constitutional, nor was Starkey, in all probability, defending "the people" against nascent absolutism. His conception of monarchy was thoroughly medieval, as could be shown by a comparison with Fortescue. But an even closer parallel is Starkey's contemporary, John Major. He is as concerned as Starkey to preserve natural law restraints on the monarch.<sup>190</sup> (It may be noted in passing that Major follows Aquinas on the question of deduction of positive from natural law and accepts his twofold method: In quantum Sententiarum, D.1, q. 3.) Interestingly, he thinks that the commonweal requires that the monarch be elected, and draws this conclusion from Aristotle.<sup>191</sup> Major, however, draws the necessary conclusion from this election, which Starkey does his best to avoid: that therefore the people are superior to the king.<sup>192</sup>

Natural law restraints are purely medieval, however long they might survive. So eager is Starkey to preserve them, that he introduces, under pressure, the idea of indifferent things precisely for this reason. D'Entreves' observation on the necessity of "a higher argument" being found in divine right to resolve the conflict of laws in the early English Reformation, is also true of Starkey, who found his argument in natural law.<sup>193</sup> I would venture to suggest another possible source for Starkey's theory of obedience in things indifferent: any one of the canon

---

<sup>190</sup> Francis Oakley, "On the Road from Constance to 1688: The Political Thought of John Major and George Buchanan," Journal of British Studies, 1, #2 (1962), 1-31, 12-13.

<sup>191</sup> Ibid., p. 15.

<sup>192</sup> Ibid., p. 17.

<sup>193</sup> A. P. D'Entreves, The Medieval Contribution to Political Thought (Oxford: Oxford University Press, 1939), pp. 95-96.

or civil lawyers in the English ecclesiastical hierarchy, e.g. Gardiner, Foxe, Sampson. Surely their attitude to obedience to the prince makes this possible. It should not be forgotten that Gardiner later produced a treatise based on Machiavelli to justify the accession of Philip of Spain to the English throne.

If natural law was so important to Starkey, what are we to make of the frequent argument that his legal theory depended heavily on Marsiglio of Padua? Most recently this view, originally put forward by Baumer, has been advanced by Harry Stout. He claims that Starkey used "the Marsilian distinction of the 'material' and 'formal' elements of law" and that consequently "the legitimacy of a law was determined not by whether it was just or honorable, but by whether or not the law could be supported by coercion."<sup>194</sup> This seems a very dangerous statement, especially since it is based on the Dialogue. Frederick Copleston has observed that Marsiglio's ideas "exercised their long-term influence more as a 'spirit' than as precisely the ideas of Marsiglio of Padua."<sup>195</sup> This should give pause by itself. Certainly this would have to be true of Starkey, at least for the Dialogue, since his first direct citation of Marsiglio comes from August, 1535, in a letter to Pole, that is, if my dating of the Dialogue is correct, after its virtual completion. "These things [various arguments for the supremacy] I think shall be somewhat in your mind confirmed by the reading of Marsilius, whom I take, though he were in style rude, yet to be of great judgment, and well to set out this matter . . . ,"

---

<sup>194</sup>Harry S. Stout, "Marsilius of Padua and the Henrician Reformation," Church History, 43, #3 (September, 1974), 308-318, 311.

<sup>195</sup>Frederick Copleston, A History of Philosophy: Late Medieval and Renaissance Philosophy, v. III, part 1 (Garden City, N. J.: Doubleday, 1963), 192.

is Starkey's advice to Pole.<sup>196</sup> It seems to me that especially on the question of legal theory there is no relation between Starkey and Marsiglio, whatever other influence there may have been.

Marsiglio's theory was conceived to deny any relation between positive and natural law, Starkey's to preserve as much as possible. As Gewirth has observed, "For Marsiglio, the relation among his four kinds of law is entirely negative: they are related only by equivocation, as having the same name but no common content or source. . . . Human law thus becomes entirely sui generis."<sup>197</sup> Law is given a specifically political definition "not a moral or theological one." "Since rationality is not essential to law, laws need not be just. . . . It is sufficient that they have the 'proper form,' that is a coercive command."<sup>198</sup>

Divine law is still the final standard of right and wrong, but human law may "disagree" with it. "Marsiglio's positivism thus consists not in a denial that there are objective norms of justice but rather in an insistence upon not confusing those norms with the precepts which effectively function as laws in the state."<sup>199</sup> Marsiglio "completely omits the 'material' reference to the moral quality of the acts" which become the object of punishment,<sup>200</sup> and "treats virtue only instrumentally."<sup>201</sup> "It

---

<sup>196</sup>Herrtage, op. cit., xxv.

<sup>197</sup>Alan Gewirth, Marsilius of Padua and Medieval Political Philosophy (New York: Columbia University Press, 1951), p. 133.

<sup>198</sup>Ibid., p. 134.

<sup>199</sup>Ibid., p. 135.

<sup>200</sup>Ibid., p. 136.

<sup>201</sup>Ibid., p. 142.

is from the people as efficient cause that Marsiglio derives that justice which his predecessors had derived through the dependence of human law upon some higher law."<sup>202</sup>

Natural and divine law are effectively left out. "His discussion amounts to a rejection of natural law . . . Marsiglio's natural law simply is positive law; it is in no sense a norm to which a law must correspond."<sup>203</sup> Nor is there any rationality in divine law which is founded solely on divine will; since it is applicable only in the future world, "it is not properly speaking a 'law' in this world at all."<sup>204</sup> And as for general councils, often claimed as one of Marsiglio's most important later influences, by the time of the Exhortation they had become a thing indifferent to Starkey.<sup>205</sup>

In sum, there is no specific influence of Marsiglio on Starkey's conception of law. Adiaphora were designed to allow some natural law to stand, while Marsiglio effectively did away with all natural law. As for a supposed material/formal distinction in Starkey, this is purely fictional. There remains a possibility that Marsiglio may have exercised some influence on Starkey's political theory, although even here I suspect that several alternative sources could be adduced for the "republican" elements in the Dialogue. In any case, these have disappeared by the time of the Exhortation when there is some reason to suspect Marsilian influence. This putative impact demonstrates again that some attention needs to be

---

<sup>202</sup>Ibid., pp. 143-44.

<sup>203</sup>Ibid., p. 151.

<sup>204</sup>Ibid., p. 153.

<sup>205</sup>Ibid., p. 160.

directed to Starkey the man and the circumstances of his career if any light is to be shed on possible sources of his political thought. As Charles Howard McIlwain put it,

I know of no safe road by which we may arrive at true generalization in history except the narrow and sometimes devious path through the concrete details, and by the most minute and careful examination of them. Generalizations without such a basis . . . are not merely worthless; they are often in their practical results very dangerous.

## 2. Personal Standing

Before dealing with possible sources, it is necessary to raise some questions about Starkey's personal stature. Only one of his writings was ever printed: nor does it appear that two of them supposedly dedicated to Henry VIII were ever presented. According to Elton, the only extant copy of the Dialogue is not a fair copy, and the same is true of the letter of mid-1536, which has no closing, date, or signature, and which is full of corrections. As for the one work which was printed, the Exhortation, it is merely a homily, rather clearly intended as an aid for sermonizing, not a full-dress defense of the Anglican via media; such as it was, this was handled by other, more important, persons. As has been demonstrated, all the elements of Starkey's political theory were in abundant usage, and were also largely drawn together by Cranmer and Gardiner, possibly at the direct instigation or inspiration of Cromwell, or Henry. Beside the company of the bishop of Hereford, the bishop of Winchester and the Archbishop of Canterbury, Starkey pales to the status of a "propagandist" at best.

This conclusion seems to be emphasized by his relations with his patron, Reginald Pole. How, if he were at all intimate with the future cardinal, could Starkey so grossly misjudge his reaction to Henry's supremacy? What kind of standing would a secretary have had vis-a-vis his

master? Herrtage suggested that because Starkey was "of a sincere and upright but readily persuaded disposition, he was completely at the mercy of any more skilled in double dealing, and willing to take advantage of this weakness," including Pole. "For such a man Starkey was no match in matters of business or diplomacy."<sup>206</sup> Starkey had to have known at least the objective fact of Pole's refusal of the archbishopric of York in 1529, even supposing Pole were being disingenuous when he later reported his aversion to the Paris mission of that year in search of support for the divorce. In the circle of his friends in Italy, would Pole have prefaced his Defense of the Unity of the Church by saying "no one who knows anything about me is ignorant of the fact that for many years I have been engaged in the composition of this treatise" if this were a manifest untruth?<sup>207</sup> We know that Pole (in 1532) reproved Sadoleto for giving too much attention to philosophy in his De liberis recte instituendis, while he himself was wholly engaged in the study of theology.<sup>208</sup> Starkey recommended this work for the education of priests. He had been in retreat with Pole at Sheen. Despite this evidence of Pole's inclination, Starkey spent a year trying to convince him to support Henry. Whichever, or both, or neither, is being disingenuous, it seems that Starkey was far from close to Reginald Pole. In passing it may also be noted that Starkey, while exhorting Pole to distinguish between human and divine law,

---

<sup>206</sup> Herrtage, op. cit., lxvi.

<sup>207</sup> Reginald Pole, Pole's Defense of the Unity of the Church, trans. with an introduction by Joseph G. Dwyer (Westminster, Md.: The Newman Press, 1965), p. 5.

<sup>208</sup> Richard M. Douglas, Jacopo Sadoleto: 1473-1547: Humanist and Reformer (Cambridge, Mass.: Harvard University Press, 1958), p. 77.



especially on the question of the divorce, never makes any use of adiaphora as an argument to Pole.

In sum, it would seem, despite the ambiguity of the evidence, that if Starkey introduced anything it was the anonymity of the political pamphleteer. I think I have shown that he was wholly within the medieval tradition on the question of law and obedience; that a theory essentially like his was to be found in Gerson and St. German, as well as in Cranmer and Gardiner; that the idea of adiaphora was probably taken over from his opponents, and even that usage was already commonplace, and also used officially by Cranmer and Gardiner. Thus, at most, Starkey transferred to the king some elements of current legal theory about the papacy, a process of transference already well under way. Let me emphasize that I have exaggerated the negative view of Starkey's importance chiefly in order to reduce him to proper proportion, not to remove the reason for my study of him. He still seems an interesting figure from the viewpoint of humanism, the penetration of Roman law influences to England, the policy of Cromwell on the Reformation; the perfect sort of lesser figure to provide a backdrop for the giants.

### 3. Training as a Civil Lawyer

It seems to me that one of the most important influences on Starkey's thought was his training as a civil lawyer, principally during Pole's third visit to the continent, from 1531 to late 1534, when Starkey returned to England. In that time he is known to have read civil law at Avignon, and supposedly took a degree in it at Padua.<sup>209</sup>

---

<sup>209</sup>I. Brotto and G. Zonta, Università di Padova, Acta Graduum Academicorum, v. III, pt. 2, 1526-1537, ed. by E. Martellozo Eorin (Padua: Antenne, 1969). I have been unable to find any record of Starkey's taking any degree in this catalogue.

a. Giovanni Sannazario and Bartolism.

In the former place he studied for about a year and a half with Giovanni Francesco Sannazario, called de Ripa, from January, 1532 to July, 1533. Starkey stayed behind for this purpose when Pole moved on to Padua after a visit with Sadoletto. Ripa was a Bartolist, and a master of the mos italicus, or text and commentary method. There has not been much work on him as yet, but Mario Ascheri has produced a biography containing most of the objective facts of his career, together with a bit of interpretation, and a very useful bibliography of Ripa's works.<sup>210</sup> From an examination of the contents of the Venice edition of 1569 it appears that de Ripa was very much a practicing legal scholar, with apparently only a small interest in legal theory or philosophy; the vast majority of these works are concerned with practical matters, especially marriage litigation.

Maitland thought de Ripa was "both canonist and legist,"<sup>211</sup> probably following von Schulte, but from Ascheri's work it appears, as one reviewer put it, that he was "in general . . . a legist."<sup>212</sup> It turns out that of the vast number of titles thought to be different canon law treatises, all apply to only two works, commentaries on parts of the first two books of the Decretals. This is unfortunate, since so much of the natural law theorizing, as well as that on obligation in church matters, was carried on by the canonists.

---

<sup>210</sup> Mario Ascheri, Un Maestro del "Mos Italicus": Gianfrancesco Sannazari della Ripa (c. 1480-1535) (Milan: A Gioffre Editore, 1970).

<sup>211</sup> Frederic William Maitland, English Law and the Renaissance (Cambridge: At the University Press, 1901), p. 45.

<sup>212</sup> Kurt Wolfgang Noerr, review of Ascheri in Zeitschrift der Savigny-Stiftung fuer Rechtsgeschichte, 88, Kanonistische Abteilung, 57 (1971), 433.

Anything like a thorough investigation of de Ripa would be a thesis in itself, because of the difficulty of isolating passages which might contain snippets of his legal philosophy. Whatever the conventions of their craft, the Post-Glossators were perfectly free to expound at length on any given subject in any place they saw fit.

I have, therefore, selected one passage from the Decretals I commentary which obviously dealt with legal theory, that on the first rubric, "de constitutionibus."<sup>213</sup> From this it seems that de Ripa was familiar with canonist literature, at least the big names, from Johannes Andreae to Panormitanus (Nicholas de Tudeschis). Whenever a question of natural law arises, he refers to the Institutes, "De jure naturali," Ulpian's definition. He makes a heavy but not uncritical use of both Bartolus and his most important disciple Baldus, which suggests that these two may, in large measure, have provided what philosophical underpinning de Ripa felt was necessary.

De Ripa is principally concerned here to determine the extent and nature of ecclesiastical legislative power. He extends the meaning of "canon" as widely as possible, even to the decrees of provincial councils and synods,<sup>214</sup> and concludes that if even "sanctio dicitur constitutio poenalis," then "large sanctionis verbo omnis lex imperialis significatur" and "largissime totius iuris civilis collectio denotatur," in short, "hinc omnis lex aliquid potest dici sanctio." He has done exactly the opposite of what Marsiglio did: rather than claiming that no law is sacred, he claims that all law is.

---

<sup>213</sup>Giovanni Francesco de Ripa, In primum decretalium librum commentaria, in Opera Omnia, v. 5 (Venice: Juntas, 1569).

<sup>214</sup>Ibid., 5 verso, after #26.

Although de Ripa does not deal with the hierarchy of laws, what may be called "human" law is of three sorts, written, customary, and that which takes effect by communal observances,<sup>215</sup> which reduce to two species, written and unwritten. But to the question whether law must be written to be valid de Ripa answers "Ergo requiritur scriptura ad maiorem notitiam, non quod scriptura sit de essentia legis." However, given the uncertainty of unwritten law "scriptura videtur de substantia."<sup>216</sup>

Ripa concludes his discussion with the question of lex animata and equity. Despite the necessity of both, even on the authority of Aristotle, this does not make any difference to the claim that law should still be codified, "sed istis et pluribus aliis, quae adduci possunt, non obstantibus, constat legis editionem fuisse et esse necessariam."<sup>217</sup>

As to the purpose of law Ripa adduces Gratian's formula (Decretum, D. 4, c. 1): Facte sunt autem leges, ut humana coerceatur audacia, ut tuta sit inter improbos innocentia" and cites Jerome and Augustine who claim law is necessary "ut appetitus noxius sub iuris regula limitetur . . . et ut rudes et simpliciter animi ad iustitiam instruantur."<sup>218</sup> Lastly, he cites Paul: "omnis scientia . . . utilis ad docendum, erudiendum, arguendum, et corrigendum [est]" and then clinches his argument "et maxime iuris sapientia, quod secundum philosophum."

"Sanctius ergo fuit certam legem dare iudicibus, ut inquit philosophus . . . et beatus Tho. [mas]," and as the reason for the

---

<sup>215</sup>Ibid., recto, c. 2.

<sup>216</sup>Ibid, 6 verso, #42, 43.

<sup>217</sup>Ibid., recto, #54.

<sup>218</sup>Ibid.

necessity of written law now, as compared with an earlier time when legal festivals like Saturnalia were possible Ripa says "nunc autem mundus decrepitus est, nunc aurea tecta, Marmorea castra, menibus circumspectae urbes, vix totum domino prebent refugium. Ideo legem severitas est per quam necessaria, cum in praecipiti stet omne vitium."<sup>219</sup>

It is obvious that there are strong parallels to Starkey's thought here, but it is too early to posit influence, since reminiscences have not been checked, and much more needs to be done on de Ripa. It is interesting, and given the possible chronology of the Dialogue, possibly significant, that Ripa, a layman follows the Church fathers on the purpose of law as restraint, while Starkey, a priest, adheres to Aristotle and a more positive view, at least in the early part of the Dialogue.<sup>220</sup> Later, he gives up this view, at least partially.

. . . this hath been tried by process of thousands of years, this hath been concluded by the most wise and politic men: that man by instruction and gentle exhortation cannot be brought to his perfection. Wherefore it was necessary to descend to the constitution and ordinance of the law civil and politic, that whereas man, blinded by affects and vanities thereof, would not follow the trade of right reason, he should at the least by fear of punishment be constrained to occupy himself and apply his mind to such things as were convenient to his excellent nature and dignity, and so at the last, by long custom be induced to follow . . . for the love of virtue which before he did only for fear of the punishment prescribed by the law. This is the end and virtue of all law . . . that man, customed other for fear of pain or desire for reward, might follow the prescription and ordinance thereof.<sup>221</sup>

In the final section of the Dialogue he gives it up altogether.

. . . though it be so that the law of itself be not able to bring man to his perfection, nor give him perfit [sic] reason and virtue

---

<sup>219</sup>Ibid., 7 verso, at end.

<sup>220</sup>Starkey, Dialogue, op. cit., p. 24.

<sup>221</sup>Ibid., p. 138.

withal, yet forasmuch as it is a mean to bring man thereto it is not utterly to be despised. For as Sain [sic] Paul saith dimly, it is the pedagogue of Christ: that is to say, it prepareth man's mind to the receiving of virtue by profit and pleasure, pain and punishment.<sup>222</sup>

. . . it is not sufficient to bring man to his perfection; but to that is required another more celestial remedy, the which our master Christ came to set and stablish in the hearts of his elect people. He came to make perfit [sic] man, and to supply the defect of the law by his celestial and divine doctrine.<sup>223</sup>

One other point may serve to establish the possibility of de Ripa's influence on Starkey: the council which Starkey gives the king to keep him in check is clearly modeled on the role of the college of cardinals vis-a-vis the pope in some conciliar theories. Thus Starkey was influenced somewhere by some type of conciliar thought, loosely taken.

I think the authority given to Sain [sic] Peter was nothing of that sort which nowadays the Popes usurp, but it was only to declare penitent hearts, contrite for their sins, to be absolved from the fact thereof . . . and as for the dispensation of laws which after were ordained by man, was also by man given to the See of Rome. I mean not to the person of the Pope, but to him and to his College of Cardinals also . . . the Pope hath no such authority to dispense with general laws made by the Church, neither by the power given to him by God nor by man.<sup>224</sup>

De Ripa also was something of a conciliarist. First, "intelligo autem apostolicam sedem consistere in Papa et Cardinalibus" following Johannes Andreae.<sup>225</sup> "Tura terreni imperii" were not given to Peter, and therefore the pope has not power "in temporalibus" which do not

---

<sup>222</sup>Ibid., p. 185.

<sup>223</sup>Ibid. Unless Starkey is to be accused of blatant inconsistency, very poor memory, or worse, it would seem that this progression provides internal evidence to support the breaks in the manuscript, observed by Elton. I will draw no conclusions as to the possible significance of this shift. This progression, especially its end point, should serve conclusively to refute the argument of those who see in Starkey an Aristotelian pure and simple.

<sup>224</sup>Ibid., pp. 118-19.

<sup>225</sup>Ripa, op. cit., 3 recto, 14ff.

concern faith, but rather "solum animarum curam."<sup>226</sup> The "supremam potestatem" was given to all the apostles "tum quia in arduis constituti fuerunt cardinales et episcopi coadiutores officii [of the pope] . . .," and since this power was given "collegialiter" "necesse est iurisdictionem esse apud collegium, et sic apud omnes et universos."<sup>227</sup> In matters of faith the pope cannot act without the consent of his "coepiscoporum."<sup>228</sup>

On this subject there would seem to be several strong resemblances, with rhetorical expansion, of ideas of Starkey to those of de Ripa. "Solum animarum curam" becomes "only to declare penitent hearts . . . to be absolved"; "necesse est iurisdictionem esse apud collegium" equals "dispensation . . . not to the person of the Pope, but to him and to his College of Cardinals also." It would seem not to be stretching too far to see influence here, especially since, for a change, Starkey did study with de Ripa.

Their views are also very similar on the cardinals' authority by delegation of general council.

For as the prince . . . breaketh the order of the laws and the knot of all civility, so doth the Pope . . . usurping authority of dispensation upon all the laws by general council decreed, without communing with his counsel of Cardinals which are appointed . . . for this purpose only: . . . that in such causes of appellation as pertain to the wealth of Christendom, or of any controversy in any nation thereof, that they should, having the authority of the general council, according to the laws redress such controversies.<sup>229</sup>

Ripa maintains that even if the Pope is the chief, it does not follow "quod solus possit ardua tractare sine consilio fratrum, quibus communiter

---

<sup>226</sup> Ibid., verso, 4 at top.

<sup>227</sup> Ibid., 4, before #19.

<sup>228</sup> Ibid., 4, top.

<sup>229</sup> Starkey, Dialogue, op. cit., p. 178.

fuerunt traditae claves et data legis condendae potestas." Again, Ripa's "ardua" are equivalent to Starkey's "such causes . . . as pertain to the wealth of Christendom." Further, "Cardinales constituunt Romana ecclesia" which in turn "constituitur ex omnibus fidelibus."<sup>230</sup> In this section Ripa is not concerned with other than the legislative function of the cardinals and does not address the question of their constitutional relationship to the general council, but he is so strongly in favor of the "episcopal thesis" (Ullmann) that it seems he might have maintained the cardinals could call a general council, and given the Church as "all the faithful" it would seem that he might have held some sort of delegation theory.

Whether de Ripa prove the source or not, Starkey does seem to have transferred some aspects of conciliar theory to the English constitution, since his royal council functions analogously to his college of cardinals, and the pope has much the same position as his king.

Some of the possible implications of Ripa's adherence to Bartolus for his influence on Starkey need to be drawn. Ascheri cites several passages indicating Ripa's dependence on the fourteenth century jurist.

"Sequar igitur bar.[tolum], uti legiferum deum; addendo vel detrahendo prout scientiae conditor revelabit." "Glossa et Bartolus sunt duae

---

<sup>230</sup>Ibid., pp. 155, 165-66. It also seems interesting that this parallel was drawn explicitly by de Ripa's master Bartolus. "The Senate is made to correspond with the College of Cardinals. . . ." Cecil N. Sidney Woolf, Bartolus of Sassoferrato: His Position in the History of Medieval Political Thought (Cambridge: At the University Press, 1913), p. 74. Pierre d'Ailly, one of the leading conciliarists in the early part of his career, also produced a formula on the college of cardinals exactly parallel to Starkey's royal council. ". . . the Cardinals are co-assistants . . . of the Pope 'in the place and name of the Universal Church as well as of the Roman Church.' . . . the election of the Pope should pertain to the Cardinals. . . . Nevertheless, this power 'principally and originally pertains to the Universal Church or the General Council representing it,' [and] . . . the Cardinals in exercising it . . . are acting as the viceregents of the Universal Church." The Cardinals may also summon a General Council. Francis Oakley, The Political Thought of Pierre d'Ailly: The Voluntarist Tradition (New Haven: Yale University Press, 1964), pp. 125-26.



tutissimae naves, quibus vastum iuris pelagus navigamus, et in portum veritatis reducimur." Ripa also called Bartolus "the light of the law, and the father of truth."<sup>231</sup>

Despite the opinion of Maitland, it would seem that there is good reason to reckon Starkey among the Bartolists as well. Maitland claimed that "Starkey was in the camp of the anti-Bartolists" on the strength of his letter noting the death of Francis Curtius at Padua.<sup>232</sup> This letter could as easily be an expression of Starkey's disappointment over Curtius' death (June 27, 1533) very shortly before Starkey got to Padua. Unless Starkey were being very uncharitable by mocking the "grief of the followers of Bartolus" a more likely inference would seem to be that Starkey had been attracted to Padua by the eminence of Curtius, sometime councillor of Francis I.<sup>233</sup> Ripa had already had one letter in later 1532 from the Duke of Milan, whose subject he was, ordering him to return, and was finally recalled on August 13, 1533.<sup>234</sup> Therefore, it seems reasonable that Starkey was moving to a new teacher, given Curtius' prominence, and the imminent departure of de Ripa. As one Lapis makes clear in a letter to Boniface Amerbach, de Ripa would be missed (November 11, 1533): ". . . now Ripa is going, I do not know whether he will return; yet we have his wife and whole family here and hope for his return; we sorrow to shortly send away such a man."<sup>235</sup> If Starkey had been an anti-Bartolist, he could

---

<sup>231</sup>Ascheri, op. cit., p. 103n.

<sup>232</sup>Maitland, op. cit., p. 46.

<sup>233</sup>According to Joechers Allgemeine Gelehrte-Lexikon, I, col. 2261, Franciscinus Curtius taught law at Pavia at first, then went into the service of Francis I, was captured by the Imperialists, ransomed by the Venetians, and then established in Padua.

<sup>234</sup>Ascheri, op. cit., pp. 84, 86.

<sup>235</sup>Hartmann, op. cit., 4, #1789.

have found plenty of company in Avignon and would surely have at least heard the name of Andreas Alciati, one of the foremost humanist jurists, who left Avignon shortly before Starkey's arrival. Would Starkey have spent a year and a half with a teacher whose views he did not share when he could have gone elsewhere and found numerous humanist jurists?

Thus there is at least the possibility that Starkey should be reckoned as something of a Bartolist. Much more work on de Ripa is needed to establish this connection, but certain aspects of Bartolus' legal theory are remarkably similar to Starkey's. Even if Ripa does not explicitly discuss the relevant passages of Bartolus, he does make heavy use of him otherwise. Because I have established the likelihood of some measure of influence, I will depart from my usual procedure and attempt to sketch out some of the reasons why I think the Ripa-Starkey connection needs more study, to suggest some aspects of Bartolus' political theory which could have been of use to Starkey, if transmitted through Ripa.

Fortunately Bartolus is covered by the superb work of Cecil N. Sidney Woolf, replete with numerous and extensive quotations. On one point of obvious interest to Starkey, sovereignty, it can be established that Ripa followed Bartolus. For Bartolus "as 'sibi princeps' the civitas will now be able to legislate on all topics which the Emperor has reserved to himself . . . the civitas is now an independent sovereign state."<sup>236</sup> Further, this sovereignty is legitimated by a quasi-democracy. "Regimen ad populum" is the best form of government for any city, with or without a superior. "This democratic theory of the internal government of the city is not based upon the independence of the city, but upon the conception of the

---

<sup>236</sup>Woolf, op. cit., p. 160.

government, as a representative of the universitas."<sup>237</sup>

In practice, sibi princeps could still be Princeps; however, this sovereign is far from unlimited. The legislator, and consequently, all human law is dependent on higher laws, divine, natural, and those of nations. "And even as regards his own laws, though he submits to them 'de voluntate,' not 'de necessitate,' it is still 'aequum et dignum' that he should be bound by them." The essence of law is "sanctio sancta, iubens honesta et prohibens contraria."<sup>238</sup> In short, "Deus non dedit ei [principi] jurisdictionem peccandi."<sup>239</sup>

Ripa explicitly accepts this view of sibi princeps. "The king in temporal affairs acts as the vicar of God in his kingdom, and has the right of making laws" if he does not recognize a superior. "From all which arguments the conclusion is drawn, that the laws which speak in the Emperor, likewise have a place in the king, and others not recognizing a superior."<sup>240</sup>

When Bartolus' theory of statute law is added to this, a formulation remarkably like Starkey's emerges. This seems superficially similar to Marsiglio, but is different in precisely the ways Starkey differs from him. Statutes may not be made contrary to divine or natural law, but "the scope of legislation was not restricted within too narrow limits." In temporalia, divine law may be amplified by human.<sup>241</sup> The same is true of

---

<sup>237</sup>Ibid., pp. 188-89.

<sup>238</sup>Ibid., p. 46.

<sup>239</sup>Ibid., n. 2, n. 1.

<sup>240</sup>Ripa, op. cit., 3.

<sup>241</sup>Woolf, op. cit., p. 52.

custom; a law may ordain something not specifically allowed "provided that it accords with 'bonae mores' and public utility, and is within the limits of the jurisdiction which the people can exercise."<sup>242</sup> "The general rule . . . is that they are both [custom and statute] essentially inferior to the 'jus commune'; but just as the 'jus commune' or a statute can amplify . . . the higher laws, so custom and statute can amplify . . . the 'jus commune,'"<sup>243</sup> a position obviously of interest to an Englishman familiar with the common law and concerned to allow alterations in its customs. According to Ullmann, Bartolist thought "gained an unexpected hearing in English academic quarters" through Albericus Gentilis and "dominated the lecture halls" through the fifteenth century.<sup>244</sup> Lastly, it should be noted that Bartolus is considered the leading Thomist among the lawyers.<sup>245</sup> This last could be very important, given the numerous parallels between Starkey and Aquinas. As yet I have done no more than hint at these since I have yet to establish any very solid-looking channels by which Aquinas could have reached Starkey.

b. Padua.

However obscure the relation between Bartolus, de Ripa and Starkey may be, when we attempt to deal with Padua we enter the morass. There is next to nothing known about the law faculty, and very little about Starkey's year or so there, if he was even in the law faculty. If he was, it is not known with whom he may have studied. It could be very interesting if he had begun the study of theology there, given the flourishing

---

<sup>242</sup>Ibid., pp. 150-51.

<sup>243</sup>Ibid., p. 152.

<sup>244</sup>Ullmann, Law and Politics, op. cit., p. 110.

<sup>245</sup>Wilks, op. cit., 122n., 118-9.

school of Thomists in the university where the greatest Thomist of the day, Cardinal Cajetan, had made his name.

McNair has noted the Thomist strain at Padua, but also points out the existence of a strictly orthodox school of Aristotelians.<sup>246</sup> Randall emphasizes "heterodox" Aristotelianism, principally among the scientists.<sup>247</sup> Kristeller also emphasizes Thomism. "We may very well say that the sixteenth century makes a notable advance over the thirteenth and fourteenth centuries in the relative role and importance of Thomism."<sup>248</sup> But as Kristeller also warns, "it will be hazardous to pronounce on the influence exercised by St. Thomas on the lay Aristotelians of the time." Thomas was highly thought of as a commentator on Aristotle, and manuscripts of his commentaries were readily available, especially at Padua and Verona.<sup>249</sup> Recently Collins, in a study designed to make explicit the degree of influence of Aquinas on Ficino says "the position of Thomas Aquinas in Renaissance Italy is a complex one," and notes the wide diffusion of Dominicans, and Ficino's opinion of Aquinas as the "splendor of Christian theology."<sup>250</sup>

---

<sup>246</sup> Philip McNair, Peter Martyr in Italy: An Anatomy of Apostasy (Oxford: Clarendon Press, 1967), pp. 102, 107.

<sup>247</sup> John Herman Randall, Jr., "The Development of Scientific Method in the School of Padua," in Renaissance Essays from the Journal of the History of Ideas, ed. by P. O. Kristeller and P. P. Wiener (New York: Harper and Row, 1968), p. 223.

<sup>248</sup> Paul Oskar Kristeller, Renaissance Thought: The Classic, Scholastic, and Humanist Strains (New York: Harper and Row, 1961), p. 38. This opinion is seconded by Heiko Oberman, who says that by the fifteenth century Thomas had become the opinion among Dominicans. Heiko A. Oberman, The Harvest of Medieval Theology: Gabriel Biel and Late Medieval Nominalism (Grand Rapids: Wm. B. Eerdmans, 1967), pp. 142-43.

<sup>249</sup> P. O. Kristeller, Le Thomisme et la Pensée italienne de la Renaissance (Montreal: Institute d'Études Médiévales, 1967), pp. 57-58.

<sup>250</sup> Ardis B. Collins, The Secular is Sacred: Platonism and Thomism in Marsilio Ficino's Platonic Theology (The Hague: Martinus Nijhoff, 1974), pp. 5-6.

The Padua Aristotelians have been studied, but mostly in terms of the history of medicine and mechanics, and the debate over the immortality of the soul and "Latin Averroism." McNair has attempted to track down names of other, less scientifically inclined Aristotelians. From his list, I have isolated three possibilities, but have had little success gathering information about them.<sup>251</sup>

#### 4. Juan Luis Vives

In another, and somewhat overlooked direction, I have had much better success. It seemed to me that Juan Luis Vives might somehow have played a role in Starkey's education, given the similarity of their ideas on education and poor relief, or at least that he might point to a common source.

Vives delivered a series of lectures in Corpus Christi, Oxford, between August, 1523 and April, 1524, with Pole among the students,<sup>252</sup> and at the time when Starkey was a proctor in Magdalen.<sup>253</sup> The precise content of these lectures is not known, but Vives' general views on natural law, civil society, and psychology in other approximately contemporary works are virtually identical with those later expressed by Starkey, with one exception: Vives was more a body-soul dualist than Starkey.

Carlos Noreña has recently studied Vives. From Vives' commentary

---

<sup>251</sup> McNair, op. cit., pp. 103-105. The three are Gaspare Mansueti de Perugia, who retired, however, in 1531; Alberto Pascolego de Udine, who taught 1533-35; and Simone Ardeo, a Franciscan, at Padua from 1517-1537. Nardi's Saggi sull'Aristotelismo Padovano dal Secolo XIV al XVI (1958) is principally concerned with Dante, and only reaches the sixteenth century to discuss the circle of Pomponazzi.

<sup>252</sup> Carlos G. Noreña, Juan Luis Vives (The Hague: Martinus Nijhoff, 1970), p. 85.

<sup>253</sup> Zeeveld, op. cit., p. 27.

on De civitate dei (completed in July, 1522), he cites a number of views which were unorthodox enough to merit condemnation by the Holy Office in 1559. For instance, Vives maintained that pagans could be saved by keeping the Law and by perfect love, and that "the nations which have no law but nature are a law to themselves." The perfection of the law is love, but love founded on proper knowledge: "The excellent perfection of virtue is proper to the witty alone."<sup>254</sup> All of this could have been spoken by Starkey, at least in the bulk of the Dialogue. Even after the final break in it, Vives and Starkey seem very close on the question of justification, since Noreña observes that "Vives detachment from St. Augustine in religious matters can perhaps be explained by the pessimism of the Saint's response to Pelagius."<sup>255</sup>

Summing up the argument of De disciplinis and Introductio ad sapientiam, Noreña observes that "Moral law . . . is not a divine command exclusively dependent on God's inscrutable will." The example Vives gives is adultery, which is evil because it is a perversion of natural propagation. The moral and the ontological order are interdependent. "Vives' moral philosophy is based upon the premise that virtue is a perfection of man qua man," a perfection made possible by the rule of reason. "The body should be obedient to the soul, and in the soul the lower passions should be ruled by reason, which is the queen and governor whose leadership makes true men and imitations of the Divine Nature."<sup>256</sup> "All human knowledge is healthy and useful as long as it is referred to its

---

<sup>254</sup>Noreña, op. cit., p. 137.

<sup>255</sup>Ibid., p. 133.

<sup>256</sup>Ibid., pp. 201-202.

final goal which is virtue and the exercise of good actions."<sup>257</sup>

The consequence of this "naturalistic" outlook was a "secularized form of morality," in which "even the counsels of evangelical perfection are reduced by Vives to precepts of the natural law dictated by an enlightened self-interest." In the interestingly titled De concordia, Vives concludes "Quid enim est aliud Christiana, quam homo naturae suae redditus, ac velut natalibus restitutus?"<sup>258</sup>

In Aedes legum (1519) Vives discusses natural law.

Natural law is described by Aristotle in the first book of the republic as that which has the same force everywhere, and as that which all have written in their hearts, since they were brought from their mother's womb; besides all nations certainly hold the same immutably, they feel about it in the same manner nor is there any nation which does not spontaneously assent to this law: nor is this surprising; because nature is the same and invariable in all men . . . nor is this because it seems so to one man, not to one senate, one republic, nor because to one kingdom, not finally because so to the world, are these laws ratified and accepted, but because they arise so among us, they are honored among us, not the ancients; besides nature itself impresses these principles, which are the most subtle and inscrutable, on everyone born; [for instance] the worship of the gods, congress, or the appetite for human communication. . . . Besides it impresses horror of crimes, and conscience (consciousness?) of bad acts of life, the furies, as the poets said, which harass and terrorize impious and criminal men. It places into man . . . the conjunction of man and woman . . . and whatever else pertains to the natural law: these, therefore, are such, that none of us can think to doubt, because laws divine, natural, civil, whatever kind, are effected through this same natural law.<sup>259</sup>

Noreña finds much the same discussion in De disciplinis.<sup>260</sup> Vives' view of positive law is very much like that of Starkey in the bulk of the Dialogue, since its "principal aim is to instill in man the proper attitude of mind," and because it "should strive to persuade men not to want

---

<sup>257</sup>Ibid., p. 205.

<sup>258</sup>Ibid., p. 207.

<sup>259</sup>Juan Luis Vives, In leges Ciceronis praelectio, Opera Omnia (Valencia ed.), 5 (London: Gregg Press, 1964), 494-95.

<sup>260</sup>Noreña, op. cit., pp. 216-27.



to do evil, rather than punish the evil-doers."<sup>261</sup>

Of lex animata and equity, Vives thought that "more important than any reform of the law . . . was the wisdom of . . . judges and attorneys, whose function was to interpret the letter of the law to each individual case . . . jurisprudence is moral wisdom applied to the rules which make possible the life of men."<sup>262</sup> This point is amplified in De disciplinis.

Laws are joined to the forms of the civitas, of which the origin and processions have to be brought to this manner: the cities of men, or all comings together, are by equity or the bond of nations, which is the conservatrix and the soul of human society; what may truly be equity reason discovers, incited not in merely any way, but by the pure and great force of nature, or illuminated by the admonitions of wisdom; now these [cities] are either disturbed by affects, or by lazy judgments, nor are they excited by any precepts of philosophy, suffering, they can come to the use of equity. Those superiors, who are among the rare in our people, deduce that from equity, as from a fountain in streams, that, for the places, times, sorts of men, conduces to the use of the present society, which is called law. He who, truly singled out, thinks to appear to others with power [is] the judge or speaking law. Wherefore it may be manifest that philosophers are those who practice equity, and derive laws from equity.<sup>263</sup>

It will hardly surprise that the end of all this is "virtue and felicity," although Vives emphasizes that this is only possible through the proper orientation to the telos, if the whole human race is not to miss its perfection.<sup>264</sup>

It comes as something of an anticlimax to observe that P. S. Allen calls Vives "eminent among the humanists for the importance that he

---

<sup>261</sup>Ibid., pp. 217-18.

<sup>262</sup>Ibid., p. 219.

<sup>263</sup>Juan Luis Vives, De tradendis disciplinis, op. cit., v.6, 408.

<sup>264</sup>Vives, In leges, op. cit., p. 496.

attached to Aristotle."<sup>265</sup>

I think it will suffice now to demonstrate Starkey's dependence on Vives to observe that he uses exactly the same image for the derivation of positive law as Vives, that of a fountain and streams. As Starkey put it—"For all good civil laws spring and issue out of the law of nature, as brooks and rivers out of fountains and wells"; and Vives, reversing his order, "law . . . as from a fountain in streams." Though Vives speaks of law issuing from equity, not the law of nature, these two were virtually identical for both Vives and Starkey. Further, they maintain the same single-mode theory of derivation: positive law derives from natural only as mathematical conclusions are drawn from principles.

Starkey's equity is very nearly that of Vives, and he finally opted for the judge as lex loquens over the reform of the law as the more important method of social improvement. Of equity uses in the Dialogue, some seem wholly traditional, but this may be due to a lack of expansion, since in two cases "common justice and equity" ("all things . . . equally should be distributed"), and "without regard of private gain" equals equity, Starkey adheres to the same, ultimately Platonic, idea of justice with equity as Vives does.<sup>266</sup> It is possible, of course, that an independent study of Plato could have produced independently similar conclusions in Vives and Starkey, including the obviously Platonic "brooks and rivers."

It should also be noted that this idea of equity seems little different from de Ripa's. He, like Starkey and St. German, connects equity with

---

<sup>265</sup>Guido Kisch, Erasmus und die Jurisprudenz seiner Zeit: Studien zum Humanistischen Rechtsdenken (Basel: Helbing and Lichtenhahn, 1960), 86n.

<sup>266</sup>Starkey, Dialogue, op. cit., pp. 146, 157. Other uses of equity on pp. 38, 111, 113, 116, 156, 178.

conscience. This should serve further to blur the distinction between "humanist" mos gallicus and "medieval" mos italicus jurisprudence.

It is also possible that the strong resemblances between Starkey and Vives are in part spurious, since Kisch maintains that Vives derived his equity in large measure from Aristotle.<sup>267</sup> The fact that Starkey's conception of law, while generally very similar to Aquinas', happens to differ at precisely one of the more important points that Vives' does—the method of derivation from natural law—, as well as the fact that Starkey never cites Aquinas, seem to militate against his having made direct use of him. Further, Starkey's usage is very similar to More's in *Utopia*, which has also been claimed as a direct derivation from Aristotle.<sup>268</sup> Again, the issue is very complicated, and despite the presumption of dependence on Vives, Starkey's philosophical sources remain far from clear.

The general line of argumentation in this final section has been that Starkey could easily have been literally saturated in the ideas that he supposedly got from Melanchthon. Incidentally, much the same was found to be true of the alleged influence of Marsiglio, at least on Starkey's legal theory. In fact, given the very heavy dependence of Starkey on

---

<sup>267</sup>Kisch, op. cit., p. 88.

<sup>268</sup>White, op. cit., p. 659n., who maintains that More's equity belongs in the development traced by Kisch for humanist jurisprudence. When White points out "More's remarks do not seem to have any relation to Plato's theory of justice" (66On.), it may be recalled that, Starkey, supposedly the Aristotelian, does not speak about justice in anything but a Platonic sense! Starkey's syncretistic approach to Aristotle and Plato got him into more than one difficulty. The conflict between Platonic cosmology and Aristotelian political science has already been discussed. Further, are the officers of state to be "lively laws" or not? First, Starkey quotes Plato's opinion that they should be (Dialogue, p. 150), but decides this is impossible; later, still in the same section of the manuscript, he comes back to and endorses Plato's thesis (178). Starkey could have profitably followed Ficino's example and used only so much of Plato and Aristotle (or Aquinas) as would fit together: a hierarchy of laws with a hierarchy of beings, but without the last part of De regimine principum.

Vives, his possible dose of Aquinas, the general "Erasmian" climate in which he moved, the attitude of Protestant reformers of all shades of opinion, conciliarists like Gerson, in the first case, and much the same list with the addition of Bartolus and de Ripa in the second, what would have been remarkable is not that Starkey introduced the notion of things indifferent, or that he was a "republican," but that he could have managed to avoid either of these, as he did. This may be a bit extreme, but there would seem to be little doubt that neither adiaphorism nor republicanism needed discovery or defense in the sixteenth century. Indeed, what is most clear is the way disparate influences could coalesce to produce much the same ideas wherever Starkey turned. In conclusion, I wish to emphasize the near ubiquity of ideas which have been alleged to be somehow special in Starkey, a certain idea of natural law and of adiaphora. Whatever Starkey may have called them, many of Starkey's contemporaries called them the same thing. The accidents of print should not allow later investigation to be misled.

### PART III. CONCLUSIONS

In general terms, the state of knowledge on most of the problems raised in this thesis is deficient. The development of the adiaphoristic argument in the sixteenth century is still in shadow, though Fr. Verkamp's dissertation and forthcoming book, as well as his two articles will do much to supply this lack, at least for England.

The development of Melanchthon's natural law theory, and that of the reformers in general, is a knotty problem. The pioneering work of Bauer on the Loci of 1521 and 1559 has documented the earliest and latest forms of this theory, and I hope to have traced some of the intervening development. Still, the relations of this theory to earlier and contemporary thinkers is very obscure.

Late medieval Aristotelianism in political theory is little studied. The relations between Aristotle and medieval philosophy in general are complicated enough, but when the interdependent relations of philosophers and legal scholars and Aristotle are considered the situation becomes very complex indeed.

Civil law and the development of sovereignty in the sixteenth century is a question which deserves much more attention. The double impact, on the one hand absolutist, but on the other republican, of Roman law on twelfth century political theory was observed long ago by Carlyle, but this latter aspect and the whole of civilian sovereignty theory has gotten little consideration in the later period, at least for England.

Lastly, the question this thesis began with, the impact of

Melanchthon and Lutheranism in general on the English Reformation, needs much more study. If I have seen cause to doubt one instance alleged for his influence, this is hardly the whole picture. Suffice it now to observe two highly suggestive bits of evidence. First, Melanchthon was regularly used on both sides of various Anglican/Puritan disputes in the later sixteenth century. For instance, his Epitome of Moral Philosophy (1532) could be cited in the government tract "Whether it be mortal sin to transgress civil laws," and at roughly the same time, his Commentary on Romans (also 1532) could be cited in the opposition Fortress of Fathers, on precisely the same question of obedience to civil legislation on ecclesiastical affairs; in the first to justify non-resistance, in the second to claim "he [Melanchthon] requireth that we should be obedient unto that word [of God], and not unto new laws which men shall further add unto the word."<sup>269</sup> Both are faithful reproductions of bits of Melanchthon. More interesting, perhaps is the second piece of evidence which provides some confirmation of the "Melanchthonian via media" of Meyer and others. It is a letter from William Cecil to Calvin, dated February 4, 1559.

I think clearly that the Gospel of Christ ought to be assigned to more patrons and defenders among the princes and monarchs, than it has been thus far. . . . Therefore, if the princes and men of the council may be persuaded . . . it is easier to carry the multitude along by [means of] them than the notable can be [carried] to the Gospel by the commons. . . . And so I would wish the great part of the effort to be placed in the Gospel's efficacy. . . . I would wish some kind of apology to be written, by which the curses of our adversaries could be answered . . . mostly to those who incense the spirits of kings and princes and those who are set over republics, and those who seem to hinder the encompassing light of the Gospel, the permitted reformation of the church (as if this thing might not stand with the government of republics). In

---

<sup>269</sup> Leonard J. Trinterud, ed., Elizabethan Puritanism (New York: Oxford University Press, 1971), pp. 80, 107.

which matter one among the others, Philip Melanchthon, seems to me to have always had the very best method in his writings.<sup>270</sup>

Thus, if Melanchthon's influence on an obscure political pamphleteer now seems unlikely, his influence on Queen Elizabeth's chief minister seems very much more likely. After all, it seems possible to trace a line of development from the Loci 1535 through De officio principum (1539) to the Loci 1559 and thence by whatever route to the Leviathan of Hobbes. The reduction of external observances to external observances and the safeguarding thereby of individual conscience may be an important legacy of Melanchthon to the via media and its ultimate product, the sovereign state.

---

<sup>270</sup> Calvin Correspondence, in Calvini Opera Quae Supersunt Omnia, Corpus Reformatorum, edited by Wilhelm Baum et al. (Brunswick: C. A. Schwetschke and Sons, 1863-1900, reprint Johnson Reprint Co., 1964), v. 17, #3078. Does Cecil's conformity under Mary reflect something of Melanchthon's attitude to the Interim?

## BIBLIOGRAPHY



## BIBLIOGRAPHY

### I. PRIMARY SOURCES

Aquinas, Thomas. Commentary on the Nichomachaen Ethics. Translated by C. I. Litzinger. Chicago: Henry Regnery, 1964.

\_\_\_\_\_. In epistolam ad Romanos. In Opera Omnia. Edited by Stanislaus Eduard Fretté. Paris: Louis Vives, 1876.

Augustinus, Aurelius. Ad inquisitiones Januarii, I. V. 33. In Patrologia Latina. Edited by J. P. Migne, et al. Paris: Garnier Bros., 1902.

Barnes, Robert. A Supplicatyon made by Robert Barnes doctoure in divinite unto the most excellent and redoubted prince kinge henrye the eyghth. Printed at Strassburg, 1554.

Bigongiari, Dino, ed. The Political Ideas of St. Thomas Aquinas. New York: Hafner Publishing Co., 1953.

Calvin, John. Correspondence. Thesaurus Apostolicus Calvinianus. Edited by Eduard Cunitz and Eduard Reuss. Opera Quae Supersunt Omnia. V. 17. In Corpus Reformatorum. Edited by Wilhelm Baum, Eduard Cunitz and Eduard Reuss. Braunschweig: C. A. Schwetschke and Sons, 1887. Reprinted by Johnson Reprint Company, 1964.

Cicero, Marcus Tullius. De finibus bonorum et malorum. With an English translation by H. Rackham. London: Wm. Heinemann, 1931.

Colet, John. Enarratio in epistolam S. Pauli ad Romanos. Latin text with translation by J. H. Lupton. London: 1873. Reprinted Ridgewood, N. J.: The Gregg Press, 1965.

Duffield, G. E., ed. The Work of Thomas Cranmer. Introduction by J. T. Parker. Philadelphia: Fortress Press, 1965.

Friedberg, Emil, ed. (after Emil Ludwig Richter). Corpus Iuris Canonici. Graz: Akademische Druck- und Verlagsanstalt, 1955. Reprint of 1879 edition.

Frith, John. A Myrroure or lokynge glasse wherin you may beholde the sacramente of baptisme described. London: John Daye [1533]. STC #11,391.

Gansforth, Wessel. Opera. Nieuwkoop: Bede Graaf, 1966. Facsimile reprint of Groningen edition of 1614.

Gerson, Jean. De vita spirituali animae. Oeuvres Complètes. V. 3.  
Introduction, text and notes by Msgr. Glorieux. Tournai:  
Desclée and Co., 1962.

\_\_\_\_\_. Tractatus de unitate ecclesiae. Oeuvres Complètes. V. 6.  
Introduction, text and notes by Msgr. Glorieux. Tournai:  
Desclée and Co., 1962.

Hartmann, Alfred, ed. Amerbach Korrespondenz, 1514-1524. V. 4.  
Basel: Verlag der Universitätsbibliothek, 1943.

Herrtage, Sidney J. England in the Reign of King Henry the Eighth.  
Part I. Starkey's Life and Letters. London: Early English  
Text Society by Oxford University Press, 1927. Extra series #32.

Hus, Jan. Tractatus de ecclesia. Edited by S. Harrison Thomson.  
University of Colorado Press and Cambridge: W. Heffer and Sons,  
1956.

Janelle, Pierre, ed. Obedience in Church and State: Three Political  
Tracts by Stephen Gardiner. Cambridge: At the University Press,  
1930.

Lloyd, Charles, ed. Formularies of Faith Put Forth by Authority During  
the Reign of Henry VIII. Oxford: Oxford University Press, 1856.

Lupset, Thomas. A compenious and a very fruteful treatyse teachyng  
the waye of dyenge well written to a frende. In John Archer Gee,  
The Life and Works of Thomas Lupset with a Critical Text of the  
Original Treatises and the Letters. New Haven: Yale University  
Press, 1928.

Luther, Martin. "That Doctrines of Men are to be Rejected." Works of  
Martin Luther. Philadelphia edition. V. 2. Translated and edited  
by W. A. Lambert. Philadelphia: Muhlenberg Press, 1943.

Melanchthon, Philip. Apologia Confessionis Augustanae. Opera Quae  
Supersunt Omnia. V. 27. Edited by Heinrich Ernst Bindseil.  
In Corpus Reformatorum. Edited by Carl Bretschneider et al.  
Halle: C. A. Schwetschke and Successors, 1853. Reprinted by  
Johnson Reprint Company, 1963.

\_\_\_\_\_. Confessio Augustana. Opera Quae Supersunt Omnia. V. 26.  
Edited by Heinrich Ernst Bindseil after Carl G. Bretschneider.  
In Corpus Reformatorum. Edited by Carl G. Bretschneider et al.  
Brunswick: C. A. Schwetschke and Son, 1859. Reprinted by  
Johnson Reprint Company, 1963.

\_\_\_\_\_. Commentarii in epistolam Pauli ad Romanos (1532).  
Melanchthons Werke in Auswahl. V. 5. Edited by Gerhard Ebeling  
and Rolf Schaefer. Guetersloh: Gerd Mohn, 1965.

- \_\_\_\_\_. Enarrationes in quintum librum ethicorum Aristotelis.  
Opera Quae Supersunt Omnia. V. 16. Edited by Heinrich Bindseil  
 after Carl G. Bretschneider. In Corpus Reformatorum. Edited by  
 Carl G. Bretschneider et al. Brunswick: C. A. Schwetschke and  
 Son, 1850. Reprinted by Johnson Reprint Company, 1963.
- \_\_\_\_\_. Epistolae. Opera Quae Supersunt Omnia. V. 2. In Corpus  
Reformatorum. Edited by Carl Bretschneider. Halle: C. A.  
 Schwetschke and Successors, 1835. Reprinted by Johnson Reprint  
 Company, 1963.
- \_\_\_\_\_. Loci communes theologici von 1521. Edited by Hans Engelland.  
Melanchthons Werke in Auswahl. V. 4. Edited by Robert Stupperich.  
 Guetersloh: C. Bertelsmann, 1952.
- \_\_\_\_\_. Loci communes theologici of 1535. Opera Quae Supersunt Omnia.  
 V. 21. Edited by Heinrich Ernst Bindseil. In Corpus Reformatorum.  
 Edited by Carl Bretschneider, et al. Halle: C. A. Schwetschke  
 and Successors, 1854. Reprinted by Johnson Reprint Company, 1963.
- \_\_\_\_\_. Loci praecipui theologici von 1559 (Pt. 1). Edited by Hans  
 Engelland. Melanchthons Werke in Auswahl. V. 4. Edited by Robert  
 Stupperich. Guetersloh: C. Bertelsmann, 1952.
- Palacky, Franciscus, ed. Documenta Magistri Joannis Hus. Osnabrueck:  
 Biblio-Verlag, 1966.
- Pecock, Reginald. The Repressor of Overmuch Blaming of the Clergy.  
 Edited by Churchill Babington. Rolls Series, #19. London: Longman,  
 Green, Longman, and Roberts, 1860.
- Pole, Reginald. Pole's Defense of the Unity of the Church. Translated  
 with an introduction by Joseph G. Dwyer. Westminster, Md.: The  
 Newman Press, 1965.
- Ripa, Giovanni Francesco de. In primum decretalium librum commentarium.  
 In Opera Omnia. V. 5. Venice: Juntas, 1569.
- St. German, Christopher. A dialoge in Englyshe bytytwyxta a Doctour of  
Dyuyntyte & a Student in the Lawes of England: of the groundes of  
the sayd lawes & of Conscience (1531). STC #21567.
- \_\_\_\_\_. The secunde dyaloge in Englysshe bytwene a doctour of dyuynytye  
& a Student in the lawes of England (1530). STC #21565.
- Starkey, Thomas. A Dialogue Between Reginald Pole and Thomas Lupset.  
 Edited by Kathleen M. Burton. London: Chatto and Windus, 1948.
- \_\_\_\_\_. An Exhortation to the People instructynge theym to unitie  
& obedience. London: Thomas Berthelet, [1540?]. STC #23236.
- Vives, Juan Luis. De tradendis disciplinis. In Opera Omnia. Valencia  
 edition. V. 6. Reprinted Ridgewood, N. J.: The Gregg Press, 1964.

\_\_\_\_\_. In leges Ciceronis praelectio. In Opera Omnia. Valencia edition. V. 5. Reprinted Ridgewood, N. J.: The Gregg Press, 1964.

Watson, Foster, ed. Vives on Education: A Translation of the De tradendis disciplinis on Juan Luis Vives. Cambridge: At the University Press, 1913.

## II. SECONDARY SOURCES

Allen, J. W. A History of Political Thought in the Sixteenth Century. New York: Barnes and Noble, 1960.

Ascheri, Mario. Un Maestro del "Mos Italicus": Gianfrancesco Sannazari della Ripa (c. 1480-1535). Milan: A. Gioffre Editore, 1970.

Bainton, Roland. Women of the Reformation in France and England. Minneapolis: Augsburg Publishing House, 1973.

Bauer, Clemens. "Die Naturrechtsvorstellungen der juengeren Melanchthon." Gesammelte Aufsätze zur Wirtschafts- und Sozialgeschichte. Freiburg: Herder, 1965.

Bayne, C. G. Anglo-Roman Relations, 1558-1565. Oxford: Clarendon Press, 1913.

Brotto, I. and G. Zonta, eds. Universita di Padova. Acta Graduum Academicorum. V. 3, Pt. 2, 1526-1532. Edited by E. Martellozo Eorin. Padua: Antenne, 1969.

Chodorow, Stanley. Christian Political Theory and Church Politics in the Mid-Twelfth Century: The Ecclesiology of Gratian's Decretum. Berkeley: University of California Press, 1972.

Clebsch, William A. England's Earliest Protestants 1520-1535. New Haven: Yale University Press, 1964.

Collins, Ardis B. The Secular is Sacred: Platonism and Thomism in Marsiglio Ficino's Platonic Theology. The Hague: Martinus Nijhoff, 1974.

Copleston, Frederick C. A History of Philosophy: Late Medieval and Renaissance Philosophy. V. 3. Pt. 1. Garden City, N. J.: Doubleday, 1963.

Cranz, F. Edward. An Essay on the Development of Luther's Thought on Justice, Law, and Society. Cambridge, Mass.: Harvard University Press, 1959.

D'Entrevés, A. P. The Medieval Contribution to Political Thought. Oxford: Oxford University Press, 1939.

Dickens, A. G. The English Reformation. New York: Schocken Books, 1964.

- \_\_\_\_\_. Thomas Cromwell and the English Reformation. New York: Harper and Row, 1959.
- Douglas, Richard M. Jacopo Sadoleto: 1473-1547: Humanist and Reformer. Cambridge, Mass.: Harvard University Press, 1959.
- Elton, G. R. "Reform by Statute: Thomas Starkey's Dialogue and Thomas Cromwell's Policy." Proceedings of the British Academy, 54 (1968), 165-188.
- \_\_\_\_\_. Reformation Europe, 1517-1559. New York: Harper and Row, 1963.
- Fenlon, Dermot. Heresy and Obedience in Tridentine Italy: Cardinal Pole and the Counter Reformation. Cambridge: At the University Press, 1972.
- Gewirth, Alan. Marsilius of Padua and Medieval Political Philosophy. New York: Columbia University Press, 1951.
- Grabmann, Martin. Die Mittelalterliche Kommentare zur Politik des Aristotelis. Sitzungsberichte der Bayerischen Akademie der Wissenschaften, Philosophisch-Historische Abteilungen. V. 2. No. 10. 1941.
- Hexter, J. H. The Vision of Politics on the Eve of the Reformation: More, Machiavelli, Seyssel. New York: Basic Books, 1973.
- Kisch, Guido. Erasmus und die Jurisprudenz Seiner Zeit: Studien zum Humanistischen Rechtsdenken. Basel: Helbing and Lichtenhahn, 1960.
- \_\_\_\_\_. Melanchthons Rechts- und Soziallehre. Berlin: Walter de Gruyter, 1967.
- Knox, David Broughton. The Doctrine of Faith in the Reign of Henry VIII. London: James Clarke and Co., 1961.
- Kristeller, Paul Oskar. Renaissance Thought: The Classic, Scholastic, and Humanist Strains. New York: Harper and Row, 1961.
- \_\_\_\_\_. Le Thomisme et la Pensée italienne de la Renaissance. Montreal: Institute d'Études Médiévales, 1967.
- Kurath, Hans and Sherman M. Kuhn, eds. Middle English Dictionary. Ann Arbor: University of Michigan Press, 1958.
- Lohr, Charles. "Medieval Commentaries on Aristotle." Traditio 23 (1967), 313ff.; 24 (1968), 249ff.; 26 (1970), 235ff.; 27 (1971), 251ff.; 28 (1972), 281ff.
- Lohse, Bernhard. "Die Kritik am Moenchstum bei Luther und Melanchthon." Edited by Vilmos Vajta. Luther and Melanchthon in the History and Theology of the Reformation. Philadelphia: Muhlenberg Press, 1961.

Lottin, Odon. "Le problème de la moralité intrinsèque d'Abélard a Saint Thomas d'Aquin." In Lottin, Le Psychologie et Morale aux XIIe et XIIIe Siècles. Louvain: Abbaye du Mont Cesar, 1948.

\_\_\_\_\_. "Le valeur obligatoire de la conscience aux XIIe et XIIIe siècles." In Lottin, Le Psychologie et Morale aux XIIe et XIIIe Siècles. Louvain: Abbaye du Mont Cesar, 1948.

McConica, James Kelsey. English Humanists and Reformation Politics under Henry VIII and Edward VI. Oxford: Clarendon Press, 1965.

McNair, Philip. Peter Martyr in Italy: An Anatomy of Apostasy. Oxford: Clarendon Press, 1967.

McNeill, John T. "Alexander Alesius, Scottish Lutheran (1500-1565)." Archiv fuer Reformationsgeschichte, 55 (1964), 161-91.

Maitland, Frederic William. English Law and the Renaissance. Cambridge: At the University Press, 1901.

Manschreck, Clyde L. "The Role of Melanchthon in the Adiaphora Controversy." Archiv fuer Reformationsgeschichte, 48 (1958), 165-87.

Meyer, Carl S. Elizabeth I and the Religious Settlement of 1559. St. Louis: Concordia Publishing House, 1960.

Mozley, J. F. Coverdale and His Bibles. London: Lutterworth Press, 1953.

Munz, Peter. The Place of Hooker in the History of Thought. London: Routledge and Kegan Paul, 1952.

Noerr, Knut Wolfgang. Review of Ascheri. Zeitschrift der Savigny-Stiftung fuer Rechtsgeschichte. 88. Kanonistische Abteilung, 57 (1971), 433.

Noreña, Carlos G. Juan Luis Vives. The Hague: Martinus Nijhoff, 1970.

Oakley, Francis. "On the Road from Constance to 1688: The Political Thought of John Major and George Buchanan." Journal of British Studies, 1, No. 2 (1962), 1-31.

\_\_\_\_\_. The Political Thought of Pierre D'Ailly: The Voluntarist Tradition. New Haven: Yale University Press, 1964.

Pascoe, Lewis B. Jean Gerson: Principles of Church Reform. Leiden: E. J. Brill, 1973.

Porter, H. C. Reformation and Reaction in Tudor Cambridge. Cambridge: At the University Press, 1958.

Randall, John Hermann, Jr. "The Development of Scientific Method in the School of Padua." Edited by P. O. Kristeller and P. P. Wiener. Renaissance Essays from the Journal of the History of Ideas. New York: Harper and Row, 1968.

- Riley, Lawrence Joseph. The History, Nature and Use of Epikeia in Moral Theology. Washington: The Catholic University of America Press, 1948.
- Schmitt, Charles B. Cicero Scepticus: A Study of the Influence of the Academica in the Renaissance. The Hague: Martinus Nijhoff, 1972.
- Stelzenberger, Johannes. "Adiaphora." Reallexikon fuer Antike und Christentum. V. 1, cols. 83-87. Edited by Theodor Klauser. Stuttgart: Hiersemann, 1950.
- Stout, Harry S. "Marsilius of Padua and the Henrician Reformation." Church History, 43, No. 3 (September, 1974), 308-318.
- Strype, John. Memorials of Archbishop Cranmer. Oxford: Clarendon Press, 1812.
- Thompson, W. D. J. Cargill. "The Sixteenth Century Editions of a Supplication unto Henry VIII by Robert Barnes, D. D." Transactions of the Cambridge Bibliographical Society, 1959-1963, 3, 133-142.
- Tjernagel, Neelak Serawlook. Henry VIII and the Lutherans: A Study in Anglo-Lutheran Relations from 1521-1547. St. Louis: Concordia Publishing House, 1965.
- Trinterud, Leonard J., ed. Elizabethan Puritanism. New York: Oxford University Press, 1971.
- Ullmann, Walter. "Juristic Obstacles to the Emergence of the Concept of the State in the Middle Ages." The Church and the Law in the Earlier Middle Ages. London: Variorum Reprints, 1975.
- \_\_\_\_\_. Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas. Ithaca: Cornell University Press, 1975.
- Verkamp, Bernard J. "The Limits upon Adiaphoristic Freedom: Luther and Melanchthon." Theological Studies, 36, No. 1 (March, 1975), 52-76.
- \_\_\_\_\_. "The Zwinglians and Adiaphorism." Church History, 41, No. 4 (December, 1973), 486-504.
- White, Thomas. "Aristotle and Utopia." Renaissance Quarterly, 29, No. 4 (Winter, 1976), 35-75.
- Wilks, Michael. The Problem of Sovereignty in the Later Middle Ages: The Papal Monarchy with Augustinus Triumphus and the Publicists. Cambridge: At the University Press, 1963.
- Woolf, Cecil M. Sidney. Bartolus of Sassoferrato: His Position in the History of Medieval Political Thought. Cambridge: At the University Press, 1913.

Yost, John K. "German Protestant Humanism and the Early English Reformation: Richard Taverner and Official Translation." Bibliothèque d'Humanisme et Renaissance: Travaux et Documents, 32, No. 3 (1970), 613-25.

\_\_\_\_\_. "Hugh Latimer's Reform Program, 1526-1536 and the Intellectual Origins of the Anglican Via Media." Anglican Theological Review, 53 (1971), 103-114.

Zeeveld, W. Gordon. Foundations of Tudor Policy. Cambridge, Mass.: Harvard University Press, 1948.



MICHIGAN STATE UNIVERSITY LIBRARIES



3 1293 03145 2778