

A REFORMATION ETHICS: PROCLAMATION AND JURISDICTION AS
DETERMINANTS OF MORAL AGENCY AND ACTION

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The position paper for this symposium provides an instructive account of the false antitheses and destructive fragmentation that have beset morality and ethics in our 'late modern' societies. We plenary speakers have been invited to contribute broader philosophical and historical perspectives to the tasks of diagnosing and overcoming these antitheses and this fragmentation. I would like, therefore, to bring to these diagnostic and constructive tasks the theoretical resources of the English Reformation which, although doctrinal and theological rather than philosophical (as independently conceived), are, in my view, germane to any coherent Christian ethical undertaking. While I shall concentrate on the constructive ethical contribution of English Reformation theology, I would like to offer a brief indication of its diagnostic relevance, by pointing to certain resemblances (possibly even continuities) between the present ethos and the ethos to which the 16th century reformers were responding, with its late medieval and renaissance strands.

1. *The juridical and legalistic morality of modern natural rights*

At the risk of peddling historical over-simplifications and even clichés, I would suggest that the features of early-modern European morality and ethics to which the reformers responded critically were its legalism — its excessive regulative or prescriptive rigour, its juridical profile — its preoccupation with formal and informal practices of judging, punishing and vindicating, its overly individualistic and voluntaristic conception of moral agency and action, and its humanism — its separation of human from divine right, righteousness, judgement and freedom, and concentration on the former. Although the English and continental reformers primarily attacked these features of the contemporary ethos as they appeared within the 'spiritual' or 'ecclesial' sphere, in the sacramental and penitential theology and practices of the papal church, they also attacked (implicitly if not explicitly) their manifestations in civil society: in urban corporatism, capitalist economics, and in late scholastic and renaissance political thought.

I am, therefore, aligning myself with the critical thrust of Reformation theology in taking as my targets the similar features of late liberal morality and ethics: namely, their legalistic, juridical, individualistic, voluntaristic and humanist profile. Moreover, my diagnosis of the late liberal ethos follows the reformers in locating the core cause of the current moral and ethical malaise in the theoretical disengagement of human moral agency and action from God's

right, righteousness, judgement and freedom, revealed in His manifold, active, and ongoing relations with his human and non-human creatures.

There are, no doubt, various ways to chart historically this theoretical disengagement, but I am convinced that one way discloses most clearly how the salient features of the contemporary ethos are related: that is to chart the prevailing modern tradition of natural rights. This is the liberal contractarian tradition descending from Hobbes, Locke and the English Levellers¹ through Rousseau, Kant, the exponents of the American and French revolutions, and still influential in such contemporary writers as John Rawls and Robert Nozick. The modern tradition of natural rights manifests the inevitable tendency of all naturalistic ethical and political thought cut off from an evangelical Biblical commitment: namely, to take the self-understanding of sinful and rebellious human being as a normative starting point.

As time does not permit me to trace this tradition here as I have elsewhere², I can only propose to you its starting point in the sinful human being's self-understanding as the private owner of his life, his powers and his actions: his self-understanding as a proprietor with power of disposal over himself and an interest in developing his personal property. This is the subject's original, natural right of freedom, of self-determination through acts of choice, which is the foundation of all other rights. More especially, it is the foundation of the individual's natural right to appropriate worldly things for his private use, i.e., the right of private property, the purpose of which is to secure his self-proprietaryship, and so to facilitate his self-development. As well, it is the foundation of his natural right to judge and punish the failures of other self-owners to fulfil the obligations that his self-ownership imposes on them, i.e., the right of government. Thus, the self-understanding of the natural rights-bearing subject has both economic and juridical aspects, with property right and the right to judge others at its core. The rights-bearing subject is habitually engaged in acquisitive and competitive, commanding and demanding activity, and in standing in judgement on and punishing his fellow human beings.

Of course, so the tradition tells us, rational calculations of self-interest lead sovereign proprietary subjects to create political society and government (along with other mutual obligations) through the formal mechanism of the contract, exchanging their fund of natural rights for a more limited but secure fund of civil rights. But even after the contractual creation of civil polity, the freedom of proprietary subjects still consists in their independence from or non-subjection to other wills, to externally imposed obligations (they remains self-governing), and to natural limitations. Citizens, therefore, retain their

¹ Although the liberal-contractarian tradition of natural rights draws on late medieval and neo-scholastic developments, the reception of Hobbes and Locke, nevertheless, inaugurates a new intellectual chapter in natural rights thinking.

² See 'Historical Prolegomena to a Theological Review of "Human Rights"', *Studies in Christian Ethics* 9:2 (1996) 52-65. Reprinted, with a response by Robert George and discussion, in M. Cromartie (ed.), *A Preserving Grace: Protestants, Catholics, and Natural Law*, Grand Rapids, Michigan 1950: Eerdmans, 143-171; a shorter edited version in C. Sider Hamilton (ed.), *The Homosexuality Debate: Faith Seeking Understanding*, Toronto 2003: Anglican Book Centre Publishing, 97-108.

defensive preoccupation with judging and punishing violations of their rights, but pursue it through public judicial agencies and the popular press (by which term I intend the entire communications media). Since government is conceived as, essentially, the collective instrument for securing their rights, and since the proliferation of social entitlement rights places government under an expanding number of legal obligations, citizens reasonably direct their appetite for judgement against governmental and political bodies and their individual representatives.

In contemporary liberal democracies, the mission of the popular press as the self-appointed 'conscience' of society is to ensure that citizens do not become morally disenchanted with the exercise of public judgement or merely slothful in performing their civic duty. At the same time, the communications media effectively perform the work of popular inspection and assessment, having exchanged the vital political and social task of accurate reporting and educated analysis of events for a gratuitously inquisitive and inquisitorial undertaking. Ever mindful of the absolute equality of rights-bearing subjects — i.e., their equality as self-proprietors and self-rulers, the press demonstrate exemplary vigilance in detecting and exposing inequalities in the public provision for and protection of the rights of individuals, and also of groups. Indeed, the media seem even more concerned with the rights of collective subjects, while, more often than not, regarding these subjects as derivative rather than primary rights-bearers.

The outcome of this relentless, popular and journalistic surveillance of rights provision and protection, together with the pervasive threat of litigation, is the excessive public (legislative and bureaucratic) regulation of social institutions, organisations and agencies which we are now witnessing, with its imposition of inappropriate and counter-productive standards of rationality, efficiency, probity and justice. Only procedural rules of conduct and formalised, quantifiable measures of assessment have the universal accessibility or 'transparency' that continuous external inspection requires, and will stand up in court (i.e., in a judicial process afflicted with similar bureaucratic distortions.) Even in the absence of direct public regulation, institutions and organisations are adopting the same self-regulating mechanisms in response to economic and juridical pressures. Not surprisingly, the most common complaint of those currently labouring in various fields of work, care, and professional endeavour is that invasive regulation is depriving them of their proper freedom of judgement, is disrespectful of their skills and wisdom as experienced practitioners, and unaccommodating of the complex particulars of their diverse vocational situations.

Legitimate calls for the removal of destructive regulation are not, for the most part, addressing the more profound questions concerning moral judgement and ethical reflection in the various vocations, which have to do with common participation in the real spiritual and material goods of human community in its manifold relations to the triune God. Theologically considered, these common goods are given in God's creation, preservation, redemption and sanctification of the world, and their systematic exposition would integrate

the conceptual elements of Christian ethics — namely, creation, history and eschatology; Gospel and Law; freedom and obedience; commandments, principles and practices; individual and community; love and the virtues; ecclesial and civil society — in such a way as to preserve the proper theoretical tensions among them, while not succumbing to destructive dichotomies and divisions.

2. *Overcoming the modern ethos: the dialectic of proclamation and jurisdiction*

The theological integration offered by the earlier English reformers on which I wish to draw is controlled by the overarching tension between two universal authorities and practices ordering the moral life of persons-in-society: on the one hand, the authority of God's word of judgement given in Jesus Christ which is directly constitutive of the church's practice of proclamation; on the other, the authority of human judgement established by God's preserving word of judgement constitutive of the practice of secular jurisdiction. These two authorities and practices determine human moral agency and action as they belong to the order of God's good creation in its twofold eschatological and historical reality: as restored and awaiting its fulfilment through Christ's conquest of sin and death on the Cross and his exaltation to the Father's right hand, and as still struggling under the wages of sin and subject to the Law's condemnation. The English reforming mainstream³ insisted on a clear theoretical and institutional separation of these authorities and practices: the church's practice of proclamation was not authorised to incorporate public judgement; the secular ruler's practice of public judgement was not authorised to incorporate the church's proclamation. But as the Old Adam is overtaken by the New, the authorities and practices of ecclesial and civil polities remain interdependent and even interpenetrating.

Within the reforming perspective, neither of these authorities and practices have their origin in, or are posited by, the wills of individuals, alone or combined, arising out of agreement or compact. Rather, they originate in the divine will, to which individuals are free, through the manifold working of God's grace, to consent. This is not to deny that both practices involve human beings in rational deliberation and creative judgement, individually and collectively, but rather to assert that rational deliberation and creative judgement belong to their real participation in divinely-given authority and obedience to divinely-given structures. Both practices are practices of common obedience in which the wills of individuals are conformed to a will beyond their own, and through this conformity, they enjoy a common good that is beyond their own making.

³ In this reforming mainstream I would include such Henrician and Elizabethan theologians and lawyers as William Tyndale, Christopher St. German, Thomas Cranmer, Thomas Cromwell, Richard Sampson, Edward Fox, Thomas Starkey, William Marshall, John Rogers, Hugh Latimer, Nicholas Ridley, John Ponet, John Jewel, and John Whitgift.

3. *The church's practice of proclamation*

For the English, as for the continental reformers, it is in the church's practice of proclamation that common human goods are decisively appropriated, where God's judgements are heard and consented to by the community. In its primary thrust, then, the English Reformation ethic is ecclesial, eschatological and proclamatory. It conceives moral agency and action eschatologically, as human judgement between good and evil conforming to God's own judgements, which is available to those who, having died with Christ, participate in the spiritual promises of his resurrection and exaltation at God's right hand.

Thus, the ground and possibility of moral agency and action is the individual and communal judgement of faith, in which sinful human beings consent to God's judgement of condemnation and reconciliation directed toward themselves. God's judgement of condemnation and reconciliation is, at one and the same time, His condemnation (invalidation) of the history of sinful human judgements and the evil brought about by them, His vindication (validation) of His original judgement of the goodness of all that He has made, and His promise of future fulfilment of all that He has vindicated in raising and exalting Jesus Christ. The individual and communal act of faith, then, is a complex act of repentance, belief and hope. With Luther and Calvin, the English reformers conceive the act of faith as originating not within sinful human subjectivity, but within the divine subjectivity of the Holy Spirit. The Holy Spirit is the spirit of the risen and ascended Christ who incorporates believers into Christ's resurrection life and makes available to them the spiritual benefits of their redemption.

Furthermore, the English and the continental reformers understood that the judgement of faith continually arises from and completes itself in the regular communal practice of worship, which is the ongoing common act of consent, and so the central communicative act of faith. On this account, we could say that they regarded faith as a gift of the Holy Spirit to the gathered church before it is a gift to its individual members. We could also say that they regarded common worship as the first practical obedience of faith⁴, and as such, paradigmatic for all obedience.

Perhaps the most distinctive feature of the English Reformation's ethical legacy was its exploration of the paradigmatic role of public worship in determining moral agency and action. The theologian most responsible for this legacy was, undoubtedly, Thomas Cranmer⁵, but his contribution did not take the

⁴ My choice of terms here expresses my debt to Bernd Wannewetsch's rich exploration of the church's common worship as the 'grammar of Christian life' and the 'first instance' of her corporate obedience to God's rule, in *Political Worship: Ethics for Christian Citizens*, Oxford Studies in Theological Ethics, trans. M. Kohl, Oxford 2004: OUP.

⁵ Thomas Cranmer (1489-1556) served as Archbishop of Canterbury for twenty years, until Mary Tudor's accession to the English throne in 1553. While a Fellow of Jesus College, Cambridge, he had helped to marshal the university behind Henry VIII's proposed divorce from Catherine of Aragon, and after his archiepiscopal appointment, arranged for the annulment of this and two of Henry's subsequent marriages. The first years of his archiepiscopate saw the erection of the royal supremacy over the English church, with considerable enlargement of the ecclesiastical jurisdiction of Canterbury. His less creditable services to the king in these years

form of academic treatises, but of labours toward the production of vernacular liturgies to comprise the uniform worship of the reformed church in England. Cranmer himself oversaw the production of two Books of Common Prayer, an original of 1549 and a revision of 1552, the latter being reissued by Elizabeth I in 1559 with a few substantial changes and again in 1662 (more or less intact) at the Restoration of Charles II. The liturgies collected in these prayer books, I will attempt to show, display the proclamatory character of all practical obedience: i.e., they display the human moral act as a proclamation of God's judgement. And their manifestation of the divine determination of moral agency and action unites the immediacy of moral practice with theological reflection. It is precisely as theologically reflective practice that worship is paradigmatic for Christian moral agency and action.

Let me pause to offer a brief account of the content of these prayer books and of Cranmer's labours in producing them. The original and revised books contain all the orders of English services, including the daily offices of morning and evening prayer, the Litany, the ministration of Holy Communion, public and private baptism, confirmation, the solemnization of matrimony, visitation and communion of the sick, and burial of the dead — the ordination and consecration of deacons, priests and bishops occupying a separate book until the 1552 revision. These new orders were variously related to their medieval English predecessors, some more closely, some more remotely. Minimally, their production involved translation, shortening and simplification of the old Latin liturgies, to increase clerical and lay understanding and enable greater lay participation. Frequently it involved more radical overhauling of their structure and content, as in the reduction of the daily monastic and clerical offices or hours (i.e., communal prayer at regular intervals) from eight to two (morning and evening), with the eventual encouragement of lay attendance. Always, it involved dramatic theological reorientation to central reformation themes.

While the production of both prayer books, naturally, involved the collaboration and scrutiny of episcopal committees, their chief architect, translator, adaptor, editor, and composer was Cranmer. His contribution extended beyond the liturgical texts *per se* to the design of calendars for Bible readings, psalms, and collects (appointed prayers). It is now well understood that his inspiration and sources were far-ranging, temporally and geographically, from patristic writings to a host of more contemporary Catholic, Lutheran and Reformed liturgies, manuals, books of private devotions, and catechisms. More-

were offset by his patient efforts at theological education of Henry and of the English population, his initially fruitful attempts at *rapprochement* with the Lutherans, and his successful crusade (abetted by Thomas Cromwell) for the printing and dissemination of the vernacular Bible. After the accession of Edward VI in 1547, Cranmer made his lasting liturgical contribution to the English church with his lengthy labours of translating, composing, assembling, and revising, to produce the 1549 and 1552 Books of Common Prayer. His final years were devoted to taking the English church in a more Reformed direction, under the influence of distinguished continental refugees. Their notable achievements were the publication of the Forty-Two Articles in 1553 (which formed the basis of the Thirty-Nine Articles promulgated under Elizabeth I in 1563, to which the Church of England still formally subscribes) and a sadly abortive attempt at canon law revision.

over, he was well-positioned to offer occasional liturgical commissions to revered refugees from the continent, such as Martin Bucer and Peter Martyr.⁶

Let us now look more closely at how the English liturgies paradigmatically display the evangelical or proclamatory structure of the moral life. For it is only as we understand the determination of human moral action by the church's proclamation of God's word of judgement in Jesus Christ that we understand its determination by the antithetical practices of human jurisdiction. And both understandings are necessary to overcoming the destructive divisions and fragmentation of contemporary morality and ethics. We shall, therefore, proceed from our consideration of the Cranmerian liturgies to a brief consideration of the Cranmerian theology of public judgement.

3.1. The common moral agency of the worshipping church

In their content and internal organisation, the English liturgies display a sure grasp of the pivotal ethical insight that the Holy Spirit's gift of renewed moral agency is not to the individual but to the community of persons. They convey the expectation that perfected moral agency in the Kingdom of God will be wholly common, communicative, consensual: that it will be mutual participation in the Spirit's judgements, mutual sharing in the knowledge, love and freedom of Christ. It is this full manifestation of reconciled community that the church's practice of worship proclaims in word and deed, in preaching and sacraments. But the liturgies do not identify the gathered faithful in this age of waiting with any institutional church, or with the entirety of earthly institutional churches; nor do they affirm that institutional practices of worship are, in and of themselves, the pure moral action of reconciled community. Rather, they affirm that renewed moral humanity is visible where the word of God is purely preached and the sacraments administered according to Christ's commandments.

The English liturgies display the subject of every obedient act of worship as the whole community of Christ's faithful people, to which every worshipping individual and congregation is joined in a real communion of wills. This is the bond of love in the Holy Spirit that every moral act both presupposes and strengthens. The universality of the worshipping subject is indicated by the full title of Cranmer's liturgical collection: namely, *The Book of Common Prayer and Administration of the Sacraments and Other Rites and Ceremonies of the Church according to the Use of the Church of England*. It is also expressed in the liturgical inclu-

⁶ An introductory history of the Anglican Prayer Book is given by M. J. Hatchett's article 'Prayer Books' in S. Sykes, J. Booty, J. Knight (eds.), *The Study of Anglicanism*, London 1988: SPCK/ Minneapolis 1988: Fortress Press, 131-143. Longer discussions of the 1549 and 1552 Books of Common Prayer are found in J. E. Booty, *The Book of Common Prayer 1559: The Elizabethan Prayer Book*, Charlottesville 1976: The University Press of Virginia, The Folger Shakespeare Library; F. E. Brightman, *The English Rite: Being a Synopsis of the Sources and Revisions of the Book of Common Prayer with an Introduction and Appendix*, 2 vols., London 1915: Rivingtons; G. J. Cumming, *The Godly Order: Text and Studies Relating to the Book of Common Prayer*, London 1983: Alcuin Club, and *A History of Anglican Liturgy*, 2nd edn., London 1982: Macmillan. Also valuable are the relevant discussions in D. MacCulloch, *Thomas Cranmer*, New Haven and London 1996: Yale University Press.

sion of regular prayers for the universal church, of ancient confessions of faith, and of forms and prayers drawn from a wide-spectrum of ancient and contemporary sources, Eastern and Western, Roman, Lutheran and Reformed.⁷ Furthermore, the priority of the communal moral subject is expressed in the English rite of infant baptism, which, firstly, presents the incorporation of the candidate into the community of Christ's resurrection promises as God's response to the obedient prayers and confessions of the whole gathered church present in the local congregation and in the god-parents;⁸ and secondly, it presents the pledges of openness to Christ's promises made for the candidate by the godparents as the candidate's own pledges, which he/she must come to acknowledge as such with maturity of will and understanding.⁹ The doubly representative action of the godparents (in which both the gathered church and the infant candidate participate) is not merely legal, political or social, but spiritual.

3.2. The conformity of common worship to the outer rule of Scripture

The English liturgies show that the obedient act of worship, in proclaiming God's judgements and actions toward his creatures, conforms to the outer rule of Scripture as the authoritative revelation of God's judgements and actions. The obedient act of worship is the primary moral act of the faithful subject

⁷ Cranmer was not only ecumenical in his contemporary liturgical borrowings but frequently retained more of the tradition than even Lutheran colleagues retained. For example, he preserved more of the traditional canticles (regularly chanted Scriptural texts), versicles and responses in Morning and Evening Prayer, and over seventy of the church's ancient and medieval collects (set prayers), in translated and adapted forms, for which he was largely responsible. Together with his additional twenty-four original collects, 'these jewelled miniatures', to quote Diarmaid MacCulloch, 'are one of the chief glories of the Anglican [and Western] liturgical tradition' and 'have proved one of the most enduring vehicles of worship in the [world-wide] Anglican communion.' *Thomas Cranmer*, 417.

⁸ The service (1549 and 1552) opens with this bidding addressed by the minister to the whole congregation: 'Dearly beloved, forasmuch as all men be conceived and born in sin, and that no man born in sin can enter into the kingdom of God (except he be regenerate, and born anew of water and the holy ghost), I beseech you to call upon God the Father, through our Lord Jesus Christ, that of his bounteous mercy he will grant to these children that thing which by nature they cannot have, that is to say, they may be baptized with the holy ghost, and received into Christ's holy Church, and be made lively members of the same.'

Subsequently, the minister addresses the god-parents before they make promises for the candidate: 'Well beloved friends, ye have brought these children here to be baptized; ye have prayed that our Lord Jesus Christ would vouchsafe to receive them, to lay his hands upon them, to bless them, to release them of their sins, to give them the kingdom of heaven, and everlasting life. Ye have heard also that our Lord Jesus Christ hath promised in his Gospel [Mk. 10:13-16] to grant all these things that ye have prayed for: which promise he for his part will surely keep and perform.' *The First and Second Prayer Books of King Edward VI*, intro. D. Harrison, Everyman's Library, London 1910: Dent/ New York 1910: Dutton, 236, 239; 394, 396. (I have introduced modern spelling. All quotes are from this edition. The two prayer books will be abbreviated *BCP*, followed by 49 or 52 when required.)

⁹ The service concludes with this final exhortation to the godparents: 'Forasmuch as these children have promised by you to forsake the devil and all his works, to believe in God and to serve him: you must remember that it is your parts and duties to see that these infants be taught, so soon as they shall be able to learn, what a solemn vow, promise and profession they hath here made by you.' [The godparents' weighty duties are then spelled out.] *BCP*, 170.

because it most directly re-presents God's word in human words, God's action in human action, fulfilling Christ's commandments to his disciples to baptize, to preach, to pray, and to remember his saving sacrifice of himself by partaking of bread and wine.

English liturgical practice recognises the rule of Scripture both by taking much of its speech directly from the vernacular Scriptures and by giving a central place to the reading of Scripture.¹⁰ The services of morning and evening prayer, intended by Cranmer to be daily offices for laity as well as clergy, repeat the words of Scripture in said or sung psalms, canticles, the Lord's prayer and other prayers. At the same time they include lengthy, sequential readings from both Testaments.¹¹ To ensure that the bulk of the Bible would be read in canonical order, Cranmer rearranged the lectionary according to the civil calendar rather than the liturgical year, so that the Old Testament would be largely covered in the course of one year, the New Testament (excepting the Apocalypse) every four months, and the psalter every month.¹²

In making Scripture-reading the centrepiece of public worship, Cranmer understood that attending to the authoritative speech of Scripture as the vehicle of divine speech is paradigmatic of the receptivity to divine and human meanings and intentions required by all moral judgement. Cranmer and his Anglican successors asserted unequivocally the priority of Scripture-reading to preaching in public worship, defending it against increasingly virulent Presbyterian and Separatist objections. They insisted that human proclamation had to wait on the promise of God's self-revelation through his chosen voices: the act of congregational listening had to precede that of clerical interpretation.¹³

¹⁰ Like the continental reformers, Cranmer set the Scriptural canon, as the uniquely authoritative witness in human words to God's self-revelation to his people, against all merely human traditions, written or unwritten. In his polemical treatise, *A Confutation of Unwritten Verities*, he affirms the sole-sufficiency of Holy Scripture as containing the whole of God's truth for humankind and all things necessary for salvation, and as having self-interpretative power, its 'certain' meanings interpreting the 'uncertain' ones. For Cranmer the writing and arranging of the Scriptural books and the fixing of the canon by the early church was one unique work over time of the Holy Spirit. Cranmer's positions are in line with those of John Wyclif in his massive treatise of 1378, *De Veritate Sacrae Scripturae*.

¹¹ The 1552 services of common prayer proceed from opening sentences drawn from both Testaments proclaiming God's merciful judgement of repentant sinners, to the proclamation of his redemptive judgement in Jesus Christ, in the prayers of penitence and absolution, then through the Lord's prayer, to the proclamation in readings from Scripture of all God's judgements and acts, from His creation of the world to the awaited full and final manifestation of His judgement of the world in Jesus Christ.

¹² In his *Preface* to the 1549 prayer book, Cranmer laid down the purpose of the church's 'Common Prayers' or 'Divine Service', as recognised by the 'ancient Fathers', to be the ordered (sequential) reading of Holy Scripture, without interruption, repetition, or unnecessary embellishment. Accordingly, he had removed from the services of Morning and Evening Prayer (as from the first part of the Communion service) many of the non-Biblical elements interleaved with the Biblical ones in the earlier liturgies. Cranmer's reforms, and, indeed, his preface, owed a considerable debt to a revised Breviary produced in 1535 by Cardinal Quiñones, Franciscan Minister General, on the commission of Pope Clement VII.

¹³ Later Elizabethan divines such as John Whitgift and Richard Hooker were forcefully articulating the Cranmerian view when they construed the disciplined reading of the whole scripture in the church's worship as the first part of her chief corporate duty of preaching, of publishing abroad God's saving truth in Christ. To read God's written word, Hooker proposed,

For Cranmer, the canonical order of Scripture rendered it a progressive revelation of God's creative and saving purposes, and so also, of the character and elements of human good works. He recognised that Scriptural revelation began with the divinely-given totality of finite beings and goods in their ordered relationships to their Creator and to one another, and that this revelation was presupposed by all subsequent revelation of God's judgements and actions in His dealings with the world and humankind. Indeed, he included within the canticles of Morning Prayer the long, joyful celebration of the orders of creatures, all engaged in praising their creator, entitled *Benedicite*. Nevertheless, Cranmer followed his continental mentors in eschewing ontological speculations, based on revealed order, as the groundwork of ethical reflection.

Nor did Cranmer appear interested, as later Anglican divines such as John Whitgift and Richard Hooker would be, in the complex variety of modes in which divine judgements elicited and determined human moral judgements in the written and spoken Scriptural text. Still less did he show interest in the rational and discursive aspects of human moral judgement, in the pronouncement and application of practical principles, even by the Apostles! Rather, he gave priority to God's explicit commandments in interpreting the moral implications of all his recorded judgements and actions. Moreover, he took Christ's commandments, interpreted within the whole of his ministry, to be the hermeneutical key to the totality of divine commandments, and so, to the Bible as the external rule of Christian morality.

Christ's commandments are the authoritative disclosure of God's law given with the creation, the sure revelation of perfect human conformity, inward and outward, to God's eternal will. They do not supersede, but fulfil and interpret, God's previous revelations to Israel of the order of created beings and ends, of the shared goods and structures of human community, of the right relations of human beings to God, to one another, and to the non-human creation.¹⁴ All

was to publish his self-revelation 'by way of testimony' or 'mere relation', which preceded and took precedence over the unfolding of its hidden mysteries by way of careful exposition of the biblical text — the second part of preaching. *Of the Laws of Ecclesiastical Polity*, Bk. 5, ch. 19.1, in W. Speed Hill (ed.), *The Works of Richard Hooker*, The Folger Library Edition, 6 vols, Cambridge, MA 1977: Harvard University Press, vol. 2, 67; J. Whitgift, *The Defence of the Answer to the Admonition against the Reply of T.C.* [Thomas Cartwright], Tract 13, ch. 2. 1st division, in J. Ayre (ed.), *The Works of John Whitgift*, The Parker Society, 3 vols, Cambridge 1851-3: CUP, vol. 3, 39-40.

¹⁴ This view controls Cranmer's 'Homily Of Good Works Annexed Unto Faith' published in the official 1547 collection of Edward VI for regular use in church pulpits, to counter Biblical illiteracy and theological ignorance among the preaching clergy. Here his summary of the law of Christ displays a traditional dependence on Christ's critical exchanges with the Pharisees and on his exhortations to perfection in the Sermons on the Mount and on the Plain. God's will, Cranmer tells us, is that we should surrender ourselves wholly to him, trust in his promises, 'love him in prosperity and adversity, and dread to offend him.' For his sake, we should 'love all men, friends and foes', be solicitous for their welfare and only do them good, because they are created in his image and redeemed by Christ, as we are. We should not only obey our 'superiors and governors ... for conscience sake', but seek 'to serve them faithfully and diligently'; likewise, we should honour our fathers and mothers with unstinting attention to their wants and wishes, as well as obedience to their demands. We should never oppress, kill, beat, slander nor hate any man; but love, help, succour and speak well of all, even those who slander and hurt us. We should not steal or covet our neighbour's goods, but content ourselves with what we justly receive, and bestow our goods charitably, as the need of others requires. We should

previous revelations have their historical telos in the revelation of God's suffering and triumphant self-giving in his incarnate Son, true God and true man, for the salvation of his creation, and so must be interpreted as anticipations of this final revelation of moral community. Christ's precepts to his disciples are a practical commentary on this final divine-human reality.¹⁵

Cranmer's evangelical commandment ethic is reflected in the structure of the 1552 Eucharistic liturgy¹⁶ which opens with the Lord's Prayer and a rehearsal of the Decalogue. The company of the faithful is gathered by the public proclamation of its common rule, and by a common petition for its true and spiritual keeping. But such a keeping of God's law is only open to those who penitently confess their past failings, ask God's forgiveness and deliverance from their 'manifold sins and wickedness', and partake of the memorial of Christ's death upon the Cross, in obedience to his commandment, as the effectual sign of their incorporation into his 'full, perfect and sufficient sacrifice ...

'commit no manner of adultery, fornication, nor unchastness, in will as in deed.' And so on. J.E. Cox (ed.), *Miscellaneous Writings and Letters of Thomas Cranmer*, The Parker Society, Cambridge 1846: CUP, 148-9.

¹⁵ Cranmer's Christocentric commandment ethic is an ethic of 'evangelical law' which has deep roots in the late-medieval Augustinian tradition represented by such diverse theologians as Marsiglio of Padua and John Wyclif, both of whom were influential in English reforming circles. The English ethic lends a particular nuance to the Reformation dialectic of law and Gospel as the controlling principle of Biblical interpretation. While recognising the generic meaning of 'the Law' as 'the ministration of death', of God's wrathful condemnation of the sinner that drives him to repentance and faith in Christ's promises of pardon and favour, it also recognises the indispensable role of the law within the Gospel's 'ministration of life'. The law, says Cranmer, is 'the pathway' of the faithful to Christ's eternal kingdom: it is intrinsic to the inward and outward, individual and communal, obedience wrought by the Spirit of the risen Christ. For the inward obedience of the faithful is their 'consent to the law', their consuming desire to fulfil it, and sorrow over their shortcomings; outward obedience is the visible conformity of their action, albeit insufficient, to what Christ's commands, by word and example.

Cranmer's conception of the functioning of law within faith has close affinities to Melancthon's and Calvin's explications of its pedagogical use; but Cranmer is, in my judgement, more wholly positive about the operation of Christ's law 'in the hearts' of believers than either Melancthon or Calvin, who associate it with the continuance of 'weakness and sin' (Melancthon) in the repentant believer and the need for 'a whip to the flesh', a 'constant stimulus, pricking [the believer] forward when he would indulge in sloth' (Calvin). C. L. Manschreck (ed.), *Melancthon on Christian Doctrine: Loci Communes* 1555, New York 1965: Oxford University Press, ch. 7, reproduced in O. O'Donovan and J. Lockwood O'Donovan (eds.), *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought*, Grand Rapids, Michigan 1999: Eerdmans, 658; *Institutes of the Christian Religion*, bk. 2, ch. 7.12, trans. H. Beveridge, 2 vols, London 1962: James Clarke, vol. 1, 309.

¹⁶ I am constrained by time and space to refer only to the 1552 communion service, which introduced dramatic changes into the structure, language and ambiance of the 1549 liturgy, all of which took it in the direction of Reformed theology and practice. Broadly speaking, the changes were intended to eliminate any lingering suggestion of: 1) the Eucharistic celebration as a repetition of Christ's offering, and a meritorious work performed by the priest for the church; and 2) the doctrines of transubstantiation of the host, or even of Christ's 'real presence' in the received elements. The key to Cranmer's Eucharistic theology, as Stephen Neill has convincingly proposed, is the temporal continuity of clerical consecration and congregational reception of the elements, after the Gospel record of the Last Supper, so that the 'complex act of consecration and communion together' define 'the nature of the presence and self-giving of Christ in his church.' *Anglicanism*, Harmondsworth, Middlesex 1958: Penguin Books, 73.

for the sins of the whole world'.¹⁷ It is in this assurance of being 'very members incorporate in [Christ's] mystical body', which is the fellowship of the Holy Spirit, that they beseech their heavenly Father's assistance to 'do all such good works as thou has prepared for us to walk in.'¹⁸

3.3. *The conformity of common worship to the inner rule of the Holy Spirit*

In their structure and prayers, the Eucharistic liturgies of 1549 and 1552 display the correspondence between the external determination of the primary moral acts of faith and worship (and so of every moral act) by the rule of Christ revealed in the Scriptures and their inner determination by the promised rule of the Holy Spirit, through which the moral subject participates in the freedom and lordship of the risen and ascended Saviour. This is freedom not only from the law's condemnation of past sins, but from the oppressiveness of the law's present demands, encountered as external and alien constraints on the subject's willing and acting. The promised rule of the Spirit makes present to the faithful the lordship over the law inhering in Christ's perfect obedience to His Father's will, in which true human knowledge of created beings and goods, of communal structures, of principles of right and justice, is wedded to proportionate and appropriate desires and affections.¹⁹

As the seasonal collects²⁰ of the communion service eloquently express, the Spirit will make Christ's lordship present to the faithful, moment by moment, by particular operations, illumining their judgements, strengthening their resolution, generating appropriate desires and affections, bringing about effectual action in that unique succession of moral situations that comprises their individual and communal histories.²¹ In the promised renewal of the moral

¹⁷ BCP 389.

¹⁸ BCP 390.

¹⁹ Cranmer prefers the language of evangelical obedience to the language of evangelical freedom and lordship in which Wyclif before him and Luther and Calvin in his own day express the believer's participation in the moral freedom of their ascended Saviour.

²⁰ These are the set prayers that Cranmer himself composed, or selected and freely translated from the Latin of the Sarum Missal, i.e., the mass book conforming to the usage of Salisbury (Sarum) Cathedral, which came to prevail in medieval Britain. They form a threefold sequence with the Epistle and Gospel readings for the day.

²¹ For example, the collect for Easter Day, translated from an early-medieval, hybrid Latin prayer composed from late patristic sources: 'Almighty God, who through thine only-begotten Son Jesus Christ hast overcome death and opened unto us the gate of everlasting life; We humbly beseech thee, that, as by thy special grace preventing us thou dost put into our minds good desires, so by thy continual help we may bring the same to good effect; through Jesus Christ, who liveth and reigneth with thee and the Holy Ghost, ever one God, world without end.' (To be followed by Col. 3: 1-7; Jn. 20:1-10.) BCP 111; F. Armitage, *A History of the Collects*, London 1919: Weare & Co., 67. Also, Cranmer's composition for the Fourth Sunday after Easter: 'Almighty God, which dost make the minds of all faithful men to be of one will, grant unto thy people, that they may love the thing which thou commandest, and desire that which thou dost promise; that among the sundry and manifold changes of the world, our hearts may surely there be fixed, where true joys are to be found; through Christ our Lord.' BCP 123. (To be followed by Jas.1:17-21; Jn. 16:5-15.) Finally, the collect for the Fourteenth Sunday after Trinity, translated from a fifth century original: 'Almighty and everlasting God, give unto us the increase of faith, hope and charity; and, that we may obtain that which thou dost promise,

subject, there is no disjunction between knowing and willing, reason and desire, the will and the affections, the different virtues; neither is there conflict between the moral judgements of individuals, or between individual and communal judgements; for the Spirit's gift of the freedom and love of Christ is the unifying thread of the individual as of the common moral life, 'the very bond of peace and all virtues', in the words of another Cranmerian collect.²²

The Christocentric and pneumatological ethic of the English liturgies takes seriously the petition of our Saviour's prayer: 'Thy kingdom come. Thy will be done in earth as it is in heaven.' Its firm foothold in Christ's resurrection promises is an antidote to all attempts to interpret God's prior revelations of moral community in rationalistic, self-contained systems, whether of principles, ends, virtues or practices cut off from their eschatological *telos*. Likewise it is an antidote to abstract and naturalistic conceptions of the equal moral authority of human beings. For the double rule of the Christian moral life requires recognition of the equal standing of believers as recipients of Christ's promises: it is as fellow sharers, even now, in the external rule of God's revealed word and in the internal rule of Christ's Spirit of freedom and love that the faithful are, individually, empowered and obliged to proclaim God's judgements to one another through preaching, teaching, interceding, exhorting, consoling and counselling, exercising moral judgement on their neighbour's behalf as well as for themselves. In all these acts the faithful stand along side one another as equal beneficiaries of God's merciful and saving judgements; they do not stand above their fellows, exercising condemnatory judgement on them.

They also stand along side those who have not yet heard or received God's saving judgement in Christ, whom they are commissioned, as servants of the Spirit's work, to gather into the community of proclamation. In our present age in which even the universality of the church's mission has been called into question, not to speak of a political response to her mission, the English reformers remind us that there is no renewal of moral community apart from the eschatological renewal promised by the resurrected and ascended Christ, and no short cut to it but the conversion of minds.

This concludes our consideration of the ethical thesis of the English reformer's dialectic of proclamation and jurisdiction. Let us now pass on to the ethical antithesis.²³

make us to love that which thou dost command; through Jesus Christ our Lord.' *BCP* 158; Armitage, *History*, 90.

²² *BCP* 67.

²³ At this juncture, we should remind ourselves what a momentous alteration in the understanding of the church's ethical authority and practice was represented by the thesis that judgement over the faithful belongs exclusively to God in Christ who is both judge and judged, and that the essential response of the faithful to Christ's judgement is proclamatory or declarative and not juridical. The thesis involved abandoning the medieval Roman conception of the church as a hierarchy of clerical jurisdiction for her conception as the *congregatio fidelium* — 'the whole body of the faithful' (to use the language of Marsiglio and Wyclif) whose common life was knit together by a pluriform structure of authority that was pedagogical and pastoral rather than juridical. No longer was the church a seamless garment of clerical jurisdiction, wherein jurisdiction in the sphere of conscience (*iurisdictio in foro interiori*) exercised in the sacramental discipline of penance was inseparably bound up with jurisdiction in the church's external polity (*iurisdictio in foro exteriori*). In high papalist ecclesiology, the Petrine 'power of

4. *The practices of public judgement: ruling and obeying*

The English reformers, with few exceptions, held that the prerogative and the obligation of standing in judgement on his fellow Christians belonged to the lay ruler or civil magistrate alone, by divine ordination and appointment. Appealing to Romans 13:1-7, the Pauline *locus classicus* for political authority, they concurred with their Lutheran and Reformed colleagues that God had ordained the office of civil magistrate to render binding public judgement concerning right and wrong conduct for the purpose of restraining evil-doers by means of punishment and the fear of punishment and rewarding well-doers with approval, protection and vindication. In the words of a 1549 sermon preached by Cranmer, the 'godly order' of the commonweal is that 'kings and governors' be the 'common revengers, correctors and reformers of all common and private things that be amiss', executing 'the right judgement of God's wrath against sin' for the public benefit.²⁴ Similarly, the prayer for the 'church militant' in the communion service beseeches God that all the king's ministers and all 'put in authority under him . . . may truly and indifferently minister justice, to the punishment of wickedness and vice, and the maintenance of God's true religion and virtue.'²⁵

The supreme governor's acts of judgement were both retrospective and prospective responses to human wrongdoing: on the one hand, the ruler judged particular (individual or collective) acts retrospectively to be violations of right and derelictions of specific duties binding on all within his/her jurisdiction; and on the other, he/she defined in law particular types of acts as violations of right and derelictions of specific duties, presumed or stated. In addition, he/she appointed to public posts and distributed public and private honours and benefits, under the rationale of giving justice, sustaining social

the keys', the power of 'binding and loosing', of retaining and remitting the guilt of sins, was the linchpin of the papal claim to jurisdictional supremacy over the whole church, clergy and laity alike, and the source of all priestly exercise of spiritual jurisdiction, whether in the sacrament of penance or in episcopal government. The extension of the Petrine power to purgatorial punishment, making possible conversions into penances and the allocations of supererogatory merits, placed priestly juridical acts at the core of the church's mediation of salvation in Christ.

Thus the early English Reformers, like their continental colleagues, had simultaneously to jettison both *fora* of Petrine jurisdiction. Consequently, they prosecuted a relentless assault on the juridical logic of sacramental penance from their novel theological standpoint of justification through faith alone, reinterpreting the clerical power of 'binding and loosing' as, fundamentally, the power of declaring to the church God's own work of retaining and remitting the guilt of sinners. At the same time, they divested the clerical estate of all Christological jurisdiction over the church's external polity, reinvesting it in the civil ruler, and reinterpreting episcopal authority as a superior authority of teaching and pastoral oversight.

²⁴ 'A Sermon Concerning The Time Of Rebellion' in *Miscellaneous Writings and Letters*, p. 193. Cranmer preached the sermon at St. Paul's cathedral in the wake of a swath of popular protests and insurrections, directed both against the 1549 Prayer Book and against the rising tide of agricultural enclosures. Recent scholarship concurs with earlier that this sermon, probably intended for wide circulation, was the result of a collaboration between Cranmer and Peter Martyr, in which Martyr produced a first text from Cranmer's rough notes, which Cranmer then considerably revised. *Miscellaneous Writings and Letters*, 190; MacCulloch, *Thomas Cranmer*, 435-6.

²⁵ BCP 382.

order and preventing controversy. The law of the land arose through these three sets of authoritative judgements: judicial, legislative, and administrative.²⁶

For the mainstream of English, as of continental reforming divines, the principles of communal right, justice and obligation were authoritatively revealed in the Scriptures: revealed to the 'Old Israel' by God's appointed giver and interpreters of His law, and by God's own historical judgements, and to the 'New Israel' by the example, commands and judgements of Christ and His apostles.²⁷ As Moses and Christ promulgated individual and corporate duties to God as well as to the earthly neighbour, all the magisterial reformers included aspects of the church's ministry and worship within the scope of communal right and public judgement.

Unlike their Reformed colleagues, however, the English reformers looked to the Israelite polity of the OT, especially the united monarchy, for the authoritative model of the supreme governor's unitary jurisdiction over both the clerical and lay estates of the Tudor commonwealth. The common opinion was that episcopal jurisdiction in the church's external polity derived entirely from the royal 'plenitude' and had no independent christological basis; so that when the bishops issued binding public judgements in whatever ecclesiastical sphere (doctrinal, liturgical, administrative, disciplinary), they did so as the monarch's ministers.²⁸

²⁶ I am putting aside the constitutional question of whether, in the reigns of Henry VIII and Edward VI, the Lords and Commons in Parliament were thought to share in the sovereign rule of Great Britain or were considered a purely advisory and consenting body, summoned by the monarch. The official designation of the legislative authority as 'the King in Parliament' invited various interpretations and expressed various aspirations among the powerful classes. While republican ideas of communal rights of self-government circulated among the powerful coteries of Henrician and Edwardian common lawyers, mainly under the impact of Marsiglio of Padua's *Defensor pacis*, they achieved no official recognition. In any case, the divine institution and juridical character of human government was everywhere affirmed.

²⁷ Late scholastic and renaissance theories of natural law (right, justice) which gave epistemological priority to unassisted reason over Biblical revelation, were not much in evidence among Cranmer's clerical reforming colleagues, despite their penetration of humanist and legal circles.

²⁸ This was the mainstream reforming view, to which such Henrician and Elizabethan luminaries as William Tyndale, Christopher St. German, Thomas Cromwell, Richard Sampson, Edward Fox, Thomas Starkey, William Marshall, John Rogers, Hugh Latimer, Nicholas Ridley, John Ponet, John Jewel, and John Whitgift subscribed. It was only challenged by the rise of Calvinist ecclesiology in the 1570s. Cranmer's attempt in 1540 to reconcile this position with the New Testament record of the apostolic church reflected the Eusebian perspective bequeathed by Marsiglio and Wyclif that was, undoubtedly, widely shared. He argued that the apostolic church, far from providing the foundation for episcopal jurisdiction, was constrained by necessity to function in a jurisdictional vacuum. In the absence of a divinely ordained Christian ruler with authority to appoint ministers and to correct vice, church appointments and discipline could only proceed by 'the consent of the Christian multitude among themselves', sometimes selecting from within their midst, at other times accepting commendations from the godly, or gratefully receiving apostolic appointments. While acknowledging the exemplary virtue of the early Christian community and its reverence for apostolic wisdom, Cranmer clearly indicated that God's plans for the governance of his church only reached fruition with the advent of Christian empire. He advanced this argument in answering questions addressed to members of a doctrinal commission. Cox, *Miscellaneous Writings and Letters*, 116-17.

While the English reformers have been justly criticised for their undialectical identification of the faithful English and Israelite monarchs, embedded in an identification of the English nation with the elect people of God²⁹, they, did nevertheless, make serious theoretical attempts to differentiate the polities of the Old and the New Israel, producing some enduring insights for political ethics.

4.1. The antithetical relation of public judgement to proclamation

The first is that they located the ruler's practice of public judgement, whether in ecclesiastical or civil polity, as lying outside of the church's proper action of proclamation. They situated it at the boundary of proclamatory moral community, viewing the practice as sustaining proclamatory community from its boundary in a manner antithetical to it. There is no longer the unity of proclamation and judgement that the Israelite polity represented. Unlike proclamation, the practice of public judgement is a negative determination of moral agency and action, operating at the site where moral agency and action have broken down, have given way to disordered judgements, passions and affections.

4.2. The deficiencies of public judgement in the light of proclamation

The second is that they conceptualised the deficiencies of the practices of public judgement in the light of the church's proper practice of proclamation. While recognising that public judgement is also a proclamation of God's judgements, they regarded it as a deficient proclamation on two accounts.

(a) In the first place, public judgement is an incomplete representation of God's judgements, in that it represents only his providential and preserving, and not his saving, judgements toward his creatures. In this respect also, Christian polity diverges from the Israelite polity: it ceases to be the arena of God's saving judgements. The ruler's judgements do not re-present the judgement of Christ's suffering love on the Cross that justifies the repentant sinner or the judgements of His triumphant love at God's right hand that renew and regenerate the contrite spirit.

²⁹ The identification of the English and the Israelite people not only loomed large in the thinking, practical designs, debating and polemics of the reforming elite, but was a potent leaven in the minds of ordinary clergy and laity. For the Israelite nation was a people unified not only by royal rule, divine law, and public worship, but also by common ancestry, common language and common historical memories. For several centuries already it had been shaping a popular consciousness of English national identity. But the availability of vernacular Bibles to clergy and laity alike, and their continuous reading in the context of vernacular public worship, immeasurably enhanced the impact of Israel. To this must be added Israel's centrality in reforming preaching and homilies, and in the psalms of David which were first converted into Tudor rhyming verse and sung metrically in the reign of Edward VI, who particularly favoured them. It is hardly surprising, then, that the English Reformation should increasingly succumb to the temptation to identify with God's one elect nation in such a way as to deny the absolute historical uniqueness and universal representativeness of Israel's political vocation.

Rather, they remain in the sphere of coercive command and moral condemnation, aiming at the achievement of peace as external order, the outward harmonisation and 'composition' of wills, the visible correction of wrongdoing and rectification of injustice, the avoidance and termination of strife. Although they may furnish the context and even the external form of 'correction', they do not effect inward moral renewal. Although bound to moral laws, they cannot accomplish the inward reconciliation and communion of formerly antagonistic wills that is promised to those who participate, through faith, in Christ's resurrection life.³⁰

Such inescapable deficiencies of public judgements do not mean, however, that the practice of ruling does not require the inward rule of the Holy Spirit, conforming the judgements of rulers to the righteous and loving judgements of the Father in preserving His fallen creation, and of the Son in redeeming it. Hence the church's continual prayers for God to rule in the hearts of His 'chosen servants'.³¹

(b) In the second place, public judgement exhibits a higher degree of arbitrariness or under-determination by divine law than the church's proclamation, being more determined by contingent historical factors and pragmatic considerations. Human law, in its totality and in many of its details, is not a direct or unambiguous expression of God's revealed will, i.e., of particular and explicit divine commands and prohibitions recorded in the Scriptures, although it is bounded by God's judgements and must demonstrably conform to them if it is to claim the obedience owed to right and just human judgement.³² In this regard, too, the Christian polity differs decisively from the Israelite: that it does not temporally incarnate a detailed order of divinely-revealed, positive law.

Confronting tendencies to theocratic legalism within the Puritan dissent from the 1570s onward, the English reformers consistently repudiated the project of ordering the English polities of church and secular commonwealth through divine law alone, identifying the project, in regard to church polity, with the false pretensions of papal tyranny, on the one hand, and of Anabaptist perfectionism, on the other. For both the papal church and the perfectionist sects laid down the church's external constitution and laws as established by Christ and his apostles (or his apostolic successors) and as necessary to the

³⁰ Running through Cranmer's political addresses is an implicit distinction between the prophetic judgement on sin spoken by the preacher and the political judgement on crime enacted by the ruler, as diverging representations of divine wrath. The former proclamation never separates God's wrath against sin from his saving purposes in Christ, and so is a direct instrument of the Spirit's work of repentance, faith and regeneration; the latter necessarily does. In executing justice, terminating conflict, punishing offenders and vindicating those offended against, the ruler is, at most, a remote instrument of the Spirit's saving work. Cranmer's *Sermon concerning the Time of Rebellion* is a sustained prophetic condemnation of the vice on both sides of the conflict and call to repentance, and at the same time, an unambiguous statement of the remit of political authority. *Miscellaneous Writings and Letters*, 190-202.

³¹ Inserted into the 1549 and 1552 communion services, *BCP* 213-14, 379.

³² This argument is analogous to Thomas Aquinas' in *ST* 1a2ae.95.2: that a good part of human law is a construction on, rather than deduction from, the natural law.

salvation of believers.³³ Against a divine-law ecclesiastical polity, the reformers set a human-law polity, consisting of traditions of ministry and worship, called forth by and necessary to, but not identical with, the obedient community of faith, hope, and love that the body of Christ comprises.

The conceptual elements of the theory of the church as a human-law polity were laid out in a highly influential way by the Henrician humanist, Thomas Starkey, in his *Exhortation to Unity and Obedience*.³⁴ Drawing heavily on Philip Melancthon's concept of 'adiaphora', Starkey argued that ecclesiastical customs and traditions were 'things indifferent, neither prohibited nor commanded by God's word' in Scripture, and in this sense not necessary to the salvation of believers.³⁵ In that they were variable, mutable, and fashioned (at least in part) by considerations of communal expediency, they should neither be superstitiously identified with 'Christ's doctrine' clearly and invariably set out in the Gospels, nor disparaged as unscriptural.³⁶ Echoing Aquinas (*ST* 1a2ae. 92.2), Starkey suggested that they bore the same relation to Christ's immutable commands as the legal traditions of civil society bore to the immutable laws of natural justice: namely, one of conformity, in the sense of correspondence or compatibility.³⁷ Moreover, he concluded (still echoing Aquinas) that variable church traditions, like civil customs and laws, derived their public authority immediately from the recognised human power by which they were established, either the body politic, as in prescriptive custom, or its appointed ruler. Ultimately, however, all public traditions derived their authority from 'God's word' that commanded obedience to 'common policy'.³⁸

³³ Although the Puritan arguments were frequently more nuanced than the polemical rejoinders of establishment bishops allowed, their most capable and influential theological exponents, Thomas Cartwright and Walter Travers, explicitly cast Christian polity in the divine-law mould of Israelite polity. Convinced that divine command is the perfect law because it leaves little to the discretion of fallible and sinful men, they looked in the New Testament for a detailed and comprehensive divine legislation of church polity comparable to the judicial and ceremonial legislation of the Mosaic corpus of the Pentateuch. Moreover, they upheld the continuing authority of all Mosaic legislation (judicial and ceremonial as well as moral) not clearly revoked by God. See Cartwright's published controversy with John Whitgift which began with Whitgift's published *Answer to the Puritan manifesto, An Admonition to the Parliament* (1572), and was pursued by Cartwright's *Reply to the Answer* (1573), followed by Whitgift's *Defence of the Answer* against Cartwright's *Reply*, and finally Cartwright's *Second Reply* in two parts. Also W. Travers, *A Full and Plain Declaration of Ecclesiastical Discipline*, London 1574. In rejecting compulsory adherence to the 'Mosaic judicials', the English (like the continental) reformers, were only perpetuating the unbroken, mainstream tradition of Christian political thought. They had no quarrel with the 'papists' here. The extreme Reformed position of Cartwright and Travers on the permanent authority of the Mosaic judicials was an eccentric departure from the theological tradition.

³⁴ London c. 1540.

³⁵ *Exhortation* 6b.

³⁶ *Exhortation* 35a-b.

³⁷ *Exhortation* 42a-48b.

³⁸ *Exhortation* 6b-9a. Starkey's theoretical alignment of the church's 'common policy' with positive legal tradition *per se* furnished a recurring theme in Tudor defences of government-enacted reforms, from Cranmer, Ridley and Jewel to Whitgift, Bancroft and Hooker. In the regular employment of the concepts of 'adiaphora' and 'common policy' by Henrician and Edwardian churchmen, there surfaced, from time to time, discomfiting overtones of legal positivism and unprincipled pragmatism, exhibiting, it must be said, a reluctance to relate with theological precision the voluntarist and epistemological aspects of public right, i.e., the ruler's

(c) In the third place, corresponding to the deficiencies characterising the ruler's practice of public judgement are deficiencies in the political subject's practice of obedience. Not only does coercive command invite a conformity of conduct motivated by unrepentantly selfish fears and hopes (concerning one's welfare in the next world, under the shadow of divine judgement, or more basely, one's corporeal and material welfare in the present one); but even the repentant sinner encounters public judgement as an alien and oppressive force just at that point where his/her appetites are least under the yoke of divine love and righteousness, or in other words, at that point where his/her participation in the communion of Christ's resurrection life gives way to the self-inflating and self-consuming isolation of the Old Adam.³⁹

And if it is not the grosser sensual vices of greed, lust and domination that need curbing in believers, it is the subtler spiritual vices of moral and intellectual pride, that cause them to pit their own judgements against common judgement, disrupting the seemingly order of common practice and breaking the bond of communal peace. It is precisely the relative arbitrariness of public judgement that provokes proud dissent among the ruled: i.e., dissent which is not truly required by God's law and in accordance with his will; for God neither requires nor permits subjects to suspend their own judgement about what common action corresponds most closely to his just laws. While the requirement of conformity or uniform practice in both the secular and ecclesiastical realms is impotent, of itself, to bring about conversion of the subject's heart and growth in virtue, it may, by compelling individual conceit to defer to outward unity and concord, be an extraneous instrument of the Spirit's proper action. Only by the Spirit's guidance, however, do subjects 'gladly obey' a common policy with which they do not agree, for the sake of sustaining communal peace and good order. Indeed, only by the discernment of faith are the deficiencies of public judgement fully understood as unavoidably inhering in its limited temporal commission.

right to command and the substantive right of what is commanded. Nevertheless, Cranmer and his colleagues continually demonstrated their intention of holding together and keeping in view both aspects of public right. While emphasising the authority of common church policy, they, nevertheless, took every opportunity to show its detailed correspondence with God's word in Scripture and with the church's universal witness to this word. Likewise, while emphasising the authority of common civil policy, they affirmed that the ruler's judgements were right and just only as they conformed to God's judgements revealed in nature and, authoritatively, in the Scriptures. Of course, as with a number of their continental colleagues, they were, for the most part, disinclined to admit any independent, earthly judge of the monarch's or chief magistrate's judgements, with the authority to restrain, correct, and, if necessary, depose an errant and unjust ruler.

³⁹ In his *Exhortation*, Starkey contrasts the public law's constraint of people's sinful affections through earthly fears and hopes to their transformation by supernatural faith and love in the community of Christ's spiritual body. At the same time he admits that 'worldly polity' may be converted by 'supernatural charity' into Christian civility, in which Christ's faithful people render 'glad obedience to all established by common authority' 39a-40b. (The conversion, however, can never be entirely complete, as long as the necessity of public law persists.)

4.3. The establishment of church polity by public judgement

The final, and for us moderns the most controversial, insight for political ethics of the English Reformers is that the church's polity, its authoritative external order, should be incorporated into public law. In today's liberal societies, it is broadly accepted that churches need legal polities for the effective organisation of their ministries and peaceful discharge of their communal duties, but it is broadly assumed that these are and should be matters of private rather than public law. Against our prevailing assumption, the English reformers believed that full legal establishment of the church could witness faithfully to the universal authority of her proclamation over society.

Admittedly, the reformers may be faulted (together with the lay ruler) for not being flexible and inclusive enough in legally defining the church's ministries, worship and governing structure; just as subsequent generations of churchmen, monarchs and parliamentarians may be faulted for allowing too little scope for the arbitration of conflicting judgements in society about church polity, and for using public legislation to enforce uniformity in the face of widespread communal division. Nevertheless, these faults do not, in my judgement, discredit the idea of a unified public church polity. The contribution of society-wide uniformity in externals to the effectiveness of the English church's mission should not be underestimated. Above all, her common worship — a common liturgical tradition of ecumenical and historical breadth — has, over the centuries, provided the formative experience of universal moral community and instructed believers in an evangelical ethic and a co-ordinate judicial view of government.

5. *Conclusion*

Let me conclude by observing that issues surrounding church establishment and common worship are of practical urgency today, as well as of enduring theoretical interest, in Europe and elsewhere. This is not only the case in England, where both have been under unrelenting attack in the last forty years⁴⁰, but also in Eastern Europe, with the recent and prospective accession to the European Union of post-communist countries with older establishment and liturgical traditions.⁴¹ There are many possible forms of establishment to be

⁴⁰ English church establishment is currently under grave threat of political and legal attenuation, both in respect to the possible loss of its representation in the British House of Lords and in respect to the possible invasion of its traditional institutional arrangements by court judgements under the Human Rights Act (1998/2000), which is Britain's indigenised European Charter. Historic Prayer Book worship is suffering eclipse both in England and throughout the Anglican Communion, with the demise in parish churches of Sunday celebrations of matins and evensong, the curtailment of lengthy and coherent Scripture readings and of preaching which takes seriously the task of Scriptural exposition, the multiplication of Eucharistic liturgies, and generally a sacrifice of liturgical solemnity and beauty for accessibility and popularity.

⁴¹ There are now a plethora of European agencies, mainly under the auspices of the Organisation for Security and Cooperation in Europe and the Council of Europe, working to bring the legal provisions (constitutional and legislative) of Eastern European states in line

considered, many degrees and ways of incorporating or recognising church law in public law. Moreover, there are still possibilities throughout Europe for serious liturgical revival of national and international scope.⁴²

The greatest obstacles to the future moral and ethical contribution of national church establishment and denominational liturgical revival lie in the churches themselves, in the Biblical, theological and cultural impoverishment of their clergy and laity. But these failures are exacerbated by the penetration of European civil and ecclesiastical polities by the ideology of egalitarian rights (in this case, religious rights), which misconstrues the social relations between non-Christian minorities, whether non-believing individuals or other religious communities, and the historical and (in many cases) majoritarian Christian traditions, and makes impossible a just political accommodation of minorities that preserves the moral agency of the larger community. Here too, public authority is attempting to regulate communal moral relationships through an inappropriately individualistic, voluntaristic, and juridical mechanism. And since this regulative enterprise involves a direct attack on the Reformation understandings of how the practices of proclamation and jurisdiction determine moral agency and action, it seems a fruitful area in which to re-engage with the theological tradition.

with the ever-growing body of European rights, non-discrimination, and employment law. The political vulnerability of these states may result in their historical traditions of church establishment not being given the international and (under external pressure) national recognition that western European traditions have received (e.g., in jurisprudence of the European Convention on Human rights). The prospect of a heyday for liberal rights-egalitarianism is somewhat mitigated by a growing awareness in these agencies that the threat to European security posed by national religious/ethnic minorities may, in some cases (as, for example, the aspiring Balkan states) be most effectively addressed by the negotiation of minority and majority religious/ethnic rights. The international lawyer, Malcolm Evans, who serves as a rights adjudicator and consultant on religious freedom for several European agencies, has drawn attention to the historical irony of this recent shifting of concern away from the equal protection of individual rights to the protection of minority group rights, recollecting that it was the failure of this latter strategy in the inter-war years that (in part) gave rise to the post-war formulations of the UN Declaration and the European Convention. See *Religious Liberty and International Law in Europe*, Cambridge 1997: CUP, 374-5. Evan's critical analysis of the wording and conceptuality of international rights documents draws into question their efficacy as mechanisms for the protection of 'religious liberty'.

⁴² Who knows what ancient liturgical riches may be restored to Roman Catholic worship by Pope Benedict XVI, without (one hopes) any retrograde remystification!