

Governance and Law

Ecclesiastical Polity and Wilful Disobedience

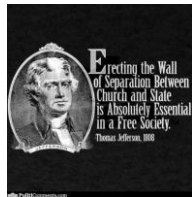
THEN vs. NOW

RENAISSANCE CONFLATION



VS

MODERN REPUBLICAN SEPARATION



CHURCH and STATE

- 1535: The Act of Supremacy/Protestant Reformation (Henry VIII)
 - Est. the King of England as the Head of the Anglican Church
- 1563: 39 Articles of Religion (Elizabeth I)
 - Charts a "moderate" path between Continental Catholicism and "radical" Continental Protestantism
- 1649: Arraignment of Charles I
 - Parliament argued the King was SUBJECT to the LAW;
 - Charles argued that the King WAS the Law and therefore could not be tried by the people.

CRAWLING BETWEEN EARTH AND HEAVEN

Ongoing themes/guiding questions:

- What is the relationship between
 - The IDEAL and the REAL?
 - The ABSTRACT and the CONCRETE?
 - The ABSOLUTE and the CONTINGENT?
 - The UNIVERSAL and the LOCAL?
 - The ETERNAL and the TEMPORAL?
 - The PRIMUM MOBILE and the SUBLUNAR?
 - The INFINITE and the LIMITED/FINITE?
 - The PERFECT and the IMPERFECT?

QUESTIONS OF GOVERNANCE

- What is the relationship between
 - A Monarch as Divine Representative on Earth (Divine Right) and the monarch as an individual mortal and fallible human being?
 - A Monarch and her/his SUBJECTS?
 - DUTIES and PRIVILEGES?
 - ABSOLUTE RULE and the LAW?
 - NATURAL law and POLITIC law?
 - LAW and CONSCIENCE?
 - The PUBLIC and the PRIVATE realms?

BODY POLITIC

- a conceptual and political model that figured the state as analogous to a HUMAN BODY
- each person, position, social role was equivalent to a part of the body:
 - soldiers= arms;
 - farmers=belly;
 - king=HEAD.

UNIVERSITAS

Universitas refers to that part of a society that is **PERPETUAL**, that lives on regardless of which individual people are alive or in power.

- I.e. the "ideal" state

THE KING'S TWO BODIES

BODY NATURAL
 ·Lives, dies, grows old and sick;
 ·The body of the INDIVIDUAL sovereign.

·Eg. Queen Elizabeth

BODY POLITIC
 ·The "office";
 ·Does not age nor does it succumb to any mortal disease etc.;
 ·Is ontologically gendered but ideologically MALE;
 ·Identified with the *UNIVERSITAS*

EG. The Prince, The King



DIVINE RIGHT

- the principle that the **hereditary** monarch is God's representative on Earth and that, as such, has absolute authority over all his subjects.
- The fact that the individual monarch was born in natural succession is proof that the monarch is legitimized by divine right.

LAW: NATURAL and POLITIC

Hooker: *The Laws of Ecclesiastical Polity*

NATURAL LAW (law of *nature*, law of *reason*):
universal, unwritten, discernible by the exercise of reason; what any "reasonable person" would take to be true; a "natural" ability to discern right and wrong.

POLITIC (Civil) LAW (*human law*): laws set by temporal authorities (kings, Parliament etc.) to serve the needs of a given society at a given time.

- "expedient" (696)

BINDING THE IDEAL to the WORLD: NATURAL LAW

Hooker distinguishes between 2 kinds of natural law:

- "unwitting" and involuntary
 - Something's tendency to BE WHAT IT IS
 - "the elements of the world, which can do no otherwise than they do" (696)
 - Eg. Rain RAINS (697).
- Rational and voluntary
 - A sentient being's ability to perceive things as "they ought to be" (696);
 - Human conscience

RIGHT REASON: RAIN RAINS, HUMANS REASON

See the thought experiment (697-98).

What is the relationship between the hypothetical scenario in which "Nature should intermit her course" (697) and human lawlessness or rebellion?

"See we not plainly that obedience of creatures unto the law of nature is the stay of the whole world?" (698).

(Un)Natural Humanity

Humans are therefore naturally bound to exercise reason as part of their NATURE.

The Law of Nature and the Law of Reason bind human VOLUNTARY choices to Divine Order.

To violate the law is to become UN-NATURAL, and to cease to be HUMAN.

The Untuned String

- Original sin = an untuned string
 - Natural Law dictates that humans are "in tune" with their nature as rational beings;
 - Original sin makes the world "untuned," and therefore not "harmonious" even though the Natural Law itself is perfect.

"He that striketh an instrument with skill may cause notwithstanding a very unpleasant sound" (698).

HUMAN DUALITY

Taken together, the two kinds of law reflect the DUAL NATURE of humanity:

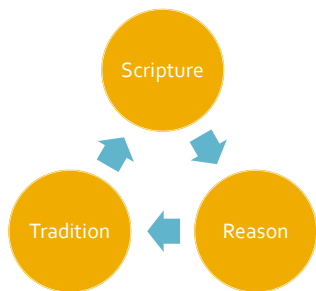
RATIONAL and naturally capable of goodness:

- "RIGHT REASON": the natural tendency to know and to do good.

WILD BEAST: Fallen and base and likely to **turn away from reason**

- APPETITE: driven by needs and self-interest that require firm controls

The THREE-FOLD CORD



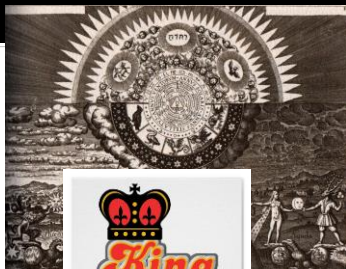
POWER, AUTHORITY, LEGITIMACY

- **POWER:** physical might, the ability to exert one's will over others;
- **AUTHORITY:** the right, given by law, to exert one's will;
- **LEGITIMACY:** a recognition that the ability to exert one's will derives from both **natural** and **politic law**; a recognition on the part of subjects that the exercise of power is **reasonable** and **just**.

MACROCOSM & MICROCOSM

EQUIVALENCES between structures

- COSMOS
- DIVINE GOVERNANCE
- EARTHLY GOVERNANCE
- Rel. b/w INDIVIDUALS
- Rel. of forces WITHIN INDIVIDUALS
- PATERNALISTIC
 - God rel. to humanity;
 - Prince rel. to subjects;
 - Father rel. to family;
 - Reason rel. to bodily appetites.



REBELLION AGAINST FATHERS

“For first, the rebels do not only dishonour their prince, the parent of their country, but also do dishonor and shame their natural parents...”
(Cranmer, “Disobedience” 694).

“... the dishonor done by rebels unto God’s holy name by their breaking of the oath made to their prince...” (693).

What is the effect or purpose of this equivalence?

REBELLION: CHIEF AMONG SINS

How horrible a sin against God and man rebellion is, cannot possibly be expressed according unto the greatness thereof. For he that nameth rebellion nameth **not a singular or one only sin**, as is theft, robbery, murder, and such like; but he nameth the whole puddle and sink of **all sins against God and man**; against his prince, his country, his countrymen, his parents, his children, his kinsfolks, his friends, and against all men universally; all sins, I say, against God and all men heaped together nameth he that nameth rebellion.

(Thomas Cranmer, *The First Part of An Homily Against Disobedience and Wilful Rebellion*)

DOCTRINE OF OBEDIENCE

Subjects must submit to the rule of the monarch under all circumstances, even if the monarch is cruel, arbitrary or, indeed, insane.

Consequences of violating the Doctrine:

- TOTAL SOCIAL BREAKDOWN;
- Descent into ABSURDITY;
- Impossibility of creating or maintaining MEANING

DISOBEDIENCE=ABSURDITY
The Power of the Body Politic Metaphor

God forbid. For first what a perilous thing were it to commit unto the subjects the judgment, which prince is wise and godly and his government good, and which is otherwise; **as though the foot must judge the head**; an enterprise very heinous, and must needs breed rebellion.

(Thomas Cranmer, *The First Part of An Homily Against Disobedience and Wilful Rebellion*)
