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UNIVERSITY OF SASKATCHEWAN
COLLEGE OF GRADUATE STUDIES

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candidate for the Degree of Master of Arts

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January 14, 1967

External Examiner__

Professor of Philosophy

Internal Examiners2

THOMAS MORE'S CONCEPT
OF KINGSHIP



A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfillment of the Requirements
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by
Elizabeth Doktor
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CHAPTER I: HISTORICAL SETTING

Thomas More lived through one of the most creative periods in the history of political thought and action in England. Born in 1478 in the reign of Edward IV, More was educated and grew to manhood during the reign of Henry VII, the first of the Tudor dynasty. He served both the state and his Church during the reign of Henry VIII. During this reign, too, he was executed as a traitor to the realm and to the king whom, for twenty years of his life, he had served faithfully and well.

For Thomas More and other humanists, the accession of Henry VIII heralded a new age. For them, a new era of political freedom seemed to dawn. The humanists felt free to express openly their criticism of the tyrannic spirit of Henry VII's reign once more.¹ The accession of Henry VIII seemed to herald a new age for humanism as well. An excellent Latin scholar himself, Henry VIII began his reign as an outstanding patron of these humanist scholars and an enthusiastic employer of their services. It is not surprising, therefore, that the humanists anticipated an unprecedented opportunity to realize their ideal, the "very and true commonweal". They sincerely believed that their king was in complete harmony with their ultimate ideal, the preservation of that European unity which

1. T. More, The Latin Epigrams of Thomas More, ed. by L. Bradner and C. A. Lynch, Chicago, 1953, pp. 138-9.

More described as the "common corps of Christendom".

Between More's appointment as Lord Chancellor in 1532 and his resignation eighteen months later, however, the humanists' assessment of Henry VIII was proven false. By 1535 the great figures of English humanism, Thomas More and John Fisher, were Henry VIII's learned and uncompromising, "malicious", enemies. In July, 1535 they were executed as traitors to the realm. Their death brought an end, temporarily at least, to the freedom of thought which the early humanists had enjoyed in their attempts to interpret the changes in the world around them.

Prior to those critical years of the Reformation Parliament, many of the really novel problems of the age were freely interpreted and reinterpreted by men of various shades of opinion. Often they were tackled in terms of a variety of concepts of the source and nature of authority in society. Numerous factors stimulated this critical approach to the existing forms of authority: the new heretical movements; the growth of the "new monarchy" characterized by its narrowing national interests and feelings at the expense of an international order of any kind; the "new economics" with all that the current geographical discovery and territorial expansion overseas implied; stimulating contacts with the "new learning" of the Italian Renaissance and the Italian humanists, particularly those associated with the Florentine Academy; and, finally, the advent of the printing press as

an effective instrument to disseminate critical and heretical ideas.

In More's lifetime, many theorists still appealed to the medieval analogies and parallels which originally had been drawn to show how the kingship of God was reflected in the hierarchical order of creation: in nature, in the universe, in the human body, in society. This hierarchical order culminated in either a center of unity or an apex of authority from which all things flowed, depending on the definition the theorist gave to the inter-relationships within the hierarchy itself. In early Tudor England, those who upheld a social order culminating in a "center of unity" saw the relationship of subject and ruler as being reciprocal and responsible; the ruling body (whether it were the prince, a council, or a parliament) acquired its right of rulership by consent of the people under its rule.

More's general view of authority subscribed to this. Whatever Church or state authorities presumed to do was just and legal only if it were done with the explicit or implicit sanction of the governed. A decision affecting the affairs of the state as a whole implied approval of the subjects of the realm; and issues of international significance, questions dealing with Christendom itself, required the voice of the whole body of Christendom.¹ Especially significant was the

1. More spelled this out in his defense at his trial, making reference to the city of London, parliament, and a Church council. Cf. W. Roper, The Lyfe of Sir Thomas More, Knight, ed. by J. S. Cline, London, 1950, p. 77.

nature of the questions posed by More regarding the center of unity which represented the whole of Christendom and was sanctioned to speak for the whole of it. Was it the papacy, a Church Council (with or without the pope), a council of Christian princes as representatives of their own realms of Christian peoples, or some parliamentary gathering which represented the laity, the clergy, or both of all the nations of Christendom? Any answer to the nature of kingship or authority in Christendom, any definition of the nature of the papal monarchy, by More and other humanists influenced and to some extent determined their discussion and definition of kingship in the state.

Such were the issues aired in England during the early sixteenth century. These issues touched both the ecclesiastical and temporal aspects of government, both in themselves as well as in their relations with each other. What were the respective roles, the rights and duties, of the king, of the pope, of a council of the Church or of the state, of the aristocracy, and of the masses of people in the maintenance of the social order and the attainment of the common good. To ask the same question in reverse, what was the source and the nature of rulership or kingship, first, in the general and, second, in the specific circumstances of a particular society at a particular juncture in time?

At the level of practical politics, the issues were not always easy to grasp, let alone to resolve. Even up to and

beyond the death of Thomas More himself, there were those who clung to their deep faith in the ideal of a unitary society.¹ The temporal and ecclesiastical jurisdictions were seen as two arms of a single society, the Christian commonwealth. Ideally and theoretically, the secular rulers and the pope, the national states and the universal Church worked together harmoniously, cooperating for the common good, temporal and spiritual, of society. Thomas More was not alone in this ideal and in his hope for its eventual realization. Certainly, in a Christendom which believed in and drew analogies from the traditional doctrine of the Mystical Body of Christ, this is not radically contrary to what would be expected. As E. H. Kantorowicz explained:

"To a greater or lesser degree, all Christians or members of the Church before the Reformation identified themselves with this Mystical Body of Christ; Christians everywhere believed that their membership in this universal unity was effected through the sacraments and attested to by the supra-national institutional authority of the Church."²

Throughout the fourteenth and fifteenth centuries, the medieval synthesis of thought became increasingly inadequate

1. Cf. C. Morris, Political Thought in England: Tyndale to Hooker, London, 1953, pp. 27-32. "The new theory in support of the Great Matter that the king must become 'full master in his own house' was not an appeal from Church to State for action that was essentially a religious matter. It was an appeal from one officer to another inside a single composite society, the Christian Commonwealth, a society that comprised both church and state. This medieval outlook on society was retained by all the early Protestants."

2. E. H. Kantorowicz, The King's Two Bodies, Princeton, 1957, p. 93?

as a guide for action in the constantly changing realities of that age. Increasingly popular were numerous variations of the theory that the state should be sovereign over all things including the Church and its clergy. Other theories suggested that the sacerdotium and regnum represented two independent, self-sufficient societies.¹ Another stream of thought, growing directly or with some modification out of the political theories of Aristotle and St. Thomas Aquinas, described and advocated a "mixed polity" with a balance of monarchical, aristocratic, and democratic elements as the ideal of good government.²

The numerous controversial views attributed sovereignty, absolutely or in numerous variations and degrees, to kingship in the person of the pope, emperor, or king, on the one hand, or, on the other, to kingship in one of these three in unity with the whole people as represented in the General Council of the Church or some parliamentary institution of the state. Some of the new concepts found fertile ground in the arena of practical politics as it was created by the values and ambitions of leaders from both the temporal and ecclesiastical orders in early Tudor England.

The developments arising out of Henry VIII's peculiar personal and marital problems and his almost forgiveable, laudable

1. Cf. O. Gierke, Political Theories of the Middle Age, Boston, 1958, pp. 13-19.

2. Ibid., pp. 56-7.

desire, as king, for a male heir, sharpened old issues and suggested new ones. Especially important is that they drew the King's attention in a very concrete way to the fact that there were certain facets of life in England over which he, as king, could not legally exercise any final jurisdiction. Marriage, one of these issues and one which touched the king's interest in a critical way at this particular time, traditionally had been recognized as a spiritual aspect of man's life and within the jurisdiction of the Church, the Church not only in England but as represented by the papacy itself.¹

Any deviations from the traditional definitions and limitations of the temporal and spiritual jurisdictions proper to the king required convincing explanation and justification if they were to find general acceptance within the realm of England and throughout Europe. The formulators of the new body of theory to justify the "Tudor Revolution" found their persuasive arguments and examples in classical and patristic literature as well as in the medieval tradition. They did not scruple to give the old sources, such as Scripture, which had provided cogent arguments on the side of the traditional values and ideals of kingship, a new interpretation more befitting the times. Furthermore, they appealed most effectively to those who felt an urgent need to resolve the practical dilemmas

1. As illustrated by Queen Catherine's appeal to the Pope in Rome.

of their day.

That Henry VIII and the Henrician ministers, theorists, and pamphleteers were able to work out a whole new theory of government and a revised concept of kingship and to secure its acceptance in England within a relatively short time deserves more by way of explanation than can be given here. However, a few general but illustrative factors accounting for the success of the English Reformation can be noted. First, the growing political and economic nationalism within the country helped to reinforce the argument that Henry and parliament only desired to declare England free of all foreign domination. Feelings of anti-clericalism or anti-papalism that did exist in England at this time were mobilized to support the official charges of papal usurpations of the king's power in England.

The accomplishment of English sovereignty, interpreted to mean, among other things, complete freedom from the papacy, was further facilitated by the natural loosening of the ties between the temporal and spiritual jurisdictions promoted by the new policy of appointing educated, non-titled laymen from the rising gentry class to the administration. This tendency to concentrate temporal matters and offices in the hands of the laity magnified the whole question of where the line between spiritual and temporal matters ought to be drawn. That Thomas More, for example, and the official theorists drew the line at different places is taken for granted in this thesis.

In the sphere of practical politics in Tudor England, the papal power lost out because it lacked coercive power in that country at the very time that the king's coercive power was growing by leaps and bounds. In fact, the constitutional spirit of Henry's England has been described, with some justification, as the Tudor despotism.¹ Largely unjustified, however, is the picture of England prior to 1534 as one of the most papal-ridden corners of Christendom. Cardinal Wolsey did exercise extensive powers, but he was more of a Lord Chancellor than a papal legate. True, he succeeded in becoming a papal legate for life in England; but from the point of view of papal politics and coercive power in England, this was an ineffectual, if not an empty, office.²

The severe limitation on direct papal jurisdiction in England, even through a papal legate like Wolsey, was illustrated by Henry's resorting to the fourteenth century Statutes of Provisors and Praemunire when he chose to depose the Cardinal from political office and to intimidate the clergy of England. Furthermore, the fact that King Henry VIII succeeded in paralyzing the Church in England into submission to his new policies³ is explained less by exaggerated charges of

1. C.H. Williams, Making of the Tudor Despotism, London, 1928, pp. 1-3.

2. Anonymous, "The Age of Morton, Wolsey, and More," Dublin Review, 1856, pp. 43-50.

3. Submission of the Clergy, 1531, was given statutory confirmation in 1534. Cf. G. R. Elton, The Tudor Constitution, Cambridge, 1960, pp. 337-41.

corrupt bishops and ignorant clergy than by the somewhat unusual lack of clerical leadership in England at this time and by the inability of the Church to revive on such short notice the neglected machinery of Convocation through which it might have marshalled its strength and presented a united front in its own defense on the same ground from which it was being attacked.¹

Important, too, for an understanding of the practical issues of the politics of More's time is that the majority of people were relatively untouched by the immediate quarrels between Henry and the Church. The upheavals in political theory and in the constitutional practice were far more removed from the ordinary man than had been the anarchy and the civil wars just one-half century before, for example. The immediate routines of daily living went on as usual for most people. The Act of Supremacy, indeed, did declare the king to be the head of the Church, but then the king always, certainly long before this, had had much to do with the affairs of the Church of the people in England. As far as most people were concerned, there seemed to be little that was radically new in this latest situation.

As long as there was no essential change in doctrine, the questions of who held the reins of power, to what degree,^{and} over what areas were viewed as finer issues of political debate over which the majority did not feel inclined or qualified to

1. Anonymous, "The Age of Morton, Wolsey, and More," Dublin Review, 1856, pp. 2-5.

quarrel. ^{When} ~~If~~ they did, the government exercised its powers of persuasion through the press and made a direct appeal through the use of the vernacular.¹ When that failed, the king in parliament had already anticipated the situation by legislating a number of Treason Acts which made death the penalty for expressing to another an opinion that the king was guilty of heresy or schism. Soon enough, it became dangerous to even think of such an opinion.

More's life and death testify to the survival of medieval convictions in sixteenth century England. For example, More believed that beyond a certain point, a political debate was no longer an attempt to draw the line between the spiritual and temporal jurisdictions in a Christian society. Rather, it degenerated into an attack on the basic spiritual and doctrinal unity of Christendom as represented by the papal headship.

By 1532, it became clear to Thomas More, though it appeared to be less clear to most others, that the new political policies would culminate in the denial of fundamental doctrines defining the nature and purpose of the Church.² In his opinion, the new developments were a denial, no matter

1. Chosen as apologist for the Church by Bishop Tunstall, More was directed to appeal to the community through the vernacular. Therefore, most of his controversial works against the heretical views of people like Barnes, Fish, and Tyndale were done in English rather than in Latin.

2. Erastians like Cranmer, for example, did not believe that the king would step into the revision and formulation of doctrine.

how vaguely defined and cleverly veiled by statute, of the divine nature and origin of the papal office and of the Church itself as a divinely-founded institution for the purpose of guiding men to their proper end, to God and to eternal life after death.

As More perceived the issues, it was through constitutional revision and institutional "reform" that the state was gaining power to completely permeate areas in which its authority had never been recognized before as final, neither by positive law--common, civil, or canon--nor by what men had interpreted as God's Law or natural law, nor by any of the most competent philosophers, theologians, and even political theorists--be they patristic, scholastic, or Christian humanist.

More rejected any temporal claims to purely spiritual functions such as defining doctrine and administering the sacraments. He staked his life on defending the inviolability of individual conscience against the temporal power's claim to inward as well as outward obedience. Finally, in the last defense of his convictions, after sentence was passed on him as guilty of treason, he attributed to the rules of the common corps of Christendom a coercive power superior to that of the national state and one that was binding on Christians throughout all Christendom.

In this study, More's concept of kingship is discussed in terms of the Christian humanist views of authority and of the views developed by such Henricians as Thomas Cromwell and

Christopher Saint Germain. There is no attempt to disprove or to prove the consistency of More's political thought at various points in his life and experiences. Undoubtedly, More learned many of his basic political attitudes from such humanist friends as Erasmus as well as from his humanistic and legal studies. These humanistic influences were particularly important in the formulation of those views which More expressed in his earlier works.

More's later expressions of political ideas, particularly those in his works of controversy, reflected his practical experience in public life and his concern with the radical drift of Henrician affairs in the early 1530's. With the questioning of papal authority and of the laws concerning heretics, the political realities faced by More the civil servant, the lawyer, the defender of orthodoxy in the Church pushed him to retreat from the relatively liberal interpretations of papal power and tolerance of heretics which he had expressed in earlier times to a more precise and dogmatic definition of views which the new events and developments in political and religious thought appeared to demand.

In the early 1530's, to preserve and defend a stable and valid authority was uppermost in More's mind. Consequently, more strongly than ever, More reasserted that the papal office was a divine institution and that traditional laws against heretics must be retained, that the attacks on these were synonymous with an attack on the traditional order and the good government of Christendom as a whole.

CHAPTER II: LITERARY SOURCES: AN EVALUATION OF THEIR
SIGNIFICANCE AS SOURCES OF MORE'S POLITICAL THOUGHT

A. More's Literary Activity

More's literary activity extended throughout his entire life and can be divided, for the sake of convenience, into several periods. During the first decade of the sixteenth century, he wrote and translated a number of epigrams.¹ He also translated the Life of John Picus (c. 1505)² and in collaboration with Erasmus, several of Lucian's Dialogues (1505-06). The next decade is especially noted for his History of King Richard the Third³ and for Utopia.⁴ Both works are largely the expressions of the Christian humanist's political ideals. In the third period More produced his works of controversy, all written in English. Commissioned by Bishop Tunstall to read and refute the heretical ideas, More wrote a number of works to refute the heretical opinions

1. T. More, The Latin Epigrams of Thomas More, ed. by L. Bradner and C. A. Lynch, Chicago, 1953, pp. xi-xii. Some problems of dating More's epigrams are discussed.

2. In The Works of Sir Thomas More, Knight, Written by Him in the English Tongue, ed. by W. Rastell, London, 1557, pp. 1-34. This edition will be referred to hereafter as E.W., preceded by the title of the individual work being quoted.

3. T. More, The History of King Richard the Third, ed. by R. S. Sylvester, Volume II of the Yale Edition of the Complete Works of St. Thomas More, New Haven, 1963.

4. T. More, Utopia, ed. by E. Surtz and J. H. Hexter, Volume IV of the Yale Edition of the Complete Works of St. Thomas More, New Haven, 1965. All references to Utopia are from this edition.

expressed by Simon Fish,¹ William Tyndale,² and Christopher Saint Germain.³ These, together with the "devotional works"⁴ which More wrote while in retirement from formal public life, upheld the reality of spiritual authority and defended the universality of Christendom and of Christian culture.

Two other significant sources of More's political views which have been used here are his letters⁵ and the accounts of his trial. The letters of 1534-35 are particularly important in substantiating and supplementing what was said and done at More's trial.

B. More's Earlier Works

In twenty-three of his epigrams, More discussed kings

1. More's answer to Simon Fish's The Supplication of Beggars was The Supplication of Souls (1529), ed. by Sr. M. Thecla, Westminster, Md., 1950. References are to this edition.

2. In answer to Tyndale's views, More wrote A Dialogue Concerning Heresies in 1528 (E. W., pp. 104-287) and The Confutation of Tyndale in 1532 (E. W., pp. 339-521).

3. More answered Saint Germain's views in The Debellation of Salem and Bizance in 1533 (E. W., pp. 929-1034). In it he presented an interesting treatment of the civil and ecclesiastical jurisdictions in that the Turk and the Christian parallel King Henry VIII and Christendom in More's views. The Apology of Sir Thomas More, partly autobiographical, continued this discussion (edited by A. I. Taft, London, 1930); references are to this edition of The Apology.

4. For example, Dialogue of Comfort Against Tribulation. Cf. Utopia and A Dialogue of Comfort, ed. by J. Warrington, London, 1955. References are to this edition.

5. The Correspondence of Sir Thomas More, ed. by E. R. Rogers, Princeton, 1947. Also, St. Thomas More: Selected Letters, Volume I of the Yale Edition of the Complete Works of St. Thomas More, New Haven, 1961.

and government¹ and expressed a hatred of royal tyranny. In the congratulatory poems addressed to Henry VIII at his coronation, for example, he criticized the tyranny felt under Henry VII and expressed hope for a new era with the accession of his son. More's favorite theme was the difference between a good king, "a theoretical possibility", and a tyrant, "the present danger".² Titles such as "Death unassisted kills tyrants", "The difference between a tyrant and a king", "That the tyrant's life is troubled", and "That the king is a father not a master" are indicative of More's early interest in the concept of kingship. This interest was also expressed in his reply to the speech of Lucian in The Tyrannicide.³ S. E. Lehmborg argued that More's translation of Picus reflected More's political attitudes at this time. From his comparative study of texts, Lehmborg concluded that some of the omissions from and additions to the original work reflected young More's desire to avoid public office and his attitudes towards the papacy.⁴

C. History of King Richard the Third

That Richard III is a partial expression of More's

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1. The Latin Epigrams of Thomas More, p. xxvii.
 2. Ibid., p. xxviii.
 3. R. W. Chambers, The Place of Saint Thomas More in English Literature and History, New York, 1937, pp. 62-3.
 4. S. E. Lehmborg, "Sir Thomas More's Life of Pico della Mirandola," Studies in the Renaissance, 3(1956): 61-74.

political values is best shown in terms of More's purposes in writing it. At this time the purpose of Tudor historical writing was to teach moral or ethical and political lessons.¹ History was regarded as the "guide of life", one of the surest means of solving contemporary problems.² In Richard III, More was not only drawing examples from history to teach moral lessons; he was also attempting to give some practical definition to the humanist's ideals of government and his educational plans for the prospective ruler.

As a serious historical work, Richard III attempted to expose tyranny. R. W. Chambers called it an attack on the "non-moral statecraft of the early sixteenth century".³ Essentially, it was a "humanist tract", an attack upon the Realpolitik practised by the princes of his day.⁴ In his book, Richard the Third, P. M. Kendall suggested that Erasmus's plan to write a book of precepts for the Christian prince inspired More to create out of the last Yorkist king the Bad Prince to complement Erasmus's proposed picture of the Good Prince as an example and warning to the kings of his generation.⁵ More's dislike of Henry VII's autocratic tendencies also might

1. I. Ribner, "The Tudor History Play," Publications of the Modern Language Association of America, 69(1954): 591-609.

2. W. K. Ferguson et al., Facets of the Renaissance, New York, 1959, p. 98.

3. R. W. Chambers, Thomas More, London, 1935, p. 117.

4. P. M. Kendall, Richard the Third, London, 1955, pp. 422-3.

5. Ibid., p. 423.

have influenced him to emphasize these qualities in the Bad Prince as represented by Richard III.

Whatever the truth about Richard III's or Henry VII's tyranny was, the fact is that to Tudor humanist writers Richard personified immoral kingship. In Richard III, More's purpose was "to make the malign figure given him, even more malign in the good cause of humanist education."¹ The significance of this work in a study of More's concept of kingship lies precisely in this aim: to present a picture of kingship and tyranny with a moral.

D. Utopia

The precise nature of the political ideas and attitudes More meant to express in Utopia has been, is, and undoubtedly will continue to be a stimulating subject of debate. R. W. Chambers considered Utopia, like Richard III, to be an attack on the non-moral statecraft of the early sixteenth century; he described it as "a protest against the New Statesmanship, against the new idea of the autocratic prince to whom everything is allowed."² In Utopia More expressed hostility to evil counsellors who egged the prince on to despotism, to patriots who sometimes saw "in tyranny the only force strong enough to make their country great," and to reformers who sometimes saw in tyranny "the only force strong enough to carry

1. Ibid., pp. 423-4.

2. R. W. Chambers, Thomas More, p. 117.

through the reformation they desired."¹ Book I of Utopia presented a particularly effective contrast between what the king ought to do and what kings actually did.

H. W. Donner contended that "the Utopian order must... be interpreted as a protest against the Tudor tyranny, as instituted by Henry VII;"² that "in the right of the Utopians to influence the administration of their commonwealth there lies an earnest defense of the English constitution against the new tyranny of the Tudors...In their complete freedom of conscience, the rights of man are maintained against the new absolutism of the Prince, already anticipated in the practice of the European monarchies."³ To H. W. Donner, Utopia was a "protest against the new Machiavellian methods in politics."⁴

Similarly, D. M. Bevington, in his analysis of More's use of dialogue in Utopia, concluded that the central controversy of Utopia was concerned with the nature of the Tudor monarchy.⁵ More examined monarchy in this work through such relevant issues as the feasibility of compromise and gradual reform in a monarchical society, the value and effectiveness of a philosopher-adviser in the king's court to "the profit of the public weal", and the tendency of monarchy in general

1. Ibid., p. 131.

2. H. W. Donner, Introduction to Utopia, London, 1945, p. 117.

3. Ibid., p. 58.

4. Ibid., p. 59.

5. D. M. Bevington, "Dialogue in Utopia," Studies in Philology, 58(1961): 505.

to tyranny or to benevolence. These issues More examined through the three main areas of governmental activity, that is, domestic policy, foreign policy, and fiscal policy. No direct mention was made of Henry VIII or his policies specifically, but it is quite clear that it was Henry's rule of England that More had in mind.

A number of More's own contemporaries noted the political content and significance of Utopia. They described and praised it in terms of those evils or abuses infecting the Tudor body politic which it described and in terms of the ideal or model commonwealth which it portrayed. Busleyden complimented Thomas More for having outlined

"...that ideal of a commonwealth, that pattern and perfect model of morality, whose equal has never been seen anywhere in the world for the soundness of its constitution, for its perfection, and for its desirability."¹

According to Erasmus, More published Utopia to show "what are the things that occasion mischiefs in commonwealths; having the English constitution especially in view, which he so thoroughly knows and understands."²

E. More's Controversial Works

In a sense, Thomas More was drawn into religious controversy by King Henry VIII himself. While More apparently

1. Utopia, "Jerome Busleyden to More," p. 35.

2. A. R. Heiserman, "Satire in the Utopia," Publications of the Modern Language Association of America, 78(1963): 164.

had no part in writing the King's Assertio against Luther, he was frequently consulted while it was being written.¹ In defense of the King, More in turn wrote the Responsio Ad Lutherum.² In this work, in 1523, several years before his period of controversy with the English Reformers, More had already recognized the basic issues as being those of law and authority in general and of the spiritual primacy of the papacy in particular. Not only did he recognize the issues, but he hotly defended the natural necessity of law and authority and loyally upheld the truth of papal supremacy over spiritual matters in Christendom.

In 1528, More was officially recruited into the field of controversy by Bishop Tunstall. He was to read and to refute the heretical views which the English Reformers were distributing throughout England, usually from the relative safety of the continent. During the next five years, More championed the cause of his bishop and his Church. His first work in this cause, The Dialogue Concerning Tyndale,³

1. W. H. Hutton, "The Religious Writings of St. Thomas More," English Historical Review, 1889, p. 670.

2. Translated by Sr. G. J. Donnelly, St. Thomas More's Responsio Ad Lutherum, Washington, 1962.

3. E. W., pp. 104-228. The title in its original form was as follows:

"A Dialogue of Syr Thomas More, Knighte; on of the counsaill of our Sovereign Lorde the Kinge, and Chancellour of his Duchy of Lancaster. Wherein be treated divers maters, as of the veneracion and worship of ymages and relyques, praing to Saintes, and goying on pylgrimage. With many other things touchyng the pestilente secte of Luther and Tyndale, by the tone bygone in Saxony and by the tother labored to be brought into England."

was an attack on Tyndale's views as they appeared in his translation of the New Testament, in his Practice of Prelates, in his Obedience of a Christian Man, and in his other writings. Tyndale's subsequent answer to More's Dialogue was met by the Confutation of Tyndale.¹ What J. Gairdner wrote of More's intention in these works emphasizes their relevance to More's political thought:

"More's intention in writing this great controversial work Confutation of Tyndale was to preserve the Catholic order of life as it had long existed in European Christendom. All right-minded men will favor the preservation of order, opposing every lawless attempt to break it up and destroy its sanctions....More saw what was at stake, and endeavored, so far as he could, to save the King from the effects of his own recklessness. But his chief aim was to save religion itself from insult, and public morals and social order from being subverted."²

In whatever way the issues in the controversy between Tyndale and More are delineated, the fundamental question invariably remains that of authority. It was their respective interpretations of the nature and the source of civil and religious authority that gave each side its own umbrella for the numerous points of ritual, doctrine, and jurisdiction under debate at this time. Any serious discussion of spiritual authority was necessarily an implicit statement regarding the source, nature, and limits of secular authority. In the course of demonstrating his claims that, historically, the ecclesiastical order had usurped all temporal powers in

1. W. H. Hutton, "Religious Writings of St. Thomas More," English Historical Review, 1889, p. 681. The author summarizes the contents of each of the nine books of this work.

2. Quoted in W. E. Campbell, "St. Thomas More's Longest Book," Dublin Review, 223(1949): 123.

England,¹ Tyndale himself commented on this question:

"What is the cause that laymen cannot now rule, as well as in times past, and as the Turks yet do? Verily because that antichrist [the pope] with the mist of his juggling hath beguiled our eyes...and hath taught christian men to dread not God and his word, not God's law and ordinances, princes and officers which God hath set to rule the world, but his own law and ordinances, traditions, and ceremonies, and disguised disciples."²

Against Tyndale's assaults, Thomas More upheld the infallible authority of the "comen knowen Catholic Church" to determine what the faith was, what the Scriptures were, and how they were to be interpreted. More was convinced that the denial of this supreme spiritual authority of the visible Church would, in the long run, lead only to dissension and chaos in the social order.

Because heresy disrupted the civil order in a state of one religion and was tantamount to the worst kind of sedition in the temporal sphere, good princes and the political rulers of the temporality had the right and obligation to punish diehard heretics and to suppress heretical opinions.

In defending his fellow Reformers and himself against charges of disobedience to the civil power made by people like More, Tyndale supported the subject's duty of absolute submission to the temporal sovereign and further charged the ecclesiastical officials themselves with civil disobedience and usurpation of temporal powers. In such writings as

1. R. Pineas, "William Tyndale's Use of History as a Weapon of Religious Controversy," Harvard Theological Review, 55(1963): 121-41.

2. Quoted in W. E. Campbell, "The Obedience of a Christian Man," Dublin Review, 214(1944): 19.

Obedience of a Christian Man, Tyndale described the king as being above the law and accountable to God alone. All earthly obedience belonged to the king.

"Popes, cardinals, bishops, whose elevation is all a cheat put upon simple Christians unlearned in the true sense of Scripture, can claim no Christian obedience."¹

Tyndale rationalized tyranny by equating it with God's just punishment of sin. To him, "evil rulers...are a sign that God is angry and wroth with us."²

"...though he [the king] be the greatest tyrant in the world, yet is he unto thee a great benefit of God, and a thing wherefore thou oughtest to thank God highly."³

Regarding the nature of legitimate resistance to tyranny, Tyndale further wrote that

"Resistance to evil rulers only deepens the bondage of sin; submission will lead God to deliver his children....A Christian man in respect of God is but a passive thing."⁴

Another formidable controversialist and apologist for the Reformers whom More was obliged to answer was Christopher Saint Germain. In answer to Saint Germain's treatise titled Division between the spiritualtie and the temporalitie in its shortened form, Thomas More wrote his Apologye⁵ To Saint

1. Quoted in R. O'Sullivan, Under God and the Law, Oxford, 1949, p. 50.

2. Quoted in W. E. Campbell, "Obedience of a Christian Man," Dublin Review, 214(1944): 16.

3. Ibid., p. 15.

4. Ibid., p. 15.

5. T. More, The Apologye of Syr Thomas More, Knyght, ed. by A. I. Taft, London, 1930. Saint Germain's treatise is an appendix to this volume.

Germain's rejoinder, Salem and Bizance,¹ More replied in his Debellation of Salem and Bizance.²

Predominant in More's controversy with Saint Germain were issues related to the proper relations between the spirituality and the temporality. More saw the two as aspects of the same thing, "the two swords of divinely ordained government."

"To him church and state were no more divided than a modern municipal police force exercising its authority through a traffic division and a criminal division is divided."³

The essential problem for More was how could the two work together most effectively. In Debellation of Salem and Bizance, More remarked that he would have them function as the soul and body of one man, agree, and hear no evil of each other because both follow the same laws, particularly those relating to heresy.⁴

Saint Germain and others, such as Simon Fish in his Supplication of Beggars, found the answer in the subordination of the ecclesiastical jurisdiction to the temporal and in the absorption of the canon law into common or Roman law.

1. A dialogue in which Salem from Jerusalem defends the claims of the clergy and Bizance from Byzantium defends the authority of civil law. Cf. G. P. Krapp, The Rise of English Prose, New York, 1963, p. 96.

2. E. W., pp. 929-1034.

3. M. Smelser, "Political Philosophy of Sir Thomas More as Expressed in His Theological Controversies," St. Louis University Studies, 1943, p. 23.

4. Debellation of Salem and Bizance, E. W., pp. 1025-6.

Such a superiority of one jurisdiction over the other was impossible in More's way of thinking if both were doing their work well because the spiritual authority presided over men's souls while the temporal authority operated on men's bodies and material welfare. When, and if, princes defended the true faith it was in the defense of their Christian subjects so "that their salvation may not be imperilled any more than their temporal possessions should be lost."¹

M. Smelser summed up More's position in the political issues with Saint Germain as follows:

"...that princes are neither inferior nor superior to prelates...and that they cannot properly become so, since princes command bodies of men, and prelates command souls. From this, it was derived that man must obey God with his conscience and submit passively to princes, with his body....The prince is divinely anointed to defend his subjects, in body and soul, with the material sword. The prelate is consecrated to nourish the flock for which Christ died, and keep the mystical body pure by cutting out corrupted flesh with the sword of excommunication."²

In the final analysis, More appealed to the rules of Christendom and to its traditions rather than to the Church of England; Saint Germain argued that if the Church of England was made up of the king and people of England, then, for practical purposes, the king in parliament was the Church in the same way that, for legislative purposes, the king in parliament was considered to constitute the realm of England.

1. M. Smelser, "Political Philosophy of Sir Thomas More as Expressed in His Theological Controversies," St. Louis University Studies, 1943, p. 28.

2. Ibid., p. 28.

The concepts of kingship developed by Thomas More as well as by the Reformers were necessarily defined by their views on the relationship between the temporal and ecclesiastical jurisdictions in society, by their concepts of law and its sources, and by their definitions of the nature and the source of the authority held by temporal rulers and the Church, all of which were openly discussed or suggested in the controversial writings.

It was in this milieu of theological and legal controversy, which at the bottom included much of what we could call political theory, that More entered the fray against the Reformers and, insofar as Henry VIII favoured their views, against the King himself. Consequently, while More wrote no political treatises, we are justified in considering his controversial works in this attempt to determine his political views and especially his ideas of kingship.

CHAPTER III: THOMAS MORE AND THE INTELLECTUAL HERITAGE

A. The Patristic Tradition

The developmental influence of the early Church Fathers was especially significant in More's time because much Greek patristic literature was being translated into Latin for the first time during the fifteenth and sixteenth centuries.¹

A scholar of William Lily's school, More viewed the learning of the ancient classics and early Church Fathers as part of the total Christian heritage.²

To More, the Church Fathers were "the fountainhead of Christian wisdom."³ He "had studied deeply the works of the early Fathers; he could illustrate and enforce a point by apt quotations from Augustine, Jerome, Chrysostom, Cyril, Hilary, Bernard...."⁴ In his correspondence, there are numerous references to Basil, Chrysostom, Ambrose, Cyprian, and others but particularly to Jerome and Augustine. In the Supplication of Souls and in the Dialogue he named Saint Jerome, Saint

1. P. O. Kristeller, Renaissance Thought, the Classic, Scholastic, and Humanist Strains, New York, 1961, p. 77.

2. C. Hollis, Thomas More, London, 1934, p. 15. More adopted the concept of ancient Greece as part of the Christian unity from William Lily who had learned Greek as a living language while in Rhodes.

3. The Correspondence of Sir Thomas More, p. 36.

4. E. M. G. Routh, Sir Thomas More and His Friends, New York, 1934, p. 120. Also see K. J. Burman, The Humanism of Saint Thomas More: His Correspondence 1499-1519, Washington, D. C., 1956, p. 41. More's use of the Church Fathers to bolster his own reasoning rather than to argue from authority is discussed.

Augustine, Saint Ambrose, Saint Gregory, Saint Chrysostom, Saint Basil, Saint Cyprian, Saint Bernard, and Saint Thomas in support of his stand on Church unity as well as other Church Fathers such as Origen, Lactantius, Eusebius, Gregory Nazianzen, Cassian, and Gregory the Great. His use of the Catena Aurea, a medieval collection of excerpts from about eighty Greek and Latin commentaries on the New Testament, is further evidence of familiarity with the thought of the Church doctors from the earliest times.¹

St. Augustine was undoubtedly the most important patristic influence on More's thought. At the invitation of Grocyn in 1501, More lectured on Augustine's De Civitate Dei in the Church of St. Lawrence in London. Of the Church Fathers, it was St. Augustine that More cited most frequently.² Augustine's thought very significantly shaped More's concepts of social order and authority, his ideas regarding the Christian commonwealth, and his description and definition of kingship and tyranny.

Augustine regarded the appearance of the Christian Church as a turning point in history, the beginning of a new era in the struggle between the powers of good and the powers of evil.

1. More used the Catena Aurea in the Tower when writing A Dialogue of Comfort Against Tribulation and A Treatise Upon the Passion of Christ.

2. G. Kernan, "Saint Thomas More Theologian," Thought, 17(1942): 291.

With him was set for centuries to come the principle that "the state must be a Christian state, ministering to a life in which spiritual interests admittedly stood above all other interests and contributing to human salvation by preserving the purity of the faith."¹ Thus, within its own sphere, secular authority was given an aura of sanctity. Christians were obliged to respect constituted authority. However, the political ideas of St. Augustine stressed the autonomy of the Church in spiritual matters and the conception of government as shared between the regal and clerical orders of society, thereby implying independence of both the Church and the secular authority within their proper jurisdictions.

For St. Augustine, the true commonwealth was Christian. Its basis was Christian charity and justice. There could be no true justice, no rendering to everyone what was his due, in a state which did not render to God the worship due to Him and which did not recognize Christ as King. A true commonwealth existed only when the people were well and justly governed whether by the king or by an aristocracy or by the people as a whole. "Without justice, what are kingdoms, but great robberbands?"²

Should the king, aristocracy, or people as ruler be un-

1. G. H. Sabine, A History of Political Theory, London, 1937, p. 191.

2. Quoted by E. Lewis, Medieval Political Ideas, New York, 1954, p. 143.

just, then the commonwealth would not exist because the rulers and ruled no longer were united in agreement as to what was right nor were they united by a common pursuit of this right, the common good.¹ The people in a true commonwealth were united by consent of law and community of interests. Peace in this political community Augustine defined as "an ordered harmony of authority and obedience between citizens."² Peace reflected order which, in turn, was defined as "an arrangement of like and unlike things whereby each of them is disposed in its proper place,"³ according to the divine plan. In Augustine's commonwealth, there was "a certain compact of men to obey their kings," but since Augustine also argued that men must obey wicked kings, this compact did not imply a contract.⁴

God alone had power to confer kingship or to take it away. In obeying their rulers, Christians really obeyed God. Augustine strongly insisted on the divine origin of authority in the state and on the subjects' duty of absolute obedience. Even tyrants were to be obeyed as long as their commands were not contrary to the laws of God; "the honor due to their power must needs be shown."⁵

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1. St. Augustine, The City of God, bk. 19, ch. 21; the quoted translation is by V. J. Bourke, New York, 1958, pp. 468-71.
 2. Ibid., p. 456.
 3. Ibid., p. 456.
 4. E. Lewis, Medieval Political Ideas, p. 144.
 5. This is discussed at length in H. A. Deane, The Political and Social Ideas of St. Augustine, New York, 1963, p. 145.

While maintaining that Christians should not obey laws contrary to God's ordinances, St. Augustine never argued that a Christian had a right to escape punishment when he refused to obey a ruler's command. Civil disobedience was justified only when the king's laws were contrary to God's law and, therefore, sinful; but, even when justified, this disobedience was punishable and the subject was obliged to accept the punishment, even death, without any resistance or attempt to subvert the existing political authority.

St. Augustine discussed the office of rulers as inherently commanding respect and obedience, but he was also acutely aware of the king as a human being with all that the human condition implied. He admonished kings not to forget that they were mortal, frail creatures subject to the same vicissitudes and sufferings that mark the lives of ordinary mortals, sinful creatures requiring redemption by God's grace. Emperors and kings were equals of other men in the sight of God and, like their subjects, were "dying men". All pomp, majesty, and temporal rule were trivial when compared to God's eternal kingdom. Yet their very eminence and exaltation made kings particularly prone to the sin of pride, especially under the influence of flatterers and dishonest advisers.

St. Augustine's ideal Christian emperor was pious and humble before God. He feared, loved, and worshipped God. He was slow to punish, quick to forgive, especially for the sake of order and security in his kingdom. He mingled mercy with

generosity. He disciplined his lusts both in his private life and in his role as ruler; his love for glory was surpassed by his love for goodness. Above all, the Christian ruler remembered that he was a man, a human being, on the way to eternal life; and that it was through the fulfillment of the requirements of his office that he would attain it.¹

St. Augustine's discussions of the relations between rulers and subjects reflected a paternalistic conception of political authority. His frequent use of the analogy between the ruler and the father who regulated and punished the behavior of his children emphasized the notion of the king as "the father of his people". The ideal Christian king also thought of his sovereignty as a ministry of God and used it for promoting true religion.² Only by coercion and punishment could sinful men be restrained and general peace and security be maintained.

The king served God by preventing and punishing acts contrary to God's commandments. Augustine's view of the proper role of kings in the correction and punishment of heresy and schism is found in a letter of 408 to Vincentius:³

"Nay verily; let the kings of the earth serve Christ by

1. St. Augustine, The City of God, bk. 5, ch. 24. This passage, often described as the first of the medieval "mirror of princes", outlines the qualities of the good ruler.

2. Ibid., p. 118.

3. This letter is referred to and quoted from in H. A. Deane, The Political and Social Ideas of St. Augustine, p. 200.

making laws for Him and for His cause." At other times, however, St. Augustine asserted that royal protection and favor constituted for the Church only "a more perilous and a sorer temptation". He further wrote that "nor do we put confidence in princes...and though we may seek aid from princes to promote the advantage of the Church, yet we do not put confidence in them."¹

Augustine's thought also did much to lay the fundamental guidelines for theories of Christian kingship of medieval and Renaissance times. It reinforced the concept that the king's coronation ceremony was, in addition to being a solemn affirmation of the contract existing between the king and his subjects, a form of Christian ordination. As such, this coronation symbolized the conferring of a special grace upon the king by God to enable him to rightly fulfill his office; it gave to kingship a sacramental character. In the theories of Christian kingship, the Christian king's coronation oath was a solemn affirmation of his fealty to God, the Divine Creator and Lawgiver. Such a ruler had the duty to rule as the guardian of Christian civilization and to live up to his repeated promises to adhere to the moral order instituted by God^{promises he had} made in official acts.²

1. Ibid., p. 200.

2. A. Guinan, "The Christian Concept of Kingship," Harvard Theological Review, 49(1956): 243-56. A further discussion of the king as an ordained Christian ruler can be found in E. O. James, "The Sacral Kingship and the Priesthood," The Sacral Kingship, Leiden, 1959, pp. 63-70.

While famous for his picture of the ideal prince, St. Augustine did not elaborate upon the nature of tyranny nor did he give much direction as to what to do about a tyrant. The distinction between the true king and the tyrant was drawn more explicitly by other Church Fathers, particularly by St. John Chrysostom near the end of the fourth century, shortly before Augustine wrote his City of God. R. E. Carter summarized Chrysostom's distinction in the following way:

"The true king possesses self-control and prudent moderation, ruling by means of persuasion and according to the laws over willing subjects for the common good. The tyrant...is a slave to his passions, ruling by force and disregard of the laws over unwilling subjects to his own advantage."¹

Chrysostom pointed out that neither political nor spiritual rulers would be able to rule well unless they first ruled themselves by carefully observing the laws of both God and man. Both ecclesiastical and civil rulers were obliged to practise self-control and to rule themselves and others according to positive and divine law. Thus, both prelates and princes could be either true kings or tyrants. However, there was an essential difference between Church and state; Chrysostom defined the ultimate difference on which the superiority of the Church rested as follows:

1. R. E. Carter, "St. John Chrysostom's Rhetorical Use of the Socratic Distinction Between Kingship and Tyranny," Traditio, 14(1958): 368.

"To the king are committed bodies, to the priests souls....The former uses force, the latter persuasion. The former has sensible arms, the latter spiritual arms....This power is greater; therefore the king submits his head to the hands of the priest, and everywhere in the Old Testament priests anointed kings."¹

The state was inferior to the Church because it had dominion only over men's bodies and earthly life, whereas men's souls were committed to the Church that they might attain eternal salvation. Chrysostom distinguished the Roman Empire and the Church in terms of tyranny and the true kingdom respectively. This distinction between the tyrant's use of force and the true king's use of persuasion was the basis for his defense of the new Christian "tolerance", a respect for man's spiritual freedom and moral responsibility contained in the principle that salvation could not be imposed on any man against his will.²

B. Saint Thomas Aquinas and More's Concept of Kingship

For both Thomas More and Aquinas, civil authority was derived from God and had an important place in God's eternal plan for man. God, being the author of man's nature, was the ultimate source of all government and civil authority. Both More and Aquinas conceived government to be pre-eminently monarchical. From the principle of one God as Creator and

1. As quoted, Ibid., p. 370.

2. Ibid., p. 370.

Lord of all in the universe, Aquinas deduced monarchy to be the best form of government:

"...in nature, government is always by one. Among members of the body there is one which moves all the rest, namely, the heart: in the soul there is one faculty which is pre-eminent, namely reason. The bees have one king, and in the whole universe there is one God, Creator and Lord of all. And this is quite according to reason: for all plurality derives from unity. So, since the product of art is but an imitation of the work of nature, and since a work of art is better for being a faithful representation of its natural pattern, it follows of necessity that the best form of government in human society is that which is exercised by one person."¹

Aquinas argued that the rule of many by one ruler was most likely to inspire unity, to ensure peace, and to secure social stability and harmony among those governed. However, he was not irrevocably committed to any one governmental form. He noted, as More was to note later, that the best form of government was one which best suited the needs of a particular people. Moreover, it might be desirable to change the form of government as needs and circumstances changed.

While Aquinas favoured uncorrupted monarchy as the ideal form of government, he did point out that supreme civil authority might also rest in the many and the few. In fact, because it was most unlikely that an absolute government would remain uncorrupted, the best government in practice

1. As quoted in W. H. Greenleaf, "The Thomasian Tradition and the Theory of Absolute Monarchy," English Historical Review, 79(1964): 753.

would be a mixed type of government, one which incorporated features from monarchy, aristocracy, and democracy.¹ In this system, the aristocracy would be subordinate to the monarch and democracy would mean that "the rulers can be chosen from among the people, and the election of rulers is the prerogative of the people." A further examination of what Aquinas meant by his concept of the mixed polity suggests that the executive and the legislative control of the community was to be in the hands of the monarch, though ideally the monarch would work through aristocratic advisers and owe his original elevation to election by the populus.

From Aquinas' viewpoint, true kingship was exercised only by those who held an absolute government according to virtue. In practice, a king was not really absolute since he was obliged to reign according to the laws. Where laws were deficient, however, the true king would rule according to his own will and reason, but he would find it to his own interest to moderate his conduct according to the dictates of prudence and in obedience to the popular will. The less absolute his rule, the less likely it would be to stir up ill will among his subjects.

Aquinas distinguished the ruling office through which civil authority was exercised and the person or persons who personified that ruling authority. A ruler's powers might stem mainly from his personal capabilities or merely from

1. The following discussion of Aquinas' view of a mixed government is based on J. B. Morrall, Political Thought in Medieval Times, London, 1958, p. 78.

the office to which these powers had been delegated. By distinguishing the ruler's office and his person, Aquinas was led to determine the fitness of the latter in terms of the requirements of the former.

What were the qualities required by St. Thomas of the ideal civil ruler? Generally, he had to be a person of virtue. "If one is found who exceeds all others in virtue, he ought to rule."¹ A ruler without extraordinary virtue would easily succumb to temptation and could degenerate into the worst kind of tyrant.²

A particularly important attribute of the person of the ruler was the virtue of justice. Another was charity. The ruler could not rightfully demand love and respect of his citizens without first loving and respecting them himself. The ruler complying with the requirements of his high office would always be courteous, pleasant, and polite with his subjects. He would strive to perfect himself so as to be worthy of the citizens' love, respect, and obedience.

The ruler also was expected to be a man of fortitude or courage even to the point of death itself. With such courage,

1. Quoted by G. J. Lynam, The Good Political Ruler According to St. Thomas Aquinas, Washington, D. C., 1953, p. 8. The following summary is based on Lynam's analysis.

2. St. Thomas Aquinas, On Kingship to the King of Cyprus, trans. by G. B. Phelan and revised by I. T. Eschmann, Toronto, 1949, p. 39. "To discharge well the office of king ...is a work of extraordinary virtue."

he could face assaults on his office as tests of his skill, firmness, and steadfastness as ruler. He had to be resolute in suppressing misdeeds and in disciplining those who would try to obstruct the operation of the government or create division in the nation. The courageous ruler would maintain internal discipline and crush intrigue wherever he found it. He would have courage to face facts and to accept truth on its own terms.

Related to the virtue of courage in Aquinas' thought was the virtue of perseverance. Perseverance would enable a ruler to persist in the face of weariness and failure in the accomplishment of his desired goals. It would give him the power to stick to his duty, to struggle ceaselessly, to endure unpleasantness, discomfort, and frustration without losing courage. Such heroic patience would steel him against surprise, anger, or dejection in the face of the constant opposition, contradiction, and ingratitude to his rule.

Not the least of the virtues of Aquinas' ideal ruler was moderation in pleasures of the flesh. The king, like any other human being, was required to develop this virtue through many acts of mortification, prayer, and self-discipline. As ruler, he required a keen awareness of where his excesses might lead when united to kingly or imperial power, that intemperate lusts and pleasure-seeking could lead to his own destruction and to national/demoralization and disintegration. The meek and moderate ruler, on the other hand, would be able

to exercise most effective rule through his personal moral authority. For Aquinas, self-discipline was a natural prerequisite for ruling over others.

In the scheme of Aquinas, all the virtues in the ruler, as in any man, were embraced by the virtue of prudence. While the virtue of general justice was the prime requisite of the ruler, the guidance of prudence was required for its practice. Hence, St. Thomas declared that prudence in its most perfect sense belonged to one charged with the responsibility of ruling. This perfect and practical prudence aided the king in choosing the most proper and efficacious means of realizing the ends of the state. To be prudent, the ruler had to know how to choose men of wisdom and integrity to advise him and had to be willing to consult them before making up his mind, giving them full hearing, enabling and encouraging them freely to express their views so as to enable him to make as accurate judgments and as correct decisions as was humanly possible. By exercising this virtue, the ruler also would develop a capacity to adapt himself and his policies to meet contingencies as well as to build upon a wide variety of talents, virtues, and vices possessed by those over whom he ruled.¹ A prudent ruler refrained from an immoderate and violent use of power and

1. G. J. Lynam, The Good Political Ruler According to St. Thomas Aquinas, p. 34.

worked for the common good.

The above description of Aquinas' ideal king makes it clear that the personal character of the ruler was of utmost importance in the realization of the kingly office. Aquinas summed up the triple charge laid upon the king as follows.¹ First, he must take care of the appointment of men to succeed or replace others in charge of the various offices; "the good of the multitude subject to the king will be preserved through his care when he sets himself to attend to the appointment of new men to fill the place of those who drop out." Secondly, by his laws and orders, punishments and rewards, he should restrain the men subject to him from wickedness and induce them to virtuous deeds, "following the example of God, Who gave His law to man, and requited those who observe it with rewards, and those who transgress it with punishments." Thirdly, the king must "keep the multitude entrusted to him safe from the enemy..." and defend them against external dangers. In regard to war, the king's only protection was to guard against possible enemies and to keep firm the bonds of peace and mutual good will within the state and to provide for the essentials of a normal life. Aquinas also emphasized the duty of the king to raise the economic well-being of his citizens and to encourage that private property

1. St. Thomas Aquinas, On Kingship to the King of Cyprus, pp. 66-7.

which makes men content and unwilling to revolt.

The work of the prince was to rule his subjects well. Rulership was an office or trust for the whole community; and it pertained to the kingly office to be solicitous for the improvement of the multitude. "There could be no social life of many persons living together unless one of their number were set in authority to care for the common good."¹ Whatever the ruler did was justified if it contributed to the common good. Ultimately, the common good of society must lead to a good beyond this life, eternal happiness. "...it pertains to the king's office to promote the good life of the multitude...to make suitable this life for the attainment of heavenly happiness."²

The public good and the protection of all could be realized by means of the ruler's laws and orders, punishments and rewards. The ruler dedicated to the common good would do equal justice to all no matter what their wealth, birth, dignity, or power. For the sake of peace and security of his subjects, the ruler was obliged to use the legal sanctions of civil authority at his disposal to enforce the just laws of the land. When he ceased to rule for the common good, the ruler would lose the title to rule and steps to remove him could

1. G. J. Lynam, The Good Political Ruler According to St. Thomas Aquinas, p. 37.

2. St. Thomas Aquinas, On Kingship to the King of Cyprus, p. 64.

be taken.

Although, in Aquinas' view, government in society was derived from God, neither the particular type of government nor the particular ruler had divine right as such. Aquinas conceived the ruler as being representative of all in his realm and as legislating and enforcing laws according to a higher law. Every government had its immediate basis in the people and was obliged to govern for the common good. Either the whole people or the public person in care of the whole people should establish the law by which the government ruled; Aquinas did not choose decisively between the ruler and the community as the holder of legislative power.¹

Ultimately all human authority must be rational because it traced its legitimacy back to God the Creator of nature and of reason. This reasonableness of law and government must be manifest in its purpose, the attainment of the common good.² True authority was rational, not arbitrary and irresponsible; otherwise, the will of the prince would be iniquity or tyranny rather than law.

While Aquinas upheld monarchy as the most desirable form of government, he repeatedly asserted that the perversion of monarchy in the tyranny of one man resulted in the worst possible system. He described the tyrant as a ruler who completely neglected the common good: "a tyrant, despising

1. E. Lewis, Medieval Political Ideas, p. 122.

2. R. O'Sullivan, Under God and the Law, Oxford, 1949, pp. 143-4.

the common good, seeks his own interest."¹ A man set in authority "not because of the eminence of his understanding" but because he had usurped the government by "bodily strength" or had been appointed to rule "on the basis of sensual affection" would only set the kingdom in disorder.²

What could be done with a tyrant? Aquinas definitely established the right of the people to revolt against a tyrant by affirming that it was no sedition to overturn the rule of such a king. In fact, the tyrant himself was guilty of sedition against the people.³ Aquinas regarded the ruler and his subjects bound together by a contract, sealed by oath on both sides. Therefore, the tyrant, by virtue of the broken contract, was no longer a king and could be overthrown. Even a law was "a kind of pact between the king and the people," and a king who looted his people of their goods against the established law was guilty of a violation of this pact. Laws made for the ruler's personal interests "are acts of violence rather than laws" and hence works of tyranny.⁴

While maintaining that sedition was a vicious offense against the commonwealth, Aquinas held that sedition could

1. W. Parsons, "The Medieval Theory of the Tyrant," Review of Politics, 4(1942): 140 f.

2. W. H. Greenleaf, "The Thomasian Tradition and the Theory of Absolute Monarchy," English Historical Review, 79(1964): 756.

3. W. Parsons, "The Medieval Theory of the Tyrant," Review of Politics, 4(1942): 141.

4. Ibid., p. 142.

not be properly charged against those who resisted a tyrant, the ruler who abused the common good; a tyrant must be resisted. However, Aquinas did not favor tyrannicide. His reason was that when private individuals were permitted to commit homicide on the grounds of tyranny, anarchy and far greater evils to the common good might ensue.

For the right of private individuals to kill a tyrant, Aquinas substituted action undertaken by "the public authority", that is, by the accredited representatives of the community, not "by the private presumption of a few." Only the "multitude" had the right to depose a tyrant:

"If to provide itself with a king belongs to the right of a given multitude, it is not unjust that the king be deposed or have his power restricted by that same multitude if, becoming a tyrant, he abuses the royal power..."¹

More's knowledge and use of Aquinas in his own studies and writing played a vital part in molding his concept of government and of kingship. The views of Aquinas concerning the source of kingly authority, the best form of government, distinctions between the office and the person of the king, the attributes of the good ruler, true authority in the common good and common consent, the relationship of the ruler to law, and, finally, tyranny together with the subjects' right to resistance constituted a significant portion of that medieval tradition which must be taken into account in a discussion of More's concept of kingship.

1. St. Thomas Aquinas, On Kingship to the King of Cyprus, p. 27.

C. The Legal Tradition: Bracton and Fortescue

Of the medieval figures in law, Bracton (d. 1268) and Fortescue (c. 1394-1476) can be assumed to have had an influence upon Thomas More as an outstanding lawyer of his own day. Bracton's work, De Legibus et Consuetudinibus Angliae, compiled between about 1250 and 1256, became a basic text for English legal studies in the Middle Ages and later. R. J. Schoeck established Fortescue's influence and contribution in the tradition of Lincoln's Inn with which More was closely associated and speculated that in More's library there would surely have been something of Fortescue.¹

As a lawyer, Bracton defined kingship and discussed its source of authority, its nature, its legitimate exercise, its limitations, and its abuses primarily in terms of the law. Bracton's great constitutional principle was that the king was under God and the law. The king was sovereign, superior to his subjects; but this sovereignty which Bracton attributed to the king was essentially judicial and executive or within the law.

With Bracton, there was a new emphasis on kingship as public office rather than as private right; that is, the authority of the king was attached to his office rather than to his person. The king by his office was the vicar of God upon earth and had a double responsibility: to submit to

1. R. J. Schoeck, "Sir Thomas More, Humanist and Lawyer," University of Toronto Quarterly, 34(1964): 3, 8.

God's law and to be a just king. S. J. T. Miller summed up Bracton's position as follows:

"The king, who shares in the divine attributes and especially that of bearer of justice, can no more deny justice than God Himself, since in both cases a denial of justice would be a denial of their own existence."¹

Bracton himself wrote that

"The king's power is of right and not of unright. ...Therefore, the king ought to exercise the power of right as God's vicar and minister on earth, because that power is from God above; but the power of unright is from the devil and not from God and the king will be the minister of that one of the two whose works he does."²

Bracton helped to strengthen the sentiments favoring strict hereditary succession as one source of authority in which God Himself had played a part by maintaining that only God could make an heir.³

The king's primary duty was to judge. All justice belonged to the king or to his delegates. To be just, the king had to be wise. In him, even the fear of hell was a form of wisdom.⁴ The good king also feared God's judgment and submitted himself to the custom and law of his realm.

Ideally, the king's power was bridled by the virtues of

1. S. J. T. Miller, "The Position of the King in Bracton and Beaumanoir," Speculum, 31(1956): 272.

2. E. Lewis, Medieval Political Ideas, p. 146.

3. J. N. Figgis, The Divine Right of Kings, Cambridge, 1914, p. 36.

4. S. J. T. Miller, "The Position of the King in Bracton and Beaumanoir," Speculum, 31(1956): 291.

temperance and moderation. As God's servant and representative on earth, the true king could do no wrong. He was distinguished by good ruling, not mere ruling; he was king only while he ruled well. When he acted according to his office, that is, when he authorized what was right and himself lived up to this ("the laws bind the proposer of a law"), there would be little opportunity for rebellion to arise.

Bracton described the relation of the king to his subjects and to God in the following words:

"...the king has no peer in his kingdom, because thus he would lose his headship, since an equal has no command over his equal....Moreover, the king ought not to be under man, but under God and under the law, because the law makes the king. Therefore, let the king attribute to the law what the law has attributed to him, namely domination and power. For there is no king where will rules and not law. And that he ought to be under the law, since he is the vicar of God, appears evidently through his likeness to Jesus Christ, Whose place he occupies on earth..."¹

For Bracton, law was what had been warranted by the king after being deliberated, discussed, and duly defined with the counsel of his magnates, not necessarily what was the king's will. Further, these laws, once approved by the consent of the users and confirmed by the oath of kings, could not be destroyed nor changed without the common consent of all those by whose consent and counsel they were promulgated. If the king did not obey the law, counts and barons were the king's masters; it was their duty to restrain the king when he broke the law. "Yet, without their consent, the laws can

1. Quoted by E. Lewis, Medieval Political Ideas, p. 279.

be altered for the better, because what is altered for the better is not destroyed."¹

According to Bracton, the attributes and nature of kingship were defined in part by the king's coronation oath in which the king promised to his subjects, first, to command and expend the resources of the realm to ensure peace; second, to forbid rapacity and all injustice; and, thirdly, to carry out justice in fairness and mercy to all.² The king was defined as having extraordinary jurisdiction, dignity, and power in his own territorial domain within his temporal sphere. The king was responsible for the laws pertaining to the crown and the lay authority generally. In Bracton's view, the king was bound to protect the individual and his private property against those who would do violence. He had the right to force, to punish, and to restrain criminals. Indeed, it would be pointless to establish laws and futile to attempt to maintain justice without a king capable of upholding the laws.

Bracton also discussed the separation between the spiritual and temporal jurisdictions. In the sacerdotium, Bracton enumerated various classes of men under the pope such as archbishops, bishops, and other prelates. In the regnum or temporality, he listed the emperors followed by kings, princes,

1. Quoted, Ibid., p. 40.

2. Most of what follows in this section is based on texts translated and commented upon in F. Schulz, "Bracton on Kingship," English Historical Review, 60(1945): 136-76.

dukes, counts, barons, and knights. This division of men in society he perceived to be the basis for division in jurisdiction. In spiritual cases, the secular judge was without powers of execution or coercion. Similarly, the jurisdiction of the spiritual courts did not extend to cases pertaining to temporal matters. While Bracton affirmed the complete freedom of the Church courts from the lay power, he stated the complete independence of the layman from the ecclesiastical jurisdiction in matters of a purely secular nature as well. Bracton believed that the pope was superior in spiritual matters, whereas in temporal matters, the emperor, kings, and princes were supreme.¹

One other aspect of Bracton that throws light on More's political thought is his view of tyranny and resistance. A king who violated his duty to maintain justice automatically ceased to be king and was a tyrant. He was no longer a vicar and true representative of God but was a servant of the devil; his acts were void because they were no longer acts of a king. A tyrant's rule destroyed his subjects by a process of creeping corruption descending from a corrupt head. "...if the senses and strength do not flourish in the head, it follows that the remaining members cannot carry out their office."²

1. S. J. T. Miller, "The Position of the King in Bracton and Beaumanoir," Speculum, 31(1956): 287-9.

2. Quoted in F. Schulz, "Bracton on Kingship," English Historical Review, 60(1945): 142.

Bracton's views on resistance and tyrannicide were relatively moderate. He believed that people could seek redress of the king's unjust acts by appealing to the king or to the council. In the final analysis, however, the subjects must trust God who eventually would punish the tyrant and annihilate his rule.

Another probable influence on More was Fortescue. In his political writings, Fortescue was concerned with clarifying the principles of the "limited monarchy he believed England to be."¹ Fortescue attempted to bring together the political philosophy of Western Christendom and actual English conditions as he saw them; "...he let observation take precedence over authority."²

Fortescue called England a dominium^{politicum} et regale. By this he meant that it was limited and absolute since the king was limited in some spheres and unlimited in others. The king was limited by the laws and customs of the realm which could be changed only with the consent of the people through their representatives. England was a dominium politicum because this concurrent consent of the people was required for the enactment of the law and for taxation.

Fortescue added et regale because parliament could not

1. A. B. Ferguson, "Fortescue and the Renaissance: A Study in Transition," Studies in the Renaissance, 6(1959): 180.

2. Ibid., p. 184.

enact anything without the king's permission.¹ "The laws must have the approval of the king and the king rules by hereditary right."² The king of a dominium politicum et regale "may not rule hys People by other Laws than such as they assenten unto; and therfor he may set upon them non Impositions without their own Assent."³ When Fortescue wrote of parliament, he was thinking of the king in parliament; but the king was also above parliament in that he had emergency powers in times of riot and war as well as such extraordinary charges as dispatch of ambassadors, administration of equity, and the chastisement of criminal offenses.⁴

The king's office as supreme law giver was limited by the laws of the land and the law of nature.⁵ Fortescue described the double nature of the king's office as follows:

"O King ruling politically, rule your people also regally when the case requires....The superior is thought to have absolute power, not indeed that he can dissolve a perfect law, but that, by reason of the law of nature, which is natural equity, he can himself better fulfil the law of his kingdom..."⁶

Writing further on the subject and relating it to the king's office, Fortescue asserted that:

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1. G. L. Mosse, "Change and Continuity in the Tudor Constitution," Speculum, 22(1947): 23.
 2. F. Gilbert, "Sir John Fortescue's 'Dominium Regale et Politicum'," Medievalia et Humanistica, 2(1944): 92.
 3. Ibid., p. 94, from Fortescue's Governance.
 4. E. F. Jacob, "Sir John Fortescue and the Law of Nature," Essays in the Conciliar Epoch, Manchester, 1953, p. 113.
 5. E. Lewis, Medieval Political Ideas, p. 85.
 6. Quoted from J. Fortescue's De Natura Legis Naturae in E. Lewis, Medieval Political Ideas, p. 325.

"Often the mind of the legislator did not fully perceive all that should be embraced by the words of the law, and in that case it is the office of the good prince, who is called the living law, to make good the defect of the written law....Let the king who rules politically be always wary lest he repudiate the laws of his kingdom, pregnant with justice, and establish new laws without consulting the chief men of his kingdom, or introduce foreign laws, refusing longer to remain a political ruler, and crushing his people with regal law."¹

Thus, for Fortescue, law proceeded from the prince but from the prince acting in conjunction with the community. This law the king was bound to obey by his coronation oath.²

The judges too were all bound by their oaths not to give judgment against the laws of the land, even if they received the king's mandate to the contrary.³

As to most fifteenth century Englishmen, so to Fortescue, "good and politic governance" meant that maintenance of justice and the preservation of peace. For Fortescue, the king's office "stands in two things, one to defend his realm against their enemies without by the sword; another that he defend his people against wrongdoers within by justice."⁴ The king's true aim was the welfare and the proper working of the political body, not the attainment of power. This was to be achieved by the king dealing with both external and internal enemies for the good of the realm. In this way,

1. Ibid., p. 326.

2. A. J. Carlyle, A History of Medieval Political Theory in the West, London, 1928-38, p. 174.

3. E. F. Jacob, "Sir John Fortescue and the Law of Nature," Essays in the Conciliar Epoch, p. 113.

4. A. B. Ferguson, "Fortescue and the Renaissance: A Study in Transition," Studies in the Renaissance, 6(1959): 189.

the king's "political" side gave legal protection to the rights of the subject and its "regal" side afforded the king all he required to carry out his duty of providing the active means of protecting both from external aggressors and from domestic transgressors.¹

In the king, Fortescue also saw a servant of God.

"...though his estate be the highest estate temporall in the erthe, yet it is an office in wich he mynest-rith to his reaume defence and justice. And therefore he mey say off hym selff and off the Churche, in that he writithe, servus seruorum Dei. By wich reason, ryght as euery seruant owith to haue his sustenance off hym that he serueth, so aught the pope to be susteyned by the chirche, and the kyng by his reaume."²

Thus, the king in Fortescue's thought had not only the feudal element of assent of the estates of the realm and the national element as chief magistrate of the nation, but also the religious element.

Fortescue accepted the medieval commonplace that good government depends on good counsel; but he embodied it in a specific recommendation for the reform of the actual group of councillors surrounding the king.³ He recommended a council of twelve spiritual and twelve temporal men "of the wisest and best disposed that can be found in all parts of this land." These were to take an oath like that of the judges, to have a president chosen by the king, and to meet at certain

1. Ibid., p. 192.

2. Sir J. Fortescue, The Governance of England, ed. by C. A. Plummer, Oxford, 1885, p. 127.

3. A. B. Ferguson, "Fortescue and Renaissance: A Study in Transition," Studies in the Renaissance, 6(1959): 186.

hours and deliberate upon all matters of state and suggest legislative changes to parliament.¹

Although Fortescue did not consider the statutes of parliament as the final authority, he did believe that parliament was an important institution in assuring that the common good was being sought. Fortescue believed that all men sought the common good: "there is a desire of good naturally implanted in the minds of men, so that none can desire anything other than what is good, unless misleading error draw him away to that which is false."² A single ruler was liable to be misled into error by ignorance, carelessness, ambition, and lust; but in parliament rested the wisdom of the many and Fortescue suggested that the king must be willing to be taught by the wisdom of the many.

"...statutes of England...are established not only by the will of the prince, but with the consent of the whole realm, so that they cannot bring injury to the people, or fail to procure their advantage. Moreover, they must necessarily be deemed to have been shaped with wisdom and prudence...the prudence of more than three hundred select men [the parliament of England]."³

Unlike most secular judges, including Bracton, Fortescue was a firm supporter of the doctrine of the supremacy of the ecclesiastical over the civil power. The pope was Christ's

1. Sir W. Holdsworth, Some Makers of English Law, Cambridge, 1938, p. 62.

2. Quoted from Fortescue's De Natura Legis Naturae by R. W. K. Hinton, "English Constitutional Theories from Sir John Fortescue to Sir John Elyot," English Historical Review, 75(1960): 416.

3. Quoted by E. Lewis, Medieval Political Ideas, p. 87.

vicar upon earth, and all earthly powers were subject to him. To Fortescue, this was not mere spiritual supremacy. Kings were subject to the pope not only in their persons, but in their temporalities. The pope might compel them to rule their subjects justly and punish them if they did not. As Christ's vicar, the pope was both Rex et Sacerdos.¹ For Fortescue, God was the fountain or source of all law, the law of God, the law of nature, and the law of England; but a human judge was needed to interpret the higher body of law from which the human law was derived. Fortescue considered the pope to be the human custodian of these higher laws, the human judge of the law of God and, thus, also of the law of nature. Indeed, in Fortescue's thinking, the Church appeared to be the final custodian of the law of nature.

"...our Holy Mother, the Church...setting the law of nature before custom and ordinance of man, hath proved it most clearly, from the writings of the Saints, to be the very truth of Justice which by right reason may be known."²

Fortescue stressed the fact that ultimate supremacy was vested in God and Christ, but the pope as the human arbitrator of the law of nature which was in its turn the custodian of the dominium politicum et regale occupied a key position in the English constitution.³ "The pope to him was the 'vicar'

1. Sir J. Fortescue, The Governance of England, p. 103.

2. Quoted in G. L. Mosse, "Sir John Fortescue and the Problem of Papal Power," Medievalia et Humanistica, 7(1952): 92.

3. Ibid., p. 92.

in the literal sense of the word; presumably he would no more tamper with principles of the law of nature than an English judge would violate the laws of the land."¹ Fortescue could not conceive of the pope arbitrarily encroaching upon the rights of either king or the people, rights confirmed by the law of nature according to which he was to judge. Fortescue postulated the supremacy of the pope over a secular ruler in order that the ruler might be compelled to do justice to his subjects. Through his concept of the natural law, secular society was intimately connected with the Church. G. L. Mosse summed up Fortescue's position regarding the relationship of the papacy and the secular kingship as follows:

"For Fortescue, the pope, whose judicial powers were expressly conferred upon him by mandate of Scripture, would not infringe on the dominium politicum et regale which, as far as England was concerned, derived ultimately from the divine law of God. Fortescue's position, in spite of his exaltation of the papacy, seems to be but a restatement of the stand taken by the lawyers in the fourteenth century that the king and the pope stand on the same level in respect to the law--neither could change it."²

Fortescue's discussion of tyranny reflected his concept of law. Common law, a specific expression of the higher law in England, was the basis of England's government. Part of this absolute law of nature was the right of private property; therefore, for Fortescue, respect for property was a fundamental criterion of good government. In this sense, if the king took property without the consent and advice of his

1. Ibid., p. 93.

2. Ibid., p. 94.

subjects, he violated the law of nature and ruled for his own convenience: "as ofte as such a kynge dothe any thyng ayenst the lawe of God or ayenst the law off nature, he dothe wronge..."¹ That is, he was a tyrant.

When the ruler abandoned justice and gave himself up to tyranny, he faced the danger of rebellion. Fortescue, however, did not recommend violent resistance to the wilful ruler. He considered it only as a desperate remedy the effects of which likely would be no better than those of tyranny itself. The punishment of tyrants was ultimately in heaven; but, as discussed above, the pope, the Lord's vicar upon earth, could punish tyrants.

In conclusion, Fortescue's good ruler existed in the context of the law of nature of which the laws of the realm were a specific application and which the king was bound to obey. If the king did not rule within the law, he was a tyrant. The final resort of justice on earth from an unjust king was the pope. As will be demonstrated in later chapters, Thomas More, in the sixteenth century, never did go so far as to assert the punitive powers of the papacy over the temporal rulers in all matters. This could be accounted for partly by the new emphases on the law-making powers of parliament, on civil law, and on equity as part of the king's justice in the realm.

1. Sir J. Fortescue, The Governance of England, p. 117.

CHAPTER IV: THE HUMANIST DISCUSSION OF KINGSHIP

A. The Humanists' General Attitudes to Kingship

More's concept of kingship cannot be divorced from his own intellectual environment. The sixteenth century humanists' spirit of learning, stimulated by the unprecedented number of classical and medieval sources available to it, was further encouraged by the relatively free atmosphere that existed in England during the first half of Henry VIII's reign. For the time being, encouraged and patronized by young Henry VIII, scholars in England felt relatively free to pursue scholarship and to exchange the fruits of their work among themselves and with scholars on the continent. With the execution of More, however, and the death of Erasmus the following year in 1535, the generation of intellectual freedom and exchange of ideas among scholars within the framework they themselves had called the "common corps of Christendom" came to an abrupt end. In this short-lived age of intellectual freedom, what were the attitudes of these humanists to authority and kingship?

In many ways the humanist concept of kingship was no different from that of the medieval prince.¹ Like the medieval theorists, the humanists attempted to discover the

1. For the medieval concept of the prince see L. B. Born, "The Perfect Prince: A Study in Thirteenth-and-Fourteenth Century Ideals," Speculum, 3(1928): 470-504.

norms for the ideal prince and to describe them. They developed even more fully the whole subject of princely virtues, as formulated in the "medieval mirror of princes", and emphasized even more strongly the personality of the prince.

In spite of its roots in medieval theory and practice, the humanist concept of kingship did reflect some completely novel notions about political society in general as well as about the nature of the king's authority, his rights and duties, and his limitations. The sixteenth century humanists usually abandoned the religious orientation characteristic of medieval thought. They based their arguments on historical examples rather than ~~abstract~~ theoretical deduction. Historical events were viewed as consequences of the prince's personality rather than of the intervention of God or supernatural powers. The condition of the realm reflected the nature and personality of the king. Thus, Thomas More wrote of the Duke of Gloucester, later King Richard III, in the following terms:

"...this Duke's demeanoure ministreth in effecte all the whole matter wherof this booke shall entreate...¹ god neuer gave this world a more notable example, neither in what vnsuretie standeth this worldly wel, or what mischief worketh the prowde enterprise of an hyghe heart, on finally what wretched end ensueth such dispiteous crueltie."²

Two distinct attitudes were expressed by the English humanists about the nature of kingship. The "democratizing"

1. History of King Richard the Third, p. 6.
2. Ibid., p. 86.

conception regarded the prince as the holder of an office with definitely circumscribed functions. Such a republican-tinged view of monarchy¹ was characteristic of Thomas More, Erasmus, and Cardinal Pole. Another group espoused an "absolutist" conception of kingship. It emphasized the divine inspiration and, hence, the elevated position of the prince who could, therefore, claim to be the supreme arbitrator in all areas of life, including strictly religious matters.² These latter tendencies found expression in men like Thomas Cromwell and in Thomas Elyot. L. Warren summed up the two trends as follows:

"Erasmus was outspoken in his denunciation of reigning princes; and in his Institutio principis Christiani bristles with distrust and suspicion of worldly princes whom he rebukes for their ignorance, their sloth, and their rapacity. The strong prejudice was characteristic of the leading northern Humanists; More and Vives also reflect it. The more politically minded Italian Humanists, on the other hand idealized the powerful and capable whose rule would of necessity be despotic. Elyot reflected the latter of these two humanistic influences the more strongly.... Elyot envisaged the England of the future as a strong national monarchy with a powerful monarch at its head, while Erasmus...looked back to the medieval idea of Christendom in which all princes were but parts of a theocratic scheme."³

Without exception, the humanists attempted to fit the

1. C. Morris, Political Thought in England: Tyndale to Hooker, pp. 21-2. The nature of the republican thought of the humanists and its roots in the classical revival in the fifteenth and sixteenth centuries is discussed.

2. F. Gilbert, "The Humanist Concept of the Prince," Journal of Modern History, 11(1939): 471-2.

3. L. C. Warren, Humanistic Doctrines of the Prince from Petrarch to Sir Thomas Elyot, Chicago, 1939, pp. 115-6.

king into the traditional view of society and to interpret kingship in terms of it. The king was part of the hierarchical world view or the Great Chain of Being, in which all each in his proper place, could claim equal divine sanction in that his respective rights and obligations ultimately derived from God. Only in this sense did the humanists recognize a king as having divine right.¹ The king's right to loyalty and obedience from his subjects existed only because of man's ultimate obligations to God.

In restating, with or without modifications, the orthodox medieval ideas, the humanists who speculated in terms of the ideal commonwealth² described a political society that was assumed to be "divinely ordained in a form analagous to the natural body, each part having its appointed function to perform for the good of the whole organism!"³

Examples of analogies the humanists drew between the social organism and the human body are easily found. In Starkey's Dialogue Cardinal Pole is represented as saying that the parts of the "politic body" "resemble...the parts of the body of man....The heart therof is the king, prince,

1. M. Smelser, "Political Philosophy of Sir Thomas More," St. Louis University Studies, 1(1943): 13. More defined the divine right of kingship by saying that man's duty to be submissive to constituted authority was a duty to God only within the king's rightful claims to authority. Cf. R. O'Sullivan, Under God and the Law, p. 40.

2. J. W. Allen, A History of Political Thought in the Sixteenth Century, London, 1928, pp. 115-62. This is still the best treatment of the subject.

3. A. B. Ferguson, "The Tudor Commonweal and the Sense of Change," The Journal of British Studies, 3(1963): 12.

and ruler"; its "head" is the magistrates or officials who aid the the king; craftsmen and soldiers are the hands, and the peasants are its feet.¹ Furthermore, the rule of a good prince was described as resembling the rule of reason over the passions in a man of well-balanced personality.² Erasmus cut across a wide range of analogies resorted to by the humanists when he wrote:

"What God is in the universe, what the sun is in the world, what the eye is in the body, that the prince should be in the state."^{2a}

Just as God was depicted as the hierarchical apex of all being, so the prince was at the apex of the social and political hierarchy:

"...Through him human society achieves unity, the same unity as have all things in heaven and earth, which are gouerned by one god, by one perpetuall ordre, by one prouidence."³

Elyot in particular applied this concept of order to justify the authority of the single ruler. Unlike Thomas More, he idealized monarchy as the only natural and proper form of government;⁴ he also exalted the king's authority without

1. T. Starkey, A Dialogue Between Reginald Pole and Thomas Lupset, London, 1948, p. 57. Cf. D. Erasmus, The Education of a Christian Prince, ed. by L. K. Born, New York, 1936, pp. 175-6.

2. This idea as found in Erasmus, Elyot, and Castiliogne is discussed in P. N. Siegal, "English Humanism and the New Tudor Aristocracy," Journal of the History of Ideas, 13(1952): 463.

2a. D. Erasmus, The Education of a Christian Prince, p. 186.

3. Quoted by P. N. Siegal, "English Humanism and the New Tudor Aristocracy," Journal of the History of Ideas, 13(1952): 462.

4. S. E. Lehmborg, Sir Thomas Elyot, Tudor Humanist, Austin, 1960, p. 37.

making the distinctions between kingship and its corollary, tyranny, to which his fellow-humanists were so sensitive. However, in the simple definition and justification of the authority of the king, More and his fellow-humanists certainly subscribed to Elyot's theory that:

"...the best and most sure governance is by one kynge or prince....For who can denie but that all thyng in heven and erthe is governed by one God, by one perpetuall ordre, by one providence? One Sonne ruleth over the day, and Moone over the nyghte; and to descende downe to the earth...the Bee is lefte to man by nature, as it semeth, a perpetuall figure of a juste governance or rule: who hath amonge them one principall Bee for theyr governour, who excelleth all other in greatness..."¹

The humanists were also seriously preoccupied with the practical problem of defining the right relationship between the king and his subjects as well as between the spiritual and secular powers. With Edmund Dudley in his Tree of Commonwealth, More would agree that:

"As the subjectes are bounden to ther prince, so be all kinges bounden to ther subjectes by the comaundyment of God them to maynteigne and supports as farre as in hym is his power. His welth and prosperite standith in the welth of his trew subjectes, for though the people be subjectes to the king yet are thei the people of God, and God hath ordeyned ther prince to protect them and thei to obey their prince."²

Humanists like Thomas More would normally uphold two authorities as worthy of reverence, the natural and the supernatural, the temporal and the spiritual. Any attack on one or the other would only encourage disorder and anarchy in the

1. Quoted, Ibid., pp. 42-3.

2. E. Dudley, Tree of Commonwealth, ed. by D. M. Brodie, Cambridge, 1948, p. 31. Quoted in S. E. Lehmborg, Elyot, Tudor Humanist, pp. 46-7.

Christian community. More's reply to the Reformers' disparagement of ecclesiastical authority was:

"If the office is to be blamed for the faults of men as the Lutherans calumniate the papacy...it is not the papacy alone, but also the monarchy, and all political rulers generally that are assailed and the people will find themselves disorderly and lawless."¹

Obviously, the traditional concepts of order and social hierarchy accepted by the humanists varied in emphasis; but this did not confuse or weaken More's conviction that there were spheres in which the king was not absolute.²

B. Specific Issues

Most of the humanists accepted the existing fact of ~~hereditary~~ monarchy, but they accepted it with reservations. This is no wonder, for before their eyes they had not only those contemporary rulers who plunged their people into war and misery but also the tyrants of antiquity. The humanists hoped to reform and revitalize the traditional order of things; they hoped for an ideal Christian order to be brought about by the ideal prince. In this true commonweal, everyone would do his duty "with brotherly love."³ Social health and beauty in the sense of proportion were to be achieved through the cooperation of all members in the interest of the whole. Human dignity and liberty would be respected.

1. Responsio Ad Lutherum, p. 223.

2. S. E. Lehmborg, Elyot, Tudor Humanist, p. 48. Elyot, for example, did not distinguish between spheres in which the king might be absolute and those in which he was not.

3. W. Schenk, Reginald Pole, Cardinal of England, London, 1950, p. 41.

"Since God has given liberty for a sovereign gift, it is not reason that it would be taken from us; nor that one man should be the partner of it more than another, which happens under the rule of Princes, who for the most part keep their people in most strait bondage. But in commonweals well in order this liberty is kept."¹

Having accepted monarchical government as a fact, the humanists addressed themselves to the position of the prince in the state and to defining the limits of monarchical rule. Their ideal was a Christian prince who, recognizing his moral obligations, would rule the commonweal in accordance with the laws of God and reason which he himself obeyed. The prince's duty was to fashion a virtuous and harmonious society in which the multitude would be induced to virtuous living, according to the dignity of the nature of man. There was a direct relationship between the realization of the humanist commonweal and the king's Christian rulership. In the words of Erasmus:

"Let a King think himself great in proportion as his people are good; let him estimate his own happiness by the happiness of those whom he governs; let him deem himself glorious in proportion as his subjects are free; rich, if the public are rich; and flourishing, if he can but keep the community flourishing, in consequence of uninterrupted peace."²

Following the medieval tradition, the humanists strove to delineate the qualities and virtues which would identify the good prince in their own times. He was to embody wisdom

1. Ibid., p. 41.

2. L. K. Baron, "Some Notes on the Political Theories of Erasmus," Journal of Modern History, 2(1930): 229.

and integrity, continence and clemency, devotion and benevolence to his people, interest in truth and freedom.¹ He was to be imbued with justice, temperance, fortitude, learning, and a certain urbanity of manners.² He would be merciful to those who repent and show an intention to amend; "piteous and comfortable to those who are in distress and affliction."³ Of princely vices, cruelty and avarice were especially detestable to humanists.⁴

The good prince was expected to be a practical and experienced man as well as a philosopher,⁵ gifted with an active brain, a good memory, careful training, and a capacity to endure physical strain. He was to be vigilant while his people rested. He was self-controlled and modest rather than extravagant in his personal life. His desires and pleasures were ~~mental~~^{intellectual} rather than sensual.

Because the humanist prince was also a Christian prince, his real prototype was Christ. According to Erasmus and other humanists, the Christian prince, by modelling himself

1. W. Schenk, Reginald Pole, p. 54.

2. L. C. Warren, Humanistic Doctrines of the Prince from Petrarch to Sir Thomas Elyot, p. 118. Cf. D. Erasmus, Education of a Christian Prince, p. 157.

3. J. Warrington, A Dialogue of Comfort, pp. 285-6. Cf. L. C. Warren, p. 118. Elyot also makes a distinction between the king's mercy and lax law enforcement.

4. L. C. Warren, Humanistic Doctrines..., p. 120. The theme of avarice is very explicit in More's Utopia as well as in Book II of Elyot's The Governour.

5. Cf. D. Erasmus, Education of a Christian Prince, p. 150. Erasmus wrote: "You cannot be a prince if you are not a philosopher; you will be a tyrant."

upon Christ's precepts, was to surpass the pagan rulers in virtue and, therefore, in true kingship; for "there can be no good prince who is not also a good man." "Power without goodness is unmitigated tyranny."¹ Erasmus advised the prince to "be steadfast...prefer rather to be a just man than an unjust prince...even the greatest kings are not without their cross, if they wish to follow the right at all times, as they should."²

Obviously, the humanists were very much concerned with the relationship of ethics and political conduct. Does the ethical norm postulated for every human being apply equally to the prince? Both Erasmus and Thomas More refused to divorce the realm of power from that of ethics. In fact, they were convinced that good rule was possible only in the hands of a moral prince. Since the prince's ethical behavior reflected his personal character which, in turn, could be molded into the humanist ideal through a humanist education, all humanists emphasized education as one means to fashion an ideal prince and to provide good rulers for society.

Much concerned with government under the law, the humanists invariably discussed the nature and the source of law. They argued and all agreed that human law was based on divine law and reflected its principles. Thus, Starkey inquired of Pole about the place of divine law in King Henry's marital

1. Ibid., p. 158.

2. Ibid., p. 154.

difficulties and requested his opinion about the extent to which the claims of the Bishop of Rome to the papal supremacy could be sustained by divine law. Pole himself dealt with these questions in his De Unitate.¹

The humanists considered the prince important as the maker of laws, but they did not underestimate the importance of the "common conseyl of the realm and parliament".² While they emphasized the primary position of divine law, they underlined the necessity of popular consent for human law as well.

"The state will be a state, even if there is no prince. ...But a prince cannot exist without a state.... What is that which alone makes a prince, if it is not the consent of the subjects?"³

Erasmus distinguished the "dominion which is but an administration" and the "power and sovereignty which a prince has by the consent of the people".⁴ It is the people's consent and their voluntary service and obedience that marked a true prince. To the extent that the prince had achieved a well-ordered state under moral law and with public consent he was "a kind of living law".⁵

1. Cf. W. Schenk, Reginald Pole, p. 40.

2. J. W. Allen, A History of Political Thought in the Sixteenth Century, p. 149. Cf. T. Starkey, A Dialogue Between Reginald Pole and Thomas Lupset, p. 100.

3. D. Erasmus, Education of a Christian Prince, p. 233.

4. W. M. Southgate, "Erasmus: Christian Humanism and Political Theory," History, 40(1955): 248.

5. D. Erasmus, Education of a Christian Prince, p. 221.

Rulers had no right to presume themselves to be above the law. The prince as a judge always was to proceed by "due order of the law". Because princes were not perfect, and tended to govern according to their own will and pleasure, laws must have the chief authority in the state. In Starkey's Dialogue, Cardinal Pole described unlimited power as "the open gate to all tyranny". When the king's will and pleasure ruled, "good order" was transformed into tyranny; the "greatest destruction to the realm" and the "destruction of all civility" followed.¹

In short, a king not hedged in by laws was a tyrant. Under his rule, the good society was perverted and the "subjection to the arbitrary will of a ruler" replaced "common obedience to natural law".² The classic distinction between the tyrant and the good ruler was written by Erasmus. Its usefulness here is that it brings together a multitude of issues touched upon by other humanists as well:

"The main object of a tyrant is to follow his own caprices, but a king follows the path of right and honor. Reward to a tyrant is wealth; to a king, honor, which follows upon virtue. The tyrant's rule is marked by fear, deceit, and machinations of evil. The king governs through wisdom, integrity, and beneficence. The tyrant uses his imperial power for himself; the king, for the state. The tyrant guarantees safety for himself by means of foreign attendants and hired brigands. The king deems himself safe through his kindness to his sub-

1. T. Starkey, A Dialogue Between Reginald Pole and Thomas Lupset, p. 101.

2. W. Schenk, Reginald Pole, p. 53.

jects and their love for him in return....The tyrant is pleased either with stupid dolts, on whom he imposes; or with wicked men, whom he puts to evil use in defending his position as tyrant; or with flatterers, from whom he only hears praise which he enjoys. It is just the opposite with a king; every wise man by whose counsel he can be helped is very dear to him. ...He loves honest friends, by whose companionship he is bettered. Kings and tyrants have many hands and many eyes, but they are very different. A tyrant's aim is to get the wealth of his subjects in the hands of a few, and those the wickedest, and fortify his power by the weakened strength of his subjects. The king considers that his purse is represented by the wealth of his subjects; the tyrant strives to have everyone answerable to him either by law or informers. The king rejoices in the freedom of his people; the tyrant strives to be feared, the king to be loved. The tyrant looks upon nothing with greater suspicion than the harmonious agreement of good men and of cities; good princes especially rejoice in this. A tyrant is happy to stir up factions and strife between his subjects and feeds and aids chance animosities. This means he basely uses them for the safeguarding of his tyranny. A king has this one interest: to foster peaceful relations between his subjects and straight-way to adjust such dissensions among them as chance to arise, for he believes that they are the worst menace to the state that can happen. When a tyrant sees that affairs of state are flourishing, he trumps up some pretext, or even invites in some enemy, so as to start a war and thereby weaken the powers of his own people....The tyrant either sets up laws, constitutions, edicts, treaties and all things sacred and profane to his own personal preservation or else perverts themThe king judges everything by the standard of its value to the state."¹

Occasionally, the humanists attempted to appeal to the consciences of their own kings in terms of their concepts of the good prince and the tyrant. Cardinal Pole, for example, made it clear that "he considered Henry as a law-breaker of the first order and that the English people had the right to

1. D. Erasmus, Education of a Christian Prince, pp. 163-5.

rebel against the tyrant."¹ In De Unitate, 1536, he addressed Henry VIII as follows:

"You have squandered a huge treasure; you have made a laughing stock of the nobility; you have never loved the people; you have pestered and robbed the clergy in every possible way; and lately you have destroyed the best men of your kingdom, not like a human being, but like a wild beast."²

In a letter to the King in 1531 about the divorce, Vives wrote in a similar vein but more from foresight than hindsight:

"Thou hast a flourishing kingdom, and art beloved by thy people and thou art now at the height and strength of thy life. Consider into what trouble thou wilt plunge thyself and thy kingdom, if thou bringest about hostilities and war with thy most powerful neighboring prince and consider also what good can come of even a most successful war. And if thou wert able to induce other princes to help thee in going to war, where will end the matter?...Even if thou wert to inflict defeat on thy adversary, thou wilt not prosper for God will not exempt thee from His punishment. And what wouldst thou gain? A wife? Thou hast a wife....Do you reply, "I desire children to be the heirs of my kingdom"? You have a child, thanks be to Christ, a daughter of wonderful charm. Thou canst choose for her, at thy wish, a son-in-law. If thou wert to have a son, thou must be satisfied with him as Nature might shape him; but the son-in-law thou canst select at will. Besides, who can guarantee that another wife will bear thee a son, who will live till the exact time thou shalt die? If each of these points be uncertain, how canst thou be certain of the whole matter? Consider also the weight of thy example and how great an occasion of stumbling thou wilt afford to others! Lastly, recall to thyself how great a cause for civil strife thou wilt leave to thy Britain, when it becomes divided as to the legitimate succession, which thou must render doubtful by this new marriage....My regard for thee has moved me to write as I have done."³

Here, Vives appealed to typically humanist values: a plea for peace, the king's moral obligations to his realm, and Henry's

1. W. Schenk, Reginald Pole, p. 76.

2. Quoted, Ibid., p. 71.

3. F. Watson, "A Friend of Sir Thomas More," Nineteenth Century and After, 83(1918): 550.

duty to avert war at a time when the divorce issue appeared to augur civil and international strife for England.¹ Even the lack of a male heir Vives and his humanist friends adjudged in a positive spirit as a God-given opportunity to give England a prince by selection or election, even if only by the king himself in the name of his people.

At the level of practical implementation of their ideals, these humanists were much concerned with the question of safeguards against tyranny. They expressed contempt for new-fangled ideas such as Tyndale's that, for example, God ordains tyranny as a punishment for men's sins; to them, this was mere superstition, for tyranny, being one of the greatest social evils, could hardly come from God. Generally, they discussed this question of how to curb and avert tyranny in terms of the following means: some kind of "mixed government", a humanistic education for the prince and the ruling class, the selection of wise and virtuous counselors, and the enforcement of the moral sanctions defined by the "common corps of Christendom" in its laws and exhortations.

Few humanists directly advocated government without royalty on the one hand or absolute, unlimited monarchy on the

1. Cf. W. Schenk, Reginald Pole, p. 27. In a letter to King Henry VIII about this time, Pole argued against the proposed marriage because of the incumbent dangers of civil war, international war, and economic boycott by Charles V in the Netherlands. Pole considered Henry negligent in his kingly duty: to maintain peace in his realm.

other. Many attributed sovereignty to the people and defended the people's freedom and rights against encroachments and abuses of monarchical power. Erasmus approved of an absolute monarchy only if an absolutely good prince could be found. Such a prince would rule by the people's consent in the sense that he would anticipate what people would consent to.¹ In practice, where at best the ruling office fell to an average prince, "it will be better to have a limited monarchy checked and lessened by aristocracy and democracy. Then there is no chance for tyranny to creep in..."² In Starkey's Dialogue an elective monarchy was favored for England itself although, as long as the supremacy of the law prevailed, the form of government a people might choose was quite immaterial. If there was a king, however, constitutional checks and balances were recommended to restrain any tyrannical tendencies he might show.³

In extreme situations, most humanists justified the people's right to depose a tyrant. Starkey's Pole noted that it was in man's power "to elect and choose him that is both wise and just, and make him a prince; and him that is a tyrant so to depose."⁴ In Utopia, too, the prince was elected for life "unless he be deposed or put down for suspicion of tyranny." The humanistic theorizing about election of kings and the right to depose grew out of the commonly-accepted principle

1. F. Caspari, Humanism and the Social Order in Tudor England, Toronto, 1954, p. 49.

2. Quoted in M. M. Phillips, Erasmus and the Northern Renaissance, London, 1949, p. 133.

3. W. Schenk, Reginald Pole, p. 40.

4. T. Starkey, A Dialogue Between Reginald Pole and Thomas Lupset, p. 153.

that there was no such thing as an absolute right to rule; that all actual authority was delegated and, in the words of Erasmus, "he that hath authority to give, hath authority to take away again."¹

This did not mean, however, that the humanists actually encouraged such revolutionary practices among the people. The humanists had great fear of social unrest, war, and anarchy. Particularly after the Peasants' War, the humanists, almost without exception, came to the conclusion that even a bad monarchy was preferable to anarchy. According to Erasmus, "the cruelty of kings is better than the universal confusion of anarchy."² Thomas More, too, described bad rulers as better than no rulers for the sake of order in society:

"Like as a city and a realm standeth not so much by the dignity of the rulers as it standeth by wisdom, good order, true dealings, and justice, but yet as these things would fail in a city and in a realm, if there were no rulers to see them kept, yea and the rulers being of a right second sort, yet would the people be much worse if they were all without, and the people is therefore bounden to obey them...."³

The obedience due to the prince was the converse of the obligations of the good prince to the people. Moreover, it was not absolute. Both More and Erasmus held that the subject was not bound to obedience should the king command anything

1. W. M. Southgate, "Erasmus: Christian Humanism and Political Theory," History, 40(1955): 248.

2. Quoted in F. Caspari, Humanism and the Social Order in Tudor England, p. 45.

3. Confutation of Tyndale, E. W., p. 773.

"against the true religion"; but neither did the subject have the right to resort to **violent** means. Passive resistance was his moral duty. As Erasmus noted,

"Better they [kings] may be induced to amendment by obedience, sufferance, and good living than by rebellion and obnoxious words."¹

Ideally, the humanists imagined a prince who might be elected and deposed; in practice, there were hereditary kings who could not be overthrown or replaced without danger of confusion and anarchy. Consequently, the humanists placed great confidence in education, idealizing it as the most effective means to train the prince in virtue and total dedication to the common good.

"...in him who is born to rule, virtue must from the outset be developed....By handsome studies character is developed, is made more vigorous for supporting its burdens, and is rendered more agreeable to all human customs."²

The whole purpose of Erasmus' Education of a Christian Prince is to illustrate the need for a humanistic education for rulers. Elyot's Governour and the approach to the education of the magistrates in Utopia were further expressions of the value which humanists attached to a particular kind of education for the prince or governor.

The educational plans and theories of the humanists re-

1. W. M. Southgate, "Erasmus: Christian Humanism and Political Theory," History, 40(1955): 253.

2. D. Erasmus, The Education of a Christian Prince, p. 9.

flected their hatred and fear of tyranny. They strongly denounced such current attitudes as that a born king need not seriously learn the art of ruling. They were very critical of filling the mind of the very young prince with images of tyrants and military conquerors, now glamorized as "great" and truly heroic men worthy of imitation.¹ To them, it appeared much wiser to ensure that the prince get to know and respect a group of anti-tyrannical writers first; only after learning what tyrants really were, should the prince be led to study the history of tyranny more broadly.

Another vital issue among the humanists was that of the king's counselors. What were their relations to the king and government generally? What were their duties and responsibilities? Elyot discussed these problems in Of the Knowledge Which Maketh a Wise Man. He concluded that the counselor's duty was to speak his mind frankly and boldly. However, it was the king's privilege to reject his advice. In that case, the counselor's duty was to submit to the will of the prince. This was accepted doctrine, even to More--although More did defend religious questions and matters of conscience as areas in which the prince had no right to demand or coerce submission, except perhaps with the approval of spiritual authority as in

1. The humanists' view of Alexander the Great, for example, is discussed in R. Adams, "Humanist Attack on Medieval Romance," Huntington Library Quarterly, 23(1959/60): 42. They saw in him a "frightful example of a 'world-robber', 'drunk with ambition', a disaster to humanity."

cases of heresy.¹

Erasmus observed that the prince needed the advice of older men to make up for the experience and wisdom that he lacked. The counselors' duty was to restrain the princes' "private affection toward their own fantasies" and to direct the mind of the prince toward the good of the nation subtly and in accordance with reason and true philosophy. How and for what reasons the advisers were selected was of critical importance because they shared the rule of the common people with the king.²

Corrupt advisers and flatterers were considered among the prince's worst enemies. "The most flourishing empires of the greatest kings have been overthrown by the tongue of flatterers," warned Erasmus.³ Thomas More bemoaned the fact that flattery and subservience were used too often to covertly control princes.⁴ Similarly, Elyot advised the prince to beware of evil friends and to try to surround himself with venerable and religious counselors and officials.⁵

More's treatment of this problem in Utopia was suggested by his personal need to weigh the advantages and disadvantages

1. This line of thinking helps explain why Elyot could support Catherine of Aragon in the divorce issue and then feel quite justified in taking the oath recognizing the Act of Supremacy and the Acts regulating the Succession.

2. D. Erasmus, Education of the Christian Prince, pp. 235-7. "On Magistrates and Their Functions."

3. Ibid., p. 193.

4. Treatise on the Passion, E. W., p. 1381.

5. L. C. Warren, Humanistic Doctrines of the Prince from Petrarch to Sir Thomas Elyot, p. 119.

of entering the king's service. Service to the king in the Council could perhaps mean service to friends or to the public; it might bring personal happiness; it might be a worthy thing for a generous and dutiful nature to do; it could also provide numerous opportunities for urging the king to be noble and just. On the other hand, the king's service could be synonymous with slavery, with loss of freedom. It might be a veiled way of succumbing to the temptations to court the favor of the great.

More resolved the dilemma of the counselor's role in the following way:

"If you cannot pluck up wrongheaded opinions by the root, if you cannot cure according to your heart's desire vices of long standing, yet you must not on that account desert the commonwealth. You must not abandon the ship in a storm because you cannot control the winds. On the other hand, you must not force upon people new and strange ideas which you realize will carry no weight with persons of opposite convictions. On the contrary, by the indirect approach you must seek and strive to the best of your power to handle matters tactfully. What you cannot turn to good you must make as little bad as you can. For it is impossible that all should be well unless all men were good...."¹

More eventually entered the king's service confident that, from this vantage point, his advice and action in the cause of social service and reform would be as effective as was humanly possible.

In addition to people's consent, humanist education, and good counselors, the humanists hoped that moral sanctions

1. Utopia, p. 99.

as defined and enforced by the universal Church and its spiritual authorities would be effective in eliminating or at least in curbing tyranny. The pope's right to censure and excommunicate reigning monarchs was still generally accepted. The pope's spiritual coercive power was recognized as extending to conflicts between Christian nations as well as to the relations between the state and its Christian citizens. When religion and morals were seriously threatened by political power, the papacy had a right to intervene.¹ Papal jurisdiction was recognized even in the field of international diplomacy.²

More, for example, upheld the claim that the Church possessed and had a right to an independent jurisdiction, proceeding immediately from God.³ As an organized society, the Church could promulgate valid legislation, maintain courts to enforce it, and exercise spiritual sanctions. Humanists like More and Cardinal Pole defended the "common corps of Christendom" which put England into membership in a larger unity and which placed the national king, at least in purely religious matters and in matters of conscience, under supranational authority, laws, and sanctions.

1. J. W. Allen, A History of Political Thought in the Sixteenth Century, p. 205.

2. T. E. Bridgett, Life and Writings of Blessed Thomas More, London, 1927, p. 221. An English diplomatic commission of 1515 was to get a papal bull in which all the contents of a treaty were confirmed by the Holy See.

3. Confutation of Tyndale, E. W., p. 618, p. 787.

More and his humanist friends were forced to defend this traditional setup against an increasingly popular secular approach to the nature of authority and to the subject's duty to the state. The idea that the temporal jurisdiction should be supreme over the ecclesiastical appeared more attractive in the sphere of practical politics than ever before. New issues grew out of the supposed conflicting dual loyalties of a Christian. What was the right relationship between the secular and spiritual authorities in society? What were the duties of the episcopate to their prince? What allegiance did citizens who were also Christians owe to the pope?

In the atmosphere of revolt against traditional structures and loyalties, the Christian humanist found it increasingly more difficult to be "the king's good servant, but God's first" without losing his head or at least his political office and material goods. To men like More, Fisher, and Cardinal Pole, "loyalty to the King and country was not an empty word; it was not, however, the highest loyalty [they] knew."¹

In the insurgent drift of events and ideas, the Christian humanist loyal to his faith was often obliged to pay a high price for his convictions. In 1536, the

1. W. Schenk, Reginald Pole, p. 77.

Countess of Salisbury advised her eldest son, Montagu, as he went to his death, in the true spirit and practically the precise words of Thomas More: "endeavor to serve your prince without disobeying God's commandment."¹ Ten years later, Cardinal Pole, her other son, carried the spirit of More's words on the scaffold into the Second Session of the Council of Trent (January 7, 1546):

"...we...admonish the delegates that they serve their princes with all loyalty and zeal; but as becomes bishops. They must serve them as the servants of men....Our struggle is not only with flesh and blood but with spiritual wickedness in the high places."²

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1. Quoted, Ibid., p. 85.
 2. Quoted, Ibid., p. 113.

CHAPTER V: MORE'S "GOOD PRINCE" AND THE OFFICE OF KINGSHIP

A. The Good Prince

Thomas More frequently drew a distinction between persons and offices of authority. Because he perceived authority in society as divided between the spiritual and temporal rulers,¹ his distinctions often applied to both the secular rulers and the princes of the Church. Insofar as possible, this discussion will limit itself to secular princes and their authority but will draw on the views More held regarding the rulership of the spiritual princes. It would be a mistake to drift too far from More's own deep conviction that while the spiritual and temporal orders in society could be distinguished, they could not be separated because they were two aspects of the same society.

While deeply appreciative of the office of kingship, Thomas More was even more concerned with the human instrument through which kingship achieved its expression in concrete situations. He was concerned with the king not only as a being of reason but also as a Christian. As a human being, the king suffered the limitations and temptations of the human condition. As a Christian, he was supposedly imbued with Christian principles and was a member of a sacramental and spiritual unity maintained by the institutions and authority

1. T. More, The Apologye of Syr Thomas More, p. 111. Hereafter referred to as Apologye.

of a visible Church. As a king, holding the highest temporal office in the realm, he was faced with greater temptations than most other men; in the exercise of true kingship, he was obliged to answer to the greater duties and responsibilities of his office.

The good king was expected to be a paragon of virtue. Why? "A people's welfare or misery flows directly from their prince as from a never-failing spring."¹ Only a virtuous nature could attract that love of the people which was so necessary if the king's rule was to lead to peace and order.² One of More's epigrams was entitled "A king is protected, not by a corps of guards, but by his own good qualities";³ neither fear, nor towering palaces and wealth, nor a stern bodyguard could ensure safety and respect for the king so well as the king himself by exercising his office with such virtue that his subjects would "judge none other more suitable to their interests."

The Utopian king embodied characteristics strongly reminiscent of Plato's philosopher-king. He was a reasonable, gentle, and humane person, eager to show mercy and forgiveness where there was true repentance and merit. The good prince exercised his prerogatives with prudence and according to true Christian principles. In his answer to Luther's attack on Henry VIII, More described his king as "the most prudent of

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1. The Latin Epigrams of Thomas More, p. 142.
 2. Ibid., p. 174.
 3. Ibid., p.

princes."¹ Above all, More's ideal prince was expected to be the custodian of justice, the chief bond of society.

In short, no less than moral perfection was demanded of the "good prince". This perfection was to be found in the prince's internal virtues, not necessarily in outward appearances. Contrary to contemporary practices and the Machiavellian justification of these, More upheld the dictum that the king must not only appear to be just and good; he must be just and good in both his intentions and in his outward actions and policies.²

More's eulogy written for the occasion of Henry VIII's coronation summarized many of the moral virtues by which More identified the ideal prince:

"...How ripe the wisdom in his judicious mind, how profound the calm of his untroubled breast! With what restraint he would endure his lot and be master of his fortune, good or bad! How great his care to honor modesty! How serene the mercy which warms his gentle heart! How far removed from arrogance his mind! ...how just he is, how skilled in ruling, how great the feeling of responsibility with which he treats his people."³

Not only did Henry VIII embody these particular virtues; he also incorporated in himself the virtues of his ancestors. More did not develop this concept, but that he believed in the eternal or lasting character of kingship itself and the

1. Responsio Ad Lutherum, p. 254.

2. Utopia, pp. 91-95. More relates a discussion on how kings and counselors scheme to give unjust policies an appearance of justice and solicitousness for their own benefit.

3. Latin Epigrams of Thomas More, p. 142. Underscoring is mine.

cumulative nature of the virtues of particular kings is suggested in these words:

"...you, Sire, have your father's wisdom, you have your mother's kindly strength, the scrupulous intelligence of your paternal grandmother, the noble heart of your mother's father."¹

In Richard the Third, Thomas More's ideal prince was courageous, wise in counsel, never discouraged in adversity, joyful rather than proud in prosperity, just and merciful in peacetime, brave and fierce on the battlefield if necessary yet not so rash as to overlook the wisdom and prudence in avoiding a war, if possible.² In relation to his subjects, the ideal prince was benevolent, courteous, aware of their existence as persons.³ Moreover, his state of perfection was not static. The good prince continued to grow in virtue and in devotion to public service. His communion of virtue with his subjects did not degenerate into a proud withdrawal from them. A selfish man, by his very nature, could not be a good prince:

"A king in his first year is always very mild indeed. ...Over a long time a selfish king will wear his people out...such a leech never leaves flesh until it is drained."⁴

One final quality, a typically humanist one, that More identified with the good prince was excellence of mind. More's

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1. Latin Epigrams of Thomas More, p. 142.
 2. Richard III, p. 4. More presented an idealized picture of King Edward IV here.
 3. Ibid., p. 5.
 4. The Latin Epigrams of Thomas More, p. 204.

reluctance to enter the king's service was somewhat lightened by encouraging evidence of the king's virtue and his zeal for learning at this time (1517-18).

"...The more I see His Majesty increase in all the good and really kingly qualities, the less burdensome do I feel this life of the Court."¹

In writing to Oxford University in 1518, More praised the King for having cultivated the liberal arts and described him in terms of the humanistic ideal as possessing "greater erudition and judgment than any previous monarch."²

In whatever way Thomas More described the ideal prince, he never forgot that the real prince was a human being, subject to the human condition consequent upon original sin.³ Like every other human being, the king was faced with the primary task of life, the salvation of his own soul. It was through his kingly office that the king was to work out his eternal destiny. In the process, he would share the temptations of life and the fact of death with his fellow human beings. Thomas More frequently alluded to this fundamental equality of men: "the tyrant while he sleeps is no different from the commoner";⁴ the peasant in one of More's epigrams sees the king only as "a man in an embroidered garment."⁵ In

1. St. Thomas More: Selected Letters, p. 94. More wrote this to John Fisher in 1517 or 1518.

2. Ibid., p. 102.

3. Dialogue of Comfort, p. 377.

4. The Latin Epigrams of Thomas More, p. 206.

5. Ibid., p. 206.

the presence of God himself, the princes of the earth, "even in their most royalty, must...grant themselves to be no better than very vile wretched worms of earth."¹

The king, placed upon the earth, this prison in which men from their very birth are condemned to die and from which there is no escape, eventually would be called forth by God to the judgment of his soul. In this, not even the greatest king was granted more ceremony than is given to the simplest of men:

"Death...shall amid all his royalty and all his main strength neither kneel before him nor make him any reverence nor with any good manner desire him to come forth, but rigorously and fiercely grip him by the very breast and make all his bones rattle, and by so long and diverse sore torments strike him stark dead in this prison..."²

A king must always keep in mind that worldly substances, offices, honor, and authority served man only "for the short season of this present life."³ Even the king of great fortune and authority would see his duties and the things of this world in their proper perspective if only "he would often and deeply remember that death shall shortly take away all this royalty."⁴ Like all Christian men, the king must reflect on life's purpose and his own last end.

1. T. More, History of the Passion, ed. by P. E. Hallett, London, 1941, p. 30.

2. Dialogue of Comfort, p. 378. Cf. T. More, The Four Last Things, ed. by D. O'Connor, London, 1935, p. 43.

3. Ibid., pp. 325, 327.

4. The Four Last Things, p. 41.

"...let the highest look on the most base and consider how poor they came both into this world, then consider further therewith how rich soever he be now he shall yet within a while...walk out again as poor."¹

As a man, subject to human weaknesses, the king was in constant danger of losing his kingly virtue and becoming a tyrant, thereby bringing much disorder and harm to the state. Like every man, the prince had an obligation to attain personal virtue; but he was also obliged to grow in kingly qualities. This he could do only by turning away from selfish worldly praise and material advantages and by measuring himself and the fulfillment of his duties not by what others said but by his own conscience.² As More's Richard noted in mock piety during his speech of "acceptance" of the Crown, "for an honorable man, the crown is more labor and pain than pleasure; and a dishonorable man is not worthy to have it."³ Because great power presented the king with great temptations, the would-be king required instruction in the ways of prudence and moral statesmanship.⁴

Mindful of the justice and vengeance of God and his own culpability for any injustice for which he might be responsible, the true king did not neglect his personal moral responsibilities.⁵ This was no ordinary or enviable

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1. Dialogue of Comfort, p. 286.
 2. History of the Passion, p. 81.
 3. Richard III, p. 80.
 4. Confutation of Tyndale, E. W., p. 622.
 5. Treatise on the Passion, E. W., 1389. See also Debellation of Salem and Bizance, E. W., p. 951.

responsibility. More described the unenviable role of kings as follows:

"...the cost and charge, the danger and peril of war, wherein their part is more than a poor man's is, sith that matter dependeth upon them; and many a poor plowman may sit still by the fire while they must arise and walk."¹

Too often, kings themselves failed to appreciate the crushing burdens of their office because they used their positions to take care of themselves rather than of their subjects. Thomas More would agree with Erasmus that if princes weighed their position and understood the true nature of their office, they "could neither sleep nor eat in any joy." In the service of his realm, the king was compelled to sacrifice human pleasures of various kinds and to wear himself down with long hours of toil.²

A king who manipulated his authority towards the achievement of his own worldly ends was abusing his authority. His actions were not only harmful in the temporal order but sinful in the eyes of God and the Law in that they harmed his own soul and drew him away from God.³ Any king who perceived that his office thus impeded his spiritual welfare or that he was incapable of doing justice to his office was advised by Erasmus to:

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1. Dialogue of Comfort, p. 339.
 2. D. Erasmus, The Education of a Christian Prince, p. 154.
 3. Ibid., p. 342.

"...leave off that thing, be it spiritual benefice that he have, parsonage, or bishopric, or temporal room and authority, and rather give it over quite and draw himself aside and serve God, than take the worldly worship and commodity for himself with incommodity of them whom his duty were to profit."¹

In Utopia, More expressed a similar injunction:

"...if there were any king who was either so despicable or so hateful to his subjects that he could not keep them in subjection otherwise than by ill usage, plundering, and confiscation and by reducing them to beggary, it would surely be better for him to resign his throne than to keep it by such means-- means by which, though he retains the name of authority, he loses its majesty."²

In his particular position of authority, the king was more susceptible to certain types of weaknesses and temptations than were men of other states of life. Because he was surrounded with much wealth and enjoyed much power, his "desire of ambitious vainglory" could be most deadly.³ It could set his desires and devices on "such things as are immoderate and outrageous."⁴ Coupled with pride, which could deceive the king into giving ear to the flattery of the ambitious and malicious near to him, sinful ambition could have the most destructive consequences for the realm. It could bring "...debate, dissension, what loss, what sorrow, what trouble..."⁵ The troubles of the realm under a

1. Ibid., p. 285.

2. Utopia, p. 95. More's advice is echoed in another passage by Erasmus: "If you cannot defend your kingdom without violating justice, shedding much blood and injuring the cause of religion, give up your crown and yield to the necessities of the times." Education of a Christian Prince, p. 155.

3. Dialogue of Comfort, p. 284.

4. Ibid., p. 341.

5. Richard III, pp. 12-13.

king enslaved by these vices would not lessen with time because the man enslaved by these vices was practically insatiable:

"...Such a pestilente serpente is ambicion and desyre of vaine glorie and soveraintye, whiche amonge states where he once entreth crepeth foorth so farre, tyll with devisioun and variaunce hee turneth all to mischiefs. Firste longing to be nexte the best, afterwards egall with the beste, and at laste chiefe and above the beste."¹

Unless the king continually strove to curb these passions of ambition, pride, and vainglory, his kingly virtues would degenerate into "arrogant manner, high, sullen, solemn port, overlooking the poor in word and countenance, displeasent and disdainful behavior, ravin, extortion, oppression, hatred, and cruelty..."² Presumptuously, the king would "...take himself...for a god here upon earth, and ween to win himself to be Lord of all the earth."³

A particular king who had actually subjected his ambition and vainglory still had to remember that others in authority around him were driven by these same passions. A realistic king, accepting this fact of life, would channel these urges for the good of the realm. First, he would need to recognize that he could not have all his will; "how were it possible while each of them almost could, if he might, be lord over all the remnant?"⁴ Then, the king had to be bold enough, within

1. Ibid., p. 12.

2. Dialogue of Comfort, p. 284.

3. Ibid., p. 342.

4. Ibid., p. 339.

limits of prudence, to forgive his enemies and allow them back into favor.¹

Since every ruler was subject to these human weaknesses, letting them run rampant could only disorder the international order as well. In international affairs, a good king acted with a good will and an open heart rather than by pacts and words sealed with hypocritical oaths. A Christian king lived up to the alliances and treaties to which he had committed himself. Too often in the arena of practical political affairs, kings who could not rule even one kingdom well looked to reign in five. This greed for territorial domains only led to "war, much trouble, and great effusion of blood."¹

"Among many kings there will be scarcely one, if there is really one, who is satisfied to have one kingdom. Among many kings there will be scarcely one, if there is really one, who rules a single kingdom well."²

His worldly ambitions often led the king not only to wars of aggrandizement but into marriages arranged for "temporall advauntage", "for the possibility of more possessions" rather than for "the fruit and pleasure of this that he had already."³ In More's History of King Richard the Third, Edward IV is represented as defending his decision to marry within the realm and for reasons of personal and family happiness:

1. Ibid., p. 342.

2. The Latin Epigrams of Thomas More, pp. 218-19.

3. Richard III, p. 63.

"As for possibilitie of more inheritaunce by new affinity in estraunge lands, is ofte the occasion of more troble then profite. And we have alrede title by that meanes, to so much as suffiseth to get and kepe wel in one mans daies."¹

A king who was ruled by pride and vainglory was often deluded by flattery, "bare, vain words." Seldom was there reason for him to rejoyce and stand highly in his own conceit at hearing such laudations:

"...seeing as many as be aloft and in authority, be they great estates, princes, dukes, emperors, priests, or bishops, if they be naught, must of this be well assured, that whensoever folk do ring in their itching ears such gay glorious titles of office, they do it not with their heart truly to honour them, but the more freely under a color of praise covertly to control them, for those honorable rooms so unworthily used."²

In More's day, the king's ecclesiastical advisers were no less prone to flatter the king than his secular counselors. Thomas More was aware of the weaknesses of the clergy who, lacking grace constantly to be faithful to their office and learning, "with flattery shamefully abused" the king;³ that is, they failed to tell him the truth about his deeds when it was their duty to have done so.

In conclusion, while the kingly office had a divine or spiritual character about it, it was exercised by a man with all his human inclinations and limitations. The virtues and

1. Ibid., p. 64.

2. History of the Passion, p. 81.

3. A Dialogue of Comfort Against Tribulation, E. W., p. 1156. Cf. R. W. Chambers, On the Continuity of English Prose, London, 1932, p. cliii.

diligence with which this office was exercised had tremendous implications, material as well as spiritual, not only for the realm and for Christendom as a whole but for the king as a Christian person whose eternal reward could be merited only through the moral exercise of his earthly office and state in life.

B. The Office of Kingship

Authority for Thomas More had a reality outside the limits of the individuals or groups to whom it was given and outside the confines of a particular period of time. This explains why, in spite of the corruption and abuses in civil and ecclesiastical institutions about him, More strove for the reform rather than the destruction of the traditional structures. Whatever its particular manifestation, earthly authority in its true sense was the means by which man participated in God's dominion over creation. Therefore, while More was not blind to the abuses of authority by men, whether temporal or spiritual, he invariably defended the offices through which authority was delegated in one form or another:

"...if...the vices of men are to be imputed to the offices they hold, not only will the Papacy fall, but royalty, and dictatorship, and consulate, and every other kind of magistracy, and the people will be rulers, without law, and without order..."¹

1. Responsio Ad Lutherum, p. 162.

More objected to Luther's argument that the prerogatives and nature of offices were derived from the moral standing of the individuals who held them. His argument was that "although a man of evil criminal deeds may lose the heavenly life which God has ordained for the virtuous, nevertheless, the authority on earth, which God has conjoined to his office, is not taken away."¹ In opposing Henry VIII's tendencies to exaggerated praises of the papacy during the first part of his reign and in refusing to accept Henry's usurpation of the spiritual headship of the Church later, More was living according to a very real distinction that he drew between the sixteenth century popes as Italian rulers or princes, even as Henry himself was, in the temporal order and the timeless significance of the papal office in its spiritual primacy. In More's judgment, to reason from bad and worldly popes to a bad papacy which it would be better to abrogate rather than to amend was to reason badly, indeed.² Moreover, according to the Scriptures, when Christ said to Peter, "I have prayed that thy faith shall never fail", He spoke to Peter not only in his own person but as the head of the Church.³

Offices were held by evil as well as good men, but offices

1. Ibid., p. 158.

2. Ibid., pp. 162, 130-1.

3. T. More, The Dialogue Concerning Tyndale, ed. by W. E. Campbell, London, 1927, p. 118.

in themselves were good and necessary. It was to the office that reverence and obedience were always due. No man had the right to discredit offices of secular and spiritual authority or to encourage disobedience to their authority.¹ As an example to those Reformers who would condemn whole institutions and seek to overthrow all law and order because of some bad men in temporal government or the existence of a few evils in a particular pontificate, More presented his own method of judgment as the more reasonable of the two.

"...my guise is not to lay the fawtes of the noughty, to the charge of any whole company and rayle vpon merchautes and call them vsurers...nor to rayle vpon shyryffes and call them rauenours nor vpon gentylnen and call theym oppressours nor so forth vp hygher, to call euery degre by some odyouse names as men myght fynde some of that sorte."²

In the hierarchical structure of authority, the greatest respect and reverence was due to the princes and the clergy, "the two most emynent orders, that god hath here ordayned in earth...speciall consecrate personys..."³ It was their offices that were ordained by God. The persons exercising these offices, however, were specially consecrated and charged by choice and ceremony to execute their offices as representatives of divine authority on earth. When Henry VIII was crowned king, More observed that "this day

1. Apologye, p. 112.

2. Ibid., p. 55.

3. Ibid., p. 55.

consecrates a young man who is the everlasting glory of our time and makes him your king..." and expressed the hope that his "gift of power" would "be wielded with divine aid."¹

Thus, properly speaking, kingship was a sacred office,² necessary to coerce the evil and to enable the good to live in peace among the evil.³ Part of the divine plan, kingship or sovereign authority in society had a sacramental nature attached to it. Any suggestions of divinity by More were always made in reference to the office of the king, certainly not to his person.⁴ More's notion of divinity in kingship had none of the implications of the later divine right theory.

According to Thomas More, the sovereign authority in society was not exclusive to the king. Earthly kingship was divided between "the two great orders...the sacred prynces and prestes."⁵ The prince's dignity and majesty approached that of consecrated priesthood,⁶ although a distinction was made between secular and spiritual rulership according to the jurisdictions proper to each. More compared the role of the two orders of authority in society to the body and soul of the human being.⁷ Any attempt to separate the two would

1. The Latin Epigrams of Thomas More, pp. 138, 143.

2. Confutation of Tyndale, E. W., p. 364.

3. Responsio Ad Lutherum, p. 230.

4. M. Smelser, "Political Philosophy of Sir Thomas More," St. Louis University Studies, 1(1943): 13.

5. Apologye, p. 55.

6. Richard III, p. 22.

7. Apologye, p. 59.

result only in the destruction of the living organism.

More denounced the Reformers as seditious and slanderous men, aiming to subvert law and order in society, not only because they were attacking papal and clerical authority but because in doing so they were implicitly attacking the authority of the king and other temporal rulers as well. Sovereign authority, as More understood it, rested on the two orders together, not on each individually nor on one or the other to the exclusion of the second. That More could not conceive of the two orders separately was clear in his answers to Saint Germain's attack on the clergy. Picking up Christ's words that the priesthood is to be the salt of the earth as quoted by Saint Germain, Thomas More replied that "if the spyrytualty be nought, the temporalty must nedes then be wursse then thei";¹ in defaming the spirituality, Saint Germain defamed the temporalty even more.

More defined the spirituality and temporalty as the "two great partes...of this whole realme."² In urging that "the whole corps of the spyrytualty and temporaltye" repress the heretics (according to reason and justice, the laws of the realm and the Church, and the Scriptures), More's main concern was that the unity between "the two pryncypall partes" be preserved. Why?

1. Debellation of Salem and Bizance, E. W., p. 938.

2. Ibid., p. 935.

"...lest the dregges of both sortes conspyring together increasyng, may litle grow to strong for both wherto they myghte haue a fayre gappe and a brode gate to entre, yf they myghte fynde the meane by craft to seuer and sette a sunder the temporalty against the clergy."¹

The unity More had in mind went far beyond mere good relations; it was the very nature and essence of authority in society.

Because of the spiritual nature of kingship itself, the authority natural to given offices could not be measured out, divided up, or given away in a material way. When temporal or spiritual rulers delegated authority, they did not diminish or irrevocably and for all time relinquish the authority of their offices. Just as More felt justified in claiming that his loyalty to God and the Church did not detract from his loyalty to the king and the realm, so was he convinced that the existence of the authority of the Church did not detract from his loyalty to the king and the realm, that the existence of the authority of the Church and of delegated offices in both the Church and the state did not diminish the kingship inherent in the king's office.

It is in this sense that More's disbelief in the Reformers' claim that King John had placed England in feudal tenure under the papacy needs to be understood. When More wrote that "never could any King of England give away the realm to the Pope, or make the land tributary, though he would..."² he may have mis-

1. Apologye, pp. 58-9.

2. The Supplication of Souls, p. 74.

understood the precise historical situation; but was he affirming "a concept approaching that of modern sovereignty", as C. R. Dechert claims in his study of More's social philosophy?¹ It would appear to be much more in accordance with More's whole political philosophy to consider that here, as so often in other places in his writings, More was thinking in terms of the distinctions between the person and the office of both king and pope.

In the light of these distinctions which More had adopted, the king as a person could not give England away because England as a realm was not his to give. Secondly, as a king, he could not surrender for all time the authority intrinsic to his office; the most he could do was delegate it.² Similarly, the pope as a person could not rightfully accept territorial overlordship of England unless the country was considered the king's personal property. Secondly, by his office of spiritual kingship, the pope did not have the authority to exercise temporal suzerainty over the temporal realm of England unless such authority was in fact delegated to him by King John.

More interpreted the limits of clerical authority in his day in terms of these distinctions. Clerics might and did possess some civil authority, but this was by the grant of the king: "...they neither pretend nor never did, all that authority to be given them immediately by God, but have the

1. C. R. Dechert, Thomas More and Society, Washington, D. C., 1952, p. 80.

2. Dialogue of Comfort, p. 337.

authority now to do diverse things by the grant of kings and princes..."¹ By the same token, More maintained that the king's authority to appoint to bishoprics was not inherent in his office but delegated by the papal authority to the king out of consideration in the past for the common good of both the English realm and of Christendom.

The precise appearance under which the title to the office of kingship is awarded and by which the office is exercised apparently did not concern Thomas More too much. As he saw it, all forms of authority "have their modes, their own causes, reason, utility both when they are feared and the evil are coerced, and when the good live in peace among the evil."² The importance of civil authority, whatever form it might take, was that it was a means whereby fallen man might be preserved from anarchy and misery.³

The king was chosen or accepted for office because of his virtue and, therefore, in anticipation of the good government that he would give. However, the office of kingship might reside just as properly in an oligarchical or a democratic government if the people assented to this type.

"You ask which governs best, a king or a senate. Neither if...both are bad. But if both are good, then I think that the senate, because of its numbers, is the better and that the greater good lies

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1. Apologye, p. 111.
 2. Responsio Ad Lutherum, p. 230.
 3. Dialogue Concerning Tyndale, p. 274.

in numerous good men. Perhaps it is difficult to find a group of good men; even more frequently it is easy for a monarch to be bad...The one feels that he was made senator by the people; the other feels that the people were created for him so that, of course, he may have subjects to rule."¹

C. R. Dechert analyzed More's allusion to the Roman senators in this epigram as an expression of partiality to an elective rather than a hereditary monarchy. He maintained that More did not depart "from the unitary repository of power."²

More's concept of kingship, however, hardly implied that this "unitary repository of power" was limited to either a hereditary or an elected king as C. R. Dechert has argued. It is true that More's concept of kingship as an office was a unitary concept in the sense that it was based on a unitary society. Beyond that, because of the dual nature of man and society, kingship, as More described it, was properly exercised within preordained limits by two sets of officials, the temporal and the spiritual, and in agreement with "common consent and for the common good.

More concluded the epigram referred to above as follows:

"Is there anywhere a people upon whom you yourself by your own decision, can impose a king or a senate? If this does lie within your power, you are king. Stop considering to whom you may give power. The prior question is whether to give it at all."³

C. R. Dechert interpreted these words as meaning that one who could so determine the mode of sovereignty (imperium)

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1. The Latin Epigrams of Thomas More, p. 204.
 2. C. R. Dechert, Thomas More and Society, p. 86.
 3. The Latin Epigrams of Thomas More, p. 205.

would himself be sovereign" and as asking "whether a change of constitution is truly expedient."¹ This interpretation is open to question if the analysis of More's concept of kingship in this study is accepted.

More's primary question in the light of his definition of kingship was not whether a change in the constitution was expedient but rather whether kingship could be realized through imposed authority. If "you yourself by your own decision" and power were able to impose a form of government, whether monarchical or republican, upon a people, you yourself would be a king--but only in name. True kingship did not derive its essential nature from being given to or being imposed upon a people. In the final analysis, there was no true kingship without common consent. More's dogmatic directive, "stop considering to whom you may give power; the prior question is whether to give it at all," is much more meaningful when interpreted in the light of More's tenet that the exercise of true kingship inherent in political office was possible only when the title to it ultimately derived from the common consent of the people.

1. C. R. Dechert, Thomas More and Society, p. 86.

CHAPTER VI: KINGSHIP BY COMMON CONSENT AND FOR THE COMMON GOOD

A. Temporal Authority Based on Common Consent

Thomas More frequently defended the people as one source of temporal authority. At the beginning of his History of King Richard the Third, he attributed the legitimacy of Edward IV's reign to the common consent of the people to it.¹ In Utopia all magistrates, including the prince, were elected or nominated by the people themselves, and the state as a whole was governed by a senate to which each city sent three delegates.² Elsewhere in his writings, More invariably spoke of the prince or king as the governing authority, but as an authority hemmed in by constitutional limitations. R. A. Ames concluded that More's close alliance with the City of London and his refusal of a pension offered by the King in 1516 strongly indicated his attachment to town-republican political principles.³ C. R. Dechert's comment on this view was:

"...in More's thought sovereignty appears to be ultimately based on the people who, through the enactment of their constitutional representatives, or by common consent, may bestow it on whom they will. The legislative functions of the sovereign reside in both the prince and parliament, who jointly act for the common good, with the ordinary powers of legislation, or better, administrative enactment, vested in the prince alone."⁴

According to the title of one of More's epigrams, "the consent of the people both bestows and withdraws sovereignty."⁵ More

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1. Richard III, pp. 3-4.
 2. Utopia, pp. 113, 123-4.
 3. R. A. Ames, Citizen Thomas More and His Utopia, Princeton, 1949, p. 52.
 4. C. R. Dechert, Thomas More and Society, p. 85.
 5. The Latin Epigrams of Thomas More, p. 175.

considered it desirable that one man rule the many but only if he had popular support; thus, the common good would be served. The king's right to rule depended upon the will of the people. He ruled on sufferance; he was not his own master. "He ought to have command not one instant longer than his subjects wish."¹

When required to swear the Oath of Succession toward the end of his life, More expressed the same view; he believed that parliament had the power to choose the prince and to determine the succession.² In his History of King Richard the Third, he summarized in Buckingham's speech proposing Richard for king the various means by which an individual might acquire the office of kingship. First, he noted that, legally, the "very right and just title" to kingship was based on legitimate birth and the laws of succession. Secondly, he specifically mentioned parliament and common law as important bases for all true kingship. In either case, however, the people's consent was primary.

Even a born prince required the consent of the people in order to be gifted with true kingship. A man who failed to meet the legal requisites for the king's office, on the other hand, might be requested to be king by the "nobles and commons" despite his lack of birth. In such a case, the request and, by implication, the consent was, for practical purposes at least, of greater significance than royal

1. Ibid., p. 175.

2. St. Thomas More: Selected Letters, pp. 212, 217. Cf. W. Roper, The Lyfe of Sir Thomas More, Knighte, p. 85.

birth. In Buckingham's words,

"...the greate knightly prowes pondred, what many fold vertues which in his noble parson singularly abound, the nobles and commons also of this realm ...not willing any bastard blood to have the rule of the land, nor the abusions before in the same vsed any longer to continue haue condiscended and fullye determined to make humble petition vnto the most puisant prince, the lord protector; that it maye like his grace at our humble request, to take vpon him the guiding and gouernaunce of this realm, to the welth and encrease of the same, according to his very right and just title."¹

According to More, the title to office was given to a king by consent, or "eleccion", of the people. This consent was not necessarily reinforced by actual hereditary rights to the office as defined by law and custom.

More considered parliament as the representative institution of all subjects: "...Parliament representeth the whole realm, and is by the common speech so called too as when we say that the realm hath made a law..."² This definition was no different from that of the Tudor jurists who were interested in preserving rule by political law; the Dispen-sations Act of 1534 described parliament as "Your Royal Majesty and your Lords, Spiritual and Temporal, and Commons representing the whole state of your realm in this your most High Court..."³ Henry VIII himself said that he was most

1. Richard III, p. 73. Cf. also pp. 78-80. Under-scoring is mine.

2. Confutation of Tyndale, E. W., p. 406.

3. W. H. Dunham, "Regal Power and the Rule of Law: A Tudor Paradox," Journal of British Studies, 3(1964): 35.

truly king when sitting with his assembled parliament. Thus, More was not alone in affirming that legitimate authority required popular agreement and consent through a representative body which by due process could legislate and enact valid and binding laws.

More believed that the prince with the people could develop new and positive legislation; that is, parliament was not limited to a purely judicial function of interpreting the custom of the land.¹ In the field of legislation, enactments of a superior governing authority superseded local enactments and invalidated those contrary to it.²

Matters of concern to entire Christendom came under the authority of the laws of Christendom. The laws of the realm were designed for England, but the laws of Christendom were made with a view to being equally applicable throughout Christendom. This was the basis for More's criticism of Saint Germain's opinion that the universally accepted laws against heretics be revised in England by a statute of the realm.

"...his deuyce peradventure though it wolde serue in some one lande, wolde yet not serue in some other and they that made that law, made it as it myght serue most generally thorow chrystendome where as thys deuyse though it myght serue in England, myght not haue serued well in many places of Almayne."³

1. Cf. G. H. Sabine, A History of Political Thought, pp. 203-10. More's views on force of custom in law are discussed in Debellation of Salem and Bizance, E. W., p. 932.

2. W. Roper, The Lyfe of Sir Thomas More, Knyghte, p. 92.

3. Apologye, pp. 156-7.

Moreover, England "being but one small part of the Church" could not speak for the rest of the Church, nor could she make a "particular law" which conflicted with "the general law" of the Church.¹

This did not mean, however, that the laws of the realm of England were necessarily nullified as soon as they were confronted by the laws of Christendom. Laws which applied specifically to the realm and its common good could not be touched by outside authority:

"...the cases of the law of this realm...should because we be English men, and our matter written in England and in English words, stand for a sure and insoluble argument, though the laws both civil and canon that are called the common laws of all Christendom beside us, were...full and whole to the contrary."²

Since laws were enacted for the common good as expressed by the people, they could be altered or repealed by legislative provision if the common good required it.³ In Utopia, More noted that the people by their common consent, "neither oppressed with tyranny, nor deceived by fraud," had the right to constitute and ratify laws.⁴

Under certain conditions, this legislative power of the people as expressed in parliament also belonged to the prince alone.⁵ Whatever "a good prince hath justly published" could

1. W. Roper, The Lyfe of Sir Thomas More, p. 92.

2. Debellation of Salem and Bizance, E. W., p. 944.

3. Ibid., p. 1033.

4. Utopia, p. 165.

5. Responsio Ad Lutherum, p. 229. Cf. Confutation of Tyndale, E. W., p. 352.

claim the authoritative character of law.¹ It was not enough for a decree to come from the king. To have true authority, it had to be promulgated by a good king whose will already reflected the will of the people. Secondly, so that all would be able to receive their due, it was to be "justly published".

The king's enactments did not require official or direct consent of the "whole people" before becoming obligatory on the citizens;² but More made it clear that the intrinsic authority of a king's enactment was derived from its capacity to serve the common good and to meet his subjects' approval. More also observed that the king's prerogative did give him tremendous power in as well as out of parliament. "...the King's own royal person alone more than counterpoiseth all the lords spiritual present with him and the temporal too."³ The king also had the right to appoint by writ, and at his pleasure, temporal lords to the Upper House to decrease the practical role of the spiritual lords in parliament, should he find the latter's power over-bearing.⁴ Of the king's effective power at this time, More further remarked that

"the King's Highness is not so weak and unable in his own parliament as this beggars' proctor so presumptuously telleth him, His Grace well knoweth, and all his people too, that in their own convocation His Grace never devised nor desired anything in his life that ever was denied him."⁵

1. Utopia, p. 165.

2. Cf. Confutation of Tyndale, E. W., p. 352.

3. Supplication of Souls, p. 46.

4. Ibid., p. 47.

5. Ibid., p. 48. The "beggars' proctor" refers to S. Fish.

As Thomas More suggested, King Henry always got what he wanted--either by applying coercive influence or by creating popular support in favor of his measures. Generally, Henry VIII was wise enough to prefer the latter. It is most significant that during the Tudor period the king's letters patent or proclamations were given the same validity in law "as if "they had been "authorized by authority of Parliament" by means of parliamentary statutes.¹ For example, in 1510 an act of parliament gave Henry VIII "full authority and power by his letters patent" to repeal any attainder for high treason "by act of Parliament or the Common Law" since 1483. The Act in Restraint of Annates (1532) gave Henry VIII "full power and liberty" to put all or parts of this law into effect "by his letters patent under his great seal to be made and to be entered of record in the Roll of this present Parliament." Those parts made operative by letters patent were to stand "available in the law" as though parliament had enacted and confirmed them.²

As viewed by More and, of course, by Henry himself, the king's proclamation was a legitimate expression of the king's sovereign authority. In fact, it was by proclamation,

1. P. L. Hughes and J. K. Larkin, Tudor Royal Proclamations, New Haven, 1964, pp. xxiii, xxv.

2. W. H. Dunham, "Regal Power and the Rule of Law," Journal of British Studies, 3(1964): 31. Statutes under Henry VIII that made possible king-made laws as valid as if they had been made by the authority of parliament itself are discussed, pp. 31-3.

rather than by statute, that the early Tudor monarchs claimed sovereignty,¹ though they did attempt, at least on paper, to influence the Commons to passive acceptance.

If the king found his subjects recalcitrant, however, he was not necessarily obliged to retract his decrees. More agreed that once the reasons justifying the decrees were demonstrated and once the decrees were shown to be in fact directed towards the common good of the realm as they claimed to be, then the subjects were bound by these king-made laws and the king had the right to coerce his subjects to obedience. The king could "put them to silence with his authority" and forbid them to reason or dispute against these laws. More's comment was that

"...agaynste all such argumentes and such choppe-logiques agaynste good rulys, yf any man wyll be contencyouse in thys mater, lette hym well knowe that we haue no suche guyse or custome..."²

Requiring universal consent for enactments did not necessarily favor the common good. In his Responsio, More stated that

"If no one has the power of setting up one law over a Christian man without his consent, then neither the King nor the entire populace can make a law with any force against a man who would disagree with it."³

If unanimous consent were always sought, it would be found that criminals would not consent to the law which would punish

1. P. L. Hughes and J. K. Larkin, Tudor Royal Proclamations, p. xxx.

2. Apologye, p. 113.

3. Responsio Ad Lutherum, p. 233.

them. Furthermore, "if every law must have unanimous consent, it could be valid until a new citizen was born or enrolled as a citizen."¹ Thus, as long as they were enacted for the common good, the king's proclamations did not necessarily require universal consent.

B. Spiritual Authority Based on Common Consent

Thomas More considered the people's consent to be an important test of the validity of the authority exercised by the spiritual rulers in Christendom too. A well-ordered Christian society required some consensus as to the means most conducive to the attainment of the common good of society and the final purposes of life. It was this "agreement and consent" between rulers in both hierarchies and their subjects that would bring about and preserve the unity among Christian people, that would bind together the members of the Church.² Even though some should proceed to change the rules and beliefs of the Church or some "by their obstinacy be gone out or put out," individuals were still bound by the common consent of those in the Church when the Church was one:

"...if I will believe the Church, I must believe them that still believe that way which all the whole believed before."³

In More's view, doubts or disputes in Church matters

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1. Confutation of Tyndale, E. W., p. 352.
 2. The Dialogue Concerning Tyndale, pp. 110-11.
 3. Ibid., p. 111.

could not be lawfully resolved by individuals on their own unauthorized initiative. More's reaction to such presumptuous and ambitious persons, specifically to those who insisted on the private interpretation of Scripture, was:

"...whereas God would the church should be your judge, ye would now be judge over the church. And ye will by your wit be judge whether the church, in the understanding of holy Scripture that God hath written to his church, do judge aright or err...much marvel were it if ye should in holy Scripture see better than the old holy doctors and Christ's whole Church."¹

The common consent of the Church could be established either by "common determination at a general council" or through a general acceptance on the part of Christian people of what seemed to them "a damnable error to believe the contrary."² The leadership for this common agreement was "the consent and common agreement of the old holy fathers,"³ because it was the Fathers of the Church who were the most learned in the Christian faith and who, by their ordination, had received the special grace to teach. Once expressed, this common consent exerted a binding authority over all men in Christendom.

"...if any would take the contrary way, were it one or more, were it few or many, were they learned or unlearned, were they lay people or of the clergy, yet can I nothing doubt which part to believe, if I will believe the church."⁴

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1. Ibid., p. 115.
 2. Ibid., p. 111.
 3. Ibid., p. 115.
 4. Ibid., p. 111.

In his Responsio Ad Lutherum, More frequently castigated Luther for appealing to his own authority as opposed to the "constant consent of the whole Church", "against the Fathers and the whole Church agreeing throughout so many ages", and "against what had always been the ideas of all Christians".¹ He charged Saint Germain with attacking what "longe haue bene thorow the whole corps of chrystendome...by long vsage and custome ratyfyed agreed and confyrmed..."²

Thus, like the secular authority in its own sphere, the authority in Christendom had its persuasive and coercive aspects deriving from the common consent on the one hand and from the common laws of Christendom on the other. Its source was outside the limits of temporal realms; it was the "common laws of all Christendom" that were the laws of the Church in any particular realm.³

In practice, More himself had appealed to this authority of the whole Church, past and present, over religious matters both against the temporal rulers and against the heretics. When asked by the Lord Chancellor why he had refused the oath when so many bishops and learned men agreed to it, he replied as follows:

1. Apologye, p. 112.

2. More excepted Christians from obedience to prelates who fell into heresy. This parallels his view on secular authority: the subjects are not obliged to agree to a king's command when it is contrary to their religious principles.

3. Apologye, p. 67. Cf. Debellation of Salem and Bizance, E. W. p. 1015.

"If the number of bishops and universities be so material as your lordship seemeth to take it, then I see little cause, my Lord, why that thing in my conscience should make any change. For I nothing doubt but that, though not in bishops and virtuous men that are yet alive, they be not the fewer part that be of my mind therein. But if I should speak of those which already be dead, of whom many be now holy saints in heaven, I am very sure it is the far greater of them that, all the while they lived, thought in this case that way that I think now. And therefore am I not bound, my Lord, to conform my conscience to the council of one realm against the general council of Christendom."¹

Moreover, More appealed to the consent of the general councils as well as to the "common consent of this realm" and the "general approbation of all Christian realms" when defending the existing laws for the punishment of heretics.² More observed further that even the heretics did not deny the reality of a common Christendom from which the original consensus on matters about which they now disagreed had been derived.

"...all Germany, for all their diverse opinions... agree they now together in preparation of a common power in defense of Christendom against our common enemy the Turk...as for purgatory, though they think there be none, yet sith they deny not that all the corps of Christendom by so many hundred years have believed the contrary..."³

The crucial significance of the common consent of Christendom to More's thinking can be appreciated through reading his treatises against the heretics, his Dialogue of Comfort Against Tribulation, his letters and the accounts of his trial at Westminster Hall. More saw the Church as a

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1. W. Roper, The Lyfe of Sir Thomas More, p. 78.
 2. Debellation of Salem and Bizance, E. W., p. 1031.
 3. A Dialogue of Comfort, p.175.

"congregation of all these nations...that profess the name and faith of Christ."¹ At the head of this organic unity was the general council of which the pope was a member; the unity was sustained by those "common laws of all Christ's Catholic Church" which had been approved by the clergy and laity of Christendom past and present.²

C. Kingship and the Common Good

"A governor of the people is made for the people, and not the people for the governor..."³ The state and sovereign existed not for themselves but for the common good, "...for the safeguard of good people in peace and tranquility," for the "common peace and quiet."⁴ It was on these principles, according to Thomas More, that the king's duties and responsibilities to those under his charge were to be based. In its positive aspects, the History of King Richard the Third reflected the good king as a custodian of order. The proper end of the laws of which the good king was the ultimate human source either directly by his royal prerogative or indirectly in his parliament was nothing less than the public interest, the common good.⁵ That the king was to bring order and with it that "quiet, rest, and surety" which serve the common

1. The Dialogue Concerning Tyndale, pp. 143, 140f.

2. Apology, pp. 192-3.

3. Confutation of Tyndale, E. W., p. 373.

4. Ibid., p. 570.

5. Debellation of Salem and Bizance, E. W., p. 1033.

good¹ found further expression in More's verses of congratulations on the coronation of Henry VIII: "Where before all order was gone, in you it has now returned."²

Thomas More adopted the Aristotelian-Thomist concept of man as a social and political man. Man was created by God not only for himself but for the good of mankind. God realized

"...that our fallen human nature was desperately in love with its own private pursuits to the detriment of the common cause;...Every one loves his own premises, his own money; everyone is interested only in his own profession, or his own corporation; anything at all which we can call our own attracts our attentions to itself and away from common interests."³

God Himself instituted authority in the community to promote order and the common good. The ruler's first aim, therefore, was to restrain men from wickedness and to encourage them in virtue. Within the context of this primary duty, the various other duties and responsibilities which More assigned to a good king and the cooperative relationship between the king and spiritual rulers which he defended as absolutely necessary for the common good acquired their deep significance. The king's office could never be divorced from his responsibility for the growth of morally good men and the development of the good life for all.

In his opening oration to Parliament on November 3, 1529, Thomas More (now Chancellor) likened the king to a shepherd,

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1. The Supplication of Souls, p. 28.
 2. The Latin Epigrams of Thomas More, p. 138.
 3. St. Thomas More: Selected Letters, pp. 129-30.

"who not only keepeth and attendeth well his sheep, but also provideth for all things that either may be hurtful to the flock, or may preserve and defend them against all perils."¹ He further noted that "amongst a great flock, some are rotten and faulty, which the good shepherd severeth from the sound sheep."² In one of his epigrams, More described the good king as "a watchdog, a guardian of the flock" who by barking kept away the wolves from the sheep.³ Just as the shepherd takes more care of his flock than of himself, so a good king ought to take more care of the people's happiness than of his own.⁴ Should the king neglect his duties as a shepherd, "...the scab of the flock shall catch and consume shepherd and all for his negligence."⁵

In emphasizing the king's responsibilities to his people and to the common good, More often compared the king to a father of a family. Being bound by his office and by the same moral law as his people, the king was not outside or above them but a part of an organic unity with them:

"A kingdom in all its parts is like a man; it is held together by natural affection. The king is the head; the people form the other parts. Every citizen the king has he considers as part of his own body...His subjects exert themselves in the king's behalf, and they look up to him as the head for which they provide the body."⁶

1. Quoted in W. J. Walter, Sir Thomas More: His Life and Times Illustrated From His Own Writings and from Contemporary Documents, Philadelphia, 1839, p. 177.

2. Ibid., p. 178.

3. The Latin Epigrams of Thomas More, p. 173.

4. Utopia, p. 95.

5. Treatise on the Passion, E. W., p. 1278.

6. The Latin Epigrams of Thomas More, p. 172.

The legitimate king ruled not over slaves but over his children. According to another of More's epigrams, the "good king is a father not a master." If he performed his duty adequately, he would never lack children.¹

A good king loved his people and was loved by them in return. He lived among them and governed them gently. If wise, he recognized the extent of domain over which he could govern effectively and to which he could "give adequate care." Being aware that new territories only multiplied problems and detracted from good government over areas already held, he was preoccupied primarily with avoiding war, particularly war bent on the acquisition of new kingdoms.²

His personal experience and his reason convinced More that the common good could not be served well in times of war.³ The king's duty was not only to preserve peace within the realm but to keep his country strong and united in order to discourage foreign alliances and war against it.⁴ Within the realm, the king was able to strengthen the bonds of unity by his own exemplary adherence to his oath of office.⁵ He could also appeal to his subjects' sense of charity and their duties towards God and their neighbor. In a realm where all men were "spirytuall

1. Ibid., p. 172.

2. Utopia, p. 89.

3. More's earliest memory of war was the fall of Richard III. He witnessed the French War of 1513 and the slaughter of Flodden Field. In the King's Council, he appears to have doubted the wisdom of the French War of 1522-1523.

4. The Latin Epigrams of Thomas More, pp. 141-2.

5. Richard III, p. 6.

kynred" through "the sacramentes of Christes Church,"¹ such a moral appeal by a good king would be particularly persuasive. In his efforts to keep his people at peace with foreign nations, the king's best successes would come as a result of his own faithfulness to his peace treaties and his refraining from unjust and aggressive wars.

While it was his unflagging duty to preserve peace, in times of danger the king was obliged, in justice, to defend his people.

"...nature, reason, and God's behest, bindeth first the prince to the safeguard of his people with the peril of himself...and after he bindeth everyman to the help and defense of his good and harmless neighbor against the malice and cruelty of the wrongdoer. ...And by this reason is not only excusable but also commendable, that common war which every people taketh in the defense of their country against enemies that would invade it, since that every man fighteth not for the defense of himself, but of a Christian charity for the safeguard and preservation of all other."²

Elsewhere, More again noted the king's obligation in charity to go to war "...in the defense of other folk his innocent Christian brethren..."³ against that common enemy, the Turk. Following the classical and medieval tradition, More asserted that it was good and just "to deliver from the yocke and and bondage of tyrannye some people that be oppressed with tyranny."⁴ More's list of the king's defense obligations

1. Ibid., p. 12.

2. The Dialogue Concerning Tyndale, p. 308.

3. Confutation of Tyndale, E. W., p. 396.

4. R. Caspari, "Sir Thomas More and Justum Bellum," Ethics, 56(1946): 306.

also reflected his own class interests; in Utopia he suggested that a war for economic reasons, to vindicate wrongs done to the merchants, might be just.¹

Within the realm, the king had lawful authority to suppress civil disturbances by the sword, if necessary.² It was his duty to quell insurrection and rebellion, murder and pillage, and all social disorder.³ He also had the duty to judge what actions and writings were contrary to the well-being of all; then, supported by legal sanction, his was the responsibility to outlaw and punish these, "for the preservation of the peace."⁴ In short, the king's social and political duty was the preservation of his realm through the maintenance of internal peace and through the conservation of its independence.

From the legal point of view, the king was the supreme magistrate with the duty to administer the laws in accordance with his coronation oath.⁵ By initiating preventative measures, he could do much to curb crime. One of the king's chief duties was to administer the laws,⁶ but the obedience of subjects to these laws presupposed that these laws were justly decreed in the first place.⁷

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1. Utopia, p. 201.
 2. Treatise on the Passion, E. W., p. 1393.
 3. Confutation of Tyndale, E. W., p. 715.
 4. Ibid., p. 793.
 5. H. M. Smith, Henry VIII and the Reformation, London, 1962, p. 435.
 6. Richard III, p. 81.
 7. Utopia, p. 165. See pp. 108-9 above.

Another vital function of government described by More was its advancing of the citizens' economic well-being. More recognized that economic well-being was basic to the stability and the common good of the realm. Upon the accession of Henry VIII, More praised the public interest shown by the king in his repeal of a number of commercial duties: "The merchant, formerly deterred by various tributes, now furrows his wonted waters in his ship...men rejoice to have received what is their due."¹ More noted that an active economic community required adequate coinage in order to "...forestall any shortage of the money needed in the daily business transactions of the citizens;" but he denounced arbitrary monetary manipulation for government profit as a social injustice.²

The good ruler was a wise steward, able to live within his own income and able to balance the country's budget, to "limit expenses to revenue". He aimed to raise the standard of living in his ancestral kingdom. More concerned for the prosperity of his country than for his own wealth and territorial ambitions, he did not immobilize the country's internal economy by withdrawing money from circulation either by loans or taxes in anticipation of foreign wars that did not necessarily materialize.³ Through wise management, the king

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1. The Latin Epigrams of Thomas More, p. 139.
 2. Utopia, p. 97.
 3. Ibid., pp. 91-3.

seldom would find himself with excessive wealth. If he chanced to acquire a surplus, he would redistribute it among the people, thereby making himself less prone to oppress his subjects and at the same time encouraging the loyalty and love of his subjects for him.

The subjects also expected that their right to acquire and to own private property would be protected and preserved. Henry VIII's coronation seemed to herald an England in which "each man happily does not hesitate to show the possessions which in the past his fear kept hidden in dark seclusion," in which profits could be enjoyed, and in which it was no longer a criminal offense to own property which was honestly acquired.¹ The king's duty in safeguarding his subjects and their property was reiterated in More's History of King Richard the Third; the Duke of Buckingham presented Richard to the people as a promise of good kingship under which "the suretye of your owne bodyes, the quiete of youre wives and your daughters, the safegarde of youre goodes" would be assured.²

A number of the king's duties and responsibilities would touch religious matters. The king had a duty to maintain peace and security for the sake of the Church and its clergy. The attainment of the common good presupposed, in More's view, the due obedience of the people to their prince as well as "the virtuous mind" of a prince himself obedient to the

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1. The Latin Epigrams of Thomas More, p. 139.
 2. Richard III, p. 69.

Church.¹ More concurred with the established practice of the king providing "wise, learned, and good prelates and ordinaries" for the Church in England.²

The king and his ministers also administered the laws against the heretics. They were compelled, according to More, in view of the heretics' "incurable and contagious pestilence, to punish them according to the laws, both for example and to keep the infection from others..."³ In their wisdom, English kings of earlier times, had "well perceived that the people should not fail to fall into many sore and intolerable troubles if such seditious sects of heretics were not by grievous punishment repressed in the beginning..."⁴

More also suggested that the temporal ruler might take the initiative in Church reform. He further maintained that a Christian king had a duty to contribute to the defense of Christendom against the onslaught of the Turks.⁵ Under certain circumstances, More probably would have considered it to be a Christian king's duty to defend the papal temporal possessions as being necessary for the proper earthly exercise and the political independence of the papal spiritual office against greedy and ambitious neighbors.

The king's duties and responsibilities to his subjects

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1. The Supplication of Souls, p. 28.
 2. Apologye, p. 106.
 3. W. J. Walter, Sir Thomas More: His Life and Times Illustrated..., p. 134.
 4. The Dialogue Concerning Tyndale, p. 320.
 5. Ibid., p. 308.

in the social, political, economic, and religious areas of life could be properly fulfilled only when the subjects performed their duties in relation to the king and the realm, only if the people ordered themselves to the common good by obeying the king and the just laws of the state. In the long run, hurt and damage to the common weal could be prevented only by cooperation between the sovereign and the citizen.¹ Otherwise, the whole end of the political community might be perverted to the "utter loss and destruction of many."

Beyond outward obedience, subjects owed respect and reverence to their rulers, at least to the offices they represented. No one had the right to "jest and rail" upon civil superiors if, in doing so, he might help destroy that popular support and confidence in government, without which civil order would be impossible.²

"...it were a lewd thing to suffer any prince, estate, or governor to be brought to slander among the common people, whereof can come none other effect or fruit, but hatred or contempt planted in their hearts toward their rulers and governors, whom they be for all that, still bounden both to love and obey."³

The subject was also obliged to cooperate with the king in serving the common good. Like the king, the subject had the duty to relieve the economic distress of others.⁴

Referring to those expounding heretical views, More wrote that "every good man that hereth them is bounden to denounce

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1. Debellation of Salem and Bizance, E. W., pp. 959, 1016.
 2. Confutation of Tyndale, E. W., p. 773.
 3. Ibid., p. 621.
 4. Ibid., pp. 617, 673, 743.

or accuse them."¹ The king's subject was also expected to serve the king and his country in case of a just war either for its own defense or for the "safeguard and preservation" of the rights of others, whether political, economic, or religious, in the common body of Christendom.²

Finally, the qualified citizen had the duty to enter the service of the state directly as a member of the government and to personally cooperate with the king for the common good of the realm and that of Christendom. In his own life, More was aware that his appointment to the office of Lord Chancellor touched upon both. Writing to Erasmus, he described his new office as involving "a mass of vital business affairs" as well as "the interests of Christendom."³

The subjects' unwillingness to participate in the governing of the realm would permit the king to abuse his power to the detriment of the common good. In Utopia, More advised the king's subject that:

"...if you could persuade yourself not to shun the courts of kings, you could do the greatest good to the common weal by your advice. The latter is the most important part of your duty as it is the duty of every good man."⁴

In advising Cromwell, More defined the counselor's obligation to the common good in circumstances where the king was ignoring the limitations of true kingship. The counselor must then

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1. Apologye, p. 96.
 2. Dialogue Concerning Tyndale, pp. 307-8.
 3. St. Thomas More: Selected Letters, pp. 171-2.
 4. Utopia, p. 87.

do all he can to moderate the rigors of such a rule. He should direct his energies to showing the prince the just rather than the expedient course of governing.

"If you follow my poor advice, you shall, in your counsel giving unto his grace, ever tell him what he ought to do, but never what he is able to do. So shall you show yourself a true faithful servant and a right worthy counselor. For if a lion knew his own strength, hard were it for any man to rule him."¹

To conclude, More's concept of true kingship in the state implied that the king had received his authority by common agreement of those under his rule. This same agreement gave validity to the legislative power he held with parliament. The king's prerogative, strictly speaking, assumed or actually sought a common approval. However, matters judged by the king to be for the common good did not necessarily require common consent; and in case of public dissatisfaction with such commands, the king had the right to enforce obedience. Before the common good could be realized in a realm, both the king and the subjects had to be aware of their respective responsibilities. Finally, they were obliged to fulfill them in a cooperative spirit and as circumstances demanded in all areas of life: social, political, economic, religious, and international.

1. W. Roper, The Lyfe of Sir Thomas More, p. 56.

CHAPTER VII: THOMAS MORE AND LEGAL ASPECTS OF KINGSHIP

A. Thomas More the Lawyer, Common Law, and Kingship

More the lawyer conceived of the laws as framed and administered for the common good rather than in the interests of a particular class or to the detriment of a specific group. Man-made laws were to reflect the divine and natural law. To counteract any obstruction of reasonable and just decisions through the ordinary process of law, Thomas More upheld the principle of equity, that the test of conscience be applied to each individual case according to the principles of canon law.

Although his competence in other areas of law has been well demonstrated,¹ by training and vocation Thomas More was a common law lawyer. Common law was rooted in the reciprocal character of fealty between the kings and his subjects. Partaking of and reflecting the eternally, universally, and immutably binding ordinances of God, it was to be observed by the king as much as by the subjects.² Traditionally, it was regarded as a barrier against arbitrary exactions by the ruler. Therefore, the king's prerogative to govern was in practice limited by the prerogative

1. Cf. R. J. Schoeck, "Sir Thomas More, Humanist and Lawyer," University of Toronto Quarterly, 34(1964): 1-14; B. Brown, "Sir Thomas More, Lawyer," Fordham Law Review, 4(1935): 375-90.

2. C. Ogilvie, The King's Government and the Common Law, Oxford, 1958, p. 3.

of the subject.

In peacetime at least, the king was expected "to live of his own." The king's authority touched all men but in law and in practice it did not extend to the subject's property; "liberty was no less sacred than majesty."¹ Liberty in the context of More's political and legal connections appeared to mean primarily the freedom to possess and acquire material things: the "gatherynge of money...is the onelye thyng that withdraweth the heartes of Englyshmenne fro the Prince."²

From earliest times, the king was considered the fountain of justice and had sworn to do equitable justice to all men. By his coronation oath, the king was bound to intervene in complaints of injustice or of failure to obtain a fair hearing.

More severely criticized legal trickery and injustice. As a humanist, he was aware of the close relationship between law and the society it served; law must "make good men of bad."³ He who "misturneth those laws that were devised to defend men from wrong, to be instruments to wrong men by" greatly displeased God.⁴ In The Four Last Things More defined law as that which

"...considereth, pondereth, and punisheth the trespasses done to every man, not only after the hurt that is done or loss that is taken but if it be such as the

1. Ibid., p. 3.

2. Richard III, p. 5.

3. R. J. Schoek, "Sir Thomas More, Humanist and Lawyer," University of Toronto Quarterly, 34(1964): 2.

4. History of the Passion, p. 85.

party grieved is like to be wroth withal, the punishment aggrieved or minished, made less or more after the difference in degree of worship and reputation between the parties."¹

Justice was a moral obligation of the king and those in authority, and good laws required that punishments fit the crime. A legal system that trapped petty criminals but allowed men who committed more serious crimes to go unpunished mocked justice and true kingship:

"Then offices and/or rooms of authority, if men desire them only for their worldly fantasies, who can look that ever they shall occupy them well, but abuse their authority and do thereby great hurt?...Then the laws that are made against malefactors shall they make... to be much like unto cobwebs, in which the little gnats and flies stick still and hang fast, but the great humble-bees break them and fly quite through. And then the laws that are made as a buckler in defence of innocents, those shall they make serve for a sword to cut and sore wound them with, and therewith wound they their own souls sorer."²

As a practitioner of the law, More was aware of the broad legal-political issues as well as of his own rights and duties as a citizen under the constitution of his time. When he found his personal life entangled in these issues, he appealed to the safeguards which the rules of equity and common law allowed the subject. For example, he insisted upon seeing copies of the Bill of Attainder, the Act of Succession, and of the oath which demanded the observance of the "whole contents and effects" of this Act.³ Against

1. The Four Last Things, pp. 52-3.

2. A Dialogue of Comfort, p. 342.

3. St. Thomas More: Selected Letters, pp. 192, 217.

charges of treason, he insisted that he did or wrote nothing against the king; that even in his intentions he was always loyal;¹ that if his silence were construed as an act, in common law silence signified consent;² that discussing legal issues in terms of cases was not tantamount to treason and was no proof of malicious intent or words.

Furthermore, while an unlawful statute might compel the subject at least to passive obedience, the king had no right or authority to compel a subject to conform under oath to an opinion regarding the lawfulness of a statute.³ More's defense was his conscience. According to his conscience, More could not agree that the statute of succession, particularly the part which implied a denial of the papal headship of the Church, was lawful and according to divine law. More appealed to conscience and to the sanctity of the oath as the two pillars of equitable justice and order in a Christian society on earth. Both were bound up with individual liberty and with the spiritual consequences which a particular soul might incur in the hereafter. As a Christian and as a lawyer, More invoked these two principles in his defense against the king's injustice. His final appeal rested in the general council of Christendom and in the principles of canon law.

1. Ibid., p. 206.

2. A maxim among the civilians and canonists was Qui tacet consentire videtur (who is silent seemeth to consent).

3. The Correspondence of Sir Thomas More, p. 524.
Margaret Roper was quoting More in a letter to Alice Alington.

In More's view, the king did not have the final authority to coerce an individual to give evidence against himself, particularly untruthful evidence or evidence contrary to his convictions, even by framing a law for this purpose. The king could not stalk the interior movements of the mind, of conscience, of evil intent.¹ More asserted that the king could pass judgment only on external words and acts.

"For laws punish deeds or words, but silence cannot be condemned either by this your law, or by all the laws of the whole world. Of secret thoughts God alone is judge."²

Neither the king nor man-made laws could punish intent without external evidence of it in words or deeds. "...the law of the world for lack of power to look into the heart cannot punish the bare intent of such things..."³ The principle limiting the power of the rulers over the ruled was ingrained in the common law of England and the canon law of the Church. At his trial, More asserted:

"For this my taciturnity and silence, neither your law nor any law in the world is able justly and rightly to punish me, unless you may besides lay to my charge either some word or fact in deed."⁴

While More admitted that the king and positive law could command obedience and coerce a subject not to discuss or act

1. Debellation of Salem and Bizance, E. W., p. 959.

2. More's words to the court as quoted by Stapleton in his biography of More. Cf. R. W. Chambers, Thomas More, pp.313-4. The whole theme of More's Dialogue of Comfort is that the head of state can not dictate the religious views of his subjects.

3. Debellation of Salem and Bizance, E. W., p. 959.

4. Quoted in R. W. Chambers, The Place of Saint Thomas More in English Literature and History, p. 116.

in a way that was likely to cause sedition and dissension, More held that no king nor any command of his could force a subject to say that he believed what he did not believe.¹

The more general issues touching his person and the realm of England forced More to ask further questions and to define further his views on the king's relationship to the law. More approved of King Henry VIII's seeking the "judgment of the Church" regarding the validity of the dispensation for the first marriage. When the Great Matter went to the legatine court (May 31, 1529), More's comment was that "the matter was in hand by an ordinary process of the spiritual law." That is, marriage was a spiritual matter to be dealt with by spiritual law and authority.²

Again, it was the lawyer in him that compelled More to point out that King Henry VIII and England had nothing to gain by making laws in England or writing books which seemed to derogate and deny the primacy of the see apostolic and authority of the Church as represented by the General Councils. The authority of the Church and its headship was a matter for all Christendom and was expressed in lawfully assembled Church councils. To More the lawyer, any policy suggesting a move to break with the papacy was pointless because of it-

1. R. W. Chambers, "The Saga and Myth of Sir Thomas More," Proceedings of the British Academy, London, 1926, p. 198. In this context, Chambers discusses More's tolerance towards heretics.

2. St. Thomas More: Selected Letters, p. 206.

self England could not lawfully break away.¹

In his letter to Margaret Roper (Tower of London, June 3, 1535), More wrote that the king commanded him "to make a plain and terminate answer" as to whether he thought "statute lawful or not" and that he should "either knowledge and confess it lawful that His Highness should be the Supreme Head of the Church of England or else to utter plainly my malignity."²

In consequence of this demand, Thomas More was forced to consider other points of law and his duties in relation to them.

For example, was it malicious intent and behavior to give an opinion that a statute was not lawful and that the king could not be the Supreme Head of the Church by a statute law in England? When More asked the Master Secretary, Thomas Cromwell, whether he could declare his reasons for refusing to swear to the oath without incurring the king's displeasure and the peril of any statute, the Master Secretary gave the opinion that while the king could give More special permission to declare his reasons, even the king himself could not exempt More from what the statutes prohibited and from the penalties that they imposed.³

It appeared to More, too, that the king did not have the authority by his laws to compel a plain answer one way or another; in law, matters were not necessarily either right or

1. Ibid., pp. 213-14.

2. Ibid., p. 236.

3. Ibid., p. 236. More may have been thinking of Wolsey's crime under the Act of Provisors. Though the King permitted the Cardinal, as papal legate, to act contrary to statute law, the statute was legally used against him when it suited the King.

wrong in themselves but in the light of related circumstances. Moreover, in cases of conflict between higher and lower laws, particularly in matters of religion, where the difference did not necessarily involve one of two temporal punishments, but where for the defendant it was a difference between a temporal penalty and eternal punishment, the defendant was bound to follow the higher law.¹ More also doubted the presumed omniscience of parliament and of the king in determining what was contrary to or within the dictates of divine law. For example, did parliament have the right and authority to declare, as it did in the Act of Succession, that Henry VIII's marriage with Catherine was "against the laws of Almighty God"? More answered these questions in conformity with his general view of law-centered kingship.

B. Law-Centered Kingship in More's Political Thought

Like most theorists of his age, Thomas More affirmed the concept of the king within the law, not above the law. The legitimate exercise of the king's power existed only in a context of theoretical and practical limitations. Theoretically, the king was bound by the law of God and natural law as much as was every subject. The spiritual authority of the papacy, rooted in divine law, could not be usurped by the king. The inviolability of the individual conscience, whose

1. Ibid., p. 251.

final appeal rested in the spiritual authority, could not be attacked by the king or by the secular institutions through which the king exercised his power. In that he could make law and was bound to enforce it, the king was in some sense above the law of the realm; but, in the final analysis, because just human laws were a reflection of the divine and natural laws, the king was bound by positive human law and had to heed international law and arbitration for the good of Christendom as a whole.

Thus, More's idea of law-centered kingship can be understood only in terms of his concept of law as objectively real and as unitary in the sense that various laws reflected and were an expression of the law of God. More illustrated this unity of law when he noted that divine law did not divide possessions; nor did reason alone (natural law) prescribe how property was to be divided. Both laws were sources of first principles by which reasonable decisions were to be made. The consent of these decisions, either coalescing in usage or expressed in writing, constituted unwritten or written human law.¹

More accepted the Thomistic medieval description of natural law or law of nature as the reflection of the law of God in rational creatures² and of human or man-made laws of

1. Responsio Ad Lutherum, p. 232.

2. R. W. Chambers, The Place of Saint Thomas More in English Literature and History, p. 115.

the land within their proper area of jurisdiction as conforming to the dictates of the natural law. This three-fold order of medieval jurisprudence (law of God, law of reason or nature, and the law of the land or human law) can be easily illustrated in More's thought. In More's History of King Richard the Third, the widow of Edward IV answered the Archbishop of Canterbury's attempt to persuade her to give up her younger son from sanctuary at Westminster to the care of Richard by saying:

"Wherefore here intend I to kepe him sins mans law serueth y^e guardian to kepe the infant. The law of nature wyll the mother kepe her childe. Gods law pryuelegeth the sanctuary, & the sanctuary my sonne, sith I fere to put hym in the protectours handes that hath hys brother already, and were if bothe fayled, inheritour to the crowne..."¹

Thomas More reaffirmed these principles during his trial particularly when he argued that the indictment and statutes under which he was being tried were in contradiction to the law of God, the law of reason, and the law of the land.² More argued that they were against the law of God in the following words:

"And foreasmuch as this Indictment is grounded upon an Act of Parliament directly repugnant to the law of God and his Holy Church, the supreme government of which, or of any part whereof, may no temporal prince presume by any law to take upon him, as rightfully belonging to the See of Rome, as a special prerogative granted by the mouth of Christ Himself to St. Peter, and the Bishop of Rome, his successors, and it is therefore in law among Christian men insufficient to charge any Christian man."³

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1. Richard III, p. 39. Underscoring is mine.
 2. W. Roper, The Lyfe of Sir Thomas More, p. 77.
 3. The Correspondence of Sir Thomas More, p. 506.

They were contrary to the law of reason as well:

"For this realm, being but one member and small part of the Church, might not make a particular law disagreeable with the general law of Christ's universal Catholic Church, no more than the City of London being but one poor member in respect of the whole realm might make a law against an Act of Parliament to bind the whole realm."¹

Finally, they were contrary to the law of the land and to the coronation oath:

"...both contrary to the laws and Statutes of this our land yet unrepealed, as they might evidently perceive in Magna Carta, quod Ecclesia Anglicana libera sit, et libertates suas illaeas, and also contrary to the sacred oath which the King's Highness himself and every other Christian prince, always with great solemnity received at their coronations."²

Therefore, More concluded that he was not bound to change his conscience in order to conform with the council of one realm against the general council of Christendom. Thus, More as a lawyer in the field of common law saw the bearing of divine law on the contemporary situation and took a stand against the human law that was contrary to it. If the king or parliament obliged obedience to an unjust law, the law had to be obeyed; not for its own sake, however, but out of consideration for the demands of general justice made necessary by the danger of greater evils which superseded any positive law.

The just prince was limited in his law-making powers in that his will had to conform to God's law.³ The king had

1. Ibid., p. 506.

2. Ibid., p. 506.

3. Dialogue of Comfort, p. 264. Cf. Treatise on the Passion, E. W., p. 1298.

power to make laws that were binding upon men; but the laws to which he bound his subjects were not to be such that "by God were forbidden; nor should they be such that will lead men to set God's law for men's tradition..."¹ In Utopia, the citizens recognized a power and law above that of the state.²

Had More considered the king or the state as the sole source of justice and the binding power of law, he would not have considered any law as "unlawful". More denounced those temporal and spiritual rulers as well as heretics who would equate the law of God with their own whims, "under the pretense of holiness," rather than with reason;³ or those who would dishonour the law of God by false promises and oaths: "what surety can a man have of...a great prince but his promise, which for his own honor it cannot become him to break?"⁴ Should the king break the law of God, what recourse does the subject have? "Who shall come and cast it in his teeth, and tell him it is a shame for him to be so fickle and so false to his promise?"⁵

Subservient to the divine law was the natural law as conceived by reason. In Utopia reason ruled and so it should rule among Christians. In his controversies with the heretics,

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1. Confutation of Tyndale, E. W., p. 507.
 2. Utopia, p. 197.
 3. History of the Passion, p. 111.
 4. Dialogue of Comfort, p. 348.
 5. The Dialogue Concerning Tyndale, p. 192.

More reaffirmed the reality of the unwritten natural law present in the hearts of men. "So it was convenient for the law of life, rather to be written in the lively hearts of men than in the dead skins of beasts."¹ In the Responsio, More supplemented his defense of a perpetual natural law by Biblical texts:

"Isn't Luther moved at all by God's own word, quoted by the Apostle: 'I will put my laws in their hearts; I shall inscribe them on their minds'? (Heb. 8, 10). He does not say on stone; He does not say on wood, but just as He inscribed the Old Law on stone externally, so the New Law He will inscribe within, by the finger of God in the book of the heart..."²

When the law of nature, however, found expression in the man-made laws of a Christian society, it had to be tempered by the "new law of clemency and mercy" of Christ which was itself the highest justice.³

In a political society, the natural law was fulfilled when the proper aim of the state was attained. Concerned with the common good, the king was obliged to direct the laws to its fulfillment, to the "just and even distribution of goods,"⁴ and to "virtue, good manners,...God's honour."⁵ Actions that were contrary to the common good were not legal and did not bind the citizens: "...when men assemble together, to devise and counsel about mischief and wretchedness,

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1. Ibid., p. 95-6.
 2. Responsio As Lutherum, p. 140.
 3. W. Roper, The Lyfe of Sir Thomas More, p. 45.
 4. Utopia, p. 105.
 5. Confutation of Tyndale, E. W., p. 507.

the more that are at it, the worse is the counsel, and the less to be regarded..."¹ Parliamentary action contrary to its powers or to the public interest would be contrary to the natural law.² More showed no patience with those who under the guise of serving the public good sought only that "they may hear a rule, command and control other men, and live uncommanded and uncontrolled themselves."³

Both beggar and prince were restrained by the laws, not only by the commandments of God but also by "laws made by men for the quiet and politic governance of the people." The king had no right to impose fines and forfeits that a private person could not demand for similar transgressions.⁴ The king's burden was greater, however, than that of private citizens: he would have to answer not only for his actions within the law but also for the good laws which he had left unmade and for the "worse made in their stead."⁵

As More saw it, the king's legislative authority was further limited by the principle that every subject must be free to judge human actions by his own conscience. When the Lord Chancellor and the Secretary told More that the king by his laws might compel More to make a plain answer one way or

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1. Treatise on the Passion, E. W., p. 1301.
 2. Debellation of Salem and Bizance, E. W., p. 1016.
 3. Dialogue of Comfort, p. 284.
 4. Utopia, p. 93.
 5. Dialogue of Comfort, p. 255; also see pp. 371-2. Cf. Utopia, p. 103. More lamented the inadequacy of contemporary rulers: "...many nations...ever making ordinances and yet never one of them achieving good order."

another as to the lawfulness of the statute making Henry VIII the Supreme Head of the Church of England, More replied that he would not question the king's authority to do this but "...it were a very hard thing to compel me to say either precisely with it against my conscience to the loss of my soul, or precisely against it to the destruction of my body."¹

More's principle was that the law of one realm in matters touching belief did not necessarily bind a man's conscience especially if there was a law of the whole corps of Christendom to the contrary. In fact, the positive law of a realm which contradicted the universal agreement of the Church disavowed the natural law because in such a case "the reasonableness or unreasonableness in binding a man to a precise answer standeth not in the respect or difference between beheading or burning, but because the difference in charge of conscience, the difference standeth between beheading and hell."²

Interestingly, even Cranmer's advice to Cromwell reflected a feeling that the desired political purposes of the King could have been achieved just as effectively by accepting More's willingness to swear to the succession (rather than to the preamble as well) as sufficient, that there was no justification even from the point of view of political

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1. St. Thomas More: Selected Letters, p. 251.
 2. Ibid., p. 251.

expediency to violate a man's freedom of conscience in this particular case or to frame a context of treason for More's stand. More's oath to the succession would quiet Catherine and Mary, the Emperor and his friends "who have so much faith in what the lord of Rochester and More say and do," and, Cranmer added:

"...it would be a good quietation to many others within the realm, if such men should say, that the succession comprised within the said act, is good according to God's laws. For then I think there is not one within this realm who could ever reclaim against it."¹

Of course, Cranmer's advice was not followed--perhaps because of the Boleyn Party but certainly because the vital issues really did go far beyond the specific question of the king's marriage and succession; only later did Cranmer arrive at this realization.

More also conceived the king's authority as being limited by the international community to which the state belonged. In practice, this meant, first, that the spiritual authority of the papacy over Christendom excluded the king from claiming direct spiritual authority. The papal power could be used to curb the king if and when he went against the laws of Christendom. Secondly, this membership in the international community was also a source of limitations upon the king's own secular jurisdiction.

1. W. J. Walter, Sir Thomas More: His Life and Times Illustrated From His Writings and from Contemporary Documents, p. 264. Cranmer's letter to Cromwell, April 17, 1534.

The papacy, in More's view, possessed supreme moral and spiritual jurisdiction, superior both to private judgment and to the authority of the secular prince. Because Christendom as he saw it was one international society, it appeared to More that the head of the Church was also the head of this international community. Within its proper jurisdiction, the spiritual, the Church, therefore, had a right to maintain its own law and courts.¹ More went on to say that no man, not even the temporal sovereign, was exempt from the jurisdiction and decision of these courts:

"...he [Henry VIII] did well and virtuously for the acquitting of his conscience to sue and procure to have his doubt decided by the judgment of the Church...the matter was in hand by an ordinary process of the spiritual law..."²

It was beyond the competence of the king and the secular government to alter or revoke those laws which applied to purely spiritual matters. No one had the right to deny or usurp the jurisdiction of their spiritual rulers. The faithful had an obligation to obey them for the "spiritual weal of their souls."³ Any lay usurpation of ecclesiastical authority was synonymous with grave disorder in the exercise of kingship.⁴ Considering the spiritual authority of the Church, for example, the power to administer the sacraments was held

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1. Confutation of Tyndale, E. W., p. 790.
 2. The Correspondence of Sir Thomas More, p. 495.
 3. Apologye, p. 112.
 4. Treatise on the Passion, E. W., p. 1301.

directly from God.¹ The use of the spiritual sword, teaching and preaching, as well as excommunication, pertained not to the secular rulers but to the Church alone.²

This God-given authority possessed by the Church was the basis of its primacy. This primacy, in turn, was the basis of the unity of the faith. No temporal prince, according to Thomas More, could presume to take upon himself the supreme government of the Church or any part of it because it rightfully belonged to the See of Rome. C. Hollis expressed More's argument thus:

"If there is a Pope, you ought to obey the Pope. If there is not a Pope, you ought to obey the General Council. In any event, you (Henry VIII) cannot be supreme head of the Church yourself."³

More considered that the powers to excommunicate and to take disciplinary actions were legitimate rights of the papal office.⁴ Such actions were aimed to maintain the unity of Christendom and the "bonum politicum" of the international society of Christendom. After years of thought and study, More concluded that the papal primacy was "provided by God." This view of the papal primacy as well as More's concept of temporal purposes of the papacy such as "the more quietness of the ecclesiastical body" and the avoidance of schism⁵ had

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1. Debellation of Salem and Bizance, E. W., p. 1023.
 2. History of the Passion, p. 104.
 3. C. Hollis, Saint Thomas More, p. 199.
 4. History of the Passion, p. 104.
 5. The Correspondence of Sir Thomas More, p. 498.

an important bearing on More's discussion of the limitations on the king's powers. More upheld the pope's right to intervene in interstate relations and in relations between the state and its citizens when religion or morals were seriously threatened.¹

C. The King's Sovereignty and Some Practical Issues

The nature of the legal limitations on kingship as defined by Thomas More was intimately bound up with his views of the nature of authority and of laws as formulated by men. Many of More's ideas regarding the king's limited sovereignty clashed with the views of some of his contemporaries and those of men who achieved prominence in political theory and practice after 1534. During the reign of Henry VIII, the specific issues that called into question the exact line between what could or could not be done legally by the king, by parliament, or by the two together were numerous. Briefly, the outstanding legal issues were rooted in the old questions of clerical immunity, sanctuary, the nature and extent of the spiritual matters related to the headship of the Church and to the Church's doctrinal and sacramental system, the relative competence of statute law, and the state's right to claim or confiscate privately-owned property.

More's precise position on many of these issues is not

1. J. W. Allen, A History of Political Thought in the Sixteenth Century, p. 205.

clear, but from what he does say it is obvious that More believed that in all these areas the king's power was limited in some way. More defended clerical immunity from the secular jurisdiction of civil courts on the grounds of the spiritual independence of the pope and clergy. In Utopia the priests were exempt from all human judges, both secular and spiritual.¹ E. Surtz inferred from this that More's true view was that "European states should at least allow the spirituality to be judged by the spirituality alone."² More apparently agreed that the civil authority did have jurisdiction over clerics when they transgressed civil laws. When they transgressed spiritual laws, however, it was proper for them to appear before the ecclesiastical courts. In the final analysis, God alone could bring His Vicar and His Church to account for spiritual matters. This followed from More's view that the primacy of the pope was "provided by God."

Thomas More did more than merely strip the medieval principle of clerical immunity of its abuses.³ More made explicit his view that the "convening of priests before secular judges" was entirely legal, although it had ceased to be customary usage.⁴ The property of priests and parishes properly fell within the jurisdiction of the common law.⁵

1. Utopia, p. 229.

2. E. Surtz, The Praise of Wisdom, Chicago: Loyola University Press, 1957, p. 168.

3. R. W. Chambers, Thomas More, p. 133.

4. Debellation of Salem and Bizance, E. W., p. 1017.

5. Ibid., p. 1018.

More denounced the worldly pomp and vanity as well as the spiritual vices of the clergy.¹ As a civil official in the secular courts, More passed judgment on clerics who broke the law and had them punished without favoritism:

"Priests and religious, running out of religion and falling to theft and murder, had at my hand so little favor that there was no man, that any meddling had with them, into whose hands they were more loath to come."²

Sanctuary was necessary as a protection against the unscrupulous use of the law to take advantage of the unfortunate or those without means to resort to the law itself. By natural law and by God's law it meant to assure a minimum standard of security for all; therefore, the king was bound to respect it. However, it did not give the king or anyone else privileges over and above the law. For example, it could not be used to shield proven thieves, murderers, or malicious traitors; nor could it be used to discharge the debts of one able to meet his obligations.³ Not even the king could grant the privilege of sanctuary against unlawful treatment because in this sense the whole realm was a sanctuary for every single citizen. Freedom to injure anyone unlawfully was forbidden everywhere by the king, by the law, and by very nature.⁴ Only a tyrant would dare to presume to break sanctuary in its true sense. To do so would be against the law of God

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1. Supplication of Souls, E. W., p. 314.
 2. Apologye, E. W., p. 868.
 3. Richard III, pp. 30-1.
 4. Ibid., pp. 31-2.

itself.¹

More did not hesitate to express his disapproval of the secular power's encroachment in spiritual matters. More disapproved of Henry VIII's divorce because of his own belief in monogamy and in the indissolubility of marriage. From the legal point of view, however, More's objection to the drift of Henry's policies was focused on the sacramental character of marriage which made the marriage issue the proper sphere of Church and papal jurisdiction.²

Whatever the truth of More's version of the Hunne case,³ More's discussion was an expression of a view that made room for a division of legal labor, that provided for spiritual cases to be brought to the spiritual court and for civil cases to be brought before the temporal law. In relating the case, More claimed that

"...the Bishop...did...forbear till it appeared clearly to the temporal judges and all that were anything learned in the temporal law that his suit of the praemunire was nothing worth in the king's law, forasmuch as by plain statute the matter was out of the question that the plea to be holden upon mortuaries belongs unto the spiritual court."⁴

1. Ibid., pp. 37-8.

2. St. Thomas More: Selected Letters, pp. 206-7.

3. Richard Hunne, a prosperous merchant, imprisoned for heresy, was found hanged in the bishop's prison while awaiting trial. As Under-Sheriff, More went with the Lords of the Council to Baynard's Castle to examine witnesses. Was this a crime of suicide added to heresy, or had the clergy added the crime of murder to that of false-witness? More was certain that it was a case of suicide, but popular feeling accused the bishop's officials of murder. Cf. A. Ogle, The Tragedy of the Lollard's Tower, Oxford, 1949; also The Supplication of Souls, pp. 35-8.

4. The Supplication of Souls, p. 35.

More accused Simon Fish of dishonesty in claiming that Hunne "was kept in plea in the spiritual law for a matter determinable in the king's court." As More saw it, "the matter was for a mortuary, which by plain statute is declared to pertain to the spiritual law."¹

The headship of the Church was another issue involving the question of what the king could and could not do. More was asked why he could not accept the king as head of the Church of England. His reply, according to a document recently discovered by E. E. Reynolds, was that

"a king (ma)y be made by Parlyament and a King deprivyd by Parliament to which act any [erasure] subjett being of the Parliament may gyve his consent but to the case (you put) a subjett can not be bound by cause he cannot give his consen(t) (?o)n hym (?in) the Parliament, Saying further that although the King were accepted (with) in Inglond yet moste utter parts does affyrm the same."²

In other words, parliament could make or deprive a king; and each subject, being in theory represented in parliament, was bound by any act defining the succession. At the same time, More emphasized that the parliament and king of one realm had no competence to legislate regarding the headship of the one and indivisible Church or on other matters within exclusive competence of the papacy or Church council. Therefore, the subject could not give consent to legislation outside the power of the body seeking such consent.³ It followed

1. Ibid., p. 38.
 2. J. Duncan M. Derrett, "The 'New' Document on Thomas More's Trial," Moreana, No. 3(1964): 7-8.
 3. Ibid., p. 8.

from More's point of view that the king's subjects could not be bound by an act which claimed to make Henry spiritual head of the Church in England. On the other hand, More drew attention to the supremacy of legitimate statutes; even the king's permission to go contrary to the statutes meant nothing in the courts.

As Speaker in the House of Commons in 1523, More also defended parliamentary privileges and freedom of speech for members in parliament against the King and Cardinal Wolsey. The following excerpt was the core of More's request and might be interpreted as a veiled criticism of King Henry VIII's restriction on the freedom of debate in the Commons.

"...most gracious sovereign, considering that in your high court of parliament is nothing treated but matters of weight and importance, concerning your realm and your own royal estate, it could not fail to put to silence from the giving of their advice and counsel many of your discreet Commons to the great hindrance of your common affairs, unless every one of your Commons were utterly discharged from all doubt and fear how anything that it should happen them to speak, should happen of your highness to be taken...such is the weight of the matter, such is the reverence dread that the timorous hearts of your natural subjects conceive towards your highness, (in spite of the king's proven benignity), our most redoubted king and redoubted sovereign, that they cannot in this point find themselves satisfied, except your gracious bounty therein declared put away the scruple of their timorous minds, and put them out of doubt. It may, therefore, like your most abundant Grace to give to all your Commons here assembled, your most gracious license and pardon freely, without doubt of your dreadful displeasure, every man to discharge his conscience, and boldly in everything incident among us to declare his advice, and whatsoever happeneth any man to say, that it may like your noble majesty, of your inestimable goodness, to take all in good part, interpreting every man's words, how uncunningly soever they may be couched to proceed yet of good zeal towards

the profit of your realm, and honor of your royal person..."¹

Finally, the king was restrained by the laws that assured his subjects of their right to acquire and own property. In Utopia, More asks:

"...when people are goaded by want and yet the individual cannot legally keep as his own what he has gained, must there not be trouble from continual bloodshed and riot? This holds true especially since the authority of magistrates and respect for their office have been eliminated, ..."²

More objected to any arbitrary civil claims on the property of the clergy.³ The king or state had no legal right to confiscate property, whether from laymen or from churchmen, if it were held according to the law. Answering Saint Germain's suggestion that the clergy's "superfluous" wealth be confiscated, More questioned the right of taking away "from any man spyrytuall or temporall agaynste hys wyll, the lande that is all redy lawfully hys own."⁴ More claimed that in all his years at court, he heard very few opinions that

"it were eyther ryght or reasonable, or could be the realme profytable without lawfull case, to take any possessyons awaye from the clergy, whyche good and holy prynces and other deuoute vertuose people, of whome there be now many blessed sayntes in heuen, haue of deuocyon towarde god geuyn to the clergy, to serue god and praye for all chrysten souls."⁵

1. W. J. Walter, Sir Thomas More: His Life and Times Illustrated..., p. 100. Cf. W. Roper, The Lyfe of Sir Thomas More, pp. 21-3.

2. Utopia, p. 107.

3. Debellation of Salem and Bizance, E. W., p. 943.

4. Apologie, p. 86.

5. Ibid., p. 94.

Again, in The Supplication of Souls, More was highly critical of opinions favoring property confiscations. The Church held land from its owner by his devotion and his free gift as well as according to the laws of the land. Since no law was broken, there was no lawful reason to justify any confiscation.¹ Once confiscation of Church property was allowed, whatever the excuses given, a broad area of violation of rights of private property would be thrown open:

"...yf any man wold gyue the counsayle to take any mannys lands or good from hym, pretendynge that he hath to myche, or that he vseth it not well, or that it myght be better vsed yf some other had it: he gyueth such a counsayle as he maye when he lyst, and wyll peradventure after, streche a great dele ferther then the goodys or possessyons of onely spyrytuall men."²

In conclusion, the history of common law emphasized the individual's prerogative to property against the king's prerogative to rule. The canon law principle of conscience and the Aristotelian concept of equity, never completely divorced from the common law, were the underlying bases of More's concept of the king's limited sovereignty. When Henry VIII broke with the Church and severed England from a jurisdiction beyond that of the realm, the limitations on the king's power deriving from a law outside statute law (that is, divine law or law of nature as judged by the Church in its courts and its councils, and by its theologians and canonists) began to lose practical significance. It was this revolution that Thomas More could not accept. As an objector, he stood as a temporary bulwark against the king's absolutist tendencies, particularly in matters of religion and conscience.

1. The Supplication of Souls, p. 164.
 2. Apologye, p. 86.

CHAPTER VIII: DISRUPTION OF TRUE KINGSHIP: TYRANNY AND ANARCHY

A. Tyranny: Disruption of Kingship From Above

Thomas More, like his fellow-humanists, expressed a deep aversion to tyranny. He analyzed the nature of tyranny in terms of those factors which were contrary to his principles of good government and true kingship. First, tyranny was the end-product of a king's uncontrolled pride and ambition, all too often reinforced by the flattery and ambition of his own counselors. Moreover, tyranny existed when rulers exercised power outside the limits of the moral law or contrary to the people's tacit or direct approval. A state of tyranny also developed when the ruler ignored or disrupted the natural order of offices or the reciprocal nature of human relationships. Thomas More further observed that the declining influence of Churchmen in temporal affairs weakened one of the most effective curbs on the king's power at a time when few practical and effective controls of a secular nature had yet evolved.

Observing the affairs of his own day, More concluded that the peace and welfare of the state were constantly threatened by the uncontrolled passions of those in authority, particularly of those aspiring to the highest offices. A consuming desire for the king's position, an "immoderate appetite for worship"¹ or "the inexecrable desire of souerayntee,"² tempted men

1. Richard III, p. 12.

2. Ibid., p. 6.

to rebellion against their legitimate rulers and drove them to adopt evil and inhuman devices in order to ensure their success.

Thomas More described Richard III as

"...dispitious and cruell, not for euill will alway, but oter for ambicion, and either for the suretie or encrease of his estate. Frende and foo was muche what indifferent, where his aduantage grew, he spared no mans deathe, whose life withstoode his purpose."¹

Richard's plan to destroy the two princes was just another step towards his "vsurpacion of the regal dignitey vpon hymselfe."² Long before the murder of the princes, Richard was already fanning the existing divisions between "the Quenes kinred and the kinges blood eyther partye enuying others authoritye" as a "fortherlye begynnyng to the pursuite of his intente and a sure ground for the foundation of al his building."³ Earlier, the Duke of York had intended to usurp the rule of King Henry VI "vnder pretexte of discencion and debate arisyng in the realm..." His three sons, "gredye and ambitious of authorite, and impacient of partners," continued the struggle for power.⁴

Such dissensions and struggles could lead only to troubles and losses for the realm. From his deathbed, More's Edward IV warned the nobility that should they prove unwilling to bury their grievances for the sake of "godde or your king, affinitie

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1. Ibid., p. 8.
 2. Ibid., p. 9.
 3. Ibid., pp. 9-10.
 4. Ibid., p. 6.

or kinred, this realme, your owne countrey, or your owne surety," civil war would burden the realm and "many a good man shal perish and happely he to and ye to, ere thys land finde peace again."¹

The evils of tyranny growing out of a struggle for power would not necessarily end with a successful revolution. Usually, the new ruler found it necessary to exercise increasingly tyrannical power in order to preserve his ill-gotten position. Richard III, for example, "through all the time of his reign never ceased cruel death and slaughter, till his own destruction ended it." The new ruler now was threatened with revolt of ambitious men in positions of authority subordinate to his. In the meantime, these men spared no energy in attempting to outwit him in moments of weakness or to take advantage of his failures. On the other hand, while the ruler exercised a firm rule and was blessed with success, these ambitious subordinates treated him to hypocritical flattery at the same time that "either partye laboureth to bee chiefe."²

Through the vehicle of Utopia, More criticized contemporary abuses of authority in England and bewailed the consequently widening gulf between the king and his people. In practice, the king misruled when he attempted to rule through insults, ill-usage, confiscation, and impoverishment; when he rashly

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1. Ibid., p. 13.
 2. Ibid., p. 11.
 3. Utopia, p. 93.

revived laws already abrogated by disuse and long forgotten; and when he seized property for a fine even though a judge would have decided that it would be wicked and fraudulent for a subject to claim it under similar circumstances.

More refused to recognize that one set of rules applied to private citizens while another applied to princes. In his opinion, such a double standard was an open invitation to tyranny because it abolished all sanctions over the king's unjust actions. What the king would desire would be considered lawful for him.¹ Without the sanction of a law applying equally to the rulers and to their subjects, society would fall into disorder and would eventually collapse.

In upholding the principle that laws applied equally to both the king and his subjects, that the king was not above the law, More castigated not only the kings who deliberately sought their counselors' support for their tyrannical rule but also those counselors who encouraged the king in it, perhaps out of fear or for their own selfish motives. Lacking a true sense of values, a sense of justice, a sense of duty, and devotion to the commonweal, they too often lost sight of their moral duties as advisers to a Christian king ruling over Christian subjects.² The king's duty was to govern free men. How unworthy and subservient were those counselors who influenced him to the contrary.

1. H. W. Donner, Introduction to Utopia, p. 41.

2. Utopia, p. 91.

More observed that kings succeeded in dissembling their tyranny through a number of devious policies. Kings might, in order to raise money, pretend that war threatened; when the money was in, they would pretend to have made peace so that the people would attribute the peace to the piety of their prince and to his tender care for the lives of his subjects. A king might also levy penalties for the breaking of antiquated laws which had fallen into disuse so that people would credit him with executing the law and with doing justice. He might, moreover, forbid many things under severe penalties, then dispense with these prohibitions, thereby winning favor with the people.¹ It was equally perverse of the king's council to recommend certain financial measures which would make the king appear, even in his injustice and misrule, more just and solicitous for the people's welfare than he was. The king and his counselors ruled as tyrants too whenever they attempted to coerce judges to decide cases in favor of the king. In taking advantage of judges' fears, temptations to win favor with the king, or any other human weakness, they acted contrary to the laws of nature and of God.

Kingship was transformed into tyranny not only when laws were rejected or misused but also when what was essentially unlawful was "legalized" by the courts or by the "high court of parliament". In the History of King Richard the Third,

1. Utopia, p. 93.

More observed that, historically, Richard as Duke of York "...beganne not by war, but by lawe" to usurp the crown.¹ In his later years, More had ample opportunity to experience at first hand the legalized tyranny of King Henry VIII.

Kingship was transformed into tyranny when rulers ignored or upset the human relationships of mutual rights and duties which arose by nature or were created by law. The natural and legal social relationships which Richard III flouted were many. In usurping the crown and in having the princes murdered, Richard disregarded most sacred obligations: that he was by nature the princes' uncle; that by Edward IV's appointment and by his debt of "filial piety", he was the princes' guardian; that by oath and feudal allegiance he was their servant; and that by office he was designated protector of the realm. Thus, Richard severed the bonds of unity upon which depended the peace and the common good of the realm; he destroyed "al the bandes...that binden manne and manne together, without anye respecte of Godde or the worlde..."²

Assuming various levels of authority, arranged hierarchically, within the state, Thomas More believed that true authority predicated a parallel set of legal relationships. When these relationships were abused, when the king imposed stricter justice than the law permitted or when he allowed the law to be flouted to his advantage, he ruled as a tyrant. Under

1. Richard III, p. 6.
2. Ibid., p. 6.

tyranny, penalties often were excessive or crimes went unpunished, depending on the tyrant's whims or expediency. Such a misuse of laws by the king put the people into a slavery which demanded that they obeyed "not certain and stated laws, but wills which are uncertain and changing from day to day."¹

According to one of More's epigrams, the king's tyranny was the people's slavery.² It thrived upon the insecurity and the injustices to which it subjected the people. In Richard III, Hastings, one of Richard's victims, "when he reckoned himself surest, he lost his life, and that within two howres after."³ Men in authority under a tyrant's rule fell "by change of their master's mind." "...so fareth it, lo, sometime with those that seek the way to rise and grow up in authority by the favour of great princes, that as they rise up high so fall they down again as low."⁴ Keeping company with kings who were tyrants was like playing with lions-- "often it is harmless, but every time there is the danger of harm. Often in anger he roars for no known reason, and suddenly what was just now a game brings death."⁵

That More considered Church authority to be an important curb to the tyranny of temporal rulers and to their injustice

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1. E. Surtz, The Praise of Wisdom, p. 186.
 2. The Latin Epigrams of Thomas More, p. 171.
 3. Richard III, p. 52.
 4. A Dialogue of Comfort, p. 339.
 5. The Latin Epigrams of Thomas More, p. 190.

found expression in his answer to Luther:

"It is...to be hoped that God will make such men Pontiffs as befit the Christian cause...who...will...exercise the authority they have received from God against the satraps and mighty hunters of this world, pursuing them with dire omens and handing them over to Satan, if any of them invades the land of others or oppresses his own."¹

In Utopia, More blamed the evil state of the realm "to the pride and folly of the nobility and the monarchs against which the wise and venerable ecclesiastics, who had held high office, had struggled in vain."² He contrasted the enlightened views of Cardinal Morton with the narrow notions of the lay lawyers of the age whose influence upon the law and legislation was far from the more humane influence which the Church officials exerted but with less success.³

In his epigram, What Is The Best Form of Government?, More questioned the wisdom of supporting a monarchical form of government just because "serious disagreement impedes a senate's decisions, while no one disagrees with a king."⁴ More described the latter alternative as "the worse evil of the two." Subjects under an autocrat lose their freedom of discussion and their right to express a difference of opinion about important matters. At the end of More's Richard III, Cardinal Morton made the following statement:

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1. Responsio Ad Lutherum, p. 162.
 2. Anon., "The Age of Morton, Wolsey, and More," Dublin Review, p. 36.
 3. Utopia, pp. 71-81.
 4. The Latin Epigrams of Thomas More, p. 201.

"I loue not much to talk muche of princes, as a thing not all out of peril, thoughe the word be without fault forasmuch as it shal not be taken as the party ment it, but as it pleaseth y^e prince to conster it."¹

Thomas More also referred to the stifling effects of tyranny. Through another speech by Cardinal Morton, More graphically portrayed the indifference of despair and the subjects' reluctance to express any critical opinions about the political scene.

"...if the worlde woold haue gone as I would haue wished, king Henryes sonne had had the crown & not king Edward. But after that god ordered hym to lose it, and kinge Edwarde to reigne, I was neuer soo mad, that I would with a dead man striue against the quicke. So was I to king Edward faithfull chapleyn, & glad wold haue bene that his childe had succeeded him. Howebeit if the secrete judgement of god haue otherwise prouided: I purpose not to spurne againste a prick, nor labor to set vp that god pulleth down. And as for the late protector & now kyng. And euen there he left, saying that he had alreedy medled to muche with the worlde, and would fro that day medle with his boke and his beedes and no farther."²

A tyrant's subjects viewed government as the king's game

"...for the most part plaied vpon scaffoldes. In which pore men be but the lokers," a game in which the wise avoided all political offices, for "they that sometyme step vp and playe with them...disorder the play and do themself no good."³

C. Danger of Anarchy: Disruption of Kingship From Below

In addition to the misuse of the office of kingship by the king and his counselors, More was aware of two other

1. Richard III, pp. 92-3.

2. Ibid., p. 92.

3. Ibid., p. 81.

particular dangers to the exercise of true kingship: rebellion against political authority and religious heresy. Attacking the very foundations of authority in society, both would eventually lead to anarchy.

Thomas More's early interest in popular resistance to tyranny is often illustrated by referring to his study of Lucian and his reply to Lucian's speech, "On the Tyrannicide" (c. 1506). At this early stage More showed his awareness of the dangers of violent resistance. Lucian's speech defended the legal right of any citizen to assassinate a usurper and then to claim a reward (in spite of the fact that in his example it was the tyrant's son who was killed by mistake).

R. W. Chambers sums up More's position as follows:

"The assassin can claim no reward from us citizens. He has committed a crime which, accidentally, has led to our liberation. But the murder of the tyrant's son was an act which, in all likelihood, would have made him revenge himself upon us with intensified and unaccustomed ferocity. Who could reasonably have expected that the tyrant, finding his son's dead body, should have turned the sword on himself rather than on us. Let us not say that we owe our salvation to the rashness of a man, but to the bounty of the gods."¹

More rejected direct and violent action against tyrannical rulers for a number of reasons. First, making public their abuses would give occasion to scandal by which a greater public good might be lost.² Secondly, More saw the grave danger of anarchy should all men feel free to act according

1. R. W. Chambers, The Place of Saint Thomas More in English Literature and History, pp. 62-3.

2. Debellation of Salem and Bizance, E. W., p. 1016.

to their personal judgments about government. Among those in positions of power as well as among commoners, some would dislike even the best of laws.¹ In revolting against established laws and authority, a small number of such persons could bring about great strife and tumult to the realm as a whole.

"...the example of one law boldly broken and set at naught waxeth a precedent for the remnant to be used like. And commonly, the best laws shall worst like much of the common people, which most long--if they might be heard and followed--to live all at liberty under none at all."²

Often, the disorder caused by the rebels would lead only to greater injustices than the ones they claimed to remedy.³

For these reasons, More was an advocate of passive resistance to tyranny. As long as a tyrant ruled, men were obliged to obey him, at least outwardly, 'with the body'. For the sake of order and the common welfare, More felt that the subject must obey, at least passively, even the unjust commands of the king provided that they were not "against his faith or the law of God."⁴ While the king had the general right to compel obedience to temporal sanction, More did not consider a man bound to swear "that every law is well made" nor "to perform any such point of law as were indeed unlawful" and contrary to God's law.⁵ Generally, the civil

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1. The Dialogue Concerning Tyndale, p. 242.
 2. Ibid., p. 245. Cf. Responsio Ad Lutherum, p. 59.
 3. The Four Last Things, p. 52.
 4. St. Thomas More: Selected Letters, pp. 205-15.
 5. The Correspondence of Sir Thomas More, p. 524.

rulers and even invalid civil laws were to be obeyed because of their inherent authority with a natural claim to obedience, because of God's command, and in order to avoid the greater evils of anarchy. God willed that

"...they [the people] shall obey their princes and governors, because they be their governors and rulers, and because God hath so commanded. For if they measure their obedience by the measure of their own profit... they shall soon seek occasion of sedition and thereof do themselves also more harm in one day than should their ruler in many years."¹

There was one hope for those whom the tyrant oppressed, however; this was death. "...the defender of liberty, Death, touched by pity, will with violent hand, while the tyrant rages, bring him down...and will lay him right before your feet."² Evil ravages the world through tyrants; "the prince of darkness...as he may covertly convey his venomous poison into those tyrants and tormentors' hearts, so will he for a short time while he shall be thereto licensed, utter and practice his might and power by them."³ The world in which tyrants work their wicked wills shall not endure for always, and "the king of kings...a dreadfull king which taketh away the spirit of princes" will cast down his enemies.⁴

The second major threat to the exercise of true kingship, in More's opinion, was that of the heretics and their rejection of the traditionally accepted religious, philosophical, and

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1. Confutation of Tyndale, p. 364.
 2. The Latin Epigrams of Thomas More, pp. 161-2.
 3. History of the Passion, p. 118.
 4. Ibid., pp. 119-20.

political concepts of society. As it seemed to him, in rejecting free will and in considering man as a creature pre-determined in his actions by God Himself, the Reformers left little room for moral responsibility in public office or for the necessity of human law and authority or obedience to it in society. On the basis of his historical knowledge and his rather limited contacts and practical experience with heretics, More concluded that the heretics were a great menace to true kingship and a disruptive force in society in his day.

The violence and disruption of the social order attributed to the heretics historically was well known to More. He repeatedly referred to the violence of the Donatists in the time of Saint Augustine.¹ One statute in the reign of King Henry IV described the heretics of those days as "inciting to sedition and insurrection, as making great strife and division among the people, and as daily perpetrating other horrible enormities." A statute in Henry V's reign noted that the heretics "had attempted to subvert the Christian faith, and to destroy not only the king and the estates of the realm, but also the laws of the land."²

More's personal experience in dealing with the heretics filled in the details of the picture. To More, the heretics generally appeared to be driven by "high pride of their learning

1. Dialogue Concerning Heresies, E. W., pp. 274-6.
Cf. Confutation of Tyndale, E. W., p. 715.

2. Apologye, p. lxxxii.

in scripture..., preferring their own gay glosses before the right catholic teaching of all Christ's church..."¹

They abused the **Scripture** by refusing to interpret it with the aid of reason and in the light of the truths of the Church.² In preaching, they caught the "scabbed itch of vainglory," neglecting temperance and moderation in their preaching; "though all the world were the worst for it and their own life lie thereon, yet would they long to be pulpited."³

They appeared to revel in finding faults at "every state of Christendom, priests, princes, rites, ceremonies, sacraments, laws, customs, spiritual, temporal, and all."⁴ They deliberately capitalized on those who craved novelty and change.⁵ Especially did they appeal to them by teaching, contrary to reason, law, and even Scripture itself, that "no Christian man is or can be bounden by any law made among men, nor is he bound to observe or keep any."⁶

In court, they defended themselves with lies and perjury; they falsely denied their own deed; or they asserted that no law could have any authority to stop them from preaching if they wished, as if they were "...specially sent by God to preach heresies and sow sedition among Christian men..."⁷ The

1. The Dialogue Concerning Tyndale, p. 102.

2. Ibid., p. 83.

3. Ibid., p. 82.

4. Dialogue of Comfort, p. 312.

5. Ibid., p. 312.

6. The Dialogue Concerning Tyndale, p. 261. Cf. pp. 81 and 271.

7. Ibid., p. 81.

heretics with whom More came in contact apparently had "no great care of truth;" nor were they "very scrupulous in the lending of an oath."¹ More regarded their violation of the sanctity of the oath as one of the evil effects of the new heresies because they were destroying one basis for ensuring honest social relationships in a Christian society.

"...never could I find heretic yet that any conscience had in any oath. And of truth Tyndale in his answer to my Dialogue teacheth them that they may break their oath and be forsworn without any scruple at all."²

Thomas More had little faith in the sincerity or intellectual honesty of many of the heretics. Simon Fish's Supplication of Beggars he described as "sedition under the color of counsel ...and under the pretense of favor unto poor folk, a devilish desire of annoyance both to poor and rich, priest, religious, and layman, prince, lord, and people, as well quick as dead."³

More himself favored a thorough-going reform of abuses in both the spiritual and the temporal bodies; but hiding behind this facade of needed reform, the Reformers apparently intended another lesson, one of a more radical nature: "to set at naught the Catholic faith and all the blessed sacraments after the teaching of Luther's and Tyndale's gospel."⁴ More also scoffed at the heretics' inconstancy in views and scorned their evasion of the laws of the king and the Church.

1. Ibid., p. 192.

2. Confutation of Tyndale, E. W., p. 345.

3. The Supplication of Souls, p. 7.

4. Ibid., p. 82. Cf. pp. 68 and 155 also.

He drew attention to the situation in Saxony and Bohemia-- there, there were almost as many sects as men; the masters themselves changed their minds and their opinions every day; every place one might mention boasts its own version of the faith.¹ Thomas More, as Lord Chancellor with some official responsibility for keeping the heretics in check, "commended" the Reformers for the remarkable "tricks they use in their first attempts to sneak into a place [England] and then the pertinacity with which they try to crash their way through."²

While More peremptorily dismissed the heretics' methods, as a controversialist defending the orthodoxy of a Christian society, he was deeply involved in examining and refuting the doctrines that he variously described as new-fangled, erroneous, and as infecting the old faith.³ More attacked these new doctrines because he was convinced that there was a close and dangerous relationship between the Reformers' views on liberty and free will on the one hand and the peace and effective authority on the other. He charged the Reformers with "...advancing and setting forth all boldness of sin and wretchedness and under the false name of Christian freedom, spurring forward the devilish unbridled appetite of lewd, seditious, and rebellious liberty..."⁴ The typical heretic,

1. The Dialogue Concerning Tyndale, p. 133.

2. St. Thomas More: Selected Letters, letter to Erasmus, June 14, 1532, p. 176.

3. Dialogue Concerning Tyndale, p. 81.

4. Supplication of Souls, p. 87.

according to Thomas More,

"...under pretext of love and liberty waxed so drunk of the new must of lewd lightness of mind and vain gladness of heart, which he took for spiritual consolation, that whatsoever approved by God. And so framed himself a faith, framed himself a conscience, framed himself a devotion wherein him list, and wherein him liked, he set himself at liberty."¹

If the untrammelled freedom and "lewd liberty" which the Reformers demanded were allowed, the civil peace and order would soon be vitiated, if not completely destroyed. Their rejection of human law as an objective restraint of freedom and their denial of the validity of human authority in both the spiritual and temporal domains ultimately would result in a complete breakdown of the social relationships established and maintained by the moral and legal sanctions of society's dual structure of authority. The Reformers' type of liberty would not lighten man's burden nor ease his yoke; rather, it would be pulling the head out of the yoke altogether. The "gospel" of Luther and Tyndale taught that:

"...no law can be made by man to bind you; but that by your only faith ye may do what you will; and that if ye obey any law or governor, all is of your own courtesy and not of any duty at all, faith hath set you in such lewd liberty."²

Contrary to all holy Scripture and natural reason and "vtterly subverting all virtue and good order in the world" was the heretics' denial of free will and the assertion that we owe our "salvation and damnation and all our deeds to

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1. Dialogue Concerning Tyndale, p. 185.
 2. Supplication of Souls, p. 77.

destiny." According to More, those who believed in the bondage of the will paid little respect even to the temporal laws of this world: "and they hold that no man is bounden to obey any, but would be at liberty to believe what they list, and do what they list..."¹

If what the heretics claimed for doctrine were true, "whereof should serve all laws? And where were become all good order among men, if every misordered wretch might allege that his mischievous deed was his destiny?" Here, More added further that believing themselves to be predestined by God to either heaven or hell,

"they little care indeed of hell or heaven, but would in this world live in lewd liberty, and have all run to riot...this they call the liberty of the gospel, to be discharged of all order and of all laws, and do what they list..."²

More feared that should the heretics succeed in their aims, then "shall all laws be laughed to scorn. Then shall servants set naught by their masters and unruly people rebel against their rulers..."³ As an example, More mentioned the case of Saxony where the people, encouraged by Luther's new teachings about human law and authority, first rebelled against the abbot, then against the bishop (while temporal rulers excused it, "gaping after the lands of the spirituality"), and finally against the temporal lords. Thus, because of the

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1. Dialogue Concerning Tyndale, pp. 299-300.
 2. Ibid., p. 300.
 3. Supplication of Souls, p. 90.

rulers' negligence, the sect had grown so much that the common people forced the rulers to follow rather than rule them as they might have done if they had taken heed in time.¹

Throughout his Responsio Ad Lutherum, the model for his later controversial works, Thomas More was very critical of the Reformers' appeal to private judgment and "feeling faith" in matters of both religion and human positive law.² More found particularly repulsive the Lutheran assertion that whatever was not evident in Scripture should be left to each one's honesty "to approve or disapprove, change, condemn, reject as he wishes, when and as often as he wishes."³ Luther would place all decrees of the Fathers and the councils of the Church into this area of personal choice. More argued from Scripture and from reason that these "are the Word of God handed down outside of Scripture, and that they are not of less authority than Scripture itself."⁴

In his Dialogue Concerning Tyndale, some years later, More's judgment of the Lutheran position remained essentially unchanged. Such heretics as Luther and Tyndale were teaching Christians that:

"they were so near cousins to Christ that they be in full freedom and liberty discharged of all governours and all manner laws spiritual or temporal except the gospel only. And al beit he said of a special perfection it should be well done to suffer and bear the rule and authority of popes, princes, and other governors, which

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1. Dialogue Concerning Tyndale, p. 273.
 2. Responsio As Lutherum, pp. 250-5.
 3. Ibid., p. 254.
 4. Ibid., p. 255.

rule and authority he calleth but only tyranny, yet he saith the people be so free by faith that they be no more bounden thereto than they be bounden to suffer wrong."¹

In short, More believed that the Reformers' attack on authority stemmed from their perverted concept of liberty which in turn had its root in their rejection of the ability of man's reason to arrive at religious truth, their denial of free will, their pessimism about man's capacity to perfect his fallen nature, and their appeal to an individual "feeling faith" rather than to the objective traditionally proven doctrines, laws, and ceremonies.

This emancipation from human law and authority would destroy kingship in society, both in the temporal and ecclesiastical spheres. From More's point of view, sedition against either part of that dual authority was possible. Thomas More was just as critical of rebellion against ecclesiastical government as against secular kingship.² Heresy was intimately bound up with treason in More's pattern of thought as well as in the view of the early Tudor state.³ More projected the relationship between heresy and treason into history by recalling the times of King Henry V:

"...those heresies secretly creeping on still among the people, a great number of them had covertly considered and after openly gathered and assembled themselves, purposing by open war battle to destroy the King and his nobles and subvert the realm. Whose traitorous malice

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1. Dialogue Concerning Tyndale, pp. 272-3.
 2. Ibid., pp. 220 and 258.
 3. Apologye of Sir Thomas More, E. W., p. 910.

the good Catholic King prevented, withstood, overthrew, and punished; by many of them taken in the field, and after for their traitorous heresies both hanged and burned."¹

In the early sixteenth century, the continental Reformers introduced religious anarchy into Christendom.² The consequent religious dissension led to "schism within schism, multilateral persecution, even among the heretics, insurrection, rebellion, murder, and pillage,"³ as well as to divers sects of which "never one should agree with other, not almost in any one of them, any one man with other."⁴ In another passage, More noted that the heretics

"...break the peace and unity both of the church and of the state by making of sects and sowing sedition and dissension, to strive up by rebellion and insurrection against their neighbors their governors and thereby cause the robbery, pillage, spoil, and murder of their good catholic Christian brethren."⁵

In Utopia, religious dissension was suppressed. An offender was punished "not as a despiser of religion, but as a seditious person, and a raiser up of dissension among the people."⁶

Theoretically, both jurisdictions, the temporal and the spiritual, cooperated in stemming the spread of heresy. However, More was not unaware of the increasing failure of the dual authority to exercise cooperative action against heresy.

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1. Supplication of Souls, p. 52.
 2. Confutation of Tyndale, E. W., p. 397.
 3. Ibid., p. 715.
 4. Ibid., p. 629.
 5. Apologye, p. 153.
 6. R. W. Chambers, The Place of Saint Thomas More in English Literature and History, p. 43.

In fact, a new alliance appeared more attractive to the secular powers, an alliance with the heretics against the Church.¹ This new alignment, as More perceived it, made possible a relatively swift expansion of the new heresies attended by the many evil effects of a breakdown or rejection of true kingship both in the secular and ecclesiastical areas of society.

"...just as the princes generally wink at the revolting clergy sighing, no doubt, for their possessions which they hope to take if abandoned, and they rejoice that obedience is withdrawn from the Roman Pontiff, so long as this gives them hope of disposing of, dividing, and dispersing everything among themselves, so also who can doubt that the people, in turn, look forward to throwing off the rulers' yoke and despoiling them of their goods? And when they have accomplished this, drunk with the blood of princes and luxuriating in the gore of the nobility, no longer patient with even popular rule, they will turn their hands at length upon themselves! Despising law, anarchical, lawless, unrestrained, unreasoning as a result of Luther's teaching, they will slay each other like the famous earthborn brothers...Germany may yet see these prophecies come true."²

Thus, Thomas More could not conceive of the disruption of kingship in terms of only one or the other aspect of the dual authority of his society. Any attack on the secular authority would affect the spiritual. Any disruption of the ecclesiastical order would be followed by serious repercussions in the secular affairs of the realm.

1. The Supplication of Souls, p. 49. For the influence of some of the heretics on Henry VIII, see W. E. Campbell, Erasmus, Tyndale, and More, London, 1949, p. 156.

2. Responsio Ad Lutherum, pp. 264-7.

CHAPTER IX: THE CHALLENGE TO MORE'S CONCEPT OF KINGSHIP
BY THE HENRICIAN APOLOGISTS

A. The Issues in Historical Perspective

The challenge to More's theory of kingship, largely derived from traditional roots, came during the mid-years of King Henry VIII's reign. In the late 1520's and the early 1530's, the King found that his inability to act independently of the Church and the papacy in certain areas constituted a significant restriction of his sovereignty. In the process of asserting and defining national sovereignty, Henry VIII and his apologists transformed the current meaning of kingship in England to make it synonymous with royal supremacy as found either in the king alone or in the king in parliament.

The issues dividing Thomas More and the Henricians can be considered under two broad categories: national sovereignty and royal supremacy. During this time, these two concepts were objects of much theorizing and, in the writings of such men as Saint Germain, Morrison, Gardiner, and Tyndale, acquired revolutionary connotations. These two concepts were also the basis of much of the practical policy of men like Thomas Cromwell and of King Henry himself.

In the field of jurisdiction, the assertion of national sovereignty was equivalent to the repudiation of papal authority in England in all areas, the absorption of canon law by the secular jurisdiction, and an increasing indifference to the concept of a "common corps of Christendom." The king was

considered in a new way as an emperor exercising imperium, as the vicar of Christ, as the Supreme Head of the Church even in purely spiritual matters. Thus, the Henricians asserted first that no external authority, neither papal nor imperial, was valid in England; then they defined the royal supremacy to mean that internally in his own realm the king was supreme in all spiritual and secular matters.

In the development of the new theories, the Henricians resorted to historical, theological, and legal arguments. For example, in repudiating the pope, Henry claimed the support of "sundry old authentic histories and chronicles" and of the Statute of Praemunire from the reign of Richard II which asserted that the crown of England "hath been so free at all times that it hath been in no earthly subjection, but immediately subject to God in all things."¹ Controversialists such as Tyndale, Barnes, and Fish advanced historical arguments to prove that the pope and the clergy had usurped the powers which were originally in the hands of secular princes and magistrates.

To persuade the subjects of the realm, particularly the "mass of semi-Catholics" with their "semi-belief in papal claims which they had always disliked and never really understood,"² that the Church hierarchy had misled them for centuries about the proper relationship between the imperium and the sacerdotium,

1. H. M. Smith, Henry VIII and the Reformation, p. 227.

2. J. W. Allen, A History of Political Thought in the Sixteenth Century, London, 1928, p. 157.

the Henrician government supported its statutes and answered its critics with a large body of propagandist writings.¹ Henry VIII's alliance with the important printers of the day and his denial of the use of their facilities to the champions of the old order proved most effective in making permanent the new order established by the Reformation.

From 1533 on, attacking papal primacy from the pulpits throughout England became deliberate government policy. In late 1533, the King's council ordered that no one was to preach at Paul's Cross without declaring that the authority of the bishop of Rome was no greater than that of any other foreign bishop. In the "Order for the bidding of the beads" of 1534 issued by the council, the pope was described as the enemy of England and his power a corruption which no man was to defend. On June 1, 1535, letters were issued to the bishops ordering them to preach the new title of the king; the lower clergy were required to do the same every Sunday and feast day. The First Royal Injunctions of Henry VIII in 1536 ordered that for three months of the year parsons were to declare

"once every Sunday, and after that at the leastwise twice every quarter, in their sermons and other collations, that the Bishop of Rome's usurped power and jurisdiction, having no establishment nor ground by the law of God, was of most just causes taken away and abolished; and therefore they owe unto him no manner of

1. F. Le Van Baumer, The Early Tudor Theory of Kingship, New Haven, 1940, pp. 212-3. A list of the most important pro-royal tracts published in England between 1528 and 1539 is given.

obedience or subjection, and that the king's power is within his dominion the highest power and potentate under God, to whom all men within the same dominion by God's commandment owe most loyalty and obedience, afore and above all powers and potentates in earth."¹

Henry VIII used the Statute of Praemunire to stifle clerical opposition; in December, 1530, the clergy were indicted on the grounds that they had exercised their spiritual jurisdiction unlawfully. Such actions capitalized on the anti-clerical feeling that existed in England at the time, particularly in and around London. They appealed to the nationalists who sought independence of all foreign powers and made the desired changes legal. Men like Cromwell, Morrison, and Saint Germain were discovered by Henry VIII and attracted into his service to interpret and defend the new developments.

Through a series of parliamentary statutes, the Henrician government abolished the jurisdiction of the pope and established the king as the head of the Church. In the series were the Act in Conditional Restraint of Annates in 1532, the Act in Restraint of Appeals in 1533, the Act for the Submission of the Clergy in 1534, the Act of Supremacy in 1534, and the Act Against Papal Authority, subtitled "an act to extinguish the authority of the Bishop of Rome", in 1536.² In a letter written shortly after the passage of the Act of Supremacy,

1. Quoted by J. W. Blench, Preaching in England in the Late Fifteenth and Sixteenth Centuries, Oxford, 1964, pp. 252-3.

2. G. R. Elton, The Tudor Constitution, Cambridge, 1960, pp. 342-58. These pages contain the texts of these acts as edited by the author of this book.

Henry referred to the pope as "the pestilent idol, enemy of truth, and usurper of Princes."¹

On February 11, 1531, Henry VIII assumed the title of Supreme Head of the Church with the qualifying clause: "as far as the law of Christ allows." With this qualification, Thomas More, then Lord Chancellor, was still willing to accept the new title. In More's interpretation, this title merely repeated earlier vague claims that the kings of England had no superior on earth. The reservation inserted by Bishops Fisher and Warham made this claim no more extreme than other similar claims made over the Church by various English monarchs for centuries.² The king himself, in reply to Tunstal's protest against the title of Supreme Head, made it clear that the title meant "temporal head of spiritual persons in his realm," thus suggesting that the title did not expressly deny the pope's spiritual headship and that as yet there was no policy of a break with Rome; nor was it being used at this time to justify the withdrawal of England from the papal jurisdiction which was to follow shortly.³

On March 30, 1534, parliament passed a statute which made the issue of Henry by Anne Boleyn the lawful successors to the Crown.⁴ With this, too, More was ready to comply.

1. M. C. Abrams, The Political Philosophy of Christopher St. Germain, University of Utah, 1963, p. 113.

2. G. R. Elton, "King or Minister? The Man Behind the Henrician Reformation," History, 39(1954): 227.

3. Ibid., p. 228.

4. G. R. Elton, The Tudor Constitution, pp. 6-9; "An Act for the Establishment of the King's Succession."

More was willing to admit the right of parliament to regulate the matter of the royal succession because he believed that parliament was constitutionally supreme in all temporal matters, provided it did not attempt to legislate contrary to the laws of God or nature. More admitted to Solicitor-General Rich during a questioning in the Tower that he would accept even Rich as king if an act of parliament so named him.¹ Henry, on the other hand, needed the strongest possible sanction in dealing with the succession. Parliamentary acts gave the changes in succession the appearance, if not the fact, of having the consent of the realm.²

The major legal question that arose between More and Henry VIII was whether Parliament had the right to transfer supreme religious authority in England from the pope to the king. More, like most of his contemporaries, saw this not as a question of appealing from the Church to the state but as a transfer of authority from one office to another inside a single composite society, the Christian commonwealth, a society that included both Church and state.³ When he was ordered to take the oath promising "to bear faith and true obedience to the King, and the issue of his present marriage with Queen Anne, to acknowledge him the Head of the Church

1. J. D. M. Derrett, "The Trial of Sir Thomas More," English Historical Review, 79(1964): 463-4.

2. M. Levine, "A Parliamentary Title to the Crown in Tudor England," Huntington Library Quarterly, 25(1961/62): 122.

3. C. Morris, Political Thought in England: Tyndale to Hooker, p. 32.

of England, and to renounce all obedience to the Bishop of Rome as having no more power than any other Bishop," he refused for two reasons. First, requiring the oath on April 13, 1534, was unconstitutional because no law had yet been passed by Parliament making a refusal to acknowledge the king's religious supremacy actionable.¹ Moreover, More was convinced by his researches and his reason that papal supremacy in spiritual matters was divinely ordained.²

More believed that, historically, Christianity in England was introduced from Rome and that this resulted in a status of dependence upon Rome. More defended a jurisdictional principle, that is, the incapacity of any person to deprive the papacy, as an institution, of its right to exercise supreme authority in matters of faith and morals. Within this historical frame of reference, More defended the spiritual supremacy of the papacy by appealing to the immunity promised to the Church in the Magna Carta, to the King's coronation oath, and to the continuity of English Christianity.³

B. Thomas Cromwell, National Sovereignty, and Concept of Empire

The theory and argumentation justifying the Henrician

1. B. Brown, "Sir Thomas More, Lawyer," Fordham Law Review, 4(1935): 387. The Act of Supremacy, which in addition to making the king Head of the Church required an oath subscribing to his supremacy of all subjects and made its malicious denial by word or in writing high treason, was not passed until November 18, 1534.

2. R. W. Chambers, The Fame of Blessed Thomas More, London, 1929, p. 56.

3. R. W. Chambers, Thomas More, p. 341.

denial of papal supremacy in England and the competence of parliamentary statute to make this denial legal and binding on the king's subjects in England was the work of Henry VIII and his secretary, Thomas Cromwell. The Reformation Parliament and the succeeding parliaments in the reign of Henry VIII completely overthrew the traditional relationship between the regnum and the sacerdotium, they repudiated the papal hegemony, they identified the Church in England with the English state, and they made the king the absolute head of the Church, unrestricted in his ecclesiastical prerogative by either convocation or parliament.¹ The Henrician government and the apologists argued that the actual power of the pope in England was a usurpation or was derived from a grant or from the acquiescence of the Crown in which case Henry VIII was now merely resuming the ancient powers of the Crown in England.²

History was being rewritten by men like Tyndale to show "how the papacy had steadily usurped more and more authority;" that "the popes had enslaved first the bishops and then the emperors;" how "they had created their own corpus of law and set aside the authority of scriptures by means of false councils;" "that there had at one time existed in the island a church maintaining apostolic purity, entirely free from papal control."³

1. F. Le Van Baumer, Early Tudor Theory of Kingship, p. 25.

2. J. W. Allen, A History of Political Thought in the Sixteenth Century, p. 162.

3. G. Williams, "Some Protestant Views of Early British History," History, 38(1963): 220-1.

To the apologists who provided the justifications for the actions of the King and of Cromwell, "the position of Constantine, the rights of Julian, the acts of Theodosius, the powers of Justinian, the claims of the medieval Emperors were of vital importance in the controversy."¹

Since Cromwell was the driving force behind much of the legislation that cut those papal connections with England which Thomas More considered important, it is only natural to inquire into his political views. Cromwell's interest in political theory and practice has been well demonstrated by G. R. Elton.² Of particular relevance here is Cromwell's view that the realm could not have two masters and the king must not be deprived of the fullness of his authority.³

In the development of this idea, Cromwell apparently was influenced to a large extent by Marsilius of Padua's Defensor Pacis, published in translation in England by William Marshall, one of Cromwell's propagandists, in 1535.⁴ In addition to conceiving of the state as autonomous and the Church as being subject to it, Marsilius, declaring the divine law as

1. J. N. Figgis, The Divine Right of Kings, p. 98. Cf. R. Koebner, "The Imperial Crown of This Realm: Henry VIII, Constantine the Great, and Polydore Vergil," Bulletin of the Institute of Historical Research, 26(1953): 31-3.

2. G. R. Elton, "The Political Creed of Thomas Cromwell," Transactions of the Royal Historical Society, 6(1955): 69-92.

3. Ibid., p. 72. Elton adopts Cardinal Pole's interpretation of Cromwell; he argues that while Pole's account of Cromwell may be biased in some ways, it is essentially a true presentation of his political ideas.

4. Ibid., p. 83.

irrelevant and ignoring the law of nature, held that only the positive law of the realm matters in human affairs and that legislative sovereignty was at the core of the sovereignty of a state. Insofar as the laws applying to England originated outside the realm, Cromwell considered that the power of the king and of parliament in England was not sovereign. The only true lawmakers and lawgivers in an independent England should be the king and his parliament.

Cromwell was a secular-minded, patriotic nationalist who had been influenced significantly by his contacts with Italian political thought. L. C. Warren expressed this aspect in the following lucid way:

"Cromwell admired the political ideas of fifteenth-century Italy reflected in part by Machiavelli--the ideal of national unity, the ideal of the strong leader whose very patriotism was the excuse for his unscrupulousness, the ideal of the efficient, business-like administration of state affairs....These secular and absolutist doctrines were the weapons Henry needed in dealing with the Papacy, and in Cromwell he discovered the very embodiment of them. Cromwell, undoubtedly, sincerely believed that the prosecution of the divorce, the separation from the Papacy, and the establishment of a national Church were wise measures which every patriotic Englishman should support."¹

P. Van Dyke summed up Cromwell's reasons for believing that England must be separated from Rome as being

"the reluctance of the clergy to submit on equal terms with the laity to the control of the laws....The clergy were a corporate body, freed from the ordinary jurisdiction of the common law, deciding matters connected

1. L. C. Warren, Humanistic Doctrines of the Prince from Petrarch to Sir Thomas Elyot, pp. 103-4.

with marriage and wills by courts constituted by themselves, having sanctuaries where the criminal who entered was free from arrest, enjoying an income two and a half times that of the Crown, owning real estate estimated at one-third of the total of the kingdom....And this formidable body confessed supreme allegiance to a ruler living in Rome whose predecessors had repeatedly claimed the divine and questionable right to dictate to kings and nations about the conduct of affairs."¹

In short, to Cromwell the establishment of a sovereign monarchy and the dissolution of "all franchises and liberties throughout this realm, and specially the franchise of spirituality"² was an end in itself. In his instructions to the Council of Calais in 1539, Cromwell wrote that "he that eyther feareth not god nor esteameth the kinges Maiesties Iniunctyons, preceptes, ordenaunces, and commandements, is no mete herbe to growe in his Maiesties most catholique and Vertuous garden."³

G. R. Elton credited Cromwell with the founding of the modern constitutional monarchy in England and the organization of the sovereign national state.⁴ By a display of outstanding administrative ability, Cromwell worked himself up through various minor offices into King Henry VIII's confidence until in 1534 he was appointed principal secretary and master of the rolls. Cromwell is credited with suggesting to the King the practical methods by which the divorce could be achieved and by which Henry's vague claims to supremacy in

1. T. M. Parker, "Was Thomas Cromwell a Machiavellian?" Journal of Ecclesiastical History, 1(1950): 71-2. Quoted from Paul Van Dyke, Renascence Portraits, pp. 183-4.

2. Ibid., p. 72, from memoranda for Parliament of 1536.

3. R. G. Merriman, Life and Letters of Thomas Cromwell, Oxford, 1902, Volume II, p. 227.

4. G. R. Elton, England Under the Tudors, London, 1955, pp. 168-9.

England could be realized.

By making a complete break with the policies of Cardinal Wolsey, Cromwell embarked on a policy of evicting the pope from England. The constitutional and religious changes initiated and supported by Cromwell were sanctioned and made enforceable by statute. By setting up new institutions such as the Court of Augmentations to administer and enforce these changes, Cromwell assured their permanence and made possible the prosecution of those who opposed royal policy.¹ As H. R. Trevor-Roper observed,

"...every power taken from Rome was institutionalized in England....To Cromwell and the Catholic bishops who helped him, the reform of the Church was only a part of the reform of the State. The power of the Pope was merely another exempt jurisdiction to be rationalized..."²

The basic points of More's disagreement with Cromwell's theory and practice were two. First, More's position on papal powers and status in England was that the supreme authority of the pope in spiritual matters could be maintained without admitting the pope's authority over kings, even those guilty of tyranny, or over the determination of the line of succession. More was willing to maintain the succession as determined by the king or by parliament and was convinced that upholding the pope as the head of the Church did not necessarily detract from loyalty to the secular sovereign nor

1. G. R. Elton, England Under the Tudors, p. 166.

2. H. R. Trevor-Roper, "England's Moderniser: Thomas Cromwell," in Historical Essays, London, 1954, p. 76.

could it, in itself, constitute treason.¹

Cromwell's views on this point were well expressed by D. M. Chauncy in 1570 in his account of the Carthusian Fathers' martyrdom in 1535. According to Chauncy, the question asked of the friars during the third examination led by Cromwell was whether they were willing

"to abjure the authority of the pope and obedience to him, and to declare that the supreme power hitherto wielded by him over the Church was gotten by falsehood, violence, and extortion...to swear allegiance to the King alone and to believe as well as to state that he alone is the supreme head of the Church of England in spiritual matters as well as temporal, and finally to take an oath in confirmation of this."²

In the spirit of More's thought, the friars replied that they would obey the king as dutiful and loyal subjects as far as divine law permitted. D. M. Chauncy recorded the protest of the prior, John Houghton, to the jurors: "...who knows not that from us obedience to God and His Church is required before obedience to the King and his Parliament?"³

The Carthusian monks declared it their duty to obey God and the Church when the decrees of the king or parliament were contrary to the orthodox tenets of the Christian religion. The Carthusians, expressing More's viewpoint, also declared in the course of Cromwell's examinations that

"According to divine law as revealed in the Gospel, a secular king or prince could not be and ought not to

1. Apologye, p. 191.

2. D. M. Chauncy, The Passion and Martyrdom of the Holy English Carthusian Fathers, London, 1935 (original in 1570), p. 79.

3. Ibid., p. 93.

be the head of the church, much less might he claim and forcibly usurp that headship which admittedly and clearly by irrefragable ordinance of Jesus Christ, supreme king and supreme pontiff, was committed not to any secular prince, but to one man and one only, Peter his apostle, and in him to Peter's successors the pontiffs of Rome."¹

Thus, under the new laws and administrative procedures instituted under Cromwell, men like Thomas More, John Fisher, and the Carthusian monks were executed for their refusal to abjure the authority of the pope and their obedience to him and for their refusal to subscribe to the king's supremacy over the Church in England in spiritual matters.

The second point of disagreement between Cromwell and More was on the omnicompetence of parliamentary statute. The Reformation Statutes were an expression of Cromwell's principle that the highest authority in the land was in "that assembly of the king, lords, and commons whose decrees commanded complete and universal obedience and could deal with any matter on earth, including even spiritual concerns hitherto reserved to spiritual authority."² More, on the other hand, declared that he could not obey an act of parliament when it went contrary to the laws of Christendom. In short, Cromwell and Henry refused to recognize canon law as necessarily enshrining divine law and as being operative in England; they also ignored natural law as a practical check on legislation. Thomas More, in contrast to those who held

1. Ibid., p. 103.

2. G. R. Elton, England Under the Tudors, p. 167.

these views, upheld the conception of a universal Christian law to which man-made laws had to conform.

The apologists and statute-makers of the Henrician Reformation made a distinction between canon law and the law of God. While More ascribed divine authority to the positive law of the Church as well as to the God-given precepts contained in the Scriptures, the Henricians described canon law as man-made or human. Thus, in 1533 the bishops in England were asked by the King whether they could find any support in the law of God for papal jurisdiction in matters of marriage. The Henrician Reformers upheld the right of statute to override canon law but acknowledged the necessity of statute to conform with the law of God.

For Cromwell, the essence of the sovereign state was legislative sovereignty. In the sovereign state only laws made or accepted within the realm were valid. The Act for the Punishment of Heresy (1534) declared canon law as "repugnaunte and contrarious to the prerogatyve of your ymper-yall Crowne, regal iurisdiccion, lawes, statutes, and ordynaunces of this your Realme."¹ A similar denunciation of canon law occurred in the draft of the "Supplication" which Cromwell prepared for the 1532 session of parliament. Although Cromwell spoke of the Imperial Crown, he considered legislative

1. Quoted by G. R. Elton, "The Political Creed of Thomas Cromwell," Transactions of the Royal Historical Society, 6(1955): 89.

supremacy as resting with parliament, exercised by the king, lords, and commons, and, therefore, expressed in statute.¹

In repudiating papal authority, however, the Henricians also repudiated the traditionally-accepted external interpreter of the law of God in human society. In the final analysis, it was not the Pope or the Church but parliament that would define what did and what did not conform to the law of God in the realm.² G. R. Elton observed, therefore, that the lasting significance of Cromwell was that, to this day, there is no morally binding restraint on the powers of the English parliament. Thus, by the Tudor revolution, of which Cromwell was one of the main personalities, England achieved national sovereignty; that is, it was freed from the authority of foreign potentates and from the limitations as interpreted by external authorities of divine and natural laws.

The practical steps by which the papal connection with England was severed consisted of a number of parliamentary statutes and several royal proclamations. In general, by these statutes and proclamations, appeals from the law courts of England to Rome, the movement of money from England abroad, and any expression of obedience and loyalty to the papacy were forbidden and made punishable. At the same time, re-

1. Ibid., p. 89. This is indicated by the wording of the Dispensations Act.

2. P. Williams and G. L. Harriss, "A Revolution in Tudor History?" Past and Present, No. 25(1963): 23. Cf. C. Morris, Political Thought in England, p. 55. Saint Germain held that the king in parliament could make no decision contrary to the Law of God, but he also in effect granted that the king in parliament could decide what the Law of God was.

cognition of the king and obedience to him as the Supreme Head of the Church of England was demanded; and the king was given direct control of episcopal nominations as well as the authority to visit monasteries, to reform errors and heresies committed by spiritual authorities, and to pronounce on matters of doctrine. F. Le Van Baumer summed up the developments that took place by statute as follows: "By a series of statutes...the Crown absorbed the entire legislative, judicial, administrative, financial, and even the doctrinal prerogatives of the medieval Church."¹

Henry VIII claimed sovereignty by proclamation as well as by statute. For example, in 1533 he decreed that anyone who named, accepted, wrote of, or obeyed Catherine of Aragon as Queen thereby incurred the penalties of the Statute of Praemunire. In 1535, he issued proclamations to order sheriffs to report those bishops who were uncooperative in enforcing the statutes abolishing papal supremacy to the council and to spy out, judge, and forthwith confiscate any books containing matters opposed to the King's supremacy. Henry's measures to suppress doctrinal opposition included a 1535 proclamation threatening foreign heretics who denied the doctrine of the real presence of Christ in the Eucharist with capital punishment.²

1. F. Le Van Baumer, The Early Tudor Theory of Kingship, p. 29. Acts defining these matters are discussed in pp. 26-34.

2. P. L. Hughes and J. F. Larkin, Tudor Royal Proclamations, pp. xxxv-xxxvi.

On March 15, 1533, Chapuys, Charles V's ambassador, wrote to the Holy Roman Emperor that "yesterday and today it was proposed in Parliament to make a statute declaring the Pope had no authority in this kingdom."¹ The Act under discussion, passed a fortnight later, was the Act in Restraint of Appeals to Rome. This Act was the most decisive single step towards the expulsion of the papacy, not only in its restriction of appeals to Rome but especially in the theoretical basis which it provided for Cromwell's radical policies designed to achieve a break with Rome. The Preamble of the Act proclaimed England's national sovereignty and defined the theory of the Imperial Crown of England as being sovereign within its own realm over both laity and the Church.² It was Cromwell himself who introduced the notion of empire meaning sovereignty into the whole controversy of papal power in England.³

1. G. R. Elton, "Evolution of the Reformation Statute," English Historical Review, 64(1949): 192.

2. In a letter to Cromwell (Feb., 1536), stating his opinion on the articles proposed by Protestant princes at Schmalkalden as a basis for a league with England, Gardiner attributed a similar supremacy in religion to the Habsburg Emperor: "inasmuch as the Kinges Highnes [i.e. Henry VIII] being... a king, and, in his realme, an emperour, and hed of the Church of England; and among the prynces of Germany only dukes and lower degrees; such also as knowlege the Emperour for ther supreme lord; by reason whereof, the same reasons wherby we prove by Scriptures the Kinges Majestie hed of the Church of England, we prove also the Emperour hed of ther Churches; how shal they [i.e. the Protestant princes in Germany, members of the Schmalkaldic League] without the consent of the hed of ther Church, which is the Emperour, establish with us an agrement upon ther religion?... The King our master hath a special case, bicause he is emperour in himself and hath no superior. Other kinges, that knowlege an emperour, hath rather suffer any manne elles thenne the Emperour to be hed of other Church..."

J. A. Muller, Letters of Stephen Gardiner, London, 1926, pp. 72-5.

3. G. R. Elton, "King or Minister?: The Man Behind the Henrician Reformation," History, 39(1954): 229.

The word "empire" summed up Cromwell's whole concept of "national sovereignty"; but traditional meanings of the term were changed. In the past, the notion of empire existing in nation states had been developed against the claims of the Holy Roman Emperor. G. R. Potter noted that Emperor Sigismund (1410-1438) was the last emperor to seriously assert the medieval theory of the emperor as the head of a super-state. When the Emperor visited England,

"the King's brother, Humphrey, Duke of Gloucester, rode his horse into the sea at Dover, drew his sword, asking the Emperor whether he came on a friendly visit or whether he claimed feudal suzerainty over the country. Not until he had denied all imperial rights over the kingdom was he allowed to land."¹

In the 1530's Henry VIII found it expedient to assert his independence of all external authority and the concept of "empire" was used for the first time in history to justify the denial of the papal headship in the Church and the total subjection of matters spiritual to the lay rulers. For the first time, Cromwell used the term to denote the realm, to describe an area of independent land rather than an attribute of kingship.² Formerly, emperors were so called because they ruled or claimed to rule more than one kingdom; but in the Act of Appeals, the word "empire" described England itself and denoted a self-governing political unit free from "the

1. G. R. Potter, "The Beginnings of the Modern State," History, 31(1946): 76-7.

2. G. R. Elton, "The Tudor Revolution: A Reply," Past and Present, No. 29(1964): 29.

authority of any foreign potentates." The king was not to be dominated by any foreign power; furthermore, it was his duty to defend the traditional rights of the Crown and the realm against any foreign encroachments and usurpations.¹

How did the term "empire" evolve to signify the new meaning which Henry VIII gave to it in the title of "the Imperial Crown of this Realm"? Originally, Henry's idea that his Crown deserved the distinction of being "imperial" was based on the medieval romances of the heroes of early Britain which appeared to demonstrate that the early monarchs of Britain and those of the Christian Roman Empire had a common ancestry. Some of the underlying assumptions were that Constantine the Great had been proclaimed emperor on British soil, that Constantine was a son of a British princess converted to Christianity, and that King Arthur was a descendant of Constantine and had inherited his greatness.²

These legendary presuppositions, together with the fourteenth century definition of rex imperator as the ruler who did not "recognize a superior", proved to be inadequate for lawyers or for parliament to assure King Henry VIII that matrimonial causes were not spiritual issues and that the papal authority could be invalidated by these definitions. When the law declared that the body politic of England was bound

1. P. Williams and G. L. Harriss, "A Revolution in Tudor History?" Past and Present, No. 25(1963): 12.

2. R. Koebner, Empire, Cambridge, 1961, p. 53.

to its "Supreme Head and King...in natural obedience" in spiritual and in temporal matters, the assertion was justified by forthright, if unhistorical, references to popular tradition:

"By old authentic histories and chronicles it is manifestly declared and expressed that this realm of England is an empire and so hath been accepted in the world, governed by one Supreme Head and King having the dignity and royal estate of the Imperial Crown of the same."¹

Henry's imperial concept of kingship was given further justification by Polydore Vergil, a humanist historian from Italy commissioned to write the history of England by King Henry VII. His Anglica Historia, first completed in 1513, proved useful to Henry VIII who now in the 1530's wished to have it publicly stated that this crown and the "empire" to which it referred were of ancient and recognized standing.² In his revised version printed in 1534, Vergil explicitly declared that the Imperial Crown was the legacy of Constantine the Great to Britain, that "the kings of England are to this day possessed of an imperial diadem as of a gift which the emperor Constantine bestowed on his successors."³ Regarding the Church, this theory assumed that the English Church had been formed after the model of the Church under Constantine and that it was part of the king's imperium to restore it to that status.⁴

1. Ibid., p. 54, from Act in Restraint of Appeals, 1533.

2. Ibid., p. 55.

3. Ibid., p. 55.

4. R. Koebner, "The Imperial Crown of This Realm: Henry VIII, Constantine the Great, and Polydore Vergil," Bulletin of the Institute of Historical Research, 26(1953): 39.

The new concept of the Imperial Crown began to find its way into conversations in diplomatic circles about 1530. In a conversation with Chapuys, Norfolk made various historical allusions: that "the States of the realm have published a constitution against bringing bulls or provisions from Rome;" that the king "had a right of Empire in his kingdom and recognized no superior. There had been an Englishman who had conquered Rome, to wit Brennus. Constantine had reigned here and the mother of Constantine was English."¹

In further conversations, Norfolk made references to King Arthur's titles and conquests. Chapuys was unfamiliar with the English traditions and views on kingship; therefore, he could see little relationship between the stories of Constantine and Arthur and Henry's concept of "empire". Norfolk, on the other hand, meant to convey to Charles V the new concept of Henry's position to which Henry would resort in the issue of his marriage if it proved to be necessary. Thus, Norfolk was using the concept of empire and imperial rights to define Henry VIII's relation to the Pope.

While Henry's Imperial Crown was recognized in England, it did not particularly impress Charles V or the humanist scholars outside England. By international consent, the name "empire" was reserved for countries over which the Roman emperor and the German diet presided.² Charles V saw himself

1. Ibid., p. 40.

2. R. Koebner, Empire, p. 55.

in this sense as the one and only recognized claimant in the Christian world to imperial titles and insignia; moreover, even though Henry based his imperial claims on Constantine and some legendary British king, he himself was the successor to Constantine.¹

Henry VIII recognized that from the legal and historical viewpoints his case for the new concept of the Imperial Crown was weak. Consequently, with the help of Norfolk and Cromwell, he turned to legalizing his concepts through statute. After trial attempts at inserting the ideas into the Supplication Statute and into the earlier drafts of the Act in Restraint of Appeals, their final form in the preamble of the latter Act justified the empire of England and the rights of the Imperial Crown by citing neither Constantine nor constitutional traditions but only "old authentic histories and chronicles."

This attack on Rome rested on the ancient claim that lay authority, the imperium, derived from God just as did the pope's authority. The Supplication Statute defined the ruler as supreme in both spiritual and temporal matters and as possessing from God ("by the goodness and sufferance of Almighty God") "plenary, whole, and entire power, pre-eminence, authority, prerogative, and jurisdiction to render and yield justice" to all within the realm. This ruler is one of the parts of

1. R. Koebner, "The Imperial Crown of This Realm: Henry VIII, Constantine the Great, and Polydore Vergil," Bulletin of the Institute of Historical Research, 26(1953): 42.

the empire, that is, of the constitution; the other part is the "body politic" or the nation composed of clergy and laity, each with the right to administer justice under the king within its own sphere without interference from outside the realm.¹

The statutes which followed the Act of Restraint of Appeals further emphasized the notion of the Imperial Crown.² The Dispensations Act affirmed that "Your highness, your heirs and successors, kings of this realm...have and ought to have an imperial power and authority in the same and are not obliged in any worldly causes to any other superior." In the preamble to this Act, the necessity of restoring "the state, dignity, superiority, reputation, and authority of the said Imperial Crown of this realm" was proclaimed. The First Succession Act referred to "the succession and posterity of the lawful kings and emperors of this realm." The Act of Supremacy, having pronounced "that the King our Sovereign Lord...shall be...reputed the only Supreme Head in earth of the Church of England," then declared the dignity to be "annexed and united to the imperial Crown of this realm."

In other references, however, the Imperial Crown status apparently was not distinguished from the Crown of a king or prince. For example, the preamble to the Dispensations Act

1. G. R. Elton, England Under the Tudors, pp. 161-2.

2. The source of the quotes used for the various statutes referred to here is R. Koebner, "The Imperial Crown of This Realm: Henry VIII, Constantine the Great, and Polydore Vergil," Bulletin of the Institute of Historical Research, 26(1953): 47.

blamed the pope for what he had done "in derogation of your Imperial Crown and royal authority;" the Succession Act referred to his presumptions "contrary to the great and inviolable grants of jurisdictions given by God immediately to emperors, kings, and princes;" the Act Annexing First-Fruits and Tenths to the Crown assigned these proceeds to the king "for more augmentation and maintenance of the royal estate of his Imperial Crown."

Such official statements as the ones quoted above did as much to conceal the legal significance of the Imperial Crown as they did to proclaim its dignity. In practice, the new term led to no change in the king's relation to parliament, but it re-defined the nature of the authority said to be annexed to that Crown to include the claim that the king was the Supreme Head of the English Church. This was made clear in Henry VIII's proclamation, "Ordering Surrender of Bishop Fisher's Sermon, Books," which claimed that Fisher's writings contained "...errors and slanders...in derogation and diminution of the dignity and authority royal of the King's majesty and of his imperial crown..."¹ The vital change that occurred in the nature of the authority attached to kingship is emphasized by G. R. Elton:

"...one must not be deceived...into believing that the 'imperial crown' of 1532 which subjected the king to papal jurisdiction at the very least in heresy and

1. P. L. Hughes and J. F. Larkin, Tudor Royal Proclamations, p. 235.

matrimonial matters was the same thing as the 'imperial crown' of 1534 which included the royal supremacy of the Church."¹

That the king and his statutes were accomplishing something much more revolutionary than just giving "a new legal cloak" to the king's accepted authority was clear to Thomas More by 1534.

The accomplished fact and the practical results of this change in the concept of King Henry's kingship are emphatically outlined in his proclamation, "Enforcing Statutes Abolishing Papal Authority in England," of June 9, 1535:

"...we have by good and wholesome laws and statutes made for the purpose, extirpated, abolished, separated, and secluded out of this realm, the abuses of the Bishop of Rome, his authority and jurisdiction of long time usurped...our said nobles and commons both spiritual and temporal, assēmbled in our said court of parliament, have...by one whole assent granted, annexed, knit, and united to the crown imperial of the same the title, dignity, and style of supreme head in earth immediately under God of the Church of England; as we be and undoubtedly have hitherto been."²

This proclamation also stated that bishops and clergy of the realm had recognized this change and had renounced "all other oaths and obedience to any foreign potentate and all foreign jurisdictions and powers as well as of the said Bishop of Rome as of all other whatsoever they be." It further laid down the manner of enforcement of the commands given to the bishops that every Sunday and feast day throughout the year

1. G. R. Elton, "The Tudor Revolution: A Reply," Past and Present, No. 29(1964): 29.

2. P. L. Hughes and J. F. Larkin, Tudor Royal Proclamations, p. 230.

the clergy would preach that the "title, style, and jurisdiction of supreme head appertaineth only unto our crown and dignity royal," that all schoolmasters were to teach the same to the children under their care, and that any references to the papacy and to its glory and power were to be struck off the books of liturgy in England. The sheriffs were strictly enjoined to "amplify, defend, and maintain all such interest, right, title, style, jurisdiction, and authority as in any wise appertaining unto us, our dignity, prerogative, and crown imperial of this our realm."¹

The significance of the Henrician use of the term "empire" in the sixteenth century was in its great appeal to the nationalist and monarchist sentiments of the time. The new definitions and concepts of "empire" and Imperial Crown were exploited by Henry VIII and Cromwell particularly to accomplish the break with the papacy, the one obstacle to the achievement of true national sovereignty as they had defined it. Thomas More was interested in England's national sovereignty too, but his definition of sovereignty did not include the lay headship of the Church in England nor the royal supremacy over spiritual matters.

C. Royal Supremacy, King Henry VIII, and Saint Germain

The "empire" theory discussed above was the first step in making the king truly sovereign in the spiritual realm. Prior to 1530, most people in England looked to the papacy

1. Ibid., pp. 230-1.

or to the general council, convoked under proper auspices, as the sovereign authority in spiritual matters for all Christendom rather than to the king or to the emperor.

Henry VIII's pamphleteers did appeal to the council and to the writings of the conciliarists at first; but when Pope Paul III summoned the Council of Trent in 1536, they shifted their position by stipulating that councils must be convened and conciliar decreeds must be executed by secular princes. The practical effect of this was to make the king free of conciliar and of papal interference in matters of religion.¹

The Henrician theorists accepted that the king was the Supreme Head of the Church, but they disagreed on whether this royal supremacy applied to the king alone or to the king in parliament. Generally, Henrician bishops such as Bishop Gardiner (at least in the earlier part of the Reformation) upheld the king alone as God's vice-regent on earth while political writers such as Christopher St. Germain championed the sovereignty of parliament in spiritual as well as temporal matters and understood the royal supremacy as referring to the king in parliament.

According to the canonists, the two main kinds of authority in the Christian community were potestas ordinis, spiritual functions, and potestas jurisdictionis, power to rule the Church's temporal sphere. The latter covered a wide area

1. F. Le Van Baumer, The Early Tudor Theory of Kingship, p. 56.

of external ecclesiastical matters over which the Church had legislative, judicial, and coercive powers. None of these powers could be vested in a layman from the canonist point of view, but in developing the royal supremacy, these powers, including the right to define doctrine, were in fact annexed by degrees for the king. With the establishment of the royal supremacy, the Church in England was given a new unity, a new organization, and new authorities under God.

The royal supremacy was proved from the premise that "governors are ordained of God." The king's supremacy was assumed to be inherent in the Crown by direct grant from God. In the Church, the king, as Supreme Head, was an absolute ruler. Neither in theory nor in practice were the Convocations of York and Canterbury a limitation on the king's spiritual authority. In April, 1532, the Supplication of the Commons against the Ordinaries was aimed at the independent legislative power of the Church as exercised by Convocation. Now, to make laws in Convocation without the consent of the king or laity was declared to be a derogation of the royal prerogative and a damage to the king's subjects.¹ King Henry VIII also demanded that all existing canons be submitted to revision by a committee of the king's appointment and that the need for the king's assent to retain any of them be recognized. The opposition in parliament to these proposed measures was led by

1. J. A. Muller, Stephen Gardiner and the Tudor Reaction, pp. 46-8.

Thomas More, Chancellor, and Bishop Gardiner. On May 13, Chapuys wrote that the King "is very angry, especially with the Chancellor and with the Bishop of Winchester." When the clergy submitted on May 13, Thomas More resigned.

What were the specific powers and rights of the king of England as Supreme Head of the Church? By the Act of Supremacy in November, 1534, it was declared that

"our sovereign Lord, his heirs and successors, Kings of this realm, shall have full power and authority from time to time, to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, offences, contempts and enormities, whatsoever they be, which by any manner, spiritual authority or jurisdiction ought to be and may lawfully be reformed, repressed, ordered, redressed, corrected, restrained, or amended to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conservation of peace, unity, and tranquility of the realm."¹

By this Act, the king had authority to see that everything was done "as it ought to be and as it lawfully may be." However, parliament was not admitted to a share of this authority. As the Lord's Anointed, the king was "the Vicar of the most High King set for this that he might rule and defend the people of the land, and above all Holy Church."

Henry VIII's view of his role in religion was further expressed in a number of royal proclamations. In March, 1535, he considered it as pertaining to his office, first, to defend and maintain the faith of Christ and the sacraments of the Church, and, second, to save his loyal subjects from falling

1. Quoted by G. R. Elton, The Tudor Constitution, pp. 355-6.

into erroneous opinions and heresies.¹ By proclamation in 1538, King Henry prohibited the unlicensed printing of Scriptures; ordered heretics to leave the country within eight or ten days upon pain of loss of their lives and forfeiture of all their goods; admonished that no one presume "to contemn, break, and violate divers and many laudable ceremonies and rites heretofore used and accustomed in the Church of England, and yet not abrogated by the King's highness' authority;" charged that priests who had got married shall not be able to "minister any sacrament or other ministry mystical, nor have any office, dignity, cure, privilege, profit or commodity heretofore accustomed and belonging to the clergy of this realm;" and, finally, removed Thomas Becket from the calendar of the saints in England, declaring that "notwithstanding the said canonization, there appeareth nothing in his life and exterior conversation whereby he should be called a saint, but rather esteemed to have been a rebel and traitor to his prince."²

A proclamation in 1539 again prescribed rites and ceremonies to be followed in England and required subjects to be "obedient to...the...Supreme Head of the Church of England, always submitting their judgments and showing themselves ready and gladly to obey that which for the time shall be by his highness commanded."³ Another proclamation in the same

1. P. L. Hughes and J. F. Larkin, The Tudor Royal Proclamations, pp. 227-8.

2. Ibid., pp. 270-6.

3. Ibid., pp. 278-80.

year enjoined the people to use and read Scripture with meekness for the increase of virtue and good Christian living rather than as an incitement to the maintenance of erroneous opinions or for the "reading or preaching of it [i.e. Scripture] in sundry times and places." By this proclamation, the King asserted his right and duty to suppress all diversities of opinion that had arisen.¹ In November, 1539, he appointed Cromwell to approve a new translation of the Bible for England.²

Much was done to define Henry VIII's position of royal supremacy through his proclamations, but even more was defined and accomplished through statutes. In 1539, by the Act of Proclamations it was asserted that proclamations issued by the king with the advice of the council "as well for and concerning divers and sundry articles of Christ's Religion," should henceforth be obeyed as of equal validity to acts of parliament. A statute in 1540 (31 Henry VIII, c. 9) empowered the king to appoint new bishops to take care of the religious duties left uncared for by the dissolution of the monasteries. It also provided that the king should have authority to make rules and ordinances for the new bishoprics.³ An act of 1541

1. Ibid., pp. 284-6.

2. Ibid., pp. 286-7.

3. Chapuys reported that Cromwell "did not cease to harass the bishops, even the good ones like Winchester..., whom he called lately before the Council to ask them if the King could not make and unmake bishops at pleasure; who were obliged to say Yes, else they should have been deprived of their dignities; as the said Cromwell told a person, who reported it to me, and said the Council had been summoned only to entrap the bishops." Quoted by J. A. Muller, Stephen Gardiner and the Tudor Reaction, p. 57.

(32 Henry VIII, c. 26) gave the king the right to make doctrinal decrees by letters patent, independent of parliament but on the advice of the clergy. Finally, an act in 1546 (37 Henry VIII, c. 17) stated that the king had always had the authority, by virtue of his title of supremacy "to exercise all manner of jurisdictions commonly called Ecclesiastical jurisdiction."¹ Thus, by statute and by proclamation, Henry's power to legislate in the ecclesiastic sphere and to pronounce on matters of doctrine was defined and exercised.

In his Chronicles, Hall related a speech by King Henry VIII to parliament in 1545 in which he commanded the laity to report refractory clergy and bishops to the king and council "to whom is committed by God the high authority to reform and order such causes and behavior."² He also implied that the king could forbid the reading of Scriptures and where the meaning of Scripture was doubtful, the king was to decide on the true meaning. Thus, the secular ruler of England, supported by political theorists and lawyers like Christopher Saint Germain, was asserting the right and power to decide on all questions of religious controversy even in matters of doctrine, the essentials of the Christian religion.

Finally, in addition to issuing injunctions for the doctrine, liturgy, and government of the Church, King Henry VIII as Supreme

1. Quoted by F. Le Van Baumer, The Early Tudor Theory of Kingship, pp. 31-2.

2. Quoted by J. W. Allen, A History of Political Thought in the Sixteenth Century, pp. 164-5.

Head was able to transfer all his spiritual authority to a deputy; he did so, for example, when he appointed Thomas Cromwell as vicegerent in spiritual matters. In this capacity, Cromwell carried out visitatorial powers of the Supreme Head and exercised, by delegation, all the king's spiritual functions. Neither parliament nor convocation played any part in these manifestations of supremacy.¹

Another aspect of the realization of royal supremacy in England was the means adopted to make canon law ineffectual and inapplicable in England as a distinct body of law. First, in the very process of giving the king, a layman, the power of jurisdiction over religious matters, parliament ignored canon law. A statute of 1546 (37 Henry VIII, c. 17) allowed the more recently accomplished fact precedence over a historically established principle of canon law:

"The ordinances of the Bishop of Rome against the exercise of spiritual jurisdiction by laymen are repugnant to your Majesty's title of Supremacy, your Grace being a layman."²

According to canon law, no body of laymen not even the parliament could transfer to the king powers which the Catholic hierarchy claimed to have from Christ through the apostolic succession. While accusing the pope of usurpation, parliament itself was usurping the powers formerly exercising by the popes, general councils, and clergy and transferring them to the king.

1. G. R. Elton, England Under the Tudors, p. 164.

2. Quoted by F. Le Van Baumer, The Early Tudor Theory of Kingship, p. 33.

Since canon law was the basis of many arguments against the new concept and practices of royal supremacy, it was not surprising that under Henry VIII the academic study of canon law was prohibited and that Roman civil law exalting the power of the prince was encouraged. Ecclesiastical courts were now expected to enforce the statutes of parliament. All judges were compelled to believe that it was only "by their own consent" that the people of this realm ever paid any regard to decretals and other laws proceeding from any "foreign prince, potentate, or prelate."¹ Statute 37, Henry VIII, c. 17 proclaimed that "by the word of God" the king had and has always had full power and authority to exercise ecclesiastical jurisdiction.²

During the reign of Henry VIII, the theory that the pope had never exercised lawful power within the realm of England was pushed to the extreme and the principles of canon law were superseded by those of civil and common law. The Henrician government no longer recognized that there was a sphere of action in which canon law was independent and supreme. The Henrician government did not hesitate to change the traditional Church laws when it suited its purposes. In a proclamation in 1538, Dispensing with Lenten Fast from White Meats, Henry described the rules of fast and abstinence as "mere positive law

1. F. W. Maitland, Roman Canon Law in the Church of England, London, 1898, p. 91.

2. Ibid., p. 92.

of the Church and used by a custom within this realm" which might be "upon good considerations and grounds altered and dispensed with from time to time by the public authority of kings and princes..."¹

In the process of garnering to himself all possible attributes of royal supremacy, Henry VIII wasted no time in entering the field of clerical taxation and in enforcing the Church taxes, both old and new. The break with Rome and the assertion of the royal supremacy left the king quite free to deal with Church wealth as he pleased. J. J. Scarisbrick estimated that the result of the new tax policies on the clerical estate between 1535 and 1547 amounted to just a little under ten times the amount paid to Rome in former times, in spite of the fact that the dissolution of monasteries had considerably reduced the total taxable wealth of the Church in England.²

In addition to assuming the authority formerly held by the Church and clergy, King Henry VIII proceeded to restrict and eventually abolish franchised and semi-independent bodies that had grown up in the realm. An act in 1536, For Recontinuing Certain Liberties and Franchises Heretofore Taken From the Crown, was one measure designed to do away with any bodies that were independent of royal authority. This was made clear

1. P. L. Hughes and J. F. Larkin, Tudor Royal Proclamations, pp. 260-1.

2. J. J. Scarisbrick, "Clerical Taxation in England, 1485 to 1547," Journal of Ecclesiastical History, 11(1960): 50-2.

in the preamble:

"Where divers of the most ancient prerogatives and authorities of justice appertaining to the imperial crown of this realm have been severed and taken away from the same by sundry gifts of the king's most noble progenitors...to the great diminution and detriment of the royal estate of the same and to the hindrance and great delay of justice..."¹

Thus, by diverse ways in numerous areas King Henry VIII with the practical and efficient aid of Cromwell transformed England into a consolidated secular state in which the Church and all other semi-independent bodies were subordinated and made subject to the king in council or to the legislative sovereignty of the king in parliament. In the early 1530's the concept of Imperial Crown with the new interpretations of the royal supremacy as extending to ecclesiastical affairs were formulated to defend the break with the papacy; but by the end of Henry's reign, royal supremacy in ecclesiastical affairs and the omnicompetence of the king in parliament were accomplished facts.

Behind the development of the theory and the methods by which this new concept of royal supremacy was realized were many apologists in the employ of the King and Cromwell: bishops like Gardiner, Fox, and Sampson; young lawyers like Starkey and Morrison; political theorists like Christopher Saint Germain. Because of his exchange with Thomas More on the causes of the division between temporal and spiritual

1. G. R. Elton, England Under the Tudors, pp. 175-6.

powers and because of the fact that Saint Germain was one of the most influential defenders of the royal supremacy in the early period of the Tudor revolution, a quick view of Saint Germain's concepts of kingship would contribute to a fuller understanding of the nature of More's concepts of kingship as compared to that of the new Henrician concepts.

In the 1530's Saint Germain was one of the outstanding champions of the king's position.¹ In his work, Doctor and Student, he based the king's authority on justice rather than law, thereby giving the king a broad and indefinite authority not prescribed or limited by common law. "His treatment of equity is intended to transfer to the king the monopoly of corrective justice hitherto claimed by the Church courts."² In later writings, Saint Germain championed a kingship in which all temporal affairs would be subject to the king's law and the king's courts. It was these later treatises rather than his earlier works associated with religious controversy and with Thomas More³ that reflected the true nature and implications of the changes being effected by the Tudor government in England.

1. This was well demonstrated by F. Le Van Baumer, The Early Tudor Theory of Kingship, pp. 33-84.

2. M. C. Abrams, The Political Philosophy of Christopher St. Germain, pp. 14 and 59.

3. Saint Germain's earlier works included the Book of Division (to which More replied in his Apology); A Dialogue betwixte two Englishe men whereof one was called Salem and the other Byzance, commonly referred to as Salem and Byzance (to which More replied in Debellacyon of Salem and Byzance); and Addicions of Salem and Byzance.

Saint Germain's last work, An Answere to a Letter, was a defense of Henry VIII's assumption of the role of "Supreme hed upon erth under God of ye Church of Englande." In it, he described the king as having no superior in religious matters and defined the king's duties as doing justice to his people by administering to their temporal needs and over-seeing their spiritual welfare when the clergy was negligent.¹ According to his views, state oversight and support of the Church was conducive to the welfare and prestige of the Church and to the morality of the state.² He upheld parliament's jurisdiction in matters which were customarily assigned to the Church.³

Saint Germain attempted to prove the superiority of the secular authority by showing the priestly character of the kings in the Old Testament and by demonstrating from Scripture that Christ never wielded the temporal sword.⁴ He also examined the question of whether any provincial constitutions, that is, laws or canons promulgated at Church synods in England, were against the king's laws or his prerogative and expressed concern for the reform of the canon laws. He criticized the convocations of the prelates for making laws contrary to the king's laws and the customs of the realm and for

1. M. C. Abrams, The Political Philosophy of Christopher St. German, p. 24.

2. Ibid., p. 132.

3. Ibid., p. 26.

4. Ibid., p. 23.

contending that the laws of the realm were contrary to their liberties, even threatening to punish any man who obeyed them.¹ Saint Germain rejected canon law when it clashed with the king's prerogatives. If the clergy persisted in claiming liberties by any other authority than the king and his law, wrote Saint Germain, they deserved the "lesse to have them any longer."²

Saint Germain's thought was pervaded by his belief that all power, property, and offices in England were temporalities belonging to the king. Any authority lost, granted, or assumed by others could and indeed should be resumed by the crown; the Act of Supremacy did not give the king any new power but returned to him what had always belonged to the crown. Thus, all privileges enjoyed by the clergy were derived from the king and could be withdrawn. He maintained that ecclesiastical courts, for example, existed only on the sufferance of the king.

For the king to be supreme, supremacy in temporal matters of Church and state was not enough, however; the king's supremacy had to extend to matters of Church doctrine. He contended that God had never intended that the Church be presided over by one head, least of all by the Bishop of Rome. In Saint Germain's view, the Church in England was a visible body governed by the king in parliament and united to the rest

1. Ibid., p. 127.

2. Ibid., p. 130.

of Christendom only by the general acceptance of essential Christian doctrine.¹ Institutionally, the English Church was separate and autonomous for Saint Germain; the king of England was its head.²

In distinguishing the areas of temporal and spiritual jurisdictions, Saint Germain emphasized that the jurisdiction of the priesthood should be limited to matters of the spirit. It belonged to the clergy to administer the sacraments and to teach only of spiritual matters. All other powers belonged to the king. Saint Germain asserted that all possessions of the clergy were held under the king's law. The parliament and the king had the right to govern mortuaries, sanctuaries, and tithing. A priest might not wear cloth not made in England without temporal consent. Parliament might prohibit the visitation of an ordinary or forbid him to take money because money given on a spiritual occasion was a temporal thing.³

In matters of heresy, Saint Germain gave the authority of correction to the king and argued that historically original jurisdiction in heresy cases belonged to the king, not to the clergy.⁴ Furthermore, he held that the ultimate cure of souls in England rested with the king. If the sacraments were properly administered, the doctrine of the Church properly expounded, and the Scriptures correctly interpreted, there would be no

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1. Ibid., p. 28.
 2. Ibid., p. 124.
 3. Ibid., pp. 79-80.
 4. Ibid., p. 90.

heresy. If a man erred under these circumstances, he would know that he was wrong and, therefore, would be more guilty of obstinacy than of heresy. For this, he should be punished; and punishment in such cases would be for obstinate resistance to authority rather than for belief honestly entertained.¹

To the question, "who hath the power to declare and expounde scripture and whose declaracyon we be bounde to falowe and whose not?",² Saint Germain answered that it was for the Catholic Church to declare the truth concerning the faith. In England, this Church consisted of all professing Christians, and its only possible head was the king. Because the people of the realm and the king comprised the English Church, they or their legal representatives could speak for the Church and expound its doctrine; that is, the state represented by the king and parliament could determine what was essential to the faith.

In his attempt to assert the priority of the king's right to govern, Saint Germain cited both the scriptures and history to show that the king's power was an immediate grant from God.³ Both king and priest were ministers, but the king was the superior minister to whom God had entrusted his people. If it be contended that kings and princes should judge only

1. Ibid., pp. 110-11.

2. Quoted, Ibid., p. 134.

3. Ibid., p. 143.

upon temporal things, on lands and goods, and not anything that pertains to the soul, it is a "right great erreure." If the king allowed his people to break the laws of God or the laws of the realm without correcting them, he would be offending against God.¹ From Saint Germain's point of view, the king had ultimate jurisdiction over the souls of all men, bishops and priests included.

Saint Germain's deposition of the pope as God's vicar was accomplished by the substitution of a priest-king. As head of the Church, the king governed the congregation of the people; and by presiding over parliament, he governed as head of the secular state. The two powers fused together; there was no duality. Thus, Saint Germain's was a theory of a secular state based on a supernatural source, an immediate gift from God.²

The sovereignty of this secular state was synonymous with the sovereignty of the king in parliament; and parliament could not err. Saint Germain would not admit the possibility that parliament might err, first, because the laws issuing from parliament derived their authority from the common consent of the English people; and, second, because the king's conscience would not allow them to violate reason or the law of God. Since the king was the final authority on his own conscience, there was no place and no way to appeal

1. Ibid., p. 148.

2. Ibid., p. 150.

an unlawful act of parliament.¹ This view of the king's conscience was the basis of Saint Germain's concept of national sovereignty and his subordination of the English Church to the king and his conscience.² For Saint Germain, the final interpreter of equity and natural law was the conscience of the king; the pope or the student of canon law no longer had a significant place in England as Thomas More believed they should have had.

D. Conclusion

In the midst of all this revolutionary thought, More was an "old-line conservative" who "put up something of a fight for the status quo."³ Although More avoided the issue of Church and state in much of his controversial writing, he consistently defended the divine authority of the Church. He believed that by Christ's promise to be with the Church to the end of the world the Church would be divinely inspired and superior in spiritual authority.⁴ By this spiritual authority, the Church had the power to determine and interpret Scripture and to declare the truth and to denounce the untruths in all other matters of faith and practice. More defended the Church's supreme spiritual authority in his

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1. Ibid., p. 155.
 2. Ibid., pp. 157-8.
 3. F. Le Van Baumer, The Early Tudor Theory of Kingship, p. 63.
 4. The Dialogue Concerning Tyndale, pp. 73-4 and 124.

Dialogue Concerning Tyndale and in numerous places expressed the conviction that the indivisible and universal Church was necessarily tied together by the visible structure of universal law and authority.

More's principles came into conflict with the new Henrician theories and practices by which the Church government and canon law were absorbed by the state, by which the king was accorded the right and duty to dictate in matters of rites and dogma, and by which the king's conscience was accepted as the supreme law of the land even when it encroached on the consciences of his subjects in spiritual matters. The basic error in More's attitudes, as the Henricians saw it, was summed up in the charge made against him at his trial:

"...the aforesaid Thomas More falsely, traitorously, and maliciously, by art imagined, invented, practised and attempted entirely to deprive our lord the king ...of his said dignity, title and name of his royal estate, namely, of his dignity, title and name of supreme head in earth of the Church of England, to the manifest contempt of the king himself and in derogation of his royal crown..."¹

The political power was claiming the prerogatives of the traditional spiritual power over the spiritual affairs of men, and More refused to comply.

More disagreed with the Henricians that a layman, a secular prince or king, could be the head of the Church.

1. Quoted by G. de C. Parmiter, "The Indictment of Saint Thomas More," The Downside Review, 75(1957): 161.

He further disagreed that any power, with the possible exception of some consensus of the whole of Christendom, had the competence to transfer supreme religious authority from the pope to the king of England. More questioned the omniscience of parliament which Thomas Cromwell claimed for it and went on to say that he could not obey an act of parliament when it went contrary to the laws of Christendom.

More upheld the right of the Church to its legislative power through convocation and respected its body of canon law as part of the law of God. The Henricians viewed canon law as another form of human positive law and Henry VIII demanded that canon law be approved by the king and be revised by a specially approved committee.

Unlike some of the Henricians, More held on to a theory of resistance to a tyrant ruler. He maintained that a subject was not bound to obey a "law" that was not a law; in fact, a subject was bound not to go against his own conscience in matters concerning himself and the Church or God. Tyndale and other Henrician apologists repudiated the traditional constitutional principle, by and large accepted by More, that the subjects had submitted to the king only on condition that he "maintain the laws, privileges, and liberties of his subjects" and that if he misgoverned them, they were not bound to obey but could resist and even depose him.¹

1. A. J. Carlyle, A History of Medieval Political Theory in the West, p. 289.

To his last days, More insisted that one could believe in the pope's spiritual supremacy without admitting the pope's authority over kings or their succession. He consistently denied that upholding the papal primacy detracted from his loyalty to the king or made of him a traitor. The Henrician government, however, made the denial of the royal supremacy synonymous with the support of the papal supremacy in spiritual matters and with treason.

More interpreted legal and political ideas growing out of patristic and medieval times in terms of the events of his own time. From this tradition, More drew his own conclusions about what was morally right behavior in the actions of the rulers and of the ruled in his own day. Acting on the basis of his studied convictions, More came into conflict with human positive law, the statutes created by Henry VIII's Reformation Parliament, and with the narrow nationalistic values superseding his own universal ideals of authority and law in the spiritual affairs of the "common corps of Christendom."

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Of value to this study were unpublished materials presented at the Sir Thomas More Symposium: Freedom and Authority in the 16th Century of Sir Thomas More, held at the University of San Francisco, Aug. 12, 13, and 14, 1965. Featured lecturers included M. l'Abbé G. Marc'hadour on Erasmus, R. S. Sylvester on Thomas More, and L. W. Spitz on Martin Luther.