

The Royal Ecclesiastical Supremacy, by Prof. Henry Chadwick (Peterhouse, Cambridge).

The attached paper written in 1985 is to be published in a volume of essays on John Fisher edited by B. Bradshaw and E. Duffy (Cambridge University Press), and should not be quoted in print before that volume appears, probably early 1988.

Summary: The paper seeks to elucidate the different and complex notions of supremacy in 16th century texts, especially in Henry VIII and his main critic Reginald Pole. Henry could exploit the theme that the papacy is antichrist (the prehistory of that notion is briefly outlined), and could model his theory and practice on Justinian, East Roman emperor 527-65. Justinian freely legislated on ecclesiastical matters, appointed bishops, summoned councils, and even tortured a pope into submission to his will. It was self-evident to him that his duty was to keep orthodoxy in the Church, and to brief church councils on what they ought to say. By contrast, in the West Roman primacy had steadily acquired more and more power through appeals, through disputes over episcopal appointments between monarch and cathedral chapter, and through dispensations (i.e. relaxations of the proper rules if and when strict enforcement seemed inhuman or to have grave disadvantages for the Church generally). This concentration of power in the Roman curia in matters affecting ordinary people, e.g. divorce, offended lawyers jealous for national sovereignty, and those remembering an older territorial organisation where such questions were decided locally. Henry VIII could invoke the old Germanic theme that the owner of the land (who had endowed the Church anyway) properly exercised a religious control in his territory. So too he could give teeth to statutes of his medieval predecessors (Provisors, Praemunire).

Henry's lawyers, esp. St German, did not think of the Church as a sacrament of God's presence so much as a socially useful instrument for the religion and for the social coherence of the nation. St German encouraged Henry's assertion of absolute sovereignty, of being source of all authority whatsoever in his realms and territories. In practice Philip the Fair had made very similar claims for France at the end of the 13th century. Medieval catholic monarchs did not talk or act as if the Church were not their concern. But they wanted their church to be in communion with the Catholica. Henry VIII could have had all he wanted with the gallican model current since 1300; his anger over the divorce affair did not dispose him to accept such a formula. Moreover England had long had voices fiercely critical of Roman jurisdiction in practice - even Grosseteste of Lincoln, but most of all the anticlerical Lollards. Though Henry persecuted Lollardy, it was a continuing force in 16th century England (which may explain why in England Lutheran influence often yielded ground to Zurich and Geneva under Edward VI and even Elizabeth). Tyndale, a man of Lutheran sympathy, provided Henry with a blueprint for his church legislation.

Yet 'supreme head of the Church' offended protestants at least as much as catholics; hence Elizabeth's change to 'governor'. Thomas Cromwell could use the king's title to vest actual control over the English Church in Parliament. He prefigured the erastian, utilitarian view that denied to the Church any 'divine right'. This view, opposed by e.g. Hooker, Laud, Cosin, et al., was vehemently articulated by William Prynne.

Under Henry VIII royal supremacy came to mean the exclusion of papal authority; it was essentially a negative proposition about Roman authority. Yet under it was the royal supremacy that made possible the restoration of Roman jurisdiction, and under Elizabeth the maintenance of the episcopal succession. The puritan Wuburn complained that royal supremacy was the one doctrine you could be sure of being held by clergy of the Church of England, and that most of them, ordained under the Latin pontifical anyway, were at heart not protestant at all. The attacks of RCs on the Anglican Ordinal were milk and water compared with those of the Puritans for whom it was an intolerably popish book. The defence of catholic order and episcopacy by Elizabeth and her two successors contributed to bringing the monarchy down.

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[From Prof. Henry Chadwick]

ROYAL SUPREMACY

In the draft bull excommunicating king Henry VIII, of the year 1535, three themes are linked together as providing overwhelming grounds for the condemnation: the divorce of Catherine of Aragon, the claim to be supreme head of the Church of England, and the judicial murder of John Fisher. ✓ The ~~haintly~~ and renowned humanist Fisher, the man Henry VIII himself had been heard ^{by Pole} to describe as the most learned man he knew, is a symbolic figure by his unyielding opposition to the divorce and to the king's consequent expulsion of papal authority from his realm after the humiliation of Pope Clement's rejection. None of the three acts was well regarded in Europe at large, and together they looked like the tyranny of a night with long knives. Reginald Pole's Defence of the unity of the Church must have been telling Henry what the king already knew when he observed that Henry's actions had brought ^a political danger whether from Charles V or from the French; a severing of a branch from the root of God's tree by rejecting the universality and unity embodied by Peter's see; and ^a fear of civil insurrection and future conflict about the succession to the throne after Mary had been declared illegitimate. That seemed a lot of trouble to buy. As for the title 'head of the Church', Pole acidly remarked that this head was chiefly noted for plundering the Church. It seemed absurd that one claiming such a title could not minister the sacraments, and yet ^{could} constitute himself as the judge of controversies in matters of faith. Flatterers might tell him that royal supremacy over the Church was enjoined by the Bible in St Peter's exhortation to 'honour the king', and try to set Scripture up against tradition and catholic consensus; but Pole mercilessly demolished such ^{flimsy} arguments. Everyone knew that the title of supreme head of the Church had been conceded most reluctantly

As for the loot Henry had taken from the Church, Pole tersely reminded him that tyrants usually fall for lack of friends, not for lack of money. The whole story of the moral disintegration of a man who had once been enthusiastically acclaimed as a paragon among English kings is seen by Pole as almost an instance of ate, an insanity depriving the king of his wits and impelling him into storms for which he had no one but himself to blame.

My purpose in this essay is to try to set Fisher's protest and martyrdom in a broader context than the particularities of Henry VIII and his quarrel with the papacy, broader even than the now commonplace observation that well before 1534 there was growing tension between canon and common lawyers in England. It was not new for conciliar minds to seek some limitation and restriction upon the apparently total autocracy claimed for the papal monarchy by recalling that the authority of emperors and kings was also, according to scripture, God-given; therefore, in insisting that the Church's canons should not be enforced where they passed into realms governed by the Statutes of the King in parliament, they were not necessarily setting aside the law of God. Moreover canonists such as Gascoigne were aware that even the Pope can make no enactment or dispensation contrary to God's word, or indeed ^{to} natural law. Flenitudo potestatis was not unlimited in practice, and there was to be some bias in the Protestant contention that the Popes claimed to 'add, alter, and diminish, may also to dispense with the words that Christ himself spake, as well as the writings of the Apostles.' At least, that opinion was taking sides in a canonists' dispute, and the 'Protestant' barb (which I have cited from Archbishop Matthew Parker) ² would have had plenty of support among some medieval canonists of repute. The general opinion was that the Pope could interpret, but not dispense from, the word of God.

Accordingly, whatever might be the precise extent of authority contained in the power of the keys entrusted to Peter, these powers had to be balanced

by the truth that the powers controlling the secular order were also no less ordained by God. Could one not affirm both the king's supremacy and the pope's, recognising them to have different spheres of responsibility? In his second book Reginald Pole insists, 'I shall not diminish the authority of the king if I preserve his authority and Peter's side by side.' ³

Indeed, as the English Reformation advanced under Henry's son Edward VI, it became alarmingly clear that the religious and social upheaval of the age ^{could} put the monarchy itself at risk. Many pages of the fiercely protestant John Hooper ⁴ are devoted to the assertion of royal supremacy not against the claims of the papacy, though Hooper did not forget that theme, but against the sedition of Anabaptists. In his diocese of Gloucester he wanted his clergy to read Romans 13 to the people every Saturday and Sunday: to have shown the pope the door did not mean that there could be room for corrupt Englishmen with minds full of 'contempt, hatred, grudge, and malice against their king, magistrates, laws, orders, and policies'. ⁵ The king's determination to be master in his own realm (as none of his predecessors had been) did not mean that all Englishmen admired his break with the catholicity represented by Rome. Evidently some Englishmen were just as hostile to royal absolutism as to papal. To remove papal authority could entail moral and social collapse.

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Contemplation of the relations between the Church and civil government through the long course of Christian history suggests that Romans 13 has usually been more influential than the Apocalypse of John. ⁶ By one of the more paradoxical twists of exegesis, the Apocalypse's warnings against the Babylonian harlot of the Roman government have been ingeniously readdressed in the post office to apply to the bishops of Rome, the list of whom has its fair share of martyrs. The more tough-minded English reformers regarded it as self-evident, ^{something every schoolboy knew,} that as long as there are seven hills beside the Tiber, it is certain that the pope is the very whore of Babylon and Antichrist. ⁷ Admittedly this opinion was ^{to be} much dented by Grotius' exposition of the book of Daniel, ⁸ and in the middle of the seventeenth century Archbishop John Bramhall associated ^{with} the antipapal exegesis 'Protestants out of their wits'. ⁹

But a century earlier this exegesis of the Apocalypse was general, and had had notable medieval exponents from the Waldensians to Frederick II. Cranmer himself followed Wyclif in holding that in accordance with Revelation 20.2 Satan had been released from his prison after precisely a thousand years.¹⁰ There might be disagreements about the exact date on which his millennium of imprisonment had started, and therefore some hesitation about the point at which evidence of his release should be located; but at least by the sixteenth century one could be confident that Satan was well and truly released and active in subtle infiltration of the Church.¹¹ Surely he had taken possession of the Roman see, sitting where he ought not in the very sanctuary of the Lord, the 'man of sin'? So Roman 13 and the Apocalypse were harmonised, idealising the prince and rubbishing the pope. Admittedly, some medieval popes, and especially at the beginning of the sixteenth century, had discredited themselves and damaged the office.

The persisting strength of English Lollardy is shown by the enthusiasm with which leading Reformers took up the Antichrist theme. Moreover, Wyclif had proclaimed that the civil power's duty was to reform the Church, with a moral right to remove and redistribute its endowments.¹² In Piers Plowman even Langland (who, with Chaucer, could easily be regarded as a fellow-traveller by Lollards) had a famous prophecy of the coming King who was to cleanse God's temple of impurities.¹³ Both Langland and Wyclif took a low view of the Donation of Constantine. It must be a source of surprise that the dissident Lollards allowed their hostility to the Church, to priests^{both} as a caste and as a male preserve, to tithes, to all sacramental actions for which laity are dependent on clergy, to take them so far as to lead them to put trust in princes. Was not that to trust in the arm of the flesh indeed? Moreover, Lollards (as their Conclusions of 1395 declared)¹⁴ were pacifists who rejected killing whether in war or justice, and soon found that the secular authorities were as unsympathetic as the ecclesiastical. But confronted by a body as powerful as the medieval clergy, with financial resources^{14A} topped up by fees for requiems which Lollards especially abominated, they could turn to no source of power other than the king and the nobles. Among the Lollards of pre-Reformation England, there was plenty to make Henry VIII's revolution like the fulfilment of a dream among humble farmers and 'white-collar workers' in Kent, Sussex, and East Anglia, where Wycliffite translations, especially of the Apocalypse and of the epistle of James (with its denunciations of opulent Christians), were studied at clandestine meetings in barns. Admittedly Lollards suffered under Henry; but some of his programme was in line with much they had been saying. For example, Wyclif and his

followers objected to the quantity of money exported from the country either to the papacy or to international religious orders. (Cranmer himself felt that the fee for his ^{papal} consecration and pallium was excessive.) ¹⁵ Lay power was to be the instrument and weapon to liberate Englishmen in soul and body from the burdens imposed by an opulent and essentially foreign hierarchy, an alien multi-national corporation. One cannot say that all Englishmen of the sixteenth century manifested xenophobia, since a number of documents speak of their hospitable welcome to foreigners. But Wyclif anticipated some of the nationalist feeling apparent in the declaration, astonishingly found in the gentle, rational, and learned Matthew Parker, that 'Almighty God is so much English'. ¹⁶

When one reads in John Hooper that bishops have no duty other than to preach God's word whereas it is the duty of ^{the} prince to judge whether or not their preaching and teaching are correct, ¹⁷ it is difficult not to feel that the Reformation let loose some strange notions about church and state. Yet the doctrine of the theological responsibility of the prince had a long history going back far beyond Wyclif, and beyond the medieval struggles about investiture. Educated men of the sixteenth century read Justinian. Lectures on the civil law were part of the standard syllabus at Oxford and Cambridge. ¹⁸ In Justinian's Code, and in the Novels supplementing it, it is axiomatic that the emperor's authority extends beyond matters merely temporal and secular. He has a duty to protect orthodoxy and to harass heresy. So Justinian legislated to safeguard and enforce the true faith against heresies such as the Monophysite alternative to Chalcedon. He legislated to ensure the clergy did their duty. He issued formal edicts regulating the number of clergy on the establishment at Hagia Sophia. He provided controls for orphanages and hospitals which were ecclesiastical foundations. His enactments were intended to ensure that endowments were used as intended by the pious benefactors, and not bent to profane purposes or private gain.

As in the sixteenth century, so also in the sixth, the imperial responsibility to legislate against heresy was no private matter; the unity of the Church in truth profoundly affected the social and political cohesion of the empire. Dogmatic disputes shared with excessive interest rates the

largest responsibility for causing urban riots. Justinian's subjects were deeply divided on the issue of Christology, above all whether one should say in (two natures) or of. But he could not be neutral. He could not gain political control of Italy and the West unless he made Chalcedonian orthodoxy, and the preposition in, a foundation for his ecclesiastical policy, so that his personal convictions were reinforced by political necessity. The great emperor Anastasius, his predecessor but one, creator of the conditions necessary for the greatness of his own imperium, had run into endless trouble with Italy and the West because he was not sound on Chalcedon. He upheld the reunion formula, or 'Henoticon', of Zeno with its very cool reference censuring heresies 'even if held by bishops at Chalcedon or elsewhere'. In 518-19 Papal pressure to gain recognition for Chalcedon was to entail riots with large loss of life in some eastern cities. Justinian's Monophysite subjects in Syria and the Nile valley, with a few advance outposts in the monasteries of Constantinople itself, looked for support to his wife Theodora. In her highly unregenerate youth she had once been spiritually assisted by an anti-Chalcedonian priest in Alexandria, and never forgot her debt. She hid numerous Monophysite bishops in her large palace, and ever provided for them the noble church of St Sergius and St Bacchus, still standing today, to give them a place of liturgical assembly.

The Monophysites deeply objected to Theodore of Mopsuestia, Ibas of Edessa, and Theodoret of Kyrrhos - all long dead, but masterful expositors of 'two-nature' Christology and stern critics of the doctrine of one nature. In 543 Justinian issued a decree condemning their doctrines as expressed in selected excerpts or 'chapters', and included in his censure speculations ascribed to Origen by monks of the New Lavra in Palestine. But the imperial edict was not the end of dissension. Did it not need an ecumenical council to ratify the emperor's condemnations? Was the emperor, even if possessed of immense theological learning, the judge of fidelity to the word of God? An ecumenical council naturally had an aura about it, and for Justinian it could have the attraction that he would be seen to be doing for the Church in his time what the great Constantine had ^{once} done at Nicaea. But an ecumenical council needed

Roman concurrence, and indeed that of all the patriarchs and a great body of the metropolitans, unless it could be satisfactorily shown that a patriarch himself had lapsed into grave heresy. The West suspected, with some reason, that a condemnation of the 'Three Chapters' was intended to swamp the Scotch of the Chalcedonian definition with a flood of Monophysite soda. In Italy Pope Vigilius might be safe from interference. His predecessors before 518 (when communion between Rome and Byzantium was restored after more than three decades of schism) had enjoyed freedom from imperial interference. Paradoxically the ^{Byzantine} decision to give the popes everything they asked for meant that the kiss of peace in 518 was to turn into a lethal squeeze, once Justinian had reabsorbed Italy into his empire and again made the pope his subject. Vigilius could not decline the summons to travel to Constantinople. Justinian's general council of 553 was an assembly with papal consent for its assembling.

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Predictably, the Council ratified the emperor's censures on Origen and on the Three Chapters. But could Vigilius be brought to agree? Though residing in or close to the city and the council, he had declined to attend the conciliar debates, wishing to preserve his independence of decision on the question of ratification. In his estimate the council had only an advisory role, giving a demonstration of the general opinion, after which he would announce the final verdict. The Greek bishops gathered in Council regarded this as extraordinary arrogance. They threatened Vigilius with excommunication, and used the remarkable formula, later to enjoy Gallican echoes, that even if they withdrew their communion from Vigilius, they maintained it with the sedes; only not with the sedens.¹⁹ To the ancient Church, authority resides in the throne rather than in the person who may happen to be sitting on it. After several changes of mind and rough treatment at the hands of Justinian's minions, Vigilius finally surrendered to the emperor's will and assented. It was a manifestation of imperial supremacy, and everyone knew it. Yet the outward form of ecumenical conciliarity was preserved, and subsequent tradition knew how to deal with awkwardnesses in some of the language used at the Council by the rigorous critical process of 'Reception'.

In the Greek Orthodox tradition this process of Reception went so far that, because of one or two moments of embarrassment for readers (especially when Vigilius strenuously asserted the rights of his see and indiscreetly spoke of one operatio or energeia in Christ)²⁰ the Acts were left uncopied. The Greek Church remembered the canons and formal decrees, but not the actual Acts, which survive as a whole only through the Latin tradition.

Justinian's imperial supremacy did not shut out the Pope. It subjected him to torture and splendid banquets as alternating methods of extracting agreement. In the emperor's political theory there was no element of secular nationalism. in antiquity Nevertheless it is possible to find, at least a regional patriotism as joining forces with anti-papal feeling. Dissident bodies snubbed by the emperor, such as the North African Donatists, spoke of the empire as an agent of Antichrist with whom the Catholic Church was on altogether too cosy terms. Even Donatists were not above appealing to the magistrate whenever it seemed in their interest to do so.²¹ But they had a highly independent estimate of church authority, with a clericalised ecclesiology defined by rigorously preserved apostolic succession and a high sacramental doctrine of episcopal power.²² Their doctrine of legitimacy did not include either the cathedra Petri or the emperor. 'What has the emperor do with the Church?' asked Donatus.²³ Donatus would much have liked the Roman see to recognise his party; as it had not done so, it had ipso facto discredited itself. By associating with the wrong group, it had acquired the pollution of communion with apostates.

In reply Augustine's anti-Donatist writings do not work with a strong dualism of church and state. More than once he criticises the Donatists for being out of communion, not merely with the Catholica represented by Rome or Jerusalem or 'the apostolic sees' (usually, not always, plural), but also with the communion acknowledged by the emperor.²⁴

In one passage of the third book of his Contra Rufinum (iii,18) Jerome confidently avers that an imperial rescript can legitimately overthrow a synodical decision. Western Christians imagine such ideas to be rather more

at home in Byzantium than in the West. Yet it is in Greek canon law, not Latin, that one finds the first prohibition on bishops appealing to the court for review of a synodical censure, in the 12th canon of the Council of Antioch, c. 330. ²⁵

Distance between the emperor and the Church was naturally desirable from the point of view of the imperial government. Successive emperors, from Constantine the Great onwards, found that a close involvement brought them down into the sandy arena of gladiatorial combat between the different factions of party strife with which Christian history has been plagued. The ruler was faced with the great problem that to enjoy the wholly loyal support of his Christian subjects, he had to be orthodox in their eyes. In the conflicts between Chalcedonian and Monophysite there were no doubt some who regarded the christological intricacies as quite beyond their powers of discernment, and who were therefore content to say that what was good enough for the Emperor and the patriarch was good enough for them. ²⁶ But to a Monophysite in the Nile valley his own patriarch at Alexandria was the man who counted, and anything emanating from Constantinople was suspect from the start. Once Pope Leo I had decisively sided with Chalcedon's two-nature christology, the authority of Rome counted for nothing too. For Copts, Ethiopians, Syrian 'Jacobites', and Armenians, the papacy was thereby involved in irremediable heresy and its authority reduced to zero. The same held good for the Byzantine emperors.

The close involvement of the secular ruler in the party strife had a further disadvantage, namely that dissent from the position supported by the emperor was more than a religious disagreement: it amounted to disaffection in political terms, and was on the way to becoming treason. In the seventh century the Egyptian and Palestinian opponents of Chalcedon did not invite the Arabs to invade. But once the Arabs had conquered, they found themselves to enjoy far greater religious freedom (qualified as that might be) than they had done under the Byzantine emperors. During the bitter iconoclastic controversy, John of Damascus could compose fulminous denunciations of the heresies of the iconoclast emperors and enjoy serene impunity because he was an Arab living outside the territories where the emperor's writ still ran.

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The authority and power of the Roman see in the western Churches evolved in large measure because in situations of sharp controversy a final court of appeal was required. Popes found themselves being appealed to for decisions substantially before anyone thought of developing a theory or an exegesis of Petrine texts to provide a ground for this exercise of jurisdiction. Appeals to Rome over the head of local regional authority, however, could be feared and unpopular in both Church and State. English kings of the medieval period disliked such appeals as much as the North African bishops of St Augustine's time. Disputes were frequent about episcopal appointments. The Germanic races had an instinctive sense that rights over people go with ownership of land, and that the lord of the land has special rights in relation to the priests appointed to serve the churches which the landlord has himself built.²⁷ The lord was the patronus of the beneficium. (The earliest instance of beneficium in our modern sense of 'benefice' has lately come to light among the new letters of Augustine found by Johannes Divjak. It is instructive that in the context the opulent lady who owned the land evidently exercised a veto over the nomination of a bishop for her tenants, but did not at this stage actually nominate.)²⁸ Accordingly, kings expected to exercise rights of patronage. On the other hand, the ecclesia catholica was not a national body; and the cathedral chapters expected to nominate as well as to elect. When kings nominated one candidate and chapters nominated another, the dispute might be taken to Rome, and the popes could produce a third.²⁹

Norman kings of England were self-willed men who wanted their own way with the Church. William Rufus declared that Anselm of Canterbury had no business to vow obedience in homage both to the king and to the apostolic see: two allegiances were mutually incompatible, and if the archbishop recognised Urban as his lord in spiritualibus, that was disloyalty to the Crown. When Anselm wished to go to Rome for his pallium, the king would not allow the act as an acknowledgement of foreign authority. Eadmer says that sycophantic bishops told the king that if Anselm in any way acknowledged the pope's jurisdiction, he was breaking the faith he owed to the king (Vita 16). Anselm eventually defied the king and was received at Rome by Urban's successor Paschal. William then forbade Anselm to return to England unless he renounced obedience to the pope, and he insisted on his own right of investiture. Eventually Anselm was readmitted by Henry I. In August 1107 the king held a council in London to decide on nominations to the numerous vacant sees, and granted Anselm the decisive voice in the choice of candidates and the right of investiture by the giving of the pastoral staff. But the king insisted on homage by bishops

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and abbots after their election and before the archbishop went forward with the consecration. After all, the Church had owed its place in society to the patronage of kings and nobles in the barbarian kingdoms; one ninth-century pope could rebuke the archbishop of Cologne (in a row over a nomination to Liege in 921) for ignoring the custom that only the king could confer the episcopate. After Gregory VII such language was unimaginable.

Papal power was enforced through 'provisions' or nominations to bishoprics and benefices and through the power of dispensation. In the letters of St Augustine it is taken for granted that when appeals go up to Rome, the pope's prime duty is to see that conciliar canon law is observed. He is the principal executive officer to enforce the rules of procedure laid down by church councils. Nevertheless, situations may arise where the strict adherence to canon law will produce riots in the city or other disadvantages. In such cases Augustine assumes that the bishop of Rome in conference with the local primate of Carthage has the power to dispense from strict canonical procedure. Dispensing power later became of the greatest practical importance because of the church rules about forbidden degrees of affinity in matrimonial cases. Questions of marriage and divorce were of special concern if people were to remain in good standing in the eyes of the Church. Papal power to dispense from rigid rules became a major source of authority. Unfortunately the system involved the Roman curia in all the costs and pettifoggery attaching to complex litigation. To Henry VIII and his lawyers it was a source of offence as well as of much lay irritation when matrimonial and other cases had to be taken to a foreign court for decision. But Henry was not a total innovator in demanding that the appointment of bishops and matrimonial causes depend on his royal authority. What was new and revolutionary in Henry was his shattering of the universal assumption that the English Church was without question part of a universal Church, or at least a western Church, of which the bishop of Rome was the executive head. Not even Wyclif could have entertained a notion as radical as that. Marsilius and Coxham could write incendiary pages attacking papal power as currently operating, but could hardly have envisaged Christendom as a congeries of independent national churches established on the principle cuus regio eius religio. Nevertheless, once one set aside the ecclesiology of the Isidorian decretals, it was an easy move to thinking of the Church as organised territorially, with the metropolitan of the province exercising real jurisdiction in relation to his suffragans, with the life of the Church of the province ruled by Scripture, the canons of church councils received by the universal Church and especially in the province in question, but not by the personal decisions of the bishop of Rome. There was truth in the contention that the primarily territorial structure was predominant in the ancient and early medieval Church.

Henry VIII's apologists could defend his actions on the ground that it his 'private' Church of England of which he claimed to be head. ³² The defence presumably assumed the old Germanic notion of land ownership entailing religious control. But Henry's ideas of supremacy were certainly fuelled by his reading in Justinian. His address to the Convocation of York in 1533 makes an express appeal to Justinian's ecclesiastical legislation to prove that he is not claiming new powers. ³³ There indeed was a great emperor, a master of the civil law, legislating with unquestioned sovereignty on matters which, in the medieval West, were ordered by canon in a pyramid of authority with the pope at the top, everything flowing down from the power of the keys entrusted to Peter. Protestant defenders of the thesis that the prince is judge of doctrine found Justinian an uncertain aid, because of the proposition in Justinian's Code (Lid) that the bishop of Rome is the acknowledged guardian of orthodox belief - a point which Philpot had to concede at his trial in October 1555. ³⁴ But Jewel recalled hearing Peter Martyr lecturing at Strasbourg on Justinian's removal of two popes from office, Silverius and Vigilius, and felt encouraged enough to include the point in The Defence of the Apology of the Church of England (1570). ³⁵ At least it was clear that Justinian did not derive imperium from the Pope. His sovereignty as emperor was quite independent.

Awareness of the overlap and potential conflict between canon law and civil law first appears, to the best of my knowledge, in the fearful disputes about the legitimacy of Pope Symmachus at the time of the Laurentian schism at Rome at the beginning of the sixth century. ³⁶ In England the issue arose sharply in Magna Carta (1215) English kings long before Henry had imposed penalties on clerics who appealed to Rome against the king, and had enacted statutes such as Praemunire, and the statutes of Provisors. With Henry VIII, what had been only brave words for Edward III was now being acted on.

In Henry's inns of court there were hard-headed anticlerical lawyers like Christopher St German (1460-1541) insisting that where there is conflict between canon and statute law, canon law yields. ³⁷ St German appears as a supporter of the king's unilateral 'reform' of the Church, and an opponent of canons and legatine constitutions encroaching on the proper rights of the temporal power. For him it is axiomatic that an opinion enforced with the threat of penalty for heresy must be supported by sufficient and unambiguous authority: can the bishops be said to have

utterly clear authority for all that they enforce under the ex officio procedure? St German also thought that a secular ruler has the right to lay down judgments on history where that is done to provide a ground for political action in the present. He was anxious to vindicate the thesis that Henry's Act of Supremacy of 1534 in no sense added new powers; the Act could not be understood to grant Henry the potestas ordinis. So St German justifies the assertion of the Act in Restraint of Appeals that this realm of England is shown from sundry ancient chronicles to be an empire. An 'Empire' here, as Walter Ullmann showed ³⁸ meant a sovereignty of jurisdiction in which the ruler was the source of all authority whatsoever, like Justinian an unquestioned master in his own house, ^(to St German) and because of his responsibility to defend truth in the Church, possessing the right to decide disputed points of biblical exegesis. The Act's historical assertion was of momentous consequence for the juridical conceptions underlying Henry's claims to ecclesiastical supremacy.

Did Henry need to do it? European monarchs and emperors had long used their powers to ensure that important sees were held by the men they wanted. Bishops were often well educated, frequently of aristocratic or even royal blood, and formed the nucleus of the king's council. (They are the oldest element in the English House of Lords.) Henry VIII was not the first, as also not the last, to use his powers to nominate figures politically congenial to him. That is not to say that political considerations were all-important even for him. Cranmer may have been timid and vacillating, but he was certainly learned; Cuthbert Tunstall was gentle and saintly; Stephen Gardiner a first-rate canonist as well as a fluent linguist in French and German and probably some Italian. Even Henry wanted his bishops to be acknowledged for their godliness and good learning, not merely to have the right prejudices about his divorce and the iniquities of the pope.

Moreover, Henry was far from being the only European monarch to expect to be a decisive voice in the choice of his principal bishops. The Pope, Clement VII, did not object to the nomination of Cranmer to succeed Warham. Over episcopal appointments, then, Henry had not crossed swords with the Vatican. The Act of 1533, however, on the appointment of bishops, still on the English statute book today even if in practice other arrangements now prevail (as in the case of the Concordat with France in regard to episcopal appointments in Alsace and Lorraine), is militant. It eliminates from the nomination process both the pope and any independence of mind on the part of cathedral chapters (though allowing them a nominal elective role). Yet did the Act make assertions about royal powers such as no one had heard in Europe before this time? Frankish kings of Merovingian and Carolingian times had exercised wide powers, which were in most cases taken for granted. Hincmar of Reims felt it necessary to admonish Louis III not to demand, please, that a candidate nominated by the Crown be elected; he should keep the customary procedure by which the Crown granted the neighbouring bishops leave to proceed to an election, authorised the entrusting of the temporalities to the new bishop, and permitted the metropolitan and provincial bishops to go ahead with the ordination. At the same time Hincmar carefully dissociated himself from the view (evidently held by some) that kings ought to confine themselves to temporal matters and to think church affairs none of their concern.³⁹ The investiture struggle showed the Church trying to fend off established lay control, whereby the priest was no more than the landowner's chaplain and servant. Henry VIII's actions are evidently more than yet another act in the investiture controversy, but are nevertheless intelligible as a reassertion of lay power over the Church - and power not only de facto but de jure Angliæ. He claimed that he was not innovating but recovering ancient liberties -- and that was the language of Gallicans, if not from the time of Philip the Fair, at least since the Council of Constance.⁴⁰

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 Pope Paul III cannily suggested a Gallican liberty as a way of retaining England within Catholic unity.^{40A} Why could not Henry take the French line, holding communion with the rest of the Western Church and Rome, yet strenuously keeping papal jurisdiction at a distance? Henry's father-in-law, Ferdinand the Catholic, ruled not only southern Spain but Sicily. He continued the secular independence of the Norman kings of Sicily, who had called councils on their own say - so, had forbidden appeals to the Curia, had refused entry to papal legates trying to visit the island, and had wholly controlled the nomination of bishops. The Capitula of the kingdom of

Sicily include the text of a proclamation by Ferdinand dated 22 January 1514, which declares his devotion to the Roman Church, and then adds the proviso that in Sicily the king remains responsible for both spiritual and temporal affairs. The curia is not to intrude. ⁴¹ ✓

One wonders if Henry VIII might have followed his father-in-law's example, asserting both his royal supremacy and his devotion to catholic doctrine, including the see of Peter if not the incumbent sitting on it. Henry's defenders liked to point to the deplorable corruption in holders of the Petrine office like Alexander VI - an argument to which Pole responded with the observation that the juridical rights of the English Crown were surely independent of the moral qualities of the kings wearing it. One could assert the honour of the office without having too much regard for the holder. By an ironic paradox Henry's daughter Mary could only restore papal supremacy over the Church of England by invoking her royal prerogative, in face of the reluctance of many in parliament to see the Church restored to communion with Rome for fear that the pope and Pole would expect and require the restitution of confiscated church lands, held by those whom even the strongly Protestant John Foxe frankly described as 'cormorants'. ⁴² ✓

Pole suffered the humiliation of long delays before being allowed into the country with legatine authority. And in practice the example of Mary in ^{Voluntarily} forgoing the confiscated church properties was not followed by many. ^

Henry VIII's Act of Supremacy was not really thunder out of a clear sky. Philip the Fair of France had treated Boniface VIII in an analogous manner. In the pre-Reformation age the English people seem to have entertained mixed feelings towards the chair of Peter. Some certainly looked to it as a source of truth as well as a fount of canonical authority. But there were others who did not feel this way about it - who resented the manner in which Innocent III had dealt with king John. From the chronicle of Matthew Paris (1199-1259) one might easily gain the impression that English prosperity had been disastrously hindered by bribery and corruption at the Roman curia. ⁴³ Grosseteste thought the papal practice of stuffing foreigners into English bishoprics and benefices so disastrous that everyone ought to

be stirred to resistance and protest. When pope Innocent IV conferred a canonry at Lincoln on his own nephew, Grosseteste declared his simultaneous obedience to papal jurisdiction and his conviction that such an act could come only from Antichrist, on which ground he flatly declined to accept it: papal authority should be used for edification, not, as in this case, for destruction. Grosseteste wanted the spiritual and the temporal kept apart in distinct spheres, the secular arm concentrating on the defence of the realm, just administration of law, and upholding good conduct by example; the spiritual arm to minister the word and sacraments with holiness of life, vigils, fasts, and assiduous prayer. He wanted to keep the secular arm in England from intruding its power into the church by patronage rights, and wished to maintain the independence of the church courts. He expressed apprehension ~~lest~~ the coronation unction might give the monarch the illusion that he had received some sacerdotal powers together with this biblical sign of the seven gifts of the Spirit. ⁴⁴

Grosseteste was no doubt not the antipapal hero the Lollards made him out to be. Their feelings about the papacy were fairly unqualified. Wyclif denied that the pope has any greater power of the keys than other priests. He told king Richard II that royal sovereignty in England ought to have no rival, that the king was entitled to stop money flowing to Rome, and that the papacy as an institution ^{was} Antichrist. The temporal power had a moral right to take endowments from unworthy clergy. The canon law of the Decretalists should be set aside, ⁴⁵ and the Church ordered in accordance with the Bible and the ancient Fathers.

The persisting influence of Lollardy into the England of Henry's age no doubt helps to explain why the influence of Luther on the English Reformation, while certainly substantial, was not always dominant. As early as the 1530s there were contacts with Bullinger and the Zwingli-
plicity of Zürich. Granted that many of the Thirty-Nine Articles owed much to the Augsburg and Württemberg confessions of 1530 and 1552, both

striking for their conservative moderation and conciliatory tone; granted that in 1562-3 Bishop Edmund Guest, known for his Lutheran sympathies in eucharistic theology, had drafted article 28 of the Thirty-Nine Articles in terms which simultaneously denied Transubstantiation as an eliminating of the sign from the sacrament (as Lingard saw) and sought to protect the Presence of Christ - to the consternation of the Zwinglian faction; granted that the Thirty-Nine Articles actually recognised the bishop of Rome to be Catholic bishop of that city and denied only his jurisdiction in England and (what none could assert?) the permanent gift ^{or habit} of inerrancy in incumbents of that see: nevertheless, the puritan dissatisfaction with Cranmer's prayer book and ordinal and articles is naturally seen as a continuation of the underground dissidence of Lollardy. The agonies of the vestiarian controversy reflect Zwinglian influences, which regarded Luther and Brenz ^(and Bucer) as dangerous compromisers encouraging the English Reformers to produce 'a mingled estate', 'a mixture of the gospel and popery.' 46/

One writer influenced more by Luther than by Lollardy provided a virtual blueprint for Henry VIII's revolution. In 1528 William Tyndale published The obedience of a Christian man, telling Henry that his duty was to reform the Church. The pope and bishops had gathered to themselves too much of the wealth of England. 'Monks devour the land'. Whatever goes into their treasury ceases to circulate; land bequeathed to them falls under the dead hand, mortmain. Clergy claim to owe no obedience to princes. Their prime love is power, and they use auricular confession to extract personal and political secrets. Tyndale was one of the many who have imagined that because the pope has a priest in every parish, he must be wonderfully well informed. He was much offended when the clergy handed heretics over to the secular arm for 'just punishment mitigated by due mercy', a formula which everyone knew to mean burning. The bishops had made the king into the pope's hangman.

Let Henry rid the land of the pope's usurped power. He should abolish church courts through which bishops harass laymen, sometimes (as Foxe later complained) putting questions that simple artisans and yeoman farmers could hardly grasp. The king should subordinate to his own statute law the canon law by which laity are oppressed and to which they have given no consent. He should redeploy the resources of idle monks for educational purposes and the better instruction of a sadly ignorant clergy.

Tyndale's book was apparently put into Henry's hands by Anne Boleyn, whose family had at least anticlerical and perhaps protestant sympathies, and whose house was a place where imported Lutheran books might be found. But Tyndale's next book would not have been accepted there. He expressed vehement disapproval of the divorce, agreeing with Martin Luther, who declared that for Henry to divorce Catharine and marry Anne would be adultery, a considerable time before the vacillating pope came to give a verdict. Tyndale's condemnation was fatal to him. Living at Antwerp (where, despite the emperor's control over the port, it seems that protestant merchants and travellers could pass remarkably freely), he was eventually betrayed. As the flames rose round him he prayed, 'Lord open the king of England's eyes'.⁴⁷ In fact his book of 1528 may have done that already: for Tyndale there taught that kings, not popes are God's deputies on earth. Their subjects owe them an undivided allegiance. The king is answerable not to them but to God alone, and 'none may question whether his acts are right or wrong.' This was heady and intoxicating reading for a self-willed, egocentric monarch with the mind of a spoilt child.

Yet Henry's determination to be master in his own house went back to the very start of his reign. In his Defence of the unity of the Church Pole tried to remind Henry of his coronation oath to uphold the liberties of the Church. He evidently did not know that at the time in 1509 Henry had wanted to add the qualifying proviso 'if not prejudicial to his jurisdiction and royal dignity'. As early as 1515 he had been claiming, 'We are by the sufferance of God king of England; and in times past the kings of England never had any superior but God; we will maintain the rights of the Crown like

our progenitors'.⁴⁸

The title 'supreme head, under God, of the Church of England and Ireland' cannot have looked anything but ridiculous and offensive to most of Henry's contemporaries. Tunstall's well known remonstrance on the subject expressed what was surely a common feeling both to conservatives and to 'gospellers'.⁴⁹ 'Caput ecclesiae' was a title Protestants found no less irksome than Catholics. Both Luther and Calvin referred to the assertion, implying Henry to be pope in his own kingdom, with astonishment and scorn.⁵⁰ It is especially instructive to notice that at his trial in 1556 Cranmer was accused of having been personally responsible for seducing Henry into claiming the title, and that Cranmer, with eminent reasonableness, justly replied that the responsibility lay with his Catholic predecessor Warham, supported by the considered judgment of the universities of Oxford and Cambridge.⁵¹ Royal supremacy was no protestant doctrine in the form in which Henry was to assert it, even though the German reformation was to depend very much upon the decision of the princes.

A sensitivity to protestant feelings, more than any desire to placate her ræstive Catholic subjects, moved Elizabeth in 1559 to accept Lever's suggestion that she change 'head' to 'governor' (below p. ⁵² It must be clear (though Henry himself had conceded the point) that the control of church policy implied no claim to the sacerdotium. Even that and the explicit disavowal in the Thirty-nine Articles⁽³⁷⁾ were to be unacceptable to Cartwright and the puritans. During the 1560s the widening split between the Marian exiles entrusted with episcopal office and those who had not been so favoured reinforced the latter's conviction that a royal supremacy must be set aside. It was the Queen's resolve which maintained the episcopal succession, a 'popish pontifical' called the Ordinal, crucifixes, wafer bread, saints' days and surplices; and to puritans the authority which upheld such things was ipso facto discredited. Already in the 1570s Whitgift could foresee that an overthrow of the episcopal order could entail the destruction of the monarchy.⁵³ I suspect that John Foxe's surprising support for the queen and the episcopal order, despite his strong affinity for the puritan stance, explains why, when Cartwright accused Whitgift of gross insincerity in his laudatory words about Foxe, Whitgift was able to assert his cordial gratitude to the martyrologist.⁵⁴

Professor Scarisbrick has given a brilliant elucidation of the gradualness of the evolution of Henry's notions of royal supremacy.⁵⁵ As late as 1530 the king could grant that in matters of heresy the pope ought to judge,⁵⁶ his jurisdiction was the point in dispute. But after the Act of Supremacy of 1534, Henry, with the undergirding of Cromwell, began to think himself responsible for laying down norms of authentic doctrine in his private Church of England. Had not the Supremacy Act simply transferred to the king all the powers, ranging from dispensation up to dogmatic definition, ordinarily exercised by St Peter's

successors? Could he not issue injunctions for his Church motu proprio, without the least consultation with convocation? ⁵⁷ There was a more sensible, if in practice weaker, answer, namely that the dispensing powers had now passed to the Archbishop of Canterbury, and that the responsibility for determining the doctrinal platform of the English Church fell to the college of bishops. The Ten Articles of 1536 bore only the king's name and title as their authority, but explicitly claimed to have had mature consideration by convocation. Nothing is revealed of their extensive affinity with the articles agreed ^{at} ⁵⁸ Wittenberg between an English delegation and the leading Lutheran divines; but the 'protestantism' of the Ten Articles is of the most 'milk and water' kind apart from the emphasis on the non-fundamental character of images, saint's days, invocation of saints, holy water and candles and other ceremonies, and on the distinction between ^{accepted} the propriety of prayers for the departed and the abuses associated with purgatory. The statement on justification 'by contrition and faith joined with charity' anticipates Trent. Foxe thought the Ten Articles contained 'many and great imperfections and untruths not to be permitted in any true reformed Church.' ⁵⁹

The following year saw the appearing of the 'Bishops' Book', which for protestants was hardly more consoling, ⁶⁰ and the revision of this in 1543 to produce the King's Book went so far in an unprotestant direction as to make everyone take for granted that Stephen Gardiner's hand was ubiquitous in it. ⁶¹ The King's Book includes a striking passage on the refusal of the Orientals and Grecians to accept the Council of Florence on Roman primacy, demonstrating lack of catholic consent. The right of national churches to follow their own order is also asserted, with a duty to honour, after Christ the only head of the universal Church, 'Christian kings and princes which be the head governors under him in the particular churches'. ⁶²

To ensure royal control, Thomas Cromwell was nominated as the king's vicegerent to govern the bishops' proceedings, taking his seat in convocation

above the archbishops. A church historian might ask if he or Henry could have been aware of the presidency exercised at the fourth ecumenical council of Chalcedon in 451 by the long row of high-ranking lay officers of state nominated by Marcian and Pulcheria. The presidency of these lay officers of state could be deduced^{even} from the jejune information, apart from a Latin translation of the Definition of Faith and the 27 canons, provided in Merlin's principes of the collected Concilia. (Crabbe's edition did not appear until 1538, and the margins of Cranmer's copy of that were soon to be covered with his manuscript annotations.) In 1536 and in 1538 Cromwell issued sets of ecclesiastical injunctions in the king's name, with a preamble making it explicit that they are grounded in the king's 'supreme authority ecclesiastical'. But this supremacy was enlarged by Cromwell to be held and exercised not by the king alone, but by the king in parliament. Henry's acts in relation to the Church were made parliamentary statutes, and it was^{only} parliament which could make the denial of royal supremacy a crime. So the supremacy of the Crown merged into parliamentary control⁶³. The lawyers were insistent that the Act of Supremacy was no innovation. A contemporary, George Wyatt, wrote that it was 'not done to give the king any new title or office, but to declare how that authority was always justly and rightfully due to the crown of the Realm, and that no foreign prince or potentate had anything to do in the same, as the bishops of Rome called Popes pretended and of long time usurped.'⁶⁴ To the common lawyers it was axiomatic that papal power had never been exercised in England except by the king's permission, and what the king could permit he could also disallow. Cromwell tied the autocratic omniscience of the Crown to that of parliament, and thereby began the long debate on what limitations there might be to the royal ecclesiastical supremacy.⁶⁵

(Paris, 1524; 2nd ed. Cologne, 1530)

The flexibility of interpretation attaching to royal supremacy and the way in which it could be used by Parliament to resist both king and bishops were brought out in a conversation between Bishop Stephen Gardiner and Lord Audley, Thomas More's successor as lord chancellor (1533-44). The conversation was reported by Gardiner in 1547 in a letter to the Protector Somerset, in which Gardiner submitted to Somerset his difficulties about accepting Edward VI's injunctions for the Church. ⁶⁶ Gardiner argued to Somerset with some subtlety that these injunctions laid down prescriptions which were not authorised by Act of Parliament. Could the royal prerogative override Parliament in this way? He recalled how Wolsey had been caught, together with all the clergy of the Church of England, under the statute of praemunire. Although it was at Henry VIII's express request to the pope that Wolsey was appointed as papal legate in England, nevertheless the lawyers held that his authority was contrary to Parliamentary enactment even if he had been carrying out the king's wishes. The judges ^{had} appealed for precedent to the case of Lord Tiptoft, earl of Worcester, who fell from power with Edward IV in 1470 and was unable to avert execution by the defence that his savage cruelties on Edward's behalf had been carried out in the cause of his sovereign, and had been in accordance with the law he had learnt at Padua even if not with the enactments of Parliament. Moreover, it was held against Wolsey that in defiance of Magna Carta he had issued injunctions which were against the common law. In 1545 Gardiner had been sent as ambassador to the emperor, in the course of which he had assured the emperor that the king of England was not above the order of the laws enacted in Parliament. Only a year previously, under Henry, he had been concerned with members of the privy council about the dangers to the king in contravening an Act of Parliament. His earlier conversation with Lord Audley had ended with Audley warning him off so delicate a subject. Audley observed that the Act of Supremacy confined the king to spiritual jurisdiction, and that another Act provided that no ecclesiastical law could stand against common

law or parliamentary enactment. By this last proviso the laity were protected against king and bishops clubbing together to oppress them through canon law. Audley saw the uncertainties of interpretation of praemunire as the principal source for lay liberty from ecclesiastical tyranny.

In his reply to Gardiner Somerset seems not to have taken up the legal points raised by Gardiner, but rather to have confined himself to pressing Gardiner to accept the 1547 book of Homilies. The royal injunctions for Winchester cathedral pointedly forbade anyone to call the doctrines of the Homilies heretical or new or any other such opprobrious epithet. ⁶⁷ Gardiner's conscience was troubled by the possible antinomianism of Cranmer's homily on Salvation, sufficiently at least to make him prefer to stay in prison.

Audley's interpretation of royal supremacy to mean lay power over the Church and even the Crown prefigured the view that it was a basic principle of the reformation to deny to the Church any 'divine right', anything other than the right of a useful, ^{merely} human society within the sovereign state. Those who asserted that a bishop had jurisdiction inherent in the commission bestowed in ordination came increasingly to be regarded as catholicising. In April 1628 the archdeacon of Durham, John Cosin was accused of denying the king's power to excommunicate and title 'head of the Church', and persuasively observed that while the practical exercise of pastoral jurisdiction was wide possible by the king, there was no sense in which the king could be said to be the source of episcopal authority. The source of that was clear from the rite of the Ordinal. ⁶⁸ Nevertheless the protestant thesis that divine authority lies exclusively in scripture implied a desecularisation of the Church and its ministers, which made it easier to interpret royal supremacy simply as expressing the view that authority in this Church lies with the secular power. It is deeply significant that the first sentence of article 20 of the Thirty-Nine Articles ('The Church hath... authority in controversies of faith', echoing the Württemberg Confession, 1552) was so disliked by puritans that some printed editions of the Articles omitted it. Even king James I ^{since} imprudently suggested (in his Apology for the oath of allegiance, 1607) that the Bible being the sole source of divine truth, it was for each believer to judge of the dogmas of the faith — a proposition which removed all possible basis for the king's policy of coercion towards recusants and dissenters.

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Even during Henry VIII's reign the doctrine of royal supremacy carried ^{very} different meanings to different people. During 1543-44 Stephen Gardiner was engaged in controversy with William Turner, alias Wraghton, author of The hunting and finding out of the romish fox.⁶⁹ Turner asked if the king's assertion of supremacy was a denial of the pope's name, or purse, or doctrine. To the majority it was hardly a denial of Catholic doctrine. For a short time Henry could look for friends among the Lutheran princes of Germany, and send divines to Wittenberg to reach agreed statements with the Lutherans which Luther and Melanchthon were to think insufficiently protestant except as a provisional measure. But in England the Latin mass remained intact, and the Six Articles Act strongly enforced transubstantiation and the necessity of priestly absolution in case of mortal sin. The bloody executions of 1540, especially that of Barnes, and the discarding of Anne of Cleves, were well understood to signify that the king was not by this time thinking of moving in a Lutheran direction.⁷⁰ Nevertheless, as the French ambassador shrewdly told Francis I in a letter of 6 August 1540,⁷¹ it was no easy matter for Henry to keep a people in revolt against the holy see and the authority of the Church, and yet free from the infection of heresy; nor on the other hand was it easy to keep those tenaciously attached to orthodoxy from looking with affection towards the papacy - an attachment - which would increase as men like Cranmer showed mounting sympathy for Luther and then for Zwingli and Bullinger. Royal Supremacy was tolerable on a temporary basis for the ^{Erasmian} Henrician bishops so long as they were not asked to accept heresy. On the other side, the same was found to be true by the Protestants. The extent of Protestant disillusionment with Henry's policies for the Church of England is dramatically and bitterly set out in the well known letter of Richard Hilles to Henry Bullinger, written from London in 1541. Hilles

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portrayed an arbitrary bloody tyranny by a king who had exchanged romanising for womanising, and was now actively engaged in the persecution of godly men and women. The martyred Barnes (to whom no reason for his execution was given) had already told Luther than Henry's church policy was wholly determined by political considerations, not in the least by religious conviction or the word of God. ⁷² The impression among both conservatives and radical reformers was that the royal supremacy was merely an act of naked power with no visible moral basis. William Turner ^{initially} refused to grant Henry the title of supreme head of the Church of England and Ireland, but dedicated his book ^{of 1543} to Henry as 'supreme governor under God', explaining that this was to give him as much honour 'as is lawful to give unto any earthly man by the word of God'. ⁷³ It had the further advantage of answering 'certain wanton persons where as I have been, call the king's highness pope of England.' ^{Under pressure} Turner was willing to concede that the king is 'supreme head of the Church of England and Ireland', with the proviso 'if ye understand by this word Church an outward gathering together of men and women in a politic order', and not the Church of which the New Testament speaks (!). 'Every vicious king is a member of the devil', and therefore not a member of that Church, still less head of it. On the other hand, Turner was firm that royal supremacy was grounded in scripture, not in acts of parliament or the pope's canon law. To maintain all the pope's doctrines and ceremonies and to expel his authority seemed to Turner absurd nonsense. His book with its ^{scathing} attacks on the Henrician bishops strikingly anticipated the puritans of the 1560s and 1570s, for whom Elizabeth's claim to royal supremacy was intolerable when it meant the refusal to reshape the Church of England after the pattern of the best reformed churches such as that in Scotland. As Beza sharply put it, papal power had not been abolished, but merely transferred in its entirety to the Queen. ⁷⁴

On the Catholic side, Stephen Gardiner, Bonner and Tunstall conceded the royal supremacy because the alternative was to follow More and Fisher to the scaffold. ⁷⁵ because except for the authority of the pope no changes of any significance had been made in Catholic doctrine and little in ceremonies, and because to abandon their posts must be to hand the Church over to the wolves.

William Turner lambasted them for imposing penalties on folk found eating meat on Fridays while keeping a thunderous silence about the king's sexual mores and 'four lords of England that put away their wives not for fornication but because they liked whores better', and likewise about the disgraceful plunder of the abbeys for which 'all the whole realm smarteth unto this day'.⁷⁶ But with Henry threatening to surrender to Protestantism as a whip to bring them to heel, perhaps the ^{bishops} had less choice than Turner wanted to see. Who could tell how long the King would live?

Protestantism might be quite strong in London and among Cambridge dons (Foxe sadly noted more than once Oxford's strong preference for the old religion) but the main population of the land, especially in the north, was in no deep sense protestant in sympathy. Were they not a heartbeat away from restoring the status quo? It was not the last time that Catholic bishops would find themselves compromising with a hostile government for the sake of survival in hope of better days in future. But even Gardiner could not stand by his earlier defence of the royal supremacy when Edward VI was using it to introduce Swiss protestantism. Restored under Mary and elevated to be chancellor, Gardiner could pungently comment at long last that among the disadvantages of Henry VIII's assertion of his headship of the Church was the consideration that, if he had thereby taken the English Church out of communion with Catholic Christendom, he had no Church to be head of.⁷⁸ At his trial in 1556 Cranmer found himself in the bizarre position of being instructed by his sovereign, whose supremacy he asserted, to recognise that of the pope, which he felt bound to deny as incompatible with loyalty to the crown.⁷⁹

Under Elizabeth the royal supremacy enforced the via media of 'golden mediocrity' as no other factor could do. In March 1560 Matthew Parker was writing to Nicholas Heath and the other deprived bishops regretting their request that the Church of England should again acknowledge the primacy of the Roman see. Like the ancient British Church before Gregory the Great, the Church of England was independent of Rome and ^{of} the papal claim to a universal jurisdiction; Moreover to acknowledge the pope was treason.⁸⁰

1566

But within a short time Parker was defending the royal supremacy against the puritans. Parker, admittedly, did not himself believe that the queen had powers as absolute as those claimed for the pope. When in 1566 he found her reluctant to give royal sanction to the Thirty-Nine Articles^{of 1563}, he solemnly warned her that 'as governor and nurse of this Church' she would have to give account at the Last Judgment for her stewardship in this regard. Certainly her prerogative was more than a papist would grant, but it was less than Burghley supposed. Elizabeth found that Grindal preferred to resign rather than to acknowledge that the queen could exercise her supremacy so as to abolish prophesyings: 'Remember, Madam, that you are a mortal creature.' Parker and Grindal both found that the queen and parliament were slow to grant that matters such as the Thirty-Nine Articles or 'prophesyings' were matters to be referred to the bishops and divines of the realm and unsuitable for lay decision.

Nevertheless the royal supremacy prevented the Church of England from becoming presbyterian, and became increasingly hated by the puritans. The Zurich Letters (1558) printed an account of 'The State of the Church of England' by the vehement puritan Perceval Wiburn, bitterly complaining of the way in which very large number of clergy once ordained under the Latin pontifical were continuing in charge of parishes without any reordination as reformed

ministers. Wiburn thought the royal supremacy the one and only doctrine one could be reasonably sure of being held by all the clergy of the Church of England. Hooker was explicit that royal supremacy could not mean unrestrained autocracy. The Crown was limited by parliament, and parliament itself had acknowledged that the definition of orthodox doctrine must rest on scripture and 'the first four general councils or some other general council', and that if some future parliament were to declare something to be heresy it could only be 'with the assent of the clergy in the convocation'. Even parliament, therefore, allowed that dominion was limited. On the other hand, Hooker defended the right of the prince to nominate bishops and to maintain the order of the Church. He was able to

(Not that he would have thought the English Ordinal anything but utterly popish.)

with the observation

reply to Counter-Reformation critics that Philip II of Spain had published the decrees of Trent in the Netherlands with an express proviso that there was no prejudice or diminution to his customary rights in nominating to benefices. ⁸⁴

At the Hampton Court conference of 1604 the puritan Reynolds hoped to ingratiate himself and the puritan cause with James I by a panegyric on the royal supremacy. James remembered that John Knox had similarly flattered Elizabeth by telling her to use her supreme power to suppress popish prelates. After the prelates had been suppressed, Knox and his friends had carried through a reformation of the Church of Scotland which in effect set aside the royal supremacy. Puritans, said the king, praise the royal supremacy to annoy the bishops. Once the bishops are out of the way and they have taken over the Church, the monarchy will fall also: 'No bishop, no king.' 'I notice', he added, 'that puritan preachers do not in the bidding prayer acknowledge me to be supreme governor in all causes.' ⁸⁵

To Henry VIII royal supremacy was the mark of breaking with Roman jurisdiction (not doctrine). Paradoxically, it became the bastion for maintaining Catholic episcopal order in England. But the Stuarts were to learn the hard way that by defending the Anglican 'mingling of the gospel and popery' the monarchy itself would be brought down. Independents stated the contention that any ministerial structure in the Church belongs (as what gift was to claim for episcopacy) to an 'order placed by the Holy Spirit in the Church'. ⁸⁶ When the Westminster Assembly of divines wished to use the language of 'divine law' to suggest that the Church had some right to make its own decisions independent of the House of Commons, they were sharply instructed to think again and to revise their confession of faith. ⁸⁷ A Victorian Parliament and laity was disquieted when similar language began to come from the Tractarians.

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Cardinal Allen in 1584 observed with a not unjustified bitterness that the royal supremacy over the Church, for refusal of which Catholic recusants were being brought to execution on the charge of treason (not heresy), was not actually believed by the Protestants themselves; moreover the doctrine of the supremacy treated national churches as if they were totally free to make all their own decisions in utter disregard of the Church universal, a proposition needing only to be stated for its inconveniences, not to say absurdity, to become evident. ⁸⁸ Already by the reign of James I the fire of well-directed criticism was reducing the area defensible by ⁸⁹ loyal advocates. None claimed that the monarch could minister the word and sacraments to the people of God, could absolve or excommunicate, and the only question at issue was whether it belonged to the king to call and preside at Synods, sanction canons, hear ecclesiastical appeals, grant benefices, appoint and depose bishops. Moreover, the defenders of the supremacy had to assert that it was a moral right, not an act of mere power. They had to avoid shooting themselves in the foot by the argument that the powers claimed for the Pope were so monstrous as to prove the papacy to be Antichrist whereas the same powers could be claimed by the secular ruler, as 'God's Vicar' in his own kingdom, without laying himself open to the same charge. The best defence lay in the godly prince of the Old Testament; but it was not evident that this commanded the consent of all sensible and educated men, or that the supremacy could be safely grounded either in natural law or canon law, and the brutal truth was that the New Testament offered no help at all. (One recalls Cranmer's bizarre observation in 1540 that the apostles did their best in appointing clergy because faute de mieux, they had no Christian princes to whom to turn.) ⁹⁰

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In 1987 belief within members of the Church of England in the reality and moral rightness of royal supremacy (very different from loyalty to the Sovereign which can never have been stronger) must be described as tenuous to

the vanishing point, and in actuality to mean no more than that the Sovereign is the first lay person of a Church particularly characterised by the voice and honour traditionally accorded to the laity in its government. The notion that someone could die for refusing ^{either} to affirm it as John Fisher, or to deny it as Thomas Cranmer, has become incomprehensible except by a strong effort of historical imagination.

It is a classic instance of how an idea intensely important and divisive in the sixteenth century has now faded into virtual insignificance.

At the same time there remains a residual, perhaps atavistic anticlericalism which can think of parliament as the means of voicing dislike of anything done by clergy or bishops or synods, and can appeal to the unquestioned power of the sovereign in parliament to order things as they will.

There certainly continues an ill-defined feeling that the mystery of the monarchy is supported by the national character of the Church of England, so that to disestablish the Church could lead to an overthrow of the monarchy. Within the Church of England there is a sometimes sharp division between those who regard the Church as the English at prayer, with the freedom to do whatever the English wish, regardless of 'foreigners', and those who have never ceased to think of the Church of England as a parenthetically and sadly separated branch of the Catholic Church, which is not free to act on its own in handling fundamentals like creed or ministry.

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A full history of the evolution which has led to this position would be a long and different story from that of the present essay. It would entail a study of the consequences of the suspension of convocation early in the eighteenth century and of the constitutional revolution by the parliamentary reforms of 1828-32; a study of Wake, Gibson's Codex, Warburton's Alliance, qualified and very Gallican Pusey's defence of the supremacy at the crisis of the Gorham controversy, and an examination of the twentieth-century calls, first from high Anglicans but more recently (and more vocally) from Evangelical Anglicans, for disestablishment and the separation of church and state. The contemporary attacks on the representativeness of the membership of the General Synod of the Church of England mark a counter-move in the opposite direction. At least, by an informal concordat, the Crown now since 1977 nominates bishops by selecting one of two names, both being understood to be sufficient for the task of episcopacy, submitted by the ecclesiastical 'Crown Commission'; and this procedure is obviously a major and beneficial modification of Henry VIII's arrangements. Today most of the actuality of royal supremacy is the proposition that canon law may have no force in conflict with common law or statute law - a proposition which belongs to the pre-Reformation debate and has nothing specifically protestant to it. In an age when the royal supremacy is in effect reduced to about the dimensions of the Cheshire Cat's grin, it is difficult to comprehend that Thomas More and John Fisher suffered judicial murder rather than tolerate it. As the Scots showed James I, royal supremacy could be operated in such a way as to leave the Church independent in all essentials. And medieval Catholic kings could maintain sovereignty in their domains without taking their Church out of Catholic communion. In the sixteenth century royal supremacy first took the Church

of England cut of communion with the cathedra Petri and then stopped
 (for a time) puritan forces from removing the ^oepiscopal succession and
 other catholic elements in the Prayer Book and the Ordinal.] That was
 to require a redefinition of catholicity closely akin to that of
 Gallicanism. The Greek refusal at the level of ordinary priests
 and laity to come to terms with the admission of Roman primacy by their
 representatives, except for Mark Eugenicus, at the Council of Florence
 made a deep impression in England, and especially on Henry VIII.
 As early as the King's Book of 1543, the authorship of which was
 generally attributed (despite his denials) to Stephen Gardiner,
 the root question is seen to be one of ecclesiology, defining catholicity
 not in terms of Roman jurisdiction but in terms of the profession of
 the true faith in unity with other catholic churches.] Such an
 ecumenical ecclesiology will have room for a focus of unity and
 universality in Roman primacy and need not exclude a salute
 of honour for royal supremacy, provided that such a secular assertion
 of power over the Church is (as the apostle said of apostolic authority)
 deployed for edification rather than destruction, for the support of
 the Church in its work in the world rather than as a formula for
 ensuring the permanence of Christian division.

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Footnotes

1. David Wilkins, Concilia Magnae Britanniae (1737) III.792-97. The text of the bull finally published in 1538 (ib. 840-41) responded to the destruction of Thomas Becket's shrine at Canterbury in that year.
2. Matthew Parker, Correspondance (Parker Society - PS), p.110. In the 1560s Harding and Jewel had a sharp exchange about the degree of papal absolutism embraced by the great canonist Hostiensis: see Jewel's Defence, PS vol. III, p.830-32. For Jewel it was axiomatic that the more extravagant the claims made for the papacy, the more improbable to reason and ungrounded in scripture of tradition they appear. Harding's 'Gallicanism' was dangerously credible. The passage is an early instance of the Protestant insisting that the authentic doctrine of papal authority is extreme Ultramontanism, the Catholic minimising.
3. Reginald Cardinal Pole, Pro ecclesiasticae unitatis defensione II (in the Strasbourg edition of 1555, p.42): 'sed audi aliam conclusionem, quam ego ex ipsis tuis verbis, quae contra Petri auctoritatem profers, inferam, primo ad confirmationem Petri auctoritatis, deinde etiam regis: cuius quidem de auctoritate nihil diminuo, cum Petro conservabo suam.

The Strasbourg edition was published in the protestant interest, with eight appended documents on papal authority, including pieces by Luther, Flacius Illyricus, Melancthon, Eucer, Calvin, and Musculus. The first English translation of 1560, by F.Wythers (STC² 20087), was similarly published as a 'seditious and blasphemous oration' intended to discredit the conservative case. A modern English translation by J.G.Dwyer was published by the Newman Press (Westminster, Md.), 1965; a French version by M.M.Egretier, Paris 1967.
4. Hooper's writings, and especially his hostility to wearing 'Aaronic' episcopal vestments at his consecration, made him a hero to the puritans, but a source of embarrassment to Edmund Grindal. Grindal, however, was able to report that Peter Martyr and Henry Bullinger had regretted unguarded language in Hooper's work: Grindal, PS p.222(a letter to John Foxe of August 1556).

protestant

5. Hooper, PS Later Writings pp.96,79,81. Many ^{protestant} texts of Edward VI's reign say alarming things about the moral disintegration of English society, a leap in the crime rate, and a slump in church attendance.
6. The major role played by apocalyptic in the Reformation age is well studied by Richard Bauckham, Tudor Apocalypse (Appleford, 1978) and K.R. Firth, The Apocalyptic Tradition in Reformation Britain 1530-1645 (Oxford, 1979).
7. Hooper, PS Later Writings, p.554 '...the see and chair of Rome...is indeed the very whore of Babylon that St John describeth in the Revelation of Jesus Christ, sitting upon a seven-headed beast, which St John himself interpreteth to be seven hills, and the children in the grammar school do know that Rome is called civitas septem montium, the city of seven hills.'
8. The assertion that the identity of the Pope with Antichrist is no speculative conjecture but an article of faith was made by Gabriel Pöcher, De Antichristo et eius ecclesiae (1605), and was treated as a self-evident truth by Joseph Mede in the 1640s in works destined to exercise vast influence on Isaac Newton. Newton's editor, Horsley, dissented from the mathematician's axiom. In 19th century England, scathing criticism of the papal antichrist thesis came from the acid pen of the historian S.R. Gardiner. At the popular level the belief remains tenacious.
- Hugo Grotius' Annotationes in Vetus et Novum Testamentum (1642) caused consternation to protestants by denying that correct exegesis could identify the papacy with Antichrist or the whore of Babylon. He outraged many to whom (as to the authors of the Westminster Confession adopted in Scotland) the exegesis was an essential, loadbearing axiom in justifying separation from Rome while simultaneously treating Anabaptists as schismatics. Henry More, A Modest Inquiry into the Mystery of Iniquity (1664) and Exposition of the prophet Daniel (1681), sought to answer Grotius with equal erudition; he feared that Anglican enthusiasm for Grotius had alarmed many into thinking the Church of England soft on popery. More regarded the Apocalypse as vindicating the Crown and Church of England, especially royal supremacy: see the folio edition of his Theological Works (1708), p.713. Richard Baxter, The Grotian Religion discovered (1658) warned that Grotius and some Anglican theologians such as John Bramhall were dismantling the defences against popery. See G.F. Nuttall, 'Richard Baxter and The Grotian Religion' in Reform and Reformation, ed. D. Baker - Studies in Church History, Subsidia 2 (1979), 245-50.
9. Bramhall's Vindication of Grotius, chapter 5 (Works, Dublin, 1677, p.624) complained 'I am traduced as a factor for popery, because I am not a protestant out of my wits.' It merits notice that in 1986 the General Assembly of the Church of Scotland formally resolved that it does not today accept, or require any assent to, the Westminster Confession's censures on the Pope and the Mass.

10. Cranmer's Answer to Smith (PS Writings on the Lord's Supper, 378): 'What wonder is it then that the open Church is now of late years fallen into many errors and corruption, and the holy church of Christ is secret and unknown? seeing that Satan, these five hundred years, hath been let loose, and antichrist reigneth...' For Wyclif see John Foxe, Actes and Monuments ii.800 (All references to Foxe are to J.Pratt's edition, volume and page; London, 1853-70, repr. 1877, 8 volumes); Thomas Better Waldensis, Doctrinale Fidei, de sacramentis 17. III 127 f. ed. Bianciotti (Venice 1758, repr. 1967).

A remarkably early identification of the actualities of the tenth-century papacy with Antichrist occurs in the speech of Arnulf of Reims, written by Gerbert (later Pope Sylvester II!), at the council of S. Basle de Verzy in 991 (Acta in Migne, PL 139.287-338; Mansi XIX 110-53; MGH SS III 658-686). not in Labbe; princeps in Magdeburg Centur. x.9.28).

11. Foxe i.5 thought the first evidence of the devil's release from prison was found in Pope Gregory VII. He also surprisingly records a view that the millennium of incarceration began with Constantine and ended with Wyclif, i.291

12. Hooker, Eccl. Polity vii.22.7, remarks of Wyclif's 'palpable error' in denying the propriety of endowments in the Church. Tithes were for Wyclif voluntary alms, not a compulsory tax; see Anne Hudson, Selections from English Wycliffite Writings (Cambridge, 1978), p.147.

5/ 13. William Langland, The Vision of William concerning Piers the Plowman B X.317, C VI.169 (ed. Skeat I pp.308, 127). In more modern editions such as Kane's the numbering of the lines is slightly different. The Kane-Donaldson edition of Langland is radically criticised by David Fowler in The Yearbook of English Studies vii, 1977, pp.23-42.

14. Printed in Fasciculi Zizaniorum, ed. Shirley (Rolls Series), pp.360 ff. in Latin; the English text in Hudson, Selections, pp.24-29, with commentary pp.150-55.

14A. The anger of Thomas Cartwright on the subject (Whit Gift, PS III 378) shows that it cost less to die before the Reformation than after it. Instead of a sixpenny requiem, the clergy expected half-a-crown for a sermon.

15. Bramhall, A just Vindication of the Church of England from the unjust aspersion of criminal Schism ii (Dublin ed. 1677, p.92) records 900 ducats in a lengthy list of papal 'extortions', reinforced by a reference to Chaucer for the avarice in his time. Foxe ii.109 asserts that in 1504 the archbishop of Mainz paid 27000 florins for his pall.

16. Parker, Correspondence FS p. 419, anticipated by Latimer in a letter to Cromwell of 1537 (Latimer, Remains, FS p.385) and followed by Aylmer, bishop of London. Ridley is found saying that 'truth is revealed to the English by God and the king' (Foxe vi.311). Haller's thesis that Foxe regarded the English as a uniquely elect nation is commonly dismissed today as an exaggeration. The thesis is, however, an exaggeration of an element certainly present in Foxe, (e.g. iii.142 f.) who was sure that national success and English protestantism were bound together in God's providence.

17. Hooper, Later Writings p.559. A similar doctrine is found in the Decades of Hooper's master, Bullinger.

18. See an account of the Oxford curriculum of 1552 in the letter from Conrad ab Ulmis to John Wolfius, printed in FS Original Letters relative to the English Reformation (1847) ii no.219 p.459. He studied Aristotle's Politics in Greek, 6-7 a.m.; the Digests 7-9; Peter Martyr on theology 9-10; Melancthon on logic at 10. After dinner, Cicero's Offices; Justinian's Institutes 3-4, ^{p.m.} which were then memorised 4-5; the evening spent in dialectical debates with other students. On the general background see John Barton in The History of the University of Oxford III (1986) ed. J.McConica, pp.257 ff.

19. Acta Conciliorum Oecumenicorum IV 1, p.202,12 (ed. Straub, 1971); the text is in Labbe-Coleti's Concilia VI 197. For the role of the sedes/sedens distinction in Gallicanism, see A.G.Martinot, Le Gallicanisme de Bossuet, Unam Sanctam 24 (Paris, 1953), pp.556-559.

20. Acta Conc.Cecum. IV 1, p.167, 22 and p.188, 8-21.

21. Augustine, c.litt.Petilianii ii.36.132.

22. Augustine (c.ep.Parmeniani ii.6.15) regarded the Donatist doctrine of the bishop as indispensable mediator of grace as being 'intolerable to catholic ears'. He also (Sermo 99.7-9) disliked the Donatist contention that the power of the keys in absolution and excommunication was wholly and without

Sanctam

23. Optatus iii.3.

24. 'Sees': De doctrina Christiana ii.12.25. 'See: c.du.epp.Pelag. ii.3.5. Ep.ad Catholicos de unit.ecclesiae 20.55 has 'reges nostrae communionis'. In c.litt.Petilianii i.18.20, 'per regum communionem' is a synonym for 'per ecclesiam catholicam'.

25. This set of canons became ascribed to the council of Antioch of 341. Text in (e.g.) Lauchert's edition (1896), p.46.

26. This view, expressed by a member of one of the circus factions at Constantinople in the sixth century, is (recorded explicitly): Patr. Orientalis viii.175.

27. The classic discussion by U. Stutz, Geschichte des kirchlichen Benefizialwesens (Berlin 1895, repr. Aalen 1961) and his lecture Die Eigenkirche als Element des mittelalterlich-germanischen Kirchenrechts (repr. Darmstadt 1959, with bibliography to 1955); recent literature is noted in H. Schieffer, Die Entstehung des päpstlichen Investitungsverbot für den deutschen König (Stuttgart, 1981), p.16.

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Among the most interesting of early documents is the Tivoli Register (Duchesne, Liber Pontificalis I, pp.cxlvi ff.) recording the benefaction of a Catholic Goth, Valila, an army commander, who built a church on his estate with endowment to maintain the clergy, lights, and repairs, while retaining himself a life interest in other properties given to the Church. A number of sixth-century Gallic councils resist attempts by landowners to withdraw priests on their land from episcopal control. An eloquent statement of the evils of lay domination in Agobard, De dispersione rerum ecclesiarum (FL 104.236). Hincmar, however, was not so unsympathetic: see Gundlach in Zeits.f.Kirchengeschichte 10 (1889), 92-145.

28. I have discussed this in J.T.S. ns 34 (1983), p.443; Pope Celestine's maxim states the general custom of antiquity: 'Nullus invitis detur episcopus' (ep.4, FL 50.434B). Leo I, ep.167 (FL 54.1203A) ruled none could be bishop without election by clergy, assent of plebs, and consecration by the provincial bishop, the metropolitan having a veto.

29. See (e.g.) C.R. Cheney, Pope Innocent III and England (Stuttgart, 1976), pp.101

29A. Pope John X (FL 132.806).

30. Augustine, en.Divjak (CSEL 68) 22*, discussed in J.T.S. ns 34, p.446.

31. To the best of my knowledge the conscious distinction between 'ecclesia orientalis' and 'ecclesia occidentalis' is first explicit in Augustine: J.T.S. ns 34 p.42A.

32. This formula was used by an English business man at Bologna in February 1547 when his Italian hosts heard the news of Henry VIII's death and asked him for a defence of the English tyrant: see J.A.Froude, The Pilgrim, a dialogue on the life and actions of king Henry the eighth by William Thomas (London, 1861) p.32 the king, 'absolute patron of his private Christian dominion', acted as 'prince and apostle'.

33. Wilkins, Concilia IV.764. There is trenchant matter on Justinian as model for Henry in F.W.Maitland, Roman Canon Law in the Church of England (London, 1898), pp.93 f.

34. Foxe vii.618.

35. Zurich Letters i p.19 (PS); Jewel's Works (PS)iv.1029 ff.

36. I have tried to tell this story in my Boethius (Oxford, 1961), chap.1.

37. St German's two Dialogues with his New Additions are edited by T.F.T. Plucknett and J.L.Barton for the Selden Society, vol.91 (1974). There is also important matter in J.A.Guy, Christopher St German on Chancery and Statute, Selden Society supplementary series 6 (London 1985), and in J.B.Trapp's introduction to the Yale edition of Thomas More's Apology (New Haven, 1979). See also Gordon Durstan's essay in the symposium, The Lord and Ours, ed. Mark Santer (London, 1982). F.E.Podes, Lay Authority and the Reformation in the English Church, Edward I to the Civil War (Notre Dame, 1982)

38. Walter Ullmann in Journal of Ecclesiastical History 30 (1979), 175-203.

39. Hincmar, ep.19 ad Ludovicum III regem Balbi filium (FL 126.110 f.). Hincmar's ecclesiology gets a sympathetic study, from Yves Congar in the journal of the Spanish Dominicans, Communio (Granada) i (1968), 5-18.

40. Victor Martin's well known book, Les origines du Gallicanisme (Paris, 1939) contains much matter illuminating for the mind of Henry VIII, even though Henry is far from Martin's field of study. His treatment of Marsilius makes it unnecessary for the present essay to consider the Defensor Pacis here, influential as the work was in England.

40 A. Letters & Papers. Henry VIII x.977.

41. F.Testa, Capitula Regni Siciliae I (Palermo, 1741), 576-77. The British Library and the Cambridge University Library possess this rare book (not the Bodleian). Foxe ii.465 pointedly noticed the powers of kings of Sicily to appoint bishops.

42. Foxe viii.20.

43. Matthew Paris' portrait of Innocent III is one of limitless avarice and hunger for power. The anti-clerical resentment over king John is mentioned

by many writers: Foxe ii.331-32 is representative, and Robert Barnes (himself author of a papal history intended to prove the papacy antichrist) waxed eloquent on poor John's humiliations. In his Supplication of Souls (1529), p.8, Thom's More denied that king John had power to surrender sovereignty over England to the pope, evidently hoping to ward off the anticlerical barb. But its tenacity is shown by its recurrence in (e.g.) John Overall's C nvocation Book of 1606 (Oxford ed. 1844, p.250).

44. Medieval popes took seriously the exhortation of 1 Tim.5.8 that there was a duty to provide for one's household.

I have drawn together texts from Grosseteste, epp. 72, 124, 128, 131 (Rolls ed.). Grosseteste's critique of the curia receives a masterly discussion from H.W.Southern, Robert Grosseteste, the growth of an English mind in medieval Europe (Oxford 1966), pp.272 ff. For Wyclif's appeal to his writings see Southern, p.298 ff. The passage about the coronation unction (Rolls ed. pp.350-51) is reminiscent of Cranmer's very secular discourse at Edward VI's coronation on 20 February 1547, explaining to the boy king how utterly insignificant this little ceremony is (PS Remains and Letters, 126-27).

45. The effect on antipapal persons of the discovery that the Isidorian decretals were a forgery is never to be underestimated: see stern words in (e.g.) Ridley, PS 182; Foxe i.279, 464.

46. Among many texts see, for example, Cartwright in Whitgift, PS II 441. Hooper regarded 'a mixed and mingled religion' as satanic: PS Early Writings 435 (1550). Bishop Richard Cox of Ely defended the prayer book and English ceremonial usages as modelled on St Paul's godly principle of being all things to all men: Zurich Letters I 237 (letter to R.Gualter, 1571). In January 1559 Gualter had expressed to Queen Elizabeth his fears of 'an unhappy compound of popery and the gospel': Zurich Letters II 5. A similar letter from Gualter to Richard Masters (II 11) fears that a religion of 'mixed, uncertain and doubtful character' may one day facilitate a 'return to papistical superstition.'

The proposition in article 19 of the Thirty-Nine Articles that 'as the Church of Jerusalem, Alexandria and Antioch have erred; so also the Church of Rome hath erred...' is strikingly anticipated in Cuzman's letter (c.AD 632) describing the position of the British churches in the paschal controversy: 'Roma errat, Hierosolyza errat, Antiochia errat, totus mundus errat; soli tantum Scoti et Britones rectum sapiunt' (FL 87.974 D).

47. Foxe v.127. Tynsdale's accusation that the confessional had been abused, principally by the seduction of Irish women and the betrayal of political secrets, is an angry anticlerical commonplace of the age. For scrawful Catholic pages telling the same story, see the lawyer Conradus Brunus (1491-1563) (1491-1563) in his memorandum to the council of Trent, printed in Conc.Trid. XII 404 ff.)

A warning that as a whole Tynsdale is less absolutist about royal power than some sayings in his Obedience is given by W.D.J.Cargill Thompson in Reform and Reformation, ed. D.Baker, Studies in Church History, Subsidia 2, 1979, pp.17-34.

48. See Letters & Papers, Henry VIII, ii 353 no. 1313, and Walter Ullmann's paper (above n. 38). L.G. Wickham Legg, English Coronation Records (1901) pp. 240-1, with facsimile, does not think Henry could have had his wish.

49. Wilkins, III. 745. Tunstall thought the qualifying clause whereby the bishops accepted Henry as head of the Church 'so far as the law of Christ allows' failed to make it explicit that the qualification meant death to the proposition.

50. Luther in 1531 rejected Henry's divorce out of hand: WA Br. 6: 178-88 (a letter to Robert Barnes), and his title 'head of the Church' in 1539: WA Br. 8. 577-78 (a letter to the elector John Frederick of 23 October 1539, concluding acidly 'Henry ought to be pope, as in fact he is in England'). The two letters are translated into English in the American version of Luther's Works, vol. 50 pp. 196 and 205 (1975).

Calvin, Prælectiones in Amos vii. 13 (Opera Omnia, ed. Amsterdam 1667, Tom. V p. 223) tersely described Henry's claim as blasphemy, and goes on to express outrage at having heard Stephen Gardiner argue not from scripture or from reason, but exclusively from the will of the king, to rule against clerical marriage or communion in both kinds.

51. Foxe viii. 53; also printed in PS Cranmer, Remains and Letters pp. 214-15.

52. That Lever made the suggestion to the Queen is stated by Sandys' letter to Parker, 30 April 1559: PS Parker p. 66. For Elizabeth's assertion of supremacy see M.A. Simpson, Defender of the Faith etcetera (Edinburgh, 1976); F.L. Jones, Faith by Statute (London, 1962) - Royal History Society studies in history, 32. Much in the writings of Professor D.N. Loades also bears on this question. In the application to the use of the title Supreme Head was ^{ipso facto} to declare him a forerunner of Antichrist, as John Bradford thought (Foxe vii. 163), the same conclusion must also apply to the monarch.

53. Whitgift, PS II. 238 ff.

54. Whitgift II.333-336. Foxe, as the Cartwright/Whitgift exchange shows, is not easy to pigeon-hole in the variety of sixteenth-century English church life. Though evidently strongly reformed in religion, he regarded the vestiarian controversy as a tragic squabble about trivialities (ii.750). Many passages uphold the right and duty of the sovereign to order the life of clergy in his realm, and vehemently attack the infringements and usurpations of papal power, especially by Gregory VII, Innocent III, and Boniface VIII. Yet he also evidently longed for a reformed see of Rome focusing the unity of 'sister churches' (ii.418), and was shocked at the spoliation of the Church of England by Henry VIII. Erasmian influence may be seen in his desire that the Apostles' Creed be the norm of orthodoxy (ii.103; iii.702), his horror of elevating school opinions to articles of faith (iii.729), and his stern criticism of capital punishment for religious dissent (e.g. iii.99). Whitgift was not mistaken to see an ally in him; Foxe would not have liked his treatment of John Penry.

Foxe disliked the title 'Book of Martyrs' already being ascribed to him, and insisted that he wrote Actes and Monuments of things passed in the Church (iii.392).

55. J.J. Scarisbrick, Henry VIII (Penguin ed.), pp.375-86.

56. Scarisbrick, p.351.

57. See W.H. Frere and W.M. Kennedy, Visitation Articles and Injunctions of the period of the Reformation II (Alcuin Club Collections xv), pp.2

and 34. The Ten Articles, however, were agreed by Convocation in July 1536.

58. The Wittenberg Articles were discovered in Weimar early this century and published by their finder, Georg Mentz, Die Wittenberger Artikel von 1536 (Leipzig, 1905). Luther regarded these Articles as representing something of a compromise between his own position and that of the English divines, but one he could accept to help forward the Reformation, *sum on*

often 'Swiss' in sympathy,

(N.58 continued)

WA Br.17 p.383. An English translation of the Wittenberg Articles is given by N.S.Tjernagel, Henry VIII and the Lutherans (St Louis, Concordia, 1965), pp.255-286.

59. Foxe v.164. I am bound to think the protestantism of the Ten Articles exaggerated by D.B.Knox, The Doctrine of the Faith in the reign of Henry VIII (1961), and even by Professor Scarisbrick, p.438 ('blatantly heterodox'). What is no doubt true is that there was much left unsaid.

60. Foxe's verdict is again that in the Bishops' Book 'many things were slender and imperfect', v.87. He gives the names of the eight bishops responsible for its production at viii.11. Stokesley (London) and Gardiner (Winchester) could be relied upon to keep the protestantising sympathies of Latimer (Worcester) and Shaxton (Salisbury) in check. The preface signed by all the bishops in Convocation, headed by Cranmer, includes a declaration that 'without the power and licence of your majesty we knowlege and confess that we have none authority either to assemble ourselves together for any pretence or purpose, or to publish any thing that might be by us agreed and compiled.' Charles Lloyd, Formularies of Faith put forth by authority during the reign of Henry VIII (Oxford, 1825, reprinted 1856), p.26. The declaration presupposes that the king is pope of the English Church and the bishops are only advisory on dogmatic questions, deriving from him their spiritual jurisdiction.

Hecker (Eccl.Polity VIII.ii.16) is much more nuanced, but grants that the limitations of regal power over the Church (apart from the self-evident lack of power of order and jurisdiction) have 'not hitherto been agreed upon with so uniform consent and certainty as might be wished.'

61. Ridley (PS Works p.135) in 1555 remarked that Stephen Gardiner was 'thought to be either the first father or chief gatherer' of the King's Book. Gardiner himself denied having had a hand in the book (Foxe vi.61, cf. 124 which shows that the denial was regarded with incredulity), and affirmed that the master hand was Henry himself. The king's annotations on the Bishops' Book, printed in PS Cranmer, Remains & Letters, pp.83-114, suggest that Gardiner may have been correct.

62 Formularies of Faith, ed. Lloyd, pp.265 and 248. The Greek rejection of universal papal jurisdiction ^{was} a frequent theme in protestant argument that such ^{a degree of} centralised authority lacks catholic consent; e.g. Foxe ii.608; iii.700; vi.255.

63. John Rogers, on the protestant side, thought that the inconsistencies of parliament in consenting to the incompatible doctrines of Henry VIII, Edward VI, and then Mary, totally discredited its authority as a judge ^{of the interpretation of} of God's word: Foxe. vi.603. That under Edward VI the magisterium was vested either in the young king or in parliament, ^{even} to the actual exclusion of the clergy, is evident from the pathetic plea of the clergy to Edward VI (Wilkins IV 15) asking if they could please be consulted, whether by being given an actual voice in any laws governing religion 'or that at least parliament enact no religious laws without consulting the clergy in convocation'. Parliamentary History 14 2001. (22 May 1572) records the queen's pleasure that no bills concerning religion be received in parliament unless first considered by the clergy.

64. D.V. Loades, The Papers of George Wyatt, Camden Society, fourth series 5, 1908, p.153.

65. Cecil held that the power of the Crown is limited by the advice of the privy council: Foxe vi.68. The oration of the protestant layman John Hales, submitted to Elizabeth in 1558 (text in Foxe viii.673-79), in effect pleaded for the reinstatement of the royal supremacy: 'The title touched the commonwealth and ^{part} of England more than the king...It was for the

conservation of the liberty of the whole realm and so to exclude the usurped authority of the bishop of Rome.' In other words, royal supremacy meant in practice parliamentary control of the Church of England, or at least the negative proposition that the government of the Church could not make room for the pope.

66. J.A. Muller, The Letters of Stephen Gardiner (1933), no. 130 p. 379.
Foxy vi. 42-46 prints only about two-thirds of the text.

67. Frere and Kennedy, Visitation Articles and Injunctions II p. 149.

68. See Cosin's Correspondence I (Society 52, 1809), 1-7.

69. The huntynge and fyndynge out of the Romishe fox (Basel, 1543).

STC 24353 thinks it actually printed at Amsterdam by S. Mierdman.
I have used the Bodleian copy (Tanner 51).

70. How hostile was the English protestant reaction to Henry's dissolution of his 'pretended marriage' with Anne of Cleves may be seen in Richard Hilles' letter to Bullinger: Original Letters, FS i. 205. Hilles is also eloquent on the execution of Barnes, p. 209 f.

71. Letters & Papers, Henry VIII, xv. 484.

72. Luther, WA Br. 8.577-78: 'Dr Antony (= Robert Barnes) several times declared: Our king has no respect for religion and the gospel.'

73. William Wraghton (pseud.), The Rescuynge of the Romishe Fox
other wyse called the examination of the hunter devised by steven gardiner
(Winchester, 1545 - but STC 24355 ascribes to L. [?]). STC 24356
602 identifies the author as Turner, Dean of Wells. His defence of 'supreme governor' is at fo. C ii. In 1555 Turner wrote under his own name The Huntynge of the romysche Vuolfe (STC 24356), written after Latimer's death but before Gardiner's, i.e. in November 1555. This last work anticipates in content, ^{verve} and venom much that went into the puritan Admonitions to

74. Beza to Bullinger, 3 September (1566), Zurich Letters II 128, probably quoting the opinions of Perceval Wiburn: '...the papacy was never abolished in that country, but rather transferred to the sovereign.... nothing else is now aimed at than the gradual restoration of what had been in any measure altered.'

75. In January 1555 Gardiner, Tunstal (Durham) and Nicholas Heath (Worcester) confessed expressly to John Rogers: In Henry VIII's time one could not say without pain of death that the king had no authority in spiritual matters such as forgiveness and authority to interpret God's word, cf. Bonner in Foxe VIII.110. Foxe vi.593; There is a parallel to the situation of the Henrician bishops in the Greek bishops who supported Chalcedon in the difficult times of the emperor Anastasius 491-518. When the popes expressed the view that the ^{Greeks} had been guilty of grave compromise by holding communion with the patriarchs of Constantinople who (though some were Chalcedonian) were not acknowledged by Rome because of the Acacian schism, they replied that they had kept their faith intact, and that to have withdrawn communion from the patriarchs would have brought expulsion and the surrender of their flocks to the wolves: Pope Symmachus, ep.12 ed. Thiel, pp.709-17; a bad text in Migne, PL 62.56-61. H.Chadwick, Boethius pp.181-83.

76. The Hunting of the Romyache Wolfe (1555): 'When as Tunstal, Gardiner, Steneby and the rest of the papists bare the swinge under King Henry the eighth, they suffered the king and divers lords of the realm to put away and take as many wives as they list without any correction or admonition. If that they had done their duty, the virtuous lady Anne of Cleve had never been divorced and put away from the king her lawful husband....Henry with his covetous council took all the goods of the abbeys which belongeth for a

great part as well unto Christ's church as the half of the goods of Ananias belongeth unto the Holy Ghost.' Turner omits to add that Bishop Latimer of Worcester, making the customary New Year's gift to Henry VIII, once gave a him a New Testament wrapped in a napkin inscribed 'Fornicatores et adulteros judicabit Dominus.' (Foxe vii.517).

Turner was far from being the only protestant outraged by the deliberate ruthlessness with which Henry's dissolution of the monasteries enforced the annihilation of a major religious factor and a vast break with the past. See M. Aston, 'English Ruins and English History', Journal of the Warburg & Courtauld Institutes 36 (1973) 231-55, at 234 ff.

77. That Oxford, especially Magdalen College, had its protestants in Elizabeth's time is clarified by G.N. Dent, Protestant Reformers in Elizabethan Oxford (Oxford 1983), following Professor Patrick Collinson.

78. Foxe vi.577 f.

79. Foxe viii.51 f.

80. Parker, Correspondence 109-113 (26 March 1560).

81. Parker, 292-94 (24 December 1566)

82. Parker 479 (11 April 1575). Perhaps Cecil agreed with Sir Francis Knollys (see C. Cross, Royal Supremacy in the Elizabethan Church, 1969, p.177) that bishops derive all spiritual authority, including superiority to presbyters, wholly from delegation by the Crown, not from God by the commission in ordination. Knollys' view is an ultra-Caeseropapism, analogous to the Ultramontane stance of Archbishop Castagna of Rossano (later, for a few days in 1590, Urban VII) submitted to the council of Trent on 20 October 1562 (Conc. Trid. IX 59,18): Castagna held that bishops are the pope's vicars and derive all authority from him, including superiority over presbyters, so that no further justification, such as 'divine right', is necessary.

83. Grindal, Remains (PS), 389. (20 December 1576)

84. Eccles. Polity VIII.vi.9.

85. Wilkins, Concilia IV 374, cf. 611 for the text of a censure by the University of Oxford, 21 July 1683, upon the presbyterian and puritan view that 'the king's supremacy in ecclesiastical affairs...is injurious to Christ'. On the Hampton Court Conference see Cardwell's Conferences connected with the revision of the Book of Common Prayer (Oxford, 1840), pp. 202-3.

86. Whitgift (PS) II 405; Hooker (EP VII.v.10) 'the first institution of

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bishops was from heaven, was even of God, the Holy Ghost was the author of it.'

87. See the abrasive message from the House of Commons to the Westminster Assembly of Divines, 30 April 1646, printed by A.F. Mitchell and J. Struthers, Minutes of the Sessions of the Westminster Assembly (Edinburgh & London, 1874), pp. 448-455, showing that the parliament hated papal and royal supremacy, but enthusiastically upheld their own in matters ecclesiastical. Any suggestion that authority in the Church might have a divine sanction was anathema to the men who had executed Laud and were soon to kill the king.

88. (W. Allen), A True, sincere and modest defence of English Catholics (Rouen, 1584), answering Burghley's defence of the government's harassment of recusants. A modern reprint is edited by R.M. Kingdon (1965). An excerpt in C. Cross, Royal Supremacy pp. 254-55.

There is a vehement attack on the idea that a national Church ought to wait for a general council before taking crucial independent decisions, in Bullinger's Decades (FS) iv. 116 f.

89. Among the critics of James I's defence of the oath of allegiance, the learned and witty tracts of the Jesuit Martin Becan (in his collected opuscula, Mainz 1610-21, in five volumes) are outstanding. James' best defender was Lancelot Andrewes.

90. Cranmer, PS Letters and Remains 116.