

‘ALL THINGS ARE LAWFUL’: ADIAPHORA, PERMISSIVE NATURAL LAW, CHRISTIAN FREEDOM, AND DEFENDING THE ENGLISH REFORMATION

PAUL DOMINIAK*

University of Cambridge

ABSTRACT. Adiaphora (‘indifferent matters’) and permissive natural law both conceptually pointed towards an arena of liberty in which the individual remained free to take up (or not) particular courses of action. In the Reformation debates over the external regulation of Christian freedom for the maintenance of peace and order, these two concepts became freighted with political significance; but they also in turn shaped attitudes over when and where obedience was due in relation to the civic regulation of liberty. Tudor apologetics deployed both ideas in order to defend the English Reformation, especially the claim of the royal supremacy to have due authority to regulate ecclesiastical affairs in indifferent matters, limiting Christian freedom and requiring obedience. By situating these debates within the context of the conceptual development of adiaphora and permissive natural law from their original philosophical roots through to the Reformation, this article establishes the genealogy of claims that defined such apologetics. After surveying the seemingly intractable dilemmas in the thought of Thomas Starkey and John Whitgift over why obedience to lay ecclesiastical supremacy was due, this article considers the radical return to the permissive natural law traditions of the medieval period in the Elizabethan conformist thought of Richard Hooker. In this return, Hooker supplanted divine permissions and scriptural principles as the guide for the proper regulation of indifferent matters with an appeal to the light of reason as the divine instrument through which binding human laws are made to govern society and limit freedom for the public good, even in the life of the national church.

KEYWORDS: adiaphora, liberty, permissive natural law, Reformation, royal supremacy

‘All things are lawful unto me’, wrote St Paul, describing the freedom of the Christian, ‘but not all things are expedient’ (1 Corinthians 10:23). Elsewhere, he wrote of how Christians ought to stand in relation to political authorities: ‘let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God’ (Romans 13:1). Texts such as these freighted theology with political significance. They lent to political authority a spiritual significance, shaping the ways that believers attempted to account for how Christian liberty may be subject to (or not) either the

* PAUL DOMINIAK (PhD 2017, Durham University) is currently Vice Principal of Westcott House and Affiliated Lecturer in the University of Cambridge. Email: p.dominia@jesus.cam.ac.uk.

inward limits set by conscientious discernment of what actions are fitting or by external limits set by obedience to the ‘higher powers’. The dynamic relationship between theology and politics was just as true in the risk-laden upheavals of the English Reformation in the sixteenth century. Far from being mere window dressing for the public structures of political authority, theological discourse both reacted to historical events but also shaped them imaginatively. As Joan Lockwood O’Donovan writes, given that the Tudor Church of England ‘was supremely a political-legal edifice resting on the authority of the temporal sovereign and the general assembly of the realm’, it was unsurprising ‘that public theological discussion and conflict in Tudor England should center on issues of law and authority’ (1991: 1-2). This essay explores how theological notions of Christian freedom both informed and were also formed by debates over the regulation of liberty under the royal supremacy from the Henrician era through to the Elizabethan period. It traces how two ideas in particular—adiaphora (or ‘indifferent matters’) and permissive natural law—were variously deployed to defend and justify obedience to lay ecclesiastical supremacy and its legal prerogative to restrict Christian freedom in the English commonwealth. Under the veil of moderation, such apologetics often masked a coercive agenda to silence dissent as a form of sedition (see Shagan 2011). Yet, as this article shows, they could also limit authority in crucial ways and open up space for dissent within the common good.

As prolegomena, the first section discusses the philosophical and theological background to these adiaphora and permissive natural law. The second section then explores how adiaphora was a commonplace but contested concept in the continental Reformations, where Lutheran conflicts over the idea influenced similar debates from the mid-Tudor period onwards in the English church. Having set these contexts, the last section examines a cross-section of representative attempts to defend the English Reformation and establish the monarch as the rightful arbiter over the limits of Christian freedom in the public realm. It finally notes a novel and radical turn in the thought of the late Elizabethan theologian, Richard Hooker. Turning away from the theological contours of adiaphora regulated by Scripture typically used elsewhere in the Reformations of the sixteenth century, Hooker grounded his apology for lay ecclesiastical supremacy and its control over indifferent matters within permissive natural law and reason.

The Meaning and Development of Adiaphora and Permissive Natural Law

By the sixteenth century, the term ‘adiaphora’ had become a multivalent one, encompassing philosophical as well as theological concepts. At the same time, while many reformers appealed to the natural law traditions of the medieval period, it was highly unusual to appeal to the idea of a ‘permissive natural law’, even though both it and adiaphora shared a common philosophical

ancestry. Since most reformers saw scriptural principles as that which regulated Christian liberty, this lacuna undoubtedly reflected the secondary role of nature and natural knowledge compared to the priority of grace and Scripture in Protestant and Reformed thought as a whole. The first task, then, in understanding the ways in which the English reformers used one or both of these terms in relation to the legal standing and power of the royal supremacy is to trace out briefly their various philosophical and theological contours.

'Adiaphora' is a Greek word, the plural of 'adiaphoron' (see Schmidt 2011: 5). While 'diaphoron' means 'difference', the addition of the Greek alpha as a prefix turns it into 'indifferent'. As such, 'adiaphora' simply means 'things that are indifferent' or, more literally, 'things that make no difference', a Greek concept that Cicero translated into Latin as *indifferens*, a word from which the English translation of adiaphora derives. The idea of adiaphora originated as a technical concept within ancient Cynic and Stoic philosophy. The Cynics were a philosophical group from the late fifth century BCE who broke with Greek social, political, and moral conventions in favour of an inner conviction that life ought to be lived according to nature understood by reason. As a marker of this attitude, the Cynics first designated that all external matters such as conventions were adiaphora precisely because they had no positive or negative worth in relation to the sufficient interior moral self. As Diogenes Laertius records it, external norms were 'things that make no difference' (1925:13, 109 [6.11, 105]). Like the Cynics, the Stoics argued that inner virtue entailed living in accordance with nature and reason. Unlike the Cynics, however, the Stoics emphasized that nature itself was a law to which the self must submit and conform. This notion of nature entailed that the self was not simply valued above the external world, but needed to be in harmony with nature. As such, while the Stoics continued to refer to external things and actions as adiaphora, they also affirmed that certain external things and actions ought to be preferred if they contributed to life according to nature, and others ought to be rejected if the contrary were true. Here, adiaphora remained indifferent in themselves, but could become good or evil depending on the end to which the inner disposition of the self directed them. The Stoics thereby argued for a threefold classification relating to adiaphora: that which virtue required and forbade; that which may be more or less fitting to promote virtue and avoid vice; and that which is truly indifferent, morally neutral, and free.

Christian thinkers rarely showed much appreciation for the Cynics' understanding of adiaphora, largely rejecting (with the possible exception of Peter of Abelard in the twelfth century) the idea that all externals were morally indifferent in an intrinsic sense. Indeed, since all of creation was good, there could be no indifference in a strict sense. The Stoic sense of the term, however, with its emphasis not so much upon the intrinsic morality of things

in themselves as upon how the individual agent relates to them, did variously find traction. The use of *adiaphora* in a Stoic-like sense can be found in the thought (amongst others) of the following eclectic range of theologians: Clement, Origen, John Chrysostom, John Cassian, Augustine of Hippo, Bernard of Clairvaux, Thomas Aquinas, and Erasmus of Rotterdam (see Verkamp 1977: 21-25; and Tierney 2014: 6-9).

While *adiaphora* had philosophical roots, however, theologians largely used the term in relation to the divine positive law of revelation rather than the natural law of the Stoics. As such, *adiaphora* took on a distinctively theological tone from the apostolic times onwards in a manner that would become crucial for the reformers of the sixteenth century. Although scriptural writers never used the term, the teachings of the New Testament about freedom of choice—such as seen in St. Paul’s admonition in 1 Corinthians 10:23—were more often than not the field in which the concept of *adiaphora* was deployed. Hence, *adiaphora* now commonly acted as a mere synonym for the biblical idea of a ‘thing permitted’ under divine law because it was neither commanded nor forbidden, neither good nor evil. While there were also distinctive medieval natural law traditions that used *adiaphora* to describe a more philosophical arena of permissive liberty within natural and positive human law, the majority of the sixteenth-century reformers, much like the early Christian thinkers, seldom took notice of its philosophical connotations. Rather, the reformers focused on the theological rendering of the term, namely in relation to the divine law and its permissions (see Verkamp 1977: 24, 26-28). As such, *adiaphora* referred to beliefs or practices that were considered biblically indifferent, that is to say the realm of externals in which Christians were instilled by God with liberty to take up (or not) particular customs and conventions. *Adiaphora* had a negative and a positive principle: they could be neglected without fault; but they could also be freely observed in good conscience without sin.

Adiaphora re-emerged as a prominent concept in the Reformation as the reformers questioned the binding quality of certain medieval liturgical, ecclesiastical, and theological practices. As Verkamp (1973: 486-488) unpacks, from the medieval period onwards, certain theologians complained of what the medieval French theologian Pierre d’Ailly called ‘the evil of superfluity’. The accretion of ecclesiastical practices and demands in the medieval church occasioned complaints from figures as varied as Jan Hus, Jean Gerson, Gabriel Biel, and Erasmus, as well as (in an English context) the Lollards, William Tyndale, and Thomas Cranmer. In an attempt to clear away the burdens placed on the faithful, *adiaphora* accordingly became a key concept for the sixteenth-century reformers, whether in continental Europe or England. The theological definition of *adiaphora* as those things ‘permitted’ under divine law as revealed in the New Testament was generally used (along with its

vernacular equivalents) by all the sixteenth-century continental and English reformers. Adiaphora offered a conceptual tool that allowed the mainstream reformers to argue against both the excessive medieval attachment to formal and external religious observances, and against the radical iconoclasts and antinomians of the early Reformation. It helped reformers to distinguish between the necessary truths of Christianity and indifferent matters properly open to the discretion of Christian communities. These reformers typically used the Pauline teachings of 1 Corinthians 8:1-9:23, Galatians 2:3-5; 5:13-15, and Colossians 2:16-20. As Muller develops, such texts provided 'a guide to those seemingly indifferent matters that might create a stumbling block to the gospel and to others, truly indifferent, that could be allowed without impeding the gospel' (Muller 1996: 25).

Yet, the re-emergence of adiaphora as a key heuristic concept still left the challenge over what kind of externals fell within the realm of adiaphora. Lutherans, for example, allowed for clerical vestments and the observation of holy days to be seen as adiaphora, but radical English puritans would disagree, seeing such things as papistical aberrations. The concept also left open how the freedom of the individual related to the external authority of church and secular power as they regulated the realm of adiaphora by obligatory positive laws in order to secure peace and unity. A later section of this article will develop the limits that reformers placed upon adiaphora, as they form one essential context for understanding how various English thinkers defended aspects of the English Reformation.

Adiaphora was not the only concept, however, that described a realm of freedom within human action. The idea of permissive natural law signposts an area of conduct within natural law where moral agents are free to act as they choose. As such, in the Christian tradition, freedom was not only to be found within divine law. While recent decades have seen a resurgence of academic interest in the history of natural law, the place of such liberty within natural law thought garnered negligible attention until Brian Tierney's recent work, *Liberty & Law* (2014). Tierney develops how 'the idea that law could be permissive as well as preceptive was an integral feature of many natural law theories from the twelfth century until the eighteenth' (2014: vii). In short, permissive natural law traditions explained how a wider framework of jurisprudence and legal obligation also contained a genuine account of human liberty, understood both as freedom from coercion and as legitimate freedom of choice. Although most reformers appealed to natural law in some way, it was almost never in the context of exploring the permissiveness of natural law (see McNeill 1946: 168-182; and Charles 2013: 3-34). As the final section of this article will explore, however, the Elizabethan theologian Richard Hooker unusually deployed permissive natural law as the central feature of his defence of the power of the civic magistrate to regulate indifferent

matters in the life of the church. Drawing out its genealogy will provide an essential context, therefore, for its appearance in his thought in particular.

The idea of permissive natural law grew out of the early Christian reception of Stoic thought, along with the closely correlated idea of adiaphora or indifferent things. As the previous comments on adiaphora intimated, for the Stoics a divine intelligence permeated the cosmos, and living in accordance with the divine *Logos* as found in nature described the virtuous life. Christianity was a fertile field to receive the seed of Stoic natural law thought. From the soil of Romans 2:14-15 grew the idea that all rational creatures, insofar as God created them, inherently possess a God-given natural law. Since the related idea of adiaphora also found traction, an aspect of freedom was built into the development of Christian natural law, just as it was within Stoic thought. Rather than the Stoic categories of virtuous, vicious, and indifferent matters related to living in conformity with nature, however, the Christian language was one of commandments, prohibitions, and permissions drawn from the whole range of divine, natural, and positive human laws.

Tierney (2014: 15-22) details how the revival of canonistic jurisprudence in the twelfth century by Decretists, as well as the theological flowering of middle and high scholasticism in the thirteenth and fourteenth centuries, established a rich and protean range of accounts of permissive natural law. The Decretists glossed Gratian's *Decretum*, developing his idea that there was a permissive and non-obligatory realm alongside the commands and prohibitions of divine and natural law. Of particular interest was the space this left open for variety and change within human positive law as it related to matters on which natural law was indifferent, ambiguous, or apparently in conflict with human laws, such as concerning the legal status and protection of private property, the existence of servitude, or the choice between contrary evils. Canonists developed a wide range of terms beyond the Stoic 'adiaphora' and the Ciceronian 'indifferent' in order to describe aspects of permissive natural law. Tierney (2014: 22-47) lists the following terms used to describe permissive natural law: *demonstratio-permissio* (a demonstration of what is fitting and permitted); *fas* (meaning divine law or moral natural law, by which something is permitted); *libertas* (liberty); *perplexitas: tolerantia* (something tolerated when two unavoidable evils ensnare someone); and *licitum* (licit and approved). Whereas theologians most commonly used adiaphora in relation to the permissions of divine law, these other terms interpreted the relationship of natural law with divine and positive human laws.

By the thirteenth century, canonists turned their attention away from permissive natural law, however, and towards a flood of new papal and conciliar legislation. At the same time, medieval theologians such as William of Auvergne, Thomas Aquinas, William of Ockham, and Marsilius of Padua turned their focus onto the concept alongside the free choice left to humans in divine

and human positive law. Assimilating canonistic concepts, such theologians variously deployed the idea of permissive natural law in a vast terrain of concerns. Theologians used the idea in a number of ways: to reconcile apparent inconsistencies across scriptural texts (such as about divorce, for example); to defend ownership of private property; to address the broader ethical question about whether any deliberate act could be morally indifferent; and to explore how indeterminate choices in the realm of action related to virtuous living could be navigated prudentially in the pursuit of the ineluctable final good of happiness. While theologians deployed the canonists' lexicon in relation to permissive natural law, they also used the ancient term *adiaphora*, as well as the Latin *indifferentia*. They used these terms in order to describe courses of action not prescribed or forbidden by either divine or natural law, but which were nevertheless morally permissible, even if not obligatory, as divine or natural law left open spheres of licit freedom.

Just as with *adiaphora*, however, while the notion of permissive natural law could be used to defend an arena of genuine human freedom, it could entail, as it related to human positive laws, a discussion of how such liberty might be regulated by obligatory political control in light of the Pauline teaching that 'all things be done decently and in order' (1 Corinthians 14:40). In these instances, both what was defined as permissible, and who regulated that arena in the public square, were contestable. As a final context, then, to how apologists deployed the notion of *adiaphora* in defending the English Reformation, the next section develops a brief survey of sixteenth-century continental responses to the question of the limits of *adiaphoristic* liberty. The absence of the permissive natural law tradition in this survey will also serve to highlight how unusual the late Elizabethan defence of the royal supremacy by Richard Hooker truly was.

The Limits of Liberty: Adiaphora and Law in the Continental Reformations

As reformers asserted the doctrine of *solafideism* against the 'evil of superfluity' which they felt had built up in the medieval church and obscured the gratuity of grace, they were drawn in two possible directions. On the one hand, the majority of the reformers 'cast the prevailing ecclesiastical laws, customs and ceremonies within an *adiaphoristic* frame of reference' (Verkamp 1973: 488). *Adiaphora* allowed them to maintain a robust sense of Christian liberty and reduce the number or binding force of external ecclesiastical laws and regulations. It also placed scriptural limits upon such freedom through the principles of charity towards neighbour (seen in Leviticus 19:18; Mark 12:31; Romans 13:9; and James 2:8) and due consideration for peaceful order (see 1 Corinthians 14:40). Among these theologians were the magisterial reformers Luther, Melancthon, Zwingli, and Calvin. On the other hand, for some reformers 'such an *adiaphoristic via media* seemed but

a dead end, stopping far short of a genuine reform of the church' (Verkamp 1973: 488). For these reformers, the intolerable burden of accrued ecclesiastical practices in the medieval church were not 'indifferent'; rather, they were anathema to the simplicity of the Gospel and in need of abolition. Here, the express sanctions of Scripture gave a paradigmatic formula for the whole of Christian life, and (following Tertullian) a 'negative Scripture principle' furthermore meant that scriptural silence on a matter connoted disapproval rather than licit permission. This group included the English Lollards, radical Hussites, some of the early English puritans, Karlstadt, and some of the Anabaptists. While these two groups disagreed over the conceptual utility of adiaphora, their disagreement occasioned both a refining of the idea in theological terms, as well as an exploration of how Christian liberty related to visible human authorities and laws. As a contemporaneous sixteenth-century context for the use of adiaphora within English attempts to defend the legal prerogatives of the secular authorities over indifferent matters, this section briefly charts the various continental uses of adiaphora, as well as the limits (whether of the internal law of charity or external laws) some reformers placed upon the realm of adiaphoristic freedom.

The German reformers Luther and Melanchthon both carved out a subtle sphere for liberty understood within certain internal and external limits. Luther and Melanchthon emphasized the radical freedom of the Gospel since, apart from faith, everything is indifferent to the new creation who is the Christian. Faith in Christ liberates believers from the law, making them (as Luther puts it in *On the Freedom of a Christian* of 1520) 'the free lord of all, subject to none' (1883ff: 7, 49; cf. Melanchthon 1952: 2/1, 125-132). Yet, they also saw that the constraint of law remained in force in particular kinds of internal and external ways for Christians who, as a result of their liberty rooted in Christ, are also 'the perfectly dutiful servant[s] of all, subject to all' (Luther 1883ff: 7, 49). While freed by faith from the demands and burdens of the law, the believer nevertheless is set free to love the neighbour and the world through an inner gratitude overflowing outwards in charity (see Althaus 1972: 36-42).

Yet, as well as emphasizing how liberty produces service, Luther and Melanchthon also recognized a whole realm of actions to which Scripture spoke permissively, both in relation to ceremonial and moral choices (for example, see Melanchthon 1952: 2/1, 133), or to which Scripture remained silent, leaving Christians 'free' to determine the most fitting course of action (for example, see Luther 1883ff: 18, 112-115). Such adiaphora, much like the freedom of the Christian, were limited for Luther and Melanchthon by inner and external principles (Verkamp 1975: 64-66; 72-75). Outward matters were adiaphora—meaning matters indifferent to salvation—in which human law could legislate for and restrict the conduct of believers, but never command

their consciences since 'where the soul is concerned, God neither can nor will allow anyone but himself to rule' (Luther 1991: 23). The inner law of charity meant that the believer ought to consider how adiaphoristic freedom, if abused, might lead others astray from the truth and simplicity of the Gospel (Luther 1888ff: 7, 69-71; Melanchthon 1952: 2/1, 159-162). Likewise, the law of love might mean that the believer has to limit external freedom in adiaphoristic matters under tyranny in order to maintain the peace, or to avoid risking the essentials of the Christian faith (for example, see Melanchthon 1952: 2/1, 159). Alternatively, insofar as secular authorities have a God-given duty to promote order and peace, so too must adiaphoristic liberty be constrained by external obedience to positive human laws as they execute that duty, unless such laws violate some aspect of divine or natural law (see Berman 2003: 71-99).

While some scholars have argued that Zwingli, Oecolampadius, and Bullinger rejected the notion of adiaphora, Bernard Verkamp (1973: 486-504) makes a convincing case to the contrary. According to Verkamp, 'the Zwinglians recognized a realm of adiaphora that embraced not only those things explicitly permitted by Scripture, but also a variety of things not covered by the commands and prohibitions of Scripture, nor explicitly permitted therein' (1973: 504). While they certainly advocated for a repristation of the church such that it may more resemble the simplicity of the Gospel and apostolic times, at a number of different points Zwingli identified as adiaphoristic those things permitted by Scripture (for example, see 1905ff: 1.91-98; 4.256). In such cases, adiaphoristic liberty remained limited within the inner life of the believer, as it was for Luther, by the scriptural principles of charitable concern for the neighbour as well as for peace and order (1905ff: 1.112; 4.256). Likewise, while the Zwinglians consistently emphasized Scripture as the sole criterion for the belief and conduct of the believer, this did not equate with a crude form of biblical reductionism or an unqualified scriptural omniscient competency for all matters. Zwingli, Oecolampadius, and Bullinger all accorded with Luther that, while there were practices that lack a clear warrant in Scripture, these yet remained licit insofar as they were indifferent externals, non-essential to saving doctrine. All three, for example, argued that, in relation to the Eucharist, even though the doctrinal status of the sacrament as a memorial was essential, liturgical timings, postures, and apparatus, the frequency of reception, or who can be admitted to communion, were all indifferent matters since (in the words of Oecolampadius) 'no one may forbid that which Christ himself has not forbidden' (Bullinger 1850: 190-197, 410-422; Oecolampadius 1859: 251-254, 469; Zwingli 1905ff: 4.296). As such, external legislation over such adiaphoristic matters was also, ultimately, an indifferent matter, insofar as it did not threaten the inner conscience on the ultimate matters of faith.

In a similar manner to Luther, Melancthon, and the Zwinglians, Calvin held in productive tension adiaphoristic liberty with the rightful power of ecclesial and civic authorities to legislate on indifferent matters for the good of the church and community. Scholars have regularly recognized the key importance that Calvin affords to liberty within the Christian life: for Calvin, the freedom of Christians flows out their justification by faith alone (see Haas 2009: 340-341; Hiemstra, 1959: 10-14). Calvin dedicated an entire chapter of Book III of the *Institutes of Christian Religion* to the necessity of Christian freedom as an ‘appendix to justification’, and set out three aspects in support of liberty. First, for Calvin, believers are free from the condemnation of the law and the necessity of works righteousness because of their union with Christ through faith (2006: III.19.2-3). Second, because of the perfect liberty of the believer in Christ, believers willingly serve God with a ‘joyous obedience’ rather than under the compulsion of law (2006: III.19.46). Third, believers enjoy freedom in ‘things indifferent’, meaning ‘outward things’ given by God for the use of humanity as we see fit in conformity with Scripture and the purpose for which they are intended (2006: III.19.7-8). For Calvin, however, there were limits to this adiaphoristic freedom. Believers must not use freedom as a license for sin, but must rather allow the virtue of love to shape liberty so that it is charitably exercised for the glory of God and the edification of others (2006: III.19.9-13).

Legislative restriction of adiaphoristic liberty was necessary according to Calvin because, since ‘such diversity exists in the customs of men’, resolution over ‘conflicts in their judgements and dispositions’ required ‘definite laws’ in order to prevent the disintegration, deformation, and destruction of churches (2006: IV.10.27). As adiaphoristic freedom relates to traditions and civil government, Calvin distinguished, therefore, in Books III and IV of the *Institutes* between two kingdoms since ‘*in homine regimen duplex*’, and indicated in what manner indifferent matters could be legislated (2006: III.19.15; IV.20.1). One kingdom was the ‘spiritual’ (*regnum spirituale*) or ‘inner forum’ where the believer experiences the complete liberty of Christ as a freedom of conscience (*forum conscientiae*) from all human law. The other kingdom was the ‘political’, ‘temporal’, or ‘outer forum’ (*forum externum* or *regnum politicum*) ordained by God, to which external obedience is due, and which, at its best, is an ‘external aid’ (*adminiculum*) by which God invites us into the society of Christ and hold us therein’ (2006: III.19.15; IV.1.1; IV.20.5). Indeed, the end of secular government included the responsibility to ‘foster and protect the external worship of God, defend pure doctrine and the good condition of the Church’ (2006: IV.20.2). The Christian, Calvin warned, must not ‘misapply to the political order the gospel teaching on spiritual freedom’ but should rather carefully discern ‘what must be considered lawful, as consonant with God’s word, and on the other hand what ought to have no place among the

godly' (2006: III.19.15; cf. IV.20.32). As such, Calvin advocated, then, walking a tightrope between obedience to public authority and positive human laws in external matters on the one hand, and discernment within the conscience about their conformity with the law of God on the other hand.

Despite a broad and general consensus across the magisterial reformers over the relationship between adiaphora, liberty, and law, the Augsburg Interim imposed upon German Protestants by Emperor Charles V in 1548 produced a crisis known as the 'Adiaphora Controversy'. After defeating the Protestant Schmalkaldic League, Charles attempted to impose through the Augsburg Interim the re-adoption of traditional Catholic beliefs and practices. The Interim met with fierce resistance among Lutherans. In an effort at compromise, Melanchthon worked on a second Interim, known as the Leipzig Interim, designed to protect core Protestant beliefs while also yielding to imperial authority in indifferent matters. Yet, the Leipzig Interim occasioned its own conflict, this time between Lutherans themselves. The conflict revolved over whether the secular government had the authority to arbitrate over what liturgical ceremonies were permissible, or 'put another way...whether the church ought to be a church state' (Olson 2002: 86). The Leipzig Interim sparked a heated division between two Lutheran factions, namely the Phillipists (led by Melanchthon) and the Gnesio[genuine]-Lutherans (led by Flacius Illyricus). For Melanchthon, the reinstatement of traditional Catholic ceremonies under the Leipzig Interim remained tolerable because such matters concerned adiaphora rather the doctrinal essentials of the Protestant faith. Indeed, Melanchthon wrote that 'in order to retain the essentials, we are less strict about the nonessentials' (1834ff: 7, 252). Here, Melanchthon adjured that adiaphoristic liberty should be privately limited by a public stance of conformity with Imperial law, rather than open up the essentials of the Protestant faith to the 'danger of confession' in a hostile political climate. In *Liber de veris at falsis adiaphoris* (1549), Flacius Illyricus vehemently opposed Melanchthon's acquiescence to the Interim, which had caused Catholics such as the Polish Cardinal Stanislaus Hosius mistakenly to gloss Melanchthon as giving a signal to the Catholic community that the Phillipists might seek reunion with Rome (see Gunther 2014: 191-197). In *Liber*, Flacius distinguished between 'true' and 'false' adiaphora, the former of which originated from and were directed by God for the edification of believers, and the latter of which were scandalous and tyrannically imposed (1549: sig. X, fol. 8; sig. Y, fol. 6[v], fol. 8; sig. Cc, fol. 3[v]-4). In short, this distinction entailed that in secular matters the believer should yield to temporal authority, but not in spiritual matters, where the ordering of adiaphora belongs to the whole Church (1549: sig. X, fol. 3[v]-4[v]). Such resistance to the secular legislation over adiaphora would especially hold true if acquiescence to political

exigencies would frustrate the true divine purpose of adiaphora, namely to edify the believer and glorify God.

This German debate over the legislation of adiaphora, and its relationship to secular authority, divided the Lutheran parties until the Formula of Concord in 1577. The tenth article of the Formula defined adiaphora in terms of that which Scripture neither commanded nor forbade, but also insisted (in what can be seen as a victory for the Flacian position) that believers should not yield to the ‘enemies of God’s Word’ even on matters of adiaphora if coercion is involved (see Schaff 1966: 161-164). Yet, both the continental explorations of adiaphora, and Flacius’ 1549 *Liber*, would indirectly and directly shape the reception and development of adiaphora in the English context, especially over the right and power of the government to regulate on indifferent matters, as well as in the defence of lay ecclesiastical supremacy itself. Accordingly, the next section explores the shape of adiaphora in the context of the English Reformation, as well as the unusual (if not unique) re-emergence of permissive natural law in Richard Hooker’s Elizabethan defence of the royal supremacy and its prerogative to legislate within the realm of Christian liberty.

The Limits of Liberty: Adiaphora, Permissive Natural Law, and Defending the English Reformation

The continental appeal to the freedom of adiaphora, as well as the conflict over the secular legislation of Christian liberty, found corollaries in the context of the English Reformation. While space does not permit here a detailed overview of all the ways in which English reformers, both moderate and radical, deployed the conceptual apparatus of adiaphora, certain key agreements and moments in relation to defending the royal supremacy illustrate how the idea of indifferent matters also carried with it a certain political freight over who defined and controlled Christian liberty. This section considers, therefore, the broad consensus in the English context over the definition of adiaphora, before turning to several key moments in which the political implications over the restriction of freedom emerged. It then considers the radical late Elizabethan reframing by Richard Hooker of the debate over adiaphora in relation to the authority of the royal supremacy within the context of permissive natural law.

Even the moderate reformers such as Thomas Starkey, Thomas Cranmer, John Hilsey, and Thomas Becon agreed with the more radical voices of William Tyndale, John Bale, John Hooper, and William Turner that the proliferation and estimation of duties and ceremonies in the Church had intolerably burdened the believer and needed urgent redressing (see Verkamp 1977: 11-15). It was within the context, then, of reducing the number and valuation of ceremonies that the Henrician reformers turned to adiaphora. As such,

the theological notion of adiaphora as things neither prohibited nor commanded allowed English reformers to distinguish between matters necessary for salvation (and so obligatory in the inner or private sphere of conscience) and indifferent external matters (open to Christian freedom and therefore not necessary or binding). Insofar as they defined adiaphora in theological terms, they followed the thought of the magisterial reformers.

In political terms, the question, then, became whether or not church or civil legislation over adiaphora violated Christian freedom by turning adiaphora into preceptive matters that restricted the believer and so blurred the distinction between necessity and indifference. Just as it would prove to be in the European Reformations, this was a particularly pressing question for the English Reformation from its political and legal establishment in the 1530s onwards. While the medieval church had maintained its right to control doctrine and legislate for adiaphora', throughout the later 1530s and into the 1540s a series of royal proclamations and parliamentary acts claimed and embodied the authority of the Crown and Parliament to determine what was to be considered orthodoxy in England' (Eppley 2007: 7). Such legal enactments also shaped what was to be considered orthopraxis in the life of the Christian, including within the realm of adiaphoristic freedom. As G.R. Elton puts it, however, given the wide array of religious opinion in England in the period, 'there was a real problem facing the King and his advisors, a real problem of disaffection, disobedience and disturbance' (1985: 44-45). Militant evangelicals like Henry Brinkelow, John Bale, and William Turner wrote critically of the way in which what they saw as popish elements were legitimated as parts of royal policy. Many other evangelicals accepted the power of the monarch to order 'things indifferent', even in the life of the church (see Shagan 2011: 73-110; and Gunther 2014: 53-60). As such, the right of the secular authorities to legislate over Christian liberty struck at the heart of the most revolutionary claim of the English Reformation, namely the legality of the lay ecclesiastical supremacy itself. Amidst the threat of public ambivalence, Richard Rex accordingly writes of the 'Henrician settlement' that the 'foundation was the royal supremacy' but its 'keynote was obedience' (1996: 863-894; 894).

It is within this setting that one commissioned defence of the royal supremacy emerged in 1536, namely *An Exhortation to the people, instuctynge theym to Unitie and Obedience* by the humanist Thomas Starkey. While his contemporary Robert Barnes in the 1534 *Supplication* argued against the authority of church officials to legislate over adiaphoristic matters (1534: sig. Q4v), in *An Exhortation* Starkey advocated explicitly for the first time for the right of the lay ecclesiastical supremacy to legislate over adiaphora and called for subjects to obey their monarch based upon divine commandment. Starkey severely limited the essentials of the faith to the orthodoxy espoused in the Council of

Nicaea (1536; sig. B3v). In this respect, Starkey argued in a similar fashion to Erasmus and John Frith, among others, who identified the rule of faith (*regula fidei*) from patristic and medieval thought, the creedal articles of the Apostles' Creed, as the only essential beliefs for salvation (see Neelands 2017: 53-54). All other aspects of Christian belief and life were adiaphora, therefore, for Starkey, who defines such 'thinges indifferent' as matters 'nother probyted nor commanded' by Scripture (1536: sig. B2v; sig. U1-Y1). While, as we have seen, some continental adiaphorists promoted such an arena of liberty to secure the autonomy of the individual conscience, Starkey deployed it for a very different purpose (Verkamp 1977: 38-40; Eppley 2007: 43-60). Starkey notes that, while the life of a Christian is inward and spiritual, 'somme exterior and outward sygnes and ceremonies' are necessary for edification and the development of the Christian life (1536: sig. E3v; sig. G4-G4v). For Starkey (following Marsilius of Padua), since Christ 'never taught one point of worldly policie' (1536: sig. N3v), things not ordered by divine or natural law are regulated by human laws (1536: sig. F3; for a critical comparison of Marsilius and Starkey, see Mayer 1989: 139-146; 226-227). Hence, the adiaphora of 'ceremonies in the church, customs & rites ecclesiastical' fell within 'the power of princes' (1536: sig. T1-T1v). In the English context, this meant that the monarch in Parliament, as he or she formulated human laws for the commonwealth, possessed the rightful authority to legislate for adiaphora, even in the external religious sphere (1536: sig. B2v; sig. T1v; sig. C1v). Here, Starkey merely formulated what was becoming legally normative in the early Henrician Reformation. As David Neelands (2017: 56-57) points out, Tudor legislation of the 1530s pervasively referred to the rightful royal rule over indifferent matters for the public good.

Just as Christian charity ought to yield to the divinely willed public goods of political peace, order, and unity, Starkey argued (in a line not dissimilar to the magisterial reformers) that so too should individual consciences yield to public uniformity over adiaphoristic matters, such as legislated for by the secular authorities. Accordingly, Starkey distinguished between the inner and invisible spiritual unity (rendered by the essentials of faith) and the external and visible 'polytically' unity as effected through the various 'lawes, consutations, and ordynances' of the civil authorities (1536: sig. R4v). Obedience to public authority flows as the mandate of the 'lawe of God' to obey 'all such thynges as by common authoritie either are or shall be receyued' (1536: sig. T2; cf. sig. Z2-Z2v). Those who resist the royally mandated limits imposed upon their Christian freedom thereby act contrary to the example of Christ, who exemplified conformity to civil authorities in relation to adiaphora, and spread unnecessary disquiet among 'unlearned people' (1536: sig. N3v). The Christian duty to obey civil authority therefore led Starkey to a startling conclusion that effaces the boundary between the essentials of faith and

indifferent matters, or between the inner private conscience and outer public realm, in relation to adiaphora. Starkey concludes: 'For to the obedience of princis and all other comment orders and politike we are bound, after they be ones received, by goddis owne worde and commaundement. And such thinges as by their owne nature be indifferent, are made therby to our saluation necessary' (1536: sig. B4v). As such, external obedience was also 'binding under peine of damnation', which is to say obedience became part of salvation.

In this latter point, by insisting that the civil legislation over adiaphora binds the Christian both in public and in conscience, Starkey differed not only from the contemporaneous attempts of Cranmer and Stephen Gardiner to defend the royal supremacy, but also the vast majority of continental reformers (see Mayer 1980: 39-50; Eppley 2007: 32-41). In short, Starkey appealed to adiaphora as he defended the royal supremacy merely to restrict, rather than promote, freedom of conscience; unlike Melanchthon, he aimed for unity rather than liberty (see Shagan 2011: 85). Yet, it would be incorrect to assume, as does W.G. Zeeveld, that Starkey simply claimed that 'the voice of parliament had become the voice of God' (1948: 155). Similarly, it is misleading to claim that a 'fundamental difference' between Starkey and Melanchthon remains such that only for the latter are 'adiaphora are to be allowed, not enforced', or that 'the idea of equity, so central to Melanchthon's treatment of adiaphora, has no place in the *Exhortation*' (Mayer 1980: 48-49). As Thomas F. Mayer points out, 'Starkey did not argue in a completely quietist manner' (1989: 220). For Starkey, obedience was not unconditional: the field in which the monarch in parliament has liberty to exercise authority was bounded by natural and divine law; and human laws should only be obeyed to the extent that they are consistent with the principle that they are not 'contrarye' to God's will as expressed in Scripture or, presumably, natural law (see Mayer 1989: 220-221; also Eppley 2007: 48-52). Such commitments became, of course, part of the Tudor political canon. The Thirty-Nine Articles, finding their final form by 1571, implicitly touched upon indifferent matters at three points, concatenating freedom with ecclesial and royal prerogatives to restrict liberty unless in violation of Scripture. Article 20 noted the power of the Church to 'decree Rites or Ceremonies', as well as its 'authority in Controversies of faith'. Likewise, Article 34 notes the diversity of traditions across different places, and grants to the national Church the authority to 'ordaine, chuange, and abolishe ceremonies or rites of the Churche ordyened onely by mans auctoritie'. Yet, Article 37 made it clear that the monarch exercised lay ecclesiastical supremacy, making the civil magistrate the arbiter of how such freedom ought to be exercised or restricted in the Church for public order, peace, and discipline. In a similar, proleptic sense, Starkey certainly called for unquestioning obedience to the legal establishment of the royal

supremacy since it was in itself indifferent (as it was not among the essentials of faith) but as a civil authority possessed the divine right to legislate over adiaphoristic matters (1536: sig. Z1-Z2). Here, however, rather than simply commanding unconditional obedience for its own sake, Starkey rather intended to ‘exonerate subjects of any guilt they might be thought to incur through obeying laws of the realm’ in their daily lives (Eppley 2007: 50). Neither did Starkey assume that all adiaphora are equal, but rather that their equity (or lack thereof) lent force to their regulation, either in favour of them or in prohibiting them (see Mayer 1989: 22-222). For example, the veneration of the saints remains an indifferent matter, but antiquity has shown it to be an aid to devotion and virtue (1536: sig. X2v-X3). Or, in the opposite direction, papal supremacy is a matter of adiaphora, but can be shown to have been deleterious to the well-being of the church (1536: sig. S2v-S3v).

Three problems were left, however, by Starkey’s account of the absolute right of the monarch in Parliament to legislate over adiaphora (see Eppley 2007: 59-60; Verkamp 1977: 168). First, Starkey assumed a consensus among English Christians that the Council of Nicaea satisfied all that was necessary to define orthodoxy. Second, Starkey ‘ultimately concedes to the individual Christian authority to determine when the prince is acting contrary to God’s will and to follow or oppose royal policy accordingly’ (Eppley 2007: 59). Finally, while English adiaphorists consistently followed Starkey in assigning to the civil authorities ultimate power to legislate over ecclesiastical adiaphora, they stood with the magisterial reformers by stopping short of claiming that obedience involved the binding of the inner conscience. Thereby, once obedience was firmly unhooked from salvation, the English adiaphorists could only resort to the threat of earthly punishment for disobedience, a threat others were willing to face.

These problems left a gap that would occasion future political crises in the decades to come over the civic legislation of adiaphora in the English church. Three particular moments of escalating intensity are of particular interest: the Edwardian crisis over John Hooper’s refusal to wear traditional vestments in 1550 at his consecration as Bishop of Gloucester; the Elizabethan ‘Vestments Controversy’ of 1565-1566; and the ‘Admonition Controversy’ of the 1570s. A sea of words drowned these various controversies then and now, and space does not permit any detailed analysis. Yet, a broad heuristic overview will show how, over these decades, ‘cracks in the edifice of evangelical unity began to appear’ over ‘the Church’s freedom to choose to retain institutions and observances not explicitly commanded by the Word of God’ (Marshall 2012: 73; 89). As in the Henrician period, legal obedience in relation to adiaphora remained the watchword from Edward VI’s reign through to Elizabeth I’s, but the crux was obedience to what law, that of the sovereign or that of God in Scripture?

While major portions of Flacius' *Liber* were only translated into English in 1566 in *The Fortress of the Fathers*, Hooper had been in exile from 1547-1549 in continental Europe and so undoubtedly had followed the conflict between the Phillipists and Gnesio-Lutherans over the Leipzig Interim. In a set of 'Notes' to Edward VI's Privy Council following his refusal to wear traditional vestments at his consecration, Hooper's reasoning takes a form remarkably like Flacius' position (Verkamp 1977: 71-76; for the 'Note', see Hopf 1943: 194-199). First, 'things indifferent must have their origin and foundation in God's word'. Second, an adiaphoron must enjoy the implicit sanction of Scripture. Third, an adiaphoron must edify believers and glorify God. Fourth, any attempt to impose legislation by tyranny over adiaphora render them as no longer indifferent. Since they fail on all these conditions, Hooper concluded that vestments 'therefore... are not to be used'. The political implication of Hooper's stance however was this: the use of adiaphora was to be governed by scriptural rules regarding offence and edification, rather than by civic law. The opposing position was equally clear. Martin Bucer, Peter Martyr, Thomas Cranmer, and Nicholas Ridley, for example, all upheld adiaphora as referring to things that Scripture does not command, prohibit, or explicitly permit. They also argued that the monarch could order them as he or she saw fit, with subjects bound to obey the higher powers in good Pauline fashion, even if (in the case of Bucer and Martyr) some agreed with Hooper's dislike of vestments. After spending some time imprisoned, and after Calvin wrote to him to counsel that the issue was not worth resistance, Hooper relented and was consecrated in 1551 wearing the vestments he had opposed.

Controversy over the legal requirement to wear vestments resurfaced, however, just a decade later in the Elizabethan era. After many Protestant ministers refused to wear the square cap and surplice, arguing that they were irredeemably tainted by Catholic use, in 1565 Queen Elizabeth insisted that the bishops enforce them as a legal requirement. Archbishop Matthew Parker's zealous pursuit of the matter led to an acrimonious battle of pamphleteers in 1566. As with Hooper in 1550, the same fundamental issue was at stake. As Patrick Collinson puts it, the controversy was 'essentially a debate about the limits of public authority in the sphere of <things indifferent> (*adiaphora*) and about the definition of *adiaphora* themselves' (1990: 71). While both the newly coined 'puritans' and 'conformists' largely agreed that vestments were adiaphora, their focal reference of authority in determining who or what regulated them radically differed. For the 'puritans', just as Hooper had argued, and following Flacius, scriptural rules derived from St Paul shaped the limits of freedom: all should be done decorously, to edify believers and glorify God, while avoiding offence or scandal. For Parker and 'conformists', just as Starkey and Cranmer had argued, the Pauline command to 'be subject unto the higher powers' (Romans 13:1) meant that the monarch had

ultimate temporal authority to regulate adiaphora. Obedience to human law rather than to the law of charity took precedence in determining the limits of Christian freedom in the commonwealth. Parker argued in *A briefe examination for the tyme* (1566) that, since vestments were not considered in Elizabeth's reign as a necessary element of worship (as they had been in Mary I's reign), then obedience to the 'higher power' was the only point of concern, not how a 'Christian man ought to have a great regarde of his neyghbours conscience', as he summarises St. Paul (1566: ***3v). Indeed, subjects simply 'ought to obey' civic laws concerning adiaphora like vestments (1566: ****3r). Rather than being tainted with Catholic belief, vestments were an instance of *abusus non tollit usus* since they could help convert Catholics to godly religion and a proper understanding of adiaphoristic freedom under a godly monarch (1566: ***1v; see Gunther 2014: 211-216). The 'puritans', in undermining unity, for Parker also thereby undermined the edifying power of adiaphoristic freedom under English law, an implicitly seditious and sacrilegious act. As such, Parker, and other Elizabethan apologists, 'transformed liberty of conscience into unity and conformity; and that transformed adiaphora from the particulars surrounding *caritas*, into categories of submission and obedience' (Jenkins 2006: 163). In the end, royal power ended the controversy on the vestarian side.

Yet, the kind of intransigence shown by Hooper and the so-called 'puritans' of the 1560s reached new heights in the 'Admonition Controversy' of the 1570s. In the latter, the conflict over vestments exploded into heated debate over the liturgy and polity of the Elizabethan church. After failures in Parliament between 1571 and 1572 to remove vestments, reform the objectionable aspects of the Prayer Book authorized in the 1559 Act of Uniformity, and make non-conformity legal, the anonymous *An Admonition to the Parliament* advocated for a thorough reformation of the church along Genevan lines. This included abolishing the episcopacy and ordering the church as a *jure divino* Reformed non-episcopal polity, such as advocated by Calvin's successor Beza, and as experienced by the Marian exiles in Europe. The *Admonition* spawned a voluminous debate back and forth until 1575 between Thomas Cartwright, who elaborated upon and defended the *Admonition*, and John Whitgift, Master of Trinity College and Vice-Chancellor of Cambridge University, who attacked the proposed reforms. While Cartwright accepted the notion of 'things indifferent', he refused that the magistrate could order them as he or she desired. Rather, in line with Flacius, Hooper, and the Elizabethan 'puritans' of the 1560s, for Cartwright adiaphora should be subject to Pauline teachings on charity, avoiding scandal, and edification (see Lake 1982: 20, 47, 138, 244-246; and Shagan 2005: 122-144). Cartwright laid out four basic scriptural principles by which adiaphora should be governed, again closely resembling the Flacian position (Whitgift 1851-1853: 1.190).

First, that they do not cause offence or scandal. Second, that they are done 'in order and comeliness'. Third, that all 'be done to edifying'. Fourth, that all be done to God's glory. In light of these rules, even where Scripture seems silent, adiaphora 'are not left to order at their pleasure, or so that they be not against the word of God; but even by and according to the word of God they must be established' (Whitgift 1851-1853: 1.195). Cartwright and other presbyterians insisted that the individual Christian under the guidance of the Holy Spirit, rather than the prince, was the arbiter of correct biblical interpretation. In his *Second Replie*, Cartwright therefore argues against Whitgift's insistence that subjects must obey the magistrate, claiming that his scriptural principles also take priority over the injunction to obey the power of the magistrate (1575: 403-404).

It would be incorrect, however, simply to oppose Cartwright and Whitgift in the Admonition Controversy in relation to which kind of rule circumscribed the legislation of adiaphora. In a way, both were caught up in an intractable debate over the relationship of Scripture to authority. Whitgift champions obedience to the godly magistrate in indifferent matters, but concurs with Cartwright that aspects of church life must be ordered to general scriptural precepts. Their disagreement is one of priority. For Whitgift, the general scriptural rule for regulating adiaphora is obedience to the 'christian magistrate' who exercises authority over the church, rather than 'any private man's opinion and imagination' (1851-1853: 2.589). Indeed, Whitgift argues that 'obedience to magistrates in...indifferent matters hath manifest grounds in scripture' (1851-1853: 2.4-5). Reconciling biblical texts such as Romans 13, 1 Timothy 2, and 1 Peter 2 about the need to obey the higher powers with the agreed general rule from 1 Corinthians 14 to 'let all things be done decently and in order', Whitgift insists that 'surely the magistrate hath authority in such matters to appoint what shall be thought unto them most convenient, so that it be not repugnant to the word of God' (1851-1853: 3.510-11). The Pauline injunctions for the ordering of adiaphora serve as guidelines for the magistrate, rather than as the litmus test by which individual Christians assess church laws. Whomsoever 'doth disobey' the 'orders and laws (not being against the word of God)' therefore 'disobeyeth both God and the prince' (1851-1853: 2.50).

As such, Whitgift acknowledged as much as Cartwright the primacy of Scripture to determine the validity of civic laws, even while stressing the biblical mandate to obey the magistrate in the permitted legislation of adiaphora. As Daniel Eppley summarizes, 'Whitgift and Cartwright do not differ on the issue of whether scripture provides general guidelines to order adiaphora; they differ regarding what general guidelines scripture provides' (2007: 152). Yet, herein rested an indissoluble dilemma for Whitgift and the 'conformists' in the Admonition Controversy: there was no agreed objective standard by

which any party could demonstrate that it had the proper, preferable, and binding scriptural rules for the ordering of adiaphora (see Perrott 1998: 29-60; and Eppeley 2007: 155-160).

This lacuna was politically dangerous. The deadly mix of *de jure* presbyterianism, biblical omniscipency, and the ‘godly’ elect as the true interpreters of Scripture, implicitly threatened to undermine the Elizabethan religious settlement and lay ecclesiastical supremacy settled under positive parliamentary law (see Rosenthal 2008: 15-16). The presbyterians in effect represented a seditious threat to the authority of the monarch: they separated church and commonwealth, making the latter subject to the former since the magistrate would be bound to frame ecclesiastical laws according to presbyterian rulings. Strangely, even as the presbyterians attempted to protect Christian liberty from the magistrate, they also thereby radically shrunk the realm of adiaphora: ‘God’s law for human conduct in every sphere leaves little room for deliberation and compromise’, as O’Donovan describes the presbyterians’ attitude (1991: 8). Indeed, if believers had to search for a scriptural warrant for every action, then Scripture became ‘but a snare and torment to weak consciences, filling them with infinite perplexities, scrupulosities, doubts insoluble, and extreme despairs’, as the Elizabethan conformist Richard Hooker would put it (1977a: II.8.6). Even more strangely, Hooker would accordingly defend Christian liberty within an apology for religious uniformity in the Elizabethan religious settlement, an apologetic task to which this essay now turns.

The puritan threat to conformity continued into the 1580s with repeated attempts in Parliament to force ecclesiastical reform along presbyterian lines, as well as with the emergence of covert networks of so-called ‘prophesyings’ at grass-root level. In 1589, a scurrilous run of pamphlets known as the Marprelate tracts attacked Whitgift, now Archbishop of Canterbury, and other English bishops. Such was the broad context for Richard Hooker’s *Of the Lawes of Ecclesiastical Polity*, which sought to resolve the Whitgiftian dilemma over ‘how ecclesiastical orders could be objectively assessed...[through] an independent authority by which positive law was to be regulated’ (Perrott 1998: 43-59). Since Whitgift was, in a certain sense, as scripturalist as Cartwright, there was no clear way by which alternative scriptural cases could be adjudicated. Whitgift therefore failed to advance a coherent account for why his case compelled obedience in relation to the positive laws of the English ecclesiastical polity. While Whitgift talked about the ‘reasonableness’ of his case (1851-1853: 3.33, 157, 163, 275), he demurred from Cartwright’s goading that he set up reason as an extra-biblical arbiter for determining the proper meaning of Scripture. In the *Lawes*, however, Hooker radically embraced the premise, and afforded to reason a central role in defending the Elizabethan ecclesiastical polity, showing how the puritan case, exemplified

by Thomas Cartwright in particular, had no rational basis and so no authority in the public square of the commonwealth (see Voak 2003: 239). As such, Hooker hoped to 'resolve the conscience' of 'them that seeke (as they tearme it) the reformation of Lawes, and orders Ecclesiastical, in the Church of ENGLAND', leaving no room for dissent (1977a: Pref.title; Pref.7.1).

For Hooker, it was public reason that rightly regulated the realm of freedom. As Hooker discussed how reason provides a standard to measure ecclesiastical laws around adiaphora, he therefore revolutionarily shifted the discussion from a theological register about the divine permissions of Scripture to the idea of permissive natural law (see Tierney 2014: 172-190; and Cargill Thompson 1972: 20). Hooker agreed with his opponents that the will of God ought to frame the life of the Church. He argued his opponents were wrong, however, to think 'that the only law which God hath appointed unto men in that behalf is the sacred Scripture' (1977a: I.16.5). As André Gazal (2013: 495-519) persuasively argues, before Hooker's *Lawes* cut through the stranglehold of biblicism, both conformist apologists and radical puritans were typically committed to the priority of Scripture in political discourse, emphasizing the warrant of scriptural arguments either for or against lay ecclesiastical supremacy. Accordingly, in Book One of the *Lawes* Hooker instead discussed the vast tapestry of laws that participate in eternal law and read the divine will into the world, namely the physical laws of non-rational creatures, angelic law, the law of reason in human beings (commonly called 'natural law'), the divine law of Scripture, and human laws derived from reason or Scripture (1977a: I.3.1; see also Dominiak 2020). On the one hand, Hooker here clearly affirms the sufficiency, perfection and clarity of Scripture in recognisably Reformed terms. 'The absolute perfection of scripture', writes Hooker, 'is seene by relation unto that end wherto it tendeth', meaning 'a full instruction in all things unto salvation necessary' (1977a: II.8.5). On the other hand, however, Hooker opens up space for the work of other laws, including natural law, in determining human affairs, since Scripture under-determines matters not essential to salvation. This crucially means that Hooker distinguishes between 'things necessary' (that is, essential for salvation) and 'things accessory', an otherwise large realm of adiaphorous freedom (1977a: III.3.2-3). In the latter realm, the church authorities, as he argues, possess reasonable authority to legislate over adiaphora for the maintenance of public order and peace in the commonwealth. For Hooker, church practices neither commanded nor forbidden in Scripture, but advocated by the Church as fitting, should be accepted on Pauline grounds for the rule of peace, order, and authority. One example he gives is on the wearing of the surplice, a 'matter so indifferent' but which 'the wisdom of authoritie and lawe have thought comelie' (1977b: V.29.1).

Indeed, for Hooker there existed a parallel between the permissiveness of Scripture in certain matters and liberty within natural law, as both share in eternal law and receive authority from it. This metaphysical mirroring justifies the place of reason in the discussion over the nature of adiaphora and the ways in which they can be regulated. ‘What things God doth neither command nor forbid, the same he permitteth’, Hooker writes in relation to the theological notion of ‘things indifferent’ (1977a: II.4.4). Hooker rejected the puritan notion that scriptural silence implies disapproval rather than liberty: ‘it is not the Scripture’s setting downe such things as indifferent, but their not setting down as necessarie that doth make them to be indifferent’ (1997: II.4.5). Such freedom in matters that ‘God permitteth with approbation’ plays out within the realm of natural human ‘discretion’ whereby the light of human reason, authored by the ‘God of our nature’ justifies the fittingness of a particular course of action (1977a: II.4.4-6). Similarly, then, drawing the threefold Stoic classification around adiaphora, Hooker wrote in relation to the law of reason that:

Wherefore the natural measure whereby to judge our doings, is the sentence of reason, determining and setting down what is to be done. Which sentence is either mandatory, showing what must be done; or else permissive, declaring only what may be done; or thirdly admonitory, opening what is the most fitting for us to do (1977a: I.8.8).

In this context, reason is not an autonomous faculty evacuated of God’s agency. Rather, it is a divinely enlightened capacity reflecting God’s image and undergirded by God’s causality (1977a: I.8.3; I.8.11). Radically, Hooker even translated scriptural positive laws normally applied to the regulation of adiaphora as rules of natural law. In Book Three, he takes the Pauline principles used by Flacius, Hooper, and Cartwright that all things ought to be done decorously, for edification, avoiding scandal, and all for God’s glory, as part of ‘that law which is written in all men’s hearts’ (1977a: III.7.2). As part of natural law, they accordingly express the permissiveness of natural law ‘to devise any ceremony, to receive any order, and to authorise any kind of regiment’ under the natural limits of charity (1977a: III.7.4). Since what Scripture commands and forbids in relation to salvation is ‘plainly set down’ and open even to the ‘simplest sort’, his puritan opponents have erroneously elevated to a redemptive level many indifferent matters relating to the church’s life, causing unnecessary scrupulosity in the moral lives of their followers (1977a: Pref.3.2; II.8.6; III.1.1; III.11.20). Rather, Hooker argued, his opponents should recognize that ‘we are led by great reason to observe’ the ‘ecclesiastical lawes of this land’, and such reason bears the stamp of divine as well as natural authority (1977a: Pref.7.1). Accordingly, Hooker advocates

obedience through an essential appeal to the necessity of rationally regulating Christian liberty.

Indeed, given the breadth of adiaphora under-determined by Scripture, Hooker argued that the visible church needed human laws regulating them. Such human laws, for Hooker, are framed by human wisdom naturally undergirded by divine illumination. They are then externally enforced in order to maintain public peace and order (1977a: I.10.1; III.11.14; and 1981: VIII.6.4). Hooker brought this claim to bear on two pillars of Cartwright's presbyterian arguments: that Scripture commands a particular, non-episcopal polity; and that there is no 'supreme head' of the Church except Christ. Hooker defended episcopal orders and lay ecclesiastical supremacy through a subtle argument that balances the non-essential character of those institutions with the call that English subjects were nevertheless bound to obey them.

Hooker insisted that while human societies (including the visible church) required some form of government to protect order and peace, neither divine nor natural law mandated a particular, obligatory form of church polity, either in relation to episcopal orders or lay ecclesiastical supremacy. As such, both divine and natural law were consonant in opening up the permissive realm of human freedom. Yet, both divine and natural law, even as they were mutually permissive, retained an approving character by which particular historical contingencies could be rationally determined to be fitting, lending history a providential character insofar as it participated in eternal law. Hooker's argument is here rooted in the Stoic commitment that an indifferent matter may nevertheless be more or less fitting for human flourishing. As such, while the episcopacy as it developed was not enjoined by 'any commandment of the Lord', it could be seen to have been divine in origin insofar as it protected the peace and order of the Church (1981: VII.5.8). It is in this providential context of convenience that Hooker wrote that 'surely the first institution of Bishops was from Heaven, was even of God, the Holy Ghost was the Author of it' (1981: VII.5.10). Insofar as the visible church naturally needs institutional structures in order to promote order and peace, episcopal orders were 'a thing allowable, lawful, and good', even 'agreeable with the law of nature' (1981: VII.3.1; VII.11.10).

Likewise, for Hooker, both monarchy and the royal supremacy emerged out of particular human arrangements, and human positive law remained competent to make a political order suitable for its variable contexts (see 1977a: I.10.4; III.9.1; 1981: VIII.2.5). As with episcopal orders, however, although monarchy is an adiaphoron, God ratifies its fitting benefits and so can be loosely said to author and authorise it:

That the Christian world should be ordered by kingly regiment, the law of God doth not any where command; and yet the law of God doth give them right, which

once are exalted to that estate, to exact at the hands of their subjects general obedience in whatsoever affairs their power may serve to command. So God doth ratify the works of that sovereign authority which kings have received by men (1981: VIII.3.1).

All authority comes from God (directly or otherwise) and so civic magistrates share in God's power and authority (1981: VIII.2.5). Thus, English Christians have historically 'condescended unto [monarchy] for their own most behoof and securitie', but God ratifies that consent as providential. The same dynamic holds true for lay ecclesiastical supremacy: Scripture does not dictate that all monarchs should or should not have it, but when monarchs are lawfully granted such dominion, 'we by the law of God stand bound meekly to acknowledg them for *Godes Livetnenates*' (1981: VIII.2.6).

Since the church and commonwealth were essentially identical in the English context, according to Hooker, and the community had historically granted legal authority over 'ecclesiastical affairs' to parliament and convocation under the 'highest power' of the prince, the human laws that ordered the Elizabethan church were legitimate, carrying the approbation of God and nature (1981: VIII.1.2; VIII.6.7). As such, obedience to the royal supremacy over church and commonwealth was a divine and natural duty insofar as human laws made by such invested authorities were 'made according to the general laws of nature, and without any contradiction unto any positive law in scripture' (1977a: III.9.2). Reason, empowered by the Holy Spirit and open to public interrogation, determined the right interpretation of Scripture. Hooker emphasized that the Holy Spirit demonstrates its influence within and through reason as a public instrument of persuasion. Thus, 'the spirit leadeth men into all truth' most commonly through 'Reason...the hande which the Spirit hath led' (1977a: Pref.3.10). Within the need to protect and promote peace and order, in their representative roles the crown, parliament, and convocation spoke for the entire realm, and subjects ought to submit to their 'definitive sentence', even in relation to proper biblical interpretation, since *vox populi, vox dei* (1977a: Pref.6.3; I.8.3; 1981: VII.15.15; VIII.6.11). This included, of course, obedience to legislation over adiaphora such as ecclesiastical ceremony and polity within the pursuit of uniformity that promotes peace and order. Even as Hooker opened up generous limits as to what defined indifferent matters, he strictly marshalled the control over them, quashing public disobedience to the lay ecclesiastical supremacy.

While some accuse Hooker of an unmitigated authoritarianism and advocacy of quietism in this regard, that would be misleading and reductive (for example, see Almasy 2003: 227-242, esp. 241; Rosendale 2007: 58; and Shagan 2011: 147). Rather, Hooker advanced what Daniel Eppley labels as the possibility for 'dissent without disloyalty' (2016: 189). Here, rather than simply silencing his puritan opponents, Hooker challenged them both to

'recognize the essential validity of the established church' and also 'to continue actively seeking to understand God's will for the church more fully and when appropriate to work for reform within the structures of the church' (Eppley 2016: 189). The appropriate way remained, of course, to show through rational argument the case for reform, the very call Hooker gave in the Preface to the *Lawes* to 'resolve the conscience' when he asked to examine whether his opponents could show 'reasonable cause' or the 'force of reason' for their dissent. If that reasoned case could be given, then Hooker seemed to believe sincerely that he and the whole Church of England would 'embrace together with you the selfe same truth'. It must also be remembered that, in a period where obedience was the watchword, Hooker's nascent constitutionalism tried radically to limit the authority of the monarch under law and under God. At a time where the majority of Tudor defenders of the royal supremacy pressed their case on theocratic grounds, and a nascent royal ecclesiastical absolutism and intolerance marked Elizabeth's reign, the sanguine quality of Hooker's defence in the *Lawes* ought not to be lightly dismissed. As it was, Hooker's vision did not carry the day. As Patrick Collinson writes, the Tudor debates over adiaphoristic liberty and its regulation marked where 'the geological fault-line between Anglicanism and Nonconformity, Church and Chapel, began' (1983: 16). The failure of conformist apologetics as a whole to re-imagine the debates over adiaphora and authority thereby shaped the subsequent century. Antinomianism reared its head in the thought of John Eaton in the early seventeenth century, leading to protracted squabbles over liberty and its limits in the English Church until the Westminster Assembly (1643-1653) vainly tried to silence antinomian thought and articulate a reformed orthodoxy (see Gamble 2018). Antinomianism would not be so easily rendered silent, and the reprinting of antinomian works towards the end of the century would lead to another antinomian crisis across England, Scotland, and the Netherlands (Ferguson 2016). As creative as Hooker's recasting of adiaphora within permissive natural law was, the light of reason would not shine as he had hoped.

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