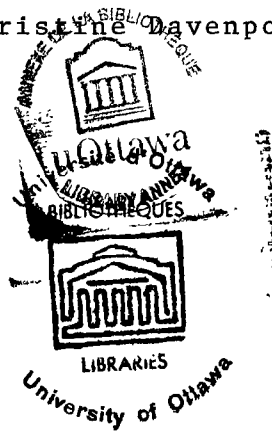


JEAN GERSON: POLITICS AND POLITICAL THEORY

by

Mary Christine Davenport Batts



Thesis presented to the School of Graduate Studies  
in partial fulfilment of the requirements for  
the Ph.D. degree in History

V. |

UNIVERSITY OF OTTAWA  
OTTAWA, CANADA, 1976



M.C.D. Batts, Ottawa, Canada, 1977

UMI Number: DC53631

### INFORMATION TO USERS

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleed-through, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

**UMI<sup>®</sup>**

---

UMI Microform DC53631  
Copyright 2011 by ProQuest LLC  
All rights reserved. This microform edition is protected against  
unauthorized copying under Title 17, United States Code.

---

ProQuest LLC  
789 East Eisenhower Parkway  
P.O. Box 1346  
Ann Arbor, MI 48106-1346

## ACKNOWLEDGMENTS

This thesis was prepared under the supervision of Professor Frederick C. Wilson of the Department of History, University of Ottawa, for whose helpful suggestions the writer is most grateful.

The writer is also indebted to the Librarian of St. Paul University for permitting her to use his excellent collection of materials on mediaeval philosophy and history, and to the Canada Council for a grant in 1966-1967 which enabled her to spend much of that year reading for the thesis.

## CURRICULUM STUDIORUM

Mary Christine Davenport Batts was born on 11th. December, 1938, in Hampshire, England. A pupil of Dr. Beryl Smalley at St. Hilda's College, she received the degree of Bachelor of Arts with Honours in Modern History from the University of Oxford in 1960. She received the Diploma of Education from the University of Oxford in 1961, and the degree of Master of Arts from the same University in 1964.

## TABLE OF CONTENTS

	PREFACE . . . . .	v
Chapter		
I	INTRODUCTION . . . . .	1
II	LAW AND JUSTICE . . . . .	16
	1. <u>De vita spirituali animae</u> . . . . .	16
	2. <u>Diligite justitiam</u> . . . . .	41
	3. <u>Epikeia</u> . . . . .	49
III	KINGSHIP: <u>VIVAT REX</u> AND <u>VENIAT REX</u> . . . . .	75
IV	JEAN PETIT AND THE QUESTION OF TYRANNICIDE . . . . .	101
	1. From the murder of the Duke of Orleans to <u>Rex in sempiternum vive</u> . . . . .	101
	2. From the Council of Paris to the murder of the Duke of Burgundy . . . . .	123
V	ECCLESIOLOGY: GERSON AT THE COUNCIL OF CONSTANCE . . . . .	141
	1. The background to the treatises . . . . .	141
	2. <u>Ambulate dum lucem habetis</u> . . . . .	146
	3. <u>De auferibilitate sponsi ab Ecclesia</u> . . . . .	156
	4. <u>Prosperum iter faciat vobis</u> . . . . .	168
	5. <u>De potestate ecclesiastica</u> . . . . .	175
	6. <u>An liceat in causis fidei a Papa appellare</u> . . . . .	201
VI	GERSON'S LAST YEARS. CONSPECTUS OF HIS POLITICAL THOUGHT . . . . .	207
	1. The origin of political authority . . . . .	211
	2. The attributes of political authority . . . . .	216
	3. The ownership of political authority . . . . .	227
	4. The question of universal political authority . . . . .	238
	5. The Divine Polity: the Church . . . . .	243
	6. The final cause: Peace and Justice through Law . . . . .	248
VII	CONCLUSION . . . . .	252
	BIBLIOGRAPHY . . . . .	260
	APPENDIX I: INDEX OF WORKS BY GERSON MENTIONED . . . . .	273
	APPENDIX II: ELLIES DU PIN: CONTENTS OF VOLUME V . . . . .	276
	APPENDIX III: ABSTRACT . . . . .	288

## PREFACE

Jean Charlier de Gerson, Chancellor of Notre Dame and of the University of Paris, was a leading churchman of late fourteenth- and early fifteenth-century France and among those most responsible for the ending of the Great Schism of the West. In his own time he was widely known throughout western Europe and esteemed as a saint by many for his piety, mysticism and zeal for reform, while he aroused the enmity and hatred of others on account of his outspokenness in the cause of right. Such outspokenness was not unprovoked, for he lived at a time of bitter civil and religious discord; his life coincided with the whole course of the Great Schism, with most of the Burgundian-Armagnac civil war in France, and well over half the Anglo-French Hundred Years' War. For his learning, his eloquence, his personal holiness, and his position as Chancellor both of the Cathedral of the capital city and of the most prestigious university in Christendom, he came to wield considerable influence throughout Catholic Europe in the fields of theology, philosophy, ecclesiology, preaching, pastoral care, and education. Five hundred and forty treatises, letters, sermons and poems have now been definitely attributed to him; they deal with every aspect of the life of his time from these larger subjects to the reform of the calendar, the validity of astrology, the struggle against superstitions and false

mystics, the liturgy and the cult of St. Joseph, of which he was one of the earliest promoters. Of the part he played in ecclesiastical politics at the Council of Constance which finally, after half a century, settled the Great Schism, a contemporary wrote: "Iste venerabilis vir magister iohannes Gerson claruit miraculis quia Concilium Constanciense ipse pro magna parte rexit,"<sup>1</sup> and if it be true<sup>2</sup> that Constance through its decree Haec sancta synodus made the idea of conciliarism a dogma of the Catholic faith, which all modern Catholics must believe (and reconcile intellectually with that other late-mediaeval doctrine, papal infallibility), then it is Gerson whom they have more than any other to thank for it.

In the sphere of secular, as opposed to ecclesiastical, political thought, Gerson's legacy is just as striking. In the two great rebellions of seventeenth-century England, in 1640 and 1688, the supporters of the rights of Parliament

---

<sup>1</sup>Fifteenth-century anonymous from the monastery of Elzeghem, quoted P. Glorieux, ed., Jean Gerson: Oeuvres complètes (10 vols; Paris: Desclée, 1960-1973), I, 146.

<sup>2</sup>As declared by Paul de Vooght, Les pouvoirs du Concile et l'autorité du Pape au Concile de Constance: le décret Haec Sancta Synodus du 6 avril, 1415 (Paris: Cerf, 1965), 32-37, 187-198; also his "Le conciliarisme à Constance et à Bâle," in B. Botte et al., eds., Le Concile et les Conciles (Paris: Chevetogne & Cerf, 1960), 143-162, 180-181, and Hans Küng, Structures of the Church, trans. by Salvatore Attanasio (Notre Dame: University Press, 1968), 223-285. For the view that after the Council of Basel conciliarism became an exclusively Gallican doctrine, cf. Victor Martin, Les Origines du Gallicanisme (2 vols.; Paris: Bloud & Gay, 1939), 138.

against a supposedly autocratic king looked back for justification to the conciliarists of the fifteenth century, notably Gerson. They referred chiefly to his idea of the proper government of the Church, but if his works are perused for comments on the secular State, it becomes clear that the Parliamentarians did not really have to depend only on his ecclesiological ideas to reinforce their arguments for a constitutional monarchy; Gerson evidently desired a "constitutional monarchy" (he never used the term) as much in the State as in the Church: his Pope must rule with the advice and consent of a regularly convened general council, and his King with those of a permanent royal council. It is important therefore, in his case particularly, to study not merely his ecclesiology but also his concept of the lay State, despite the fact that the latter occupies a subordinate place in his voluminous writings.

Despite this importance, however, little attention has been paid to Gerson's political thought, both ecclesiological and secular. In German a short (ninety-nine-page) dissertation by Carl Schäfer appeared in 1935,<sup>1</sup> but it gives more space to Gerson's sources than to his own ideas, while much has been published since, especially on the canonistic influences on conciliar thought, which renders it out-of-date. To obtain a more balanced picture both of political thought and

---

<sup>1</sup>Carl Schäfer, Die Staatslehre des Johannes Gerson (Bielefeld: Beyer & Hausknecht, 1935).

of the contemporary events which prompted its evolution in Gerson, it is necessary to give to his ideas the same attention as has recently been accorded his colleagues in the Conciliar Movement, d'Ailly,<sup>1</sup> Zabarella,<sup>2</sup> and Cusanus.<sup>3</sup>

The fullest study of Gerson's life and thought in its totality remains, and will probably always remain, the two-volume biography by Johann Baptist Schwab.<sup>4</sup> It is a most impressive compilation of facts and quotations, although, as Schäfer complained:

Anders steht es mit den darstellerischen Eigenschaften des Werkes. Eine vollständige Berücksichtigung des gesamten Schaffens des Kanzlers, eine genaue Zeichnung der Zeitumstände--das bedeutet der Schilderung einer der wirrsten Epochen der ganzen abendländischen Geschichte überhaupt--die Analyse der hauptsächlichsten Schriften des Kanzlers, alles dies führt natürlich zu einem Umfange, der schwer zu übersehen ist. Endlich kommt zu der mangelnden Uebersichlichkeit noch eine grosse Trockenheit des Stiles, alles hält sich peinlichst genau an die Quellenzitate und übernimmt aus der scholastischen

---

<sup>1</sup>In Francis Oakley, The Political Thought of Pierre d'Ailly (New Haven: Yale University Press, 1964).

<sup>2</sup>In Brian Tierney, Foundations of the Conciliar Theory: the Contribution of the Medieval Canonists from Gratian to the Great Schism (Cambridge: University Press, 1955).

<sup>3</sup>In Morimichi Watanabe, The Political Ideas of Nicholas of Cusa (Geneva: Droz, 1963), and Paul E. Sigmund, Nicholas of Cusa and Medieval Political Thought (Cambridge, Mass.: Harvard University Press, 1963).

<sup>4</sup>J.B. Schwab, Johannes Gerson, Professor der Theologie und Kanzler der Universität Paris: eine Monographie (2 vols., Würzburg, 1858; reprinted New York: Burt Franklin, 1967).

Trockenheit viel mit in die deutsche Darstellung.  
Für unsere heutige Forschung ist, wie gesagt, das  
Buch unentbehrlich, aber zugleich mit seinem  
Schwächen nur ein Notbehelf.<sup>1</sup>

On account of its wide scope, Schwab's work also necessarily leaves many questions unanswered. In the past century, much research has been done on the history of the Great Western Schism, on the Conciliar Movement, on the political and economic history of France, Burgundy and England, and on the development of political theory in the period.<sup>2</sup> But it is still impossible in many of these areas to assess fairly Gerson's contribution to the movements of his time; in political theory especially, the best that any student has been able to do hitherto to find out Gerson's views on, for example, Parliament, has been to peruse Schwab to learn about his career, to search through Ellies du Pin's five weighty volumes<sup>3</sup> to find out what he himself said, and to consult Schäfer to learn his sources--a long and tedious process. As Schäfer put it in justifying his own thesis: "Was noch ganz fehlt, ist eine systematische, quellenkritische Untersuchung des gesamten staatstheoretischen Gedankens gutes."<sup>4</sup> This thesis, it is hoped, will supply it.

---

<sup>1</sup>Schäfer, op. cit., 1.

<sup>2</sup>For examples, v. infra, 260-272.

<sup>3</sup>Gerson, Opera omnia, ed. M. Lud. Ellies du Pin (5 vols.; Antwerp, 1706).

<sup>4</sup>Schäfer,, op. cit., 7.

In other fields than political theory, Gerson has in recent decades received some of the attention he deserves. In 1928 James Connolly produced his John Gerson, Reformer and Mystic,<sup>1</sup> which examined Gerson's religion and was soon followed by a study of his theology, W. Dress's Die Theologie Gersons, eine Untersuchung zu der Verbindung von Nominalismus und Mystik im Spätmittelalter.<sup>2</sup> In the field of philosophy too, Gerson was examined in André Combes' Jean Gerson, commentateur dionysien,<sup>3</sup> and Combes has also recently reconsidered the Chancellor's theology in La théologie mystique de Gerson: Profil de son évolution.<sup>4</sup> A comprehensive survey of Gerson's French sermons was published in 1952; here the sermons are summarized and set firmly in their historical perspective, but the author is naturally interested in the overall development of Gerson's powers as a preacher, more in Gerson's style and general themes than in his political ideas, and, of course, Gerson's French sermons represent only a fraction of his total oeuvre.<sup>5</sup> More recently has appeared Louis Pascoe's Jean Gerson: Principles of Church Reform, wherein the moral and hierarchical bases of Gerson's thought

---

<sup>1</sup>Reprinted Dubuque, Iowa: Brown Reprint Library, n.d.

<sup>2</sup>Gutersloh: Bertelsmann, 1931.

<sup>3</sup>Paris: Vrin, 1942.

<sup>4</sup>2 vols.; Rome: Desclée, 1963-1964.

<sup>5</sup>Louis Mourin, Jean Gerson, Prédicateur français (Bruges: De Tempel, 1952).

are examined;<sup>1</sup> this is an impressive compilation for the theological or philosophical library but of little use to the historian since no attempt is made to show the evolution of these principles in the changing circumstances of Gerson's life; they are presented in vacuo and although Gerson's debt to the Pseudo-Denis for his whole conception of the Church Militant and Triumphant is exhaustively analysed, the Chancellor's dependence on other sources, from Plato to William of Ockham, is scarcely mentioned. ". . . All medieval philosophers were eclectics . . . ,"<sup>2</sup> and Gerson was certainly no exception so it is essential, in examining any aspect of his thought, to recognize the various authors whom he is quoting or echoing, as well as the particular historical circumstances which prompted his new development of older ideas.

In general histories too, Gerson's importance is now commonly recognized. After Schwab's classic biography set the standard for a non-hagiographical approach to the life and work of the Chancellor, Gerson's significance in Church history was emphasized in several French works, notably Noel Valois' La France et le Grand Schisme d'Occident (1896-1902),<sup>3</sup> Victor Martin's Les Origines du Gallicanisme

---

<sup>1</sup>Louis B. Pascoe, Jean Gerson: Principles of Church Reform (Leiden: Brill, 1973).

<sup>2</sup>Brian Tierney, Origins of Papal Infallibility, 1150-1250 (Leiden: Brill, 1972), 208.

<sup>3</sup>4 vols.; Paris; reprinted Hildesheim: Olms, 1967.

(1939),<sup>1</sup> and most recently Etienne Delaruelle's L'Eglise au temps du Grand Schisme et de la Crise Conciliaire (1378-1449) (1964),<sup>2</sup> though the first volume of the last is essentially only a reworking of the older books. The Cambridge school of Church historians has also produced works of relevance to Gerson's political thought, especially Walter Ullmann's Origins of the Great Schism (1948)<sup>3</sup> and Brian Tierney's Foundations of the Conciliar Theory (1955).<sup>4</sup> The interest in Gerson's political thought in general is as old as Valois' book: Otto von Gierke,<sup>5</sup> John Neville Figgis,<sup>6</sup> and the Carlyles<sup>7</sup> all drew attention in their general studies of political thought to the importance of Gerson, and Figgis specifically recommended to English-speaking students the study of Gerson's political ideas:

No subject illustrates more luminously the unity of history than the record of political ideas. There is small value in mere erudition. Yet the

---

<sup>1</sup>2 vols.; Paris: Bloud & Gay.

<sup>2</sup>2 vols.; Paris: Bloud & Gay.

<sup>3</sup>London: Burns Oates.

<sup>4</sup>Cambridge: University Press.

<sup>5</sup>In Political Theories of the Middle Age, trans. Frederic William Maitland (Cambridge: University Press, 1900).

<sup>6</sup>In Political Thought from Gerson to Grotius, 1414-1625 (New York: Harper, 1960).

<sup>7</sup>In Sir R.W. and A.J. Carlyle. A History of Mediaeval Political Theory in the West, Vol. VI (Edinburgh: Blackwood, 1950).

study of Gerson or Cusanus is far from being mere erudition. They are, though we do not know it, a part of our own world; even from those forgotten controversies we may perhaps find something more than mere explanation of the world we live in. The study, remote and recondite though it appears, may give us an added sense of the dignity of our heritage and a surer grasp of principles amid the complexities of the modern world.<sup>1</sup>

That recommendation is as valid today as it was when Figgis wrote it, but although several studies have been made of the political thought of Nicholas of Cusa,<sup>2</sup> no one, surprisingly, has yet done the same for Gerson. Those who have come closest to discussing his political thought have been Alfred Coville in French,<sup>3</sup> Carl Schäfer in German, John Morrall in English,<sup>4</sup> and Posthumus Meyjes in Dutch,<sup>5</sup> but Coville restricted his study to Gerson's opposition to Jean Petit's defence of tyrannicide; Schäfer's limitations will be described below; and Morrall is interested primarily in Gerson's attitude to the Great Western Schism and his proposals for its solution: he deals only with the ecclesiological works and does not consider even such an important political speech as Vivat rex. Meyjes examines the same works in much

---

<sup>1</sup>Figgis, op. cit., 3.

<sup>2</sup>Notably those cited above, viii, n. 3.

<sup>3</sup>Jean Petit: La question du Tyrannicide au commencement du XVe siècle (Paris: Picard, 1932).

<sup>4</sup>Gerson and the Great Schism (Manchester: University Press, 1960).

<sup>5</sup>G.H.M. Posthumus Meyjes, Jean Gerson: zijn Kerkpolitiek en Ecclesiologie (The Hague: Nijhoff, 1963).

greater detail while emphasizing Gerson's basic principles with regard to the Church's dependence on law, its hierarchical constitution and its attitude to Scripture and tradition, as well as his sources for these ideas. But Meyjes' thesis is essentially an extension of Morrall's; it concentrates on Gerson's ecclesiology and makes no attempt to relate the latter to his conception of the ideal or actual lay State.

It is thus evident that hitherto only one side of Gerson's political thought has been examined in any detail, i.e., his ecclesiology. But the term "political thought" can obviously not be restricted to the Church, even the mediaeval Church. The word *πόλις* is usually translated as "state" (or "city-state") and an eminent Victorian historian of English law once said, with justification, that in the Middle Ages the only State in western Europe was the Catholic Church, while the lay governments were but dim foreshadowings of their modern descendants. It is therefore necessary, in considering the "political" ideas of any mediaeval writer, to examine his ecclesiology or views of the right ordering of that super-State, the Church, as well as his opinions of the secular kingdoms around him. In Gerson's case, however, all the emphasis has been on his ecclesiology, with only scattered comments on his philosophy of the lay State in the general histories of political thought. It is therefore essential to bring together the two strands in his political ideas and to examine them together in order to obtain a

complete and balanced view of the whole.

Another Gerson scholar, Monseigneur Palémon Glorieux, the Rector of the University of Louvain, has recently given an added fillip to Gerson studies with his great new edition of the Complete Works<sup>1</sup>--the first since 1706. Unlike the last edition, du Pin's, which relied almost exclusively on Richer's of the century before,<sup>2</sup> which in its turn took each work either from one printed version or from one manuscript without any attempt to compare or evaluate the various sources, Glorieux' is a scholarly compilation for which all the known sources have been carefully compared and weighed. A good number of du Pin's Gersoniana have been rejected as by other hands than Gerson's, but a number of works newly attributed to him have compensated for their loss.<sup>3</sup> So now Gerson's works are much more easily available and students have the opportunity to re-evaluate Gerson's thought in the light of these newly-discovered or newly-attributed writings as well as the old corpus of du Pin's edition, and to make a detailed assessment of the particular ideas that lay behind Gerson's important political work.

Two methods of approach are possible in studying the thought of any historical figure. First, the various themes

---

<sup>1</sup>V. supra, vi, n. I.

<sup>2</sup>Edmond Richer, ed., Jehan Charlier de Gerson: Opera (4 vols.; Paris, 1606).

<sup>3</sup>Glorieux, op. cit., especially Vol. X, 287-414.

in his relevant writings can be extrapolated and examined. This was done for Gerson's political thought in the thesis of Carl Schäfer, but the result is not completely happy; Gerson is seen almost as a man outside time, without any historical background or influence. His ideas are examined one by one, with a disproportionate amount of attention being given to his sources and none to the events of his life which were equally influential in the formation and development of his opinions. After reading Schäfer's volume, the reader has no idea at all of Gerson's career or even of the main themes of his principal writings; the latter are quoted at length but only in disassociated fragments, each designed to illustrate a different idea; there is no attempt to give a separate account of each treatise and of its place in time.

The second method of inquiry is the historical one, where the writer's career and works are examined in chronological order. This has the advantage of placing every work firmly against its contemporary background, which will explain many of the changes that occurred in Gerson's ideas as he grew older and the situation around him changed. No man's thought can be divorced from his career and situation, so the second method has provided the basic line of approach here. On the other hand, the chronological approach necessarily involves much repetition, especially with Gerson who expresses the same ideas again and again in numerous writings.

It also necessitates a fragmentation of these ideas which may in fact obscure the very chronological development which we seek to elucidate. I have therefore attempted here to effect a compromise between the thematic and the chronological mode of treatment. The social and political background of Gerson's major works is explained as these works are introduced, and the works are examined as far as possible in their chronological order, but where necessary, as especially in the section on epikeia, ideas are extrapolated from a whole series of writings (though here again in their chronological order) to give a comprehensive account of the development of Gerson's thought on the matter concerned.

## I. INTRODUCTION

Jean Charlier, the eldest of twelve children, was born on 14th. December, 1363, at Gerson-lès-Barby, near Rethel in Champagne. He was educated at the priory at Rethel and then by the Benedictines at Rheims till 1377 when he entered the College of Navarre at the University of Paris, as a member of the French "nation" in the Faculty of Arts. Nicholas de Clémanges and Gilles Deschamps were among his masters and he took his first degree under Jean Loutrarii. From 1378 on, the university documents give his name as Jean de Gersono, with variations such as Jarsonio or Gersonio.<sup>1</sup>

This was a lively time for undergraduates at Paris. The war with England which had continued spasmodically since 1369 had ground to a halt with a series of truces, of which the best known is that of Bruges in 1375; peace negotiations were in fact in constant progress either at Bruges or Montreuil from 1373 to 1377, when the war was officially resumed with a few sporadic and unimportant campaigns,<sup>2</sup> but all through the reign of Richard II efforts were made to conclude

---

<sup>1</sup>Jean Gerson, Oeuvres complètes, ed. Mgr. Glorieux (10 vols.; Paris: Desclée, 1960-1973), I, 105-106. References to this, the latest edition of Gerson's works, will henceforth, for simplicity's sake, be noted in brackets after the passage concerned; eg. (I, 105-106).

<sup>2</sup>Jean Froissart, Chroniques, 1370-1377, Vol. VIII of Oeuvres de Froissart, ed. Kervyn de Lettenhove (25 vols.; Brussels: Devaux and Closson, 1869-1877), 307-416.

it.<sup>1</sup> More immediately apparent to the students was the visit to Paris in January, 1378, of the Emperor Charles IV and his ceremonial reception by the University body. Later, in April, came the news of the death of Pope Gregory XI after his long-awaited return to Rome that January, then of the turbulent election of the Italian Urban VI, to whom King Charles V and the University accordingly gave their support. Finally, in September, 1378, occurred the counter-election of the French Clement VII, the King's sixth-cousin-once-removed, beginning the Great Western Schism. On 16th. November, Charles V declared his support for his papal cousin and eventually, in May, 1379, the University of Paris reluctantly followed the King.

The beginning of the Great Schism produced a spate of treatises on the means of remedying it, above all at Gerson's university. As it became evident that neither side in the Schism was going to win over the other merely by argument, there was much talk of summoning a General Council to decide between the rival popes. Some of the cardinals favoured this plan, Charles V was said to have commended it on his deathbed, and in Paris several distinguished publicists supported it in widely-read treatises, notably Henry of Hesse or Langenstein in his Epistola Pacis (June,

---

<sup>1</sup>For these v. J.J.N. Palmer, England, France and Christendom, 1377-99 (London: Routledge and Kegan Paul, 1972).

1379),<sup>1</sup> Conrad of Gelnhausen in his Epistola Concordiae (May, 1380),<sup>2</sup> and Pierre d'Ailly in the Epistola Diaboli Leviathan (1381).<sup>3</sup> All of these works find later echoes in Gerson's writings. In 1381, influenced by these advocates on its faculty, the University as a whole pronounced in favour of a general council to end the Schism, and Pierre d'Ailly, one of its leading lights, tried to induce the French government to reconsider its adhesion to Clement. But the uncle of the young King Charles VI, the Duke of Anjou, had at that moment the paramount influence at Court, and since he had military designs on Italy which might be justified by an appeal to arms against the Italian Pope, he opposed the plan for a council and the University was silenced. For several years in France all the talk was of the via facti rather than the via concilii, a solution of the Schism by a forcible removal of Urban from his office, but, since Urban was well protected, for example by the famous mercenary Company of St. George, he was never in serious danger of being overthrown. Louis of Anjou's invasion of Italy in 1382 never came to anything and in 1384 he died. His claim to Naples, bequeathed to him by

---

<sup>1</sup>In Gerson, Opera omnia, ed. M. Lud. Ellies du Pin (Antwerp, 1706), II, 809-840. To avoid multifarious footnotes, this edition will also be referred to in brackets after the passages concerned; eg. (du Pin, II, 809-840).

<sup>2</sup>In E. Martène and U. Durand, eds., Thesaurus novus anecdotorum (Paris: Delaulne, 1717), II, 1200-1226.

<sup>3</sup>In Paul Tschackert, Peter von Ailli (Gotha: Perthes, 1877), Appendix V, [15]-[21].

Queen Johanna, was taken up by his son, Louis II, who landed in the Kingdom in 1390 but was gradually defeated by the rival claimant, Ladislas of Durazzo.

In the meantime, the Italian Pope, Urban VI, had died in 1389 and was succeeded by Boniface IX, who opened negotiations with his rival in Avignon. Thus the doctors at the University of Paris could look forward to a quick end of the Schism by peaceful agreement, so they endeavoured to persuade the King to abandon his support of the via facti. It was at this point that Gerson produced his first two extant works touching on political matters, his sermon Adorabunt eum (VII, 519-538) and his Tractatus pro unione Ecclesiae (VI, 1-21). The first is a plea for peace and good government in the State, and the second for the same in the Church, procured for her if necessary, by the University of Paris which might arrange a general council to end the Schism.

The conditions of 1391 led Gerson naturally on to his next political compositions. 1391 was the time of the abortive Anglo-French peace negotiations which broke down in March, 1392, and which form the background to Gerson's sermon for Pentecost that year, Accipietis (VII, 431-449), which pleads for peace and unity in both Church and State. Later in 1392 Gerson at last received his licence from the Chancellor of the University, Pierre d'Ailly, and he concluded the year with his treatise De jurisdictione spirituali (III, 1-10), which aims to show the practicability of "the

way of cession" or abdication for the two rival popes in the Schism.

Although this is the only extant treatise of Gerson from this time--the rest of his work surviving from 1393-1395 being sermons with no political content--he was evidently becoming well-known in Paris. Thus the Duke of Burgundy, Philip the Bold, in 1393 offered him a post as his Chief Almoner and at the end of the year the deanery of the chapter of St. Donatian at Bruges. Although he continued to put his academic career first, the connection with the great Duke of Burgundy, who, with the mad King's brother, the Duke of Orléans, was one of the two most important men in the kingdom, brought Gerson close to the centre of French political life.<sup>1</sup> That life was also impinging more and more on the scenes of his daily work: 1394 and 1395 were years of excited debate at the University of Paris over the questions of whether the King should try himself to bring about the way of cession by the two popes in the Schism, and whether, if the Avignonese Pope refused to resign, France should withdraw her obedience from him. During these debates Pierre d'Ailly was promoted to be Bishop of Le Puy, and Gerson succeeded him as

---

<sup>1</sup>In the same way, his connection with Bruges brought him geographically close to Windesheim, Deventer and Zwolle, those centres of the "Christian Renaissance" of this period which Gerson was to comment on in his treatises on mystical theology; cf. E.F. Jacob, "The Brethren of the Common Life," and "Gerard Groote and the beginnings of the 'New Devotion' in the Low Countries," Essays in the Conciliar Epoch (3rd ed.; Manchester: University Press, 1962), 121-153.

Chancellor of Notre Dame and of the University, a post he was to hold, at least nominally, until his death in 1429. As Chancellor, he immediately tried to halt the campaign for the withdrawal of obedience, writing the treatises De subtractione schismatis (VI, 22-24) and, in 1396, De papatu contententibus (VI, 24-28). He then made the first of several visits to Bruges to fulfil his decanal duties there and took no further part in the debates leading to the withdrawal of obedience except to publish from Flanders in April, 1398, his De modo se habendi tempore schismatis (VI, 29-34). He was still in Bruges in July when the Council of Paris finally decided on the withdrawal, and during most of the period of withdrawal he stayed there and occupied himself with spiritual and theological writings. Early in 1402, however, Jean Courte-cuisse's attacks on Pope Benedict's immorality and obduracy against the way of cession prompted Gerson, now back in Paris, to write a spate of seven treatises urging a return to obedience and then a final solution to the Schism through the way of cession (VI, 34-69). He was also at this time giving a series of lectures, De vita spirituali animae (III, 113-202), which give a valuable insight into his idea of law, both divine and human.

1403 and 1404 are years that are marked for us chiefly by three striking sermons by Gerson. On 28th. May, 1403, France restored obedience to Benedict XIII and a week later Gerson rejoiced publicly over this in his Whitsun sermon,

Emitte Spiritum tuum (V, 255-265). Later, in the autumn of 1403, he travelled with an embassy to Benedict at Marseille where he enthusiastically hailed the Pontiff in a sermon, Benedic haereditati tuae (V, 107-122), for which the grateful Pope rewarded him by incorporating "in perpetuity" the parish of Saint-Jean-de-Grève in Paris with the Chancellery of Notre Dame. Gerson then stayed with the Curia as it journeyed about the Rhône valley until January, 1404, and on New Year's Day he was again invited to preach to the Pope. By this time, however, after two months' propinquity to Benedict, Gerson was becoming disillusioned in him, so his sermon, Apparuit gratia Dei (V, 64-90), turned out to be a bitter denunciation of clerical corruption, especially the Pope's, which so incensed Benedict that he revoked the "perpetual" gift of the previous November.

It was about this time that Gerson began to favour a conciliar solution to the Schism. The way of cession had failed chiefly because of Benedict's intransigence, and in May, 1405, Benedict was to try "the way of fact", i.e., of force, against the new Roman Pope, Innocent VII; he was defeated not by arms but by the plague which obliged him to retreat from Italy.

Similarly, in France the extravagance of the princes, especially the Duke of Orléans and the new Duke of Burgundy, John the Fearless, the ever-increasing taxes which they demanded to pay for war, and their preparations for that war

aroused Gerson's acute anxiety and in November, 1405, he made an impassioned plea for civil peace and justice in his speech to the Court, Vivat rex (VII, 1137-1185).

In 1406 Gerson again concentrated on spiritual, pastoral and academic affairs till November when Innocent VII died and the Chancellor immediately wrote two works recommending reunion in the Church, Acta de schismate tollendo (VI, 97-98) and Disputatio de schismate tollendo (VI, 99-105). A new Roman pope, Gregory XII, was nevertheless elected, but hopes ran high when he immediately suggested a meeting with his rival, Benedict XIII, to discuss their simultaneous abdication. For over a year (April, 1407-May, 1408), Gerson was away from Paris with an embassy of distinguished French churchmen sent to encourage both popes in this course. To strengthen Benedict's resolution to resign, at Marseille the French delegation held out the threat that France might otherwise withdraw obedience again, but Gerson still opposed this measure and persuaded the rest of the embassy, as is shown in the Rationes ad differendam subtractionem (VI, 105-107), of which he was co-author. Some of the embassy, including the Chancellor, then proceeded to Rome to interview Gregory XII, but they found him disappointingly unco-operative. The embassy then waited for five months at Genoa for the planned meeting of the two popes, but since neither would concede anything to the other, it never took place; during the long months of waiting, Gerson had recourse

to spiritual comfort, resulting in his two popular mystical works, De mystica theologia practica (VIII, 18-47) and the Dialogue spirituel (VII, 158-193).

Shortly after Gerson's return to Paris, in May, 1408, Gregory XII quarrelled with most of his cardinals who thereupon fled to Pisa, were joined there by some of Benedict XIII's cardinals and began to prepare the Council of Pisa. Meanwhile, in Paris the French Church again withdrew obedience from Benedict, but Gerson was occupied with his work on Ruysbroeck (II, 97-103) and did not comment. Later in the year, however, he was roused by the growing hostility between Armagnacs and Burgundians to call again for reconciliation in his discourse to the Court, Veniat pax (VII, 1100-1123). A fortnight later, John the Fearless entered Paris while the King and Court fled, and the reconciliation so earnestly desired by Gerson did not take place till the following March.

In that same month, March, 1409, the Council of Pisa opened. Gerson was too busy at the University to attend, but he wrote three works with which he evidently hoped to help and encourage the participants: De auctoritate Concilii (VI, 114-123); Pro convocatione Concilii Pisani (VI, 123-125); and Tractatus de unitate Ecclesiae (VI, 136-145). On behalf of the University he also made a speech of welcome to the English delegates to the Council as they passed through Paris on their way to Pisa, a speech which contains some significant reflections on the constitution of the Church (Propositio

facta coram Anglicis, VI, 125-135).

In May, 1409, the Council at Pisa declared that obedience to the two Popes must be suspended, and on 5th. June it deposed them and elected Alexander V. On hearing this news, Gerson rejoiced and sent to Alexander his sermon for Ascension Day, Domine si in tempore hoc (V, 204-217).

During the next four years Gerson concentrated on theological and educational writings, but in May, 1413, he was abruptly forced back into political affairs. In that month the Cabochian revolt<sup>1</sup> erupted in Paris, terror reigned in the streets and Gerson's house was attacked and pillaged. To save his life he had to take refuge in the attics of the Cathedral, where he remained for at least two months. This seems to have converted him to the Armagnac cause and hardened his resolve to have John the Fearless condemned for procuring the assassination of Louis of Orléans in 1407, and John's apologist, Jean Petit, condemned for having tried to argue that this was justifiable tyrannicide in his Justification du duc de Bourgogne of 1408. To this end Gerson in September made a speech to the Court, Rex in sempiternum vive (VII, 1005-1030), and two appeals to the masters of the University, Requête contre les vii assertions (X, 181-206) and Réponse aux critiques contre la proposition de l'Université pour la paix (VII, 216-220). As a result, in November the Bishop of Paris convened a church council there, mostly

---

<sup>1</sup>V. infra, 110.

composed of University masters, to consider the tyrannicide question. Gerson made four major speeches to the Council (X, 180-208), and in February, 1414, the Justification and the nine propositions supposedly extracted from it were condemned. Later in the same year Gerson gave a sermon to the King and Court, Ecce rex (VII, 615-622), in which he again pleaded for civil and religious peace and unity.

In November, 1414, a new General Council opened at Constance to unify the Church (Alexander V had now been succeeded by the notoriously immoral John XXIII, and many Christians still recognized the two previous popes) and reform it "in head and members," and in February, 1415, Gerson joined it as a member of the delegations sent by the King of France, the University of Paris and the Archdiocese of Sens. He was to be an important member of the Council right up to its closing and made more speeches to it than any other individual. The very next month John XXIII left Constance surreptitiously and it looked as though the Council might fall apart without its nominal head. But it was saved, first by the Emperor Sigismund and then by Gerson with his rousing sermon Ambulate dum lucem habetis (V, 39-50). Gerson here encouraged both the Council's decree concerning its superiority to the Pope, which was made the following month, and John's deposition, which was decreed in May. Next, in April, Gerson published De auferibilitate sponsi ab Ecclesia (III, 294-313) which he had first written on the occasion of the Council of Pisa and

which he now rearranged to suit the current situation. Then, in June, he took up again the question of Jean Petit's Justification which he now wanted condemned by the representatives of the whole Church; he produced his Reprobatio novem assertionum: Quoniam desunt (X, 208-216) which resulted in the nomination of a commission to inquire into the question. He denounced the nine assertions before this commission in Coram vobis and submitted a second memorandum, Itaque pro declaratione (X, 216-217). As a result and to please the Emperor, the commission in July condemned the nine propositions, though not the Justification, just before Sigismund set off to visit Benedict XIII and persuade him to abdicate, being sent on his way by Gerson's sermon, Prosperum iter faciat nobis (V, 471-480).

During the next year Gerson concentrated mainly on obtaining from the Council a confirmation of the condemnation of Petit's Justification by the Council of Paris. He first demanded it in August in a paper, Poscitur a vobis (X, 218-219), followed in October by three exhortations, the sermon De erroribus circa praeceptum Non occides (V, 28-39), the speech Oportet Haereses esse (V, 420-435), and the reply to the attack of the Duke of Burgundy's spokesman, the Bishop of Arras, Summaria responsio (X, 226-230). The argument continued and was not settled when, in January, 1416, the Commission for the Faith decided that since those summoned to argue for the Paris condemnation had not appeared, the condemnation

was to be deemed null and void. Gerson was bitterly disappointed and continued to plead for a review of the case and of the similar Falkenberg affair till the Council ended, and even afterwards in his Dialogus apologeticus of September, 1418 (VI, 296-304), but the other Fathers of the Council evidently did not consider the matter as pressing as he did, for they stubbornly refused to give it any further attention.

But Gerson did not concentrate on only one object at the Council. In 1415 and 1416 he was also taking part in the discussions of the French delegates and of the Council as a whole, and wrote a number of works on matters of theology and religious discipline, and in February, 1417, he read to the Council his most important ecclesiological work, Tractatus de potestate ecclesiastica et de origine juris et legum (VI, 210-250). The next year was again filled with theological works, notably those on the Flagellants and on the mystical life, and then in May, 1418, appeared a final ecclesiological tract, An liceat in causis fidei a papa appellare (VI, 283-290), concerning the new Pope Martin V's prohibition of appeals from his decisions to future general councils.

Meanwhile, at home in Paris political conditions had been changing rapidly. Henry V's invasion had not ended but, rather, exacerbated the French civil war, and just before Gerson left Constance in May, 1418, the Burgundians entered Paris with fire and sword; in June they perpetrated the massacre that left dead many of Gerson's friends, especially

Jean de Montreuil and Gontier Col (see Gerson's Deploratio super civitatem, X, 407-414). Clearly, he could not safely return home, so he spent some months in Bavaria and then at Rathenberg in Austria, where he wrote his epic poem Josephina (IV, 31-100). Thence he travelled to the Abbey of Melk in Bavaria, whose Abbot he had known at Constance, and then to Vienna where he was invited to stay as professor at the University but only remained a few months, perhaps because he heard of the assassination of John the Fearless and therefore judged the time right to return to France. But he still distrusted Burgundian Paris and preferred to go to Lyon, under the Dauphin's control, where his brother Jean was Prior of the House of the Celestines. He arrived there in November, 1419, and stayed till his death on 12th. July, 1429. He spent his last years in theological and educational writings and in teaching choirboys, and the only time that he said anything of note on a political issue was when he was asked his opinion of the character and mission of Joan of Arc; in his reply, De puella Aurelianensi (IX, 661-665), he declared that he approved of both.

It is clear from this summary of his busy life that Gerson's attitude to politics was dominated by the Schism in the ecclesiastical field, and by the war in France, both civil and international, in the secular. All political thinkers respond to their environments, but for Gerson his environment was particularly decisive. He never sat back to think out a

"political philosophy" in the abstract but, instead, as each new crisis in the Schism or in French affairs developed, he felt compelled either to write down his projected remedies and quickly circulate them to influence those in power, or to use the occasion of a sermon to persuade his audience of their right course of action. His views naturally changed with the circumstances that prompted them, so that it is essential to assess them in chronological sequence. But, strangely, such an assessment of all Gerson's political ideas together, both religious and secular, has never yet been made. Schäfer, Figgis, Carlyle and all the historians of political thought in general<sup>1</sup> refer to Gerson's ideas as though, once formed, they compose a constant, unchanging, self-sufficient edifice; every brick, once properly fashioned, has its peculiar place in the completed building. This might be true of the writer of a Summa who after long cogitation decides on his final view of the world, and writes it down for posterity. But it is nonsense for Gerson who never wrote for posterity, or even for tomorrow, but for here-and-now, in response to an urgent present predicament. The following essay, therefore, presents an examination of all Gerson's political ideas as they evolved, together with a conclusion which will bring together all the elements of his fully developed political philosophy as it can be deduced and synthesized from his last relevant works.

---

<sup>1</sup>For these v. supra, preface.

II. LAW AND JUSTICE: DE VITA SPIRITUALI ANIMAE,  
DILIGITE JUSTITIAM, AND EPIKEIA.

1. De vita spirituali animae

Gerson's earliest works were mostly concerned with the Great Schism and have been adequately discussed elsewhere;<sup>1</sup> his scattered references to secular politics will be mentioned later when his concept of political authority in general is examined.<sup>2</sup> His first work with any extensive political content is therefore undoubtedly his Liber de vita spirituali animae, much of which is concerned with law, both as ideal and as reality. This treatise was formerly thought to have been written during Gerson's stay in Bruges from 1399 to 1400, to soothe consciences troubled there by the accusations and counter-accusations exchanged by the Clementists, who had now gained control of the city, and the Urbanist majority.<sup>3</sup> But it is now generally assigned to the year 1402, when Gerson

. . . commença ses leçons qui, continuées jusque juin et mises en forme, constituèrent le De vita spirituali animae, dont il fit hommage à Pierre d'Ailly, par sa lettre d'envoi Postulare dignatus es. Il y rappelle comment l'évêque de Cambrai vint un jour assister à l'une de ces leçons.  
(I, 116)

---

<sup>1</sup>By Morrall, op. cit., and Meyjes, op. cit..

<sup>2</sup>Infra, 211-242.

<sup>3</sup>Eg. by Schwab, op. cit., 268; E. Vansteenbergh, "Gerson à Bruges," Revue d'histoire ecclésiastique, XXX (1935), 27; E.F. Jacob, Essays in the Conciliar Epoch (3rd. ed.; Manchester: University Press, 1963), 13; and Morrall, op. cit., 46.

Since it is arranged in lectiones, and Gerson's letter to d'Ailly mentions it as a course of lectures (II, 63-64), it is reasonable to deduce that it was written in 1402 as such a course, rather than in 1399 as a pastoral work.<sup>1</sup>

Gerson's first lecture under the title De vita spirituali concerns, as is to be expected, the definition of the term "spiritual life." This, he says, is the life of grace which begins in the soul with baptism, is nourished by virtues and good works, freely willed, and is injured or killed by sin, which is any act contrary to "the divine reason and will." It ends with a recommendation to read William of Paris' De virtutibus on the virtue of Hope, which is perhaps "the noblest and most perfect of all the theological virtues" (III, 113-128).

The second and third lectures of the Liber de vita spirituali are the most important for his political ideas and the second is particularly significant since it expounds the basis of Gerson's theory of political power.<sup>2</sup> He begins

---

<sup>1</sup>Cf. also Meyjes, op. cit., 317. It is clear, however, from the content of De vita that in it Gerson was primarily concerned to clarify the moral problems raised for the faithful by the Schism. That is why, in a work entitled "The Soul's Spiritual Life," he deals with the obligation to obey the law, and with the various kinds of law. Cf. Louis Vereecke, "Droit et moral chez Jean Gerson," Revue historique de droit français et étranger, XXXII (1954), 413-427.

<sup>2</sup>Zophia Rueger said of this lecture: "Gerson's exposition of the Divine Law in the second lesson of the Liber de vita forms the foundations of his theory of ecclesiastical

the lecture by stating that he will examine ". . . qualis est illa lex cujus transgressio vitam spiritualem . . . adimit . . ." (III, 128), and later he makes it clear that this Divine Law concerns only Man's attainment of salvation (III, 137); all other laws, which do not aim at Heaven, are consequently merely human and therefore inferior and so Gerson will be able to say in later works that they can be abrogated or recast according to the principles of epikeia. He now proceeds to emphasize the importance of distinguishing this Law of God from "laws, institutions, rules and statutes" of men, laid down "in canons, constitutions of synods, rules of religious orders, statutes of universities, colleges and churches, edicts of emperors and princes, and plebiscites of communities," with their various sanctions (III, 129). Indeed, "if even Adam, such a man and so great, broke the one command laid upon him, how shall we escape, surrounded as we are by innumerable commands?" (III, 129). This is reminiscent of Ockham, who denounced pope and papalists as making the Christian law, intended to be "non majoris sed minoris servitutis

---

power, as well as of his programme of reform and, in fact, constitutes his main claim to originality" ["Gerson, the Conciliar Movement and the Right of Resistance," Journal of the History of Ideas, XXV (1964), 479, n. 43]. While Professor Rueger is perfectly correct in the first part of this sentence, the last statement is debatable since, as we shall see (infra, 72-77), Gerson's idea of law is not original, but a development of Aquinas' thoughts on the subject; and if we wish to ascribe originality to Gerson, who was essentially an eclectic, not an original thinker, we should do better to look for it in his use of the Aristotelian idea of epikeia around the year 1409 (v. infra, 49-74).

quam fuerit lex mosaica" a bond "horrendissime servitutis et incomparabiliter majoris quam fuerit lex vetus."<sup>1</sup>

Gerson now proceeds to a second definition of divine law, which gives its material cause as well as its final cause as in the first definition:

Lex divina praeceptorum est signum verum revelatum creaturae rationali quod est notificativum recte rationis divinae volentis teneri illam creaturam seu ligari ad aliquid agendum vel non agendum pro dignificatione ejus ad aeternam vitam consequendam et damnationem evitandam (III, 130).

Again his closeness to Ockham is evident. In In sententiis Ockham had declared:

Omnis voluntas recta est conformis rationi recte sed non est semper conformis rationi recte praeve qua ostendat causam quare voluntas debet hoc velle. . . . quod voluntas divina hoc vult, ratio recta dictat quod est volendum.<sup>2</sup>

and:

. . . a man never commits sin unless he is under obligation morally to do something which he does not do, or because he does something which he is under obligation not to do.<sup>3</sup>

Gerson continues to follow Ockham (though without, as yet, any reference to him) when he describes how this divine law

---

<sup>1</sup>Ockham, Breviloquium de potestate papae, II, 3, ed. L. Baudry (Paris: Vrin, 1937), 19-20; cf. Morrall, op. cit., 47.

<sup>2</sup>I, dist. XLI, qu. I.K., in Opera plurima, vol. III: In sententiarum I (Lyon, 1494-1496; reprinted London: Gregg, 1962).

<sup>3</sup>Ibid., qu. II, 19, P., sic Morrall, op. cit., 47; since dist. XLI. has no qu. II, and Morrall does not give any bibliographical data re his citation, I have not been able to find the source of this sentence.

is made known to man: "quia notificatio ista fit aliquando per voces, nunc per scripturam, nunc per internam inspirationem, horum signorum aliud est vocale, aliud est scriptum, aliud mentale; . . ." (III, 130). But one must not conclude that this proves that Gerson's idea of divine law was directly derived from Ockham's.<sup>1</sup> Both Ockham and Gerson were simply expanding on the idea of St. Thomas. Thomas had defined law in general as "nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated,"<sup>2</sup> and he had proceeded to identify the divine or eternal law with God's own wisdom or reason: "The eternal law is nothing else than the type of Divine Wisdom, as directing all actions and movements."<sup>3</sup> Thomas does not specify the various ways in which the eternal law is revealed to man, as Ockham and Gerson do, but he repeats several times that man knows it through his reason: The natural law is nothing else than the rational creature's

---

<sup>1</sup>Like Morrall who comments:

"This may be compared with Ockham's description of the five ways by which the truths of revelation are imparted to the faithful. Gerson contends that no rational creature can be expected to obey a law unless his reason has been duly informed of it, 'by notification.' Otherwise reason would have no meaning and irrational creatures also would be subject to moral obligation, which is absurd. This type of reasoning is well in keeping with the Ockhamist school's emphasis on the motive behind each individual act, taken in isolation, as the criterion of morality" (*op. cit.*, 47); cf. Connolly, *op. cit.*, 48, for Gerson's selectivity in accepting Ockhamism, also infra, 334-337.

<sup>2</sup>Summa Theologica, Ia IIae, qu. XC, art. 4.

<sup>3</sup>Ibid., Ia IIae, qu. XCIII, art. I.

participation of the eternal law."<sup>1</sup> He quotes St. Augustine: "Knowledge of the eternal law is imprinted on us,"<sup>2</sup> and finally takes us right back to the Bible for validation:

We cannot know the things that are of God, as they are in themselves; but they are made known to us in their effects, according to Rom. i. 20: The invisible things of God . . . are clearly seen, being understood by the things that are made.<sup>3</sup>

The necessity of "notification" was not an idea new in the writings of the "Ockhamist school" either: St. Thomas stresses "promulgation" every time he deals with a different kind of law, devoting a whole article to it in two out of three cases.<sup>4</sup> And finally, Thomas also was acutely aware of the importance of "the motive behind each individual act;" indeed, he went so far as to say that the individual conscience may be in error, whether through its owner's own fault or not, but its owner must still obey it: "Every conscience, whether it is right or wrong, whether it concerns things evil in themselves or things morally indifferent, obliges us to act in such a way that he who acts against his conscience sins."<sup>5</sup> We cannot therefore accept that Gerson in

---

<sup>1</sup>Ibid., Ia IIae, qu. XCIII, art. I.

<sup>2</sup>De libero arbitrio, l, quoted ibid., Ia IIae, qu. XCIII, art. 2.

<sup>3</sup>Ibid., Ia IIae, qu. XCIII, art. 7.

<sup>4</sup>Ibid., Ia IIae, qu. XCIII, art. 1, and qu. XCIV, art. 5.

<sup>5</sup>Quodlibetum, III, 27.

the De vita simply repeats Ockham's ideas; he does not mention Ockham until he reaches his fourth corollary (III, 135), and he was obviously well aware that his concept of divine law had both a longer and a more respectable pedigree.

After discussing his definition of divine law in this Lecture, Gerson proceeds to seven practical corollaries. The first is that not all laws derive "appropriate vel pure de jure divino," although all must ultimately derive their authority from it because "there is no power but from God" (Romans 13:1). Here again he agrees with St. Thomas who said of "human law":

. . . on the part of the practical reason, man has a natural participation of the eternal law, according to certain general principles, but not as regards the particular determinations of individual cases, which are, however, contained in the eternal law. Hence the need for human reason to proceed further to sanction them by law.<sup>1</sup>

The second corollary distinguishes between divine and human law. Divine laws, Gerson says, are those which concern the spiritual aspect of Man, human laws those which concern his "corporal and mortal" aspect (III, 133). Again, he is simply elaborating on a well-known distinction which goes back to the Gelasian theory of the division of powers, spiritual and temporal, and even beyond that to St. Augustine.

In the third corollary Gerson points out that not all canon laws can be equated with divine laws. Some canons are directed only to "political conversation," in other words, to

---

<sup>1</sup>Summa Theol., Ia IIae, qu. CXI, art. 3.

the secular or material affairs of the Church, so they must be considered as "civil and human laws" (III, 134). In the fourth corollary he states:

Lex aliqua non ideo dicitur divina appropriate quia ex principiis juris divini deducitur. . . . Amplius nulla est lex quae non innitatur principiis istis" (III, 134),

echoing St. Augustine: ". . . in illa temporali [iure] nihil esse iustum atque legitimum quod non ex hac aeterna sibi homines derivaverint."<sup>1</sup> Nor can we call divine all the precepts contained in Holy Scripture "sed illas tantummodo veritates sibi damus quae specialiter revelatae sunt et datae ad credendum pro beatitudinis fine consequendo" (III, 135). The same is true of the Church's canons, not all of which can be considered essential to salvation and therefore divine law. Finally, Gerson refers those who want to know exactly which laws are de fide to Book II of Ockham's Dialogue.

The fifth corollary contains definitions of natural law and of positive law:

Lex vero naturalis praeceptiva appropriate talem habet rationem quod est signum inditum cuilibet homini non impedito in usu debito rationis, notificativum voluntatis divinae volentis creaturam rationalem humanam teneri seu obligari ad aliquid agendum vel non agendum pro consecutione finis sui naturalis, qui finis est felicitas humana et in multis debita conversatio domestica et etiam politica; homo enim natura animal civile est.

Lex humana sive positiva praeceptiva pure et appropriate describitur quod est signum verum humana traditione et auctoritate immediate constitutum, aut quod non infertur necessaria

---

<sup>1</sup>De Libero Arbitrio, I, VI, 15, 50-51.

deductione ex lege divina et naturali, ligans ad aliquid agendum vel non agendum pro consecutione finis alicujus humani. (III, 135)

Morrall has argued that these definitions demonstrate Gerson's nominalism and Ockhamism:

Signum, for example, is the very word used by Ockhamist epistemology to describe the way in which an exterior object is presented to the cognitive faculty of the individual mind. The emphasis on notification of the Divine Will to the rational human being of obligatory acts to be carried out in order to attain a particular result is also familiar Nominalist phraseology. The same Nominalist influence is found in the succeeding portion of the corollary, which declares that positive law is derived not, as is Divine law, from right reason but from "the authority of some superior who ordains it."<sup>1</sup>

But Morrall is emphasizing only the most recent writer -- Ockham -- in a long series discussing the distinctions between divine, natural and human law, and Gerson really, here again, owes far more to Aquinas and to his inspirers, Aristotle and Augustine, than to the intervening Ockham (to whom the use of the word signum is not, after all, peculiar).<sup>2</sup> He is actually quoting Aristotle: "Man is by nature a

---

<sup>1</sup>Morrall, op. cit., 49.

<sup>2</sup>This is typical. St. Augustine is Gerson's favourite author, cited 441 times in the modern edition of his collected works. Aristotle comes next with 312 citations. Then follow, in order to their frequency, St. Gregory the Great, Pseudo-Dionysius, St. Bernard, St. Jerome, Cicero, Seneca, and Virgil. Surprisingly, in view of his influence over Gerson, St. Thomas comes only tenth on the list, with eighty-four citations, followed closely by Gerson's beloved guide to the mystical life, St. Bonaventure, and then by Boëthius and Horace. A host of other authors intervene on the list before Ockham, who is mentioned an exiguous eighteen times, less even than the heretic Wycliffe, who is mentioned twenty (v. X, 631-644).

political animal."<sup>1</sup> Furthermore, if we refer back to the Summa, we find Aquinas defining natural law thus: ". . . [the rational creature] has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law."<sup>2</sup> And of its relation to human law he says:

. . . [two] modes of derivation [from natural law] are found in the human law. But those things which are derived in the first way, are contained in human law not as emanating therefrom exclusively, but have some force from the natural law also. But those things which are derived in the second way, have no other force than that of human law.<sup>3</sup>

Even if we go right back to Augustine, we find that Gerson has just as much in common with him on this subject as he has with Ockham, for Augustine defined the law of nature as a universal law, discoverable by all men by the use of reason: ". . . lex est etiam in ratione hominis, qui iam utitur arbitrio libertatis, naturaliter in corde conscripta."<sup>4</sup> Similarly, Augustine saw human law as a curb on sinful man by which the earthly city might achieve "the voluntary and collective attainment of objectives necessary to moral

---

<sup>1</sup>Aristotle, Politics, I, 2.

<sup>2</sup>Summa theol., Ia IIae, qu. XCI, art. 2.

<sup>3</sup>Ibid., Ia IIae, qu. XCV, art. 2.

<sup>4</sup>Epistula CLVII, 15, in Corpus scriptorum ecclesiasticorum latinorum (henceforth referred to as C.s.l.), XLIV, 463.

existence,"<sup>1</sup> and, like Gerson, Augustine did not think human law must necessarily derive from natural or divine law, although "the framer of temporal laws, if he is a good and wise man, takes into consideration that very eternal law. . . ." <sup>2</sup>

It is thus evident that, despite the popularity of the via moderna in the Paris of his day, the fifth corollary demonstrates that Gerson was an Augustinian rather than an Ockhamist and, as will be evident in all the works discussed here, he only employed Ockham's words or ideas when he found them consistent with the older Augustinian or Thomist traditions with which he agreed. He was much more a moderate realist than a nominalist.<sup>3</sup>

---

<sup>1</sup>City of God, trans. Gerald G. Walsh et al., ed. Vernon J. Bourke (New York: Doubleday, 1958), XIX, 17.

<sup>2</sup>De vera religione, XXXI, 58, quoted Herbert A. Deane, The Political and Social Ideas of St. Augustine (New York: Columbia University Press, 1963), 90 (my italics). Here St. Augustine and Gerson both differ from St. Thomas, who said: ". . . natural law is . . . a participation of the eternal law. . . . it is from the precepts of the natural law . . . that the human reason needs to proceed to . . . human laws. . . ." (S.T. Ia IIae, qu. XCI, arts. 1-2) So, for Thomas, human law, to be valid, must agree with the eternal.

<sup>3</sup>On this subject cf. A. Combes, Jean Gerson, commentateur dionysien (Paris: Vrin, 1942), passim. When Morrall comes to discuss Gerson's sixth corollary he does admit that it

". . . shows that it is an exaggeration to present Gerson as a thorough-going Ockhamist. . . . the . . . passage referring to the notification of such principles of the natural law to the rational creature . . . by the immediate illumination of the Divine light hardly conforms either to the letter or to the spirit of the Venerable Inceptor's teaching" (op. cit., 49-50).

But Morrall then proceeds to cite Gerson's references here to Augustine, William of Paris, St. Thomas (not St. Bernard, as

In the sixth corollary Gerson merely states that the principles of natural law are derived from the divine law and made known "creaturae rationali per immediatam divinae lucis suae irradiationem" (III, 136). In the seventh corollary he returns to his examination of divine law. He divides this into four kinds:

- (1) . . . leges immediate revelatae a Deo pro tota communitate hominum aut principialiori parte scriptae in Biblia et praesertim in evangeliiis a Christo latis, ad consequendum beatitudinem.
- (2) . . . leges divinae quae ex praecedentibus solis in consequentia evidenti aut saltem revelata et proprie credenda deducuntur.
- (3) . . . leges divinae immediate a Christo traditae aut ab eis dicto modo deductae, quae per successivam relationem Apostolorum et aliorum ad nos aequivalentem scripturae canonicae, notificatae sunt ut forte est ista lex: universalis Ecclesia pontifici romano subjecta sit; non enim possit evidenter aut per consequentiam pure de fide ex legibus primi generis humana deductione fulciri. Quod tamen sit lex pure divina patet quia nisi sic, posset humana traditione primatus iste cassari et annullari, quod non dicitur.
- (4) . . . leges specialiter inspiratae et revelatae quibusdam singularibus personis. . . . (III, 137-138)

It is clear from this that Gerson still considers the position of the Pope as absolutely sacrosanct, although he proceeds to make it clear that not even the Vicar of Christ can now have the same authority as the traditions of the Apostles:

---

Morrall has it) and Bonaventure--"authorities from the Christian Platonist tradition"--as proofs of Gerson's inconsistency and "philosophical eclecticism." It would be truer to say that they are proofs that Morrall's own interpretation is inconsistent with the evidence.

Consequenter deducitur quomodo major fuit primitivae Ecclesiae auctoritas quoad praedicta quam nunc sit, et quod non est in potestate papae aut Concilii aut Ecclesiae immutare traditiones datas ab evangelistis et a Paulo, sicut quidam delirant. (III, 139)<sup>1</sup>

After defining the four kinds of "purely divine" law, Gerson continues in this corollary to describe four kinds of law which are not "purely divine":

- (1) . . . leges quae licet latae fuerint a Deo immediate vel ab autorizatis immediate a Deo, tamen hoc non constat nisi per historias aut revelationes quae proprie non sunt de fide, quamvis ipse negari nequeant absque scandalo et protervia manifesta. Exemplum de ista lege: electio sancti Clementis spectabat ad Petrum; non enim dubitatur quia Petrus ex quo ita fecit habuerit super hoc auctoritatem immediate a Christo; et quod ita fecerit, licet rationabiliter negari non potest, tamen negans ab haeresi se defenderet, nec ut talis esset puniendus sed bene ut protervus et scandalosus et incivilis, . . .
- (2) . . . leges quae non latae sunt immediate a Deo, tamen coassumptis aliquibus quae rationabiliter et absque scandalo negari non possunt, illae inferuntur a legibus pure divinis. Exemplum de ista lege: electio summi pontificis spectat ad cardinales rebus stantibus in Ecclesia ut nunc sunt Sede vacante.
- (3) . . . leges quae ad sui deductionem per leges divinas requirunt propositiones dubias quae tamen plus incitant et aedificant ad devotionem et religionem quam oppositae, aut quas tutius est concedere quam negare. . . . Exemplum de istis: quadragesimale jejunium observandum est; excommunicationes timendae sunt, et similes.
- (4) . . . leges quae ex legibus divinis non plus deduci possunt aut minus quam oppositae. Exemplum istius: talliae magnae et tributa concedenda sunt huic principi, et similes. (III, 139-140)

---

<sup>1</sup>Morrall notes that the "quidam" is a dig at "the extreme wing of Papalist canonists and publicists" (op. cit., 51).

The fact that these laws are not purely divine and therefore can in certain cases be altered by human ordinance leads Gerson in his third lecture in this series to discuss the question "quid sit jus." His immediate answer is: "jus est facultas seu potestas propinqua conveniens alicui secundum dictamen rectae rationis" (III, 141). No trace of Ockham's influence here, but only St. Thomas' stress on right reason. The latter is possessed only by men and angels, good and bad ["Et daemones dicimus habere jus ad punitionem damnatorum" (III, 141)], who come under the law in groups or "polities," an Aristotelian term current among scholars since the thirteenth century, which Gerson proceeds to elucidate. There is first, he says, the divine polity, the "communitas vivens sub jure pure divino vel secundum illud regulata. Sub hac descriptionis generalitate comprehenderetur politia beatorum . . ." (III, 143). The demons also exercise jus, but the damned souls do not submit to it rationally, so "quia tamen damnati non habent facultatem regulatam ad illas poenas inflictas nec per eas se regulant, idcirco ipsi omnino negantur habere divinam politiam; habent potius divisionem sempiternam" (III, 143). Evidently, to form part of a political society or "polity" man must submit in a rational manner to its laws. This, of course, echoes Aristotle's definition: "When the citizens at large administer the state for the common interest, the government is called by the generic name

-- a constitution (πολιτεία),"<sup>1</sup> but such a polity ceases to be so if the government rules only by fear and force, in which case it is named a "tyranny," "For tyranny is a kind of monarchy which has in view the interest of the monarch only."<sup>2</sup> Gerson may also have derived this line of thought from a section of Aquinas' De regno devoted to a related subject: "That the office of governing the kingdom should be learned from the Divine Government."<sup>3</sup>

Gerson continues that on earth there are three kinds of polity, first: "Politia ecclesiastica est communitas secundum leges pure divinas obligantes aut consulentes aut monentes principaliter regulata" (III, 143); and then:

Politia naturalis est communitas secundum leges pure naturales principaliter regulata. Politia humana est communitas secundum leges pure civiles vel humanas principaliter regulata. (III, 144)

Every polity is thus distinguished by the laws which regulate it, and, consequently, by the government or dominium which enforces these laws. This brings up Wycliffe's question "an injustus possit juste dominari," and the Mendicant Friars' question "quomodo apud religiosos maneat et quomodo non maneat dominium supra res communes" (III, 145), both highly controversial subjects in the later fourteenth century.

---

<sup>1</sup>Politics, III, 7.

<sup>2</sup>Ibid.

<sup>3</sup>On Kingship, to the King of Cyprus, trans. Gerald B. Phelan (Toronto: Pontifical Institute of Mediaeval Studies, 1949), I, 14.

Gerson states that "dominus armachanus," i.e. Richard Fitzralph, has treated these questions but in a narrower sense than Gerson approves ("strictius quam sumpsimus"). Gerson again quotes St. Paul's dictum (also one of Augustine's favourite scriptural texts<sup>1</sup>), "non est potestas nisi a Deo," and concludes "sic potestas quaelibet dicitur donum Dei," but since Man's state varies, so does the manner of God's giving. Thus, when Man was in the sinless state of Nature, God gave him "original justice," i.e. dominion over all of nature "secluso ligno scientiae boni et mali." No law or coercive power was necessary in this dominion, so it was "dominium libertatis" (III, 145). But when Man was fallen, "in statu corruptae naturae," some kind of political authority became necessary "ut homines quiete viverent et suum unicuique jus tribueretur, quod fieri non potuit si non arceretur improbitas malignorum" (III, 146). In fact, Gerson is here repeating Augustine's explanation of political authority:

Nec ideo sane frustra instituta sunt potestas regis, ius gladii cognitoris, unguulae carnificis, arma militis, disciplina dominantis, seueritas etiam boni patris. . . . haec cum timentur, et cohercentur mali et quietius inter malos uiuunt boni. . . .<sup>2</sup>

States or polities are therefore necessary, especially when men are fallen and no longer in a state of grace; it is thus evident that Wycliffe has no case when he says that dominion

---

<sup>1</sup>Deane, op. cit., 69.

<sup>2</sup>Augustine, Epistula CLIII, VI, 16, in C.s.e.l., XLIV, 413-414.

must be founded on grace: "Propterea manifestum est quod absque charitate potest tale dominium retineri, quoniam non in ea sed in alio dono fundatus est suus titulus" (III, 146).

With redeemed man God does give a dominion founded on grace freely given through "adoption of sons" (III, 147). And finally, glorified man must undoubtedly enjoy "admirable gifts and stupendous powers" about which, unfortunately, "we do not know anything" (III, 148). From all this Gerson deduces a definition of justice: "justitia est perpetua et constans voluntas jus suum unicuique tribuentis" (III, 148), a paraphrase of the traditional definition of justice as "the virtue which accords to each and every man what is his due," cited by St. Augustine in his City of God.<sup>1</sup>

Gerson is now in a position to differentiate between civil and evangelical dominion. He has already recalled Aristotle in his second lecture by quoting "homo enim natura animal civile est" (III, 135) and in his third by his talk of polities (III, 144), but he now ignores Aristotle's definition of the State as the natural, and the highest, form of society<sup>2</sup> in favour of a purely Augustinian concept of civil dominion:

---

<sup>1</sup>City of God, XIX, 21; later repeated in Digest, Bk. I, tit. I, leg. 10, Justitia est, whence St. Thomas cites it, Summa theol., IIa IIae, qu. LVIII, art. 1.

<sup>2</sup>Politics, I, 2.

Itaque dominium civile institutum est occasione peccati originalis et aliorum inde consequentium, quibus non exstantibus dominium tale defuisset. Dominium vero charitatis non praesupponit peccatum sed est immediate derivatum a Deo sicut ipsa charitas. Civile autem magis humana adinventione et utilitatis publicae respectu statum est, nimirum propterea si radicem infectam habens illius saporem contrahit et si vix exercetur et tenetur absque contaminatione per aliquod delictorum; radix vero domini evangelici est charitas. . . . (III, 149)

Civil dominion, Gerson says, is an avaricious quality, not purely equitable like the dominion of Charity, ". . . nam quamvis eveniet quod habeant dominium civile rex et vassallus vel burgensis super eandem haereditatem, hoc tamen non est ex aequo, nec eodem jure nec simili plenitudine civilis potestatis" (III, 149). Moreover, civil dominion is "retainable or abdicable," and its owner can "alienate or sell or commute it or defend it judicially or seek to preserve it in other ways" (III, 149). He can also forfeit his dominion in certain circumstances:

. . . sicut civilia dominia ratione peccati et pro extrinseca utilitate reipublicae solum inducta sunt et non conferuntur regulariter absque signis exterioribus, sic non perditur eorum jus regulariter absque peccatis manifestis nec ex quibuscumque, sed ex illis quare stare nequeunt cum debito usu talis domini in republica, et dum per sententiam definitivam talia esse monstrata sunt et damnata. Exempli gratia, vassallus aliquis habet ex dono domini B. haereditatem ad fidelitatem sibi praestandam; vassallus iste non pro quocumque delicto perdet haereditatem, immo pro nullo interiori, sed nec pro exteriori nisi contrarietur fidelitati debitae domino, et adhuc ante definitivam sententiam non erit ab haereditate spoliatus quamvis prius ita spoliari meruisset. (III, 150)

It is interesting to see that Gerson, while accepting that the French king has an hereditary title to his kingdom (III, 151), still believes in the old idea of the lex regia, by which even an hereditary title was originally established by consent of the ruler's subjects so that, if abused, it is revocable by them. Again, he is following Aquinas who also believed in such a primordial "social contract": "If to provide itself with a king belongs to the right of a given multitude, it is not unjust if the king be deposed or have his power restricted by that same multitude if, becoming a tyrant, he abuses the royal power."<sup>1</sup> By Gerson's time, the idea of the lex regia, or "the translation theory" as it is sometimes called, had become the prevalent explanation of political authority.

. . . shortly after St. Thomas and by such men as his famous disciple, Aegidius Romanus, the translation theory was distinctly formulated. Engelbert of Volkersdorf (1270-1327) distinguishes the pactum subjectionis by which the citizens, already united into a body politic, elect a king and so transfer to him the political authority that originally rested with them as a whole. Nicholas of Cusa and his contemporary, Gerson, agree with this theory. Cusa uses again and again the technical expressions concordantia subjectionalis, per viam voluntariae subjectionis et consensus. James Almainus (d. 1313) reports that it is the common opinion of the great doctors that the authority is transferred to the king by the political community itself. In what is usually called Late Scholasticism the theory was not only generally accepted but became broadly elaborated, and that in such a

---

<sup>1</sup>On Kingship, I, 6.

definite and convincing form that for centuries it became the only one taught.<sup>1</sup>

Gerson now proceeds to apply the idea of "the king's deposability" to the Pope or, as he puts it, to the "ecclesiastical polity." He gives the example of a pope who burns down Christian homes or violates women; such a pope must certainly be stopped, even if this means imprisoning him, because "potestas superioris nihil potest statuere adversus veritatem legis naturalis et divinae; quod insuper potestas eorum data est non in destructionem sed in aedificationem" (III, 153). He explains that the Pope possesses four different kinds of dominium: first, dominion given him by Christ "super totam Ecclesiam cum plenitudine potestatis in eis quae spirituale regimen Ecclesiae proprie dictum respiciunt;" second, canonical power over the Church's affairs which are not really spiritual "quemadmodum sunt collationes quaedam beneficiorum et jurisdictionum quasi temporalium atque preventuum;" third, temporal power conceded to him by princes, especially emperors, and others, including that given in the Donation of Constantine; and fourth, the power according to natural law that any superior has over his subjects (III, 153).

---

<sup>1</sup>Heinrich A. Rommen, The State in Catholic Thought (St. Louis and London: Herder Book Co., 1945), 444. V. also Gabriel Bowe, The Origin of Political Authority: An Essay in Catholic Political Philosophy (Dublin: Clonmore and Reynolds, 1955), passim.

The first kind of power "cognoscitur ex evangelis et Actibus Apostolorum et ex eis quae per successivam relationem eorum ad nos tanta sunt certitudine devoluta" (III, 153). From it the Pope derives the right to call universal councils, to determine, with the council, questions of faith, to correct other prelates, and to deal with other matters affecting the general state of the Church. This power remains immutably in the Pope until he dies "naturally or civilly," or is adjudged unworthy of it, in which cases it passes to the Church.

The second or administrative power, created by human, therefore mutable, canons, is not essential to the Pope since Christ, St. Peter and many of their successors did not exercise it. This is even truer of the third type of power, and the last type may always be taken from an unworthy Pope. The precise circumstances in which he may be judged unworthy are represented by only one example: "si requisitus legitime nolit concilium celebrare et nihilominus perseveret in delictis" (III, 155). He is to be judged by "an incorruptible judge," "the Church or a general council representing the Church." Does this mean that these two are then interchangeable, and does not a general council always, as a matter of course, include the Pope as its head? Gerson does not deal with these important questions in the present work and we must wait to find the answers to them in his later writings. But he goes on now to use the image of the Mystical Body of

Christ to justify removing an unworthy Pope, "its secondary head," if he is imperilling the connexion of the Body's other members with Christ, its primary and "essential head." This is another theme to which Gerson will return often in later years.

The three remaining lectures in De vita spirituali animae are concerned with moral issues in which the Schism involved the faithful; many individuals were worried by their doubtful position vis-à-vis the two contending popes, each hurling threats of perdition against the other side. Gerson reassures them by making it clear that a mortal sin, which is the one thing they really have to fear, can only be committed in defiance of the Divine Law, so to obey the latter must be their main endeavour.

Two points in the fourth lecture, which discusses the importance to souls of divine and human law, should be noted. First, human positive law can always be abrogated, especially if this is necessary to make it accord with custom:

Omnis lex humana vel positiva potest abrogari in eo quod non necessario participat cum naturali et divina. Haec autem abrogatio fit vel per consuetudinem oppositam, juxta quod dicunt juristae, et verum est, quod consuetudo est optima legum interpretis; . . . (III, 168)

This is simply another aspect of the concept of equity which Gerson will work out in greater detail later, to justify the deposition of intractable popes.

Secondly, the variability of custom reminds Gerson that there cannot be one positive law for all mankind, and

from this he infers that there cannot be one supreme temporal Head:

. . . constat quam temerarium est et iniquum velle omnia decreta, sive ecclesiastica sive civilia, ad omne tempus, ad omnem gentem et patriam extendere, quoniam lex quae pro uno tempore et loco aut personis esset utilis, esset in aliis tempore, loco et personis impossibilis aut damnosa; immo velle sic omnia statuta stabilire, hominum est deliriantium et quasi statuta stabilire, hominum est deliriantium et quasi contententium ut oppositae leges simul observentur. Hic fundant se qui dicunt non ita expedire unum imperatorem dominari omnibus civiliter sicut unum papam spiritualiter, quoniam lex fidei una est apud omnes, non ita leges fori. (III, 168)

Here Gerson is showing himself a true Frenchman, in the tradition of John of Paris<sup>1</sup> and all those who had loudly declared in Philip IV's reign rex in regno suo est imperator (which Gerson himself was later to quote, as we shall see). He is deliberately rejecting the arguments of the imperialists who said, like Dante:

. . . it is admitted that the whole human race is ordained for a single end. . . . Therefore there must be one guiding or ruling power. And this is what we mean by monarch or emperor. Thus it appears that for the well-being of the world there must be a monarchy or empire.<sup>2</sup>

Gerson holds that there must be various rulers to enforce various systems of law. He does not seem to consider the example of the later Roman emperors who were able to give

---

<sup>1</sup>CF. A.J. and R.W. Carlyle, A History of Mediaeval Political Theory in the West (Edinburgh: Blackwood, 1950), V, 147.

<sup>2</sup>Dante, De monarchia, I, 5, in A Translation of the Latin Works of Dante Alighieri, trans. anon. (London: Dent, 1904), 141.

different laws to different peoples over which they ruled; perhaps his obvious loyalty to his own king made this consideration appear to him irrelevant. The plurality of legal systems and of rulers is a subject to which he would return in one of his greatest works, De potestate ecclesiastica et origine juris et legum (VI, 210-250), in 1417.<sup>1</sup>

The Liber de vita spirituali animae contains no new ideas on law nor any helpful proposals to solve Europe's ecclesiastical and political problems in 1402, but it does clearly set out the basic principles of law, as Gerson saw them, and so lay the essential groundwork for all his later, conciliarist solutions to those problems. This is true particularly of its treatment of human law, since by distinguishing human from divine and natural law, it made it obvious that human law could reasonably be modified if it was not answering its purpose in any particular case; thus it prepared for the full concept of epikeia as developed to justify the Council of Pisa. It also used law to define the State in more sophisticated terms than Gerson had employed in his sermon Accipietis of 1391; the State is now distinguished chiefly by the laws that govern it, instead of being merely a collection of subjects under one ruler. Civil dominion, moreover, is a power that can be seized by anyone, whether in a state of grace or not; in France it is exercised by the King, but he inherits it from forbears to whom the people

---

<sup>1</sup>Infra, 175-200.

originally granted it by the lex regia, so he is always answerable to them for its proper exercise. And lastly, following the mention of the King of France, Gerson explains that although the Universal Church is rightly ruled by one Vicar of Christ, the whole secular world, comprising such diverse peoples and tongues, cannot be governed by one man; it is more expedient for every group observing the same legal system to possess its own ruler to enforce that system. Gerson is thus no Dantesque Ghibelline supporter of universal Empire but rather a French nationalist (if "nationalist" is not an anachronistic term to use of the fifteenth century), upholding his country's right to an independent existence without acknowledgement of any superior secular power, even the Emperor's.

## 2. Diligite justitiam

Gerson's great sermon on justice, Diligite justitiam (named in Glorieux' edition, Discours contre Guillaume de Tignonville, VII, 598-615), was not delivered until April or May, 1408, when the University of Paris asked him, on his return from the French embassy to Popes Benedict XIII and Gregory XII,<sup>1</sup> to explain to the King and Parlement the position it had taken in the Tignonville affair. Guillaume de Tignonville was a prévot of Paris who had had two university students executed for murder; this was a breach of the University's right to discipline her own members, as well as of the Church's similar right over those in orders, and so the University, in protest, had suspended its lectures and sermons for six months. Gerson took this opportunity to speak not only of the matter immediately in question, but of justice in general, and the sermon thus continues and develops in large degree his thoughts on law and justice as he had expressed them six years before in De vita spirituali animae; it is therefore appropriate to deal with it immediately after the earlier work.

Gerson begins the sermon with the text: "Love justice, you that are the judges of the earth" (Wisdom I:1), whose author, Solomon, was, he says, what every king should be: both just and pacific, for "the fruit of justice is

---

<sup>1</sup>Supra, 8-9.

peace" (VII, 599); and later he adds, "peace is the reason for power" (VII, 603). He proceeds to analyse his text in three considerations, the first being a definition of justice in the words he used in De vita spirituali;<sup>1</sup> he stresses the importance of divine law as the model and rule for human law in the same manner as in the previous work (VII, 599-603). In the second consideration he inquires who "the judges of the earth" should be (VII, 603-614). He defines the State: "Police est une societe des hommes mortelz, ordonnee en bien commander et bien obeir pour vivre en paix et souffisance, ou quant a la temporalite ou quant a l'espirtualite" (VII, 605), and then lists Aristotle's three good and three bad constitutions. But he does not here insist that "man is by nature a political animal;" rather he rejects Aristotle's conception of the State as that form of earthly society for which man's original nature was designed in favour of the Augustinian explanation of the State as a remedy for sinfulness. Originally, man lived in a state of innocence where no political power was necessary:

Regardons que l'omme fust cree sous et en justice pour l'estat d'innocence: fecit Deus hominem rectum; etc. L'omme dans cest estat n'avoit besoing de loys ou de justice active coher-tive pour le tourner a bien. Si ne faloit point de domination civile ou politique, mais suffisoit domination selond justice originelle pour rendre a ung chascun ce qui estoit sien: a Dieu, a son corps, a son proisme, a toute creature. Pouvoit bien estre domination aucune excellence de pere

---

<sup>1</sup>Supra, 32.

au filz, de homme a femme, de plus saige au moins saige, et raison generalmente dominait sur toute chose non raisonnable. (VII, 605-606)

But sin led to a breakdown of this innocent society and to the tyranny of the body over the soul and conscience, so that laws became necessary for peace and order in society:

Puis viengnant que raison ne souffisant mie a gouverner soy et autres, mais seurvenoient de jour en jour persecutions des hommes, les uns contre les autres, fu bientot de necessite imposer peines et loys punitives contre les pervers injustes affin que les bons et simples puissent vivre en paix: rex pacificus.

Et ycy nous avons la racine et les causes des dominacions et signouries cohercitives. La cause efficiente occasionelle fu pechie; la cause finale gist en loys bien instituees, la cause materiele est creature raisonnable, mortele, glorifiable. (VII, 606)

Natural justice, as opposed to the original justice which obtained in Paradise, is founded on the principles of natural law which are expressed in the Ten Commandments. Similarly, evangelical justice is based on the law of the Gospel (VII, 607), while "political justice is the virtue which prompts to render to every man what is his according to the ordinances and the end of the polity, whether temporal or spiritual," and since natural and evangelical law are not alone sufficient to govern earthly society, they must be supplemented by human law (VII, 608). Now follows an interesting discussion of "the spiritual polity" and the origin of canon law which expands the similar passage in De concilio unius obedientiae.<sup>1</sup> When Christ founded her, says Gerson,

---

<sup>1</sup> VI, 54-55.

the Church had no "possessions or great revenues" and the apostles and disciples were content with alms while the faithful possessed everything in common--

Et dura ce gouvernement jusque au temps ou police ecclesiastique receu pour sa sustentacion et pour honorer et attirer par faveur les hommes a la loy et au service de Dieu selong la police evangelique. . . .

Vray est que plusieurs icy murmurent et arguent que l'esglise fit trop mal de recevoir telles possessions, et dient que du temps saint Sylvestre une voiz fu oyee: hodie venenum effusum est in ecclesia Dei. Et sont venus aucuns en tele fureur qu'ils ont dit que depuis saint Sylvestre jusques au jourdai tous les papes et aultres qui ont receu et tenu telles possessions estoient membres de l'antecrist. Et les autres dient encores: cur non etiam episcopi sunt ut primi cristiani . . . ? Mais cecy est erreur . . . Dieu a voulu plus ou moins des biens temporels estre appliques a son service exercer, pour acquerir felicite en la police espirituelle ou ecclesiastique. Or est advenu ce que on seult dire: qui a terre, il a guerre, car n'est riens se bien ordonne entre les hommes de quoy les mechans n'avysent soit pauvrete soit richesses. Si a convenu, selond la doctrine d'aristote, faire tant plusieurs ordinations que nous appelons loys, ou decres, ou canons, c'est a dire reugles, pour faire justice a un chascun et rebouter injustice. (VII, 608-609)

Gerson proceeds that it was too much for the theologians who had governed the Church until then, to be expert in canon law as well as in theology and moral philosophy, so that canon lawyers were now trained to be "judges of the earth" in ecclesiastical matters. As in De vita spirituali, he distinguishes four kinds of law, divine, natural, canon and civil, each characterized by its final cause, and says that two kinds of jurisdiction, spiritual and temporal, regulate the Christian polity. It is not true that these jurisdictions

cannot overlap, since temporal lords can grant some temporal jurisdiction to the clergy;<sup>1</sup> some months later, on 18th. December, 1409, in his Discours pour la paix de l'Eglise et l'union des Grecs (VII, 763-778) he was further to elucidate this point in a passage which may be incidentally noted here:

Ycy sont deux erreurs extremes; les ungs dient que gens d'Esglise, Pape ou autre, ne peuvent tenir quelconque temporalité ou juridiccion, sicut Padua et Wiclef. Les autres dient que les seigneurs terriens n'ont quelconque droit en temporalité et en main morte et sans amortisacion, et en ce pevent estre subjects aux princes et les princes a eulx selond diverses maniere de tenir temporalité. Et ne fault pas dire que tous roys ou princes tiegnent leur heritage ou terre du Pape et de l'Esglise par maniere que le Pape ait superiorité civile et juridiccion sur tous, comme aucuns emposent a Boniface le VIIIe. Neantmoins tous les hommes, princes et autres, ont subjeccion au Pape en tant que de leurs juridiccions ou temporalité et seigneurie ilz vauroient abuser contre la loy divine et naturele. (VII, 770)

Gerson does not say in Diligite or the later sermon, Pax hominibus, whether the clergy can reciprocate by granting any ecclesiastical jurisdiction to temporal lords, but the right of transference is possibly mutual, as on the occasions when a convicted heretic was handed over for punishment by the church courts to the secular power.<sup>2</sup>

---

<sup>1</sup>Schäfer misinterpreted this passage when he cited it to prove that: "Der selbständige Ausbau der positiven Gesetze führt zur völligen Trennung der beiden Sphären, und so konnte Gerson behaupten, dass sich die weltliche zur geistlichen Gerichtsbarkeit wie schwarz zu weiss verhalte. Christus selbst hat untersagt, dass die geistliche Gewalt Einfluss auf die weltliche haben sollte" (op. cit., 80). On the contrary, Gerson declares this is a "faussete" (VII, 610).

<sup>2</sup>Although he never cites John by name, Gerson may have derived this idea of the clergy's holding temporal power

Gerson now proceeds to what is probably his earliest written reflection on the Petit case. No private person, he says, is justified in killing anyone, even if the latter "has well deserved death by justice." Murder is contrary to the Fifth Commandment, and the murder even of one who merits death leads to "perturbation and confusion in the polity" (VII, 611). Even legitimate judges must be very careful in sentencing criminals to death that the latter are indeed guilty of crimes which deserve such a punishment; otherwise the execution is murder and even more culpable, because legitimized, than murder by a private person (VII, 611-612).

---

by permission or grant of the temporal rulers from John of Paris, who in his De potestate regia et papali had declared:

"Inter has ergo opiniones tam contrarias, quarum primam erroneam omnes putant, puto quod veritas medium ponit, quod scilicet praelatis ecclesie non repugnat habere dominium in temporalibus et iurisdictionem, contra primam opinionem erroneam. Nec tamen eis debetur per se ratione status sui et ratione qua sunt vicarii Christi et Apostolorum successores. Sed eis convenire potest habere talia ex concessione vel permissione principum si ab eis ex devotione aliquid huiusmodi collatum fuerit vel si habuerint aliunde."

[Jean de Paris et l'Ecclesiologie du XIIIe siècle, ed. Jean Leclercq (Paris: Vrin, 1942), 195.] This is in contrast to the writings of Wycliffe later in the century. Wycliffe had declared that in no circumstances could the clergy possess civil dominion:

". . . distinguendo dominium civile et ewangelicum atque secludendo ab eis civile dominium, ita dicit, Reges gentium dominantur eorum, et qui potestatem habent super eos benefici vocantur: vos autem non sic. . . . Sed quia oportet discipulos Christi, si voluerint ipsum sequi, excellentiorem modum dominandi addiscere, adicit negativam, que generaliter obligat et pro semper, dum dicit, Vos autem non sic."

[Tractatus de civili dominio, Vol. I, ed. R.L. Poole (London: Wyclif Society, 1885), xi, 75.]

Lastly,--and here Gerson is finally accusing de Tignonville of exceeding his powers in executing students who were also clerics--to kill a cleric is especially grave since a cleric is consecrated to God and to injure him is thereby sacrilege. Such clerics should be judged by the University, an ecclesiastical judge, and since they were not, the University has been forced to suspend its courses, to the spiritual detriment of its members and the dishonour of the King and Queen (VII, 613-614)..

The last consideration in this sermon concerns "the signs by which one learns if a judge loves justice," i.e., his love of God and religion, his love of his earthly ruler and the latter's domination without tyranny, and lastly his love of himself and his neighbours to such an extent that if he himself is guilty of a wrongdoing, he will wish justice to be done to him (VII, 614-615).

This long discourse on justice may seem today to be rather generalized, but that it succeeded in its immediate, practical aim is proved by the fact that Provost Tignonville had to make amends for his unjustified arrogation of jurisdiction, to cut down the students' bodies from the gallows where they had been hanging for seven months, to kiss them and to bring them reverently to the Church of the Mathurins where the University Rector received them and had them buried with honour.<sup>1</sup> For our purpose, however, the sermon is

---

<sup>1</sup>Schwab, op. cit., 435-436.

significant for rounding out the ideas of law expressed in De vita spirituali animae, and expressing Gerson's view of the origin of both civil law and, more recently, canon law. His idea of the transferability of ecclesiastical and civil jurisdiction could have practical consequences in day-to-day politics, as he was to explain in his sermon Pax hominibus in 1409 with reference to the history of Boniface VIII, and his comments on the inadmissibility of murder, even of a man obviously deserving death, foreshadow his later struggle to have the doctrine of tyrannicide condemned by the Church.

### 3. Epikēia

From an examination of Gerson's ideas of law and justice it is evident that he saw these as a theologian rather than as a lawyer, which was the natural result of his training since, as far as we know, he never attended any courses in law. His idea of the three kinds of law, their origin and purpose, and their end which is justice, were thus learnt first in the course of theological studies, or else picked up as the common intellectual currency of the day. It is interesting, therefore, that Gerson should lay such stress on the concept of epikēia in many of his writings, particularly those of 1409, since his only contemporary to do likewise was the lawyer, Francisco Zabarella, who examined the ideas of epikēia and aequitas in his commentaries on canon law.<sup>1</sup> Gerson must have met Zabarella at the Council of Constance but he never mentions him in his writings and it is unlikely that he had read any of his works; indeed, there is no evidence that he ever read any canon law.

The term epikēia or ἐπιείκεια originated with Aristotle (whom Gerson certainly did read: he cites him 312 times), who defined it in the Nicomachean Ethics:

---

<sup>1</sup>Pier Giovanni Caron, 'Aequitas' Romana, 'miseriordia' patristica, ed 'Epicheia' aristotelica nella dottrina dell' 'Aequitas' canonica (Milan: A.Giuffrè, 1971), 89-95.

. . . the equitable is just, but not the legally just but a correction of legal justice. The reason is that all law is universal but about some things it is not possible to make a universal statement which shall be correct. In those cases, then, in which it is necessary to speak universally, but not possible to do so correctly, the law takes the usual case, though it is not ignorant of the possibility of error. . . . When the law speaks universally, then, and a case arises on it which is not covered by the universal statement, then it is right, where the legislator fails us and has erred by oversimplicity, to correct the omission--to say what the legislator himself would have said had he been present, and would have put into his law if he had known. Hence the equitable is just, and better than one kind of justice--not better than absolute justice but better than the error that arises from the absoluteness of the statement. And this is the nature of the equitable, a correction of law where it is defective owing to its universality.<sup>1</sup>

But in another work Aristotle declares that epikeia (or equity, as it is translated here) is not just the amendment of deficient legislation but a benignant attitude in the amender:

Actions which should be leniently treated are cases for equity; errors, wrong acts, and misfortunes, must not be thought deserving of the same penalty. . . . it is equitable to pardon human weaknesses, and to look, not to the law but to the legislator; not to the letter of the law but to the intention of the legislator; not to the action itself, but to the moral purpose; not to the part, but to the whole; not to what a man is now, but to what he has been, always or generally; to remember good rather than ill treatment, and benefits received rather than those conferred; to bear injury with patience; to be willing to appeal to the judgement of reason rather than to violence; to prefer arbitration to the law court, for the arbitrator keeps equity in view, whereas the dicast looks only to the law, and the reason why arbitrators were appointed was that equity might prevail. Let this manner of defining equity suffice.<sup>2</sup>

---

<sup>1</sup>Nicomachean Ethics, V, 10.

<sup>2</sup>Rhetoric, I, 13.

This is closer to the later Roman concept of aequitas or ideal justice, which could be attributed absolutely only to a god but could be equated in Man with wisdom and benignity in interpreting the laws. In its Christianized form this emphasis on wisdom in interpretation was made by Gratian, whose Decretum Gerson may not actually have read but certainly knew enough about to cite twelve times in his works. Gratian equates aequitas with both misericordia and dispensatio in judging legal cases. Misericordia, he says, is necessary where the rigour of the law should be moderated in the interests of justice, and dispensatio in cases unforeseen by the legislator. In all the later canonical writers these three elements of aequitas or perfect justice, misericordia or benignitas, and dispensatio, are present,<sup>1</sup> but as Gerson never cites them in connection with his idea of epikeia, and as, indeed, he probably never read any canonist's writings, it appears that he derived his idea of epikeia directly from the inventor of the term, Aristotle, and from the latter's thirteenth-century interpreter, Thomas Aquinas, both of whom he certainly did read.

In his approach to epikeia St. Thomas combined the canonists' idea of aequitas with references to the original Aristotelian epikeia, both as dispensatio and as wisdom and

---

<sup>1</sup>Caron, op. cit., 23-53.

benignity in interpreting the law. Thomas also introduced into his discussion of epikeia the idea of both the common good and "the law of necessity" which Gerson was to adopt and expand:

Legislators in framing laws attend to what commonly happens: although if the law be applied to certain cases it will frustrate the equality of justice and be injurious to the common good, which the law has in view. . . . In these and like cases it is bad to follow the law, and it is good to set aside the letter of the law and to follow the dictates of justice and the common good. <sup>1</sup>This is the object of epikeia which we call equity.

But only those in authority may decide on the use of equity:

Nevertheless, it must be noted, that if the observance of the law according to the letter does not involve any sudden risk needing instant remedy, it is not **competent** for everyone to expound what is useful and what is not useful to the state: those alone can do this who are in authority, and who, on account of suchlike cases, have the power to dispense from the laws. If, however, the peril be so sudden as not to allow of the delay involved by referring the matter to authority, the mere necessity brings with it a dispensation, since necessity knows no law. <sup>2</sup>

After St. Thomas, Aristotle's definition of epikeia was quoted by Marsiglio of Padua to illustrate one of the necessary virtues of a ruler<sup>3</sup> and the guiding principle in the handling of another's property,<sup>4</sup> but although Gerson knew something of Marsiglio, he seems unlikely to have read or been influenced by him: he cites him only four times in his

---

<sup>1</sup>Summa theologica, IIa IIae, qu. CXX, art. 1.

<sup>2</sup>Ibid., Ia IIae, qu. XCVI, art. 6.

<sup>3</sup>The Defender of Peace, I, 14, 6.

<sup>4</sup>Ibid., II, 12, 6.

writings and then only to point out his errors. On the other hand, Marsiglio's contemporary, William of Ockham, discussed the abrogation of laws several times and may have influenced Gerson on this as he did on several other, philosophical questions: Gerson quotes him respectfully at least ~~twelve~~ times and seems to have read his Dialogue. Ockham frequently stressed the paramount importance of the common good, which, indeed, had by the fourteenth century become a cliché; in his quarrel with John XXII he asserted that the welfare of the whole Church must be protected even, if necessary, against the Pope. Here he was merely echoing the opinion of many twelfth- and thirteenth-century canonists,<sup>1</sup> and, even before them, of Aquinas, the Fathers like Isidore of Seville and Augustine with his idea of justitia, the Roman Law with its concept of aequitas, and ultimately, of course, Aristotle with his of epikeia,<sup>2</sup> but after Aristotle and Aquinas Ockham is probably the writer who influenced Gerson most in his thinking on the subject. Ockham considered that there were three ways or conditions in which the normal application of the law could and should be abrogated: first, where the literal application of

---

<sup>1</sup>Cf. Brian Tierney, "Ockham, the Conciliar Theory, and the Canonists," Journal of the History of Ideas, XV (1954), 40-70.

<sup>2</sup>Charles C. Bayley, "Pivotal Concepts in the Political Philosophy of William of Ockham," Ibid., X (1949), 199-218.

the law would be contrary to the spirit of that very same law; second, where it would jeopardize the general welfare of society; and third, in an emergency, because "necessitas non habet legem."<sup>1</sup> He summed this up by saying: "Leges enim humanae, et potissime ecclesiasticae . . . sic institui debent et intelligi, quod illis quos tangunt prosint et nemini praesertim afferant nocumentum."<sup>2</sup> Gerson echoes this idea in his repeated assertion that the laws are made in aedificationem, non in destructionem. Ockham also used epikeia as a principle to follow in deciding the legitimacy of appeals to, or judgments on, an heretical pope,<sup>3</sup> just as Gerson was to do in his treatises of 1409.

After Ockham, his compatriot and disciple, John Wycliffe, considered the laws of England superior to those of the Empire because they were fewer in number "quia supra pauca principia relinquunt residuum epikerie sapientum,"<sup>4</sup> but this cannot have influenced Gerson, who cites Wycliffe no less than twenty times, but only to condemn him. Wycliffe does, however, demonstrate a trend in mid-fourteenth-century thought about justice, in the North of Europe, especially at the University

---

<sup>1</sup>Ibid., 199-203.

<sup>2</sup>Consultatio de causa matrimoniali, quoted ibid., 200.

<sup>3</sup>Octo quaestiones, I, 17.

<sup>4</sup>De officio regis, 56 (my italics).

of Paris. The flexibility and equitability of the law was being examined by students, not of law but of philosophy, who were interested in political questions. Previously, especially in Italy, it had been the lawyers who had studied law and thence deduced their idea of justice. But now, in Paris, publicists who were also philosophers were commencing with the idea of justice, so their concept of that virtue, e.g. John of Paris' or Marsiglio's, was much wider than the lawyers' and radically influenced by the study of Aristotle's Ethics and Politics. The law to them seemed flexible, not rigid, for:

The whole tenor of Aristotle's Politics in fact is the relativity of constitutions, which in the final analysis means relativity of justice. Differently expressed: what is just or unjust is the result of human natural reasoning taking into account the given reality of a social condition.

Thus the new idea of law was not unbending like the old which still obtained in the Italian universities, but "mouldable and adjustable," so that at the end of the fourteenth century the new writers on politics are invoking "not justice, deducible from the law, but the Aristotelian concept of *epieikeia*."<sup>2</sup>

It was Conrad of Gelnhausen who led the way in using this 7auberwort<sup>3</sup> as the solution to the problem of the convocation of a general council. In 1380 in his Epistole Concordiae he stated that in some cases the general need

---

<sup>1</sup> Walter Ullmann, Principles of Government and Politics in the Middle Ages (London: Methuen, 1961), 290-294.

<sup>2</sup> Ibid...

<sup>3</sup> V. Bernhard Bess, Johannes Gerson und die kirchenpolitischen Parteien Frankreichs vor dem Kongil zu Pisa (Marburg: Ehrhardt, 1890), 6.

justifies the calling of a general council even without the Pope's authority: ". . . quis ambigit quod in tali ac tanta necessitate . . . nulla lex humana edita super congregatione concilii generalis non nisi auctoritate papae fienda possit obsistere quominus languor curetur in capite ne morbus inficiat totum corpus?"<sup>1</sup> If, for example, there occurred a vacancy in the Holy See and there happened to be no cardinals because they had all died, then naturally a general council would have to choose a new pope, as the canonists Johannes Andreae<sup>2</sup> and Hostiensis had declared; therefore: "Non est de formali ratione concilii generalis, ut per papam convocetur." Legislators cannot provide for every individual case, so:

The true interpretation of every law must proceed upon the Aristotelian basis of epieikeia, i.e., of equity, which is the only adequate criterion for a satisfactory explanation of positive law. Equity is that element which is best fitted to discover the mens legislatoris.<sup>2</sup>

Gerson shows his acquaintance with these views in the Propositio facta coram Anglicis, where he refers not only to "the Lord Provost of Worms" but also to his contemporary at Paris, "Master Henry of Hesse, of famous memory" (VI, 130).

---

<sup>1</sup>In Edmond Martène and Ursin Durand, eds., Thesaurus novus anecdotorum (Vol. II; Paris: Delaulne, 1717), 1216.

<sup>2</sup>Walter Ullmann, The Origins of the Great Schism (London: Burns Oates, 1948), 180-181. Ullmann points out that "whether or not Conrad borrowed the concept from Marsiglio, Conrad was at any rate the first to apply it to the solution of this legal problem."

In his Concilium pacis of 1381 the latter had dealt with equity in a manner similar to Conrad's:

Quis . . . nescit, quod fuit impossibile regulariter Leges et Jura positiva institui, quae in nullo casu deficerent, vel exceptionem paterentur, ut patet I. Rhetic. Aristotelis. . . .

. . . . .  
Et ergo quaedam virtus, quam Aristoteles 5. Ethic. vocat  $\eta\pi\tau\epsilon\acute{\iota}\kappa\epsilon\lambda\omega\nu$  quae est directiva justitiae legalis. Et ea melior et nobilior, quia per eam, modo excellentiori et perfectiori, obeditur menti et intentioni Legislatoris.

Patet igitur, quod, quia Legum latores Leges ponendo frequenter attendunt ad ea quae, ut in pluribus, accidunt, et raro de raro contingentibus provident: ideo accidit, quod quidam Juris imperiti, et indocti in Theologia, et in morali Philosophia, volentes Leges communes, et positivas Sanctiones, in omnibus casibus observari, juxta verborum corticem, seu superficiem, faciunt saepe contra justitiam et bonum publicum, et contra intentionem Legislatorum: transgredientes dictamen recte rationis, propter quasdam verbales traditiones hominum, quarum intentionem non attendunt, Legum justas interpretationes audire contemnentes. Cum tamen licitum sit Theologis, qui sunt  $\eta\pi\tau\epsilon\acute{\iota}\kappa\epsilon\lambda\omega\iota$ , divinae Legis, mentem Christi interpretari et declarare: . . . (du Pin, II, 831-132)

Langenstein had also discussed the deposition of popes:

If the cardinals should have chosen a pope, who does not suit the Church, she has the right to revise the work of her agents and even to deprive them of her commission,

and,

the criterion by which all acts of Church and State are to be judged is whether they do, or do not, promote the general good. A prince who, instead of promoting the State, would ruin and betray it, is to be resisted as an enemy; the same course should be pursued in the Church.<sup>1</sup>

---

<sup>1</sup>Quoted in Ullmann, Origins, 181-182.

Dietrich of Niem in his De modis uniendi ac reformandi Ecclesiam of 1410 was to be more radical for he said that if the Church was in danger she should be dispensed altogether from the moral law:

The end of unity (scil. of Christendom) sanctifies all means: craft, deception, violence, bribery, imprisonment and death. For all law is for the sake of the whole body, and the individual must give way to the general good.<sup>1</sup>

It was Gerson who drew all these strands together in his efforts to justify the Council of Pisa, and alone of all the conciliar writers (for such he may finally be called in 1409) he is the link between Conrad of Gelnhausen and Henry of Langenstein's earlier use of epieikeia to solve the canonical difficulties in the solution of the Great Schism and the later writers of 1413 onwards, for:

The 'Epieikeia' of Aristotle was only used by Langenstein in reference to the convocation of the Council. . . . Its full realization was experienced later through the canonists of the Council of Constance. In their hands it became a magic wand which had the power of filling up all constitutional defects, of turning all existing powers out of authority, of putting new ones in their place, indeed in its full consequences of producing a metamorphosis of the whole system.<sup>2</sup>

Gerson's first reference to the idea of epieikeia was  
in his Epiphany sermon, Adorabunt eum, of 1391, where he was

---

<sup>1</sup>Quoted in Ullmann, Origins, 182; the precise location of this passage is not given.

<sup>2</sup>H. Hübler, Die Konstanzer Reformation und die Konkordate von 1418 (Leipzig, 1867), 365. Trans. by G.J. Jordan in The Inner History of the Great Schism of the West (London: Williams and Norgate, 1930), 61.

urging King Charles of France to try other means of ending the Schism than the via facti, a means "sans bataille douteuze et sans crueuse effusion de sanc" (VII, 533). All good Christians, he says, must seek such a means:

Et est tres certain que il n'est constitution humaine, loys ou decretale, qui doye ou puisse empescher ou obvier a faire union. Trop dure cose seroit que ce qui a este institue pour le bien de sainte eglise, tournast en son prejudice si grandement: quod pro caritate institutum est, contra caritatem militare non debet.  
(VII, 533)

Here Gerson is proclaiming that positive law must serve the interests of the institution that decrees it, here the Church. In effect, he is implying that laws that do not serve their makers must not be observed but must be modified or abrogated, --a clear application of Aristotle's principle of epikeia as the application of laws in accordance with the implicit aims of their legislators.

The same approach to the law is again evident in the Trilogus in materia schismatis of 1402-1403 where the abrogation of positive law in the interests of the society which made it is widened to permit resistance by subjects to an unjust ruler--in this case the Pope:

Neque praeterea latet vos potestatem papalem datam esse in aedificationem Ecclesiae, non in destructionem. Quo abusu in destructionem Ecclesiae notorio existente, nonne exemplo Pauli resistere in facie gerenti se pro papa liceret? Nonne sibi dici posset: cur ita facis? Anastasius summus olim pontifex et aliorum nonnulli super hoc sunt in exemplum. Et, o Deus, arbiter aequissime, quo pacto mirantur istud quidam hominum quasi non intelligibilis sit haec

absurditas cum in rebus longe minoribus id licere fieri magno assensu concederent. Si enim palatium suum, si civitatem suam papa facibus accensis pro sua libidine quaereret concremare; si paganos armatos, si agrorum depopulatores moliretur apud christianos intromittere, etiam ubi nihil fidei praedicaretur adversum, si virgines ingenuas aut matronas honorabiles violare satageret, quis tam indulgentissimus unquam aut blandus in papam fuit adulator qui negaret his ausibus obviandum esse, qui papam ipsum si verba non sufficerent diceret non debere factis arceri? Jure naturali conceditur vim vi repellere; ideoque conceditur personae singulari fas esse papam aut regem vel ligare vel carceri mancipare, eis injuste persequentibus hanc personam, si sibi aliunde non pateret propriae mortis aut impudicae violationis effugium. Si hoc in damnis corporalibus tam liquidum est, quid de spiritualibus incommodis, longe gravioribus, relinquatur aestimandum? (VI, 81)

And later he says such resistance is actually commanded by the divine law:

Est autem divina lex jubens recedere a tabernaculis impiorum; jubens fratrem postquam audire noluerit Ecclesiam habendum esse sicut ethnicum et publicanum; jubens praeterea oculum aut membrum aliquod eruendum esse ne totum corpus sua contagione depravet; quae divina jussio qualiter ad rem quae tractatur adaptari debeat insinuat est. (VI, 82)

Gerson still does not use the term epikeia, but he is recommending that the laws be made to serve the intentions of their makers, and that an unjust ruler, or tyrant, be removed, just as Aristotle was in the Nicomachean Ethics and the Politics.

Gerson's first specific use of the word epikeia occurs in his De vita spirituali animae of 1402, where he recommends its use in both the Aristotelian and the canonical senses.<sup>1</sup>

---

<sup>1</sup>So Zophia Rueger in her article "Le 'De Auctoritate Concilii' de Gerson," Revue d'histoire ecclésiastique, LIII (1958), 780, was mistaken in attributing Gerson's first use of the word to 1404.

In Lecture IV he states that it is always permissible to change the law to make it accord better with custom, "quod consuetudo est optima legum interpretres" (III, 168), as long as it remains consonant with divine and natural law. He refers to St. Bernard's De praecepto et dispensatione (III, 159, 182, 187, 194),<sup>1</sup> to Isidore of Seville's Etymologies (III, 168),<sup>2</sup> and to St. Thomas' Summa: "Utrum lex humana debeat mutari aliquomodo" (III, 169-170).<sup>3</sup> Then, in Lecture V, in a discussion of the varying gravity of sins, he specifically refers to "that virtue which Aristotle calls epikeia," but proceeds to describe it in the canonistic fashion as the tempering of justice with mercy:

Exhinc elicitor evidens necessitas virtutis illius quam Aristoteles epikeiam, hoc est interpretativam legum appellat; cujus est considerare non nudum de se praeceptum sed circumstantias omnes particulariter ipsum vestientes.

Ex hoc consequenter habetur motus concordandi rigorem justitiae atque severitatem disciplinae cum lenitate misericordiae et favorabilis indulgentiae. Immo sic necesse est ut in omni actu nostro ad alterum cantemus Deo misericordiam et iudicium; alioquin justitia in iniquitatem et severitas in crudelitatem converteretur . . . . (III, 189-190)

Later, Gerson equates the doer of epikeia with the wise interpreter of oaths as well as laws: "Juramentum ergo et votum nunquam ita proferuntur absolute quin interpretationes, con-

---

<sup>1</sup>Patrologia latina, CLXXXII, cols. 859-894.

<sup>2</sup>Ibid., LXXXI, col. 203.

<sup>3</sup>Summa theologica, Ia IIae, qu. XCVII.

ditiones, glossas et civiles intelligentias suscipiant, ut sapiens epikies judicabit" (III, 194). So already when he begins to use the word in 1402, he views epikeia as both the Aristotelian virtue of wisdom in interpreting the laws, which necessarily comprises the ability to modify or abrogate them sagely, and the Romano-canonistic ideal of justice-with-mercy. He thus already represents all the strands in the late-medieval interpretation of the word.

The same broad understanding of epikeia as an ethical concept which allows for a less strict reading of laws when rigour must be tempered by compassion, is found in the doctrinal work, Regulae morales or Regulae mandatorum, which Gerson composed sometime between 1400 and 1415. Here Gerson quotes the canonist Hostiensis, who had defined aequitas as justitia dulcore misericordiae temperata,<sup>1</sup> though Gerson does not acknowledge the quotation. (He may have read it in an anthology without learning its provenance, since he only names Hostiensis twice in all his writings and seems to have been ignorant of the latter's works at first hand.)

Aequitas quam nominat Philosophus epikeiam, praeponderat juris rigori. Est autem aequitas justitia pensatis omnibus circumstantiis particularibus, dulcore misericordiae temperata. (IX, 95-96)

After clearly defining epikeia in these two ways, the Aristotelian and the canonistic, Gerson evidently meditated

---

<sup>1</sup>Caron, op. cit., 76.

on the possibility of using it in one or both of its senses as a justification for changing any positive laws that stood in the way of ending the Schism. He settled for the present on the Aristotelian meaning, as he showed in his New Year sermon of 1404 to Benedict XIII where he stated that any alterations in canon law would best be regulated by the principles of equity, that is, by attention to the aims of the original legislators which were the same as those of the whole ecclesiastical polity, the peace that brings salvation:<sup>1</sup>

Cum igitur secundum exigentiam finis cetera debeant moderari et finis est qui imponit necessitatem rebus, necessitas vero legem non habet, perspicuum est quod nulla lex habeat aliquid firmitatis si paci faciendae vel conservandae invenitur contraria; sed debet interpretari ut serviat paci vel penitus aboleri . . . .

Ex quibus elicitur conclusio saluberrima quod nulla via proficiens ad sedationem schismatis repudianda est quantumcumque jura vel leges humanae videantur opponi, ut de electione Summi Pontificis sic et sic celebranda et similes, dummodo jus divinum maneat inviolatum; quod scire spectat ad illam scientiam per quam legum conditores justa decernunt, legem aeternam imitantes. Haec est lex evangelica quae si contemnatur ab aliquibus, illi sunt inepti pacis ecclesiasticae tractatores quemadmodum sunt inutiles homines, ita adhaerentes nudis textibus ut epikeiam, hoc est aequitatem ignorant, quales Aristoteles nominavit immansivos in opinionibus propriis. (V, 84-85)

Thus epikeia is now interpreted by Gerson in one sense as "the law of necessity", an extension of Aristotle's dictum that laws must be interpreted according to their makers'

---

<sup>1</sup>He may also have been prompted to recommend to Benedict XIII the use of epikeia by his recent reading of the letter Altitudinem tuam from his friend Jean de Montreuil; cf. A. Combes, Jean de Montreuil et le chancelier Gerson (Paris: Vrin, 1942), 554-558.

intentions, i.e. in the interests of the society they serve. It is an interesting foreshadowing of Raison d'état, though the "State" here is the mediaeval Super-State, the Church.

In 1408 Gerson again referred to epikeia in his speech to the graduates in Canon Law, Pax vobis, as "consors zeli Dei sui que directrix . . . quam nominamus scientiam seu discretionem" (V, 441). After that, as he turned his attention to the projected Council of Pisa, epikeia became one of the constant themes in his writing. Between 15th. November, 1408, and 25th. March, 1409, he wrote his De auctoritate concilii universalem Ecclesiam repraesentantis (VI, 114-123); in January he wrote a memorandum Pro convocatione Concilii Pisani (VI, 123-125); on 29th. January, he delivered the Propositio facta coram Anglicis (VI, 125-135); on the same day he began a Tractatus de unitate Ecclesiae (VI, 136-145); and, finally, between 15th. June and 8th. July he gave a lecture, the twelfth in his regular university series on St. Mark's Gospel, which he was to work on again and publish on 20th. April, 1415, as De auferibilitate sponsi (alternatively, Papae) ab Ecclesia (III, 294-313); it will be examined later with the other works dating from the Council of Constance.<sup>1</sup> All Gerson's works of 1409 are aimed to justify the two main steps of the Council of Pisa, its summoning and its replacement of

---

<sup>1</sup>Infra, 156-167.

the two previous popes by a single new one, and so all deal with the question of the canon law on these matters and the only way to circumvent it, the way of equity or epikeia.

In the first of these treatises, De auctoritate concilii, Gerson uses a verb which is new for him. At one point he is concerned to prove that in the absence of a certain pope the general council, here that of Pisa, has the normal papal authority to interpret Scripture and law as a "solers, justus et acutus epykes cujus dicto standum erit" (VI, 118). He goes on:

Non tantum suspensio obedientiae respectu summi pontificis est facienda, consulente Ecclesia universali legitime congregata, sed etiam ea epikieante divinas leges et humanas, verus ipso desinente esse Christi vicarius. (VI, 118)

Here the verb epikeiare seems to be used in both the Aristotelian sense of interpreting the law according to the legislators' intentions and the Foman one of aiming at ideal justice regardless of human regulations.

At about the same time as De auctoritate concilii Gerson wrote a rough draft of a lost work, now called Pro convocatione Concilii Pisani or, more succinctly, the Canevas. Here he defines the four types of law as he had done in De vita spirituali animae, then lists twelve objections to the Council, mostly drawn from Canon Law, concluding with ten counter-arguments, two of which deserve quotation here:

the two previous popes by a single new one, and so all deal with the question of the canon law on these matters and the only way to circumvent it, the way of equity or epikeia.

In the first of these treatises, De auctoritate concilii, Gerson uses a verb which is new for him. At one point he is concerned to prove that in the absence of a certain pope the general council, here that of Pisa, has the normal papal authority to interpret Scripture and law as a "solers, justus et acutus epyekes cujus dicto standum erit" (VI, 118). He goes on:

Non tantum suspensio obedientiae respectu summi pontificis est facienda, consulente Ecclesia universali legitime congregata, sed etiam ea epikeiante divinas leges et humanas, verus ipso desinente esse Christi vicarius. (VI, 118)

Here the verb epikeiare seems to be used in both the Aristotelian sense of interpreting the law according to the legislators' intentions and the Roman one of aiming at ideal justice regardless of human regulations.

At about the same time as De auctoritate concilii Gerson wrote a rough draft of a lost work, now called Pro convocatione Concilii Pisani or, more succinctly, the Canevas. Here he defines the four types of law as he had done in De vita spirituali animae, then lists twelve objections to the Council, mostly drawn from Canon Law, concluding with ten counter-arguments, two of which deserve quotation here:

2. recurrendum ad epikeiam et finem legis  
qui est pax; alioquin esset brutalitas et lethalis  
error.

3. supponendum quod Ecclesia potest sibi legem  
condere et interpretari, quia propter eam data sunt.  
(VI, 125)

Gerson seems here to be equally influenced by Aristotelian epikeia as seeking finem legis even if this means altering existing law, and Roman aequitas or the search for ideal justice which may be equated here with "the end of the law which is peace."

Gerson's most important discussion of epikeia appeared in the same month as his Canevas, in his Tractatus de unitate Ecclesiae, which is essentially an examination of both the Mystical Body and epikeia, the one depending on the other. Here Gerson refuted the arguments of those Frenchmen who opposed the Council of Pisa and demanded renewed obedience to Benedict XIII. Ideally, he says, the Church always subsists under her eternal Head, Christ. But when Christ's vicar is dead, corporally or civilly, or when Christians refuse to obey him, then the Church can unite in a general council to elect a new vicar; both divine and natural law permit this, and no positive law forbids it. The cardinals may convene the council, or, in their absence, a prince or any Christian. The general council which represents the Church may convene despite the pope, whom it may accuse of heresy and schism and whom it may force to abdicate, or depose if he refuses, for above the

ecclesiastical laws there is a higher law which may be discern-  
ed by epikeia--

quae interpretatur litteram jurium positivorum secundum intentionem legislatorum radicatum in regulis aeternis ac immutabilibus divinae legis; per quam legum conditores justa decernunt atque secundum dictamen legis naturalis. (VI, 143)

In case of necessity, positive laws must be waived by the general council,

in quo residebit sufficiens auctoritas judicialis utendi epikeia, id est interpretandi omnia jura positiva, et ad finem celeriore et salubriore habendae unionis eadem adaptandi, aut si opus fuerit relinquendi. (VI, 138)

Moreover, epikeia is governed by the principles of divine, as opposed to human, law, so it should be used chiefly by theologians and only secondarily by professional lawyers who are skilled merely in positive law.<sup>1</sup> These judges will have to obey their own common-sense and wisdom rather than any clear guidelines:

Unitas Ecclesiae ad unum certum Christi vicarium dum procuratur per epikeiam seu bonam aequitatem, non exigit in sic epikeientibus seu legum positivarum interpretibus quod habeant evidentiam mathematicam seu demonstrativam; sed satis est si certitudinem moralem seu civilem et politicam attulerint. . . . prudentibus ipsis credendum est, etiamsi nesciverint rationes evidentes et incalumniabiles adducere; alioquin periret confestim omnis politia. (VI, 144-145)

---

<sup>1</sup>Morrrell comments on this passage: "Gerson seems to look on the General Council very much as English common law looks on a court of 'equity,' with the exception that for him the judges or experts in such a court would not be lawyers but theologians" (op. cit., 83).

Gerson then applies this recommendation to "the wise men about to come" to Pisa; their use of equity should be accepted, though at the same time they must be careful to use it only in moderation, "alioquin tolleretur protinus a legibus sua stabilitas, quibus nutantibus totam reipublicae disciplinam innitentem eis collabi et ex consequenti rem ipsam publicam corruere vel conturbari necesse est" (VI, 145). Here, although he "is never tired of dwelling on the virtues of epikeia,"<sup>1</sup> Gerson shows an admirable awareness of the dangers of its overuse, though it is obviously impossible for him to lay down a hard-and-fast distinction between its necessary and profitable use and its dangerous overuse. Aristotle, with whom Gerson was so well acquainted, had used a simile to make the same point; he said equity was like the Lydian measure which was made of lead and therefore could be adjusted to follow a line which was not straight, but he pointed out that such a measuring rod is useless if it is too soft, and likewise epikeia is worthless if it is employed unreasonably or excessively.<sup>2</sup> Gerson may well have had this passage in mind as he concluded his De unitate Ecclesiae.

Gerson's next references to epikeia occur in his tract De auferibilitate sponsi ab Ecclesia, written in 1409 but later revised and published at Constance in 1415. The burden of this

---

<sup>1</sup>Jacob, op. cit., 9.

<sup>2</sup>Rhetoric, I, 13.

treatise is that Christ is the Bridegroom of the Church and therefore inseparable from her. The pope is only Christ's vicar, not the Bridegroom, and therefore removable in case of necessity, which the principles of equity must decide. The removal, or deposition, should be accomplished by a general council, even if it has not been summoned by a pope, though, regularly, it should be convened by one:

Sed regulae generales bene suscipiunt exceptiones sicut in grammaticalibus ita et in moralibus, praesertim ubi casus particulares incidunt modis variabiles infinitis; ad quas exceptiones ordinata est lex superior interpretis aliarum quam Aristoteles vocat epykeiam; Vo Ethicorum; est et alia divinior quam gnome appellat in VIo Ethicorum. Haec autem lex semper habet locum in interpretatione legum aliarum particularium, ubi deficere cernitur ratio et finis institutionis ipsarum. Finis autem legum omnium, nedum humanarum sed divinarum, est dilectio quae unitatem operatur. Sit igitur casus ubi legis alicujus observatio dissiparet unitatem et adversaretur publicae salutis; quis ratione utens diceret tunc eam tenere oportere? (III, 301)

Thus the requirements of the common good are here again equated with epikeia.

Discussion of De auferibilitate sponsi takes us on to Gerson's ecclesiological treatises written at Constance from 1415 to 1418, all of which mention epikeia but in a less forceful manner than the Pisan writings, where it had been stressed as the principle which justified an otherwise illegal council. It was less necessary to refer to epikeia during the Council of Constance because the new Council was formally legalized by both John XXIII and Gregory XII, and Gerson was now hoping that

regular councils would assist the Pope in governing the Church and framing new legislation or modifying the old, so that epikeia would no longer be needed either to justify an unconstitutionally convoked council or to interpret deficient legislation. Consequently, in the Constance treatises epikeia is only mentioned in the sense of wisdom in applying the law, -- almost a synonym for justice itself. Thus on 21st. July, 1415, in his speech to King Sigismund, Prosperum iter, Gerson referred to the General Council as the perfect mixture of Aristotle's three types of government, monarchic-al, aristocratic and timocratic, especially blessed by Christ and the Holy Ghost, and excellently fitted to rule the Church "tamquam supremus et sufficiens legislator universalis et potens epiekes" (V, 479). Here epiekes seems to mean "overseer or interpreter of the laws," comparable as a spiritual gift with "interpreter of the Scriptures" or "interpreter of the Faith," as is evident from Gerson's next mention of the word, in his tract De protestatione circa materiam fidei of 29th. October, 1415, where he says:

. . . consurgit . . . generalis obligatio ad credulitatem aliquorum explicitam, non ex solo gradu hierarchico sed ex aliis donis gratuitis ut sunt vivacitas ingenii naturalis, ut iudicium solers, ut vis gnomica vel epiekes, ut particularis eruditio, ut vehemens applicatio ad Scripturas sacras, canonicas vel civiles. (VI, 159)

This increasing emphasis on epikeia as the virtue of justice-with-wisdom is again evident in Gerson's greatest

ecclesiological work, De potestate ecclesiastica of 1417. In the middle of this treatise Gerson blesses God for liberating the Church, through the Council, from the pernicious doctrine that only a pope can convoke a general council and that he can never be judged by one. Papal power, Gerson says, can in cases of "pressing necessity or evident utility" be moderated by the Council, and he repeats Aristotle's words about general laws which must be altered to serve individual cases according to the legislator's intentions:

Haec autem exceptio multipliciter nominatur; quandoque epikeia, sicut ab Aristotele; quandoque juris interpretatio, sicut a legistis; quandoque dispensatio, sicut a canonistis; quandoque bona fides, sicut a politicis dicentibus bonam fidem esse ubi non simulatur unum et aliud agitur; quandoque dicitur aequitas, sicut ait propheta Domino: mandata tua aequitas, hoc est secunda aequitatem implenda. (VI, 230)

Here Gerson's various understandings of the word epikeia are neatly summarized and we can see that to him the term means not only benevolent legal interpretation and dispensation as in the Greek sense, and the ideal of justice as in the Roman sense (this is clear in the English translation of the psalm quoted: "all thy commandments are justice"<sup>1</sup>), but also the virtue of "good faith"--a unique extension of the word. It is only the canonists' justitia dulcore misericordiae temperata which goes unmentioned here but, as we have seen,<sup>2</sup>

---

<sup>1</sup>Psalm 118:172

<sup>2</sup>Supra, 62 .

Gerson had already taken that into account in his Fegulae morales.

It should also be noted that Gerson makes the practical point that a man who contravenes a law on the grounds of epikeia will be blameless before God but may have to answer for it before a human court, "et si docere potest legitimis testimoniis apud judicem humanum absolutus erit, aliter non, quoniam apud illum idem est de hiis quae non sunt et quae non apparent" (VI, 230). Gerson evidently does not want the ordinary citizen to change the laws at will to suit himself; he will have to have a good argument with which to convince a judge that he was bound in equity to alter or disregard a law.

After 1417, Gerson only mentioned epikeia once more in his writings, in his letter of 1422 on religion to the Carthusian Guillaume Minaudi. Here he described the qualities of the true religious, among them epikeia:

Religionis securitas et soliditas fundamentalis post divinam gratiam consistit in discretione et caritate praesidentium, quocumque nomine censeantur. Praesidentes itaque sunt tamquam lex viva moderatrix legum mortuarum, id est constitutionum. Sunt dispensatores ministeriorum Dei, fideles ad Deum et prudentes ad proximum. Sunt, prout Aristoteles loquitur, veri epiekes hoc est interpretatores legum generalium secundum applicationes ad casus singulares. Quam virtutem videtur psalmista vocasse aequitatem ubi dicit, loquendo Deo: omnia mandata tua aequitas; et ita legistarum, immo vulgaris usus habet dicere aliquid fieri de bona aequitate. (II, 238)

At the end of his life, therefore, Gerson seems to

see epikeia as both the lawyer's faculty of interpreting the spirit of positive law when observance of its letter would lead to injustice, and the theologian's or priest's ability to interpret doctrine and God's law. In all cases the ideal of "justice tempered with mercy" should be sought. He had much earlier made it clear that he associated the idea of the alteration of the law in the interests of justice with that of "the law of necessity" which, in the case of the State, was later to be called raison d'état. Here the law might be changed if the general welfare demanded it, since otherwise it was assumed that society would suffer an injustice. He had made this point as early as 1391 in his sermon Adorabunt eum where the society in question was the Church. All through his writings, moreover, he balanced the words in the Ethics about the intention behind a law with the broad recommendation of wisdom and benevolence in legal matters found in the Rhetoric (as well as in the mediaeval canonists whom he had not read but whose definitions he knew of). Thus in his discussions of epikeia, Gerson is not only a perfect example of the late-mediaeval union of the Aristotelian idea of epikeia with the canonistic concept of aequitas or "justice tempered by compassion," but he also foreshadows more modern, Bodinian theories of the legislative authority of the sovereign who, in the name of "the general good" or "necessity", can change positive laws as he

pleases, limited only by the enduring supremacy of divine and natural law. These theories had perhaps been implicit in the mediaeval writers who most influenced Gerson's concept of epikeia, St. Thomas, Ockham and the contemporaries Gelnhausen and Langenstein, but in his reiteration of the ideas behind the proverbs "salus populi suprema lex" and "necessitas legem non habet" Gerson expressed them more clearly and so inadvertently heralded the day of the all-powerful sovereign legislator of the sixteenth and seventeenth centuries.

### III. KINGSHIP: VIVAT REX AND VENIAT PAX

In France in 1405 the internal state of the country was deteriorating. In 1404, Gerson's old patron, the wise and moderate Philip of Burgundy, had died, leaving the field to the quarrelsome, unscrupulous and power-hungry cousins, John of Burgundy and Louis of Orléans. Orléans' extravagance, his acquisition of Luxemburg in 1402, alliance with Gelderland in 1405 and the new tax which he levied on 5th. March, 1405, ostensibly for the resumption of the war against England, gave Duke John the excuse "to play the rôle of leader of the opposition to the unpopular government of Louis of Orléans . . ."<sup>1</sup> He refused to pay the new aide and in August marched on Paris at the head of a small army. He took possession of the King and the Dauphin and presented a long list of grievances to them, the royal princes, the Parlement, the University, and the Chambre des Comptes.<sup>2</sup> Orléans, who had also provided himself with an army, replied defiantly, but both sides found it difficult to keep their armies on the alert and on 16th. October a supposed reconciliation was arranged. Shortly afterwards, Gerson was invited to preach on 7th. November to the Kings of Navarre and Sicily, the Dukes

---

<sup>1</sup>Richard Vaughan, John the Fearless (London: Longmans, 1966), 31.

<sup>2</sup>Ibid., 35.

of Berry, Orléans, Burgundy and Bourbon, the royal Council and various prelates at the Louvre.<sup>1</sup> He took as his text Vivat rex (III Kings I:39).<sup>2</sup>

Vivat rex (VII, 1137-1185) is unusual in Gerson's oeuvre in that it may be called a secular sermon. It was not delivered on any important feastday and it was not intended as a learned theological discourse, so it was couched in the vernacular, the only French sermon that we have from Gerson in 1405. Its theme is the sad contrast between the political ideal and the reality in France in that year, and throughout the sermon the audience's attention is drawn to three objects of contemplation: the deplorable current conditions, immediate practical remedies for them, and the ideal to be aimed at eventually; the final impression left on the listener to the sermon is the picture of the real, starving peasant family on the one hand, and the ideal of the beneficent king ruling over a prosperous, peaceful kingdom on the other. It must surely have made a strong impression on the princes to whom it was addressed but, as so often with admonitions to righteousness, they "heard and, going their way, were choked with the riches and cares and pleasures of this life and yielded no fruit."<sup>2</sup> [Luke 8:14 (Douai version).]

---

<sup>1</sup>Schwab, op. cit., 416.

<sup>2</sup>V. Mourin, op. cit., 169-175.

As a result of his research into the relations in 1405 between the Dukes of Burgundy and Orléans, one historian has concluded that Vivat rex was a pro-Burgundian political speech supporting the programme of governmental reform put forward by John the Fearless in his so-called requête in August.<sup>1</sup> Certainly Gerson described himself as the mouthpiece of the University of Paris, "le beau cler soleil de France" (VII, 1137), which supported John of Burgundy and his proposed reforms. Gerson was, moreover, still officially in the Duke's service and receiving a pension of two hundred francs a year. Many of the recommendations in Vivat rex had already appeared in John's requête. It may thus well be that the Duke of Burgundy had requested the University to lend its great spiritual authority to his programme, and this request could best be granted by having the Chancellor of the University himself make an impassioned plea for the reforms before most of the great men of the realm. But this in no way invalidates Vivat rex, since the criticisms and suggestions which Gerson made here were ones which recur again and again in his works, particularly his other "secular" sermons, Veniat pax in 1408 and Rex in sempiternum vive in 1413.<sup>2</sup> Gerson was no time-server and it was simply a happy

---

<sup>1</sup>Michael Nordberg, Les Ducs et la Royauté: Etudes sur la rivalité des ducs d'Orléans et de Bourgogne, 1392-1407 (Stockholm: Svenska Bokiörlaget, 1964), 204-205.

<sup>2</sup>Infra, /98-99, 112 and 114-121.

coincidence for John of Burgundy that the Chancellor's political ideas were similar to those of his requête.

The sermon begins with a salutation to the royal princes by "the King's daughter," the University, and immediately the practical theme is stated, together with the remedy of "the royal providence":

Las que voit elle [la fille du roy] en consideration? Elle voit turbacion partout, meschief par tout. Elle voit en plusieurs lieux oppression crueuse de peuple; pour justice violence, pour misericorde rapine, pour protection destruction, pour soustenance subversion, pour pasteurs pilleurs, pour deffendeurs persecuteurs; violation de pucelles, prostitution de marieez, boutemens de feu en aucuns saintz lieux, prophanation de saintez places, murtrissemens de plusieurs; voir qui pis est et horrible merveille, occir soy mesmes par raage et desespoir des contraignans qu'ilz ne peuvent endurer, et a brief dire, elle voit honteuse et miserable dissipation de ce royaume que Dieu ne veuille se remede n'y est mis et convenable provision. Car selon ce qu'il est escript ou second livre des Machabeez . . . : sans la royalle providence ou pourveance, c'est impossible que paix soyt donnee ou conservee. (VII, 1138-1139)

After Gerson has hailed the King on behalf of the University, he feels called upon to state that kingship is the best form of government because it copies God's supreme rule:

. . . en oultre, la fille du roy, la mere des sciencez congnoist et scet par les doctrinez des theologiens, juristez, philosophez et poetez, en especial par la determination expresse d'Aristote en sez Politiquez, que royaume ou regne est police et gouvernement meilleur et plus durable, convenable et raisonnable, qui soit a l'exemple du monde qui n'est gouverne que par ung dieu souverain. (VII, 1139)

This, of course, was the accepted idea at the time. Thomas Aquinas had said virtually the same thing in both On Kingship<sup>1</sup> and the Summa Theologica<sup>2</sup> and despite the efforts of Ptolemy of Lucca and Marsiglio,<sup>3</sup> one can say in general that in the fourteenth and fifteenth centuries monarchy was considered to be the best form of constitution.<sup>4</sup> Gerson was to reiterate this point in his most mature exposition of political power, the De potestate ecclesiastica of 1417 (VI, 226), but it may be noted at the same time that he also advocates an Aristotelian "polity" of "mixed government" when it suits him, as in his sermon Prosperum iter of 1415 where he says: "Esset autem inter istas politias illa melior quam aliqua singularis, quae ex regali et aristocratia componeretur, ut in regno Franciae ubi rex instituit Parlamentum a quo judicari non refugit" (V, 478). In fact, there is no inconsistency here, for, as we shall see,<sup>5</sup> Gerson's monarch is a French equivalent of the English "King in Parliament," i.e. the king acting only with the consent of an advisory,

---

<sup>1</sup>I, 2: ". . . the rule of one man is more useful than the rule of many." Cf. I, 5.

<sup>2</sup>Ia IIae, qu. CV, art. 1: "A kingdom is the best form of government of the people, so long as it is not corrupt."

<sup>3</sup>Marsilius, op. cit., I, 16.

<sup>4</sup>V. Otto Gierke, Political Theories of the Middle Age, trans. with an introduction by Frederick William Maitland (Boston: Beacon Press, 1958), 31.

<sup>5</sup>Infra, 227-237.

representative assembly, which means that aristocracy and even democracy are also involved.

Closely allied to the modelling of earthly kingship on the divine is the derivation of the former from the latter, Gerson's next idea:

Toute poissance comme dit saint Pol est de Dieu, et qui resiste a poissance resiste a divine ordonnance. Cecy a plus especial lieu en la poissance royale de France que ailleurs. Pour quoy? Pour ce, ou nom Dieu, que sa poissance est plus especialment approuvee et honnouree de Dieu que les aultres. Et comment? Pour ce que quant fit Remy Clovis le premier roy crestien, il l'oigni de la sainte ampoule encore par miracle, et le consacra en signe de royale poissance et comme sacerdotale ou pontificale dignite. (VII, 1140)

This again was a common idea, deriving as it did ultimately from Saint Paul,<sup>1</sup> but more recently expounded by Dante:

. . . God alone chooses, he alone confirms, since he hath no superior. . . .

Thus, then, it is plain that the authority of the temporal monarch descends upon him without any mean from the fountain of universal authority. Which fountain, one in the citadel of its simplicity, flows into manifold channels out of the abundance of its excellence.<sup>2</sup>

When he comes to discuss the condition of France, Gerson connects it with his text Vivat rex by saying that the king has three bodies, corporal, civil and spiritual, and he himself gives his sources for the second:

La vie civile se maintient en la conionction et unite du seigneur et du peuple en une loy et juste ordonnance; de hoc Philosophus in Politicis ponit

---

<sup>1</sup>Rom. 13: 1-2.

<sup>2</sup>De monarchia, III, 16.

quod in legibus est vita civitatis; et Apostolus comparat corpus mysticum ad verum, eadem ratione, ad Rom. 12 et Imo ad Cor. 13, et Eph. 4." (VII, 1144)

This is a traditional personification which can be traced back to John of Salisbury who declared in the twelfth century, "est respublica corpus quoddam, quod divini muneris beneficio animatur et summae aequitatis agitur nutu et regitur quodam moderamine rationis."<sup>1</sup> In the following century Vincent of Beauvais had developed the idea further, speaking "de corpore reipublicae mystico,"<sup>2</sup> and since then a host of writers, including Hugh of Flores,<sup>3</sup> Thomas Aquinas,<sup>4</sup> Ptolemy of Lucca,<sup>5</sup> Engelbert of Volkersdorf,<sup>6</sup> Marsiglio of Padua,<sup>7</sup> and William of Ockham,<sup>8</sup> had made the concept a commonplace.<sup>9</sup> Gerson uses this metaphor in almost every one, if not in fact every one, of his writings, but perhaps it should here be noted that he was unusual in his conception of three rather than two

---

<sup>1</sup>Polycraticus, V, 2.

<sup>2</sup>Speculum doctrinale, VII, 8.

<sup>3</sup>Tractatus de regia et sacerdotali dignitate, I, 2-4.

<sup>4</sup>On Kingship, I, 1, 12-14; Summa theologica, IIa IIae, qu. LXXXI, art. 1.

<sup>5</sup>De regimine principum, II, 7.

<sup>6</sup>De regimine principum, III, 16 and 19.

<sup>7</sup>The Defender of Peace, I, 15.

<sup>8</sup>Octo quaestiones, VIII, 5.

<sup>9</sup>For a full discussion of this subject, v. Kantorowicz, op. cit., 207-232.

bodies. The image of bodies natural and politic was, as stated above, a widespread one, so much so that one historian could say of it:

Like Mankind as a whole, so, not only the Universal Church and the Universal Empire, but also every Particular Church and every Particular State, and indeed every permanent human group is compared to a natural body (corpus naturale et organicum). It is thought of and spoken of as a Mystical Body. Contrasting it with a Body Natural, Engelbert of Volkersdorf [1250-1311] already uses the term "Body Moral and Politic."<sup>1</sup>

It is thus Engelbert's "body moral" that Gerson seems to recall when he speaks of the king's spiritual life or body. At one point he describes all three "lives" or "bodies" together

La seconde vie est plus permanable car elle se derive par succession legitime de royale lignie et est plus a aymer que la premiere de tant que la bien commun vault mieulx que le propre. En signe de ce, le bon prince expose sa vie corporelle par la deffence de ceste seconde vie civile. . . . La vie tierce est divine et pardurable, qui trop mieulx vault que milles des deux premieres. . . . (VII, 1144)

The office of king is thus properly hereditary. Gerson goes on to discuss this "more permanent" life and concludes: "que haynne et division contraire a tout ordre ou ordonnance destruisent ceste vie, la vie civile et politique" (VII, 1149). The kingdom is given over to the Seven Deadly Sins [he cites only six "vices capitaulz et mortelz" but presumably the omission of "ivresse" is a slip either of the tongue or of the copyist (VII, 1150)], and it is the King's duty to remedy this, for

---

<sup>1</sup>Gierke, Op. cit., 24.

. . . unq roy n'est pas une personne singuliere, maiz est une puissance publique ordonnee pour le salut de tout le commun, ainsi comme de chief descent et despand<sup>1</sup> la vie par tout le corps; et ad ce furent ordonnes les roys et lez princes du commencement par commun accort de tous; et en telle maniere doivent parseverer.

. . . . .  
 Selon ce que par l'enseignement de nature tous les membez en unq vray corps se exposent pour le salut du chief, pareillement estre doit ou corps mistique dez vrayz subgetz a leur seigneur. Mais aussi d'aulture part le chief doit adrecier et gouverner les aultres membez. Car aultrement ce seroit destruction; proprement, car chief sans corps ne peust durer. Ceste verite est contre l'erreur de ceulx qui ont voulu dire que unq seigneur n'est de riens tenuz ou obligez a ses subgetz, qui est contre droict divin et naturelle equite et la vraye foy de seignourie; comme les subjects doivent foy, subside et service a leur seigneur aussi le seigneur doibt foy, protection et deffence a sez subiectz. L'une bonte l'autre requiert. (VII, 1155)

This was probably the first time that the State had been dignified in the French vernacular with the appellation "mystical body"; Gerson evidently wished to emphasize the worth and interdependence of all its members. Monarchy is not a privilege but is a public office or service with rights and duties that are reciprocated by the subjects. This is "reminiscent of the principle of the mutual obligations of feudal law."<sup>2</sup> It is also an extension of the Aristotelian distinction, which we saw Gerson use in De vita spirituali animae,<sup>3</sup> between kingship, or one man's rule on behalf of his

---

<sup>1</sup>dispense.

<sup>2</sup>Carlyle, op. cit., 159-160.

<sup>3</sup>Supra, 29-30.

subjects, and tyranny, or one man's rule on his own behalf. Furthermore, although all power is mediately of God, kingship was immediately created by the common consent of men, for the good of all--which means that in the last resort, if it is abused, it can be revoked by men. This was another theory current in Gerson's time and commonly traced "to Holy Writ, which told (II. Reg., V. 3) of a contract made at Hebron between David and the People of Israel, and also to a principle, proclaimed by the Jurists, which told that, according to the ius gentium, every free People may set a Superior over itself."<sup>1</sup> The jurists claimed that this lex regia was implied in the Corpus Iuris Civilis, and "Ever since the days of the Glossators the universally accepted doctrine was that an act of alienation performed by the People in the Lex Regia was for Positive Law the basis of the modern, as well as of the ancient, Empire."<sup>2</sup> We have already seen Gerson alluding to this popular belief in his De vita spirituali animae.<sup>3</sup>

Of course, the theory of the lex regia did not mean that successive kings must be elected, but Gerson ranges himself firmly with the supporters of hereditary monarchy. He therefore equates the position of the Dauphin with that of his father:

---

<sup>1</sup>Gierke, op. cit., 39.

<sup>2</sup>Ibid.

<sup>3</sup>Supra, 34-35.

Et soit yci note en ce que j'ay dit et dirai de la vie du roy, que le pareil soit entendu et garde en la tres noble personne de Monseigneur le daulphin, son premier et vray heritier; car il est comme une mesme personne avecquez le roy. . . . Le pere aprez sa mort, naturelle ou civile, vit en la personne de son fils. (VII, 1147-1148)

This shows how much Gerson is concerned with contemporary events, for Charles VI was "civilly dead" through his insanity, and the Duke of Burgundy was in control of the Dauphin, in whose person, according to Gerson, the King now lived. Thus Burgundy could claim with some justification that as the Dauphin's protector, he was rightfully the Regent of France, and not Louis of Orléans who was claiming the right to rule in his brother's name.<sup>1</sup> But it should not be inferred that Gerson only says what he does to support John the Fearless. As with his advocacy of mixed government and the popular revocability of the right to rule, his recommendation of hereditary monarchy in Vivat rex is only a repetition of what he had said in a work written quite independently of political considerations.<sup>2</sup>

He proceeds with his discussion of royal obligations: not only must a prince respect his subjects' legal and moral rights; he must also respect their property. Here again the image of the mystical body of the kingdom is employed:

. . . au regart espirituel de raison n'est pas maindre cruaulte mais trop plus grande, ou corps mistique se les partiez sont divisez et se

---

<sup>1</sup>Cf. Nordberg, op. cit., 209.

<sup>2</sup>V. supra, 33-34.

persecutent l'une l'autre, comme subiez seigneurs ou seigneurs subjectz. Comment persecutent? Car naturellement tout chose deffent son droyt et reboute fait par fait, violence par violence; vim vi repellere licet. Si appert<sup>1</sup> que ceulz errent qui dyent aux seigneurs que tout est leur, et qu'ilz peuvent faire du tout a leur deuisse et volonte, en prenant tout a soy ce que les subgiez ont, sans aultre tiltre. Qu'est ce a dire cecy, fors:<sup>2</sup> prenez tout? Et que s'en ensuyt il? Il s'en ensuyt tel inconvenient comme se le chief vouloit attraire a soy tout le sang, l'humeur et la substance des aultrez membres. Que seroit ce? N'est point de doubte, ce seroit sa propre destruction. Chef sans corps ne peut durer; corps sans soubstance perit tost. (VII, 1156)

Kings are subject to the Natural Law just like their subjects, so they must not take their subjects' property for their own enrichment but only if it is in the interest of all: "Pareillement dy je que tout est au prince pour bien user selon droict et raison, c'est a dire a la juste et necessaire defence de son peuple, comme il doibt exposer ses biens, voir son propre corps a ceste fin" (VII, 1158).

After considering the good king's duty to his subjects and the question of royal rights over property, Gerson discusses the idea of tyranny, which he has already defined in Aristotelian terms in De vita spirituali animae.<sup>3</sup> In Vivat rex he develops it further, probably provoked by the military exercises conducted that summer by the Dukes of Burgundy and Orléans. He had to make up his own mind on the

---

<sup>1</sup>apparaît

<sup>2</sup>si ce n'est; sauf

<sup>3</sup>Supra, 29-30.

best way to deal with tyrants since there was no generally agreed procedure, even in theory, in 1405. In the twelfth century John of Salisbury had declared: "Tyrannum occidere non modo licitum est sed aequum et justum."<sup>1</sup> But this had been condemned in the following century by Saint Thomas, who was quite clear about the dangers of tyrannicide:

If the excess of tyranny is unbearable, some have been of the opinion that it would be an act of virtue for strong men to slay the tyrant and to expose themselves to the danger of death in order to set the multitude free. . . .

But this opinion is not in accord with apostolic teaching. . . .

Should private persons attempt on their own private presumption to kill the rulers, even though tyrants, this would be dangerous for the multitude as well as for their rulers. This is because the wicked usually expose themselves to dangers of this kind more than the good, for the rule of a king, no less than that of a tyrant, is burdensome to them. . . . Consequently, by presumption of this kind, danger to the people from the loss of a good king would be more probable than relief through the removal of a tyrant.

. . . . .  
If to provide itself with a king belongs to the right of a given multitude, it is not unjust that the king be deposed or have his power restricted by that same multitude if, becoming a tyrant, he abuses the royal power.<sup>2</sup>

In Vivat rex Gerson is inclined to follow Saint Thomas on the dangers of sedition only with qualifications: "Ne seroit chose plus desraisonnable et crueuse que vouloir empescher par sedicion tirannie. J'appelle sedicion rebellion populaire sans rime et sans raison. Elle est pire

---

<sup>1</sup>Polycraticus, III, 15.

<sup>2</sup>On Kingship, 1, 6; cf. Summa theol., IIa IIae, qu. XLII, art. 2: "sedition is always a mortal sin."

souvent que tyrannie" (VII, 1159). How far the phrase "sans rime et sans raison" negates his condemnation of sedition is not absolutely clear; certainly he recognizes that extreme measures are sometimes necessary. Since "the powers that be are ordained of God," resistance is usually sacrilege, especially against "the Most Christian King" of France whose office, as we have seen,<sup>1</sup> has received particular divine approbation at the time of the first king's unction by St. Rémi; but Gerson also quotes "vim vi repellere licet," so resistance can occasionally be legitimate. Subjects should first try to cure the tyrant "like doctors" (VII, 1159). Immediate violent resistance could be worse than the tyranny:

Si fault a merueille grant discrecion, prudence et attrampance a bouter hors tyrannie. Pour tant doivent estre oys et creus les saiges, philosophes, juristes, legistes, theologiens et gens de bonne vie et de bonne prudence naturelle et grande experience. . . . (VII, 1159)

Moreover, the subjects must make sure that the ruler is really acting consistently against the public good and not merely acting tyrannically in a few isolated cases. On the whole, tyrants do come to untimely ends: "for it was requisite that inevitable destruction should come upon them that exercised tyranny" (Wisdom 16:4). Rulers should take the advice of the wise and, if necessary, be satisfied like Theopompus with a more limited but more secure authority (VII, 1159).<sup>2</sup> It will be interesting to see how Gerson comes

---

<sup>1</sup>Supra, 80 .

<sup>2</sup>Bernhard Bess was therefore exaggerating when he said of Gerson's Vivat rex: "In Prinzip aber billigt

more and more to accept Saint Thomas' arguments against tyrannicide in his later years.

Gerson now returns to his original theme of the present ills of the kingdom, for which he prescribes four remedies or consideracions. (i) Every prince must show that he welcomes the truth so that no man will need to lie to him for fear or favour about the real state of his subjects. (ii) "The King should not only ask for counsel, but believe it and carry it out;" the alternative would be but a mockery (VII, 1164). (iii) The prince should be advised by godly men, nobles, clergy and burgesses from all over the kingdom who can give him a fair picture of "the miserable state of their country" (VII, 1165) (Gerson follows the mediaeval norm and omits the artisanate and peasantry; they were considered too inarticulate to speak to their rulers, and were supposed, anyway, to be represented by their masters.) (iv) Secret accusations made to flatter the prince or to injure someone else must not be countenanced; the prince must both be prudent himself and choose prudent counsellors who will avoid this pitfall (VII, 1167).<sup>1</sup> These recommendations show

---

er den Widerstand bis zum Tyrannenmord" (op. cit., 30). Cf. P.S. Lewis, Later Medieval France: the Polity (London: Macmillan, 1968), 90. Also idem, "Jean Jouvenel des Ursins and the Common Literary Attitude towards Tyranny in Fifteenth-Century France," Medium Aevum, XXXIV (1965), 106-114.

<sup>1</sup>The strength of Gerson's criticism of sycophants at Court who tell the king that he can do whatever he likes, is

Gerson's distaste for the conduct of the dukes who have been rending the country with their dissension, acting on their own behalf, without the advice of any but a few of their own courtiers. They also show how important he considers it that the King have good advisers or, in other words, a conscientious Council, and that the King consider himself bound by the councillors' advice. Gerson even seems to hold the councillors responsible for their counsel. Moreover, the King is not bound to listen only to the Council. At the beginning of the sermon Gerson had spoken of "les trois estas subiectz qui gardent et entretiennent cest estat souverain; ceulx sont l'estat de clergie, l'estat de chevalerie et l'estat de bourgeoisie" (VII, 1151). It is possible that here Gerson was drawing attention to the Duke of Burgundy's demand for a convocation of the Estates-General where the representatives of the clergy, nobility and perhaps even the bourgeoisie could present to the King their grievances and demands,<sup>1</sup> but this support of the Burgundian position was no mere opportunism; government "by advice and consent" was something that he was to advocate in both the Church and State in many works.

---

emphasized by the fact that he deemed it worthwhile to repeat the substance of this passage in a short work probably written in 1409, Contre les fausses assertions des flatteurs (VII, 360-363). The latter does not add anything to the argument in Vivat rex, stressing the king's duty of service to his subjects and contrasting it with self-interested tyranny which only begets rebellion since "vim vi repellere licet" (VII, 362).

<sup>1</sup>Nordberg, op. cit., 210-211.

When he comes to the armies, Gerson has yet more practical improvements to suggest, again listed as four considerations. First, the nobles must be properly trained in the military arts in their youth (VII, 1168); secondly, they must be taught frugality in food, wine, and dress, for extravagance will debilitate them (probably a reflection on the extravagance of the Duke of Orléans); thirdly, they must be taught discipline (which was sadly lacking in the armies of both principal dukes, but especially Orléans); lastly, soldiers must be well paid so that they can buy all their goods instead of pillaging. This reflects on the common contemporary failure to pay soldiers on time or, sometimes, ever, leaving them to make do with whatever they could seize by pillage or ransom.<sup>1</sup> Gerson emphasizes the need for lowering the burden of taxation on the peasantry as well as for payment for goods by painting a pathetic picture of the typical peasant family in one of the war zones:

Laz, ung poure homme aura paie sa taille, sa gabelle, son imposition, son fouage, son quatrieme, les esperons du roy, la ceinture de la royne, les truages<sup>2</sup> des chaussees et passaigez; peu lui sera demeure; vendra encorez une taille qui sera crieie. Lors sergens de venir et de gaiger,<sup>3</sup> lit, potz, poellez; le poure homme n'aura pain a mengier se

---

<sup>1</sup>This was not always inadequate, as shown by the late K.B. McFarlane in The Nobility of Later Medieval England (Oxford: Clarendon, 1973), 19-34; but the French soldiers did not generally do as well as the English.

<sup>2</sup>tributs; impôts

<sup>3</sup>prendre

non par aventure, aucun peu de seigle ou d'orge. La poure femme gerra et auront quatre ou six petis enfans ou foyer si fouyer y a qui soit chault. Demanderont du pain et crieront a la rage de fain. La poure mere n'aura que leur bouter<sup>1</sup> aux dens s'il n'est ung peu de pain ou il y ait sel. Or devroit bien souffire ceste misere. Vendront preneurs qui chargeront<sup>2</sup> tout. Ils trouveront par aventure une poulle ou quatre pousins que la poure femme nourrissoit pour vendre et paier le demourant de sa taille, ou une aultre de nouvel escriee; tout sera prins et happe; et querez<sup>3</sup> qui paie. Et se l'omme ou la femme en parlent ilz seront villenez, rem-pommez et garconnez.<sup>4</sup> Se ilz veullent poursuyre la payement, ilz perderont leurs journeez, ils despenderont au double, et finablement ilz n'auront riens fors par aventure une cedula<sup>5</sup> chantant que on doit a tel tant; voire dit l'autre, et devera. Et que vous semble peut aler pis pour ce bonhomme. Certez encorez est plus grand grief; s'entrebattre-ront gens d'armez qui ne seront point contens de riens prendre ou riens n'a; mais menaceront de paroles, et batteront de fait l'omme et la femme, ou bouteront le feu en l'ostel se ilz ne les ran-connent et font financez qu'a tort et qu'a travers d'argent, de vins et de viande. Je me taiz des efforcements de femmez veusvez et aultrez. Et pour-roit par aventure sambler petite chose de ce que je ne parle que d'ung homme. Croiez, messeigneurs, tout de certain comme de la mort, qu'il y en a mil et mil et plus de dix mil par le royaulme pis de-menez. (VII, 1170-1171)<sup>6</sup>

---

<sup>1</sup>pousser

<sup>2</sup>fouilleront

<sup>3</sup>cherchez

<sup>4</sup>maltraités

<sup>5</sup>un billet

<sup>6</sup>On this passage Funck-Brentano commented: "Cette page n'est-elle pas admirable--douloureusement admirable--de force, de couleur et de vie?" Although it was composed in 1405, Funck-Brentano used it to illustrate the condition of France after the outbreak of the Civil War in 1410 and the English invasion in 1415, suggesting that the sufferings of poor Jacques Bonhomme were no ephemeral phenomenon [Fr. Funck-Brentano, Le Moyen Age (Paris: Hachette, 1922), 467]. In 1413 Christine de Pisan made the same point as Gerson; cf. her Livre de la Paix, ed. Charity Cannon Willard (The Hague: Mouton, 1958), 77.

For allowing such injustice Gerson did not accuse Charles VI of tyranny, but he showed considerable boldness in reproaching him for inefficiency in government which allowed tyranny in his subordinates:

Tres hault et excellent seigneur. . . . Tu ne faiz pas telz maulz; c'est vray; mais tu les souffres. Avise se Dieu jugera justement contre toy en disant: je ne te punirai pas; mais se lez diablez d'enfer te tourmentent, je ne lez empescheray pas; ce seroit mal pour toy. (VII, 1171)

It cannot have been often that Charles was thus threatened with the tortures of Hell for his weakness.

Gerson proceeded to suggest some remedies for the uncontrolled depredations of the military, then went on to propose "the reformation of justice in this kingdom" (VII, 1173). First, he says, there must be no bribery or intimidation of the officers of justice. Second, mercy must be shown to the humble, but justice to the great who exploit them. His third suggestion is still applicable today: civil servants must not be multiplied or changed too often, because

Quant officiers se multiplient, chascun emporte sa part en pensions et en dons, en exactions, en mener son estat. Qu'est ce que le roy ait deux cens chambellans et autant de varlez de chambre, de secretairez sans nombre et ainsi des aultrez? C'est pour honneur, dira aucun. Voir; mais cest honneur couste tousiours . . . . (VII, 1174)

Fourthly, the decisions of the sovereign court of justice must be inviolably observed; Gerson was obviously provoked by the reprieves obtained by the great dukes in favour of their supporters. As for the court itself, presumably the Parlement, Gerson surprisingly considers that it can function

"soit present le roy soit absent" (VII, 1175). Gerson apparently believes that the king is absolute not as a person but only as--in the English sense--"the king in Parliament," or in the courts; in fact, a constitutional monarchy is his ideal since "la vie civile du roy" i.e. the king qua king and not simply an individual, "se garderoit mieulz souvent en la main publique du peuple selon que note Aristote que en la main du seigneur . . ." (VII, 1175). This is applied even to finances, which presumably should be managed by the King only in the Chambre des Comptes.<sup>1</sup> The king in fact will be left no area in which to act without the advice and consent of at least some of his subjects.

Gerson now proceeds to deal with the virtue of at-  
temprance or temperance and how it can be procured in the kingdom. Only one of his considerations here is of interest for his political thought and that deals with taxation, a subject he seldom discusses. He states that taxation is undoubtedly necessary "for the defence and nurture of the civil life of the king and kingdom," but it must be paid "in good equality or equity by all the mystical body" (VII, 1178)--his second mention of this secular, but nevertheless "mystical," body. To tax one man more heavily than another is pernicious

---

<sup>1</sup>But Nordberg goes rather too far when he suggests "L'idéal que [Gerson] entrevoit, c'est évidemment les Etats généraux octroyant les impôts et contrôlant les finances" (op. cit., 211-212). Gerson is extremely vague on this point and never specifies what "la main publique de peuple" should be in relation to the finances.

and leads to sedition. Equality of taxation must be studied, as well as an end to the extortions of soldiers:

Ung poure homme n'aura de son labour pour tout l'annee a nourrir sa femme et sez enfans et a paier sa taille et sez aidez, que x ou xii cuevez de vin et deux ou trois muys de ble; tout cecy perira en une prinse ou en une venue dez gens d'armez. Que fera il? que devenra il? comment se vivra il? . . . Se vous tous, messeigneurs, esties bien al-liez ensamble, que vous serviroient ou cuer de pais de France gens d'armez? Le royaulme seroit assez riche pour sustenir vous et vos estas, sans du tout abastre l'estat plus bas. Se vous querez<sup>1</sup> estre alliez et donnez pour ce grosse pensions aux estrangers, n'est pas plus seure et plus legiere et plus honneste vostre aliencie ensamble soit par liens d'aucuns mariagez ou aultrement? Certez oy.  
(VII, 1179)

He is thus, incidentally, condemning the dukes' current policy of external alliances, as well as of granting numerous pensions to their supporters at home, to strengthen them in internal quarrels rather than to bring peace.

Gerson now reverts to his theme of "the spiritual and divine life of the king" (VII, 1180). He declares, quite conventionally, that the prosperity of the king's "corporal and civil life" depends on his spiritual health so, for the sake of the country, the king and nobles must strive to increase both their own and their subjects' virtue. The king and princes also have a duty to aid the Church: "en la nouvelle loy le roy le jure quant on le sacre, qu'il boutera hors puissamment tutez erreurs, heresiez, malez doctrinez." Moreover, "the king's daughter," the University, is mistress

---

<sup>1</sup>cherchez

of the faith and therefore must be obeyed in all doctrinal matters. Both the king and the University have a duty to safeguard the purity of the Faith:

Pour ce porrons nous veoir que ceulx sont tres perilleux a toute la vie du roy qui sement male doctrine, contre la foy, soit en publique, soit en apert,<sup>1</sup> soit en espee de jeu et de galee soit acertez. Telz en bonne foy deveroient estre persecutez comme faulz monnoiers qui sont contrairez a la vie civile et temporelle, et ceulx cy a la temporelle et espirituelle. (VII, 1182)

Finally, the virtues of hope and charity must also be encouraged by the Government.

The discourse ends with a last call for reform "presque identique aux quatre articles de la requête [du duc de Bourgogne]."<sup>2</sup> The King and princes must turn their attention:

Premierement en la bonne sante corporele du roy; secondement, en son demainne; tiercement, ou fait de la justice; quartement, ou fait de la deffence de son royaume contre sez ennemis; quintement, ou fait de la franchise raisonnable des ja ottroiee a la fille du roy, l'universite de Paris, contre tous subcidez, soient dismez ou aultrez; sextement, ou fait de la reformacion de l'eglise de France. . . . Derrenierement, ou faict de toute l'eglise, en extirpant ce detestable, maudit et execrable scisme qui la destruit et gaste. (VII, 1185)

While we remember that Gerson was no mere, insincere political time-server, but had called for all these reforms before (particularly, as has been shown, in De vita spirituali animae) and was to do so again, this secular sermon was just as much the result of current French political events as

---

<sup>1</sup>à decouvert; ouvertement

<sup>2</sup>Nordberg, op. cit., 208.

his ecclesiological tracts were of developments in the Schism. It has been pointed out that the conformity between this speech and John of Burgundy's propaganda is "practically perfect."<sup>1</sup> Gerson expresses a fully-fledged constitutionalism whereby the king is no longer an absolute sovereign but only the predominant and coördinating part of the governmental machine. He cannot govern except with the binding advice of the Council, the Parlement, the Estates-General and the University, and one of these, the Parlement, can even function in his absence. But above all, it is Gerson's intention in this sermon, as in all his other works, to preach peace and justice, and the whole raison d'être of constitutional monarchy is that, by avoiding the excesses of tyranny and the possible civil resistance thereto, that type of government is the most likely to bring the blessings of peace and prosperity to his unhappy France.<sup>2</sup>

---

<sup>1</sup>Ibid., 212. Nordberg concludes: "Conformément à la requête du duc de Bourgogne, [le discours de Gerson] doit être considéré comme dirigé contre Louis d'Orléans, son absolutisme et ses prétendus abus du pouvoir."

<sup>2</sup>Schwab, op. cit., 428, pointed out the similarities between this speech and Gerson's Apparuit gratia of the previous year ( V, 64-90). In both, Gerson's aim for society is the pax salutifera, the misuse of power is condemned as tyranny, and resistance to the latter is considered inevitable. "Gerson ist gegen den Absolutismus in Kirche und Staat, und seine Auschauungen über kirchliche wie politische Gewalt haben sich gegenseitig ergänzt und entwickelt."

As a pendant to Vivat rex, Veniat pax (VII, 1100-1123), Gerson's next vernacular speech to the Court, should be mentioned.<sup>1</sup> This "secular sermon" was probably delivered to the Court (though not to the King, who had just been smuggled out of Paris to Tours to escape the approaching Burgundians<sup>2</sup>) on 4th. November, 1408 (I, 123). It is an extended plea for reconciliation between the Burgundians and those who sought to bring John the Fearless to justice for the murder of the King's brother, the Duke of Orleans, a year earlier, i.e. most of the audience. It repeats many of the arguments of Vivat rex about the people's need for peace--indeed, Gerson actually refers his readers to Vivat rex (VII, 1105-1106)--and by implication demands that John be forgiven for Orleans' murder just as Absalom was for Amon's in the Book of Kings (VII, 1119-1120):

. . . paix est la fin de toute bonne seigneurie, comme tyrannie tend a affliction. Car pourquoy fu ordonnee seigneurie se non pour tenir en paix et union ses subgez entre eulx et contre leurs adversaires par bonne prudence, ~~par sage gouvernement,~~ par bonne defence contre toute violente et injuste oppression? Pourquoy recouvrent les seigneurs rentes et tribus du peuple et honneur, se non pour ceste fin et ceste entencion? (VII, 1105)

One difference between kings and tyrants is that the former "think thoughts of peace and not of affliction" (Jer. 29:11).

---

<sup>1</sup>Cf. Mourin, op. cit., 187-196.

<sup>2</sup>Valois, op. cit., IV, 30.

All lords should do likewise. Apart from spiritual considerations,

. . . [paix] est premierement a la fortification de tout l'estat de roiale seignorie. L'auctorite royale et seignorie se garde et se conserve par l'obedience des subgez aux seigneurs. Or est certain que quant les seigneurs sont uniz ensemble et se entraîment, se aydent et deffendent, ilz sont plus obeis que se on leur voit devises, hainneulx et ou separees. (VII, 1114)

"Pagans, miscreants and God's adversaries" will rejoice to see civil war in France:

Les malveillans du royaulme de France, comme les Anglois, n'est point doute, verroient tres voulentiers guerre civile entre nous et exterminie tout le bien d'une polite. On scet bien que toulx les adversaires jamais n'eussent tant greve par lonc temps leur seignoirie d'Angleterre comme font et ont fait leurs civiles divisions. (VII, 1116)

As well as between the dukes, there is also a need for reconciliation between the popes, and Gerson adds that the Devil "a perverti celluy de Romme qui, par avant se monstroît avoir celle voulente, de dire que la voye de cession n'estoit point juste ou raisonnable, qui par avant l'avoit vouee et juree" (VII, 1103), but "On doit maintenant, jusques a ce concile qui se doit faire a Pise, retourner a Dieu plus devotement que on ne fist onques, en luy suppliant et disant: veniat pax; revienne paix" (VII, 1103).

Veniat pax is mostly a repetition of Vivat rex, though with added urgency since the internal situation of France had definitely deteriorated by the end of 1408 from the peace,

however shaky, of three years before. Only in ecclesiastical affairs did any progress towards peace and union seem to be in train, since the rebel cardinals of both Gregory and Benedict had now announced the forthcoming Council of Pisa mentioned by Gerson. At home the outlook was gloomy and it is difficult to know whether Gerson's speech was of any practical assistance. A few days later the Court left Paris for Tours and Duke John thereupon entered the capital fresh from a victorious campaign against the city of Liège, which had been in revolt against its bishop-elect, his brother-in-law John of Bavaria. He immediately began negotiations with the Court, but this was probably simply because "His policy in France was based on the possession, or at least the control, of the court and government and, since these had now eluded him, a settlement was essential,"<sup>1</sup> and not because he took any notice of ecclesiastical or academic opinion as expressed by Gerson. Eventually, in March, 1409, the so-called reconciliation of Chartres was patched up, but, here again, this was probably due more to the timely death of John's chief opponent, the Dowager Duchess of Orleans, than to the oratory, however eloquent, of the Chancellor of Notre-Dame.

---

<sup>1</sup>Vaughan, op. cit., 74.

## VII. JEAN PETIT AND THE QUESTION OF TYRANNICIDE

### 1. From the Murder of the Duke of Orleans to Rex in sempiternum vive

After the Council of Pisa a new political question began to occupy Gerson's mind alongside the problem of unity in Church and State--the question of the legitimacy of tyrannicide. In the fourteenth and fifteenth centuries the orthodox attitude to the killing of an unjust ruler was not clear. The Bible stated simply "Thou shalt not kill," but the Church, in a sense using Gerson's principle of epieikeia, had, then as now, always made exceptions to this general rule; e.g., it was lawful to execute a criminal, to kill in self-defence or in a just war. A tyrant might be considered a criminal, but even then there remained the problem whether his crime could be deemed a capital one. Certainly, as a criminal he might be resisted, but here too there were two schools of thought. One school followed the tradition of the martyrs, repeating St. Paul:

Let every soul be subject to higher powers. For there is no power but from God; and those that are, are ordained of God.

Therefore he that resisteth the power resisteth the ordinance of God. And they that resist purchase to themselves damnation.<sup>1</sup>

Even tyrants must be obeyed in everything but sin, and even there the only resistance should be passive, like the martyrs',

---

<sup>1</sup>Rom. 13:1-2.

for "Revenge is mine, I will repay, saith the Lord" (Rom. 12:19).

But in mediaeval times another view came to prevail, based on the assumption that every Christian must aid in building up the City of God on earth. Every man is his brother's keeper, so citizens must restrain a tyrant, for his own sake as well as their own, from harming the Commonwealth. A tyrant de facto is breaking the natural law, so he can logically be restrained by positive law, the law of the State. The difficulty of breaking the Pauline precepts was casuistically resolved by declaring that a tyrant, by putting his own interests before those of his subjects, had automatically ceased to be a king, so that the command of the other Apostle, "Fear God; honour the king" (I Pet. 2:17), no longer applied.<sup>1</sup>

From the forcible restraint of a tyrant to his execution was not a long step and we have already seen how in the twelfth century John of Salisbury considered that tyrannicide was "not only lawful but also just," but this was later denied by St. Thomas, chiefly on the grounds that the self-appointed killers would probably make even worse rulers than the one they had killed.<sup>2</sup> On the other hand, St. Thomas did not forbid the punishment of a tyrant, as long as it was performed by the public authority: "If to provide itself with a king belongs

---

<sup>1</sup>Cf. Fritz Kern, Kingship and Law in the Middle Ages (New York: Harper, 1970), 102-103.

<sup>2</sup>Supra, 86-87.

to the right of a given multitude, it is not unjust that the king be deposed or have his power restricted by that same multitude if, becoming a tyrant, he abuses the royal power."<sup>1</sup> In fact, resistance to, if not the actual killing of, a tyrant is a Christian duty, for:

"Kings must be subject to priests," Aquinas wrote. It is the task of the church to make sure that the princes . . . act in accordance with Christian views and the Christian order of life. Should they fail to obey the admonitions of the church, they cease to be laws.

Are the subjects, then, called upon to resist? Yes, in case of excommunication. "Therefore, as soon as a ruler falls under sentence of excommunication, for apostacy from the faith, his subjects are ipso facto absolved from his rule, and from the oath of fealty which bound them to him" (ST ii. 2. 12. 2). But that is not all. Obedience, to be sure, is a precept of both the divine and the natural law (ST ii. 2. 104. 1), and therefore a religious duty. It is the old argument that there would be no order possible, if there were no obedience. "Man is bound to obey secular rulers to the extent that the order of justice requires" (ibid. Art. 6). But there is an important limitation. "If such rulers have no just title to power, but have usurped it, or if they command things to be done which are unjust, their subjects are not obliged to obey them; except, perhaps, in certain special cases, when it is a matter of avoiding scandal or some particular danger" (ibid.). It is a view we find restated in various forms again and again; it is the logical consequence of any doctrine which maintains that law is antecedent to government and limits it.<sup>2</sup>

This was the vague background to Gerson's long campaign to persuade the Church to condemn as heresy Jean

---

<sup>1</sup>On Kingship, I, 6.

<sup>2</sup>Carl Joachim Friedrich, The Philosophy of Law in Historical Perspective (2nd. ed.; Chicago and London: University of Chicago Press, 1965), 47.

Petit's thesis--almost a quotation from John of Salisbury--that "It is permissible and meritorious to kill a tyrant."<sup>1</sup> It was a campaign that was to occupy Gerson's mind almost continuously from 1413 until the end of the Council of Constance in 1418, to earn him reproach and obloquy as a man obsessed with a minor political question at an oecumenical council called for the high purpose of the reunion and reform of the Church, and even to lead to his being denounced for teaching erroneous doctrine. Some have considered the campaign an obsession with Gerson, who would not leave the matter alone, even when so ordered expressly by the King.<sup>2</sup> On the other hand, this can be viewed as to Gerson's credit: he alone had the courage to stand up so long for his conviction on the subject, no matter what the cost--and it was to cost him his home, his friends, his security and thirteen years of exile and old age far from his beloved University. Moreover, his previous loyalties had been to the House of Burgundy whose Almoner he was, but for a question of principle he was prepared to oppose the mighty John the Fearless and even, in 1413, to put himself in physical jeopardy. When contrasted with John's leading apologists, the ambitious and **syco**phantic Jean Petit and Pierre Cauchon, Gerson is remarkable for his

---

<sup>1</sup>Quoted in Vaughan, John the Fearless, 70.

<sup>2</sup>V. Alfred Coville, Jean Petit: La question du tyrannicide au commencement du quinzième siècle (Paris: Picard, 1932), 513-516.

integrity. "The controversy which Gerson waged against the teaching of Petit on the question of Tyrannicide covered a long period of years, and proved to Burgundy and his followers that righteousness could not be bought."<sup>1</sup> Again, it seems almost certain that without Gerson's long campaign Jean Petit's thesis would have gone unchallenged by the Church, as it had already done for five years after its appearance in La première Justification du duc de Bourgogne in 1408. It was Gerson alone who procured its condemnation at the Council of Paris in 1413 and although this judgment was rescinded on a technicality by the Council of Constance, it remained the common consensus of Christians till the religious wars of the sixteenth century that tyrannicide, like all murder, was prohibited by the Fifth Commandment.<sup>2</sup>

John of Burgundy had caused the death of his cousin of Orléans on 23rd. November, 1407, had retired to his own lands till the end of February, 1408, and had then returned in triumph to Paris, whose citizens welcomed him back with delight. John immediately set about clearing himself of the crime of murder imputed to him, not by denying the act of murder but by denying that it was a crime. Accordingly, on 17th. February, 1408, a Latin manifesto praising the assassination as a

---

<sup>1</sup>Connolly, op. cit., 68.

<sup>2</sup>V. J.W. Allen, A History of Political Thought in the Sixteenth Century (London: Methuen, 1960), 10, 23-30, 33, 52-60, 113, 125-133, etc.

disinterested undertaking for the sake of the public weal and addressed "To all kings, dukes, counts, and other princes, prelates, barons and others whomsoever, whether ecclesiastical or secular" was submitted to the ducal chancery. Then on 8th. March, 1408, an official justification of the murder was read out by Jean Petit to the French court in the presence of the Duke of Burgundy and copies were thereafter circulated to the courts and universities of Europe:

This extraordinary document stands out as one of the most insolent pieces of political chicanery and theological casuistry in all history. How much of it was in any sense authentic or sincere is an unanswerable question: we cannot now determine how villainous Louis of Orleans really was.<sup>1</sup>

The main thesis of the Justification du duc de Bourgogne (duP., V, 15-42) was this syllogism:

The major: it is permissible and meritorious to kill a tyrant.

The minor: The duke of Orleans was a tyrant:

The conclusion: Therefore the duke of Burgundy did well to kill him.<sup>2</sup>

The major premise was argued with the help of several quite unconnected Scriptural murders which apparently were licit, such as Phinees' murder of Zambri and his harlot in the Book of Numbers,<sup>3</sup> plus misquotations from Aristotle and irrelevant citations of the Fathers.<sup>4</sup> The minor applied the epithet

---

<sup>1</sup>Vaughan, John the Fearless, 69-70.

<sup>2</sup>Ibid., 70.

<sup>3</sup>Numbers 25.

<sup>4</sup>Coville, op. cit., 213-217.

"tyrant" to Orléans, not as a self-interested ruler but simply as a corrupt relative of a legitimate, just ruler, and added a strange list of misdeeds attributed to him, including black magic, attempted murder of the King, plotting with England and Pope Benedict against the King, and heavy taxation.<sup>1</sup> In conclusion, Petit asked the King to recognize publicly the good deed done by the Duke of Burgundy. This request was speedily granted for on the very next day the King formally pardoned John and forbade anyone to reproach him for the crime, explaining that he, Charles, accepted John's argument that he had committed it only to save the throne from usurpation. But Louis' widow, family and friends were understandably reluctant to accept this royal decree and appointed lawyers to refute Petit's Justification. As soon as John of Burgundy had left Paris to campaign against the rebellious city of Liège, this refutation appeared; on 11th. September, an abbot presented a defence of Louis of Orléans and a list of charges against John to the Court, while a lawyer demanded various punishments for the murder.<sup>2</sup>

This defence or Propositio was at one time attributed to Gerson, and it certainly is a clear, eloquent argument which would do the Chancellor no discredit. It is scholarly, quoting--but accurately--the same sources as Petit, plus

---

<sup>1</sup>Ibid., 217, and Vaughan, op. cit., 71-72.

<sup>2</sup>Ibid., 72-73.

Sallust, Valerius Maximus, Vegetius, Saints Cyprian and Jerome, and Henry of Ghent. It demands justice for the murder of Orléans, who, it says, was not a tyrant according to Aristotle's definition in the Ethics: "Tyrannus est cum aliquis princeps vi et violentia potestatis sine titulo terram usurpat alienam et de facto aliquam occupat civitatem . . . ." It refutes Petit's sources by showing that they uphold death for crimes of which Orléans was not guilty, and blames Burgundy for making alliances and friendship with Orléans, which was a treasonable course if the latter was a traitor, and a deceitful one if he was not. Lastly, it declares that the accusations made against Orléans in the Justification apply better to Burgundy than to him.

This could possibly have been written by Gerson. Gerson certainly had shown himself strongly against tyranny in Vivat rex in 1405, as well as in the ecclesiological writings where he had called for the deposition, and even the death, of an evil pope.<sup>1</sup> He had previously been loyal to Burgundy but his first reservations about this are seen in his sermon Diligite justitiam in early May, 1408, where he criticized the violations of the University's privileges by the prévôt of Paris, who was under John's control (VII, 598-615). Nevertheless, his sermon Veniat pax, probably written in November, 1408, suggests that he would not have risked inciting warlike

---

<sup>1</sup>Supra, 87-88.

animosities by opposing Burgundy openly; on the contrary, he is all for reconciliation between Orléans and Burgundy, as between Rome and Avignon (VII, 1100-1123), Coville therefore concludes that the Propositio was probably written by the Abbot of Cérisy, with some help from Gerson, and in support of this he adduces the fact that the story of the Emperor Trajan's justice to the poor woman appears in Vivat rex (VII, 1155-1156) as well as in the Propositio, and similarly the opinion that to try legally to justify a crime is worse even than the crime itself appears both in Diligite justitiam (VII, 611) and in the Propositio.<sup>1</sup>

The Propositio of the Abbot of Cérisy provoked a new version of the Justification from Jean Petit in the summer of 1409, but this is identical in all important respects with the first.<sup>2</sup> There was then a lull in literary activity re tyrannicide while the Orleanists and Burgundians concentrated their energies on more practical issues, the attempts at reconciliation at Chartres (1409) and Bicêtre (November, 1410), each followed by renewed hostilities until finally, in 1411, the

---

<sup>1</sup>Coville, op. cit., 247-248; cf. Mourin (op. cit., 189-190) who comments that the story of Absalom's murder of Amón and subsequent pardon by King David appears in Petit's Justification, Cérisy's (?) Propositio, and Gerson's Veniat pax, and concludes that in the latter Gerson was trying to reconcile both parties: "Gerson pouvait-il plus habilement renvoyer les deux orateurs précédents dos-à-dos, contenter à la fois l'une et l'autre partie, élargir cette citation biblique, et élever le débat?"

<sup>2</sup>Ibid., 251-273.

Duke of Orléans denounced to the University of Paris, especially the French Nation, numerous errors in moribus et fide in Petit's writings. The French Nation requested the Faculty of Theology and the most respected doctors of canon law to examine the writings and, if necessary, submit them to the University for condemnation. There followed mutual denunciations to the King by both Armagnacs and Burgundians and, on 14th. July, 1411, the long manifesto of Jargeau, probably mostly written by the Archbishop of Sens, Jean de Montaigu, demanding justice for the murder of Orléans. (The next day, incidentally, Jean Petit died.) The two sides then recommenced hostilities, which continued for a year till the conclusion of yet another insincere peace, that of Auxerre.

In 1413 Burgundy, who was still in control of the King and Paris, decided to summon the Estates-General, chiefly as a means to raise money to fight both the Armagnacs and the English. The result was not money but a clamour for the reform of the administration and the removal of corrupt officials. This cry was quickly taken up by the lower orders in Paris. Unsatisfied by the new commission of reform established by the Government, and led by a skinner named Simon Caboche, a mob rioted, seized the Bastille, and set up a tribunal to try officials whom they denounced as public enemies. Among these was Gerson, who had to leave his cancellarial lodgings and take refuge for several days among the rafters of Notre-Dame:

Ils faisoient venir devers eux, tant de Parlement que des marchands et bourgeois de Paris et

leur demandoient a emprunter. . . . Il y avoit fils du prevot des marchands de Paris qui fut ranconne a 2000 écus en cette occasion; il y avoit un notable docteur en theologie et de grande reputation, nomme maître Jean Jarson, lequel estoit chancelier de Notre Dame de Paris et curé de saint Jean de Greve, lequel avoit accoutume de s'en acquitter loyaulment. Et pour ce que en compagnie ou il estoit, il dut dire que les manieres qu'on tenoit n'estoient pas bien honnetes ni selon Dieu, et le disoit d'une bonne amour, on le voulut prendre; mais il se bouta es haultes voulttes de Notre Dame de Paris; et fut son hotel tout pille et robbe.<sup>1</sup>

The Cabochians were unofficially under the patronage of Burgundy, and this event seems to have completed the revulsion in Gerson's feelings towards Burgundy which had been begun by the succession to the Duchy of John the Fearless; he had always distrusted John's ambition and had opposed him in 1406 at a Church council when the Duke wished to renew the subtraction of obedience.<sup>2</sup> Now, when the reaction to the Cabochians came in August, 1413, the Parisians went over to the Armagnac side and the Burgundians were expelled, they left behind them a convinced anti-Burgundian, if not a passionate Orleanist, in the Chancellor of Notre-Dame.

The Duke of Orléans entered Paris on 1st. September, 1413, and almost immediately Gerson began his campaign. On the 4th.,<sup>3</sup> at a solemn meeting at the Palais, Gerson, in the University's name, denounced the errors of Jean Petit (though

---

<sup>1</sup>Juvenal des Ursins, Histoire de Charles VI, quoted X, 512.

<sup>2</sup>Coville, op. cit., 415.

<sup>3</sup>Coville says 5th. (op. cit., 414), but Glorieux 4th. (VII, xiv).

without naming him) in the oration Rex in sempiternum vive, called by Glorieux Discours au roi contre Jean Petit (VII, 1005-1030). It was the Chancellor's first open attack on Burgundy and his first clear discussion of tyrannicide, so it is interesting to see how his ideas on the subject had been evolving in the past eight years. In 1405, in Vivat rex, Gerson had made a general condemnation of tyrants and explained how they usually provoke resistance and so come to bad ends; he actually mentioned tyrannicide but did not recommend it, despite what his enemies, Petit's supporters, were later to say.<sup>1</sup> Next, in Veniat pax, probably delivered in November, 1408 (I, 123), Gerson spoke highly of the late Duke of Orléans but exhorted his audience to forgive the Duke's murderers in the interests of peace and reconciliation (VII, 1100-1123). This is in sharp contrast with what he was to say in 1413 and after in Rex in sempiternum and the succeeding diatribes against Jean Petit and his ducal master, but it must be remembered that on 4th. ~~September~~ the Orleanists were in the majority in Paris, so that it was courageous of Gerson to demand mercy for Burgundy as passionately as he did before a largely Orleanist audience.

Gerson's next mention of tyrannicide was directed at the rulers of the Church rather than the State. In 1409, after the schismatic popes had failed either to meet or to offer their resignation, he urged that such recalcitrant

---

<sup>1</sup>Supra, 87-88.

pontiffs be deposed, their goods confiscated "et immo vita privare" (De unitate ecclesiae, VI, 140). In De auferibilitate papae ab Ecclesia, first written in the same year, he says an individual can rightfully defend himself against a wicked pope, even by throwing him into the sea, so why cannot the whole Church do the same? He seems to be laying himself open to the charge of advocating unregulated tyrannicide, so he expressly denies this:

. . . sicut notat Aristoteles in Politicis: pessimum esse consuescere non obedire principi sive regi. Quanto magis erronea et damnanda est assertio quod licet unicuique subditorum mox ut aliquis est tyrannus, ipsum viis omnis fraudulentis et dolosis sine quavis auctoritate vel declaratione judiciaria morti tradere; praesertim si addat haec assertio quod tyrannus ille omnis est qui non praeest ad utilitatem subditorum. (III, 305)

In De auferibilitate, moreover, Gerson finally remitted the case of a recalcitrant pope to the Church or a general council representing the Church, suggesting deposition only, not death, as a remedy (III, 307). It is thus clear that despite his enemies' later allegations, Gerson before 1413 did not advocate tyrannicide, although his ideas on the subject were still imprecise and unformulated and therefore open to some misinterpretation.<sup>1</sup>

---

<sup>1</sup>Thus in October, 1415, at the Council of Constance, the Burgundian Bishop of Arras, Martin Porrée, was able to draw up a list of twenty-five assertions by Gerson which, he said, should be condemned as "false, erroneous, smacking of heresy, scandalous and offensive to pious ears" (X, 220-225). Consequently, Gerson had to compose his Summaria responsio and Réplique à Martin Porrée in which he clarified the doubtful passages from Vivat rex, Venient autem dies, etc. (X, 226-232); cf. infra, 134.

From 1410 to 1413 Gerson was busy writing against Alexander V's Bull Regnans in excelsis which in his view gave the Mendicant Orders exorbitant privileges in the University. After the Duke of Orléans' letters in 1411, the University decided to have the orthodoxy of Jean Petit's writings examined by a committee of the Faculty of Theology and the most eminent canon lawyers, but these doctors were as divided in their approach to the question as in their politics, so, despite the complaints of the Orleanists, the examination was delayed for two years.<sup>1</sup>

In 1413 Gerson's attitude to Petit and his master was strengthened by the Cabochian crisis already mentioned.<sup>2</sup> A commission of Cabochians organized a forced loan from the burghers of Paris to pay for the renewed war against England, but in its collection they vented all their personal hatreds, against the clergy as well as the burghers and royal officials. Gerson complained that the loan demanded of him was too high, and this prompted the Cabochians to decry him as a foe of all true Parisians and an ally of the Armagnacs.<sup>3</sup> After the fall of the Cabochians, Burgundy's flight from Paris, and Orléans' arrival there on 1st. September, Gerson re-emerged from hiding and, in the name of the University, began his attack on the now deceased Petit with the address Rex in sempiternum

---

<sup>1</sup>Coville, op. cit., 431-432.

<sup>2</sup>Supra, 110-111.

<sup>3</sup>Coville, op. cit., 432-433.

vive before a solemn assembly of the King, the King of Sicily, the Dukes of Guienne, Berri, Orléans and Bourbon, and many nobles.<sup>1</sup>

The speech opens with a salutation and an exposition of "the threefold life of the King" (VII, 1005-1006) reminiscent of Vivat rex.<sup>2</sup> Gerson then recalls the events of the past five months and asks for mercy for all those repentant of their misdeeds but not for those persevering in evildoing since "pardonner a son ennemi qui le quiert<sup>3</sup> de fait a destruire, ce n'est point douce pitié mais sote et crueuse folie" (VII, 1007); this evinces a new rancour against the Burgundians, of a kind previously only seen in his complaint about the Savoisy affray. He reflects on the reason for such destructive events and concludes that they are a judgment of God as well as a lesson to teach the people of Paris the evil of mob rule:

C'est afin, Sire, que nous connoissions tous la difference qui est entre la domination royale et celle d'aucuns populaires; car la royale a communeement et doit avoir douceur et misericorde piteuse: reges domus Israel clementes sint. Noble cueur si est piteux; mais cueur civil et vilain ha domination tyrannique et crueuse et qui se destruit par elle meme et autre aussi. (VII, 1010)

The mob when in command is evidently just another kind of tyrant.

---

<sup>1</sup>Cf. Mourin, op. cit., 205-216.

<sup>2</sup>Supra, 80-82.

<sup>3</sup>cherche

Then ensues [despite Gerson's promise to deal with "the plain matter": "let us go on the right path without fiction or palliation" (VII, 1011)<sup>1</sup>] a series of digressions: the story of Nebuchadnezzar's terrifying dream of a statue (Dan. 2) which leads to a reflection on the four estates of the realm, king, chivalry, clergy and bourgeoisie (compared, quite conventionally, with various anatomical parts of the statue or "Body Politic"),<sup>2</sup> and finally counsel for the present. The King is by implication reprimanded for favouring Burgundy: "Plusieurs manieres de mutation de royaulme. L'une est quand le roy ne va le droit chemin de justice en favorisant aux aucuns sans les punir . . ." (VII, 1017), and then he is advised to avoid a similar course in the future:

Sire, cette doctrine vous feust dite aultrefois  
 passez deux ans avant que cette douloureuse guerre  
 feut mise sus. On parloit pour vostre clergie de  
 France et pour vostre Université, et feut la pro-  
 position solennellement accordée puis avouee. On  
 dit alors par quatre fois que pour Dieu, Sire, vous  
 vous donnissiez bien garde de croire quelconque  
 conseil qui voudroit votre royale personne faire  
 partie ou elle doit estre juge et seigneur; car il  
 n'y avoit plus perilleux moyen a subvertir vostre  
 majeste royal et vostre royaulme, que Dieu ne veille,  
 que par vous rendre partial, et nous avons trop  
 sentu la verite de ceste parole. Cent mille

---

<sup>1</sup>Mourin explains that this is a pun on the motto "Le droit chemin" worn by the burghers of Paris when they welcomed the Armagnac lords into their city four days before (op. cit., 211).

<sup>2</sup>Gerson probably derived his interpretation of Nebuchadnezzar's dream from Philippe de Mézière's identical one, which de Mézières in turn admitted to culling from Guillaume de Deguilleville's Pelerinage de l'Ame; v. Le Songe du Vieil Pelerin, I, 572-573.

personnes en sont mortes et vostre royaulme appauvry et dommaigie de plus de trois millions et encore autant tiens je, et encore fus pis se Dieu n'en eust heu misericorde. (VII, 1017)

The very next day, 5th. September, 1413, the King was due to hold a lit de justice to abolish the Cabochian Ordinance, and Gerson was anxious that reforms, not a re-establishment of the old, corrupt administration, should replace its clauses. Hence Gerson insists on the King's supremacy (VII, 1015), and the necessity for one, not several, supreme courts of justice:

Sire, c'est la plus principale garde de vostre royaulme ce que vous n'avez qu'une cour de justice souveraine, c'est vostre parlement auquel vous meme répondez et tous autres sujets le doivent mieulx faire. Par deffaut d'une telle cour vont a perdition aultres pays comme Allemanie et Italie ou le plus fort vaint et vive qui vainche. (VII, 1017-1018)

The King also needs impartial counsellors, officials and guards "sans favoriser a partialité quelconque envers aultres a cause de pansion ou de service ou d'office ou de lignage" (VII, 1018). It is the King's partiality for Burgundian counsellors which has led to the recent troubles: "Nous avons veu que la racine principale de notre mechief a este le default de cette consideration quant au conseil du roy; car l'une partie disoit que le roy n'avoit presque que conseillers et gens partials . . . ." (VII, 1018).<sup>1</sup> The

---

<sup>1</sup>In 1411 Gerson had been dispossessed of his deanery in Bruges (X, 502-504), so he could now truthfully say that he himself was non-partisan, "car aussy n'ai je riens que du pape et dessous le roy, et ne veuil prouffit quelconque;

King's authority must be strong enough to prevent any subject from bearing arms without his express permission, and the latter must only be given "selon raison" and under the law of God, "car si par male information ou autrement aucuns induisent le roy a donner congie de faire injuste guerre, tels ne sont point a excuser mais a blasmer doublement" (VII, 1020). Gerson is warning against a relapse into civil war. On 23rd. August, the Duke of Burgundy had precipitately left Paris to avoid the anti-Cabochian reaction, and the Armagnacs were already plotting revenge against him; this, says Gerson, must be stopped. Similarly, "S'aucun induisoit le roy a donner congié de occire un homme qui n'auroit point deservi a mourir, cuidez<sup>1</sup> vous que tel en soit excuse?" (VII, 1020). This is obviously an attack on Burgundy's story that it was permissible for him to kill Orléans because the latter was a traitor, a story which the victim's own brother, the King, had later approved. Gerson now proceeds to lay the blame for the country's troubles on that murder six years before, and on the "false information" about it which had later been spread abroad:

---

pour quoy en doy parler plus franchement et purement" (VII, 1019). As Schwab pointed out, op. cit., 452 (though the reference is to du Pin, II, 388, not 338), Gerson was to repeat this assertion of his non-partisanship in his Dialogus Apologeticus of 1418: "Scis quam liber est ab omnibus vinculis mundanae necessitatis quatenus possit amplius praeparato animo pro veritate certamen habere" (VI, 299).

<sup>1</sup>croyez, pensez

O ciel, o terre, o glorieux Dieu de paradis; comment a été verité offusquée, confondue et celée depuis six ans en ça. On a publié principe a toute bonne police contraire et detruisant toute autorité royalle; pour quoy est venue turbation et excequation en la chose publique et peril de damnation. . . . le peuple vouloit devourer le sang royal et de noblesse par faulse apparence et information. Et . . . pour ce . . . que mes instructions contiennent par expres que la doctrine de notre foy et des bonnes moeurs soit tenue entiere. . . . je reciteray en reprovant et reprovray en recitant aucune faulse doctrine qui a esté semence de rebellion et de sedition, contre l'estat de chevallerie, et consequemment l'estat de clergie s'en fut sentu au vif, et bourgeoisie mesmement en fust detruite. Et protest. . . . que je ne tens a punition de personne quelconque . . . mais seulement je veuil publier la verité, et la fausseté reprovver. (VII, 1020)

Gerson now lists seven assertions which, he implies, were in the Justification du duc de Bourgogne:

La Ire Assertion: Chascun tiran doit et peut estre louablement et par merite occis de quelconque son vassal ou sujet et par quelconque maniere . . . Cette assertion ainsi mise generalement pour maxime et selon l'acception de ce mot Tiran, est erreur en nostre foy et en doctrine de bonnes moeurs, et est contre ce commandement de Dieu: non occides . . . . (VII, 1020-1021)

The next five assertions are Biblical examples of murder which was permitted by God, but Gerson shows that they are special cases of God working through His prophets, or else that Petit has misread them. The last assertion, that a man can break his sworn word in order to do something better than that which he has vowed, Gerson denies "car c'est fraude et deception et parjurement celer; et dire que cecy faire soit chose licite est erreur en la foy" (VII, 1022)

He concludes this list with an adjuration to the King

to extirpate such errors from his realm, with the help of his prelates and inquisitors whose job it is to put down false doctrines "sur peine d'encourir pardurable damnation" (VII, 1022-1023).

Gerson now proceeds to a discussion of loyalty and disloyalty, another scarcely-veiled attack on the man who slew the brother of his king and liege lord. He quotes St. Thomas: "Dit outre saint Thomas et plusieurs autres docteurs que violation de jurement, c'est a dire parjurement, est plus grand pechié, in genere suo, que n'est homicide" (VII, 1023). He emphasizes that a nobleman should especially value loyalty: "foy de gentilhomme se doit garder jusques a souffrir mort" (VII, 1024), and he adduces the results for the State of an absence of loyalty:

Certes qui publie que en aucun cas on peut mentir ou parjurer sa foy, il detruit toute police humaine, toute conversation et toute paix et alliance et demeure le corps de la chose publique comme sans nerfs et sans connexion.  
(VII, 1024)

He ends his oration with an exhortation:

. . . que le peuple soit content de son estat et qu'il se souffre mener et conduire par le chief et par les deux estats souverains, ou autrement l'ordre du corps mystique de la chose publique seroit tout subverti comme si les pieds vouloient usurper l'office du chief ou des bras ou du ventre, ce seroit la destruction non mie du corps seulement mais d'eux mêmes. Et nous l'avons experimenté plus que mestier<sup>1</sup> ne nous fust n'agueres, que gens qui a peine devoient appartenir aux pieds se avancoient de gouverner le chief, que dis je gouverner, mais confondre et tyranniser. (VII, 1030)

---

<sup>1</sup>besoin

He is using the image of the Mystical Body (of the State this time<sup>1</sup>) to argue against the kind of class warfare that had just caused such bloodshed and turmoil in Paris. The Cabochians are thus implicitly condemned as well as any individual, be he the skinner Caboche or the great Duke of Burgundy, who seeks by violence to overthrow the political order.

But these condemnations remain implied only, never explicit, just as Gerson's attack on Petit's defence of tyrannicide remains moderate, placed inconspicuously in the middle of a long series of general reflections on the condition of the realm and its three estates. Gerson's allusions to recent or current events are camouflaged by generalizations, and his accusation against Petit is also extremely brief. No names are mentioned and he emphasizes that he wants no one punished for the erroneous opinions, whose authorship he does not even hint at. At one point he implies that the clergy, whose duty it is to ensure the purity of the faith and of morals, have been remiss in not condemning the idea of tyrannicide (VII, 1028-1029), but, again, this is so gently put, and in such a generalized way, that its immediate relevance could easily be missed. The whole discourse is deliberately mild in tone since, as always, Gerson aimed to soothe and not to arouse animosities, and while his conscience drove him to condemn in public Petit's ideas, he certainly did not wish to provoke the Duke of Burgundy to any overt hostility.

---

<sup>1</sup>He had already called the State a "mystical body" in Vivat rex (VII, 1155 and 1178); cf. supra, 83 and 94.

Two days later the University approved and confirmed Gerson's account and judgment of Petit's supposed assertions (I, 127).

Coville comments in an aside on the strangeness of this whole affair. Valentina Visconti, Dowager Duchess of Orléans, and her children had vainly implored the King to see justice done on the Duke's murderers. The Duke's heir, Charles, had fought a civil war to avenge him. Since August, 1413, the Orleanist party had been victoriously in control of Paris, as well as of the King and the Dauphin, and Burgundy and his followers had fled home in disarray. The government was now completely in Orleanist hands. But there was still no judicial suit brought against John the Fearless. The question of his guilt was debated in theory alone, and became a subject of academic discussion rather than of personal emotions or accusations. The Faculty of Theology, and later the Bishop of Paris and his Inquisitor, examined the doctrinal question only, without at first any mention of the author of these ideas "subversive of faith and morals."<sup>1</sup> That author, in the meantime, had escaped the possibility of any earthly judgment, and his master, the instigator of the crime, was to remain free and powerful for another six years until, having provoked his cousin the Dauphin into becoming another murderer, he departed for the Supreme Lawcourt from the bridge at Montereau.

---

<sup>1</sup>Coville, op. cit., 438.

2. From the Council of Paris to the Murder of the Duke of Burgundy

There were certain differences between Gerson's assertiones in Rex in sempiternum vive and Jean Petit's text of the Justification du duc de Bourgogne which were to cause the Chancellor trouble later on. For example, Petit had said "Il est licite a chacun subiect d'occire ou faire occire," but in his first assertion Gerson misquoted: "Chascun tiran doit et puet estre louablement et par merite occis de quelconque son vassal ou subjet . . . ." (VII, 1020), and Gerson omitted Petit's reservation: "Maisment quand il est de si grant puissance que justice ne peut bonnement estre faicte par le souverain." In the second assertion Gerson omitted that Michael killed Lucifer "pour ce que ledit Lucifer machinoit à usurper une partie de l'onneur et seigneurie de Dieu." In the other assertions Gerson made differences in form only; he misquoted Petit importantly only in the first, and it is true that he was concerned with denouncing the doctrine of tyrannicide, not any particular person, but he would have avoided considerable trouble had he stuck to the letter of Petit's prose.<sup>1</sup>

---

<sup>1</sup>In Coville's critical view:  
 "Quelles que fussent les habitudes du temps, son procédé pour obtenir une condamnation immédiate sur la foi de sa dénonciation, sans se soucier des développements que devait avoir un tel procès, marque ou une singulière légèreté ou plutôt une fausse habileté médiocrement scrupuleuse pour les moyens à employer" (op. cit., 442).

Gerson's speech to the Court proved sufficient to begin a formal judicial process. Two days later the Rector of the University presided over a meeting of the doctors of all faculties as well as the Proctors of the Nations. The Rector revealed the object of the meeting and then Gerson took the floor, repeating the arguments of Rex in sempiternum vive. The Faculties and Nations eventually supported the Chancellor's recommendations unanimously save for the Faculty of Canon Law and the Picard Nation. The Faculty of Theology was requested to examine the documents in question. A month later, on 4th. October, Gerson wrote a Réponse aux critiques contre la proposition de l'Université pour la paix to justify his position in supporting "la verité de la foy et de bonne doctrine" (VII, 216-220). The truth of the Faith, he declared, must be maintained at all costs, and falsehoods must be corrected, not because of the past but for future generations. The truth here is obvious: non occides, and those who deny it or permit others to do so must be condemned. Gerson is thus, in fact if not in name, directly attacking the Duke of Burgundy, and the allusion to the terrible fate of "the Count of Toulouse" (VII, 218; presumably the suspected Albigensian, Raymond VI, rather than his Catholic son, Raymond VII) is obviously meant for the Duke. The murderer must give himself up, Gerson says, or he will be treated as an enemy of the Faith and his soul will go to perdition (VII, 219-220). His crime, moreover, is political as well as theological, since it

has been the cause of all the recent troubles in the kingdom (VII, 217), so it is doubly reprehensible.

As a result of this, perhaps, on 7th. October, the King commanded the Bishop of Paris, with the Inquisitor and the most distinguished doctors of theology in the University, to enquire into heresy and error in the kingdom. On 15th. November, Gerson, as Chancellor of the Cathedral of Notre-Dame, read to the Chapter-General the King's letter of 5th. September pardoning the Armagnacs and then made a speech explaining that his silence hitherto had been due to his terror of the Burgundians (du Pin, V, 52):<sup>1</sup> "L'attitude de Gerson est ici bien visible, sinon bien courageuse: il exagère la contrainte pour justifier le passé; la sécurité reconquise, il provoque pour l'avenir."<sup>2</sup>

On 30th. November began the first session of the "council of faith" which was to continue till 23rd. February, 1414. It was not a regular church council but was a

---

<sup>1</sup>The text of many speeches and pamphlets written for the Councils of Paris and Constance in connexion with the Petit affair, is to be found, regardless of their authorship, in the fifth volume of Ellies du Pin. Glorieux has published those by Gerson in his tenth volume (I, 18), but unfortunately he did not attempt to disentangle Gerson's from the other writings in du Pin's Volume V when he made his "critical analysis" of du Pin in his introductory volume (I, 39-70). He dealt in detail with du Pin's first four volumes but was evidently daunted by the complexity of Volume V since he--otherwise inexplicably--ignored it completely. For the reader's convenience, the contents of Volume V are listed below in Appendix II, and their place in Glorieux, if they are printed there, is indicated.

<sup>2</sup>Coville, op. cit., 449.

consultation of doctors of the University on the accused articles. Those present were mostly theologians; there were very few canon lawyers because the Faculty of Canon Law as a whole opposed the procedure, but it was a distinguished gathering attended by one archbishop, one bishop, and many University officials and monks, all in their capacity of members of the University. They had consultative powers only; it was for the Bishop and the Inquisitor to judge and pronounce sentence. The former was Gérard de Montagu, a confirmed Armagnac, some of whose property had been seized by the Burgundians in 1411, and whose brother, Grand Maître de l'Hôtel du Roi, had been tortured and gruesomely killed by the Burgundians.<sup>1</sup>

The Council began by considering fifty-six propositions, including forty-one proposals, mostly Burgundian or Cabochian, which were unconnected with the question of tyrannicide, but gradually the discussion was narrowed to concentrate on the orthodoxy of the Justification du duc de Bourgogne. Gerson spoke several times, demanding a condemnation of that book and various opinions drawn from it. He demonstrated that the word "tyrannicide" could not be applied to the Duke of Orléans' murder, and that, anyway, Petit had not defined the circumstances which excused tyrannicide. Aquinas in his De regno and Nicholas of Oresme in his preface to

---

<sup>1</sup>Vaughan, John the Fearless, 79-80; cf. J. Huizinga, The Waning of the Middle Ages (New York: Doubleday, 1954), 12.

Aristotle's Politics had both said it was better to leave a tyrant to the judgment of God, and St. Augustine, John of Salisbury, Alexander of Hales and others had all decried tyrannicide (Contre les vii Assertions. Mémoire et dossier, X, 181-206). But Gerson encountered little of the agreement for which he had hoped. In January a commission was appointed to examine the Justification in detail, and it finally limited the scope of discussion to nine principal propositions drawn from the book. In February these were submitted to the Council for consideration, but the Council then became enmeshed in long discussions about the Justification which involved protracted debate on the real meaning of John of Salisbury and Thomas Aquinas. Most of those present supported or opposed the inquiry according to their own political sympathies, Armagnac or Burgundian. Only a minority would vote for the outright condemnation of the Justification, as Gerson wanted; most were afraid to commit themselves, although they recognized that most of the assertions were erroneous; they probably feared that Burgundy might return to power.<sup>1</sup>

But, finally, on 12th. February, Gerson appeared again before the Council, reiterating his condemnation, and the very next day the Bishop and Inquisitor at last gave sentence (I, 127). They first condemned the Justification to be burnt, and then condemned the nine assertions extracted from it.<sup>2</sup>

---

<sup>1</sup>Coville, op. cit., 455-496.

<sup>2</sup>Denifle and Chatelain, eds., op. cit., IV, 280.

. . . finally, on 25th. February, Jehan Petit's Justification du duc de Bourgogne was solemnly burnt in front of Notre-Dame cathedral, and it was even suggested that his bones should be fetched from Hesdin to be burnt in the same place as his arguments.<sup>1</sup>

Thus matters stood in 1414, the year of the opening of the General Council of Constance. But John the Fearless, for the sake of his own prestige and of his political supporters, could not afford to let the affair rest there. He had been publicly humiliated by the sentence of the Bishop of Paris; he now wished to vindicate himself and the Council of Constance was his opportunity. In March, 1414, he appealed to Rome and to the Church in general against the sentence of the Council of Paris (du Pin, V, 500). War intervened, the Duke fighting against Charles VI until the negotiations which led to the Peace of Arras began in September. John then appealed again and Pope John XXIII appointed three cardinals (Orsini, Panciera and Zabarella) to examine the case; they cited the Bishop and Inquisitor of Paris to appear before them. On 9th. October, John held a great meeting in Cambrai Cathedral and protested his innocence of any wrong-doing in the Petit affair; he reproached the Bishop of Paris and Maître Gerson: "à tort et sans cause ilz se sont efforchiés contre raison de moy diffamer, blechier et denigrer ma bonne renommée."<sup>2</sup> On 4th. December Gerson commented on this to the

---

<sup>1</sup>Vaughan, John the Fearless, 196.

<sup>2</sup>Valois, op. cit., IV, 316.

King and princes in a Latin speech, Ecce rex, in the courtyard of the Hotel Saint-Pol. The Duke's plea, he said, was "nec purgationem sed sordidationem" and he must take it back:

Oportet enim quod erroris asserti vel advocati publice, notorie, absolute, determinate, scandalose, injuriose, et contumeliose sit protestatio vel detestatio seu revocatio publica, notoria, absoluta, determinata, aedificatoria, reconciliativa, humilis et satisfactoria . . . . (V, 253)

The Propositiones of Jean Petit had already been condemned not only by the Bishop and Inquisitor but also by the King and University. Gerson felt no animosity toward the Duke but was concerned only with his soul (V, 254). Anyone who stopped Burgundy from recognizing the error of his ways would be guilty of heresy. And if the Pope and cardinals--"Quod absit!"--approved the Justification, that would be an even greater reason for deposing them than any for which the other popes and cardinals of the Schism have already been condemned: "Recognoscat [dux] utinam in vita ad salvationem ne post vitam sentire cogatur ad damnationem aeternam et posteritas sua ad exhaeredationem" (V, 254). Three weeks later, on 27th. December, a royal letter, written suggestively in Gerson's style, resumed the whole question and came to the same conclusions (du Pin, V, 338); soon afterwards, on 5th. January, 1415, a solemn memorial service for Louis of Orléans was held in Notre-Dame Cathedral in the presence of the King, princes and two cardinals, and Gerson pronounced the funeral oration. Its text has since been lost, but Monstrelet tells us that Gerson

praised the late Duke's service to the Government "en . . . disant que le gouvernement de ce royaume par lui administré en son vivant estoit meilleur que celui qui a esté depuis," declared that Burgundy must be humbled "for the salvation of his soul," and claimed that the condemnation of Petit's ideas was "well done."<sup>1</sup>

Meanwhile, the Council of Constance had been opened by John XXIII on 5th. November, 1414, and early in the new year Gerson was ordered to attend it as the delegate of the King, the University and the province of Sens. He left Paris between 4th. and 8th. February, 1415, never to return (I, 128). He seems to have been determined that the Council should put an end to Burgundian propaganda and confirm the decision of the Council of Paris, so it was mainly due to him that the question of tyrannicide ever arose at Constance.<sup>2</sup> On 9th. January, he had told the King and his Council: "Timere debet dominus noster et suum sacrum collegium de fautoria heresis, quoniam error cui non resistitur approbatur," (X, 521)<sup>3</sup> and again on 26th. January he had written:

Et si angelus descenderet de coelo et nuntiaret michi oppositum, non crederem, sed dicerem cum

---

<sup>1</sup>La Chronique d'Eguerran de Monstrelet en deux livres avec pièces justificatives, 1400-1444, ed. L. Douet-d'Arcq (Paris: la Société de l'histoire de France, 1859; reprinted New York: Johnson Reprint, 1966), III, 55.

<sup>2</sup>Coville, op. cit., 508-509; and Vaughan, op. cit., 210.

<sup>3</sup>Cf. H. Finke, ed., Acta Concilii Constanciensis (Münster: Regensburgschen Buchhandlung, 1896-1928), IV, 256.

apostolo: Anathema sit! Ymo, quod plus est si  
Deus diceret michi, non crederem, quia antecedens  
est impossibile. (du Pin, V, 379)<sup>1</sup>

In retrospect, the Petit affair occupied a disproportionate amount of the time of the Fathers of Constance whose main work, after all, was to arrange the reunion of the Church, to restore a single Papacy, to deal with the more important heresies of Huss, Jerome of Prague and Wycliffe, and to reform the Church. The time it claimed is indicated by the enormous number of manuscripts dealing with the question that have survived from Constance, most, though not all, later published in du Pin's fifth volume.<sup>2</sup>

Gerson arrived at Constance on 21st. February, 1415, with eleven doctors sent by the University of Paris. These doctors soon grew bored with the Council and drifted home, leaving Gerson and d'Ailly as the leaders of the royal delegation which arrived on 5th. March. Gerson and d'Ailly did not always act in concert and the French delegation was never as well organized as the Burgundian, which was given constant, detailed instructions by the Duke. On 23rd. February, the Treaty of Arras had been proclaimed, so the two sides were now officially friends, but John the Fearless still

. . . used every conceivable means to protect his interests at the Council. His embassy there

---

<sup>1</sup>The reference is to Galatians 1:8: "though we, or an angel from heaven, preach a gospel to you besides that which we have preached to you, let him be anathema."

<sup>2</sup>V. infra, chapter V, for the Council of Constance in general and Gerson's part in it in particular.

consisted of a group of able and respected ecclesiastics and laymen, his councillors, servants or partisans. These men acted under firm instruction from the duke. The bishop of Arras, Martin Porée, was to be president. The members of the embassy were to avoid quarrelling among themselves; they were not allowed to receive gifts of any kind nor to accept invitations to dine or sup outside their lodgings; and they were sworn to secrecy. Their president Martin Porée and another Burgundian ecclesiastic, Pierre Cauchon, who later earned an unenviable place in history as Joan of Arc's judge, resided permanently at Constance. . . . Both these men were skilful debaters and ardent supporters of the duke, and the lay members of the embassy seem to have been equally effective.<sup>1</sup>

The Duke's chief argument was that he himself was perfectly orthodox and if Jean Petit had said anything in error, it had been the latter's own personal opinion, not his. Gerson replied by saying that, no matter who was responsible for them, Petit's nine assertions must be officially condemned, and throughout the summer of 1415 he missed no opportunity to state this in public, both verbally and in writing (du Pin, V, 353ff.). The Duke countered with a snobbish attack on Gerson when he demanded that the Council expel some people, "nonnullos homines . . . vero modici [status], ipsorum complices, et fautores Constantiae stantes, omnes autem inimicantes michi, quantum in eis est, honorem meum multipliciter aggravari . . . odio dicuntur, et insania, non Fidei zelo . . ." (du Pin, V, 345).

It was the Emperor Sigismund who first attempted seriously to conclude this vituperative debate. On 14th. June,

---

<sup>1</sup>Vaughan, John the Fearless, 211.

he met the four nations of the Council and created a special commission of four cardinals and fourteen bishops and theologians, including Gerson, to inquire into and deal with all cases of error or heresy in faith and morals.<sup>1</sup> He wished to settle the tyrannicide question before he left Constance to visit Benedict XIII at Nice to persuade him to resign, so, to expedite matters, the Emperor left Constance on 24th. June, declaring that he would not return until the business was concluded. The commission therefore decided to satisfy the Emperor by denouncing the first of Gerson's seven assertions, Quilibet tyrannus,<sup>2</sup> without dealing with the Paris condemnation of Petit's nine theses or with Burgundy's appeal. As a ploy to lure Sigismund back to Constance this succeeded, for the Emperor was temporarily satisfied.

But the formal condemnation of Quilibet tyrannus, on 6th. July, 1415, satisfied neither Gerson nor the Burgundians because, as we have seen, Quilibet tyrannus had not been directly quoted from Jean Petit and therefore had not been among the nine assertions condemned at Paris. Gerson in fact wanted his own interpretation of Petit, Quilibet tyrannus, denounced as heresy, and the Burgundians were happy to concur

---

<sup>1</sup>John Hine Mundy and Kennerly M. Woody, eds., The Council of Constance: the Unification of the Church, trans. Louis Ropes Loomis (New York: Columbia, n.d.), 249.

<sup>2</sup>Gerson's misquotation of Petit's words, which he continued to repeat through the whole affair; v. supra, 119, where it is cited in the French of 1413: "Chascun tiran . . ."

in this since they could show that Quilibet was not held by Petit; but, though this satisfied the less erudite Sigismund, it did not solve the problem of the Paris condemnation of Jean Petit. The argument therefore continued even more acrimoniously, and to discredit Gerson the Bishop of Arras presented to the commission of faith a list of twenty-two assertions extracted from Gerson's writings which he said were erroneous, including sections of Vivat rex which seemed to approve of tyrannicide (X, 220-225).

But Gerson continued to fight his battle, even though the prospects of success seemed to be diminishing rather than improving. On 17th. October, 1415, he gave a sermon, Aestimo me beatum, on the text Non occides, to the Fathers of the Council (V, 28-39), and on the morrow his discourse against Jean Petit, Oportet haereses esse (V, 420-435), both rehearsing the arguments already described. Despite his eloquence, however, the cardinals on the commission of faith were won over by the Burgundians and their bribes.<sup>1</sup> The commission concluded that the decision of the Council of Paris was null and void and the nine condemned assertions were not to be found in Petit's writings, so both the Duke and Petit were exonerated; the nine doubtful assertions were to be reconsidered by the next council. Finally, on 16th. January, 1416, the commission made a formal announcement: the representatives of the Duke of Burgundy summoned to appear before it to

---

<sup>1</sup>For these v. Vaughan, John the Fearless, 211-212.

question the validity of the Council of Paris had appeared, but the representatives of the Council summoned to defend it had not, therefore the Council of Paris and its condemnation of Petit's theses were null and void, though only by the later default of its spokesmen.<sup>1</sup>

Gerson immediately protested in his sermon for Candlemas Day, 1416, Suscepimus Deus misericordiam (V, 538-546), where he defended the power of bishops to deal with doctrinal matters, just as the Bishop of Paris had dealt with the doctrine of tyrannicide;<sup>2</sup> and on 5th. May, in the oration Deus judicium tuum before the Fathers of the Council in the name of King Charles VI he reviewed the whole affair ever since the publication of the Justification du duc de Bourgogne (V, 190-204). Of course, the cardinals' decision should by now have settled the matter, but both sides still felt dissatisfied

---

<sup>1</sup>It was thus misleading for Walter Ullmann to state in a handbook intended for popular instruction: "When Jean Petit . . . taught with singular directness that to kill a tyrant was not only licit and meritorious, but also a duty of the subjects, the assembled conciliar wisdom at Constance stigmatized this view in a special decree as heretical, scandalous and seditious: anyone holding it was to be treated as a heretic, because it was 'erroneous in faith and morals.'" [A History of Political Thought: the Middle Ages (Harmondsworth: Pelican, 1965), 225.] The condemnation was that on 6th. July, 1415, of Quilibet tyrannus, which, as we have seen, was not held by Jean Petit.

<sup>2</sup>Glorieux attributes this sermon to 1418 (V, xv), but Coville's attribution to 1416 (op. cit., 546) fits in very well with the course of debate in that year. The Council of Paris had been condemned only two weeks before, so it was natural for Gerson to wish to defend it in the first sermon he preached after that.

that their arguments had been judged only on the basis of the presence or absence of their sponsors before the commission.

Thus the debate continued, or, as Valois summed it up:

Ce fut de part et d'autre un débordement d'éloquence et d'injures, toute une mêlée terrible où théologiens, avocats, jurisconsultes, cardinaux trouvèrent pendant plus d'une année encore l'occasion de déployer leur érudition et d'épancher leur bile, lutte navrante dont je renonce à déduire les péripéties et où l'on oublia de pourvoir aux véritables intérêts de l'église qui attendait toujours la réforme et l'union fort compromise par ces querelles.<sup>1</sup>

The cardinals' decision provoked a furious reaction among Gerson's supporters in Paris, especially at the College of Navarre, and a lengthy debate in Constance in May with Gerson and the Bishop of Arras taking the floor in a series of perorations which ended literally in a shouting match on 9th. and 11th.<sup>2</sup> In July the commission of faith disbanded, announcing that it had now done all it could: it was for the Council as a whole to settle the matter finally.

Under pressure from both Gerson and his party, and from the Burgundians, the Council now endeavoured to appoint some new cardinals to conclude the business, but all who were asked declined so thankless a task save only the Cardinal of Verona who was eventually left, with the auditors of the Rota, to do it all. Consequently, he moved extremely slowly, despite Gerson's complaints, like that in the sermon for St. Anthony's Day (17th. January), 1417, Nuptiae factae sunt, when

---

<sup>1</sup>Valois, op. cit., IV, 331.

<sup>2</sup>Coville, op. cit., 542.

he bitterly urged more action and haste (V, 376-398). Then, on 14th. November, 1417, a new Pope, Martin V, was at last elected. His main aim was to set the Church on an even course with as little strife as possible; certainly he did not wish to reawaken quarrels which were as much political as religious and he seems to have hoped that, if ignored, the Petit problem would simply fade away.

The Petit affair now became identified with the Falkenberg one, which can be quickly summarized: John of Falkenberg, a Dominican present at Constance, had written a pamphlet, apparently at the instigation of the Teutonic Knights, which stated that it would be lawful to kill the King of Poland and all his subjects. Thereupon the Bishop of Gnesen had ordered Falkenberg's pamphlet burnt and had cast him into prison. Gerson and the French delegation to the Council now supported the Poles in demanding that the pamphlet in question, which used much the same arguments as Petit's Justification, be condemned (Contre Falkenberg, X, 280-284). But they obtained no more satisfaction here than in the Petit affair. Gerson complained bitterly that the Council was failing in its second aim, the extirpation of heresy, and the Poles appealed to a future council to judge their case. In reaction to this, at the public consistory on 10th. May, 1418, Martin V had a bull read out (though it was never published) forbidding all appeals from the judgment of a pope to a council, and demanding absolute submission to the pontifical decisions on matters of faith. At the closing session of the Council, the

Poles protested again but the Pope bade them desist. So the doctrine of tyrannicide was not condemned and the French and the Poles left Constance unsatisfied. Both the Petit and the Falkenberg affairs were too confused with politics to be easily or speedily settled, and by 1418 it was too late: the Fathers of the Council had been there for four years and had had enough; few besides Gerson wished to continue these tedious debates and delay the closing of the Council even longer.<sup>1</sup>

Thus ended Gerson's long campaign to have the idea of tyrannicide as advocated by Jean Petit condemned by the Church. He had failed to persuade the Council to condemn Petit's Justification and the nine assertions extracted from it, but he was not downhearted. In September, at the Abbey of Melk in Bavaria, he wrote his defence of his part in the whole long affair, the Dialogus apologeticus (VI, 296-304), in which he points out that tyrannicide, as such, has in fact been condemned just as he wished, and if the condemnation of Petit by the Council of Paris was overturned, it was only by default, not on logical or doctrinal grounds.

Gerson had not succeeded in obtaining a conciliar condemnation of Petit or of his patron, the murdering Duke. But, in fact, in this very failure lay the seeds of Burgundy's eventual downfall. He was so encouraged by it that on 14th. July, 1418, he returned to Paris, which his army had already

---

<sup>1</sup>Joseph Gill, Constance et Bâle-Florence (Paris: Orante, 1965), 92.

secured at the end of May. The King and University thereupon hastened to betray Gerson by disavowing all they had ever said against the Duke. On 3rd. November, the vacillating King even went so far as to hold an elaborate service at Gerson's own Cathedral, where the sermon was preached by the Queen's confessor, Pierre Aux-Boeufs, who had collaborated with Petit in writing the Justification. Royal letters were then read out annulling the Council of Paris' condemnation of Petit. The decisions of the University and Parlement condemning Petit were also, in the following year, rescinded by order of the King. Political power in France was now divided between the Dauphin, the King of England and the Duke of Burgundy, and none could say who would eventually dominate--until 10th. September, 1419. On that day, John the Fearless was murdered by the Dauphin's men on the bridge of Montereau. It was the end of the long debate, for though an Armagnac Petit might have argued that it was another example of justifiable tyrannicide, such an apologist did not appear, and the long discussion was at last, mercifully, laid to rest.<sup>1</sup>

Gerson's view of opposition to tyranny is an essential component of his total political thought. He never denied the right of resistance; we have seen him urging the deposition of an unjust pope<sup>2</sup> and, in his sermon Apparuit,

---

<sup>1</sup> For the events of 1418-1419 concerning Duke John, v. Vaughan, John the Fearless, 228-286.

<sup>2</sup> Supra, 59-60.

declaring: "si quis abusui potestatis, hoc est tyrannidi resistit, ille non resistit Dei ordinationi sed obedit" (V, 86).<sup>1</sup> But he consistently denounced the murder of any ruler because of the commandment Non occides, and, as usual, he followed St. Thomas who had recommended that the deposition and punishment of an unjust ruler be left to a properly constituted authority, presumably a court or, in the case of the Church, a general council. Gerson fought for this view as a matter of principle and it is inaccurate of Coville to say that he did so simply out of personal animosity to the Duke of Burgundy,<sup>2</sup> although, like everyone else involved, Gerson could not be completely impartial in the Civil War and was obviously not uninfluenced by contemporary events, especially those of 1413.

---

<sup>1</sup>Schäfer was therefore mistaken in saying "Auch hier also, wo es sich um eine schlechte Staatsgewalt handelt, gibt Gerson dem duldenden Gehorsam den Vorzug. Die Rede: "Rex in sempiternum vive" bildet den Auftakt und betonte, nicht im Gegensatz zu früheren Ansichten, wohl aber extrem die passive Haltung des Volkes, einer guten, sowie schlechten Autorität gegenüber" (op. cit., 71).

Gerson never preached popular passivity, although he condemned the execution of a ruler by any group of self-appointed, unconstitutional judges.

<sup>2</sup>Coville, op. cit., 448.

JEAN GERSON: POLITICS AND POLITICAL THEORY

by

Mary Christine Davenport Batts



Thesis presented to the School of Graduate Studies  
in partial fulfilment of the requirements for  
the Ph.D. degree in History

V. 2

UNIVERSITY OF OTTAWA  
OTTAWA, CANADA, 1976



M.C.D. Batts, Ottawa, Canada, 1977

## V. ECCLESIOLOGY: GERSON AT THE COUNCIL OF CONSTANCE

### 1. The Background to the Treatises

Hitherto little has been said in this paper about Gerson's ecclesiology, first, because his early writings on this subject are largely innocent of secular references, and, second, because they have been exhaustively examined in a recent book,<sup>1</sup> so that another discussion of them would be superfluous. But the same cannot be said of his later ecclesiological treatises, specifically those written at Constance between 1415 and 1418. In his earlier works Gerson was usually commenting on the current schismatic state of the Church and exhorting his readers to action to end the Great Schism, at first by the via cessionis, i.e. the abdication of the rival popes, and later, after his visit to Benedict XIII at the end of 1403 and his subsequent disillusion with that uncoöperative pontiff, by the via concilii. Until the time of the Council of Pisa in 1409, therefore, he was more interested in the means to end the Schism and the actual constitutional steps that must be taken to convoke a general council, than in the government of the Church once union had been restored. As has been shown,<sup>2</sup> he finally decided that epikeia was the one legal principle that could be invoked to justify the convocation of an otherwise illegal general council. After the Council of

---

<sup>1</sup>Meyjes, op. cit..

<sup>2</sup>Supra, 49-74.

Pisa, his energies were largely occupied by his campaign to have Jean Petit's doctrine of tyrannicide officially condemned by the Church, and this campaign continued until the very end of the Council of Constance in 1418, but not to the exclusion of all other interests. Between 1409 and 1415 he found time to write on theological, moral and educational matters as well as carrying out his academic duties and organizing the Council of Paris to decide the question of tyrannicide (I, 125-128), and once the Council at Constance had opened he turned his attention to the future government of the Church and the means to ensure that a schism like that just witnessed should never occur again. In the latter area Gerson developed an ecclesiastical political theory complementary to his secular. In Vivat rex he had already implicitly recommended a lay monarchy limited by the rights of a representative advisory and legislative assembly and of courts of law. Now he was to recommend a parallel organization in the Church, although he was careful to point out that the Church's monarchy, the Papacy, was essentially different from any lay kingship since it was directly established by Christ. Nevertheless, his ecclesiology as expressed at Constance is the obverse of his theory of the lay State and neither can be properly appreciated without the other, so the treatises containing it will be examined here in their chronological order to show how he developed his concept of Church government. Their historical background will

also be described to explain the immediate events that prompted them.

The Council of Pisa worsened, rather than ended, the Great Schism. Neither Benedict XIII nor Gregory XII resigned, so the election of Alexander V simply meant that there were now three popes instead of two. Worse still, in May, 1410, Alexander died, to be succeeded by the disreputable John XXIII, probably elected in the belief that he could hold Rome, which he had recently regained for Alexander from Ladislas of Naples, and pacify central Italy. He did indeed succeed for a time in these aims but his administration was so corrupt that he soon alienated most Christians, and his attempt at a council to carry on the work of Pisa, at Rome in 1413 (called only to satisfy public opinion), was ludicrously ill-attended. He soon had to prorogue it, whereupon Ladislas broke his new alliance with the Papacy, re-invaded the Papal States and again took Rome by force. In desperation, John now turned to Sigismund, the King of the Romans, who was then in northern Italy. Sigismund promised to help only if John convoked a general council of the Church to meet at Constance on All Saints' Day, 1414; and even before John knew of this arrangement Sigismund had published it abroad and invited John's two rivals, plus all Christian princes, to the Council. John dared not refuse Sigismund's demands and soon issued the bulls convening the Council. His resolution was strengthened in the spring of 1414 by Ladislas' new occupation of Rome and

advance northwards; and although the egregious Angevin died in August, John's cardinals felt too committed to the Council to allow him to retreat again to Rome as he wished.<sup>1</sup>

So, on 5th. November, 1414, John XXIII solemnly opened the Council of Constance. But few delegates emulated the Pope's punctuality, and little business was done before Sigismund's arrival on Christmas Eve. The question of procedure had then to be decided. John and his party suggested that voting should be per capita (as it later was at the Council of Basel), which would have given them a majority and enabled them to confirm the decrees of Pisa, thus retaining John as the one legitimate Pope. But at the end of January the English delegates arrived and proposed that the voting should be by "nations" as it was at many universities. The Germans accepted this proposal, and then, after much debate, on 5th. February, the French. Four "nations" were recognized: the Italian, French, German (including all of northern and eastern continental Europe), and English (including all the British Isles). The representatives of each nation had to agree among themselves on a policy, and then vote on it as a single entity in the Council.<sup>2</sup>

---

<sup>1</sup>Delaruelle, op. cit., 161-169.

<sup>2</sup>It is thus inaccurate of Morrall to speak of "D'Ailly's plan of voting by 'nations'" (op. cit., 96). D' Ailly, in fact, wanted voting by provinces, not nations. Cf. E.F. Jacob's review of Morrall's book in the Journal of Ecclesiastical History, XII (1961), 242-244; also Louise R. Loomis, "The Organization by Nations at Constance," Church History, I (1932), 191-210.

Gerson and his university colleagues arrived at Constance on 21st. February, while John's intentions were still the main topic of interest there. John declared that he would resign if the Council considered that this would unify the Church, which was unlikely as long as Benedict XIII refused to abdicate too. John seems to have believed that at this point any unforeseen problem might cause the Council to break up. So, on 20th. March, 1415, he assured Sigismund that he would rather die than flee, then, that very night, he fled in disguise to Schaffhausen and put himself under the protection of Frederick of Hapsburg, Count of Tyrol. The Council had now to decide whether to continue without, or even against, the Pope. Perhaps the cardinals and bishops on their own would have dissolved it, but King Sigismund stepped in to keep it going, so the only result of John's flight was his own discrediting and the increased animosity of the Council.

## 2. Ambulate dum lucem habetis

At this juncture Gerson raised his voice. On 23rd. March he preached to the Council his sermon on John 12:35: Ambulate dum lucem habetis (V, 39-50). His aim was to point out that even in the absence of the Pope the Fathers of the Council must persevere to end the Schism, which he characterizes strongly in relation to his text:

. . . ambulate dum lucem habetis ut non tenebrae vos comprehendant, tenebrae divisionum schismatumque, tenebrae tot errorum et haeresum, tenebrae demum horridae tot vitiorum per ecclesiasticum corpus vasto quodam turbine miserabiliter exundantium. (V, 40)

In such an emergency, the Council can do its duty, which is to glorify God, (even, it is implied, without the Pope) because He Himself "eidem sufficientem praebet et infallibilem auctoritatem ut causa efficiens, quoad primum fundamentum" (V, 42). Gerson proceeds to elaborate the theme from the Nicene Creed: "credo in Spiritum Sanctum et vivificantem," Who not only vivifies but also unites the Church, Christ's body. It is thus the whole Mystical Body which is important, not any single part of it. This was an expansion of Conrad of Gelnhausen's definition of the Church in his Epistola Concordiae:

. . . ecclesia sancta catholica, cujus indefectibile caput est Christus . . . non est collegium papae et cardinalium, nec aliquod collegium particulare mundi, eo quod quodlibet tale potest culpabiliter deficere. . . . est congregatio fidelium in unitate sacramentorum. . . . Hujus autem almae matris universalis ecclesiae duo sunt vel esse debent capita subordinata spiritualia; unum quidem principale semper sanum et indefectibile Christus Deus noster, fidei verus

rector, quam sibi unam desponsatam et intactam servat virginem: unde acephala esse non potest, eo quod promisit se nobiscum fore omnibus diebus usque ad consumptionem saeculi. . . . Aliud est caput Ecclesiae secundarium, scilicet papa. . . . Sed istud caput potest quandoque simpliciter non esse, scilicet per mortem; quandoque secundum quid, scilicet a gratia deficiendo, licet papatus non moriatur. . . . Nam Christus dicitur caput Ecclesiae in quantum fontalem plenitudinem omnis gratiae in eo habitantis influit spiritum et motum spiritus et gratiae in ipsam Ecclesiam, scilicet in omnes qui adhaerent ei per fidem vel fidei sacramentum: et in quantum Deus influit talem gratiam capitis auctoritative, scilicet in quantum homo per modum meriti. Et hoc quidem meritum . . . habuit ex unione Verbi, ratione cujus indefectibile influxus hujus capitis habet ecclesia privilegium indeviabilitatis.<sup>1</sup>

Gerson draws attention to the fact that (like Gelnhäusen) he is here building on St. Paul's doctrines of the Church as the Mystical Body of Christ and the Church as the Temple of the Holy Spirit (V, 44). He refers in several works to the famous passages, Eph. 4:15-16 and I Cor. 12:12-27, and here he connects them with the Pauline vision of the Vivificans:

. . . all these things one and the same Spirit worketh, dividing to every one according as he will. . . . For in one Spirit were we all baptized into one body, whether Jews or Gentiles, whether bond or free; and in one Spirit we have all been made to drink.  
(I Cor. 12:11-13)

By baptism the Spirit makes men members of Christ's body, which that same Spirit unites and vivifies. Thus every Christian individually and the whole Church collectively becomes the Temple of the Holy Ghost: "Know you not that you are the Temple of God and that the Spirit of God dwelleth in you?" (I Cor. 3:16). Gerson's invocation of the Mystical Body may

---

<sup>1</sup>Martène and Durand, op. cit., 1214-1215.

also be compared with ideas in Francisco Zabarella's contemporary Tractatus de schismate, an encyclopaedia of canonistic comments on general councils. Here Zabarella identifies the Mystical Body with the Church as a corporation having the Pope as its rector. The Church, he says, is essentially una sancta catholica ecclesia and if its hierarchy is divided by schism, then its eternal, underlying unity must be found in the whole congregatio fidelium. Zabarella tried to give legal effect to this mystical unity by using corporation theory, which was especially useful because unity and legal rights could survive in a corporation even without a head.<sup>1</sup> All this, except the use of corporation theory, was current among conciliar thinkers in general, and Gerson exemplifies it well in Ambulate.

After his introduction on the Mystical Body unified by the Spirit, Gerson goes on to expound his theory of mystical unity in twelve considerations "from this light of the Creed and apostolic doctrine." The first is that "ecclesiastical unity depends on the One Head, Christ" (V, 44), echoing what he had said in his Pisan treatise De unitate Ecclesiae (VI,

---

<sup>1</sup>Tierney, Foundations, 221-222. It is interesting to note that here Zabarella, Gerson, and the other conciliarists were not following Ockham who is so often proclaimed their inspirer. L. Baudry and J.B. Morrall have demonstrated that Ockham did not believe in the feasibility of regarding corporations as legal "bodies"; v. L. Baudry, "Le Philosophe et le Politique dans Guillaume d'Ockham," Archives d'histoire doctrinale et littéraire du Moyen Age, XIV (1939), 211-215; and J.B. Morrall, "Ockham and Ecclesiology," in Medieval Studies presented to Aubrey Gwynn, S.J., ed. J.A. Watt, J.B. Morrall, F.X. Martin (Dublin: Lochlainn at the Three Candles, 1961), 481-491.

137). Again, this may be compared with contemporary conciliar thinking, such as that of Pierre d'Ailly, who in 1409 in his Propositiones utiles ad exterminationem praesentis schismatis per viam Concilii generalis had clearly stated:

Licet Papa in quantum Christi Vicarius quodammodo dici possit caput Ecclesiae et ipsius sponsus, tamen Ecclesiae unitas non necessario dependet aut originatur ab unitate Papae. Patet ex prima: et etiam, quia nullomodo existente Papa, semper Ecclesia remanet una. Juxta illud in Canticis. VI. 8. Una est columba mea. Et illud symboli: Unam sanctam Catholicam et Apostolicam Ecclesiam. A Christo capite et sponso Ecclesiae corpus mysticum quod est Ecclesia originatur, et immediate potestatem habet et auctoritatem; ut ad suam unitatem conservandam, rite valeat seipsam ad generalem Concilium ipsam repraesentantem congregare. Patet ex illo verbo Christi Ubi duo vel tres congregati fuerint in nomine meo, ego in medio illorum sum. Matth. XVIII. 20. Ubi advertendum est, quod non dicit, in nomine Petri vel in nomine Pauli, sed in nomine meo. (du Pin, II, 112)

That Gerson's conciliarism was very similar to his master's is evident from his sixth consideration, where he defines a general council:

Ecclesia vel generale concilium eam repraesentans est regula a Spiritu Sancto directa, tradita a Christo, ut quilibet cujuscumque status etiam papalis existat, eam audire ac eidem obedire teneatur; alioquin habendus est ut ethnicus et publicanus. Patet ex immutabili lege divina Math. xviiij promulgata. Concilium generale sic describi potest: concilium generale est congregatio legitima auctoritate facta ad aliquem locum ex omni statu hierarchico totius ecclesiae catholicae, nulla fidei persona quae audiri requirat exclusa, ad salubriter tractandum et ordinandum ea quae debitum regimen ejusdem Ecclesiae in fide et moribus respiciunt. (V, 44)

The last clause is an interesting modification since, according to canon law, the right of voting in a general council

belonged to clerics alone; the laity could have seats but no votes, and one act of the Council of Constance in fact spoke of "praelati et alii qui ad concilium solent convocari accedere teneantur . . . ." <sup>1</sup> But the reformers at Constance, including Gerson, altered this so that the deputies of princes, towns, and universities could take an active part in the work of the Council, although their votes, of course, were limited to the extra-conciliar discussions of the "nations" who alone could vote in formal conciliar sessions. Pierre d'Ailly made this new attitude clear in his Oratio de officio imperatoris of 1414 where he declared: "Nullae personae catholicae etiam si sint schismaticae ab hoc congregatione sint exclusae, non tamen specialiter sunt vocatae infimae aut ignorantes personae." <sup>2</sup>

Gerson's definition of a general council may either be accepted as reflecting current thought at Constance, or even be deemed to have influenced that Council to such an extent that its decree seven days later repeated some of his words:

. . . generale concilium faciens, et ecclesiam catholicam militantem repraesentans, potestatem a Christo immediate habeat, cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent

---

<sup>1</sup>Joseph Alberigo et al., eds., Conciliarum oecumenicorum decreta (3rd. ed.; Bologna: Herder, 1962), 439 (henceforth abbreviated to C.o.d.).

<sup>2</sup>Von der Hardt, op. cit., I, 443.

ad fidem et exstirpationem dicti schismatis.<sup>1</sup>

Gerson's seventh consideration declares that "Ecclesia vel generale concilium dum dictat aliqua regimen Ecclesiae concernentia, papa non sic est supra jura etiam positiva, quod possit pro libito dissolvere talia dictata per Ecclesiam eo modo et intentione quibus dictata conclusaque sunt" (V, 44-45). It is thus clear that Gerson did not believe in a real papal plenitudo potestatis. The Pope is the Church's "one secondary head, who is called Supreme Pontiff, Vicar of Christ" (V, 44, Consideration 2), but he is bound not merely by divine and natural law but even by positive law, and a plenitudo potestatis thus limited would be a contradiction in terms. It is true that in his next consideration Gerson states that the general council cannot diminish the Pope's plenitudo potestatis, but this plenitudo is apparently subordinate to its end, "the edification of the Church," for:

---

<sup>1</sup>C.o.d., 408. For the theological implications of the decree Haec sancta synodus, v. Paul de Vooght, Les Pouvoirs du Concile et l'autorité du Pape au Concile de Constance (Paris: Cerf, 1965), though de Vooght rather unfairly considers Gerson a demagogue (p. 26) "avec une violence de langage incroyable" (p. 41); also Küng, op. cit., 240-285. Gerson's assertion of conciliar supremacy was not, of course, a complete novelty. In De schismate, Cardinal Zabarella had declared that in matters of faith the General Council is superior to any pope (Gill, op. cit., 34); the Council of Pisa had claimed to be "supreme judge on Earth" (ibid., 30); on 29th. January, 1415, Cardinal Fillastre had asserted that in matters affecting the Universal Church a general council is above a pope (H. Finke, ed., Acta Concilii Constanciensis, II, 18); and only two weeks before Ambulate the Bishop of Carcassonne, Gérard du Puy, had told the Council of Constance that it was superior to a pope (Valois, op. cit., IV, 277).

Ecclesia vel generale concilium . . . potest tamen usum [plenitudinis potestatis papalis] limitare sub certis regulis ac legibus in aedificationem Ecclesiae,<sup>1</sup> propter quam papalis auctoritas et altera hominis collata est; et in hoc est totius ecclesiasticae reformationis stabile fundamentum. (V, 45)

Gerson was far too careful a writer and preacher to employ thoughtlessly such a significant term as plenitudo potestatis; doubtless he meant that, within the limits imposed by regard for the Church's welfare and her laws, the Pope's power was plenary. But he certainly did not use the term in the usual ultramontane, Innocentian sense.<sup>2</sup>

---

<sup>1</sup>Discussing Gerson as an influence on Nicholas of Cusa, Paul Sigmund commented on this:

"It is possible to see an Aristotelian teleological element in Gerson in his constant emphasis on the purpose of the grant of power to the pope ad aedificationem and not ad destructionem. However, there is nothing strikingly new about this, since it is a paraphrase on St. Paul which had been repeated by all the conciliarists since John of Paris." [Nicholas of Cusa and Medieval Political Thought (Cambridge, Mass.: Harvard Univ. Press, 1963), 114.]

<sup>2</sup>E.F. Jacob considered that Gerson still believed in a papal plenitudo potestatis, but only in spiritual affairs. Commenting on Ambulate, De vita spirituali animae, and De auferibilitate sponsi ab Ecclesia, he declared:

"It will be seen that Gerson thinks of the Church as a society bound by law, the law made by the whole body through its representatives, the General Council. He accepts the plenitudo potestatis; he thinks that the papacy guarantees a richer life for the Church as a whole; yet he distinguishes between the senses in which papal power should be understood, for it is not a simple or unitary phenomenon.

. . . .

. . . . .  
 I cannot find that Gerson ever departed from his notion of the plenitude of power in matters strictly spiritual; but he emphasized most strongly the corresponding responsibilities of the Pope and the fact that he has a proportionalis obligatio servitutis. Further, though the papal power "has been so immediately

In his ninth consideration Gerson asserts: "Ecclesia vel generale concilium potuit et potest congregari sine expresso consensu vel mandato papae, etiam rite electi et viventis, in multis casibus" (V, 45). An example is when a pope refuses to summon a council, even when it is needed to decide important issues in the government of the Church, or when he refuses after a previous council has set a precise date for its successor, or when there are several papal claimants. Every one of these examples had, of course, applied at some time to John XXIII, so Gerson was not extending the number of cases where, as Henry of Hesse had stated thirty-four years before, a council could convene without a pope:

. . . conceditur quod communiter et regulariter verum est, quod sine autoritate Papae Concilium convocari non debet. Veruntamen, ingruente necessitate singulari, quae frangit Legem, et etiam in multiplici casu possibili, potest et debet fieri Concilium generale, sine autoritate Papae.

Primo, si Papa lapsus in haeresim manifestam, pertinaciter occupet Sedem Apostolicam, nolens Concilium convocari.

Secundo, si post mortem unius Papae contingeret statim omnes Cardinales occidi, oporteret provideri de Papa per Concilium generale.

Tertio, si Papa cum concilio Cardinalium proferret aliquam sententiam dubiam in Materia Fidei, et in hac pertinaces et incorrigibiles persisterent, nolentes Concilium.

Quarto, si Sede vacante, Cardinales propter eorum discordiam, vel aliquam tyrannidem convenire

---

conferred by God that the whole Church could not destroy it nor build it again if it were destroyed," it can fail through human and personal weakness, and if it fails it is the duty of the Church to restore it by means of the common action of the whole body represented by the General Council." (Essays, 12-13)

non possent. Seu, si ex malitia, vel alias ad electionem Papae convenire nollent, nec vellent Concilium generale.

In quolibet illorum casuum, generale Concilium sine autoritate Papae convenire debet, ad tractandum de bono communi totius universitatis fidelium. (Consilium pacis de unione ac reformatione Ecclesiae, du Pin, II, 830-831)

Gerson's twelfth Consideration foreshadowed the decree Frequens of 1417 by declaring: "Ecclesia non habet efficacius medium ad generalem sui ipsius reformationem quam si statatur generalium conciliorum continuatio, celebrationem provincialium non omittendo" (V, 45). He was to repeat this in his great treatise of 1417, De potestate ecclesiastica: "Concludimus . . . quod nulla fuit hactenus nec erit in posterum perniciosior pestis in Ecclesia quam omissio generalium conciliorum et provincialium vel in re ipsa vel in auctoritate" (VI, 225).<sup>1</sup>

Thus Gerson persuaded the Council of Constance that it should not disband simply because Pope John XXIII had abandoned it. It had assembled for the glory of God and His Church, which it represented, and He would animate and sustain it with His Spirit. The overriding necessity of unity and reform justified, even demanded, its continuation, no matter what merely human laws might decree, and far from being

---

<sup>1</sup>Gerson was not the first to say this. On 11th. December, 1406, his old master, d'Ailly, in his speech Pax Dei, quae exsuperat, had declared: "En toutes les choses de ce monde, n'y a plus grande occasion de conculquier, fouller, et abbaissier nostre Foy, que du deffaut de faire les Conseaux." V. Louis Salembier, Le Cardinal Pierre d'Ailly (Tourcoing: Frère, 1932), 206.

considered unusual or illegal, it should be but a part of a whole series of such councils which should meet regularly to discuss the state of the Church and its reform. The success of the sermon is attested by the renewed determination of the Fathers at Constance to accomplish what they had convened to do, by the decree Haec sancta which was issued so soon after Gerson put it into words in Ambulate, and by its sister decree Frequens two years later, which also carried out his recommendations.

### 3. De auferibilitate sponsi ab Ecclesia

Gerson first wrote this treatise between June and July, 1409, to justify and encourage the prelates assembled at Pisa just after they had deposed Popes Gregory XII and Benedict XIII and about the time they were electing the new Pope Alexander V. He later revised and published it at Constance on 20th. April, 1415, after John XXIII's flight from the Council there but before his deposition in May, Gregory's abdication in July, and, eventually, Benedict's deposition in 1417.

The work consists of twenty considerations, all designed to show that the Church, acting according to the letter or the spirit of the Law, that is, by either the canons of divine and positive law or the principles of epikeia, can depose a pope. The considerations follow a plan both logical and persuasive, beginning with incontrovertible theological truths and proceeding to the debatable issues before the Councils. Thus the first seven considerations each begin with variations on the powerful refrain: "Auferibilis non est sponsus Ecclesiae Christus ab Ecclesia sponsa sua." The Church's Bridegroom is Christ, who is joined to her indissolubly in marriage, and He has promised to be with her "even to the consummation of the world" (Cons. I). He could, of course, be removed from her by His absolute power (Cons. II), but has chosen to remain irremovable lege stante, that is, by His ordained power. Christ is also removable from every individual Christian who chooses to separate himself from Him by sin, but He is not

separable from all Christians collectively (Cons. III). He constantly invigorates His Bride through the gifts and graces conferred by the Holy Spirit (Cons. IV), but He does this through the hierarchy, non solum in inchoatione, since the Church must be organized and possess various officers to carry out her various ministries (Cons. V). Consequently, He also ensures that His Bride can perpetuate herself by continuing this hierarchy, "Et ex his protinus infertur quod Ecclesia vel Concilium eam repraesentans potest instituere vel eligere vel designare summum pontificem in sacra sede Petri" (III, 297). As the law stands, the Church must have a chief officer, and she must approve of the way in which he is chosen (Cons. VI). From this it follows also that the Church must remain as a visible hierarchy; she cannot be reduced to "one woman only, or even all women only, or even lay persons only" (Cons. VII).

The eighth consideration differs from all the rest in its opening words:

Auferibilis est aut mutabilis, lege stante, quae-  
libet politia civilis, monarchica seu regalis ut  
fiat aristocratica, et non sic de Ecclesia quae in  
uno monarcha supremo per universum fundata est a  
Christo. (III, 298)

The Creed's "one, holy, Catholic Church" means that there must be only one pope, one faith, one sacramental system. On the other hand, merely natural and human laws must vary in accordance with time and place.

The remaining eleven considerations all aim to show

how, as their opening words proclaim, "Auferibilis est vicarius sponsus Ecclesiae" (my italics). First, Gerson explains that the Church's vicarious spouse is removable by his own voluntary abdication. Any prelate is morally bound to resign if he is an occasion of scandal to his subjects, or if his retention of his office is detrimental to his own salvation or--and this is the doctrine of Necessity so often connected with epikeia--contrary to the general welfare. Christ is the true Bridegroom of the Church, and therefore cannot repudiate her. Others, i. e. the popes, are only vicarious spouses, chosen by human means, even though their office is divinely instituted, so, not being genuinely married to her, they can "divorce" the Church (Cons. IX). By the same reasoning, however, the Church, or a general council representing her, can "divorce" her vicarious spouse, with or without his consent. "Nullum ministratio- nis genus dedit Deus nisi in aedificationem suam et utilitatem communem," so the Church can reasonably depose a pope who is acting against her welfare (Cons. X).

It follows also that it may be necessary for a general council called without a pope's consent or even against his will to depose him, the vicarious spouse. Here Gerson refers explicitly to Aristotle's doctrine of epikeia in the Nicomachean Ethics where the Philosopher states that sometimes a law, which cannot take account of all particular cases, must be modified or abrogated in the interests of justice. If the

general welfare of the Church, therefore, demands that a council be called to depose a pope, and canon law decrees that only popes can convene councils but the pope concerned refuses to convene one, then such a council may still assemble under the ultimate authority of Christ, the Church's real Spouse. The law of public necessity is here again equated with epikeia (Cons. XI).

The Aristotelian references are continued in the next consideration. The vicarious spouse may be deposed by a council "auctoritative, judicialiter atque iudice." Christ Himself founded the Papacy but only "ad utilitatem Ecclesiae," so if the pope exercises his power to the Church's detriment it is, as Aristotle says of an earthly ruler, "for the whole community to correct or utterly depose the prince, if he persists incorrigible" (III, 302). In the past, popes have appeared before councils to answer charges made against them; "how much more strongly and reasonably now, in [1409 or 1415] may the two contenders, charged by good and serious men with schism, perjury and suspicion of heresy, be compelled to account for themselves if they know that they are innocent?" (III, 302) As a consequence, the Church may have to limit the exercise of the papal plenitude of power, not so that the latter is destroyed or diminished but to ensure that it is used to the Church's advantage. The council must be the final authority, not the pope (Cons. XII).

Gerson next deals with the pope's jurisdiction and orders and whether they are equally permanent. He concludes that the Church cannot deprive her vicarious bridegroom of his priestly and episcopal orders, but only of his office. Gerson alludes here to the danger of Donatism and emphasizes the validity of the Sacraments, even when administered by unworthy priests, to calm the fears of those who worry that ordinations performed during the Schism may be invalid. (Cons. XIII). He stresses that the vicarious spouse can only be removed by the proper authority, that is, the Church or a general council representing her. It is legitimate for certain individuals to resist him in particular cases; for example, theologians should forbid obedience to a pope insisting on adherence to an heretical doctrine, and a king should command his subjects to resist a pope physically attacking his kingdom. Similarly, all Catholics should resist a stubbornly schismatic pope. Here again "the law of necessity," not any private ambition, must prevail. But it is essential that such resistance be by the proper authority:

Quanto . . . erronea et damnanda est assertio quod licet unicuique subditorum mox ut aliquis est tyrannus, ipsum viis omniis fraudulentis et dolosis sine quavis auctoritate vel declaratione judiciaria morti tradere; praesertim si addat haec assertio quod tyrannus ille omnis est qui non praeest ad utilitatem subditorum. (III, 305)

--a condemnation of political assassination which was also applicable to French politics and the case of Jean Petit (Cons.

XIV). The pope's orders are indelible like any priest's, so only the exercise of these orders can legally be prohibited by the Church; but his papal jurisdiction is special to him alone and, as it is voluntarily assumed, so it can voluntarily be resigned, as by Celestine V, or removed by the Church (Cons. XV).

In the next consideration Gerson shows that he is familiar with thirteenth-century canonical thought on the question of the pope's deposability by quoting the conflicting theories that an heretical pope is already de facto no longer pope, or else that he still remains pope until formally deposed, or until he abdicates. Gerson prefers the latter view since, he says, if a legitimate pope has to be elected constitutionally, as at present by the cardinals to whom the Church has delegated this office, similarly he must be constitutionally deposed by the Church or a general council or others officially designated. Acceptance of the first argument would entail constant doubt about a pope's authenticity, just as the Donatists always doubted the efficacy of sacraments administered by less than perfect priests or, nowadays, "the Poor Men of Lyons" and others can have no certainty about any cleric's actions since they believe that ecclesiastical dominion is founded on grace. On the contrary, ecclesiastical offices are valid in themselves, independently of their holders. Christ chose Judas to be an apostle even

though He knew Judæ's unworthiness. It is not, therefore, enough to guess that a pope is heretical and consequently no pope: he must be formally deposed, and even the worst pope remains a valid pontiff till judicially condemned, although while awaiting trial he may be bound, imprisoned, or even ducked in the sea (Cons. XVI). It follows that a pope's ordinations and other spiritual ministrations are valid, however bad he may be personally, so there is no need for the faithful to worry about ordinations performed during the Schism (Cons. XVII).

Considerations XVIII and XIX are aimed to clear the consciences of the Fathers of the Council (Pisa or Constance) if they have any scruples about deposing for heresy or schism a pope who might just possibly be innocent. The first sentence may suggest that Gerson was so determined on the deposition of the schismatic popes that he would even turn a blind eye to false testimony against them:

Auferibilis est vicarius sponsus Ecclesie tamquam  
haereticus aut schismaticus etiam ubi in casu ipse  
non est veraciter et mentaliter talis. (III, 310)

But he proceeds to make it very clear that the Council could possibly render a mistaken judgment on a pope but it would still be a legally correct judgment if based on convincing evidence. Gerson is not in any way advocating such a morally and factually wrong judgment, but he is explaining that the judges would still be acting irreproachably because in good

faith. He gives five examples of cases where an innocent Christian could reasonably and legally be condemned for heresy on the basis of the evidence against him:

- i) if anyone is excommunicated for more than a year and is then cited before a court super materia fidei but does not appear, he may legally be presumed to be a heretic, though he may possibly be innocent;
- ii) similarly, if he refuses to take an oath before the court;
- iii) similarly, if he fails out of fear to prove his innocence;
- iv) similarly, if there is strong evidence against him, which he cannot or will not confute;
- v) similarly, if false witnesses convince the court that he has lapsed into a heresy previously condemned by the Church.

The Council has to judge according to the evidence before it, and the judges are not culpable if the evidence misleads them. But Gerson is certainly not advocating false witnesses (Cons. XVIII).

This is even clearer when Gerson proceeds to explain how the Council can legitimately depose the Church's vicarious spouse even when he is innocent of any wrongdoing, simply because the Church's needs require his removal. Such would be the case if it were wrongly reported that a pope imprisoned by the Saracens had died, so that the cardinals

proceeded to elect a new pope; the first would thereby be deposed. Similarly, if there were no hope of the imprisoned pope's liberation, or if a free pope became deranged, or if all the cardinals died after electing a new pope without having a chance to announce who he was, an innocent pope would necessarily be deposed. The recent case of 1378 also justifies deposition:

Alter casus similis satis priori, ubi nullo modo cardinales etiam viventes possent facere fidem sufficientem de electione canonica facta circa unum; qualis casus videtur esse et fuisse in schismate praesenti si bene perpendatur; et ideo circumstantia ejus multum justificat processus habitos contra illos contendentes et adversus cardinales.  
(III, 311)

And, finally, the case of the two "popes" at Pisa (or the three at Constance) also involves solemn vows to resign:

Casus alter sextus esset ubi per juramentum et votum aliquis in papam rite electus seipsum ad cessionem obligasset sed differret hoc adimplere in scandalum populorum putantium ex tali facto papae quod neque juramentis suis obligatur neque votis, qualem casum videmur habere in manibus. (III, 311)

For all these reasons the Council must depose the "popes," if not for their own crimes then for the sake of the Church (Cons. XIX).

In his final consideration Gerson adds an essential word of caution: the vicarious spouse is never removable unless he can be replaced by one certain vicar; otherwise the Church would remain imperfect, lacking her principal member (Cons. XX).

Thus, in this closely reasoned, objective and persuasive treatise Gerson leaves his readers no doubt about the position of either the Church's Bridegroom or the pope. The Former is Christ and quite irremovable; the latter is but Christ's vicar, the Church's chief officer and therefore removable by abdication or deposition if the welfare of the Church requires it. It is for the General Council as the representative of the Church to judge whether the present popes should be deposed, and in its judgement it must be guided not only by the evidence presented to it and the strict letter of the law, but also by epikeia, i.e. both aequitas, the ideal of Justice in the abstract, and the concept of the General Good. In an epilogue Gerson adds four final "corollaries" to urge his readers to immediate action: (1) Those who prevent the ending of the Schism (like the present popes) are denying Christ. The "way of force," "way of cession," and other ways to end the Schism have been tried and found wanting, so now the "way of the Council" is the only one that offers any prospect of success. (2) Those at the Council must act only in the Church's interests, forgetting their personal feelings and prejudices. (3) The organizers of the Council have been inspired by the Holy Ghost, helped by the prayers of King Charles V of France who prayed on his death-bed for such a Council. (4) The Fathers can now proceed to depose the

schismatic popes and to elect one certain and indubitable vicar for the Church.

Gerson here was either justifying and applauding a fait accompli, or urging action that was very soon taken, for on 5th. June, 1409, the Council of Pisa deposed Gregory XII and Benedict XIII and on 26th. elected Alexander V. Gerson probably left the passage unchanged when he published De auferibilitate in 1415 because he felt that deposition of the contending popes was even more urgent now than it had been six years earlier, when Christendom had been split only two ways, not three, and the popes, though certainly no saints, had not reached the depths of moral degradation of John XXIII. The validity of Gerson's reasoning was obviously appreciated by the Fathers at Constance since shortly after the publication of the treatise they did in fact feel obliged to depose John; Gregory resigned voluntarily in July, but finally, after years of vain negotiation, they had also, perforce, to depose Benedict also, in July, 1417.

Gerson may be accused of showing in this treatise his determination to be rid of the schismatic popes, but it is unfair to suppose that he was indifferent to the means to be used, fair or foul. Throughout the work he is concerned that the Council should act both for the right reasons and according to the divine law. That is why he so carefully explains that the Church's inseparable Bridegroom is Christ,

and not the Pope, so that the latter can be removed if this is necessary for the Church's well-being. The orthodoxy of this approach is confirmed by the reaction of the modern Church to its results: Alexander V and Martin V, both elected by Councils after the previous popes had been deposed, as persons urged, are both included today in the official list of Roman Pontiffs.

4. Prosperum iter faciat nobis

After 4th. July, 1415, Benedict XIII was indeed the only significant opponent of the Council of Constance. On 6th. July, John Hus was burnt, and tyrannicide was condemned in principle. Benedict's conversion or deposition now seemed the most pressing business, and two weeks later the Emperor with twelve delegates departed for Nice to negotiate with him.<sup>1</sup> Gerson bade them farewell in a significant sermon, Prosperum iter faciat nobis (V, 471-480). In this Gerson sees the Emperor's journey as an allegory of the Church's journey towards unity and reform by three routes, "the way of peace," "the way of truth" and "the way of morals or virtue" (V, 474-477). For "the way of peace" Gerson lays down four "directions" which are in reality comments on the first part of the famous decree Haec sancta synodus which the Council had approved on the previous 6th. April; that decree had begun:

. . . ipsa in Spiritu sancto legitime congregata generale concilium faciens, et ecclesiam catholicam militantem repraesentans, potestatem a Christo immediate habet, cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent ad fidem et extirpationem dicti schismatis ac generalem reformationem dictae ecclesiae Dei in capite et in membris.<sup>2</sup>

Gerson in his sermon quoted this in his first direction (V,

---

<sup>1</sup>Morrall says that Sigismund left on the 18th. (op. cit., 97); however, Glorieux (I, 130) and Gill (op. cit., 313) state that he left on the 21st.

<sup>2</sup>C.o.d., 409.

474) and continued that the Council can depose the Pope "even without any guilt on his part, though not without cause," that "it can modify or annul" his edicts, that it "can interpret, change or repeal" the positive laws made by popes or previous councils (V, 474-475). These, of course, are all powers attributed to general councils by other conciliar writers; for example, Dietrich of Niem had said five years earlier:

. . . [fideles Christi] quoscumque contententes de papatu aut se papas vocantes sub quovis colore aut titulo in decrementum et divisionem corporis Christi, quod est ecclesia, reprimere, annullare, et nullius roboris vel momenti jura, quae pro se allegarent, quibus universalis ecclesia non uniretur, deberent eciam non acceptare nec approbare, quinimo potius vel talibus contententibus obedientias denegare, vel eos via compulsionis et violencia ad viam pacis reducere. Nam contra bonum et utilitatem ac sanacionem universalis ecclesie nulla jura, nulla decreta, nullam alicuius justiciam secundum Deum et rectae sciencie dictamen possumus acceptare.<sup>1</sup>

The fact that Gerson envisages the present Council as modifying or annulling edicts of previous general councils shows that he sees the Council of Constance as but one in a long series of such councils; he is in fact looking forward to the day when councils will be convoked at regular intervals and considered normal, not extraordinary, constituents of the government of the Church. His wish appeared to be granted with the decree Frequens in 1417, and it was probably fortunate for his peace of mind that he did not live to see the abuse and final discarding of this new law of the Church in

---

<sup>1</sup>De modis., 89.

the two decades following his death.

The second part of Prosperum iter deals with "the way of truth" or doctrine; again Gerson stresses that "the General Council may and must exercise judgment in the case of heresy by any person, of whatever eminence or rank, without favour or fear or respect of persons" (V, 475), and he proceeds to apply this to John XXIII and John Huss together, almost as if they were equally guilty as heretics. John XXIII is mentioned again in the next part, on "the way of morals or virtue," where Gerson explains that the Council had authority to depose him, not "as an heretic or wanderer from the Faith" but because his conduct scandalized the Church. He then deals with the plenitude of papal power which, he says, the Council cannot "remove or diminish" but which "it can limit by certain laws and statutes for the edification of the Church" (V, 477-478). This, of course, is the same argument as in Ambulate the previous March, and it is in fact a development of the old Decretist and Decretalist idea that the Pope cannot use his authority to injure the generalis status ecclesiae. The statutes of a general council which were of universal application were assumed to affect the whole state of the Church and therefore they were traditionally considered inviolable by the Pope.<sup>1</sup> The Pope's authority was thus deemed limitable by the Council, and not vice versa.

---

<sup>1</sup>Tierney, op. cit., 50-53; for this self-contradictory idea of a limited plenitude, v. supra, 151-152.

Gerson now goes on to illustrate his conception of a general council by one of his rare analogies from secular government. He refers to Aristotle's analysis of governments into six types in Politics: monarchy, with its corruption, tyranny; aristocracy, with its corruption, oligarchy; and "polity", with its corruption, democracy.<sup>1</sup>

Esset autem inter istas politias illa melior quam aliqua singularis, quae ex regali et aristocratia componeretur, ut in regno Franciae ubi rex instituit Parlamentum a quo judicari non refugit. Esset vero omnium optima et saluberrima politia quae triplicem hanc bonam complecteretur, regalem, aristocratiam et timocratiam. Est autem generale concilium politia talis composita, habens suam directionem magis ex assistentia speciali Spiritus Sancti et promissione Jesu Christi quam ex natura vel humana sola industria. . . . ipsum est saluberrima et efficacissima regula ad regimen totius Ecclesiae tranquillum vel conservandum vel reformandum vel inveniendum, tamquam supremus et sufficiens legislator universalis et potens epiekes . . . (V, 478-479)<sup>2</sup>

---

<sup>1</sup>Politics, III, 7.

<sup>2</sup>This sermon, Prosperum iter, was delivered on 21st. July, 1415, so it is surprising that E.F. Jacob in his Essays, p. 15, attributes the origin of Gerson's views on mixed government in the Church to a later work of Pierre d'Ailly, the De ecclesiae et cardinalium auctoritate, of 1st. October, 1416. Among other things, Jacob says, d'Ailly held that: "The government of the Church should not be regarded as an unmixed monarchy; it has elements of aristocracy, a form of government or principality 'according to virtue,' and of democracy, and such a mixture or 'polity' is best, because in a mixed government all have some part in ruling."

It is true that there must have been constant discussion of such matters at Constance between Gerson and his old master, but in the actual application of Aristotle's theory to the Church, Gerson deserves the credit for being the first to publish the idea.

The government of the Church is in fact similar to any secular government with the single vital difference that it was directly established by Christ Himself and rules His Mystical Body with the aid of His inspiration through the Holy Ghost. Gerson had said this to the same audience, the delegates to the Council of Constance, in his most recent work, De auferibilitate sponsi ab Ecclesia<sup>1</sup> but it is a theme that can be traced right back to De vita spirituali animae in 1402, where he described the four special kinds of power possessed by, and only by, the Church's earthly head, the Pope.<sup>2</sup>

Gerson's mention of the Council as "the supreme and sufficient legislator, the universal and powerful epiekes" takes us back to his writings of 1409 where he had stressed epikeia as the principle which justified the otherwise illegal Council of Pisa. It is less usual for him to refer to epikeia during the Constance period because the new Council had been formally legalized by both Pope John XXIII and Gregory XII, and Gerson was now hoping that regular councils would assist the Pope in governing the Church and framing new legislation or modifying the old, so that epikeia would now be unnecessary either to justify an unconstitutionally convoked council or to interpret deficient legislation.

A little later, Gerson makes it clear that he envisages the Pope as a kind of chief executive officer, though with a special, divine commission, carrying out the policies of the

---

<sup>1</sup>Supra, 157.

<sup>2</sup>Ibid., 35-37.

supreme General Council: ". . . the Council, in many matters which concern the Pope, has a deliberative and determinative authority, while the Pope has a practical and executive authority" (V, 479). But the Council is not confined to matters of ecclesiastical policy; Gerson proceeds to explain in the next "direction" that it can intervene in international affairs in the interests of peace and justice. That is why the King of the Romans is setting out "mostly by the authority of this Council," to meet the King of Aragon and Pedro de Luna, and later, after settling the Schism, hopes to arrange "the pacification of the Kings of France and England" and then "of the king of Poland with the Prussians" (V, 479).<sup>1</sup>

Gerson's last recommendation in this sermon is the fourth "direction," that "the General Council can and must establish a more frequent celebration of general councils than has occurred in times past, such as every ten years . . ." (V, 480). Here is the germ of the decree Frequens of 9th. October, 1417, where the Council declared:

. . . statuimus, decernimus atque ordinamus, ut amodo concilia generalia celebrentur: ita quod primum a fine huius concilii in quinquennium immediate sequens, secundum vero a fine illius immediate sequentis concilii in septennium et deinceps de decennio in decennium perpetuo celebrentur.<sup>2</sup>

---

<sup>1</sup>Gerson is thus attributing to the Council the power of intervening in grave crises in temporal affairs when the lay authorities are impotent or negligent, which Ockham attributed to the Pope; v. McGrade, op. cit., 79, 138-140.

<sup>2</sup>C.o.d., 439. The idea had first been expressed in 1309 in Gulielmus Durandus' Tractatus de modo generalis

Prosperum iter is thus in essence a proposal not for a constitutional monarchy in the Church, but for a regular "control authority," a concept that was soon to be taken up by other conciliar thinkers, notably Pierre d'Ailly, and some years later, Nicholas of Cusa.<sup>1</sup> Gerson is recommending regular general councils which, if necessary, can depose the monarch or chief executive officer, the Pope, and which can change his edicts as well as those of earlier popes and councils. Essentially the Council is the supreme body in the Church but since the Church, the "perfect society," is ultimately superior to all secular societies, the Council is also superior to all lay governments; it should not interfere with them as long as they perform their duty of furthering peace and justice, but if they are negligent or impotent in their conduct, of international affairs in particular, it may step in to set matters right. It is a "conciliarization" of Innocent III's concept of his duty in international affairs, and it was unfortunate that it was doomed from the start by the fact that its inspirer, the Emperor Sigismund, failed utterly in his peace-making mission, and in fact made relations even worse between England and France.

---

concilii celebrandi; v. Tierney, Foundations, 195, and Papal Infallibility, 157.

<sup>1</sup>Cf. Jacob, Essays, 14-18. The expression "control authority" is adopted from Hans Küng, op. cit., 255, who uses it to distinguish the conciliarists' concept of an intermittent general council from the modern idea of an almost constant sovereign parliament.

5. De potestate ecclesiastica

After Prosperum iter, Gerson gave much of his attention to the struggle at Constance with the Burgundian delegates who wished to have Jean Petit's condemnation by the Council of Paris rescinded. But he also found time to write his greatest ecclesiological treatise, De potestate ecclesiastica (VI, 210-250), perhaps the most comprehensive discussion of the relationship between Pope and Council, both theoretical and practical, of the period.<sup>1</sup> It was probably written in 1416-1417 and was read publicly to the Council on 6th. February, 1417. By now, John XXIII had been deposed<sup>2</sup> and, after long and fruitless negotiations, the Council was learning that it would have to mete out the same uncongenial treatment to Benedict XIII. Gerson read his tract to the Fathers to clarify their minds and confirm their resolution in this course of action. He did not, he explained, want to say anything new or provocative, but quoted "the comic actor" (Terence):

---

<sup>1</sup>Discussed in Olivier de la Brosse, Le Pape et le Concile: La comparaison de leurs pouvoirs à la veille de la Réforme (Paris: Cerf, 1965), 107-145.

<sup>2</sup>Gerson later pointed out (in An liceat, 1418) the significance of this deposition: the Council did not, like the Council of Pisa, simply declare that the Pope was "devius a fide," i.e. a heretic or schismatic, so that he was already de facto no pope. Instead, it deposed him for various crimes such as simony, peculation, moral depravity; i.e., it judged him, thus setting itself up as his legal superior--the first council formally to do so (VI, 286-287); cf. Victor Martin, Les Origines du Gallicanisme (2 vols.; Paris: Bloud et Gay, 1939), I, 123 and 329.

. . . nihil est jam dictum quod non sit dictum prius. Satis est si ex bene inventis et doctrinis aliorum, ego meis verbis, meo ordine, favum aliquem veritatis, instar apum, propria quadam arte compingam. (VI, 211)

The work is divided into thirteen considerations and an epilogue, and begins appropriately with a definition of ecclesiastical power:

Potestas ecclesiastica est potestas quae a Christo supernaturaliter et specialiter collata est suis apostolis et discipulis ac eorum successoribus legitimis usque in finem saeculi ad aedificationem Ecclesiae militantis secundum leges evangelicas pro consecutione felicitatis aeternae. (VI, 211)

Gerson then analyses his definition into Aristotelian categories. The power, he says, is mentioned "pro genere;" the efficient cause is indicated by the words "supernaturally granted by Christ;" the material cause by "to His Apostles, etc.;" the formal cause by "in accordance with the Evangelical laws;" and the final cause by "for the sake of the achievement of eternal happiness" (VI, 211). The word "specially," he explains, is included "to exclude the supernatural gifts which are common to every wayfarer, like faith, hope, charity, prophecy, fear, piety and the like" (VI, 211). He continues:

Fallor si non sit haec descriptio propria competens omni et soli ecclesiasticae potestati; quoniam omnis alia potestas vel est naturaliter indita, quoad causam efficientem; vel est secundum leges naturales aut humanas regulata, quoad causam formalem; vel est ad finem naturalem immediate et principaliter ordinata; vel denique quoad causam subjectivam radicatur in habentibus eam secundum dona naturalia, etiam ubi supernaturalia non adessent qualia sunt fides, spes et caritas. Unde potestas saecularis convenit aliis quam christianis baptizatis. (VI, 211-212)

Thus ecclesiastical power is something more than mere lay power possessed by the Church, because it involves supernatural qualities (or, he might have said, as he had in De auferibilitate,<sup>1</sup> it involves the authority of Christ's Mystical Body). He proceeds to reiterate his condemnation in De auferibilitate<sup>2</sup> of those who say dominion is founded on grace:

. . . hic enim fuit error vetus Waldensium et pauperum de Lugduno, qui per Wicleff et sequaces suos renovari quaesitus est, sed juste damnatus. Cur ita? Ne hierarchicus ordo potestatis ecclesiasticae maneat instabilis, vagus et incertus . . . (VI, 212)

Charity is fitting (decens) in the exercise of ecclesiastical authority, but it is not a pre-requisite, since that authority is "of necessity founded in a supernatural gift."

Gerson's second and third considerations divide ecclesiastical power into the power of orders and the power of jurisdiction. The power of orders is "over the True Body of Christ because of its consecration" and "over the Mystical Body of Christ or its members" through the administration of the sacraments. He analyzes this latter power and concludes that "it is inabdicable, irremovable and illimitable in its essence, because whoever is a priest duly consecrated . . . can consecrate undoubtedly, even if he is excommunicate, or a heretic, or in any way deprived of his office" (VI, 213). It is interesting to note how Gerson is here distinguishing between the corpus verum and the corpus mysticum, almost as though the

<sup>1</sup>Supra, 156-167.

<sup>2</sup>Ibid., 161.

latter were less real than the Real Body; in reality he is merely following the trend of theologians ever since the mid-twelfth century to stress the Real Presence in the Eucharist by calling it verum corpus Christi. This had led to the old phrase for the Sacrament, corpus Christi mysticum, now being reserved for the Church, so that by the fourteenth century corpus mysticum is almost equivalent to "moral and political body."<sup>1</sup> In Vivat rex and Rex in sempiternum vive Gerson had actually called the State a mystical body,<sup>2</sup> and in De auferibilitate he had described a "juridicized" ecclesiastical corpus mysticum (III, 294 and 309), so the reader must take care to distinguish between the different "bodies" he discusses.

In the distinction between the sacerdotal "power of orders" and "power of jurisdiction," Gerson was following the canonists. The first is a truly sacramental power based on that of consecrating the corpus Christi verum, and the second is an administrative and judicial power in the Church, the corpus Christi mysticum, as earlier described in De auferibilitate (III, 301). Later, in the epilogue to De potestate ecclesiastica (VI, 249), Gerson further subdivides the power of orders; he says it is, first "over the true body of Christ

---

<sup>1</sup>V. Henri de Lubac, Corpus Mysticum: l'Eucharistie et l'église au Moyen Age (Paris: Aubier, 1944), 128.

<sup>2</sup>Supra, 80-83, and 120.

in consecration," and, second, "over the mystical body of Christ in ministering the sacraments." Gerson says little about the power of orders; the subject was irrelevant because, as he had demonstrated in De auferibilitate (III, 306), the Pope's pre-eminence was not based on his orders, which were the same as any other bishop's,<sup>1</sup> but on his special jurisdiction, upon which he based all his claims to supremacy over both Church and councils. Gerson has already said that "the power of jurisdiction is twofold: first in foro exteriori, and second in foro interiori or conscience" (VI, 212). But in foro externo the power of jurisdiction "is a coercive power, exercised even over an unwilling subject" (VI, 216); it is conferred both by Christ directly, according to the evangelical law, and also by human agencies, rulers and human law, both civil and canon; it is in fact a governmental power which in its fullness belongs to the whole Church, so that the Council representing her can exercise it "super quemlibet Christianum qui est frater noster, etiamsi papa fuerit" (VI, 216). It is this external jurisdiction alone which makes a general council superior to the Pope, for not even an extreme papalist would deny that the Pope is under ecclesiastical jurisdiction in the internal forum (i.e., under his confessor), and not even an extreme conciliarist would claim that the Council possesses the power of orders.<sup>2</sup>

---

<sup>1</sup>Supra, 161.

<sup>2</sup>Cf. Francis Oakley, "Figgis, Constance and the

It is here, in the area where ecclesiastical power seems most like secular, that Gerson crosses paths most often with the other conciliarists, especially d'Ailly and the later Major and Almain. But Gerson, as noted above with reference to Prosperum iter,<sup>1</sup> was always conscious of the difference between ecclesiastical and secular polities. He later says the Council has coercive jurisdiction more fully than the Pope, even though the General Council per se can do nothing requiring the potestas ordinis (VI, 234). He says the ecclesiastical potestas jurisdictionis is like a civil authority "secundum leges civiles ad finem quietae conversationis humanae pro hac vita" (VI, 216), but then he stresses that there are differences, especially between the divine origin of ecclesiastical authority and the natural one of civil power (VI, 226). Ecclesiastical power, moreover, has a supernatural end and can only be exercised over the baptized, though it can still be considered as a kind of governmental power; after all, both the ecclesiastical and the civil powers are established for the edification, not the destruction, of their subjects. But secular power is natural, can be instituted by men according to natural law, and can take several constitutional forms, while clerical power is supernatural and is established directly by Christ like its supreme manifestation in an individual,

---

Divines of Paris," American Historical Review, LXXV (1969), 382.

<sup>1</sup>Supra, 172.

the Papacy; therefore the Papacy and ecclesiastical authority in general possess a quality beyond human constitutive power (VI, 211-212 and 226-227). Gerson then makes the surprising statement that the Church, unlike a secular polity, must be a monarchy, "quoniam iste est optimus principatus, praesertim in spiritualibus" (VI, 226; cf. De auferibilitate, III, 298), surprising after his praise of a mixed government in Prosperum iter (V, 241), though perhaps the ecclesiastical monarchy suggested here does not preclude a mixed element insofar as the papal monarch should be aided in governing by the cardinals, bishops and even mere priests.

In Consideration IV, concerning the Church's power of jurisdiction in foro exteriori, Gerson defines jurisdiction as "potestas ecclesiastica coercitiva . . . ad dirigendum subditos in finem beatitudinis aeternae . . ." (VI, 216), which in its turn can be interpreted as either "juris ditio, id est potestas dicendi jus; vel est jurisdictio, quasi juris dictatio, id est promulgatio vel notificatio seu pronuntiatio" (VI, 216). Gerson's double derivation of jurisdictio is more of a play on words than a serious etymological distinction (jurisdictio comes from juris-dictum, and both ditio and dictatio are similarly derived from dicere), but it does emphasize the two aspects of "jurisdiction," the interpretative and the executive. The former normally belongs to lawyers, but he has already said in the Tractatus de unitate Ecclesiae of 1409 that in ecclesiastical cases involving epikeia the proper

interpreters of the law are theologians.<sup>1</sup> The executive power of jurisdiction clearly belongs to the Church's hierarchy, since its duty is the threefold Dionysian one of "purgation, illumination and perfection" (Consideration III, VI, 214), which obviously necessitates this jurisdiction.<sup>2</sup>

Gerson now proceeds to quote two clauses of the decree Haec sancta of 6th. April, 1415, the first of which has been cited above,<sup>3</sup> and the second of which runs:

Item declarat quod quicumque cujuscumque status vel dignitatis, etiam si papalis existat, qui mandatis, statutis seu ordinationibus aut praeceptis hujus sanctae synodi et cujuscumque alterius concilii generalis legitime congregati super praemissis seu ad ea pertinentibus factis vel faciendis obedire contumaciter contempserit, nisi resipuerit condignae poenitentiae subjiciatur et debite puniatur, etiam ad alia juris subsidia si opus fuerit recurrendo.  
(VI, 217)

He concludes:

. . . si potestas praedicta sit Ecclesiae data, concilium generale repraesentans Ecclesiam habet illam; immo videtur quod Ecclesia ut sparsim considerata non habet illam potestatem nisi in quodam materiali<sup>4</sup> seu potenciali; sed congregatio sua et unio quae fit in concilio generali dat quasi formam . . .  
(VI, 217)

---

<sup>1</sup>Supra, 67.

<sup>2</sup>Morrall comments on the immediate interest to the Council of this consideration: "Various New Testament texts are cited to show the legitimacy of the Church's use of coercive power, a line of reasoning to which the burning of Huss in the recent past must have given added point." Op. cit., 102.

<sup>3</sup>Supra, 168.

<sup>4</sup>"In the Aristotelean sense of that word," notes Morrall, op. cit., 103.

--so that the Council can in fact exercise the jurisdiction, whereas the Church "dispersed" cannot. He quotes St. Augustine: "claves Ecclesiae datae sunt unitati," to demonstrate that the Church hierarchy gathered together in Council always possesses a power of jurisdiction immeasurably greater than that of any single part of the whole hierarchy, even its head; and he concludes bitterly from his experience of so many less-than-saintly popes:

. . . immo si papa condat leges et canones, videtur observandum illud quod dicit Augustinus: leges instituuntur cum promulgantur; firmantur autem cum moribus utentium approbantur. Hoc enim dicitur ad reprimendum praesumptionem quorundam summorum pontificum vel eis adulantium, qui videntur voluisse debere servari pro regula immutabili de papa respectu cujuslibet provinciae vel totius Ecclesiae: quod placuit principi legis habet vigorem . . . (VI, 217-218)

In his fifth consideration Gerson deals, as we have said, with the ecclesiastical power of jurisdiction in foro interiori, but here and in Consideration IX he also discusses the hierarchy of the Church, comparing it with that of Heaven. He declares that the members of the hierarchy receive their authority immediately from God but "mediately from men, as by consecration, election or other institutions"<sup>1</sup> (VI, 226). The Pope has limited the exercise of this power "with the consent of the whole primitive Church or of a general council" (VI, 226) and he now heads as monarch the entire ecclesiastical hierarchy. That hierarchy imitates the celestial one by

---

<sup>1</sup>This may be compared with Ockham's statement that the Emperor receives the Empire regulariter from God and casualiter from the people; v. Breviloquium, IV, 4.

comprising three ranks of Christians like the three ranks of angels; the Pope and cardinals in the first rank, the patriarchs, bishops and priests in the second, and the people and "simple religious" in the third (VI, 227), and they have the threefold purpose, already cited, of "purgation, illumination and perfection" of all Christian souls. The importance in the political sphere of this hierarchical view of society will be evident later when Gerson tries to combine the latter with the democratic principle expressed by the maxim: "Quod omnes tangit, ab omnibus approbari debet." The result, in Consideration XII, is a definition of the General Council very different from that of Ockham or Langenstein:

Concilium generale est congregatio legitima auctoritate facta ad aliquem locum ex omni statu hierarchico totius Ecclesiae catholicae, nulla fidei persona quae audiri requirat exclusa, ad salubriter tractandum et ordinandum ea quae debitum regimen ejusdem Ecclesiae in fide et moribus respiciunt.  
(VI, 240)

Gerson here is attempting to give due respect to the hierarchy while remaining democratic at the same time, but there can be no doubt that the Council of Constance was heavily weighted towards the former rather than the latter aim.

In the sixth consideration Gerson says that:

Potestas ecclesiastica considerari potest et debet tripliciter: uno modo formaliter in se et absolute, sine respectu; alio modo materialiter seu respective prout applicatur ad hanc vel illam personam jure legitimo; quod communiter fit per consecrationem et electionem . . . tertio modo quoad exercitium vel executionem . . . (VI, 220)

The first of these ways is examined in Consideration VII,

where Gerson declares that as the whole must be greater than any of its parts, so the power of the General Council representing the whole Church must be greater than, and must comprise, the power of any of the Church's component parts, the papacy, cardinalate, patriarchate, episcopate, and priesthood (VI, 222). He then asks whether "such an abstraction of ecclesiastical power" can be "aliquod universale reale," and Morrall is unduly surprised when Gerson, as usual, answers in a straightforward Thomist fashion, ignoring the via moderna:

His argument moves on a metaphysical plane and it is interesting to note that, when touching on the problem of cognition of universals, he adopts the Moderate Realist or Thomist view that such knowledge is obtained by a process of abstraction; there is no trace of Ockhamism in Gerson's approach here. Applied to the Church, Gerson's reasoning leads to the conclusion that "all priests are summed up in the priesthood, all bishops in the episcopate" and so on. Similarly, in order to find the "substance" as it were of the Papacy, all accidental qualities pertaining to its office must be abstracted. Among these is the geographical position of Rome; the Ecclesia Romana is "that diocese, province or see which is particularly ruled by Papal authority". Does Gerson mean to imply that therefore the Papacy had no inseparable connection with Rome and might in fact be transferred elsewhere? We are uncertain, for the wording used is ambiguous; but the possibility of such speculation on Gerson's part need not be dismissed as far-fetched. Ockham and d'Ailly had discussed the same position with the greatest freedom.<sup>1</sup>

---

<sup>1</sup>Morrall, op. cit., 104. Gerson's definition of the Ecclesia Romana is not as obvious as it may at first appear; some contemporaries defined it very differently, e.g. Cardinal Amiel, one of Clement VI's electors, declared: "Pope and cardinals are in the Church of Rome in such a way that they are the Church of Rome, which received the keys and the power of binding and loosing. . . . It is the Roman Church, which consists of the cardinals, that is said to preside over all

In Consideration VIII Gerson discusses "ecclesiastical power considered respectively and in a way materially." He expands the argument used in De auferibilitate (III, 102), on the irremovable nature of the papal office but the mutability of its holders, and refers his audience to that treatise for examples of when a pope should be deposed (VI, 223). The Church, he says, should not be dependent on the personal character of the Pope, so councils must be held regularly to remedy this:

. . . quod nulla fuit hactenus nec erit in posterum perniciosior pestis in Ecclesia quam omissio generalium conciliorum et provincialium vel in re ipsa vel in auctoritate. Auctoritas itaque nulla erit si solum Summus Pontifex omnia velit inferiorum ecclesiasticorum usurpare institutiones, jura, status, gradus et officia. (VI, 225)

This echoes what Pierre d'Ailly had said in his recent Tractatus de emendatione Ecclesiae of 1st. November, 1416: "Expeditens et necessarium, ut saepius quam hactenus factum, sit Generalia concilia celebrentur" (du Pin, II, 904), and it foreshadows the forthcoming conciliar decree, Frequens, quoted above.<sup>1</sup>

In Consideration IX Gerson deals with "the use and exercise" of ecclesiastical power as well as with the ecclesiastical hierarchy. He asks "if ecclesiastical power is

---

chapters and churches of the world." [Quoted in J. Gill, "The Representation of the Universitas fidelium in the Councils of the Conciliar Period," Councils and Assemblies, Vol. 7 of Studies in Church History, ed. G.T. Cuming and Derek Baker (Cambridge: University Press, 1971), 178.]

<sup>1</sup>Supra, 173

immediately from God or mediately from men" (VI, 225-226), and concludes that it comes absolutely and historically from God but that its present ministers "receive it mediately through human ministry or concession" (VI, 226). Gerson stresses that Christ originally gave ecclesiastical power to all his apostles and disciples but "later, with the increasing number of the faithful, to avoid schism and give an example to their posterity, a limitation in the exercise of such power was made by Peter the Supreme Pontiff, with the consent of the whole primitive Church or a general council"<sup>1</sup> (VI, 226). Gerson then goes on to justify the papal monarchy and its dominion over the quasi-Dionysian hierarchy, as explained above.

In Consideration X Gerson discusses the plenitude of clerical power as it exists "formally and subjectively" in the Pope. He reminds his listeners that the Pope's power of orders is the same as that of all bishops, while his power of jurisdiction derives from his election, so that it is absurd of the papalists to exaggerate it. Brian Tierney has demonstrated that Gerson, like other conciliarists of his time, followed the tradition of the moderate canonists like Huguccio who considered the papal plenitude of power "an authority akin to the plena potestas of a lesser prelate":

---

<sup>1</sup>This oligarchic, rather than monarchic, view of Christ's mandate seems to be original to Gerson. When consulted on this point, the author of The Study of the Bible in the Middle Ages, Dr. Beryl Smalley, could think of no other examples and deemed it "a curious and unexpected view of history."

When the problems of the age led influential thinkers to discuss the sources of papal authority in a really critical spirit, even the concept of plenitudo potestatis could be given a conciliar interpretation. In essence it described the jurisdiction and administrative authority conferred on a Pope by virtue of his election; according to earlier theory it differed from the plena potestas of a bishop only in that it extended universally over the whole Church. It could readily be argued--by analogy with lesser corporations--that it was to be regarded as an authority delegated by the whole Church and subject to limitation by the Church. The fact that papal plenitudo potestatis was held to be of divine origin, an attribute of the Pope in his capacity as Vicar of Christ, would not seriously hinder such a development; for, after all, a bishop too could be referred to as a vicar of God, but that had not prevented the canonists from analysing minutely the human machinery by which his authority was conferred and by which it could be limited.<sup>1</sup>

Gerson does not dispute the Pope's spiritual powers, but he distinguishes between them and the administrative powers which should be exercised in moderation only (VI, 236) and which cannot be superior to those of the Church as a whole or of a general council representing it. He is in fact echoing the canonist (Joannes Teutonicus) who in the glossa ordinaria on Decretum, Dist. 93, c.24, said of the Pope's power: "Dic principaliter habuit a Domino, secundario a conciliis,"<sup>2</sup> and is also repeating d'Ailly who in Utrum Petri Ecclesia lege regulatur had upheld the Pope's divinely-founded episcopal power over not only Rome but the whole Church (du Pin, I, 662-671), and in De Ecclesiae, Concilii generalis, Romani

---

<sup>1</sup>Tierney, op. cit., 147-148.

<sup>2</sup>Ibid., 91.

Pontificis et cardinalium auctoritate of 1416 (du Pin, II, 925-960) had thus analysed the plenitude of power:

Primo ergo modo, plenitudo Potestatis est in Papa, tanquam in subjecto ipsam recipiente, et ministerialiter exercente. Secundo, est in Universali Ecclesia, tanquam in objecto ipsam causaliter et finaliter continente: Tertio, est in Generali Concilio tanquam in exemplo ipsam repraesentante, et regulariter dirigente. (du Pin, II, 951)

But Gerson emphasizes that while a pope's spiritual power is supreme, his merely temporal, administrative powers are always inferior to a general council:

Benedictus autem Deus qui per hoc sacrosanctum Constantiense concilium illustratum divinae legis lumine . . . liberavit Ecclesiam suam ab hac pestifera perniciosissimaque doctrina qua semper manente perseverasset semper schisma nutritum ab ea. Declaratum nempe decretumque est quod et sine papa generale concilium convocari et a concilio papa judicari certis casibus potest; quod insuper habet auctoritatem generale concilium praescribere leges seu regulas secundum quas plenitudo potestatis papalis non quidem in se, quae semper eadem est, sed in usu suo moderanda regulandaque est. (VI, 229)

He adds that "leges humanae quae feruntur generaliter possunt et debent exceptionem recipere dum deficit ratio legis" (VI, 230); then they must be interpreted according to "quandoque epikeia, sicut ab Aristotele; quandoque juris interpretatio, sicut a legistis; quandoque dispensatio, sicut a canonistis; quandoque bona fides, sicut a politicis . . ." (VI, 230). But whatever it is called, it must not be used too often or it will imperil "the stability of the laws" (VI, 232).

In his eleventh consideration Gerson states that "Potestas ecclesiastica in sua plenitudine est in Ecclesia . . . et usum hujus modi plenitudinis . . . per seipsam vel per

generale concilium eam sufficienter et legitime repraesentans" (VI, 232). These alone are infallible:

Cum igitur Summus Pontifex habens eam subjective sit peccabilis et possit hanc potestatem in destructionem Ecclesiae velle convertere, similiter sacrum collegium quod ei datum est et coassistit quasi communitas aristocratica, non est in gratia vel fide confirmatum, superest ut aliqua sit relictia inoblivabilis et indeviabilis regula ab optimo legislatore Christo secundum quam possit abusus hujusmodi potestatis reprimi, dirigi atque moderari. Haec autem regula est vel Ecclesia vel generale concilium. Unde cum medium virtutis aliter non habeatur nisi prout sapiens judicabit, finalis resolutio ad hanc sapientiam fiet ad Ecclesiam ubi est sapientia indeviabilis vel ad generale concilium. Hic fundantur ea multa quae per hoc sacrum concilium et constituta et practicata sunt, ut quod papa judicari potest et deponi per concilium, quod eidem in regulatione potestatis suae quoad usum subjicitur, et sibi potest dici: cur ita facis?<sup>1</sup> Et ita de pluribus quae recollecta sunt in illo sermone: Prosperum iter. (VI, 233)

The power of the Church "non est in solo papa nisi quodam modo fontaliter . . ." (VI, 233); the Pope is but a part of the Church, even if he is the most important single part, and a part cannot be superior to the whole or to a representative assembly of the whole. The Pope should be in the assembly as its most important member, but what if he is dead or deposed? Gerson wrote this when Benedict XIII was the only papal claimant left and his deposition was actually being prepared, so it was a topical question. (The new, undisputed Pope, Martin V, was not elected until November.) Gerson gives the answer that

---

<sup>1</sup>This phrase, used here to signify the Council's right to judge a pope, is in contrast to its use by the canonist Tancred, who cited it to demonstrate the Pope's superiority: "Papa potest dispensare supra jus et contra jus . . . nec est qui dicat ei: cur ita facis?" Tierney, Foundations, 88, n.I.

had already won acceptance at Constance: it is for the Council to arrange the election of a new pope, for "generale concilium neque deberet neque posset talem defectum capitis usque in finem saeculi tolerare stante lege; potest tamen supplere dum necessitas urget vel suadet evidens utilitas." (VI, 235).

In Consideration XII Gerson explains that papal power is not over temporal things in the same way as it is over celestial, but it can have over the former "dominium quoddam regitivum, directivum, regulativum et ordinativum" (VI, 236). It is therefore wrong of the detractors to cry: "Tolle, tolle temporalitatem omnem, jus vel dominium ab ecclesiasticis." Gerson is here striking at Wycliffe and his followers who supported Ockham in declaring that the clergy should only have enough for their subsistence:

In temporalibus autem (sc. Christus) dedit eis (sc. Apostolis) regulariter solummodo ius petendi temporalia pro sua sustentatione et sui officii executione et hanc potestatem sive in spiritualibus sive in temporalibus habent nunc regulariter ex iure divino successores beati Petri sc. Romani Pontifices. Omnem autem potestem quam regulariter ultra istam habuerunt vel habent summi Pontifices ex humana conditione concessione spontanea submissione vel ex consensu expresso vel tacito aut propter impotentiam negligentiam aut malitiam hominum aliorum vel ex consuetudine vel quomodocunque ex iure humano obtinuerunt et obtinent.<sup>1</sup>

On the other hand, Gerson does not approve of the greed of recent popes who have appropriated to themselves much temporal

---

<sup>1</sup>Ockham, "Dialogus," Goldast, ed., op. cit., 786.

power and possessions, more than they need to preserve what the Decretists had called the status ecclesiae:<sup>1</sup>

Addamus ita Summum Pontificem cum collegio suo praesidere bonis ecclesiasticis ut de eis statum habere sufficientem et decentem oporteat; sed non ita ut caput gravidum membra reliqua obruat mole sua neque velit usurpare contra naturam singularis membri omnia officia membrorum, quibus singulis, ut ait Apostolus, proprium datum est officium; nam si omnia oculus vel caput, ubi pes, ubi manus? Concernit hoc collationem beneficiorum, multiplici- tatem exemptionum odiosissimam, plenam erroris et confusionis in ecclesiastica hierarchia, et ita de reliquis; reservationem praeterea tot casuum, tot excommunicationum in foro conscientiae, evocationem tam facilem omnium causarum ab ordinariis, sint causae illae profanae sint sacrae fidei; quales fidei causas omnes ab ordinariis singulis praeser- tim in doctrinis notorie scandalizantibus dioeceses suas et ubi vigent studis litterarum velle prohib- ere, quid aliud est quam januam grandem erroribus aperire? (VI, 239-240)

This is reminiscent of what Gerson had said in Prosperum iter about the limitation of papal power in conformity with the needs of the Church as a whole (V, 477-478). It also echoes Dietrich of Niem's treatise, De modis, of 1410: "Jam bonorum morum est dissipatio imo oblivio: quia simonia, avaritia, beneficiorum venditio, tyrannia et exactio regnat, quasi de consuetudine approbata in populo ecclesiastico."<sup>2</sup> And: ". . . rapaces reservationes beneficiorum . . . nunquam vise fuerunt, imo nec audite . . . in primitiva ecclesia."<sup>3</sup> Ger- son's attitude here is, in fact, the same as Pierre d'Ailly's,

---

<sup>1</sup>V. supra, 170, for Tierney on the status ecclesiae.

<sup>2</sup>Op. cit., 13; cf. Von der Hardt, op. cit., I, iv. 73.

<sup>3</sup>Op. cit., §1; cf. Ibid., 110.

that the Pope is not the lord and owner of the Church but, rather, God's steward for it: "Ex his apparet error eorum qui dicunt quod . . . Papa . . . non solum est administrator vel dispensator Ecclesiae universalis sed bonorum ejus verus Dominus et proprietarius" (d'Ailly, Tractatus de ecclesiastica potestate, du Pin, II, 943). The Council did in fact heed all these cries for a limitation of the Pope's power of patronage, as two of its five reforming acts of 9th. October, echoing Gerson, bear witness:

. . . praesentibus statuimus et ordinamus, invidiorum episcoporum et superiorum translationes, absque magna et rationabili causa . . . non debere. Inferiores vero ut abbates, aliique perpetuo beneficiati, absque iusta et rationabili causa cognita immutari, amoveri seu privari non debeant. . . .

Cum per papam facta reservatio et exactio et perceptio procurationum, ordinariis et aliis inferioribus praelatis debitarum, ratione visitationis, nec non et spoliatorum decedentium praelatorum, aliorumque clericorum, gravia ecclesiis monasteriis et aliis beneficiis, ecclesiasticisque personis afferant detrimenta: praesenti declaramus . . . tales per papam reservationes, ac per collectores . . . de cetero nullo modo fieri seu attentari: . . .<sup>1</sup>

Gerson went on in Consideration XII to reiterate his concept of conciliar supremacy:

. . . potestas universalis Ecclesiae vel generalis concilii legitime congregati dici possit major in amplitudine vel extensione, major in infallibili directione, major in morum reformatione, in capite et in membris, major in coercitiva potestate, major in causarum fidei difficultium ultimata decisione, major denique quia copiosior; complectitur enim saltem virtualiter omnem potestatem et omne politicum regimen, papale, imperiale, regale,

---

<sup>1</sup>C.o.d., 443.

aristocraticum et timocraticum . . . (VI, 240)<sup>1</sup>

Then follows the definition of a council already quoted.

This whole passage describing the Church's constitution is expressed in words borrowed from Aristotle's Politics where the ideal government is a "polity", an ambiguous word which can mean either the rule of many, i.e. a "timocracy", of which only the corrupt form is termed a democracy,<sup>2</sup> or else a "mixed government" comprising monarchic, aristocratic and timocratic elements, as here in the Church, although, as Gerson is careful to point out in Consideration XIII, this is "aliter quam in civili politia propter divinae legis unitatem" (VI, 247). As we saw in Vivat rex, Gerson considered monarchy the best form of government but at the same time, although he would have felt insulted if called a democrat, he always held that the monarch should be advised by suitably wise representatives of his subjects, formally assembled in Council, courts or Estates.<sup>3</sup> As a respecter of hierarchy he found it difficult to apply this principal directly to the Church, so in

---

<sup>1</sup>In his description of the Council's "vastness" Gerson may be attacking by implication Aegidius Romanus' definition of the Pope's power as "spiritual, heavenly and divine, and without weight, number and dimension;" v. H. Obermann, "From Ockham to Luther," Concilium, VII (1966), 65.

<sup>2</sup>It is thus illogical for Morrall to say: ". . . it is significant that Gerson omits democracy from the ingredients of his ideal régime"; op. cit., 167., Aristotle clearly states (Politics, III, 7) that democracy is a corrupt form of government, therefore Gerson would never associate it with an "ideal régime."

<sup>3</sup>Supra, 79-97 .

Consideration XIII he describes the Church's mixed constitution: "Papalis [politia] imitatur regalem; collegialis dominorum cardinalium imitatur aristocratiam; synodalis generalis imitatur politiam seu timocratiam . . ." but then he realizes that he is contradicting his previous statements about the Council's representative nature, as well as its obviously hierarchical composition, so he adds "vel potius est perfecta politia quae resultat ex omnibus" (VI, 248).<sup>1</sup> The advisory function of the common people is retained, however, by stressing that "nullius fidelis qui audiri voluerit debeat excludi ab audientia" by the Council (VI, 241), although only members of the two upper ranks of the hierarchy have a "definitive" rather than a merely "consultative" voice, i.e. the power of voting on conciliar measures. It is thus unclear whether Gerson's ideal for the Church is a truly mixed government, as it is for the State, since in the Church the popular element is so diluted.

It may be added that Gerson's ambiguity about the democratic element in the Council has been shared not only by other conciliarists but also by modern historians. For example, Walter Ullmann says that the Councils of Constance and Basel were merely "ecclesiastical assemblies" and dominated by

---

<sup>1</sup>Olivier de la Brosse thus tends wrongly to downgrade the importance of the Council in Gerson's thought when he mistranslates this passage: "le synode général répond au pouvoir démocratique; l'Église est le régime parfait qui résulte de tous les autres." (Op. cit., 141; my italics.)

the higher clergy, so they did not put into effect conciliar theory about the representation of all classes in the Council.<sup>1</sup> But Ullmann's rather disapproving view of the aristocratic nature of the Council can be disputed on two counts: firstly, voting rights were unprecedentedly given to representatives of the lower clergy and laity and to lay ambassadors of kings, and, secondly, individual votes were only cast outside the formal Council anyway; in conciliar sessions only the nations as such could vote, so that the question of individual votes is only a side-issue. One can, however, agree with Ullmann that since the individuals at the Council were all undoubtedly influenced by the large proportion of higher clergy there, essentially "conciliarism was a late-medieval revival of episcopatism."<sup>2</sup> (It is debatable whether Gerson should be included with the higher or the lower clergy, but his tone in De potestate ecclesiastica suggests that he conceived of himself as a part of the former.) Oakley declares that "the Conciliar theory possessed no monolithic unity," and says this is demonstrated by this question of voting rights, discussed by Gerson, d'Ailly and, later, Almain. He quotes Gerson's argument that though the lower clergy should vote, just like the higher, and no member of the faithful should be refused a hearing by the Council, the laity's role can also be limited to consultation, although this limitation is neither permanent nor

---

<sup>1</sup>Ullmann, Principles, 314.

<sup>2</sup>Ibid.

necessary. In this matter Gerson saw the Church as adapting herself to circumstances, just as he had seen her in his Propositio facta coram Anglicis;<sup>1</sup> sometimes, he says, bishops are elected by the people as well as the clergy, and sometimes only by the clergy, which shows that the Council, like the Church as a whole, is free to widen or restrict the vote according to the needs of the time (De potestate, VI, 242; Ambulate, V, 44). Almain, Oakley declares, follows Gerson in this, but d'Ailly goes even further and claims that though the unlearned and the lowest ranks are not specifically summoned to the Council, no Catholic should be excluded, and kings and princes or their ambassadors should vote like doctors of theology and of canon and civil law, because all these have authority over subordinate persons. Oakley points out that this selection of voters is not democratic, but explains that a truly democratic ideal would be anachronistic, as d'Ailly demonstrated when he stated: "what touches all must be approved by all, or at least by many and by the most notable ones." This is an aristocratic selection, and it is not based on hierarchic sacerdotal powers but on purely political ones, for d'Ailly says that doctors of theology or of either law have greater authority over the Christian people, and hence a better claim to vote, than the ignorant or than even merely titular archbishops and bishops.<sup>2</sup>

---

<sup>1</sup> VI, 127.

<sup>2</sup> Oakley, art. cit., 373-380.

Gerson thus ends Consideration XII on a political note. The reader can easily apply his concluding arguments to the secular State, where he evidently considers that a mixed constitution is best, with no man excluded from a voice, when necessary, in the processes of his government, but with the weight of responsibility for decisions lying squarely on the shoulders of those in public office.

In his thirteenth and last consideration Gerson explains the supernatural origin of ecclesiastical power, the justice of God:

Potestas ecclesiastica sicut et alia quaelibet, originatur a prima justitia secundum quam jura omnia, leges, jurisdictiones atque dominia pulchra ordinis varietate fundantur. (VI, 242)

In true Thomist fashion Gerson defines this justice as "perpetua et constans voluntas jus suum unicuique tribuens,"<sup>1</sup> and he proceeds to elucidate:

Haec autem descriptio competit principaliter justitiae divinae in ordine ad suas creaturas. Deus nempe solus est qui voluntate perpetua et constanti dat unicuique rei quod suum est; suum, inquam, non ex debito rigoris sed ex liberalissima donatione creatoris. Sic in qualibet re tantumdem est de jure quantum de entitate; habet enim res quaelibet jus seu titulum id habendi quod habet ex dictamine rectissimo primae justitiae. (VI, 242)

But if every creature has his God-given rights, God gives power only to protect and further those rights. Power is

---

<sup>1</sup>He is quoting Summa theologica, IIa IIae, q.LVIII, a.1, which itself is simply a version of the traditional formula of the Digest, bk.I, tit.I, leg.10, Justitia est; cf. supra, 32.

therefore not merely domination but a service to God's creatures. This is very different from the normal papalist view of ecclesiastical power as the direct earthly reflection of God's omnipotence, therefore demanding absolute submission. If earthly power emanates from God's justice, rather than His omnipotence, then it must "render to each his due," and each man's due is to be led to complete spiritual fulfilment through "purgation, illumination and perfection." Thus ecclesiastical power becomes less a question of authority than of justice through charity and pastoral care. In the final analysis it is the eternal salvation of every individual soul that counts in the Church rather than any elaborate, authoritarian government apparatus, so, while remaining a monarchist in his submission to the Eternal Monarch, Gerson is also a supporter of individual rights in the just application of the earthly monarch's power.

If the Tractatus de potestate ecclesiastica be examined as a whole then, it is evident that Gerson is trying to combine his respect for the hierarchy with that for individual souls. Ecclesiastical power, he says, is like secular, with the added sanction that it was founded and is sustained by Christ through the continuous action of the Holy Ghost. It consists of two kinds of power, that of orders and that of jurisdiction. Its chief officer, the Pope, shares his power of orders with all the other bishops, but he has a special jurisdiction which makes him supreme in all spiritual matters, and inferior in

administrative authority only to the whole Church or its representative, the General Council. The Council, which should meet regularly, is made up predominantly of the upper ranks of the hierarchy, priests and bishops, since it is they who compose the indefectible part of the Church; the rest, the laity and "simple religious," can always have a voice in the Council, though only a consultative, not a "determinative" voice. Nevertheless, since the Church's power is based on God's justice rather than His omnipotence, it must always be exercised in the service of that majority, the lowest rank in the hierarchy, to bring it to eternal salvation.

## 6. An liceat in causis fidei a Papa appellare

The last treatise written by Gerson at Constance was occasioned by the refusal of the Council to condemn John of Falkenberg, a Dominican who had written a pamphlet justifying the killing of the King of Poland and his subjects.<sup>1</sup> The frustrated Poles declared that they would appeal to the next Council, whereupon Martin V, in a public consistory on 10th. May, 1418,<sup>2</sup> read a bull "forbidding any appeal against a sentence pronounced by a pope and demanding complete submission to pontifical decisions in matters of faith."<sup>3</sup> Gerson was still struggling to have Jean Petit's very similar doctrine of tyrannicide condemned and, moreover, he could not see the Pope forbidding appeals to a council without realizing that, if this were accepted, the whole work of Constance might be nullified and a recrudescence of the abuse of papal power might lead to a renewal of all the evils of the Great Schism. He therefore wrote this new treatise, An liceat in causis fidei a Papa appellare (VI, 283-290), which falls into two parts: first, the arguments against the papal position, and, second, a list of Propositions setting forth the conciliar, or Gersonian, position.

---

<sup>1</sup>Supra, 137-138.

<sup>2</sup>Not 10th. March, as Morrall has it (op. cit., 108).

<sup>3</sup>Gill, op. cit., 92.

Gerson first states what he evidently considers the clinching argument: that on 6th. April, 1415, the Council had formally declared (in Haec sancta) that it:

. . . potestatem a Christo immediate habet, cui quilibet cujuscumque status vel dignitatis, etiamsi papalis existat, obedire tenetur in his quae pertinent ad fidem et exstirpationem dicti schismatis ac generalem reformationem Ecclesiae Dei in capite et in membris. (VI, 283)

If Martin's claim were accepted, he says, it would mean among other things that:

1. "the Pope would not be subject to divine or evangelical law."
2. "Paul would have acted against divine and human law when he resisted Peter to his face, publicly and in front of the congregation of the Church, as in Gal. II."
3. "even if a pope should scandalize the whole body of the Church, he could not be removed so that the body could be restored to health."
5. no one injured by the Pope would be able to obtain redress, "which is contrary to natural law."
7. "the damned doctrine of John Wycliffe that no one in mortal sin was pope or bishop, or consecrated, etc." would be accepted, while a man formally elected by human means should logically be formally deposed by the same means; he should also be given a chance to purge his guilt, as St. Peter was.
8. John XXIII would still be Pope, since Martin would be "neither legally elected nor Pope." (VI, 284-287)

It has been pointed out that when he quotes Galatians in Clause II, Gerson is using the same argument as Zabarella had in his De schismate which had been published in three parts between 1403 and the Council.<sup>1</sup> Zabarella had said that Peter's plenitude of power was not exclusive or St. Paul would not have resisted him; "He would not have dared to do this, as St. Jerome said, had he not considered himself an equal of St. Peter."<sup>2</sup> Gerson may have read this in Zabarella or he may simply have derived the idea from the many canonists who had discussed it, and from whom Zabarella himself had received it.<sup>3</sup>

Gerson ends his short protest with eight propositions restating his conciliar position. The most important are the second, that only the Universal Church or a general council representing her is infallible; the third, that no individual can decide what is heresy; and the fourth, that nevertheless the Pope's judgment of matters of faith should be respected if there is no good reason for rejecting it (VI, 288-289). In his final remarks Gerson hopes that Martin is not really forbidding appeals to future councils in every case, but only when he is clearly following "evangelical truth." It was a forlorn hope, as was his last plea that Martin should restore

---

<sup>1</sup>Ullmann, Origins, 195.

<sup>2</sup>Quoted in Ibid., 212.

<sup>3</sup>Ibid., 211-212.

faith in his sincerity by spontaneously condemning "that pestiferous and cruel doctrine against the Poles, with other similar ones" (VI, 290), which Martin was obviously not going to do now that the Council of Constance was over.

For, while written at Constance, An liceat is in fact a post-conciliar treatise; the Council had already terminated on 22nd. April, and after this last protest against Martin V's high-handed bull in May, Gerson, like the Pope, was also to depart. His five treatises written at Constance had been mainly concerned with the constitution of the Church, but they had also, incidentally, included some of his theories about the secular State, though never as fully as his secular sermons, Vivat rex, Veniat pax, and Rex in sempiternum vive. In discussing the supernatural society, the Church, with its supernatural end, salvation, ordained by Christ Who had decreed also that it be a monarchy, Gerson had repeatedly mentioned, by way of analogy, the secular State, a natural society with a natural end, the earthly well-being of its members, established by men according to the Natural Law and subject to a variety of constitutions of which a mixed "polity" was the best. The last notion, of a mixed constitution, also fitted in well with his vision of the Church, where the divinely ordained monarchy should ideally be modified and controlled by a general council which, while aristocratically composed, should also represent the humbler members of the ecclesiastical society. Thus although he asserted that the Church should

be a monarchy and the State a mixed polity, in fact he envisaged a very similar constitution for both, in which the supreme monarchical executive power should be tempered--constantly in the State, intermittently or casualiter in the Church--by a representative advisory, legislative and judicial body.

The implementation of Gerson's recommendations lay far in the future--in the seventeenth century in England, the eighteenth in France, the nineteenth in other States, and (perhaps) the twentieth in the Church. But in 1418, at the dissolution of the Council of Constance, it seemed possible that it had already been achieved for the Church. Perhaps one may be permitted now to conclude this chapter on the Council by quoting a work of fiction, since it is written by a great Gerson scholar. In his pretended diary of Gerson's secretary, Jacques de Cérisy, Monseigneur Glorieux gives him these lines for 1st. May, 1418:

Il [Gerson] m'a fait réfléchir sur tous les résultats positifs, chèrement acquis peut-être, mais obtenus cependant. Le schisme interminable a quand même pris fin. Et cette fois, à la différence de Pise, l'Eglise entière est d'accord; l'autorité de Martin V n'est pas contestée. Après quarante ans de cauchemar, l'unité de l'Eglise a été recouvrée! Si tout n'est au point encore, dans la réforme, du moins l'attention de tous a-t-elle été vivement attirée sur les graves défauts qu'il faut combattre. Où et quand aurait-on pu atteindre de la sorte une si large audience?<sup>1</sup>

That from such auspicious beginnings a real internal reform of the Church was not to evolve, was not Gerson's fault. He

---

<sup>1</sup>P. Glorieux, Le Concile de Constance au jour le jour (Tournai: Desclée, 1964), 249.

can be given much credit for the Council's successes but little or no blame for its ultimate failure. He spent his three years at Constance, fighting for his ideals, but was in the end thwarted by the narrow vision and selfish interests of his colleagues in the hierarchy.

IX. GERSON'S LAST YEARS. CONSPECTUS  
OF HIS POLITICAL IDEAS

After the Council of Constance, Gerson could not return to Paris, now occupied by his enemies, the Burgundians, who, in June, had killed among many others his friends Jean de Montreuil and Gontier Col, as he lamented in his poems Deploratio studii parisiensis, Carmen de causa canendi and Carmen de multiplici martyrio (VI, 5-7, 18-19, and 134). So he stayed for a time in Rathenberg in the Tyrol, where he composed his long poem, Josephina (VI, 2-3, 4, 11, and 31-100), and, like a Christian Boëthius, imprisoned, his De consolatione theologiae (IV, 3-4, 28-29, 127-128, 132-133, 152, 155-156, 158-159, 163-164, 168-169, 172-173, 173-174).<sup>1</sup> From Rathenberg he removed to Neuenberg on the Danube, and thence to the Abbey of Melk in Bavaria where in his Dialogus apologeticus he recounted his long struggle against tyrannicide.<sup>2</sup> The Archduke Frederick of Austria invited him to be professor at the University of Vienna but he did not stay there long, perhaps because he heard of the death of John the Fearless at the bridge of Montereau (10th. September, 1419) and therefore resolved to return to France. He decided to go to Lyon "where

---

<sup>1</sup>One may ask here why, in his volume of Gerson's poetry, Monseigneur Glorieux has thus split up this poem. He has placed each "metre" of De consolatione theologiae separately, according to its initial letter, whereas it would surely have been more logical to print the poem as a whole.

<sup>2</sup>Supra, 138.

he was sure of the protection of the Dauphin, and also of the Archbishop Amadée de Talaru, and of the welcome of his brother John, Prior of the Monastery of the Celestines." (I, 134) He arrived there in November and remained there until his death in 1429, just as Joan of Arc and the Dauphin were approaching Reims. After his retirement to Lyon, she indeed seems to have been the only political figure to stir his interest. He spent his last decade teaching and writing no less than forty tracts, mostly on the spiritual life;<sup>1</sup> only at the very end was he asked his opinion of the Maid, which he gave approvingly in two works De puella Aurelianensi in May, 1429 (IX, 661-665, and du Pin, IV, 859-863),<sup>2</sup> which were later used in her rehabilitation in 1456.<sup>3</sup> It is interesting that he who had dismissed the great mystics, Catherine of Siena and Bridget of Sweden, as hysterical women,<sup>4</sup> should have approved of the peasant girl from Domrémy with her "voices" and her politico-military mission.

---

<sup>1</sup>Schwab, op. cit., 767-770.

<sup>2</sup>Glorieux omits one of these on the traditional (1514) grounds that it was written by Henry of Gorckheim (I, 70), but Dorothy Wayman has convincingly demonstrated Gerson's authorship in "The Chancellor and Jeanne d'Arc, February-July, A.D. 1429," Franciscan Studies, XVII (1957), 273-305; cf. H.G. Francq, "Jean Gerson's Theological Treatise and Other Memoirs in Defence of Joan of Arc," Revue de l'Université d'Ottawa, XLI (1971), 58-80.

<sup>3</sup>Francq, art. cit., 68.

<sup>4</sup>Connolly, op. cit., 240; also Mundy and Woody, eds., op. cit., 37, and Huizinga, op. cit., 193.

This scholar, preacher, mystic, poet, reformer and political thinker rendered his soul to God on 12th. July, 1429. He was buried, as he had requested, in the little Chapel of St. Lawrence, which was dependent on the Church of St. Paul where he had been teaching the children, and there he was venerated as a saint until the religious wars of the sixteenth century. His cult was revived on a more modest scale in the following century, when Bossuet and Richer appealed to him as the patron saint of Gallicanism,<sup>1</sup> but finally, in 1793, his chapel was destroyed (I, 139); and thenceforth he was to be venerated rather as a writer on many different topics than as a saint. He is, of course, unlikely to be canonized while the papal monarchy subsists.

Looking back over Gerson's long and eventful career, and the many political writings which were a part of it, the reader must conclude that he was deeply concerned with certain political questions. The first one was, of course, that of sovereignty in the Church. From the Chancellor's writings early in life to his final treatises at the Council of Constance, it is evident how he was gradually disillusioned in the papal monarchy and forced to the conclusion that the Church

---

<sup>1</sup>Connolly, op. cit., 198-199.

could only be united and reformed if the supremacy of general councils were recognized and they were regularly called to govern her. It is more difficult to demonstrate Gerson's thoughts on secular politics since they are scattered throughout his numerous ecclesiological treatises, theological works and sermons, but it is possible to arrive at some general conclusions about his opinions on the origins of political authority, its attributes, its ownership, and its aims.

1. The origin of political authority

Gerson's concept of political authority is very close to St. Thomas'. St. Thomas had held like St. Paul that "all power is of God." God is the supreme monarch and, in Gierke's paraphrase, "All earthly Lordship is a limited representation of the divine Lordship of the World. Human Lordship proceeds from, is controlled by, and issues in, divine Lordship."<sup>1</sup> The universe is governed by an eternal law, the nature of things as instituted by God. To realize his end as a rational being, and to attain happiness, is Man's unique part in this divine order. To facilitate for each individual this realization of his end, the rationale of government, ratio gubernationis, is also ordained. It must therefore be, in the final analysis, a divine delegation, a command according to which the rulers carry out those necessary functions which will enable every member to occupy his place in the divine economy: "Since then the eternal law is the plan of government [ratio gubernationis] in the Chief Governor, all the plans of government in the inferior governors must be derived from the eternal law."<sup>2</sup> Thus "The powers that be are ordained of God," no matter how the authority, divine in its essence, is bestowed on them. The civil lawyers and Dante had held that the ruler derives his power directly from God, as is clear in De monarchia,<sup>3</sup> while

---

<sup>1</sup>Gierke, op. cit., 30.

<sup>2</sup>Summa theol., Ia IIae, qu. xciii, art. 3.

<sup>3</sup>Dante, De monarchia, III, 16.

the papalists asserted that it came to him through papal mediation. But however the ruler derived his power, or whether he were a monarch or a collectivity, in any case mediaeval man always derived it ultimately from God. And Gerson was no innovator. The State, he said, was planned by God: "Regnum in sua generalitate est societas ordinata in imperando et obediendo secundum legem aeternam. . . ." (Sermo dedit illi, V, 184),<sup>1</sup> and he rejoiced that the power of his own King of France had been demonstrated as divine in an especial and direct manner; in his sermon Vivat rex he explained how "the first Christian king," Clovis, had been miraculously anointed by St. Rémy with holy oil, for which cause, he said, "the King's most devoted daughter [the University of Paris] daily cries: Vivat rex" (VII, 1140).<sup>2</sup>

When he comes to the historical origin of political authority, however, Gerson is not a Thomist.<sup>3</sup> To be sure, Gerson follows Thomas in paraphrasing Aristotle's words<sup>4</sup> on Man's political nature: "homo enim natura animal civile est" (De vita spirituali animae, III, 135), and

---

<sup>1</sup>This was a sermon delivered by Gerson in the University on the Feast of St. Louis, probably in 1391. Apart from this definition and the two sentences quoted below (infra, 234 and 248), it does not tell us anything about his political ideas.

<sup>2</sup>Supra, 80; v. also the early sermon of 1391, Adorabunt eum (VII, 522).

<sup>3</sup>For the remainder of this section, cf. Schäfer, op. cit., 18-22.

<sup>4</sup>Politics, I, 2.

. . . parce que homme est de sa nature civile et communicatif et a ce l'esmeut fort son indigence, a laquelle il ne peut convenablement secourir sans l'aide d'autrui, l'homme a este induit et comme conduit a vivre en commun avec autrui. (Diligite justitiam, VII, 607).<sup>1</sup>

But elsewhere in the same works he shows that he is only rendering lip-service to Aristotle and Aquinas, that really he is a thorough Augustinian in his concept of the origin of the State. For example, in De vita spirituali he defines civil dominion as the result of original sin and its consequences.<sup>2</sup> This dominion is materialistic and avaricious, and if Man were still in Paradise he would not need it but would live according to "the evangelical dominion of charity"--an obvious contradiction of the earlier Aristotelian phrase. Again and again this view of the State as a remedy for sin is repeated so that the reader is persuaded that it, not the Thomist view (only mentioned twice), is Gerson's real belief; in 1401 in his sermon for Maundy Thursday, Omnia dedit ei Pater, he says: "Civile dominium est jus fundatum in traditionibus humanitus adinventis, introductum occasione peccati. . . ." (V, 414),<sup>3</sup> and again in 1417 he is still saying it in De potestate

---

<sup>1</sup>Cf. Aquinas, On Kingship, I, 1: "it is natural for man, more than for any other animal, to be a social and political animal, to live in a group."

<sup>2</sup>V. supra, 33.

<sup>3</sup>This sermon is also entitled Sermo de dominio evangelico (du Pin, III, 196); it was addressed to an audience of clerics at the University and does not discuss civil dominion except to distinguish it from spiritual or evangelical, as here.

ecclesiastica: ". . . civile dominium seu politicum est dominium peccati occasione introductum . . . fundatum in legibus civilibus et politicis secundum quas potest abdicari vendendo, donando, negligendo, permutando" (VI, 246). But the fullest account that he gives of the historical development of the State is in his sermon of 1408, Diligite justitiam, where he gives us a picture of Man's original state of innocence and how this was destroyed by sin so that now a State is needed with "penalties and punitive laws against the perverted unjust so that the good and simple may live in peace" (VII, 606).<sup>1</sup> He explains that this was the beginning of civil law, just as later the Donation of Constantine, which gave the Church great possessions, was the beginning of canon law, but in the state of innocence natural law sufficed (VII, 606-609),--a point which he stressed in 1410 in a speech he made to students graduating in Canon Law, Dominus his opus habet:

Dominus non habuisset opus legistis vel canonistis in statu naturae primitus institutae sicut nec habebit opus in statu naturae glorificatae. Quare? Quia cuilibet fuisset lex sufficienter inscripta in libro cordis sui, nec opus erat ut quis eum doceret judicia justitiae per jura vel leges aut canones humano studio compositos vel libris aratis. . . . (V, 221-222)<sup>2</sup>

---

<sup>1</sup>Cf. supra, 42-43.

<sup>2</sup>This speech, or lecture, also known as Gerson's Recommandatio licentiandorum in Decretis (du Pin, IV, 686), was made at the granting of degrees to graduates in Canon Law in April, 1410. Its main theme is the origin of Canon Law, and it also refers frequently to Pope Alexander V's recent bull in favour of the Mendicant Friars, Regnans in excelsis.

With disobedience to natural law, "le royaulme de l'omme et dominacion tourna en tirannie et vile subjection" (VII, 606), so for the sake of peace and justice a better form of government, with civil law to enforce it, had to be established; thus the State or polity was instituted, "une societe des hommes ordonnee en bien commander et au bien obeir pour vivre en paix ou en tranquillite et souffisance, ou quant a ceste vie temporelle ou quant a l'espirituelle" (VII, 607). In his concept of the ultimate origin of political authority, therefore, Gerson is both an Augustinian and a Thomist, but in his notion of the historical beginning of the State he is far more a Stoic-Augustinian than an Aristotelian-Thomist; he mentions Aristotle's idea of man's natural society, the State, in two places only, perhaps merely to show that he is aware of it, and in all the other writings where he discusses the subject, it is the State as the consequence and remedy for sin that is the basis for his remaining political thought.

## 2. The attributes of political authority

Here again Gerson follows his predecessors, especially Aquinas, who all agreed that, although God-given, sovereignty is a utility, a function, an officium; it is dedicated to the well-being of all. The State is made for the individual so sovereignty in the State can only be an advantage for its members: ". . . a king is one who rules the people of one city or province, and rules them for the common good."<sup>1</sup> Again, in Ptolemy of Lucca, "Regnum non propter regem, sed rex propter regnum,"<sup>2</sup> and in the recent Songe du Vergier: ". . . en tout ce que lez gouverneurs de la chose publique font, soyent roys ou aultres, ils devent avoir toute leur pensee et leur entencion au salut de la chose puplique. . . ." <sup>3</sup> In Vivat rex Gerson expanded this, stressing that "a king is not an individual person but a public power ordained for the salvation of all the people" (VII, 1155), and therefore government must be by popular consent.<sup>4</sup> And to reinforce his contention that it would be intolerable for one man to rule the State entirely according to his own pleasure, Gerson in his letter of 1409-1410 or 1417 (II, xxii-xxiii) to the Confessor of the Dauphin,

---

<sup>1</sup>Aquinas, On Kingship, 10.

<sup>2</sup>De regimine principum, I, 1.

<sup>3</sup>Jean-Pierre Royer, L'Eglise et le Royaume de France au XI<sup>Ve</sup> Siècle, (Paris: Pichon et Durand-Auzias, 1969), 314.

<sup>4</sup>Supra, 83.

De considerationibus quas debet habere princeps,<sup>1</sup> quoted the Parliamentarian's favourite tag from Roman law:

Quid enim minus tolerabile quam si universam rempublicam una unius sententia praesumeret pro libito versare reversaque, cum verissime dicat Canon: quod omnes tangit ab omnibus debet approbari. Ab omnibus intellige vel a majori omnium saniorique consilio. (II, 211)

Given the purpose of the State, it follows that the King must be the servant of his people; God appoints him his task and if he does not do it, his kingship will degenerate into tyranny. As Gerson said in his sermon for Michaelmas Day, Factum est proelium:<sup>2</sup>

. . . Matth. xx . . . quicumque voluerit inter vos major fieri sit vester minister, et quicumque voluerit inter vos primus esse, erit vester servus. Et vere sic est; neque enim stipendia, honores, servitia dominis impensa aliud sunt quam praemia debitae servitutis in subditorum protectione. Aut ergo hominem non praesse convenit aut subditorum commodis et obsequiis servire necesse est. Vides autem quam multorum servituti conjuncta sit haec dominatio; juxta quod papa servus servorum verissima nuncupatione dicitur. Qui vero aliter dominari

---

<sup>1</sup>This was an educational tract which Gerson sent to the tutor of the Dauphin; which tutor and which Dauphin is debatable, as is the date, 1408-1410 or 1417. For this work and also Gerson's letter of 1429 to the Dauphin's tutor (II, 335-342), v. A. Thomas, Jean de Gerson et l'éducation de deux dauphins du France (Paris: Droz, 1930).

<sup>2</sup>This was a sermon on the Fall of the Angels, probably delivered at the University [Glorieux suggests that it may have been addressed to the King (V, xii) but this seems unlikely in view of its academic tone and its apostrophies of the "reverend fathers"]. Its date is not clear; Glorieux suggests both 1392 (V, xii) and 1393 (I, 109).

vult, non jam dominus sed tyrannus vocandus est. Quid est enim tyrannus, etiam secundum Aristotelem, nisi spreto subditorum commodo vel auxilio, dominationem propter se aut propter quaestum invadere? Hoc nempne inter regem et tyrannum discrimen est quia tyrannus commodum proprium tantum modo quaerit, rex alienum. (V, 300-301)

Furthermore, just because the State is an association of individuals and instituted for their benefit, there can be no difference between the morality of the governors and of the governed. Fidelity to treaties, for example, and observance of the virtue of loyalty are required; they constitute the very foundations of the jus gentium without which nations cannot live at peace.<sup>1</sup> A king is always bound by the law of God, just like his subjects: ". . . le roy meme ne puet donner le congié en tous cas et selon son plaisir, car le roy est sujet a raison et a la loy de Dieu et a justice. . . ." (Rex in sempiternum vive, VII, 1027). And although legally above human law, a king should also observe it in order to give a good

---

<sup>1</sup>This idea of the ruler's subjection to the law of nations may be traced back to John of Salisbury, whom Gerson had read (V, 575; VII, 32). In his Polycraticus John had said:

"Now there are certain precepts of the law which have a perpetual necessity, having the force of law among all nations, and which absolutely cannot be broken with impunity. . . . Let the white-washers of rulers . . . trumpet abroad that the prince is not subject to the law, and that whatsoever is his will and pleasure, not merely in establishing law according to the model of equity, but absolutely and free from all restrictions, has the force of law. . . . Still I will maintain . . . that kings are bound by this law."

[The Statesman's Book of John of Salisbury, trans. John Dickinson (New York: Knopf, 1927), 33.]

example to his subjects:

. . . princeps vel praelatus quilibet etsi dicatur solutus legibus, pati debet legem quam ipse tulerit, tum pro subditorum exemplo, tum pro reverentia praestanda Dei, ut appareat gratia Dei in eo et non impietas vel saecularia desideria videantur dominari. (Apparuit gratia Dei, V, 73)

--and also because "leges instituuntur cum promulgantur, firmantur cum moribus utentium approbantur."<sup>1</sup> Thus absolutism is never justified and "ceulz errent qui dyent aux seigneurs que tout est leur, et qu'ilz peuent faire du tout a leur deuse et volonte, en prenant tout a soy ce que les subgiez ont, sans aultre tiltre" (Vivat rex, VII, 1156). Right reason itself, even before the revelation of Christianity, dictated that a king rule with honour and devotion before God and man:

. . . et vault mieuz qu'ilz [roys ou princez] aient mendre seignourie qui soit raisonnable, sainne et

---

<sup>1</sup>Gratian, Decretum, Ia, d. iv, c. 3; quoted in De vita spirituali animae (III, 168), and also in De potestate ecclesiastica (VI, 217-218), where Gerson attributes it directly to its originator, St. Augustine. Wycliffe had also said that a king should obey his own law; v. De officio regis, 94:

"Primo modo omnis Cristianus subicitur legi. Cristi, et secundo modo ipse Cristus humanitus subicitur sue legi. Ex istis patet tercio quod rex subicitur legi proprie imperio legis divine, sed non imperio legis proprie. Nam ex lege nature, et per consequens ex lege divina, oportet regem defendere legem propriam, et obediendo ac implendo ipsam exemplare aliis quomodo parebunt eidem. . . . Rex ergo, in quantum caput regni, debet ministrare legi proprie voluntarie ex imperio legis superioris, et legi regis, si noluerint debent cogi ex imperio eiusdem legis, eciam sacerdotes licet sint secundum aliam rationem lege superiores."

Both Wycliffe and Gerson were doubtless aware of the Roman-law principle: "Princeps legibus solutus est, tamen secundum leges ipsum vivere decet."

durable par baillier aucun restraintsif . . . .  
 Telle response fist Theopompus a sa femme qui se  
 plaignoit de ce que par certaine loys il avoit re-  
 straint sa puissance, comme le roy se soubmettz a  
 la justice de parlement en plusieurs cas. C'est  
 grant honte, dist celle femme, que vos laissiex  
 mendre puissance a vous enfanz que vous ne l'avez  
 trouvee. Il respondi: je la laisse mendre mais  
 plus durable. Pour quoy plus durable? Pour ce que  
 elle est plus raysonnable. Voir, diras tu, mais  
 elle est mains honnourable. Sachez que non, mais  
 de tant est plus; car estre subiet a raison est  
 souveraine seignourie et souverainne dignite, hon-  
 neur, noblesse et ingenuite. Et en ce le seigneur  
 ne se soubmet point a sez subgetz, mais a raison,  
 a laquelle selon droict divin et naturel, chascun  
 seigneur et aultre doibt obediance et subiecti-  
 on; de hiis Seneca: si vis omnia subicere tibi, subice  
 te rationi. (Vivat rex, VII, 1159-1160)<sup>1</sup>

A king, in fact, has a difficult and unenviable task.

As Gerson told Charles VI in the days of his glory, on Ash  
 Wednesday, 1389:

. . . se tu me dis que tu es roy, certainement  
 c'est noble nom et riche; mais il est chier vendu  
 qui veult bien faire son devoir; car a grant painne  
 puet il avoir chascun jour ung moment de repos qui-  
 conque est roy se il fait son devoir. Et pour ce  
 proposa plusieurs fois Cesar Auguste de laisser et  
 renoncer a l'empire de Romme; et Dyoclesian de fait  
 y renonca, ne pour priere que on ly feist il ne  
 vout plus tenir empire. Et depuis que Marchus  
 Aurelius fu adopte par ledit Dyoclesian empereur a  
 succeder apres luy, ne fit si belle chiere<sup>2</sup> ne si  
 lie comme il faisoit par avant, mais estoit tousi-  
 ours tristes et pensis. . . . Et pour ce ne doit  
 on pas avoir envie des princes ne de leur estat,  
 mais mieulx en doit on avoir pitie et compassion,  
 et leur aydier de tout son pouoir. (Quaerite Domin-  
 um, VII, 974-975)<sup>3</sup>

---

<sup>1</sup>For the origin of the story about Theopompus, v. Aristotle, Politics, V, 11.

<sup>2</sup>mine, physionomie.

<sup>3</sup>This is the only political passage in a sermon devoted to consideration of the love of God and the Lenten virtues.

But how will the King fulfil his function as God's representative to his subjects? How will he aid the individual soul to attain its end--which is above all a certain moral happiness, resulting, according to St. Thomas, from the facultas contemplandi veritatem? The Angelic Doctor had replied that the King should realize "the unity of multitude, which we call peace," an accidental and external unity, by realizing "the public good" which results from the harmonious and convergent activities of the Citizens--activities which On Kingship is careful to distinguish from the personal or corporal unity of each individual.<sup>1</sup>

The government, or King, has thus a formidable duty.

His

. . . concern is threefold: first of all, to establish a virtuous life in the multitude subject to him; second, to preserve it once established; and third, having preserved it, to promote its greater perfection.<sup>2</sup>

This entails "First of all, that the multitude be established in the unity of peace." Then the citizens must "be directed to acting well," and for this "It is necessary that there be at hand a sufficient supply of things required for proper living, procured by the ruler's efforts."<sup>3</sup> The public weal once established, the next duty is to conserve it. This is achieved by recruiting administrative officers, by repressing disorder,

---

<sup>1</sup>On Kingship, 65.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

by rewarding virtue, and by protecting the State from external attacks.<sup>1</sup> Finally, the government has a vaguer, more elastic mission: "To be solicitous for [the citizens'] improvement," to rectify abuses, to make up defects, to work for progress.<sup>2</sup>

With all this, Gerson is in complete agreement. "The unity of peace" is constantly in his mind as the aim of the State and of its ruler; early in his university career, in 1391 in his sermon Adorabunt eum, he said:

Par le second royaume qui est temporel, est l'omme bien gouverne en commune police, quant a temporalite; et appartient aux princes et seigneurs terriens qui bien ordonnent leur peuple en union et en pais et les deffendent de toutes opressions.  
 . . . (VII, 520-521)

and, later:

Pour quoy est ordonnee police, se ce n'est pour aider l'ung l'autre et chascun selon son estat, le peuple en baillant viviez et subsidiez aux seigneurs, les seigneurs en lez deffendant de opressions de leurs ennemys, en lez gardant fiablement.  
 . . . (VII, 528)

Frequently Gerson thus stresses the mutual nature of the obligations between ruler and subject, as in the passage in Vivat rex where he uses his favourite analogy of the interdependence of the limbs and organs of a human body (VII, 1155).<sup>3</sup> Carlyle said of that passage: "The words seem to be reminiscent of the principle of the mutual obligations of feudal law";<sup>4</sup> but whether conscious or not of the feudal connection, Gerson is

---

<sup>1</sup>Ibid., 66-67.

<sup>2</sup>Ibid., 67.

<sup>3</sup>Cf. supra, 83.

<sup>4</sup>Carlyle, op. cit., 159-160.

here simply reiterating the common view of his time (though this had necessarily absorbed some feudal traditions).<sup>1</sup> The passage from his Michaelmas sermon, quoted above,<sup>2</sup> demonstrates his view, typical of the time (especially in its use of the Bible and Aristotle), that the ruler who fails to be motivated primarily by the needs of the common weal and who abandons himself to a selfish and capricious use of power, must be regarded as a tyrant. Every mediaeval treatise written for the use of princes and future kings exhibits a dread of the tyrant who allows his own personal advantage to override the good of the group. Dante reserves a special place in his Hell for tyrants, by the side of brigands and assassins,<sup>3</sup> and Gerson sees them as totally vitiating the body politic: "Comme venin ou poison occit le corps humain, pareillement tirannie est le venin et la poison et la maladie qui met a mort toute vie politique et royale" (VII, 1158). Gerson, in fact, goes back beyond St. Thomas to the Philosopher for his definition of tyranny as "a kind of monarchy which has in view

---

<sup>1</sup>And not only the view, but also, to a certain extent, the practice. As J.H. Shennan put it in his book on The Parliament of Paris (Ithaca: Cornell University Press, 1968), 183: ". . . it may perhaps be argued that what [Gerson] wrote was essentially political theory, which dwelt rather on principles that ought to be followed than upon politics as they were practised. In fact, however, these opinions did represent a standard of political behaviour which had been accepted for a good many generations by French kings and their advisers."

<sup>2</sup>Supra, 217.

<sup>3</sup>Divina Commedia, "Inferno," XII.

the interest of the monarch only,"<sup>1</sup> and he discusses Aristotle's classification of the different types of government quite fully in De potestate ecclesiastica (VI, 247-249). Gerson believed that neither the God-given nature of the ruler's authority nor the subject's duty to obey the powers "ordained of God" gave the monarch an unlimited right to command. The natural law whereby the monarch was bound both to obey the rules of morality and to act only in his subjects' interest put a constant restraint on his freedom of action, and the Chancellor's complete confidence in the truth of this belief is shown by his fearless efforts to remind Charles VI and his court of their duties and limitations, as in the little story of Theopompus, in 1405.<sup>2</sup>

In trying to devise a system of guarantees to secure the State against tyranny, Gerson again followed closely in Aquinas' footsteps. In On Kingship Thomas desires the people, when choosing their ruler, to inquire into his character and find out if he has a despotic temperament:

. . . it is necessary that the man who is raised up to be king . . . should be of such condition that it is improbable that he should become a tyrant. . . . Then, once the king is established, the government of the kingdom must be so arranged that opportunity to tyrannize is removed.<sup>3</sup>

Gerson considered that the constitution of France succeeded in thus removing "the opportunity to tyrannize," as he made clear

---

<sup>1</sup>Aristotle, Politics, III, 7.

<sup>2</sup>Supra, 219-220.

<sup>3</sup>On Kingship, 24.

in his sermon Prosperum iter when he alluded again to Aristotle's three classes of government.<sup>1</sup> He was realistic enough, however, to recognize that this constitution could easily break down, as it had under the mad King Charles VI; to understand this, one need only look at his denunciations of the tyrant-princes of contemporary France in his famous sermon of 1405, Vivat rex, and his views then on resistance to tyranny.<sup>2</sup> But just as his views on authority in the Church were changed between 1392 and 1409 by the events of the Schism, so Gerson's ideas on resistance to tyranny were changed between 1405 and 1412 by political events in France. So, in 1405, he speaks for the common man in his denunciation of the princely exploiters of the French third estate, although even then he is aware of the dangers of opposing even a tyrannical government:

Ne seroit chose plus desraisonnable et crueuse que  
vouloir empescher par sedicion tirannie. Je appelle  
sedicion rebellion populaire sans rime et sans  
raison. Elle est pire souvent que tirannie. . . .  
Si fault a merueille grant discrecion, prudence et  
attrampance a bouter hors tyrannie. Pour tant doi-  
vent estre oys et creus les saiges, philosophes,  
juristes, legistes, theologiens et gens de bonne  
vie et de bonne prudence naturelle et grand experi-  
ence. . . . (VII, 1159)

But, from 1413, after his own personal misfortunes at Burgundian hands, he is adamant that no individual should resist tyranny on his own account. Resistance must occur only through legal channels, in accordance with law and the constitution, and tyrannicide is out of the question. Just as in the Church,

---

<sup>1</sup>Supra, 171-172.

<sup>2</sup>Ibid., 86-93 .

resistance must be only through the Council (An liceat, VI, 286-287).<sup>1</sup> For this he waged his long campaign against John Petit and his master, John of Burgundy, from the time of the Council of Paris which condemned Petit in 1412, till the end of that of Constance which rescinded the condemnation. Since the Duke was trying to vindicate a political assassination, this was for him a political matter, but for Gerson it remained a question of principle, both moral and theological, which is why he fought for it so long.<sup>2</sup>

---

<sup>1</sup>Ibid., 201-204.

<sup>2</sup>Ibid., 123-140.

### 3. The ownership of political authority

Hitherto, the words "king" and "government" have been used almost interchangeably, but is this really valid? Who or what rightfully possesses political authority? Prior to the late thirteenth century the only answers to these questions seem to have been made by the jurists and canonists who extolled the power of the Roman Emperor, the Pope, and to a lesser extent the monarchs of the time. But from the time of St. Thomas on, the philosophers took a more general view. We have seen that Gerson stresses that government must be by popular consent and in this is following the Thomist line that sovereignty arises from the people collectively and belongs to them all. It is the people who constitute the State, and sovereignty should be exercised for the good of them all, so it is reasonable to suppose that the Supreme Ruler has conferred the power of governing and legislating on them as a collectivity. Gerson supports this in the Church as well as the State in De auferibilitate sponsi ab Ecclesia where he states that a pope is accountable to the whole Church or the General Council for any questionable actions:

. . . verum est quod claves datae sunt nedum uni sed unitati. Ex hoc tamen non habetur quod Ecclesia tota vel concilium absente papa, praesertim suo demerito, non possit auctoritativam jurisdictionem exercere sicut lex quaedam divina et indeviabilis ad reducendum ipsum vel corrigendum vel compescendum ne noceat ipse, nedum Ecclesiae sed sibimet . . . sicut enim tradit Aristoteles, V Politicae, quod ad communitatem totam spectat principis vel correctio vel totalis destitutio si inemendabilis perseveret. (III, 301-302)

The supposedly modern doctrine of the "sovereignty of the people" was commonly accepted from St. Thomas' time till the end of the fifteenth century,<sup>1</sup> but the scholastics were far too realistic to suppose that the citizens, with all their human failings, could of themselves exercise the power allotted to them. The people could, it is true, exercise their power in a democracy, one of the three forms of government discussed by Aristotle and therefore by Aquinas and his successors; but democracy of itself does not overcome the problem of the fickleness of the people as a body. As for tyranny, so also for "democracy" (in the Aristotelian sense)--Aristotle deemed the one a corruption of monarchy and the other a corruption of "polity," and Gerson after the terror of 1413 considered "democracy," i.e., in this case, mob rule, every bit as vicious as tyranny.<sup>2</sup> In Rex in sempiternum vive he was concerned to condemn not only tyrannicide but also the usurpation of power by the lower classes: "Et nous avons experimenté plus que mestier ne nous fust n'agueres, que gens qui a peine devoient appartenir aux pieds se avancoient de gouverner le chief, que dis je gouverner, mais confondre et tyranniser"

---

<sup>1</sup>Although "we should recall that [the affirmation of what is now called popular sovereignty] may have meant nothing more than the denial that the prince held power of his own right and as a personal possession"; Thomas Gilby, Principality and Polity: Aquinas and the Rise of State Theory in the West (London: Longmans, 1958), 199.

<sup>2</sup>For these "anti-democratic" feelings, cf. Schäfer, op. cit., 57-59.

(VII, 1030). Earlier in that discourse he had compared the "compassionate heart" of a king with the "tyrannical and cruel" one of the populace (VII, 1010),<sup>1</sup> and he had reminded the King of the behaviour of the mob:

Vous et votre successeur legitime, Monseigneur de Guyenne, et la reine, et outre encore votre chevalerie, votre clergie, votre bonne bourgeoisie esquels gist votre vie civile, royale et universelle, estiez comme en servage et en tres dure et vile servitude par l'outrageuse entreprise d'aucunes gens de petit ou nul estat, qui vouloient donner et querir leur propre profit. . . . disons pour la verité connoitre que tels gens de petit ou nul estat faisoient prison privee, prenoient, tuoient, meurtrissoient, noioient par nuit sans quelconque ordre et forme de procez, et par corruption d'argent. . . . (VII, 1007)

For Gerson, every man had his station in life and, while--as he had pointed out in Vivat rex in 1405<sup>2</sup>--it was right to have a democratic element in government in the form of a representative assembly like the Estates-General, the lower orders were never justified in taking over the Government, ousting the rightful rulers: that would be as senseless as the feet of the Body Politic trying to usurp the functions of the head or the arms (the nobility):

. . . c'est expedient a l'estat populaire qu'il soit en subjection plus que s'il vouloit prendre l'estat de domination; c'est la determination et declaration d'Aristote, I Politicorum. . . . c'est expedient que l'estat populaire soit par les autres plus hauts estats gouverné amiablement, supporté et favorisé. . . . c'est expedient que le roy qui est le chief d'or, en valeur et en autorité, ne sueffre point confondre les officies des membres dessous soy, mais doit labourer que chacun fasse son office. Cette consideration profite a déclarer que le chief ne

---

<sup>1</sup>V. supra, 116.

<sup>2</sup>Ibid., 88-91.

doit point user des pieds comme des bras en sa defense. Si ne doit point commander aux populaires et a l'estat de bourgeoisie qu'ils soient armés régulièrement comme les bras de chevalerie doivent l'estre, car ce seroit confusion. (VII, 1029)

This condemnation of the efforts of the lower classes to raise themselves politically might be attributed to partiality on Gerson's part, to resentment at the fear and material loss he suffered from the Cabochians earlier in 1413. But this would not be fair. Already in 1408 in his sermon Veniat pax he had made a very similar observation:

C'est condition d'enfant et de peuple semblable a enffans, de desirer tousiours mutation de maistre ou de seigneurs. Pour quoy? Pour ce que tousiours cuident<sup>1</sup> amender en franchise; et ilz empirent le plus souvent. Mais quoy, ilz n'ont pas le sens ne la prudence ou experience de congnoistre le meschief qui leur en avient. (VII, 1114)

In fact, here as always, Gerson is seeking the way to peace, justice and order. He cannot see that peace or justice will ever be possible if the king is a tyrant, but neither can he envisage order if the people try to take over. The only solution he can conceive, therefore, is a beneficent ruler reigning with the advice of an aristocratic council and some kind of democratic assembly, but permitting no suggestion of plebeian insurrection, which would be as bad as a tyranny. This is consonant with Aquinas' earlier compromise, a monarch who rules the people as their representative, exercising their own original power in their interest: ". . . to order anything to the common good, belongs either to the whole people,

---

<sup>1</sup>pensent, croient.

or to someone who is the vicegerent of the whole people."<sup>1</sup>

The monarch, therefore, is only a regent for the people, so that, as we saw in the section above, precautions must be taken in his selection. "For," as the Summa says further on,

if they are free and able to make their own laws, the consent of the whole people expressed by a custom counts far more in favour of a particular observance, than does the authority of the sovereign, who has not the power to frame laws, except as representing the people.<sup>2</sup>

So power is delegated by God to the people and by them to the monarch, but the entire people is the original subject of the delegation and nothing can alter their divine right to it; therefore the King holds it subject only to their will, which, of course, may change. This is the democratic interpretation of the lex regia, the legal fiction invented in the thirteenth century to explain the people's alienation of its political power to a king and implied by Gerson in De vita spirituali animae;<sup>3</sup> it contrasts with the alternative interpretation, found in the commentaries of Justinian and his successors in the Civil-Law tradition, that the alienation of power is quite irrevocable and independent of the King's use or abuse of his authority. Thus the democratic tendencies of the late mediæval political thinkers are emphasized by the absolutism of their predecessors, as well as of their

---

<sup>1</sup>Aquinas, Summa theol., Ia IIae, q. xc, art. 3.

<sup>2</sup>Ibid., q. xcvii, art. 3.      <sup>3</sup>Supra, 34-35, and 84.

sixteenth-century successors.

Here we meet an apparent contradiction in Gerson. In 1405 in his famous sermon to the Court he told his listeners that monarchy is the best form of government because it copies the single rule of the Almighty (VII, 1139).<sup>1</sup> Similarly in the Church: in his Trilogus in materia schismatis of 1402-1403 he had told his contemporaries, describing the dangers of anarchy:

Per [talía facinora] si non obviatum exstiterit, exponetur fides discrimini, si suis litteris fidentes, si eas instrumentum suarum passionum efficere molientes determinaverint aut asseruerint levius debito in hanc vel illam partem ea quae melius intractata manerent; ut si diceretur papam non expedire esse unicum pro Ecclesia; papae passim in facie resistendum esse, passim et ab eo appellandum; vel ex adverso si quis assereret quod in nullo casu papae dicere liceret: cur ita facis, et similia. (VI, 75)

And again he told the Council of Constance in 1417 that the papal monarchy was essential:

Et forte quoad usum vel exercitium potestatis ecclesiasticae sic evenit ipsis etiam Apostolis et discipulis quod post immediatam concessionem utriusque, scilicet potestatis et usus, factam a Christo postmodum crescente numero fidelium fuit ad tollendum schisma et ad exemplar dandum posteris, limitatio facta talis potestatis quoad usum, et hoc per Petrum summum pontificem de consensu totius Ecclesiae primitivae vel generalis concilii, ut non quilibet posset in quemlibet uti potestate sua, attentata Christi ordinatione primaria qua voluit Ecclesiam suam regi principaliter sub uno et ab uno monarcha, sicut est una fides, unum baptisma et una Ecclesia, unitate capitis tam primarii quam vicarii; quoniam iste est optimus principatus, praesertim in spiritualibus ad conservationem unitatis fidei ad quam obligantur omnes. (De potestate ecclesiastica, VI, 226)

---

<sup>1</sup> Supra, 42-43 .

Gerson is in a sense echoing St. Thomas, who recognized that monarchy was the commonest form of government and one which had the advantage that its power was concentrated; and, as Thomas pointed out, "a united force is more efficacious in producing its effect than a force which is scattered or divided."<sup>1</sup> But he went on to say that particular circumstances must decide at any given moment in the life of a people what is the best form of government for them, so that his theory is adaptable to any set of conditions.

Thomas himself, however, showed a marked preference for what Aristotle considered the best form of government, that is, a mixed constitution or "polity." In this the sovereignty remains with the people, but at the same time is combined with both an elective monarchy and also an aristocracy to limit the monarch's exercise of power. This is set out clearly in the Summa:

. . . whereas [constitutions] differ in kind, as the Philosopher states (Polit. iii), nevertheless the first place is held by the kingdom, where the power of government is vested in one; and aristocracy, which signifies government by the best, where the power of government is vested in a few. Accordingly, the best form of government is in a state or kingdom, wherein one is given the power to preside over all; while under him are others having governing powers: and yet a government of this kind is shared by all, both because all are eligible to govern, and because the rulers are chosen by all. For this is the best form of polity, being partly kingdom, since there is one at the head of all; partly aristocracy, in so far as a number of persons are set in authority; partly democracy, i.e., government by the people,

---

<sup>1</sup>On Kingship, 14.

in so far as the rulers can be chosen from the people, and the people have the right to choose their rulers.<sup>1</sup>

Elsewhere Thomas further clarifies the idea of the people's choice of rulers by advocating that it take the form of an election, which is, he says, a work of reason: "Electio per se est appetitus ratione determinatus";<sup>2</sup> it is therefore the best way of choosing not only the ruler or monarch, but also his ministers, the aristocratic element in the government.

Gerson had a slight problem here; he considered the French monarchy to be especially blessed by God, as had been shown at Clovis' coronation,<sup>3</sup> and yet it was an hereditary, not an elective, monarchy.<sup>4</sup> Clearly, then, he could not agree with St. Thomas that every king should be individually elected, although he could not condemn that procedure either; as he said in his sermon Dedit illi, probably in 1391: "Dat regnum civile et politicum; et illud fundatur in subjectione ad publicam utilitatem cum electione vel Dei vel hominum vel hereditaria successione" (V, 183). As time went on, he became satisfied that the election of the French kings' ancestors was sufficient indication that the present kings ruled by popular

---

<sup>1</sup>Summa theol., Ia IIae, q. cv, a. 1.

<sup>2</sup>Com. in Politic., III, 14; Thomas, as usual, is following Aristotle, who said: "[The Carthaginian] kings, unlike the Spartan, are not always of the same family, and this an ordinary one, but if there is some distinguished family they are selected out of it and not appointed by seniority--this is far better" (Politics, II, 11).

<sup>3</sup>V. supra, 212.

<sup>4</sup>On this subject, cf. Schäfer, op. cit., 37-38.

consent; in 1402 in De vita spirituali animae he declared:

". . . rex Franciaie regnum habet titulo successionis haereditariae ex primario consensu civium suorum" (III, 151). But by 1405 Gerson definitely considered hereditary safer than elective kingship, because, he said, the people will obey an hereditary monarch more readily than an unfamiliar or new king:

. . . coustume, dy je, que le royaulme voise par succession legitime. Et yci se fonde la principale raison dez philosophes a prouver que royaulme soit mieulz gouverne par succession que par election, pour ce que on obeist plus volentiers a celui que on a acoustume que a ung estrange ou nouvel; et en obeissance est tout le bien de dominacion.  
(Vivat rex, VII, 1148)

His final approbation of hereditary monarchy is shown in his speech Rex in sempiternum vive of 1413, where he puts aside all thought of an elective kingship and speaks of:

. . . la vie civile et universelle, laquelle est donnee a un roy par loial amour du bien public et commun . . . dure en ce royaume par legitime succession de la lignie royale sans certain terme ou comme pardurablement. . . par legitime succession de votre royale lignee vous viviez en elle car la vie du pere se continue en la lignie . . . (VII, 1006)

And, lastly, he dismisses individual elections: ". . . le royaume se gouverne mieux et se maintient par succession que par election pour ce que le roi considere que le royaume est comme a soi propre en l'education de sa lignie" (VII, 1011).

It is not clear whether Gerson thought that hereditary monarchy is best for other kingdoms, like England or Castile, but it is interesting that he is only the second political writer to advocate it, as opposed to elective kingship, for

France. Of previous writers since St. Thomas, only Aegidius Romanus had unequivocally recommended hereditary monarchy;<sup>1</sup> Marsiglio, Ockham and John of Paris had allowed both methods of obtaining a ruler. This is the one place where Gerson differs from Aquinas in his view of monarchy.<sup>2</sup>

On other occasions Gerson follows the Thomist approach to monarchy by popular consent in such a way that his declaration that monarchy is the best form of government must be interpreted as really a recommendation of monarchy limited by the necessity of consulting the Parlement (VII, 1018 and 1159) and the Estates-General (VII, 1165). We have already heard him remind the Court in the story of Theopompus that "the King in many cases submits to the justice of the Parlement,"<sup>3</sup> and elsewhere he is even more precise, advocating in Prosperum iter a specifically Aristotelian mixed government for the Church on the model of "the French kingdom."<sup>4</sup> Indeed, he always considers France as the model for all other countries and deplores the condition of other lands which do not enjoy

---

<sup>1</sup>De regimine principum, III, 2, 2.

<sup>2</sup>Gerson's adaptation of his monarchical theory to fit his own, actual monarchy can be compared with that of Nicholas of Cusa in his De concordantia catholica of 1433; to support his own, elective, imperial monarchy, Nicholas went back to Marsiglio of Padua to find arguments for the superiority of elective to hereditary monarchy. V. Paul E. Sigmund, "The Influence of Marsilius of Padua on XVth-Century Conciliarism," Journal of the History of Ideas, XXIII (1962), 401.

<sup>3</sup>Supra, 219-220 .

<sup>4</sup>Ibid., 171 .

her advantages:

Sire, c'est la plus principale garde de vostre royaume ce que vous n'avez qu'une cour de justice souveraine, c'est vostre parlement auquel vous meme répondez et tous autres sujets le doivent mieulx faire. Par deffaut d'une telle cour vont a perdition aultres pays comme Allemanie et Italie ou le plus fort vaint et vive qui vainche. (Rex in sempiternum vive, VII, 1017-1018)

Thus in his view of the ownership of political authority, both ecclesiastical and secular, Gerson followed the Thomist line in everything except the idea of elective monarchy. There may seem to modern eyes a dichotomy between the concept of the ruler as divinely ordained and that of his elevation by the common consent of the people, but Gerson's contemporaries saw nothing contradictory in thus considering monarchy from two viewpoints at once.<sup>1</sup>

---

<sup>1</sup>A century earlier, John of Paris had considered it in exactly the same way: "Ergo potestas regia nec secundum se, nec quantum ad executionem est a papa sed est a Deo et a populo regem eligente in persona vel in domo . . ." (Leclercq, ed., op. cit., 199. My italics.)

#### 4. The question of universal political authority<sup>1</sup>

It is an interesting fact that Gerson never stopped to consider the advantages of a single world-government, as Dante did in De monarchia with the Emperor, and Gerson's own countryman, Pierre du Bois, with the King of France in mind. This was because Gerson patriotically accepted France as the best of all kingdoms and consequently was not interested in the idea of universal monarchy: he was concerned neither with the power of the Holy Roman Emperor nor with the extension of that of the King of France. The proof that France was already the most nearly perfect kingdom was recognized, he said in 1408, as long ago as the sixth century by a Father of the Church himself, not even a Frenchman:

. . . c'est certain que la plus belle, la plus ferme, la plus estable partie de crestiente c'est le tres crestien royaume de France, duquel dit saint Gregoire qui fu Rommain, que au tant que les crestiens sur montent les mescreans en leur creance et religion, autant surmonte le royaume de France les aultres crestiens; c'est belle louange, et d'ung saint et d'un estrange. (Veniat pax, VII, 1117)<sup>2</sup>

Gerson considered that there was no need for a universal monarchy, and he cited Aristotle in his support:

Les hommes de bonne volonté ne sont point si astraîns d'avoir tous un chief temporel comme un

---

<sup>1</sup>For this subject, v. also Schäfer, op. cit., 28-32.

<sup>2</sup>Cf. one of the earliest sermons, Dominus regnavit of 1392: ". . . ait insignis doctor et summus pontifex Gregorius, in Registro, epist. 5: non immerito contingit ut cetera gentium regna praecelleret regnum Franciae. . . ." (V, 240)

espirituel. Ceste consideracion proffite a nostre propos des Grecs s'ilz vouloient dire que l'Empereur de Constantinople doibt ung et pour le seul estre recogneu chief temporel de tout le monde comme successeur d'Auguste Cesar ou de Constantin. La verité de ceste consideracion appert<sup>1</sup> parce que ce n'est point ainsy expedient que tous les hommes soient gouvernés et unis par samblables loys civiles et politiques comme ilz doivent estre gouvernes par une meisme foy et uns meismes articles et sacremens. Dit par exemple Aristote que selon la varieté des gens y convient varier les loys. (Pax hominibus, VII, 769)<sup>2</sup>

He did not consider the possibility of a world government over differing peoples, such as had obtained in the Roman Empire, but felt that although they might share a single Faith and Church, in the temporal sphere different peoples should have different laws to suit them, enforced by different governments. He did not go as far as the authors of the Songe du Vergier who had bluntly condemned the Holy Roman Emperors for asserting their supremacy over all other earthly rulers, thus:

Si puis conclurre . . . que la monarchie et la seignorie de l'Impereur a esté acquise et conques-tee par force et violance; car lez primieres seignories dez roys et aultres seigneurs terriens furent de la volanté de Dieu establies et ordenees. . . . La seignorie donques de l'Impereur, qu'i vout avoir la monarchie du monde seur touz roys et seigneurs terriens, fust contre l'ordenance de Dieu qui avoit ja lez seignories du monde divisees entre roys, princes, dux et aultres seigneurs terriens. Car . . . Diex a establi plusieurs roys.<sup>3</sup>

---

<sup>1</sup>apparaît.

<sup>2</sup>This is Gerson's Discours pour la paix de l'Eglise et l'union des Grecs (du Pin, II, 141), delivered in December, 1409. It is a very general appeal for peace and goodwill between East and West, and contains little of Gerson's political ideas, so has not been given separate consideration here.

<sup>3</sup>Royer, op. cit., 315.

Instead, Gerson stated in the tractate which was the culmination of all his ecclesiological works, De potestate ecclesiastica of 1417:

Non sic autem est de legibus civilibus quod debeant esse similes et eadem apud omnes nationes propter varietatem morum et conditionum in diversis provinciis; quoniam insuper gladius Ecclesiae spiritualis est, videlicet excommunicatio quae potest extendere se quantumlibet in longinquas nationes. Aliter est de gladio materiali. Propterea non oportuit, nec forsitan expedivit quod in temporali potestate esset una perseverans monarchia per orbem universum sicut de spirituali potestate praediximus institutum fuisset jure divino primitus in persona Petri.  
(VI, 226-227)

Gerson is not unaware of the arguments of those who, like Dante, recommend a single world-monarchy, as he shows in Pax hominibus where he quotes one of them:

Mais encores opposera aucun et plus fort que devant, et dira que pareillement il n'est que une loy naturele qui est immuable et non variable, et par ainsy on devra avoir ung seul chief souverain qui congnoisse de ceste loy naturele comme il y a ung seul qui congnoit de la loy esprituele. On respont icy et en respondent on entre en une tres notable consideration; on confesse ce que conclut l'adversaire qu'il n'est que une loy naturele et consequemment ne doit avoir que ung chief qui cognoisse par maniere de souveraineté et de resport de ceste loy; mais c'est celui mesme qui doit cognoistre de la loy divine; car a ycelle et selond ycelle est subjecte et se doit reugler le loy naturelle, comme a scavoir qui est vraye prudence, vraye attrempance,<sup>1</sup> vraye force et vraye justice. . . .  
. . . Neantmoins tous les hommes, princes et autres, ont subjeccion au Pape en tant que de leurs juridictions ou temporalité et segneurie ilz vauroient abuser contre la loy divine et naturele. Et se peust ceste superiorité nommer puissance directive et ordinaive plus que civile ou juridique. (VII, 769-770)

---

<sup>1</sup>tempérance.

The natural God-given law can be interpreted by the single world-monarch who is essential in the spiritual sphere, but positive law has to be interpreted differently in different times and places, so it must be left to a plurality of rulers, not one only; or, as Gerson had put it in 1402:

. . . temerarium est et iniquum velle omnia decreta, sive ecclesiastica sive civilia, ad omne tempus, ad omnem gentem et patriam extendere, quoniam lex quae pro uno tempore et loco aut personis esset utilis, esset in aliis tempore, loco et personis impossibilis aut damnosa; immo velle sic omnia statuta stabilire, hominum est delirantium et quasi contententium ut oppositae leges simul observentur. His fundant se qui dicunt non ita expedire unum imperatorem dominari omnibus civiliter sicut unum papam spiritualiter, quoniam lex fidei una est apud omnes, non ita leges fori. (De vita spirituali animae, III, 168)

It is naturally quite different in the Church since "le principal est de la loy evangelique qui ne peut estre que une sans variation pour quelconque variété de gens ou de païs" (Pax hominibus, VII, 769). The Faith unites all Christians with Christ in His Mystical Body, and He has given them a vicarious Head on earth, a world-monarch in spiritual affairs, the Pope. At first, the Pope had only the divine law to enforce in the Church, but later additional rules and sanctions became necessary and were formulated in the canon law (Harangue Dominus his opus, V, 225). But a world-monarchy in temporal affairs remains neither necessary nor desirable.<sup>1</sup>

---

<sup>1</sup>John of Paris (whom, as an outstanding French political thinker, Gerson had probably read, although he never mentions him by name) had earlier said the same thing in De potestate regia et papali (ed. Leclerq, op. cit., 180):

"Non sic autem fideles laici habent ex jure divino

This, of course, is again consonant with the Thomist tradition. To Aristotle the idea of a world-monarchy had never even occurred; he was conscious mainly of the city-states around him and when he spoke even of the Persian Empire he seemed to think of it as simply a city-state tyranny writ large.<sup>1</sup> Aquinas consequently writes with city-states in mind, although obviously aware of the larger political units of his day, and he does not even use the word regna to denote these units: that he left to his friend and continuer, Ptolemy of Lucca. Gerson is certainly more "modern" than Thomas--he speaks frequently of regna--but he seldom uses the word imperium and he mentions "un seul chief souverain" only to dismiss him. To discuss existing states was enough for him; he was far too practical to indulge in Dantesque day-dreaming about the surrender by those states of their sovereignty to some great, pacific and impossibly beneficent world-monarch.

---

quod subsint uni monarche supremo in temporalibus: sed ex naturali instinctu qui ex Deo est habent ut civiliter et in communitate vivant et ut per consequens, ut ad bene vivendum in communi rectores eligant diversos quidem secundum diversitatem communitatum. Quod autem omnes ad unam supremam monarchiam in temporalibus reducantur nec ex inclinatione naturali nec ex jure divino habent neque eis ita convenit sicut ministris ecclesiasticis."

<sup>1</sup>Cf. Politics, V, 11.

## 5. The Divine Polity: the Church

Just as monarchy, tempered by aristocratic and democratic elements, is the best form of government in the State, so it is with the divine society, the Church. Throughout the vicissitudes of the Great Schism, Gerson never wavered in his belief that the Church was founded by Christ as a monarchy, and that therefore, unlike the State which was founded by mere men and so can be altered in its constitution, the Church can exist in no other form:

Auferibilis est aut mutabilis, lege stante, quae-  
libet politia civilis, monarchica seu regalis ut fiat  
aristocratica, et non sic de Ecclesia quae in uno  
monarcha supremo per universum fundata est a Christo.  
. . . Et oppositum sentientes de Ecclesia, quod  
scilicet fas est esse plures papas, aut quod quilibet  
episcopus est in sua dioecesi papa vel pastor supremus  
aequalis papae Romano, errant in fide et unitate  
Ecclesiae. . . . (De auferibilitate sponsi, III, 298)<sup>1</sup>

On the other hand, the Pope must be a monarch, not a tyrant, i.e., he must rule for the good of his subjects, and the best way he can ensure this is by consulting with those subjects. We have seen how in the 1390s Gerson doubted the efficacy of a general council to heal the Schism, then how, during the first decade of the new century, he came gradually to recognize the personal failings of the two papal claimants which would prevent them from ever resolving the Schism on their own, so that he began to look to a general council to help them, or even if necessary force them, to resolve it. By

---

<sup>1</sup>Cf. the passage from De potestate ecclesiastica quoted supra, 232.

1415 he was so far disillusioned in the personal qualities of individual popes that he considered that their monarchy must be tempered by mixed constitutional elements, as he publicly announced to the Emperor and Fathers at Constance in his speech Prosperum iter (V, 478).<sup>1</sup> And finally, in 1417 in De potestate ecclesiastica, he worked out his analogy in full; the Pope was the Church's monarch, the college of cardinals its aristocracy, and the general council its "timocratic" element, "or, rather, the perfect polity which results from them all" (VI, 248).<sup>2</sup> Gerson was showing his loyalty to tradition by consciously rejecting some of the "modern" views of the ecclesiastical monarchy advocated earlier in the fourteenth century by William of Ockham and Marsiglio of Padua, and more recently by Dietrich of Niem. Ockham, for example, denied that God had established the Church as a monarchy, mixed or absolute;<sup>3</sup> and Niem, Gerson's contemporary, deemed the Church a monarchy only insofar as it was directly governed by Christ: "Ecclesia Christi est inter omnes res publicas aut societates recte ordinatas a Christo superior, nobilior, atque diligibilior"<sup>4</sup> and, like Ockham, he doubted that the

---

<sup>1</sup>V. supra, 171.

<sup>2</sup>Ibid., 195.

<sup>3</sup>Dialogus, III, tr.I, 1.2, c.2, 12-14, 16-17, 25, 30, in Goldast, op. cit., II, 772ff; McGrade disagrees with this interpretation, arguing that Ockham saw the papal monarchy as both politically expedient for the Church, and divinely established; op. cit., 152-161.

<sup>4</sup>De modo., 6.

Papacy had been instituted by Christ as an ecclesiastical monarchy. But Gerson refused to be diverted by these plausible arguments from his loyalty to the Holy See, even in the face of the Schism and its far from edifying papal pretenders. Finally, he rejected Marsiglio's contention that the Church, as a purely spiritual body, was subject only to a general council representing all its members, and that, as an earthly society, it should obey earthly rulers, not the Pope, whose claims to rule were fraudulent:

By all of these demonstrations every person will be made almost sensibly aware that the Roman bishop or his church, or any other bishop or church, as such, has none of the afore-mentioned powers or authorities over the other bishops and churches by divine or human right unless such power shall have been granted to him by the general council either outright or for a certain time. From this it will also be apparent that when the Roman or any other bishop ascribes to himself plenitude of power over any ruler, community, or individual person, such a claim is inappropriate and wrong, and goes outside, or rather against, the divine Scriptures and human demonstrations; and that such claims on the part of the Roman or any other bishop must be completely stopped, through admonition and even through coercive power if necessary, by the human legislators or by the men who rule by their authority.<sup>1</sup>

In a sense, Gerson's attitude to the government of the Church is more logical than Marsiglio's, since, as he sees the people delegating their power to a ruler in the secular sphere, so he sees them in the ecclesiastical sphere; the position of the General Council can be equated with that of the Parlamentum or democratic element in a lay government, as it was in De

---

<sup>1</sup>Marsiglio, op. cit., 273.

potestate ecclesiastica,<sup>1</sup> (though with the difference that whereas the Parlement should be a constant control on the king's power, the General Council should only be an intermittent or emergency control on the Pope's). Gerson rejects all the recent, nominalist, secularist views on political authority, preferring to adhere to, and elaborate on, the Thomist views which were more realist or, to put it simplissime, which attributed to God a more important role in human society.

It is also significant that Gerson nowhere says that the earthly polity is subject to the divine except in spiritual affairs. In his early Epiphany sermon, Adorabunt eum, he speaks of the three "kingdoms," those of the individual person, the State and the Church, but he indicates that these kingdoms exist co-ordinately, not in subjection one to another. Over a quarter of a century later, in De potestate ecclesiastica, he said the same thing more explicitly when he made the personification of Adulation declare that all earthly power comes immediately from the Pope and only mediately from God (VI, 237). This, says Gerson, is false, since there were lawful states before there ever was a pope, and the King of France obviously has no superior (VI, 238)!

This is not to say that Gerson was a Gallican. Although hailed as the father of Gallicanism by Bossuet and others in the seventeenth century, Gerson never envisaged a French Church under the King's control. It is quite clear

---

<sup>1</sup>Supra, 194-195.

from De potestate ecclesiastica that the Pope with his government in Rome should control the Church everywhere, since the Pope is the earthly or vicarious monarch of the spiritual kingdom. But, equally, "the King is emperor in his own kingdom" and in earthly matters has no superior under God. Gerson believes firmly in the independence of the two societies; the Pope, he implies, wields only one sword, just as Peter did in the garden: the other of the two swords mentioned (so ambiguously) at the Last Supper is the King's, and Caesar's penny belongs only to Caesar.<sup>1</sup>

---

<sup>1</sup>Gerson here is following the trend towards the separation of ecclesiastical and civil power begun by the defenders of Philip IV a century before; cf. the Songe du Vergier:

". . . comme lez roys et aultres seigneur terriens n'ont puer de faire loy ne de ordener dez choses toutes espritueles, car Dieu ne leur a pas comis le gouvernement de l'espirituel, mez de la temporalité seulement, aussi n'a pas le Pape, ne lez aultres prelas de Sainte Yglise puer ne puissance de faire loy ne aucune ordenance des choses temporeles, car Dieu ne leur a doné puissance ne puer, mez que es choses espritueles, tanseulement . . ." (Royer, op. cit., 313).

## 6. The final cause: Peace and Justice through Law

The thread running through all Gerson's political ideas is his fear of the violence and disorder which he had himself witnessed in both Church and State so constantly throughout his life. Only in a condition of peace and justice can Man fulfil himself materially and spiritually, so these must be the aim of all our endeavours. God ordained that His Son should be born into a world at peace (Gloria in altissimis, VII, 644<sup>1</sup>), and it must be the aim of all states now to establish a similar peace "which is the end of all good government, just as tyranny tends to affliction. For why was government ordained, if not to hold in peace and union its subjects among themselves and against their adversaries . . . ?" (Veniat pax, VII, 1105)<sup>2</sup> True peace has the added advantage that it necessitates justice; Gerson declared this very early, possibly in 1391, in his sermon Dedit illi: "Gloria secundi regni [regni civilis et politici] est ordinata et concors civium in imperando et obediendo. Hoc similiter requirit justitiam, quoniam fructus justitiae pax, inquit Scriptura. . . ." (V, 185) Nothing should stand in the way of peace; as Gerson told Benedict XIII on New Year's Day, 1404:

Tantum est pacis salutiferae bonum ut pro ejus  
adeptione neque mundanus honor neque status neque

---

<sup>1</sup>A French sermon, with no political content, addressed to the King and Court on Christmas Day, 1402.

<sup>2</sup>For the French, v. *supra*, 98. For Gerson's concepts of peace, justice and law, cf. Schäfer, *op. cit.*, 75-83.

gradus neque propria utilitas debeant aliquem deterere et nihil prorsus nisi peccatum contra legem Dei aeternam. (Apparuit gratia Dei, V, 88)

The attainment of peace is chiefly the duty of the ruler, and the greatest rulers, both pagan and Christian, have been those who have sacrificed themselves for it (Veniat pax, VII, 1118-1122).

Peace can only be attained through justice, which Gerson twice defines in Thomist terms as "the perpetual and constant will to render to every man his due" (Diligite justitiam, VII, 599, and De potestate ecclesiastica, VI, 242).<sup>1</sup> The only really "perpetual and constant will" is, of course, God's, so the only true justice is God's, as may best be seen in Scripture; therefore the perfect legist is necessarily also acquainted with theology (Diligite, VII, 599-601).<sup>2</sup> Similarly, God's justice is expressed in law, the natural law which is taught by reason, and the divine which is revealed in Scripture (De

---

<sup>1</sup>Quoted from Summa theol., IIIa IIae, q. lviii, a. 1, which is itself taken from Digest, I, 1, De just. et jure, 10.

<sup>2</sup>This is not an original thought but repeats what Wycliffe had said in De officio regis, 48-49:  
 "Ex istis patet cum necesse sit quodcunque regnum regi lege domini necesse est regem et populum ipsam cognoscere. . . . Quod necesse est pro cuiuscumque regni regimine quod sint doctores et cultores legis divine, sine hoc enim non regulabitur lex humana, sine hoc non constituuntur populus regnum vel continuabitur alia possessio vere iusta. . . . Unde quia lex ista est per se sufficiens ad regendum quamcumque rem publicam includitque difficultates solis theologis reservatas et populus continue declinat ab eis recta noticia, necesse est esse doctores qui ipsam doceant et defendant."

vita spirituali animae, III, 135 and 137),<sup>1</sup> and the knowledge of these is absolutely necessary in a Christian state since human, positive law must be consonant with them:

. . . la loy de nature et celle de la sainte escripture sont instituees d'ung mesme prince, c'est assavoir de Dieu et seulement loys ou constitutions particulieres des princes terriens ne se accordent a elle, se sont abusions faulses non pas constitutions; comme son prevost faisoit une loy contraire a celle de son seigneur. . . . Si fault que a sa loy toutes aultres s'accordent, ce que bonnement ne peut estre fait sans la science. Et c'est argument evident que la science de sainte escripture est necessaire entre crestiens pour bien gouverner la chose publique. . . . (Accipietis, VII, 439)

The human, positive law is necessary because, since the Fall, divine and natural law have not sufficed to procure justice among men, so that additional regulations have been made in Church and State (Diligite, VII, 608), but the more closely these follow and imitate the original divine and human exempla, the better they are (VII, 602). They should not be multiplied or changed often, since "custom is the best interpreter of positive laws" (De vita spirituali, III, 168; De unitate Ecclesiae, VI, 145; De potestate ecclesiastica, VI 232), and Gerson brings in a democratic element when he quotes, "Laws are instituted when promulgated, but confirmed when

---

<sup>1</sup>Gerson was both too logical and too conservative to use the ambiguous term "moral law," which had originally been synonymous with divine law but was in his day being employed in an increasingly secular sense, e.g. at Paris by Jean Petit; v. Herbert Spiegelberg, Gesetz und Sittengesetz (Zurich: Niehans, 1935), 211-217.

approved by the custom of their observers" (De vita, III, 168).<sup>1</sup> He is also surprisingly secular when he states that disobedience to a human regulation which has no spiritual component should not be judged sinful or in any way a matter of conscience; it is a purely civil matter. The effects of the law must always be related to the ultimate aim of justice, so that in cases where the law does not serve justice, it must be modified or exceptions must be made, by the application of epikeia (De potestate., VI, 230),<sup>2</sup> and the measure of the justice of a law is the peace which it produces, for "if justice were afflictive, contrary to peace or preventing peace, especially public peace, should it be called justice or equity? No, it seems, but rather injustice or iniquity" (Veniat pax, VII, 1109).

Obedience to good laws, therefore, will lead Man to justice, which is concomitant with the peace which he requires in order to live well and fulfil himself in both polities, the earthly and the spiritual.

---

<sup>1</sup>Decretum, dist. IV. J.H. Shennan interprets this passage as proof that Gerson recognized the importance of the Parlement of Paris, the promulgator and guarantor of the authenticity of French laws and therefore "in the best position to attempt to counter royal absolutism"; op. cit., 186.

<sup>2</sup>V. supra, 71 and 189.

## X. CONCLUSION

Unlike most political theory, Gerson's actively influenced contemporaries. While his reiterated demands for peace and social justice in France seem to have had no effect on the course of events in that unhappy country, in the area of ecclesiastical politics his stream of tracts certainly encouraged the cardinals who convoked the Council of Pisa, and then helped to create a climate of opinion which made it impossible for John XXIII to ignore Sigismund's exhortations to call the Council of Constance. At the latter Gerson was the outstanding speaker, and--together with the Emperor's--his influence was decisive in March, 1415, after Pope John's flight, when the members were thinking of leaving but Gerson rallied them with his speech Ambulate dum lucem habetis;<sup>1</sup> in that oration too he uttered some of the words that were only seven days later to make up the decree Haec sancta. Similarly, in July, 1415, in another sermon-speech, Prosperum iter, Gerson recommended the regular convocation of general councils,<sup>2</sup> once more foreshadowing a significant decree, that of Frequens two years later. These two decrees were the reason for the turbulent Council of Basle (1431-1449) as well as for the papal reaction against it and against conciliarism in general by Eugene IV and his successors, and their significance is still being

---

<sup>1</sup>Supra, 146-155.

<sup>2</sup>Ibid., 168-174.

discussed by theologians in an attempt to harmonize them with the ultimate product of that reaction, the decree of infallibility of 1870.<sup>1</sup> It is in this sense that Gerson's political theory exercised considerable influence and may even be said to have changed history.

The importance of Gerson's political theory cannot, however, be restricted to his own day. In his book on Gerson James Connolly devoted a chapter to demonstrating how the Chancellor's theology continued to influence religious thinkers and reformers until St. Francis of Sales in the seventeenth century.<sup>2</sup> The same is true of Gerson's political theory. At Basle Nicholas of Cusa and John of Segovia continued to quote his conciliarist ideas, and in the Reformation and Counter-Reformation era Cardinal Cajetan and Francesco Suarez did likewise. At Paris Gerson was naturally even more popular, being constantly cited by Gallicans such as John Major, Jacques Almain, Pierre Pithou, Edmond Richer and Simon Vigor, until Bishop Bossuet hailed him as the "Father of Gallicanism." In the seventeenth century, too, Gerson's ecclesiology was invoked in English secular politics by Catholics under James I and by Parliamentarians in both the Great Rebellion of 1642 and the Bloodless Revolution of 1688.<sup>3</sup>

---

<sup>1</sup>Cf., for example, Küng, op. cit.

<sup>2</sup>Connolly, op. cit., 355-386.

<sup>3</sup>Cf. Rueger, "Gerson, the Conciliar Movement and the Right of Resistance," 486; and Oakley, "Figgis, Constance and

It would be wrong, however, to deduce from all this that only Gerson's ecclesiology is important, for without his conception of the secular State Gerson would never have formulated as he did his idea of the ecclesiastical polity. The examination of all his political ideas, both ecclesiastical and lay, in their chronological sequence makes it clear that at first his idea of the Church was of a rather vaguely discerned divine and papal monarchy. His early notion of the State was similarly imprecise, but in 1405 in his speech Vivat rex he showed that he had developed a new view of the State as a mystical body wherein the Head cannot act without the agreement of the limbs or Estates, nor without the help of an essential organ, the supreme court or Parlement.<sup>1</sup> It was only after Vivat rex that he was able gradually to apply this to the ecclesiastical polity; before 1405 it would have been impossible for him to have formulated the conciliarist ideas that he expounded in and after 1409, not only because he was then still not convinced that a general council was the only solution for the Great Schism, but also because he had not yet worked out this conception of the State which he was to use to illustrate by analogy his new views of the Church as he presented them in his mature tracts and speeches at Constance. This is why the previous books and articles on Gerson's

---

the Divines of Paris," 374-376, and "From Constance to 1688 Revisited," 429-432.

<sup>1</sup>Supra, 75-100 .

ecclesiology need to be completed by a consideration of all his political ideas, both ecclesiological and secular, in toto.

Even a study of all Gerson's political theory is not, however, sufficient to understand his importance without reference to his background. As was stated earlier, his political views were not conceived as an abstract system but were gradually worked out as a synthesis of older political ideas in response to political events and conditions around him, especially the Schism in the Church, the Anglo-French war and the French civil war.<sup>1</sup> Yet, despite frequent references to his ideas in general histories of political thought, no one since Schwab in 1858 has ever tried to understand how and why Gerson evolved his non-ecclesiological political ideas. But the correlating of those ideas with the background and events which prompted them demonstrates the pragmatism of late-mediaeval political theory; it was no Utopian ideal conceived in scholastic terms by isolated scholars in their ivory towers remote from the world of affairs; rather, it was both a response to contemporary problems and a programme for the future.

Gerson's thought is particularly significant for the history of the period since, more than any other thinker of the time, he was involved in important political affairs. Until he was forty, indeed, his words seem to have fallen on stony ground. He spent the decade of the 1390s exhorting Pope

---

<sup>1</sup>Supra, 14-15.

and King to seek peace and unity in their respective spheres, but the former merely hardened his heart to the new prophet, while the latter was in no mental condition to respond. But from the time of the Court sermon, Vivat rex, in 1405, when Gerson seems to have been acting as a spokesman for the Duke of Burgundy, he was on the periphery of active political life in Paris and in the Church. His tracts in favour of a general council and its resort to epikeia to bring peace and union to the Church found a response in the cardinals' convocation of the Council of Pisa and, when that Council's work was shown to have failed, in the Emperor's calling of the Council of Constance, at which Gerson was certainly the most frequent, and probably, as argued above, the most influential, speaker. In the meantime, at home in France, Gerson had questioned the justifiability of political assassination, and he had also suffered in the plebeian rising of 1413; as a result of both, he sought and obtained the condemnation of Petit's Justification of the Duke of Orléans' murder, in Paris in 1413, and that of the doctrine that tyrannicide is justifiable, at Constance in 1415. After the Council of Constance he was unable to return to Paris because of the Anglo-Burgundian occupation, so he sought in Orleanist Lyons the peace and tranquillity for religious contemplation which had hitherto eluded him. But even in the very last months of his life he was again involved in politics when, after Joan of Arc's arrival at Chinon, he was asked whether any credit should be given to her mission. His

political ideas were, therefore, far from pure speculation, the result of actual acquaintance with government, near enough to the centre for a realistic appraisal of the political facts but far enough removed to allow this appraisal to be fairly dispassionate.

Gerson was an incredibly busy man, not only a scholar and the author of over five hundred and forty works, but also the chief administrator of the largest and most influential university and the most important diocese in France, a university lecturer, a court preacher, a parish priest, and official and reformer of his collegiate church at Bruges. Even in his old age and "retirement" in Lyon, he not only taught the choir-boys but also wrote some ninety works--poems and letters included (I, 134-138). It would be unjust, therefore, to reproach him for a lack of original thought. His value to the modern historian lies largely in the fact that he is a thinker representative of his time, who perfectly synthesized many political ideas then current to produce a new ideal for his contemporaries. His ideas of limited monarchy in Church and State, the importance of consultative assemblies, his condemnation of rebellion, mob-rule and tyrannicide, his recommendation of epikeia and his dismissal of the concept of world-government, all with the aim of peace and justice, were his reaction to the contemporary lack of peace and justice in both Church and State. None of them were new--almost all went back to St. Thomas, St. Augustine, the New Testament or

Aristotle--but in their expression and arrangement by Gerson they are typical of their time. He was an influential, but not a seminal, figure; it is clear from the above survey of his political works that he devised no new political solutions to early fifteenth-century problems, but he certainly diffused and popularized ideas thought out earlier; conciliarism is the obvious example here. In his general outlook he was a moderate realist but he was not merely a Thomist and a conservative; he was an eclectic and, though to a limited degree, a progressive thinker--witness the secularism of his views on human law, which, he said, does not bind in conscience except when, and insofar as, it partakes of the divine law. We have seen how in his view of the origin of the State he adopted the Augustinian rather than the Thomist explanation; elsewhere he approached St. Thomas more closely than he did any other writer, but only, in a sense, to "modernize" him. He clarified Thomas' somewhat vague ideal of a mixed constitution by defining the aristocratic element in government as the Royal Council and the Parlement, and the democratic element as the Estates-General, thus putting into theoretical form the democratic ideal for which French advocates of constitutional monarchy were to contend until the last meeting of the Estates in 1789.

Gerson was indeed the Doctor Christianissimus that his contemporaries called him. In all the spheres of life in which he moved, his writings exhibit common sense,

intelligence and Christian idealism, and this applies to his political theory no less than to his pastoral or spiritual works. The influence of this theory was great in his own day and for two hundred and fifty years afterwards, and still merits our study as an essential link in the chain of political thought from the Greeks to ourselves.

In medio Ecclesiae aperuit os ejus; et  
implevit eum Dominus spiritu sapientiae et intel-  
lectus: stolam gloriae induit eum. (Ecclus. 15:5)

## BIBLIOGRAPHY

### I. Primary sources

- d'Ailly, Pierre. "De emendatione Ecclesiae." Guillaume Durand. Tractatus de modo Generalis Concilii celebrandi. Ed. François Clousier. Paris, 1671.
- Alberigo, Joseph, et al., eds. Conciliorum oecumenicorum decreta. 3rd. ed.. Bologna: Herder, 1973.
- Aquinas, Thomas. On Kingship, to the King of Cyprus. Trans. Gerald B. Phelan. Toronto: Pontifical Institute of Mediaeval Studies, 1949.
- \_\_\_\_\_. Opera omnia. Ed. the Dominican Fathers. Rome: Ad Sanctae Sabinæ, 1887- .
- \_\_\_\_\_. Opuscula philosophica. Ed. Joannes Perrier. Vol. I. Paris: Lethielleux, 1949.
- \_\_\_\_\_. Summa theologica. Trans. Fathers of the Dominican Province. 2nd. ed. 22 vols. London: Burns Oates, 1920-1925.
- Aristotle. "Nicomachean Ethics." The World's Great Thinkers: The Social Philosophers. Ed. Saxe Commins and Robert N. Linscott. New York: Random House, 1947.
- \_\_\_\_\_. Politics. Trans. Benjamin Jowett. Oxford: Clarendon, 1905.
- Augustine of Hippo. The City of God. Trans. Gerald G. Walsh et al.; ed. Vernon J. Bourke. New York: Doubleday, 1958.
- Beauvais, Vincent of. Speculum doctrinale. Graz: Akademische Druck-u. Verlagsanstalt, 1965.
- Corpus scriptorum ecclesiasticorum latinorum. Ed. Royal Academy of Letters of Vienna. Vienna: Geroldi, 1866-
- Dante Alighieri. "De monarchia." A Translation of the Latin Works of Dante Alighieri. Trans. anon. London: Dent, 1905.
- \_\_\_\_\_. The Divine Comedy. Trans. H.F. Cary. London: Dent, 1908.

- Denifle, H., and Chatelain, A., eds. Chartularium universitatis Parisiensis. 4 vols. Paris: Delalain, 1889-1897.
- Finke, H., ed. Acta Concilii Constanciensis. 4 vols. Münster: Regensburgschen Buchhandlung, 1896-1928.
- Froissart, Jean. OEuvres. Ed. Kervyn de Lettenhove. 25 vols. Brussels: Devaux and Closson, 1869-1877.
- Gerson, Jean Charlier de. Opera. Ed. Edmond Richer. 4 vols. Paris, 1606.
- \_\_\_\_\_. Opera omnia. Ed. M. Lud Ellies du Pin. 5 vols. Antwerp, 1706.
- \_\_\_\_\_. OEuvres complètes. Ed. Palémon Glorieux. 10 vols. Tournai: Desclée, 1960-1973.
- Goldast, Melchior, ed. Monarchia sancti Romani imperii. 3 vols. Frankfurt and Hanover: Biermann, 1611-1614.
- Hardt, H. von der, ed. Magnum oecumenicum Constantiense concilium. Helmstadt: Olms, 1697-1740.
- Mansi, J.D., ed. Sacrorum conciliorum collectio. Vols. XXVI-XXVII. Florence, 1759-1798; reprinted Paris: Welter, 1901-1927.
- Martène, Edmond, and Durand, Ursin, eds. Thesaurus novus anecdotorum. 5 vols. Paris: Delaulne, 1717.
- Mézières, Philippe de. Le Songe du Vieil Pelerin. Ed. G.W. Coopland. 2 vols. Cambridge: University Press, 1969.
- Migne, Jacques-Paul, ed. Patrologia latina. 220 vols. Paris: Migne, 1844-1967. Vol. LXXXI, Sancti Isidori opera omnia. Vol. CLXXXII, Sancti Bernardi opera omnia.
- Monstrelet, Enguerrand de. La Chronique d'Enguerrand de Monstrelet en deux livres avec pièces justificatives, 1400-1444. Ed. L. Douët-d'Arcq. 6 vols. Paris: la Société de l'histoire de France, 1859; reprinted New York: Johnson Reprint Corporation, 1966.
- Mundy, John Hine, and Woody, Kennerly M., eds. The Council of Constance: the Unification of the Church. Trans. Louise Ropes Loomis. New York: Columbia, 1961.

- Niem, Dietrich of. Dialog über Union und Reform der Kirche, 1410 (De modis uniendi et reformandi Ecclesiam in concilio universalis). Ed. Hermann Heimpel. Leipzig: Teubner, 1933.
- Ockham, William of. Breviloquium de potestate papae. Ed. L. Beaudry. Paris: Vrin, 1937.
- \_\_\_\_\_. Opera Plurima. Vols. III and IV, Super 4 libros sententiarum. Lyon, 1495; reprinted London: Gregg, 1962.
- \_\_\_\_\_. Opera Politica. Ed. J.G. Sikes. 3 vols. Manchester: University Press, 1940-1956.
- Padua, Marsiglio of. Defensor pacis. Ed. C.W. Previtè-Orton. Cambridge: University Press, 1928.
- \_\_\_\_\_. The Defender of Peace. Trans. Alan Gewirth. New York: Harper, 1967.
- Paris, John of. Tractatus de potestate regia et papali. In Jean Leclercq: Jean de Paris et l'Ecclesiologie du XIIIe siècle. Paris: Vrin, 1942.
- \_\_\_\_\_. On Royal and Papal Power. Trans. J.A. Watt. Toronto: Pontifical Institute of Mediaeval Studies, 1971.
- Pisan, Christine de. Le Livre de la Paix. Ed. Charity Cannon Willard. The Hague: Mouton, 1958.
- \_\_\_\_\_. Le Livre des Fais et bonnes meurs du sage Roy Charles V. Ed. S. Solente. 2 vols. Paris: Société de l'histoire de France, 1936-1940.
- Salisbury, John of. Polycraticus sive De nugis curialium et vestigiis philosophorum Libri viii. Ed. Clement C.I. Webb. 2 vols. Oxford: University Press, 1909.
- \_\_\_\_\_. The Statesman's Book of John of Salisbury. Trans. John Dickinson, New York: Knopf, 1927.
- Wycliffe, John. Tractatus de civili dominio. Vol. I. Ed. Reginald Lane Poole. London: Wyclif Society, 1885.
- \_\_\_\_\_. Tractatus de officio regis. Ed. Alfred W. Pollard and Charles Sayle. London: Wyclif Society, 1887.

## II. Secondary sources

Allen, J.W. A History of Political Thought in the Sixteenth Century. London: Methuen, 1960.

Baudry, L. "Le Philosophe et le Politique dans Guillaume d'Ockham." Archives d'histoire doctrinale et littéraire du Moyen Age, XIV (1939), 209-230.

Bayley, Charles C. "Pivotal Concepts in the Political Philosophy of William of Ockham." Journal of the History of Ideas, X (1949), 199-218.

Bess, Bernhard. Johannes Gerson und die kirchenpolitischen Parteien Frankreichs vor dem Konzil zu Pisa. Marburg: Ehrhardt, 1890.

Black, Antony J. Monarchy and Community. Cambridge: University Press, 1970.

\_\_\_\_\_. "Council and Pope: The Modern Relevance of Conciliarism." New Blackfriars, LVI (1975), 82-88.

Boockmann, Hartmut. "Zur politischen Geschichte des Konstanzer Konzils." Zeitschrift für Kirchengeschichte, LXXXV (1974), 45-63.

Bossuat, André. "Une relation inédite de l'ambassade française au pape Benoît XIII en 1407." Le Moyen Age, LV (1949), 77-101.

Bouard, Michel de. La France et l'Italie au temps du grand Schisme d'Occident. Paris: Bibliothèque des Ecoles françaises d'Athènes et de Rome, 1936.

Carlyle, Alexander J. "The Sources of Mediaeval Political Theory and its Connection with Politics." American Historical Review, XIX (1913), 1-12.

\_\_\_\_\_, Sir R.W. and A.J. A History of Mediaeval Political Theory in the West. Vol. VI, Political Theory from 1300 to 1600. Edinburgh: Blackwood, 1950.

Caron, Pier Giovanni. "Aequitas" Romana, "misericordia" patristica, ed "Epicheia" aristotelica nella dottrina dell'"Aequitas" canonica. Milan: A. Giuffrè, 1971.

Combes, André. Jean Gerson, commentateur dionysien. Paris: Vrin, 1942.

\_\_\_\_\_. Jean de Montreuil et le Chancelier Gerson. Paris: Vrin, 1942.

\_\_\_\_\_. La théologie mystique de Gerson: Profil de son évolution. 2 vols. Rome: Desclée, 1963-1964.

- Connolly, James L. John Gerson, Reformer and Mystic. Louvain, 1928; reprinted Dubuque, Iowa: Brown Reprint Library, n.d.
- Copleston, Frederick. A History of Philosophy. Vol. II, Mediaeval Philosophy. Vol. III, Late Mediaeval and Renaissance Philosophy. New York: Image, 1962 and 1963.
- Courtenay, William J. "Covenant and Causality in Pierre d'Ailly." Speculum, XLVI (1971), 94-119.
- Coville, Alfred. Jean Petit: La question du Tyrannicide au commencement du XVe siècle. Paris: Picard, 1932.
- Daly, L.J. The Political Theory of John Wyclif: Chicago: Loyola University Press, 1962.
- Deane, Herbert A. The Political and Social Ideas of St. Augustine. New York: Columbia University Press, 1963.
- Delaruelle, E., Labande, E-R., and Ourliac, P. L'Eglise au temps du Grand Schisme et de la crise conciliaire. 2 vols. Paris: Bloud & Gay, 1962 and 1964.
- Dress, W. Die Theologie Gersons, eine Untersuchung zu der Verbindung von Nominalismus und Mystik im Spätmittelalter. Gütersloh: Bertelsmann, 1931.
- d'Entrèves, Alexander Passerin. The Medieval Contribution to Political Thought. New York: Humanities Press, 1959.
- Figgis, John Neville. Political Thought from Gerson to Grotius, 1414-1625. 2nd. ed. New York: Harper, 1960.
- Francq, H.G. "Jean Gerson's Theological Treatise and other Memoirs in Defence of Joan of Arc." Revue de l'Université d'Ottawa, XLI (1971), 58-80.
- Franzen, A., and Müller, W., eds. Das Konzil von Konstanz: Beiträge zu seiner Geschichte und Theologie. Freiburg: Herder, 1964.
- Friedrich, Carl Joachim. The Philosophy of Law in Historical Perspective. 2nd. ed. Chicago: University Press, 1963.
- Funck-Brentano, Fr. Le Moyen Age. Paris: Hachette, [1922].
- Gewirth, Alan. Marsilius of Padua: the Defender of Peace. 2 vols. New York: Columbia University Press, 1951-1956.

- Gierke, Otto von. Political Theories of the Middle Age. Trans. Frederic William Maitland. Cambridge: University Press, 1900.
- Gilby, Thomas. Principality and Polity: Aquinas and the Rise of State Theory in the West. London: Longman, 1958.
- Gill, Joseph. Constance et Bâle-Florence. Paris: Orante, 1965.
- \_\_\_\_\_. "The Fifth Session of the Council of Constance." Heythrop Journal, V (1964), 131-143.
- \_\_\_\_\_. "The Representation of the Universitas Fidelium in the Councils of the Conciliar Period." Councils and Assemblies. Vol. VII of Studies in Church History. Ed. G.J. Cuming and Derek Baker. Cambridge: University Press, 1971, 177-195.
- Glorieux, P. Le Concile de Constance au jour le jour. Tournai: Desclée, 1964.
- \_\_\_\_\_. "La vie et les oeuvres de Gerson." Archives d'histoire doctrinale et littéraire du Moyen Age, XVIII (1951), 149-192.
- Hale, John; Highfield, Roger; and Smalley, Beryl, eds. Europe in the Late Middle Ages. London: Faber, 1965.
- Hearnshaw, F.J.C. The Social and Political Ideas of some Great Medieval Thinkers. London: Harrap, 1923.
- Hübner, H. Die Konstanzer Reformation und die Konkordate von 1418. Leipzig: Tauchnitz, 1867.
- Huizinga, J. The Waning of the Middle Ages. New York: Doubleday, 1954.
- Jacob, E.F. Essays in the Conciliar Epoch. 3rd. ed. Manchester: University Press, 1963.
- \_\_\_\_\_. Essays in Later Medieval History. Manchester: University Press, 1968.
- \_\_\_\_\_. Review of Gerson and the Great Schism by J.B. Morrall. Journal of Ecclesiastical History, XII (1961), 242-244.
- Jordan, G.J. The Inner History of the Great Schism of the West. London: Williams and Norgate, 1930.

- Jorga, Nicholas. Philippe de Mézières, 1327-1405. Paris, 1896; reprinted London: Variorum Reprints, 1973.
- Kantorowicz, Ernst. The King's Two Bodies: A Study in Medieval Political Theology. Princeton: University Press, 1957.
- Kern, Fritz. Kingship and Law in the Middle Ages. Trans. S. B. Chrimes. Oxford: Blackwell, 1939.
- Küng, Hans. Structures of the Church. Trans. Salvator Attanasio. Notre Dame: University Press, 1968.
- La Brosse, Olivier de. Le Pape et le Concile: La comparaison de leurs pouvoirs à la veille de la Réforme. Paris: Cerf, 1965.
- Lagarde, Georges de. La Naissance de l'Esprit laïque au Déclin du Moyen Age. 4 vols. Paris and Louvain: Nauwelaerts, 1956-1970.
- \_\_\_\_\_. "Le Songe du Vergier et les origines du Gallicanisme." Revue des Sciences religieuses. XIV (1934), 1-33, 219-237.
- Leclercq, Jean. "L'Idée de la Royauté du Christ pendant le Grand Schisme et la crise conciliaire." Archives d'histoire doctrinale et littéraire du Moyen Age, XXIV (1949), 249-265.
- Lewis, Ewart. Medieval Political Ideas. 2 vols. New York: Knopf, 1954.
- Lewis, P.S. Later Medieval France: the Polity. London: Macmillan, 1968.
- \_\_\_\_\_. "Jean Jouvenel des Ursins and the common literary attitude towards Tyranny in fifteenth-century France." Medium Aevum, XXXIV (1965), 103-121.
- Loomis, Louise R. "The Organization by Nations at Constance." Church History, I (1932), 191-210.
- \_\_\_\_\_. "Nationality at the Council of Constance: An Anglo-French Dispute." Change in Medieval Society. Ed., Sylvia L. Thrupp. New York: Appleton-Century-Crofts, 1964.
- Lubac, Henri de. Corpus mysticum: l'eucharistie et l'église au Moyen Age. Paris: Aubier, 1944.

- Lubac, Henri de. "Corpus mysticum." Recherches de Science religieuse, XXIX (1939), 257-302, 429-480; XXX (140), 40-80, 191-226.
- McFarlane, K.B. The Nobility of Later Medieval England. Oxford: Clarendon, 1973.
- McGrade, Arthur Stephen. The Political Thought of William of Ockham: Personal and Institutional Principles. Cambridge: University Press, 1974.
- McCready, William D. "Papal Plenitudo potestatis and the Source of Temporal Authority in Late Medieval Papal Hierocratic Theory." Speculum, XLVIII (1973), 654-674.
- Martin, Victor. Les Origines du Gallicanisme. 2 vols. Paris: Bloud & Gay, 1939.
- \_\_\_\_\_. "Comment s'est formée la doctrine de la supériorité du Concile sur le Pape." Revue des Sciences religieuses, XVII (1937), 121-143, 261-289, 405-427.
- Meller, Bernhard. Studien zur Erkenntnislehre des Peter von Ailly. Freiburg: Herder, 1954.
- Meyjes, G.H.M. Posthumus. Jean Gerson: zijn Kerkpolitiek en Ecclesiologie. The Hague: Nijhoff, 1963.
- Morrall, John B. Gerson and the Great Schism. Manchester: University Press, 1960.
- \_\_\_\_\_. "Ockham and Ecclesiology." Medieval Studies presented to Aubrey Gwynn, S.J. Eds. J.A. Watt, J.B. Morrall, F.X. Martin. Dublin: Lochlainn at the Three Candles, 1961, 481-491.
- Mourin, Louis. Jean Gerson, prédicateur français. Bruges: De Tempel, 1952.
- Nordberg, Michael. Les Ducs et la Royauté: Etudes sur la rivalité des ducs d'Orléans et de Bourgogne, 1392-1407. Stockholm: Svenska Bokiörlaget, 1964.
- Oakley, Francis. The Political Thought of Pierre d'Ailly. New Haven: Yale University Press, 1964.
- \_\_\_\_\_. "Medieval Theories of Natural Law: William of Ockham and the Significance of the Voluntarist Tradition." Natural Law Forum, VI (1961), 65-83.

- Oakley, Francis. "From Constance to 1688 revisited." Journal of the History of Ideas, XXVII (1966), 429-432.
- \_\_\_\_\_. "Figgis, Constance and the Divines of Paris." American Historical Review, LXXV (1969), 368-386.
- Obermann, Heiko. "From Ockham to Luther." Concilium, VII (1966), 63-68.
- Ornato, Ezio. Jean Muret et ses amis Nicolas de Clamanges et Jean de Montreuil. Geneva: Droz, 1969.
- Ouy, Gilbert. "Gerson et l'Angleterre." Humanism in France at the end of the Middle Ages and in the early Renaissance. Ed. A.H.T. Levi. Manchester: University Press, 1970.
- Palmer, J.J.N. England, France and Christendom, 1377-99. London: Routledge and Kegan Paul, 1972.
- \_\_\_\_\_. "England and the Great Western Schism, 1388-1399." English Historical Review, LXXXIII (1968), 516-522.
- Pascoe, Louis B. Jean Gerson: Principles of Church Reform. Leiden: Brill, 1973.
- \_\_\_\_\_. "Jean Gerson: the 'Ecclesis Primitiva' and Reform." Traditio, XXX (1974), 379-409.
- Perroy, Edouard. The Hundred Years War. Trans. W.B. Wells. London: Eyre and Spottiswoode, 1951.
- Peyronnet, Georges. "Les relations politique entre la France et l'Italie, principalement au XIVe et dans le première moitié du XVe siècles." Moyen Age, LV (1949), 301-342; LVI (1950), 85-113.
- Pillement, Georges. Pedro de Luna: le dernier Pape d'Avignon. Paris: Hachette, 1955.
- Poole, Reginald Lane. Illustrations of the History of Medieval Thought and Learning. 2nd. ed., rev. New York: Dover, 1960.
- \_\_\_\_\_. Wycliffe and Movements for Reform. London: Longmans, 1889.
- Post, Gaines. "The Theory of Public Law and the State in the Thirteenth Century." Seminar, VI (1948), 42-59.

- Post, Gaines. Review of The Problem of Sovereignty in the Later Middle Ages by M.J. Wilks. Speculum, XXXIX (1964), 365-372.
- Rey, Maurice. Le Domaine du Roi et les Finances extraordinaires sous Charles VI, 1388-1413. Paris: S.E.V.P.E.N., 1965.
- \_\_\_\_\_. Les Finances royales sous Charles VI: Les causes du Déficit, 1388-1413. Paris: S.E.V.P.E.N., 1965.
- Riley, Lawrence Joseph. The History, Nature, and Use of EPIKEIA in Moral Theology. Washington: Catholic University Press, 1948.
- Rommen, Heinrich A. The State in Catholic Thought. St. Louis and London: Herder, 1945.
- Royer, Jean-Pierre. L'Eglise et le Royaume de France au XIVE siècle d'après le "Songe du Vergier" et la jurisprudence du Parlement. Paris: Pichon et Durand-Auzias, 1969.
- Rueger, Zophia. "Le 'De Auctoritate Concilii' de Gerson." Revue d'histoire ecclésiastique, LIII (1958), 775-795.
- \_\_\_\_\_. "Gerson, the Conciliar Movement and the Right of Resistance (1642-1644)." Journal of the History of Ideas, XXV (1964), 467-486.
- Sabine, George. A History of Political Theory. Rev. ed. New York: Holt, 1951.
- Salembier, L. Le Cardinal Pierre d'Ailly. Tourcoing: Frère, 1932.
- \_\_\_\_\_. Le Grand Schisme d'Occident. 5th. ed. Paris: Gabalda, 1921.
- Schäfer, Carl. Die Staatslehre des Johannes Gerson. Bielefeld: Beyer und Hausknecht, 1935.
- Schmidt, Charles. Essai sur Jean Gerson. Strasbourg: Schmidt et Grucher, 1839.
- Schwab, J.B. Johannes Gerson, Professor der Theologie und Kanzler der Universität Paris: eine Monographie. 2 vols. Würzburg, 1858; reprinted New York: Burt Franklin, 1967.
- Shennan, J.H. The Parlement of Paris. Ithaca: Cornell University Press, 1968.
- Sigmund, Paul E. Nicholas of Cusa and Medieval Political Thought. Cambridge, Mass.: Harvard Press, 1963.

- Sigmund, Paul E. "The Influence of Marsilius of Padua on XVth-Century Conciliarism." Journal of the History of Ideas, XXIII (1962), 392-402.
- Smalley, Beryl, ed. Trends in Medieval Political Thought. Oxford: Blackwell, 1965.
- \_\_\_\_\_. Historians in the Middle Ages. London: Thames and Hudson, 1974.
- Spiegelberg, Herbert. Gesetz und Sittengesetz. Zürich: Niehans, 1935.
- Spinka, Matthew. John Hus at the Council of Constance. New York: Columbia University Press, 1965.
- Stickler, Alfons M. "Concerning the Political Theories of the Medieval Canonists." Traditio, VII (1949-1951), 450-463.
- Thomas, Antoine. Jean de Gerson et l'éducation des Dauphins de France. Paris: Droz, 1930.
- Tierney, Brian. Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism. Cambridge: University Press, 1955.
- \_\_\_\_\_. Origins of Papal Infallibility, 1150-1250. Leiden: Brill, 1972.
- \_\_\_\_\_. "A Conciliar Theory of the Thirteenth Century." Catholic Historical Review, XXXVI (1951), 415-440.
- \_\_\_\_\_. "Ockham, the Conciliar Theory, and the Canonists." Journal of the History of Ideas, XV (1954), 40-70.
- \_\_\_\_\_. "Some Recent Works on the Political Theories of the Medieval Canonists." Traditio, X (1954), 594-625.
- \_\_\_\_\_. "Pope and Council: Some New Decretist Texts." Mediaeval Studies, XIX (1957), 197-218.
- \_\_\_\_\_. "Hermeneutics and History: The Problem of Haec Sancta." Essays in Medieval History presented to Bertie Wilkinson. Ed. T.A. Sandquist and M.R. Powicke. Toronto: University Press, 1969.
- Tschackert, Paul. Peter von Ailli. Gotha: France, 1877.
- Ullmann, Walter. The Origins of the Great Schism. London: Burns Oates, 1948.

- Ullmann, Walter. Medieval Papalism: The Political Theories of the Medieval Canonists. London: Methuen, 1949.
- \_\_\_\_\_. Principles of Government and Politics in the Middle Ages. London: Methuen, 1961.
- \_\_\_\_\_. A History of Political Thought: the Middle Ages. Rev. ed. Harmondsworth: Penguin, 1970.
- \_\_\_\_\_. "The Influence of John of Salisbury on Medieval Italian Jurists." English Historical Review, LIX (1944), 384-392.
- Vacant, A.; Mangenot, E.; and Amann, E., eds. Dictionnaire de Théologie catholique. 27 vols. Paris: Letouzey et Ané, 1903-1950.
- Valois, Noël. La France et le grand Schisme d'Occident. 4 vols. Paris, 1896-1902; reprinted Hildesheim: Olms, 1967.
- Vansteenberghe, E. "Gerson à Bruges." Revue d'histoire ecclésiastique, XXX (1935), 5-52.
- Vaughan, Richard. Philip the Bold: the Formation of the Burgundian State. London: Longmans, 1962.
- \_\_\_\_\_. John the Fearless: the Growth of Burgundian Power. London: Longmans, 1966.
- Vereecke, Louis. "Droit et morale chez Jean Gerson." Revue historique de droit français et étranger, XXXII (1954), 413-427.
- Vooght, Paul de. Les Pouvoirs du Concile et l'Autorité du Pape au Concile de Constance. Paris: Cerf, 1965.
- \_\_\_\_\_. "Le Conciliarisme aux Conciles de Constance et de Bâle." Le Concile et les Conciles: Contribution à l'histoire de la vie conciliaire de l'Eglise. Ed. B. Botte, et al. Paris: Chevetogne & Cerf, 1960.
- \_\_\_\_\_. "Le Concile oecuménique de Constance et le conciliarisme." Istina, IX (1963), 57-87.
- \_\_\_\_\_. "Gerson et le conciliarisme." Revue d'histoire ecclésiastique, LXIII (1968), 857-867.
- Watanabe, Morimichi. The Political Ideas of Nicholas of Cusa. Geneva: Droz, 1963.

Watt, John. "The Early Medieval Canonists and the Formation of Conciliar Theory." Irish Theological Quarterly, XXIV (1957), 13-31.

Wayman, Dorothy G. "The Chancellor and Jeanne d'Arc, February -July, A.D. 1429." Franciscan Studies, XVIII (1957), 273-305.

Wilks, Michael J. The Problem of Sovereignty in the Later Middle Ages. Cambridge: University Press, 1963.

APPENDIX I

Index of works by Gerson mentioned in the text (listed chronologically)

1389. Quaerite Dominum (VII, 969-978), 220.
1391. Adorabunt eum (VII, 519-538), 4, 58-59, 73, 222, 246.  
Tractatus pro unione Ecclesiae (VI, 1-21), 4.  
Dedit illi (V, 179-190), 212, 234, 248.
1392. Dominus regnavit (V, 229-243), 238.  
De jurisdictione spirituali (III, 1-10), 4.
- 1392(?). Accipietis (VII, 431-449), 4, 250.
- 1392(?). Factum est proelium (V, 292-324), 217-218.
1395. De subtractione schismatis (VI, 22-24), 6.
1396. De papatu contendentibus (VI, 24-28), 6.
1398. De modo se habendi tempore schismatis (VI, 29-34), 6.
- 1400(?). Regulae mandatorum (IX, 94-132), 62.
1401. Omnia dedit (V, 405-419), 213.
1402. De vita spirituali animae (III, 113-202), 6, 16-40, 60-62, 231, 235, 241.  
De schismate (VI, 42-51), 6.  
De concilio unius obedientiae (VI, 51-57), 6.  
Considerationes de restitutione obedientiae (VI, 58-61); 6.  
De restitutione obedientiae (VI, 62-66), 6  
Super reformatione schismatis (VI, 66-69), 6.  
Replicationes (VI, 35-42), 6.  
Trilogus in materia schismatis (VI, 69-96); 6, 59-60, 139, 232.  
Gloria in altissimis (VII, 639-650), 248.

1403. Emitte spiritum tuum (V, 255-265), 7.  
Benedic haereditati tuae (V, 107-122), 7.
1404. Apparuit gratia Dâi (V, 64-90), 7, 63, 97, 139-140, 219, 248-249.
1405. Vivat rex (VII, 1137-1185), 8, 75-97, 108, 112, 216, 219-220, 225, 229-230, 232, 235.
1406. Acta de schismate tollendo (VI, 97-98), 8.  
Disputatio de schismate tollendo (VI, 99-105), 8.
1407. Rationes ad differendam subtractionem (VI, 105-107), 8.
1408. Pax vobis (V, 435-447), 64.  
Diligite justitiam (VII, 598-615), 41-48, 108, 109, 213, 214, 249, 250, 251.  
Veniat pax (VII, 1100-1123), 9, 98-100, 108-109, 112, 230, 238, 248, 249.
- 1408(?). De considerationibus quas debet habere princeps (II, 203-215), 217.
1409. De auctoritate concilii (VI, 114-123), 9, 64, 65.  
Pro convocatione concilii Pisani (VI, 123-125), 9, 64, 65-66.  
Tractatus de unitate Ecclesiae (VI, 136-145), 9, 64, 66-68, 181-182.  
Propositio facta coram Anglicis (VI, 125-135), 9-10, 64, 197.  
Pax hominibus (VII, 763-778), 238-239, 240, 241.  
Contre les fausses assertions des flatteurs (VII, 360-363), 90.
1410. Dominus his opus (V, 218-229), 214, 241.
1413. Rex in sempiternum vive (VII, 1005-1030), 10, 112, 114-121, 218, 228-229, 235, 237.  
Requête contre les vii assertions (X, 181-206), 10, 126-127.

1413. Réponse aux critiques contre la proposition de l'Université pour la paix (VII, 216-220), 10, 124.
1414. Ecce rex (VII, 615-622), 11, 129.
1415. Ambulate dum lucem habetis (V, 39-50), 11, 146-155, 252.  
De auferibilitate sponsi ab Ecclesia (III, 294-313), 11, 64, 68-69, 156-167, 227, 243.  
Reprobatio novem assertionum (X, 208-216), 12.  
Itaque pro declaratione (X, 216-217), 12.  
Prosperum iter faciat vobis (V, 471-480), 12, 70, 168-174, 252.  
Poscitur a vobis (X, 218-219), 12.  
De erroribus circa praeceptum Non occides (X, 271-280), 12, 134.  
Aestimo me beatum (V, 28-39), 134.  
Oportet haereses esse (V, 420-435), 12, 134.  
Summaria responsio (X, 226-230), 12.  
De protestatione circa materiam fidei (VI, 155-165), 70.
1416. Deus iudicium tuum (V, 190-204), 135.
1417. Nuptiae factae sunt (V, 376-398), 136-137.  
Tractatus de potestate ecclesiastica et de origine legum (VI, 210-250), 13, 71, 175-200, 213-214, 232, 240, 246.  
Contre Falkenberg (X, 280-284), 137.
1418. Suscepimus Deus misericordiam (V, 538-546), 135.  
An liceat in causis fidei a papa appellare (VI, 283-290), 13, 201-204.  
Dialogus apologeticus (VI, 296-304), 13, 118, 138, 224.
1422. Lettre-traité De religionis perfectione (II, 232-245), 72.
1429. De puella Aurelianensi (IX, 661-665 and du Pin, IV, 859-863), 14, 208.

Réponse aux critiques contre la proposition de l'Université  
(VII, 216-220), 10, 124.

## APPENDIX II

In the first volume of Gerson's OEuvres complètes as edited by Palémon Glorieux, there is a section entitled L'édition d'Ellies du Pin: Analyse critique in which the editor lists the contents of du Pin's first four volumes with a short note on the authorship and the manuscript origins of each work (I, 39-70). Since in all but the most recent books and articles references to Gerson's writings cite du Pin's edition which, unlike Glorieux', is not easily portable, this list can be very useful, especially if the location of each work in the new edition is added to it. It is therefore unfortunate that Glorieux did not complete his analyse critique by examining du Pin's fifth and last volume which comprises "all the Acts and Monuments pertaining to the case of Jean Petit." Many, indeed the majority, of these acta are not by Gerson, but this can hardly be the reason for Glorieux' omission since he lists in full the contents of du Pin's first and second volumes, one-half and one-third of which respectively are by other hands, principally Pierre d'Ailly's. In his analysis Glorieux completely ignores the existence of Volume V, referring at the end to "l'ensemble des quatre volumes" as if no further volume had been published (I, 70). Yet in his own tenth volume, of L'oeuvre polémique, Glorieux actually prints, and acknowledges the provenance of, eighteen works by

Gerson previously published in du Pin, Volume V (X, xi-xvii).<sup>1</sup>

To rectify this omission, as well as for the convenience of readers wishing to refer from one edition to the other, the contents of du Pin's Volume V are listed below and their place in Glorieux' edition, if they are printed there, is indicated.

---

<sup>1</sup>But note that Glorieux' reference to du Pin, V, 329 (X, 543) is inaccurate, and his references to du Pin, V, 328 (X, 545), 362 and 416 (X, 208), 371 (X, 218), should read V, 329, 362 only, 380-381.

ELLIES DU PIN: CONTENTS OF VOLUME V

"The contents are all the Acts and Monuments pertaining to the case of Jean Petit."

Part I: Chronological synopsis.

Col. 1. Genealogical table of the House of Burgundy.

3. Extract from Monstrelet: Chronicles, Vol. I: the assassination of the Duke of Orléans, 23 Nov., 1407.
5. Extract from ibid.: the discussion of the assassination in the Royal Council and the Duke of Burgundy's confession of the crime, 24-26 Nov., 1407.
7. Extract from ibid.: more discussions in the Council and Jean Petit's defence of the Duke of Burgundy, 5 March, 1408.
11. Extract from ibid.: further discussions and the demands for justice of the Duke and Dowager Duchess of Orléans, 11 Sept., 1408.
15. Jean Petit: La justification du duc de Bourgogne, 5 March, 1408.

Part II: Acts of the Council of Paris re the murder of the Duke of Orléans.

49. Summary of the process, 1413.
52. Letters patent of Charles VI ordering the Bishop of Paris, his officials, the Inquisitor, and the Faculty of Theology of the University of Paris to inquire into the errors of Jean Petit, 7 Oct., 1413.
54. GERSON: Deputatio: Per praesens publicum instrumentum, 4 Sept., 1413.
55. GERSON: Relatio adversus novem assertiones Johannis Parvi: Noverint universi (X, 171-174), 6 Sept..<sup>1</sup>
58. Censure by the University of Paris of other errors, 6 Sept., 1413, including:

---

<sup>1</sup>Column numbers underlined indicate items published in Glorieux' edition.

- Col. 59. GERSON: Oportet haereses esse (X, 174-179).
64. Thirty doctors' opinions of the propositions of Jean Petit, 30 Nov., 1413, including GERSON: Venerabilis et circumspectus . . . primitus protestatur (X, 180).
70. Sixty-four doctors' opinions of the propositions, 4 Dec., 1413, including:
71. GERSON: Venerabilis et circumspectus . . . Per deliberationem maturam (X, 180-181).
78. Conclusion of the session, 19 Dec., 1413.
79. Submission to the judges.
81. Opinions of 79 masters re the submission, 18 Dec., 1413-5 Jan., 1414, including:
97. GERSON: Memorandum (X, 181-206), 18 Dec., 1413.
212. Examination by witnesses of Jean Petit's doctrine, 19 Dec., 1413.
215. Conclusion of this session. Nomination of commission to examine Petit's writings, 5 Jan., 1414.
220. Instructions to Peter Floure to be sent to the Duke of Burgundy, 8 Jan.-7 Feb., 1414.
258. Deliberations of the commission, 8 Jan.-7 Feb., 1414.
272. Decisions of the commission, 6 Feb., 1414.
277. Opinions of Masters, 12-23 Feb., 1414.
320. Bishop of Paris' sermon before judgment: Jussit hoc olim Dominus, 23 Feb., 1414.
322. Bishop of Paris' judgment against Petit's book, 23 Feb., 1414.
325. Royal letters against Petit's book, 6 March, 1414.
326. Summary of Masters' censure and Bishop's judgment against Petit's propositions, 6 March, 1414.
332. King's order for publication of condemnation, 16 March, 1414.

- Col. 333. Royal letters patent against those protesting at the condemnation, 19 Nov., 1414.
333. GERSON: Sermon: Ecce rex (V, 243-255), 4 Dec., 1414.
338. Royal letters patent proscribing Petit's Propositio, 27 Dec., 1414.
- Part III: Acts of the Council of Constance re the condemnation of the Propositions of Jean Petit.
343. The King's instructions to his ambassadors, given them at the Council, re the Petit affair, 13 March.
343. The Duke of Burgundy's letter to the Fathers of the Council, 26 March, 1415.
347. Acts of the Council re the Duke of Burgundy's letters defaming Louis, Duke of Bavaria, 4 June, 1415.
353. Indictment of Jean Petit's nine assertions by the orators of the King of France, 7 June, 1415.
356. Declaration by the Bishop of Arras, orator of the Duke of Burgundy, 15 June, 1415.
358. His submission.
359. Submission of the Proctor of Cluny, 20 March, 1415.
360. Submission of the Cardinal of Cambrai.
360. Submission of the Bishop of Arras.
361. Cistercian submission.
362. GERSON: Memorandum against Petit's assertions (X, 208), 25 July, 1415.
364. GERSON: Sermon against the assertions on the text Non occides (X, 208-217), 25 July, 1415.
- 372 Copia instrumentum decretorum (at Paris), 30 Dec.
374. Letter to GERSON from the Faculty of Canon Law at Paris, 21 Aug., 1415.
376. Letter to GERSON from the Picard Nation at Paris, 19 Aug., 1415.

- Col. 378. GERSON: Re the Petit affair: Praestans scienter impedimentum (X, 207-208).
380. GERSON: Libelli duo ad accelerandum iudicium Johannis Parvi, (X, 218-219), 20 Aug., 1415.
382. Anonymous letter, 6 Sept., 1415.
386. Contention of the Bishop of Arras, 12 Sept., 1415.
387. Charles VI's letter to the Duke of Burgundy: Cum propter plures causas, 31 Aug., 1415.
388. Letter of the Duchess of Burgundy, 15 Sept., 1415.
390. Letters of the same, 7 and 13 May, 1415.
391. A writing by the Bishop of Arras, 1 Oct., 1415.
393. GERSON: Submission re Petit's nine assertions.
394. Reply to this submission: Praetendunt deffensores.
394. A writing of the Bishop of Arras on the assertions.
396. An assertion of Petit's propositions against GERSON.
405. GERSON: Nova positio (VI, 146-154; X, 230-232).
414. John of Roche: reply to GERSON.
439. Selections from GERSON's writings, accused before the Commission for the Faith (X, 220-225), 12-21 Oct.
445. GERSON: Conclusions of his sermon on the Birthday of the Blessed Virgin, 8 Sept., 1415.
445. GERSON: Summary of his reply to the accusations above (X, 226-230), 21 Oct., 1415.
451. John of Roche: "against GERSON's evasions on his erroneous assertions," 21 Oct., 1415.
471. Protestation of the Bishop of Arras, 23 Oct., 1415.
472. A writing of the Bishop of Arras against the Cardinal of Cambrai, 25 Oct., 1415.
473. Proposition of the Bishop of Arras, 24 and 30 Oct.

- Col. 474. Declaration of the Cardinal of Cambrai about Petit's propositions.
474. Addition to the above, 8 Nov., 1415.
475. Reply by the Bishop of Arras.
481. Conclusion on the protest of the Cardinal of Cambrai.
481. John of Roche: Avisamenta super ulterius agendis, 3 Dec., 1415.
483. Submission of the Duke of Burgundy's orator, 22 Dec..
483. Requests made by the Bishop of Arras, 8 Nov., 1415.
483. Submission by John of Salino, 8 Nov., 1415.
484. Another submission of the Bishop of Arras, 8 Nov..
484. Submission of the Cardinal of Saluzzo, 22 Nov., 1415.
484. Submission of the Patriarch of Antioch, 1 Dec., 1415.
484. Submission of the Bishop of Arras, 3 Dec., 1415.
485. Submission of GERSON's supporters, 3 Dec., 1415.
485. Reply to above.
486. Submission of the Bishop of Arras, 8 Dec., 1415.
488. Various opinions.
490. Letter of Charles VI, 1 Jan., 1416.
492. Dispute on the Petit affair between the Cardinal of Cambrai and the Bishop of Arras, 4 Jan., 1416.
493. Protest of the Cardinal of Cambrai against the submission "of concord," 4 Jan., 1416.
495. Submission of J. Morin and P. Beauneveu, 5 Jan., 1416.
495. GERSON: Si in causa fidei (X, 254), 8 Jan., 1416.

- Col. 496. Submission of M.S. Palete.
496. Another of the Bishop of Arras.
497. Letter of King Charles VI to the ambassadors to the Council, 9 Jan., 1416.
499. Letter of the same to his Proctor in the Roman Curia, that he should pursue the Petit affair, 10 Jan., 1416.
500. Judgment of the deputation to the Council, nullifying the condemnation of Jean Petit by the Bishop of Paris and his Inquisitor.
507. Letter of the University of Paris to the Council about the condemnation of Jean Petit's assertions, 6 Feb., 1416.
509. Submission of the Cardinal of Cambrai, 8 Feb., 1416.
511. Duke of Burgundy's pamphlet offered to the Council, 18 Feb., 1416.
512. Simon of Teramo's request that the Most Christian King be admitted to the case, 18 Feb., 1416.
514. Letter of Charles VI to his ambassadors to the Council, that they should pursue the Petit affair, 2 March, 1416.
518. Institution of proctors by the King, 10 March, 1416.
519. GERSON: Appeal to the Commission for the Faith (X, 254-255), 19 March, 1416.
521. Submission of the Bishop of Arras, lest the Petit affair should be pressed in the name of the Most Christian King, 23 March, 1416.
522. Report of the speech by M. Jordan in the French Nation, 24 March, 1416.
525. Another report of the same.
528. Conclusions of the French Nation, 25 March, 1416.
536. Arguments why the King of France should not be admitted to the case of the nine assertions.

- Col. 540. Appeal of John of Teramo, 15 April, 1416.
542. Appeal of the Duke of Burgundy's proctor from the judges, because they admitted the King of France, 21 April, 1416.
543. University's letter to the Council about the Petit affair, 28 April, 1416.
550. Protests of Simon of Teramo, 30 April, 1416.
555. Pamphlet of Gersonitarum, with the reply, 3 May.
556. Letter of the University of Paris to the Council about the Petit affair, 2 March, 1416.
562. P. Versailles: submission to the Commission for the Faith, 1 Oct., 1416.
565. Bishop of Arras' reply to this, 17 Sept. (sic).
574. Another submission of the Bishop of Arras.
575. Institution of proctors of the University of Paris, 10 May, 1416.
578. Report of the Picard Nation, 6 May, 1416.
581. Letter of the University of Paris to the Council, 11 May, 1416.
582. Letters of the Emperor to the Cardinals, 13 May.
585. Letter of three Cardinals about the rescinded condemnation of Petit's propositions, 15 May, 1416.
587. Letter of the Duke of Burgundy to the Cardinals, 25 May, 1416.
589. Submission of a German, 26 May, 1416.
591. GERSON: Submission against the nine assertions of Jean Petit.
591. Letter of the Duchess of Burgundy, 28 May, 1416.
593. Letter of the Emperor Sigismund to the Council, 3 June, 1416.
597. Variae Schedulae Concordiae, 12 June, 1416.

- Col. 597. Requests made to the Duke of Bavaria, 10 June, 1416.
603. Duke of Burgundy's letter to the deputies, 14 June.
606. Declaration of three Cardinal-Judges about the Judgment made by them, 26 June, 1416.
607. GERSON: De jure episcoporum in definiendis causis fidei (VI, 174-175; X, 206-207).
620. Letter of Charles VI to the French Nation, 9 July.
629. Duke of Burgundy's letter to the Council, 15 July.
632. Submission of the Duke of Burgundy's proctors.
633. Five motions of the deputies of the French Nation.
633. Various submission, 23 and 25 July, 1416.
636. Report advised by the Lords-Advocate Ardecino and Augustine.
640. Appeal of the Duke of Burgundy.
643. Two commissions, 31 July, 1416.
645. Letter of proxy of the Cardinal of Cambrai, 5 Aug..
646. Opinion of the German Nation in the case of the nine assertions, 29 July, 1416.
647. Speech of the King of Dacia's ambassador about the Order of Friars Minor.
648. Letter of proxy of the ambassadors of Flanders, 5 Sept., 1416.
650. The Duke of Burgundy's supplication to the King of the Romans.
656. Letter of the same to the Council of Constance.
658. Instructions to ambassadors sent to Constance.
661. Various submissions.
663. GERSON: Sermon: De jure regio Christi.
664. Protestations in the name of the Duke of Burgundy.

- Col. 668. The Duke of Burgundy's letter to his ambassadors, 13 Sept., 1416.
670. Submission of the Cardinal of Cambrai, 13 Sept..
671. His conclusions, 24 Sept., 1416.
671. Submission of John Campagne.
- 671 GERSON: Cum causae fidei (X, 260-261), 5 Oct., 1416.
673. GERSON: Memorandum to the Council about the Petit affair (X, 261-271), 6 Oct., 1416.
676. Senatus-consultum Curiae Parisiensis, 19 Sept., 1416.
676. Two letters of Charles VI to the Council, Oct., 1416.
683. Safe-conduct given to GERSON (X, 547-548), 11 Oct..
686. Commission presented to the Cardinal of Verona, 11 Oct., 1416.
689. Submission of Conrad Ludeking to the Judges in Cases of the Faith, 17 Oct., 1416.
689. An addition to this.
691. The Apostles on this, 20 Oct., 1416.
692. Replies of the Cardinal of Cambrai.
696. Protests of the same, 7 Nov., 1416.
697. Reasons for not acting on the protests.
704. Censure by the Faculty of Canon Law of Paris of the propositions of Jean Petit, 18 Nov., 1416.
707. Certain submissions.
709. Supplication that the Petit case be terminated, 8 Feb., 1417.
710. Compromise between Jean GERSON and the notaries of the Council, 21 Feb., 1417.
718. Receipt for expenses of notaries, 13 March, 1417.

- Col. 721. Sixty-one opinions of masters in the Council on the propositions of Jean Petit, 28 March, 1416, inc:
920. GERSON: Ego Joannes de Gerson (X, 232-253), 3 Dec., 1415.
1014. Three tracts of Master von Falkenberg.
1034. Supplication to the Emperor.
1037. Errata, emendations, etc..
1040. Conclusion of the work.

## APPENDIX III

### ABSTRACT OF

### Jean Gerson: Politics and Political Theory.<sup>1</sup>

The ecclesiology and political ideas of some of Gerson's contemporaries have recently been the subject of several books, but no writer in English has yet studied Gerson's political thought per se. Gerson (1363-1429), a prolific writer and preacher, played an important part in French and ecclesiastical politics from 1391, the year of his first extant sermon with significant political content to King Charles VI and his court, to the end of the Council of Constance in 1418.

From 1391 onwards, Gerson vociferously pressed for an end to the Great Western Schism, but at first he still supported the papal monarchy, considering that a general council must always be summoned by, and be completely subordinate to, the pope. In 1395 Gerson became Chancellor of the University of Paris, and he concentrated his efforts on persuading the French government not to withdraw French obedience from the Avignon Pope, Benedict XIII. After the withdrawal in 1398, he continually exhorted the Government to restore obedience, which it did in 1403. In 1402 he also wrote a series of

---

<sup>1</sup>Mary Christine Davenport Batts, doctoral thesis presented to the School of Graduate Studies of the University of Ottawa, Ottawa, Ontario, 1976, xvii-287pp.

lectures De vita spirituali animae which contains an important section on his conception of divine and human law, later expanded in a notable sermon, Diligite justitiam. In 1405 he preached to the King and Court his sermon Vivat rex in which he lamented the current condition of France and recommended solutions for its problems; in this and his other two Court sermons of 1408 and 1413, his conception of political authority, its origin and exercise, is explained.

From 1403 to 1408 Gerson campaigned for an end to the Schism through the mutual abdication of both the Roman and the Avignon Popes, and besides writing several treatises to this end, he was a member of an unsuccessful French embassy which travelled to Provence and Rome to persuade the Popes to arrange their resignations. After this failure, he gradually became convinced that only a general council, convoked if necessary without a pope, could reunite Christendom. He supported the meeting of the Council of Pisa, justifying it through epikeia or equity, and when this Council proved unsuccessful in uniting the Church, he urged another which, as the representative of all the faithful, should be recognized as the supreme dogmatic and administrative organ of the Church. In 1415 he travelled to the Council of Constance where he fought for the permanent recognition of the Council as superior to the pope, who should be considered merely its senior member and executive officer; his ideas were given statutory recognition in the two historic decrees, Haec sancta and

Frequens. At Constance also he campaigned to have the idea of tyrannicide condemned as heresy. He had previously procured the condemnation by the Council of Paris (1413) of tyrannicide as defended by Jean Petit, the apologist for Duke John of Burgundy, who had had the Duke of Orléans assassinated in 1407. Since then Gerson had personally suffered at the hands of Burgundy's Cabochian supporters in Paris, but though he succeeded in having tyrannicide in general condemned by the Council of Constance, he failed to procure a specific condemnation of the works of Petit.

Gerson believed in the ascending theory of government and the ruler's responsibility to his subjects, and he applied this idea to both Church and State. His ideal constitution is a "mixed" government wherein a hereditary monarch rules with the advice and consent of a Council or Cabinet of "the best men" together with a democratic assembly representing the subjects. The king must rule in the interests of his people, otherwise he is not a king but a tyrant and therefore deposable by due process of law: political assassination or popular rebellion are never justified. World government is mandatory in the spiritual sphere, since the Church embraces all Christians, but not in the temporal because of the great variety of peoples and their laws. In both Church and State the government must constantly remember its raison d'être, the provision of peace and justice for its subjects through the equitable application of necessary positive law, which in its

turn should mirror the eternal divine law.

These political ideas are expounded in some four dozen treatises and sermons, which are examined in this thesis. Gerson was unusual for his time in that he was a formidable writer (the author of over five hundred works in toto), but also a man of affairs, and his political views were his direct response to events and conditions around him. Thus in his view of ecclesiastical politics he only gradually evolved his conciliarist theories, after witnessing the failure of other methods to solve the Great Schism; and in secular politics his opinions were chiefly expressed in a small number of speeches made at Court which he was invited to deliver after specific events in French public life. He was more an eclectic than an original thinker, deriving his ideas principally from Thomas Aquinas and, through him, from both Augustine and Aristotle, but the synthesis of older ideas which he made as a solution to the problems of his day, both ecclesiastical and secular, resulted in one of the first visions of a constitutional monarchy in the West. It was eagerly seized on by conciliarist contemporaries, especially at the Council of Basel, as a counterweight to papal autocracy in the Church, and it was later applied to both Church and State by Gallicans in France in the sixteenth and seventeenth centuries, and to the State by Parliamentarians in seventeenth-century England. This thesis is the first examination of Gerson's political ideas in

toto, both ecclesiological and civil, as they developed in response to contemporary events and against the background of previous political theory.