

ST. MICHAEL'S CONFERENCE, A.D. 2019
ADIAPHORA AND MODERNITY
The Reverend Father Roy Axel Coats

Aristotle (384–322 BC)
Nicomachean Ethics
Book 5, Chapter 7 (1134b18-22)

Of political justice part is natural, part legal, - natural, that which everywhere has the same force and does not exist by people's thinking this or that, legal, that which is originally indifferent (οὐδεν διαφέρει), but when it has been laid down is not indifferent, e.g. that a prisoner's ransom shall be a mina, or that a goat and not two sheep shall be sacrificed, and again all the laws that are passed for particular cases, e.g. that sacrifice shall be made in honor of Brasidas, and the provisions of decrees. Now some think that all justice is of this sort, because that which is by nature is unchangeable and has everywhere the same force (as fire burns both here and in Persia), while they see change in the things recognized as just. This, however, is not true in this unqualified way, but is true in a sense; or rather, with the gods it is perhaps not true at all, while with us there is something that is just even by nature, yet all of it is changeable; but still some is by nature, some not by nature. It is evident which sort of thing, among things capable of being otherwise, is by nature, and which is not but is legal and conventional, assuming that both are equally changeable. And in all other things the same distinction will apply; by nature the right hand is stronger, yet it is possible that all men should come to be ambidextrous. The things which are just by virtue of convention and expediency are like measures; for wine and corn measures are not everywhere equal, but large in wholesale and smaller in retail markets. Similarly, the things which are just not by nature but by human enactment are not everywhere the same, since constitutions also are not the same, though there is but one which is everywhere by nature the best.

Basil of Caesarea (330-379)
Moralia

5.3 That the proof of not having the love of Christ for one's neighbor is doing anything that harms or grieves his faith, even if the act itself is allowed by the letter of the Scriptures.

Romans 14:15 - If your brother is being injured by what you eat, you are no longer walking in love. Do not let what you eat cause the ruin of one for whom Christ died.

12.2 That it is necessary not to follow human traditions unto circumvention of the commandment of God.

Mark 7:5-8 - Then the Pharisees and the scribes asked him, "Why do your disciples not live according to the tradition of the elders, but eat with hands unwashed?" And he answered them, "Well did Isaiah prophesy of you hypocrites, as it is written, 'This people honors me with their lips, but their heart is far from me; in vain do they worship me, teaching as doctrines the

precepts of men.' For you leave the commandment of God, and hold fast to the tradition of men." *and what follows.*

33.4 That in order not to scandalize anyone, it is necessary to do even things that are not mandated.

Matthew 17:24-27 - When they came to Capernaum, the collectors of the half-shekel tax went up to peter and said, "does not your teacher pay the tax?" He said, "Yes." And when he came home, Jesus spoke to him first, saying, "What do you think, Simon? From whom do kings of the earth take toll or tribute? From their sons or from others?" Peter said to him, "From others." Jesus said to him, "Then the sons are free. However, not to scandalize them, go to the sea and cast a hook, and take the first fish that comes up, and when you open its mouth you will find a shekel; take that and give it to them for me and for yourself."

54.2 That it is necessary not to vacillate over things allowed by Scripture.

Romans 14:22-23 - Happy is he who has no reason to judge himself for what he approves. But he who has doubts is condemned if he eats, because he does not act from faith, for whatever does not proceed from faith is sin.

Colossians 2:20-22 - If with Christ you died to the elemental spirits of the universe, why do you live as if you still belonged to the world? Why do you submit to regulations, "Do not handle; do not taste do not touch" (referring to things which all perish as they are used), according to human precepts and doctrines?

54.3 That it is necessary not to judge concerning uncertain matters.

1 Corinthians 4:5 - Therefore do not pronounce judgement before the time, before the Lord comes, who will bring to light the things now hidden in darkness and will disclose the purposes of the heart. Then every man will receive his commendation from God.

70.8 That it is necessary, even for cases not determined by the prescription of the Scriptures, to convince each person of the better course.

Matthew 19:12 - There are eunuchs who have been so from birth, and there are eunuchs who have been made eunuchs by men, and there are eunuchs who have made themselves eunuchs for the sake of the kingdom of heaven. He who is able to receive this, let him receive it.

2 Corinthians 7:25-27 - Now concerning the unmarried, I have no command of the Lord, but I give my opinion as one who by the Lord's mercy is trustworthy. I think that in view of the present distress it is well for a person so to be. Are you bound to a wife? Do not seek to be free. Are you free from a wife? Do not seek marriage. *And what follows.*

Gratian

Concordia Discordantium Canonum (Decretum Gratiani, c. 1150)

FIRST: Concerning Divine Law and Human

Distinction 1

The human race is ruled by two things, namely, natural law (*naturali iure*) and usages (*moribus*). Natural law is what is contained in the Law and the Gospel. By it, each person is commanded to do to others what he wants done to himself and prohibited from inflicting on others what he does not want done to himself. So Christ said in the Gospel: "Whatever you want me to do to you, do so to them. This is indeed the Law and the Prophets." Thus Isidore says in Etymologies V.2:

Canon 1: Divine ordinances (*leges*) are established by nature, human ordinances (*leges*) by usages (*moribus*).

- 1) All ordinances are either divine or human. Divine ordinances are determined by nature, human ordinances by usages; and thus the latter vary since different things please different people.
- 2) Morality (*fas*) is divine ordinance. Law (*ius*) is human ordinance.
- 3) To pass through another's field is moral, but it is not legal.

From the text of this authority one can understand clearly how divine and human ordinances differ, since whatever is moral is included in the term "divine or natural ordinances," while by the term "human ordinances" we understand the usages drawn up in writing and passed on as law. Law is a general term, containing many species. Thus Isidore says in Etymologies V.3:

Canon 2: Ordinance is a species

Law (*ius*) is a general term; ordinance (*lex*) is a species of law. Law is so called because it is just. Law consisted of ordinances (*legibus*) and usages (*moribus*).

Canon 3: What ordinance (*lex*) is.

Ordinance is written enactment.

Canon 4: What usage (*mos*) is.

Usage is long-continued custom, derived to a certain extent from usages.

Canon 5: What custom (*consuetudo*) is.

- 1) Custom is a sort of law established by usages and recognized as ordinance when ordinance is lacking.
- 2) It does not matter whether it is confirmed by writing or reason, since reason also supports ordinances.
- 3) Furthermore, if ordinance is determined by reason, then ordinance will be all that reason has already confirmed - all, at least, that is congruent with religion, consistent with discipline, and helpful for salvation. Custom is so called because it is in common use.

So when it says, "it does not matter whether custom is confirmed by writing or by reason," this shows that, in part, custom has been collected in writing, and, in part, it is preserved only in the usages of its followers. What is put in writing is called enactment (*constitutio*) or law (*ius*), while what is not collected in writing is called by the general term "custom (*consuetudo*)."

...

Distinction 5

What has been written above about privileges and other matters applies to secular as well as ecclesiastical ordinances.

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Distinction 10

Enactments of princes do not stand above ecclesiastical enactments, but rather are subordinate to them. So Pope Nicholas wrote to the bishops gathered in council in Convicinum:

Canon 1: Imperial ordinance may not abrogate ecclesiastical laws.

Thomas Aquinas (1225-1274)
Summa Theologiae
Prima Secundae

QUESTION 91 - Of the Various Kinds of Law

Article 1 - Whether there is an Eternal Law?

I answer that, As stated above (Q90, A1, ad 2; AA3, 4), a law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community. Now it is evident, granted that the world is ruled by Divine Providence, as was stated in the FP, Q22, AA1, 2, that the whole community of the universe is governed by Divine Reason. Wherefore the very Idea of the government of things in God the Ruler of the universe, has the nature of a law. And since the Divine Reason conceives nothing from time, but has an eternal concept, according to Prov. 8:23, therefore it is that this kind of law must be called eternal.

Article 2 - Whether there is a Natural Law?

I answer that, As stated above (Q90, A1, ad 1), law, being a rule and measure, can be in a person in two ways: in one way, as in him that rules and measures; in another way, as in that which is ruled and measured, since a thing is ruled and measured, insofar as it partakes of the rule or measure. Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law, as was stated above (A1); it is evident that all things partake somewhat of the eternal law, insofar as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. Now among all others, the rational creature is subject to Divine providence in the most excellent way, insofar as it partakes of a share of providence, by being provident both for itself and for others. **Wherefore it 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 natural law.** Hence the Psalmist after saying (Ps. 4:6): *Offer up the sacrifice of justice*, as though someone asked what the works of justice are,

adds: *Many say, Who showery us good things?* in answer to which question he says: *The light of Thy countenance, O Lord, is signed upon us:* thus implying that the light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the Divine light. It is therefore evident that the natural law is nothing else than the rational creatures participation of the eternal law.

QUESTION 95 - Of Human Law

Article 2 - Whether Every Human Law Is Derived from the Natural Law?

Objection 1: It would see that not every human law is derived from the natural law. For the Philosopher says (Ethic. v.7) that *the legal just is that which originally was a matter of indifference.* But those things which arise from the natural law are not matters of indifference. Therefore the enactments of human laws are not derived from the natural law.

I answer that, as Augustine says (*De Lib. Arb.* i.5) that *which is not just seems to be no law at all:* wherefore the force of a law depends on the extent of its justice. Now in human affairs a thing is said to be just, from being right, according to the rule of reason. But the first rule of reason is the law of nature, as is clear from what has been stated above (Q91, A2, ad 2). Consequently every human law has just so much of the nature of law, as it is derived from the law of nature. But if in any point it deflects from the law of nature, it is no longer a law but a perversion of law.

But it must be noted that something may be derived from the natural law in two ways: first, as a conclusion from premises, second, by way of determination of certain generalities. The first way is like to that by which, in science, demonstrated conclusions are drawn from the principles: while the second mode is likened to that hereby, in the arts, general forms are particularized as to details: thus the craftsman needs to determine the general form of a house to some particular shape. Some things are therefore derived from the general principles of the natural law, by way of a conclusion; e.g., that *one must not kill* may be derived as a conclusion from the principle that *one should do no harm to no man:* while some are derived therefrom by way of determination; e.g., the law of nature has it that the evil-doer should be punished; but that he be punished in this or that way, is a determination of the law of nature.

Accordingly both modes of derivation 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.

Reply 1: The Philosopher is speaking of those enactments which are by way of determination or specification of the precepts of natural law.

QUESTION 106 - Of the Law of the Gospel, Called the New Law

Article 1 - Whether the New Law Is a Written Law?

I answer that, each thing appears to be that which preponderates in it, as the Philosopher states (Ethic. ix.8).

Now that which is preponderant in the law of the New Testament, and whereon all its efficacy is based, is the grace of the Holy Spirit, which is given through with in Christ. Consequently the New Law is chiefly the grace itself of the Holy Spirit, which is given to those who believe in Christ.

Article 2 - Whether the New Law Justifies?

I answer that, as stated above (A1), there is a twofold element in the Law of the Gospel. There is the chief element, viz., the grace of the Holy Spirit bestowed inwardly. And as to this, the New Law justifies. Hence Augustine says (De Spir. et Lit. xvii): *There, i.e., in the Old Testament, the Law was set forth in an outward fashion, that the ungodly might be afraid; here, i.e., in the New Testament, it is given in an inward manner, that they might be justified.* The other element of the Evangelical Law is secondary: namely, the teaching of faith, and those commandments which direct human affections and human actions. And as to this, the New Law does not justify. Hence the Apostle says (2 Cor 3:6) *The letter killeth, but the spirit quickeneth:* and Augustine explains this (De Spir. et Lit. xiv., xvii) by saying that the letter denotes any writing external to man, even the moral precepts such as are contained in the Gospel. Wherefore the letter, even of the Gospel would kill, unless there were the inward presence of the healing grace of faith.

QUESTION 108 - Of Those Things that are Contained in the New Law

Article 2 - Whether the New Law Made Sufficient Ordinations About External Acts?

I answer that, as stated above (A1), the New Law has to make such prescriptions or prohibitions alone as are essential for the reception or right use of grace. And since we cannot of ourselves obtain grace, but through Christ alone, hence Christ of Himself instituted the sacraments whereby we obtain grace: viz. Baptism, Eucharist, Orders of the ministers of the New Law, by the institution of the apostles and the seventy-two disciples, Penance, and indissoluble Matrimony. He promised Confirmation through sending of the Holy Spirit: and we read that by His institution the apostles healed the sick by anointing them with oil (Mark 6:13). These are the sacraments of the New Law.

The right use of grace is by means of works of charity. These, insofar as they are essential to virtue, pertain to the moral precepts, which also formed part of the Old Law. Hence, in this respect, the new Law had nothing to add as regards external action. The determination of these works in their relation to the divine worship, belongs to the ceremonial precepts of the Law; and, in relation to our neighbor, to the judicial precepts, as stated above (Q99, A4). And therefore, since these determinations are not in themselves necessarily connected with inward grace wherein the Law consists, they do not come under a precept of the New Law, but are left to the decision of man; some relating to inferiors - as when a precept is given to an individual; others, relating to superiors, temporal or spiritual, referring, namely, to the common good.

Accordingly the New Law had no other external works to determine, by prescribing or forbidding, except the sacraments, and those moral precepts which have a necessary connection with virtue, for instance, that one must not kill, or steal, and so forth.

Balthasar Meisner (1587-1626)
Collegii Adiaphoristici Calvinianis (1628)

27. Other adiaphora are called special, of which in the Orthodox Church, cleansed again from the yeast of the papalists, the use is the following: They are some things, some ceremonies, and indifferent ecclesiastical traditions, neither prohibited nor mandated by an express word of God. Rather on account of order, decorum, and edification out of a legitimate free will are instituted by the Church. Such things, as long as they are and remain, are able to be freely used or not used, apart from any binding of consciences or loss of religion.

28. Things of this kind are images, holy places [templa], feast days, festival days, polyphonic and instrumental music, and the organ itself. Regarding Baptism they are: the triple immersion or sprinkling, the baptismal questions, how a woman is baptized, the sign of the cross, the renunciation of the devil, the exorcism, etc. Regarding the Lord's Supper they are: the administration of either leavened or unleavened bread, the material and form of the vessels and altars (*mensae*), the color of the wine, the breaking of the bread, etc. Regarding the ministry they are: the distinction of orders, the different vestments, auricular confession, etc.

29. We call these rites and ceremonies adiaphora, which name signifies and requires the internal qualities of those things, since its pronounciation corresponds to the sign and meaning of the word. Adiaphora are by necessity, that is free and of the middle, namely nothing is either expressed or mandated or forbidden by the strict law in regards to holy things. For neither such things nor such ceremonies have been commanded or prohibited by a specific Word of God.

The Ecclesiastical Rites are Traditions, Legitimately Instituted by Human Authority

33. We say these rights and ceremonies are ecclesiastical traditions. As such they from their nature called Adiaphora. Accordingly the account of efficient cause and means, by which they come to us, they are called traditions or παραδοσις. 1 Corinthians 11:2, 2 Thessalonians 2:15, 36. They are not divine, which binds consciences by inevitable necessity, but ecclesiastical, which are free and indifferent. Of these labeled, we embrace completely only those which either are from the Apostles or are from their pious successors in the early centuries, or even legitimately ordained by the Church today. That is, if not ordained privately or by some one for the Church, but the Church from itself introduces it by the unanimous order of everyone. Belonging to that law is the freedom of the Christian, and the power to institute or abrogate adiaphora. As is clearly testified in ecclesiastical history and that original Jerusalem decree regarding the prohibition for a time from eating blood and that which has been suffocated, Acts 15.

Three Criteria by Which the Institution of Rites are to be examined:

36. Such criteria contain two rules which the Apostle Paul in 1 Corinthians 14 hands down: v. 26 "Let all things be done unto edifying" and v. 40 "Let all things be done decently and in order." From which we gather, that the adiaphoristic rites are not some kind of generic command unless they truly are only instituted and observed when these three ends are reached: 1) they produce that which is beautiful, 2) they help good order, 3) they serve the interests of edification.

37. *They are conducive to beauty and adornment* if the rite is harmonious and elegant, not resembling the pomp and theatrics of the Roman ceremonies or cobbled from dramatic pseudo-splendor. Rather, it is to be simple, modest, and dignified, as is becoming of the divine cultus. What is conspicuous, as external rites are like a sign shown to someone, is what we attribute to the Word, to the Sacraments, and to the rest of the practices of the Church. While some are attracted and illuminated by this modesty and reverence to the Word and the Sacraments and they are likewise not attracted and illuminated by the love of the assembly of the church.

38. *Order*, likewise ought to be observed by the assembly of the Church with dignity worthy of the Church. Which makes even the rites servants of the institution of order. Every single rite is made orderly if close attention is given to what persons, what worship, and what time are appropriate and it is seen that nothing is produced that is confusing or preposterous. Indeed order enforces that ceremonies are few in number and moderate, namely nothing whatever womanish or trifling, no ludicrous spectacles or dramatic gesticulations, and most are of this sort, which is the usage in the Papacy. Such ceremonies are burdensome and crushing to the conscience. For instance, if in nature, where even any defect is too much and hostile to nature, so also in the affairs of religion. If adiaphora are multiplied in the previous manner in one that is wholesome, it falls, so that the human appendages (παρεργα) obscure the divine work (εργα). If a single adiaphora is made inactive, even a small gesture towards one is perceived as many. For this reason the judgement always should be made from the highest light of the Church. The church, which uses a more simple mode of ritual is more in conformity to the Apostles.

40. The remaining criterion regarding to adiaphoristic rites, if if they are of such a kind, they must serve the interests of edification. This end is instituted as that which binds them together. They are an inducement to piety, by which men are attracted and illuminated to the use of the Word and the Sacraments, and he rest of the pious acts, so that the true and orthodox teaching regarding God, divine worship, justification, the merit of Christ, etc, can be fully displayed in the public assembly, eagerly received, and better retained.

Example of the Defense of Ecclesiastical Ceremonies Against the Calvinists:

28. Lastly, our adversaries accuse us because this custom of the Blessed Luther is received in the Church, that is when the bread and the wine are elevated by the priest. They say that which is elevated is soberly not to be adored, but rather only ought to be shown in order to then be served. Yet it is said by some that the elevation signifies the incarnation of Christ, others that it displays [ostendere] Christ hanging on the cross, others that it indicates the way the body of Christ took up the cross, others the resurrection, others the ascension into heaven, lastly others affirm that it denotes Christ crying out on high. (Jodocus Lorichius (1540-1612), *De sacris traditionibus et voluntario Dei cultu*, Bk. 3; Guillaume Durandus (1230-1296), *Rationale divinatorum officiorum*, l. 4, c. 41; Titelmannus, *de officio Missae*, cap. 45) But we do abrogate the Levitical priesthood, and we know that we have no such place in the New Testament.

They err regarding the rites and ceremonies of the Church. God, sanctify us in your truth, your word is truth, and we are mercifully protected against the tricks and arts of the adversaries. Restore, protect, and preserve the saving use of the Sacraments, for which we, the Church made healthy, give you thanks. With respect to which, Jesus Christ wills in us to be established in all praise into eternity. Amen.

Benedict Carpzov the Younger (1595-1666)
Jurisprudentia ecclesiastica seu consistorialis (1649)
Liber II Jurisprudencia Consistorialis

Titulum XV de Ritibus et Ceremoniis Ecclesiasticis

Definitum 245

Uniformity, in so far as it is possible, is to be observed in Church rites and the ecclesiastical ceremonies.

Although divine worship is not able to be without ceremonies, nevertheless these of themselves are not parts of the worship, but are merely a support and ornament to the same.

These are either divine or human.

Those ceremonies which have their origin from Christ and the Apostles, just as water ought to be used in Baptism, in the Sacrament of the Supper bread is to be eaten, wine is to be drunk, which things without a doubt are to be retained in the Church, and not abrogated nor changed.

Those ceremonies which are truly from pious and religious men have been added, as when in the assembly white vestments are used or admitted; or the administration of Baptism either by sprinkling or immersion; or in the use of the Lord's Supper the bread is broken or not broken, or whether what are called hosts are used or some other form of bread; or the songs are either in the German language or in the Latin, or in a musical style or a choral; and such other things.

These same ecclesiastical ceremonies, or supports and ornaments, are commonly called adiaphora (Caspar Erasmus Brochmand, *Universae Theologiae Systema*, 4070). Concerning which things conformity is not absolute, even as we labor much for it on our part.

The unity of the Church is not constituted by the unity of rites, but by faith from the Spirit (Ephesians 4:3). Neither are they ever condemned **from the Church** on account of a diversity of rites and ceremonies, but they are always free from these observations, some are abrogated and some are omitted. For that which is neither against the faith nor against good morals is imposed, it is held indifferently or as adiaphora, as many discuss (Friedrich Balduin, *de Causibus Conscientia*, Bk. 4, Ch. 11, case 4).

The same is confirmed by the Augsburg Confession, Article 8, "It is enough to establish the true unity of the Church to consent regarding the teaching of the Gospel and the administration of the Sacraments. Neither is it necessary that every where human traditions or rites and ceremonies instituted by man be the same." The Formula of Concord, Article X, agrees, in which it is written: "We believe, teach, and confess that the some in the Church should not condemn others in the Church because these or those observe fewer or more external ceremonies, which the Lord has not instituted, if there is consensus among them in the manner in teaching each and every article and in the true use of the Sacraments. Indeed, this is an old and new saying: Dissonance in fasting does not dissolve the consonance of the faith." ...

Nevertheless, it is good and honest in a Church under one prince and magistrate, however much possible, that uniform rites and ceremonies are observed. 1) Especially at least from the assertion of the Lord of the Apostles in 1 Corinthians 14:40: "Everything in the Church is to be done with decorum and order." Here decorum is opposed to levity and order is opposed to

confusion. Nothing of levity, nothing of confusion is to be brought forth in the house of God, of which the steward is the minister of the Word. For, as Gregory Nazianzus says, "All order builds up and binds together. Order constitutes the heavens and the earth. Order has a place in that which is understood by reason and the soul, in that which is perceived by the senses. Order is in the Angels, order is in the motion of the stars, in their magnitude, in their many relations and splendors, etc. Order also builds up in the Churches, as some are sheep and some are pastors. Some lead and some follow and obey. Some are just as the head, others the feet, others the hands, others the eyes, others some other member of the body. CCC So far Nazianzus, Oration 26 (Select Orations, in the Fathers of the Church, Catholic University of America, 196-197). But if then there is so much praise of order, and so much for its utility, why not strive for the uniformity of worship the Church, when parishes of one and the same Prince or Magistrate are the subject? Truly not to is a deformity of all decency, and so order ought to be esteemed by everyone. 2) And with simple and unlearned parishioners they do not understand the qualities of adiaphora, why this is with that, and what depend on the express mandate of God. These parishioners shall not rarely be confounded. They shall value much of true theology and orthodox religion to be lesser, and it is scarcely possible that scandal is not caused in the Church through this kind of various and deformed worship. However every kind of this worship is to be avoided. 3) This is very important, because the uniformity of adiaphora is able to be kept without any danger to souls, just as the rule posited by St. Augustine properly observes...

Valentin Alberti (1635–1697)

Compendium Juris Naturae: Orthodoxe Theologiae Conformatum (1676)

I.iii.26 Of two kinds is absolute necessity (as opposed to hypothetical necessity) in Metaphysics: One is dependent, the other is independent. The later belongs only to God, the former belongs to created essences. It is in the dependent sense that "man is an animal" is said to be absolutely necessary. Natural Law and its value is able to be drawn from this absolute and dependent necessity. As the essences of creatures depend on measure that is conceived in the divine mind from eternity, so the Natural Law, that it is and how much it is to be obligated, depends on this justification. See Chapter I, Section 39.

I.iii.32 The existence of reason depends entirely upon God, not only on account of reason in general, but also on account of a most specific precept, that ought to be numbered among the rest of the divine images. This sense is best described by Balthasar Meisner in *On Law*, Book III, question 5, number 2, page 170: "The Law of Nature before the fall and after the fall do not differ in substance, but only in perfection. That where the perfect is distinct, there the imperfect is obscure." And on page 121: "As God and nature are rightly called the efficient causes of man, so also everyone of them belonging to the first generation of man." Similar things are said by the philosophers, as seen with Selden, l.c.p.94-95.

II.i.9 The Immutable Laws are either eternal or natural.

II.i.10 God acts according to the eternal law. We humans ought to act according to the natural law.

II.i.11 *Eternal Law*: The Eternal Law is nothing other than the norm of divine acts, that God decrees to use unto eternity in the ruling of the world on account of their harmony with his own practical intellect. From this we in the light of nature only understand that, after revelation, a posteriori, exclaiming, “The justice of God is in all His ways, and the holiness in all His works.”

II.i.13 *Natural Law*: The natural law is spread out from this [eternal] law, in order that they do that which is in harmony with it and and flee (13) from what is in discord with it. The natural law flows into the created intellect, although the law only becomes customary by use (14), thus it is said to be only concerning us men.

(13) Rightly Soto¹ says in *De justitia et jure*, Book I, Question 3, Article 1: “The eternal law differs fro the other laws, because it itself is their source and their origin: It is not the one carrying, but the one carried; it is not the being impressed upon, but the one impressing, and finally not one participating in another, but light, in which others participate.”

(14) This basic use is found in that being born [*nativa*] is a denotation of “nature”. “Nature” is from being born as φυσικς comes from φυσω. However, a man is born, not an angel; and accordingly that alone is itself a law, that is called from this natural, to that which is able to be born.

II.i.14 *Their Definition of Natural Law*: Natural Law is the utterance of right reason (transferred from a state of integration into corruption, either formally or only normally) pointing to some act either in harmony or discord with the rational nature itself (in so far as it is still from the part that is right). It belongs to either moral shame or moral honesty, and consequently it is such an act that is either forbidden or commanded by God, the author of Nature.²

II.i.28 The previous was concerning immutable laws. Mutable laws are either divine or human.

II.i.29 Divine Law is either (27) moral or (28) ceremonial or (29) forensic.

(27) Not every. The Divine Moral Law is to the greatest part the same with Natural Law.

(28) Ceremonial, just like a Type, wholly falling short of the Antitype Christ coming in the flesh. Hebrews 8.13, 10.1.

II.i.32 Concessive Law consists in the moral faculty and (34) free itself, to do something just or have a just habit.

(34) I say this freedom is indifferent, as it is permitted to be able to be lead into action or not able to be lead into action.

¹ Domingo de Soto (1494-1560) was Dominican and Thomist scholastic that was the founder of the School of Salamanca. *De justitia et jure* was published in 1556.

² Close paraphrase of Hugo Grotius, *De Belli et Pacem*, I.1.10.1.

Article 11: Regarding Adiaphora or the Ecclesiastical Ceremonies

I. The One Thesis of the Orthodox

1. The Ceremonies or Rites of the Church (which are neither commanded nor prohibited by the Word of God, but only instituted on account of decorum and order) are not part of the divine worship so that any of them as they are preserved, they therefore may be changed, unless we determine that there is a clear and constant confession. In such a case the state of things does not urge at that time for a greater number of adiaphora. but conserving the truth of the Gospel and the Liberty of the Christian (Formula of Concord, Art. X; see also Augsburg Confession, Article XV). It is pertinent to this point in general, but in the specifics regarding fasting, how many days the Papalists observed, Theodoret in the *Epitome of Divine Dogmas*, in the chapter on abstinence (page 142 of the Roman Edition) hands down: “Abstinence, it is said, from wine and food, and the rest of the acts of continence, are not the same as the heretics who greatly provoke the Church. Indeed, those lawgivers legislate and order as if it is (morally) abominable to stop. Truly in the Church nothing regarding this is constituted through the mode of moral law. Nor the taking up of those things prohibited. Therefore some are free and secure, and also without scruple, to enjoy their own delicious bread by the permission of the Word of God. Others abstain from that. However, no one in their right mind condemns eating, for both abstinence and participation are determined by the free power of the mind, by its thoughts and acts of the will.”

2. The true ceremonies of the Church (for the Apostolic ceremonies consisted of prayers, for example among themselves they contained prayers during the rite of baptizing, Acts 22:16, and worship) are introduced either first from the early, more pure age or from the following age. These, which in themselves are in impious, are retained as much as possible. They are not retained as necessary to the worship, but as useful to edification. Preeminent among these ceremonies in Augsburg Confession, Articles XI and , is Private Absolution. None the less, by the force of reason, just as adiaphora is able to be abrogated out of Christian Liberty; just so Private Absolution is not maintained neither in Strasbourg nor in the Swedish Church. This point is pertinent to the several Feasts of the Church, for example the Nativity of the Lord, about which the earliest inscription is in the second or third century. The same is true about the exorcism. However the rest, which came about in the following centuries, are held to be essentially inseparable from superstition. Examples are the use of Holy Pilgrimages and likewise Fraternities or Societies; regarding all of which the *Smalcald Articles*, Part II, Article 2 says they are essentially unsuitable or excessive. They do not support [*juvantes*] the worship, but they are an impediment. As for example, the Papacy preserved not a few things of the spectacle of Baptism, from which other things, e.g. the washing of feet, the offering of milk and honey, the Papalists themselves abrogated. We reject the remaining, such as when they make the ear and the nose of the one being baptized wet through the spittle of the one baptizing, and innumerable other things. Indeed, every one of these things pertains to these words of Christ in Matthew 15:9: “Vainly they worship me, teaching the doctrines and mandates of men.”

3. When certain true ceremonies are received and retained, it ought to be done in accordance with the saving truth of the Gospel and with the freedom of the Christian, “without danger of scandal” or “hypocritical presumption.” Indeed we rejoice “to stand in freedom.” Galatians 5:1.

II. Antithesis of the Adversaries

4. "Apostolic and Ecclesiastical Traditions, and the rest of the same usage and ordinances of the Church I most robustly receive and embrace." In such a way the Papalists swear in a Profession of Faith according to the Council of Trent. Chiefly it is observed that ceremonies are held by the Papalists in the mode of necessity, and that they pertain to worship among them, nay more they say that they merit the grace of God and salvation. Furthermore they are truly not able to be neglected or rejected without danger to salvation.

5. The term "Adiaphorist" from the last century is openly said by Melanchthon in a letter to Christoph von Carlowitz³: "I freely accept the ceremonies which the Interim commands. Nor do I only embrace these, which have been reviewed, but I even desire to persuade others of the same thoughts." Refer to the Acts of the Synod of Wittenberg Theologians of 1559, in which they soften certain passages here and there. Nevertheless to attentive readers it betrayed enough, to such a degree so that they themselves desired to thoroughly suppress this book with great effort after the publication.

6. Truly, these two are those which exceed. The following three are given those who are deficient: the Calvinists, the Arminians, and the Socinians. They do not accept ceremonies, at least not every ceremony, even those from the primitive Church. They hold that their churches ordain no kind of impiety or foolishness and our churches ordains the impurities of the Pope. They are not ashamed from this chief doctrine to accuse us that our own character is Anti-Christian. But against these is has been made clear in Section 2.

III. The Differences of the Factions

7. In our study of the liberty of the Christian both the more pure and more simple worship and the use of major devotions have been restored. Truly the papalists look back to the authority of their church or the power of the Pope. For the same reason they return to those which make them rich, for example pilgrimages to holy places, etc. Adiaphorists, by means of a shameful mind and arising from flattery, they fell headfirst into this, as is understood from the history of that time. In the opposite way, those who are deficit, they are lead by every ambition they strive to have us declared the most pure Church through the banishment of Ceremonies. The same is said by this proverb of theirs: The church that is more simple is more pure. "O blind guides, you strain out gnats but swallow a camel."

IV. The Origin of the Error

8. In general it is understood regarding the Papalists, that regarding these kinds of indifferent things they make a progression from private and particular observations to public and universal

³ Printed here as Carolowizius. He was trained as humanist and was influential councilor in Electoral Saxony, acting as envoy to the Imperial court. (1507-1578).

observations; from freedom to necessity; from the ornamentation of the worship to the worship itself; and in the end to merit. The completion of these errors goes back to Boniface III, during the 7th century. For it is not able to be without the completion of the power of the Church. Nevertheless other attempts before this are not lacking.

9. However since this necessity, however much it is or settled it is, especially depends on the choosing of the Pope. It is not amazing that many times this has been destroyed namely that by just judgement of God it itself has been proved to be human traditions wrongly made equal to divinely instituted worship, which alone is not able to be changed. This was done in 1642 by Urban VIII⁴ by excluding from the number of the number of feasts considered thus far universal, some feasts of the Apostles, and among them the one called the Chair of Peter, and likewise the Evangelists St. Mark and St. Luke, and what is new he ordered the Feasts of St. Sylvester, St. Joseph, and St. Ann be celebrated by all. He did this although previously it was the public doctrine of the Popes that no universal feast is to be celebrated in honor of confessors (of which sort were Joseph and Sylvester, in distinction to martyrs and women, except Mary.

10. The Adiaphoristic error followed the promulgation of the little book of the Interim in the Diet of Augsburg in the year 1548 by Charles V in order to obstruct the Protestants. However the godly Maurice, Elector of Saxony, himself manfully opposed the writings of the Diet, which has been copiously testified to before in the Histories of the Wittenberg Theologians in the German Acts of the Synods. Nevertheless, that was it was not abandoned due to politicians (among which was especially Christoph von Carlowitz, who was not only the counselor of the Elector but also the Emperor.) Who strongly affirmed somethings regarding adiaphora in favor of the emperor, some things were to be remitted and others conceded. The theologians of Leipzig and Wittenberg listened to these things, then were in a season of fear, and held that a time of Confession did not need to be observed. However, Nicolaus Amsdorf, Nicolaus Gallus, and Matthias Flacius Illyricus even more strongly resisted these things. Thus far as sycophants finally with the synergists and lastly the Majorists, they like them, by the grace of God, disappeared.

11. Those who are deficit, formerly had gone after Images, defaced them, and completely remove them. These images are in themselves plainly indifferent if they are not worshiped. Therefore they were call Iconoclasts. Nor is this made easier by our innovators, as they produce this error as once more as they are lead back to Hell. The same extends to other adiaphora. Principally, in this way they desire and will to part not only from the Papalists, but also from us.

⁴ *Universa per orbem*, promulgated Sept. 13, 1642

Christian Thomasius (1655-1728)

Institutes of Divine Jurisprudence (1688)

I.29 Thus, we believe that the condition itself of humanity or the state of all of humanity is the norm of natural law. And why should we not think that? Indeed, natural reason itself, which almost everybody speaks about, is a condition of this kind. Indeed, it automatically follows from the definition of a state provided above, that every state is in its way a norm of law.

I.37 They, however, who by “natural religion” mean some kind of external divine worship known on the basis of natural reason are wrong. All external worship is based on revealed religion.

I.64 We therefore declare that the sum of natural law is contained in this principle: “Do that which necessarily conforms to the social life of man and omit that which is contrary to it.”

I.65 Thus, no doubt remains concerning the truth of this principle. Its adequacy is not only clear from the fact that all special precepts of natural law are to be derived from that source, but also from the fact that it does not depend on any precept of positive law.

I.66 Its evidence finally is demonstrated as follows. First, if God had wanted man not to act according to his sociability, he would not have wanted him to be rational. An irrational human being, however, would be a contradiction in terms.

The Right of Protestant Princes in *Adiaphora* (1695)

I.3 But after our Savior had been sent in the fullness of time into this world, he introduced what was plainly another and different religion as far as external rites were concerned, namely, one which almost completely conformed to natural religion in terms of its external ceremonies. The pomp of sacrifice and other rituals was abolished, *and all external ceremonies, with the exception of those which Christ specifically imposed on his disciples - for example, baptism, the Eucharist, etc. - became indifferent matters.* The Christian religion would thus appear to be content with an internal worship, that is, with the true humility of a self-abnegating mind, which devotes itself entirely to God. And, through the grace of the Holy Spirit, the disciples of Christ and the apostles devoted themselves to this practical religion with all their powers, in order to take part in the kingdom of Christ, which consists in justice, peace, and joy.

I.9 If somebody considers all these matters justly, I believe that he will easily grant us that there is no need to rack one’s brains in order to prove that *indifferent matters concerning the worship of God are also subject to the direction of the prince.* Here there is no principle on the basis of which Christians could pretend that the prince’s power to command ceases in this domain. For supreme civil power extends to *everything which is not determined by divine law*, as Grotius proves at length in his *On Right in Sacred Affairs*, chapter 3.

I.12 It is more contentious, though, *whether a prince has the power to change those church ceremonies, such as the date of Easter, which have been determined by general council?* We intrepidly affirm this to be the case.

II.8 Our judgement is the same on *certain kinds of vestments*, which ministers use, and which his *Magnificenz* Mr. Stryk in his comments on Brunnemann, *ibid.* 9 lists among the indifferent

matters. If you consider this more closely it will become clear that these matters tend more toward the abuse than to the proper use of edification. For the usual argument *that they contribute to the external splendor of the church*, has little to do with Christianity, which requires the mind to detach itself from all external splendor and pomp. I will not have erred if I say that this custom was invented by the clergy, in order to acquire authority and veneration among the laity (I speak in the style of canon law), even though the papalists tend to provide other reasons for justifying vestments, as can be read in Durandus *in his account of Divine Offices, book 3, chapter 1, Cardinal Bona, On Liturgical Matters, book I, chapter 24*. I think that it is more suitable and Christian to excite veneration in the minds of others in the manner of the apostles, by other means than vestments. We do indeed read about the apostles' belts and other daily clothes, but not of the peculiar form, shape, material, and color of their clothes, by which they were distinguished from other citizens and Christians. See Voetius' *Politica Ecclesiastica Part I, book 4, treatise 4, chapter 4*. And it is probably that at that time the distinction between clergymen and laymen emerged and that this ritual originated at that time. But it is all more regrettable that such clothes are included among the sacred objects even by Protestant jurists, which certainly smacks of papism or paganism. For what is Saul doing among the prophets? What do vestments have to do with the sacred? And even though according to canon law and Roman law they are counted among sacred matters, Protestants nevertheless should in all fairness abstain from this manner of speaking, and not describe any object as sacred which is not acknowledged as such in Holy Scripture. But just as Tribonian inserted much from pagan jurists into his *Digests* that was redolent of paganism, so our jurists after the Reformation retained many papalist principles in church law, so that we have in the midst of Protestantism an ecclesiastical law with papalist tendencies.

Immanuel Kant (1724-1804)

Religion Within the Limits of Pure Religion Alone (1793)

Now, in the hesitation over this task - whether God or human beings themselves should found a church - there is proof of the human propensity to a *religion of divine service (cultus)*, and, since such a religion rests on arbitrary precepts, to faith in statutory divine laws based on the assumption that some divine legislation, not to be discovered through reason but in need of revelation, must supervene to even the best life conduct (a conduct that the human being could always adopt under the guidance of the pure moral religion); attention is thereby given to the veneration of the supreme being directly (and not by way of that compliance to his commands already prescribed to us through reason). Thus it happens that human beings will never regard either union into a church, or agreement over the form to be given to it, or likewise any public institution for the promotion of the moral [content] of religion, as their God, by means of festivities, professions of faith in revealed laws, and the observance of precepts that belong to the form of the church (which is however itself a means). Although all these observances are at bottom morally indifferent actions, yet, precisely for this reason, they are deemed to be all the more pleasing to God, since they are supposed to be carried out just for his sake. Thus in the molding of human beings into an ethical community, ecclesiastical faith naturally precedes pure religious faith: there were *temples* (buildings consecrated to public service) before *churches*

(places of assembly for instruction and inspiration in moral dispositions); *priests* (consecrated stewards in the practices of piety) before *ministers* (teachers of pure moral religion), and for themes part they still come first in the rank and value accorded to them by the crowd at large. {6:106}

It is therefore a necessary consequence of the physical and, at the same time, the moral predisposition in us - the latter being the foundation and at the same time the interpreter of all religion - that in the end religion will gradually be freed of all empirical grounds of determination, of all statutes that rest on history and unite human beings provisionally for the promotion of the good through the intermediary of an ecclesiastical faith. Thus at last the pure faith of religion will rule over all, "so that God may be all in all." - The intergments within which the embryo is first formed into a human being must be laid aside if the latter is to see the light of day. The leading-string of holy tradition, with its appendages, its statutes and observances, which in its time did good service, become bit by bit dispensable, yea, finally, when a human being enters upon his adolescence, turn into a fetter. So long as he (the human species) "was a child, hew as as clever as a child" and knew how to combine learning too, and even a philosophy helpful to the church, with propositions imposed upon him without any of his doing: "But when he becomes a man, he puts away childish things." The degrading distinction between laity and clergy ceases, and equality springs from true freedom, yet without anarchy, for each indeed obeys the law (not the statutory one) which he has prescribed for himself, yet must regard it at the same time as the will of the world ruler as revealed to him through reason, and this ruler invisibly binds all together, under a common government, in a state inadequately represented and prepared for in the bas through the visible church. {6:122}

The one and true religion contains nothing but laws, i.e. practical principles, of whose unconditional necessity we can become conscious and which we therefore recognize as revealed through pure reason (not empirically). Only for the sake of a church, of which there can be different and equally good forms, can there be statutes, i.e. ordinances held to be divine, though to our purely moral judgment they are arbitrary and contingent. Now to deem this statutory faith (which is in any case restricted to one people and cannot contain the universal world religion) essential to the service of God in general, and to make it the supreme condition of divine good pleasure toward human beings, is a *delusion of religion*, and acting upon it constitutes counterfeit service, i.e. a pretension of honoring God through which we act directly contrary to the true service required by him. {6:168}

Priestcraft is therefore the constitution of a church to the extent that a fetish-service is the rule; and this always obtains wherever statutory commands, rules of faith and observances, rather than principles of morality, make up the groundwork and the essence of the church. Now there are indeed many ecclesiastical forms in which the fetishism is so manifold and mechanical that it appears to drive out nearly all of morality, hence also religion, and to usurp their place, and thus borders very closely on paganism. Here, however, where worth or the lack thereof rests on the nature of one principle which binds above all others, there is no question of a more or less. ... If that principle imposes humble submission to a constitution as compulsory service and not rather the free homage due to the moral law *in general*, then, however few the imposed observances, let them but be declared as unconditionally necessary and it is enough for a fetish-faith through which the masses are ruled and robbed of their moral freedom through obedience to a church (not to religion). ... Where articles of faith are included in the constitutional law, a

clergy rules which believes that it can actually dispense with reason, and ultimately with scriptural scholarship itself, because, since it is the single authoritative guardian and interpreter of the will of the invisible lawgiver, it has the exclusive authority to administer the prescriptions of faith; hence, thus equipped with this absolute power, it need not convince but only give orders. [6:180]

Church going, thought of as the solemn *general external worship fo God* in a church, inasmuch as it is a sensuous display to the community of believers, is not only a means valuable to each individual for his own edification but also a duty obligating them collectively, as citizens of a divine state which is to be represented here on earth; provided that this church does not contain formalities that might lead to idolatry and can thus burden the conscience, e.g. certain forms of adoration of God personified as infinite goodness under the name of a human being, for such sensuous portrayal of God is contrary to the command of reason: Thou shall not make unto thee any grave image, etc." But to wish to use it as in itself a means of grace, as though God were directly served by it and had attached special graces to the celebration of these solemnities (which are mere sensuous representations of the universality of religion), is a delusion which might indeed suit the mentality of a good citizen in a political community, and external propriety, yet not only contributes nothing to the quality of the citizen as citizen in the Kingdom of God but rather debases it and serves to hide under a deceptive veneer, from the eye of others and even from his own, the bad moral content of his disposition.

The one-time solemn initiation into the church-community, i.e. the first reception of a member into a church (in the Christian church through baptism), is a solemnity rich in meaning which imposes grave obligations either upon the initiate, if he is himself in a position to profess his faith, or upon the witnesses who take upon themselves the care of his education in it; it has something holy for its end (the formation of a human being as a citizen in a divine state) but is not, in itself, a holy action performed by others effecting holiness and receptivity for divine grace in this subject, hence not a means of grace, however extravagant in the early Greek Church was its reputation of being capable of washing away all sin at once - a delusion that openly betrayed its ties to an almost more than pagan superstition.

The oft-repeated solemn ritual of renewal, continuation, and propagation of this church-community under the laws of equality (communion), which after the example of the founder of such a church (and at the same time in memory of him) may well assume the form of a ritual communal partaking at the same table, has in it something great which expands people's narrow, selfish and intolerant cast of mind, especially in religious matters, to the idea of a cosmopolitan moral community, and it is a good means of enliven a community to the moral disposition of brotherly love which it represents. But to boast that God has attached special graces to the celebration of this solemn ritual, and to incorporate among the article so faith the proposition that the ritual, though a purely ecclesiastical action, is in addition a means of grace - this is a delusion of religion which cannot but work counter tot he spirit of religion - Priestcraft would thus be, in general the dominion which the clergy has usurped over minds by pretending to have exclusive possession of the means of grace. {6:198-200}