By convention or by nature – Melanchthon's criticism of late medieval Ockhamist political thought in the *Commentarii in aliquot politicos libros Aristotelis*

Mads Langballe Jensen, Department of History, University College London.

Abstract: The article argues that existing scholarship has missed Melanchthon's central objective in writing the *Commentarii in aliquot politicos libros Aristotelis*. Rather than merely criticising peasants and radical preachers, Melanchthon sought to refute the Ockhamist political thought of Gabriel Biel and John Mair. Using Aristotle's naturalism within the theological framework of the political order as ordained by God Melanchthon criticised the conventionalist account of the Ockhamists, specifically the principles underlying the case for popular sovereignty or the power of the community over the ruler. Instead he forwarded a theory of politics and constitutional monarchy grounded in natural and positive law.

Philipp Melanchthon (1497-1560), who was close collaborator of Martin Luther (1483-1546) and professor in Greek at the University of Wittenberg, was the first to write comprehensive Lutheran treatises on moral philosophy and commentaries on Aristotle, exerting a significant influence on universities throughout Protestant Europe.¹ While he has been generally overshadowed by Luther and the Gnesio-Lutherans in the works of intellectual historians, and especially historians of political thought, this picture is slowly changing.² Despite the fact that it is the most explicitly political text written by a first-generation Lutheran reformer his *Commentarii in aliquot politicos libros Aristotelis*, first published in 1530, has still received relatively little attention.³ Moreover, the crucial question what was Melanchthon's chief objective in writing the *Commentarii* has seldom...
been asked or substantially answered. Most discussions of the text have approached it with one or other specific interests in mind that may be said to be peripheral to the main concerns of the text, such as the development of resistance theory or Melanchthon's contribution to jurisprudence.4

By far the most common argument – or rather assumption, the communis opinio – is the view that the *Commentarii* is directed chiefly at the radical reformers of the Peasants' War. Guido Kisch sees the commentary chiefly as an argument that the state is a divine ordinance, enabling the use of Roman law against the biblicism of the radical preachers.5 The same approach underlies Ralph Keen's analysis, which adds the “caesaro-papists” as a polemical target.6 The most recent treatment of the *Commentarii* by Noah Dauber deals at length with Melanchthon's criticism of the peasants, adding the verdict that the commentary fails to treat the 'questions of political theory per se' of the Peasants' War, being more proper to an age of absolutism.7 These views are not without some justification, since the radical preachers are explicitly criticised in the commentary. However, this is only half the story, and arguably the less significant half in understanding what Melanchthon was doing, and thus the place of the *Commentarii* in the history of political thought.

This article argues instead that the most significant context for understanding Melanchthon's chief objective is provided by contemporary Ockhamist political thought. The *Commentarii* shows that Melanchthon was familiar with Ockhamist political thought, and it is in critical dialogue with this strand of thought, drawing on some aspects while criticising others, that Melanchthon develops his own account of political authority and order. This argument rests principally on three passages in the text. In book 3 Melanchthon refers to John Mair, as well as to William of Ockham and those who argue like him. In view of these references, I shall argue that a third passage discussing the *iurisconsulti* is in fact also directed against contemporary Ockhamists. It will also be suggested that the political and social upheavals of the early 1520s, and the influence of Luther's political thought, led Melanchthon to re-evaluate and critically engage with key aspects of Ockhamists political thought. The arguments that Melanchthon singled out for criticism were precisely those that were
crucial to the conciliarists' position, particularly with regard to the notion of popular sovereignty, and as such could lend support to rebellious action against the rulers. Melanchthon thus develops the Ockhamist position in a distinctively monarchist direction, not merely on theological grounds, but also by determining the character of and relations between political authority and order in his Aristotelian political philosophy. It will be argued Melanchthon's position in the *Commentarii* presents a form of constitutionalism that is anchored not in popular sovereignty but rather in natural and positive law. Government as such is founded in natural law while the need to secure rule for the common good through the rule of law suggests the need for a form of constitutionalism: a division of powers within the constitution or governmental structure according to positive law.

To make this argument, the article will first, in section 1, give an overview of the character of Ockhamist political thought at the eve of the Reformation, exemplified by Gabriel Biel (+1495) and John Mair (c. 1467-1550). Section 2 will then show how Melanchthon can be said to belong to this school of political thought. Against this background, section 3 of the article offers a detailed discussion of the *Commentarii* and the specific criticisms of contemporary Ockhamist political thought. Section 4 will then determine Melanchthon's own position in more detail. In this way, the article aims to determine the character of at least one kind of 'Lutheran' political thought and its place in the history of political thought - not by asking the question of whether it was conducive to the later development of absolutism or a specific canonical political doctrine, such as resistance theory, but in understanding its relationship to its intellectual context, namely the political arguments and positions forwarded in its day.

I

Melanchthon read Ockham's *Dialogus* in the summer of 1529,8 but his familiarity with late mediaeval Ockhamist political thought pre-dates that. It is well established that both Luther and Melanchthon received their university education in the *via moderna*, and it has been argued that the
moral theology developed at the University of Tübingen by Gabriel Biel was significant to the Lutheran Reformation. According to Melanchthon, Luther knew Gabriel Biel intimately. Melanchthon read Gabriel Biel and Jean Gerson at Tübingen, and would later in life praise Gabriel Biel as the most perspicuous of philosophers, although erroneous on many points. In the Commentarii, Melanchthon refers to 'the Parisian theologian' John Mair. In the early 16th century the University of Paris was well-known for its Ockhamist leanings and conciliarists sympathies. Mair was instrumental in training a generation of students in Ockhamist philosophy, including Jacques Almain, who wrote commentaries on several of Ockham's writings. The two were engaged in public polemics with Cardinal Cajetan concerning the status of the Council of Pisa, a debate which pitted an Ockhamist and conciliarist position against a Thomist and papalist one. In this context we may point to a number of continuities between William of Ockham's political thought and that of his later followers, Gabriel Biel and John Mair, that are relevant to the present discussion.

In Ockham's political thought it is axiomatic that political authority is invested in the ruler by the election and consent of the ruled, an axiom that is accorded the status of natural law: “no one should be set over the whole body of mortals except by their election and consent.” He further argues that this principle may be said to be have the status of divine law as well, since natural laws, equated with right reason, may be considered to be divine laws. Ockham sums up the argument thus: “the Romans have the right to elect the highest pontiff from natural law spoken of in the third way. For supposing that someone is to be set over certain persons as prelate, ruler, or rector, it is inferred by evident reason that, unless the contrary is decided on by the person or persons concerned, those whom he is to be set over have the right to elect the one to be set over them, so that no one should be given to them against their will.” Ockham argues this both in relation to the Emperor and the Pope, and this principle would become fundamental to later Ockhamist thinkers.
Gabriel Biel's account of political authority is found in questions 2 and 5 to distinction 15 of the fourth book of the Sentences (published in 1501). While Biel mainly follows Duns Scotus on these questions, also quoting Thomas Aquinas and Gregory's Moralia, the general argument is in line with Ockham's position concerning consent. In distinction 15 of book four Biel discusses restitution, and to this effect sets out to determine the origin of private property, the problem being discussed in question 2. It is axiomatic for Biel that according to natural law property is to be held in common, to which effect he cites the Digest VIII dist. Cap. 1 Quo iure (quoting Augustine) and Clemens XII q. 1 Dilectissimis. Following Duns Scotus, Biel argues that as the natural law precept concerning communal property had been revoked after the Fall the question becomes by what authority the division of property had been introduced. This could have been done, he argues, either by paternal authority according to natural law, or by political authority derived from the common consent and election of the community. In Biel there is thus a clear distinction between paternal authority following from natural law, and political authority deriving from the consent and election of the community. According to Biel, when several people came together to live in the same place who did not have the same father and thus no common natural authority over them, they realised that they could not live in peace if they did not submit to the rule of a common power, either the government of one or several persons.

Having determined that political authority is one legitimate source of the distinction of property, he proceeds to discuss the nature of political authority in question 5. He is explicit that political authority, the “potestas dominandi”, of Romans 13 although from God was not found before the Fall and therefore not natural to man, but rather created and granted by human law:

This [i.e. potestas dominandi] is not natural to the race of men, and it would not be found in the state of uncorrupted nature. For all humans spring from the same root, namely from Adam and Eve, to whom possession and the liberty of all things was common by natural right, as Isidore says in the fifth book of the Etymologiae. But because of the sin of men, just as the division of things is made so is the
power of ruling also conceded by human law.\textsuperscript{17}

Citing Gregory's \textit{Moralia} to elaborate on this, Biel argued that given this fundamental natural equality of men, only after the fall did God give a “dispensation” and (citing Alvarus Pelagius) “permitted” that political authority and servitude be introduced by the consent of the people. A little later in the same question, Biel cites the \textit{Digest} and Gregory again to argue explicitly that servitude was introduced contrary to nature and according to the \textit{ius gentium}.\textsuperscript{18} The conclusion is that although just titles to rule may now be acquired in various ways, such as by election of the people, just war against infidels or rebels, legitimate succession or institution by a superior, they are all derived from the original consent and election of the people.\textsuperscript{19} From this two corollaries follow, one that the lord has been instituted for the sake of the people and not the other way around, and second that the lord must rule for the common good and benefit of the commonwealth or otherwise be a tyrant.\textsuperscript{20}

John Mair developed his account of the origin and character of political authority in his commentary on the fourth book of the \textit{Sentences}, distinction 15, question 10.\textsuperscript{21} It was published in 1519 but Mair had finished writing it by 1516, as evidenced by the prefatory letters, which are both dated December 1516.\textsuperscript{22} On the whole Mair's discussion is very similar to Biel's, supplementing the account with classical authorities such as Cicero, Ovid and Aristotle. Mair starts by discussing the origin of private property, “whether the dominia of things were distinguished by natural, divine or human law.”\textsuperscript{23} He cites the \textit{Digest} VIII dist. Cap. 1 \textit{Quo iure}, Gratian Dist. 8 ante c. 1 (“Nam iure naturali omnia sunt communia omnibus”), as well as Cicero's \textit{De officiis}, to argue that before the Fall all things were in common, whereas after the Fall the division of things, that is private property, was introduced by human law.\textsuperscript{24} After having discussed whether servitude was introduced according to reason, Mair goes on to argue that the requirement for a legitimate division of \textit{dominia} in things
is just law, which in turn requires authority and prudence. This is the starting point of Mair's discussion of political authority in more detail, focusing on two related problems: by which way kings have their kingdoms and territories, and whether they have the same dominium in their kingdom as Mair has in his Bible.

Like Biel before him, Mair starts from the distinction between paternal and political authority, in this place quoting book 1 of Aristotle's Politics: “the paternal power of the father over his children is from natural law no matter where they live. According to book one of the Politics political power is different, and that belongs to a person by the consent of those over whom he has that power as long as they reside in his jurisdiction, whether they descend from him or not.” Here Mair builds on one of Aristotle's objectives in chapter 1, namely that of refuting the opinion of Plato that political rule and the rule of a father of a house is essentially the same. Aristotle had argued that political authority was distinct from both the rule of a father over his children and of a master over his slaves. Thus he set out at the beginning of the first chapter of book one the opinion “that the qualification of a statesman, king, householder, and master are the same, and that they differ, not in kind, but only in the number of their subjects (...) As if there were no difference between a great household and a small state.” He then argued that this view was mistaken and then went on in the rest of book one to consider the elements of the state in order to show “in what the different kinds of rules differ from one another”.

Having established the fundamental distinction between paternal and political authority, Mair offers a brief history of how the various states, whether democracies, aristocracies, or monarchies, came into being. Despite local and temporal variations, the fundamental point is this: “the people, seeing that in the fallen state that if criminals were not punished society (politiam) would not remain, agreed upon a prudent man, whom they wished to have the care over the whole people with the fullness of legitimate power for punishing criminals”. From this follow three consequences: that kings were instituted for the good of the people as the principal member of the
whole; secondly that the whole people is superior to the king and may depose him in certain cases. Further the king may not alienate his kingdom or change its form at will, for this power was not conceded by the people. Rather the people remains free. The answer to the question Mair is exploring – whether a king can be said to have the same kind of dominium over his kingdom as Mair has over his Bible – is therefore in the negative.

In his *Exposition* of Matthew, published in 1518, Mair had explored the relation between the power of the people or the community and the ruler at greater length, following essentially the same argument concerning the relation between the community and the ruler that he employed in the *Sentences*. In the *Exposition* Mair was chiefly concerned with refuting Cardinal Cajetan's criticism of Almain's case for conciliar primacy over the Pope. Fundamental to Mair's case is the analogous nature of the ecclesiastical and a secular polity, and the fact that Christ, as the best of legislators, had instituted the best form of government in the church – monarchy. In the best polity the body politic precisely has a remedy against the head if the head works to the destruction of the body. Against the Cardinal's argument that this means that there would be two supreme powers in the church, Mair replies that there is only one, namely in the people, and that the king's power is merely ministerial. According to Mair, then, what distinguishes an unfree or enslaved people from a free people is that the latter is able to depose its ruler. Mair's point is that according to the ordination of God this is the case for all legitimate political rule, both in the Church and in secular polities. No legitimate political rule is therefore rule over slaves, but qua political the rule over free people.

While Mair goes a step further than Biel in explicitly arguing that the whole people is superior to the ruler and may depose him, his account of the source and character of political authority is therefore the same as that of Biel in its essentials. We may summarise the fundamental points of the Ockhamist position thus: firstly, man is held to be free according to natural law and civil dominium, both in terms of property and its jurisdictional or political sense, is introduced by human law. Secondly, political authority and rule is based on the consent and election of the
community, as opposed to paternal authority which is founded on natural law. Finally, this means that political rule is rule over free persons and a free community, which has the power to depose a tyrannical ruler. The ruler's authority is therefore only ministerial in relation to the community.\textsuperscript{33}

The significance of this conciliarist argument in the history of political thought is widely held to be that it was instrumental in the development of arguments for popular sovereignty, resistance, and constitutional monarchy in the 16\textsuperscript{th} and 17\textsuperscript{th} centuries.\textsuperscript{34}

II

Not only was Melanchthon familiar with the conciliarist polemics earlier in the 16\textsuperscript{th} century, as suggested by his reference to Mair in the \textit{Commentarii}, but he was also familiar with Ockhamist thought in an academic context from his time at Tübingen, where he was particularly influenced by Gabriel Biel and Jean Gerson, through his teachers Conrad Summenhart and Wendelin Steinbach.\textsuperscript{35}

Melanchthon would in 1538, and later in 1546, quote Gerson approvingly on the obligatory force of law,\textsuperscript{36} and Gerson was, along with Ockham, particularly influential at the University of Paris. In this way, Melanchthon may be said to share a common intellectual background with the Ockhamists we shall see him criticising in the \textit{Commentarii}. Here we may point to two significant issues: the equation of the judgement of natural reason, natural law and divine law; and the concept of \textit{dominium}.

It was a common argument among late mediaeval scholastics, reaching back at least to William of Ockham and Duns Scotus, that the firm judgement of natural reason is natural law, which in turn may be given status of divine law. None the less there was a certain ambiguity in the use of natural law with regards to its specific content, an ambiguity found both in John Mair and Gabriel Biel. This can be seen, for instance, in Mair's discussion of \textit{dominium} in his commentary on the \textit{Sentences}. That ambiguity follows from the fact that as well as being identified with the judgement of natural reason, natural law is seen as the law associated with the situation before the
fall, the state of complete nature \((\textit{status naturae integrae})\). Thus natural law prescribes community of \textit{dominium} while distinct \textit{dominium} is introduced, reasonably, by civil law. The same approach underlies Mair's discussion of servitude. He argues that servitude was introduced reasonably, or according to reason, and answers the objections based on the Roman law passages which say that slavery is contrary to natural law, with the argument that Justinian, being a holy man, was speaking about the situation before the Fall.\(^{37}\) There is thus no clear connection or identification between what is reasonable and what is according to natural law. Likewise for Biel the natural law concerning the community of things was revoked after the fall and distinct \textit{dominia} reasonably introduced. This structure rests on the manifold distinction between laws in late mediaeval scholasticism. In his discussion of \textit{dominium} Mair distinguishes between eight different forms of \textit{dominium} according to the law by which they are held. In this way he enumerates, for instance, natural, evangelical, divine, canonical and civil law and corresponding forms of \textit{dominium}.\(^{38}\) Biel operates with a distinction between principally divine law, natural law, the \textit{ius gentium}, canon law and civil law.

In comparison with his Scholastic contemporaries, Melanchthon presents a significant simplification of the theory of law, which is in part premised on the new Lutheran understanding of the gospel and the distinction between gospel and law as well as building on Ockhamist premises. The gospel may no longer be conceived of as law, and so the concept of evangelical law becomes a contradiction in terms. In Melanchthon's \textit{Commentarii} the identification between the judgement of natural reason and natural law becomes paramount, and replaces the association between natural law and the prelapsarian world.\(^{39}\) In extension of the Ockhamist position he argues that “the law of nature truly is divine law.”\(^{40}\) Both in the commentary on the \textit{Politics} and in his commentary on book 5 of the \textit{Ethics} Melanchthon identifies natural law and the \textit{ius gentium}, both being derived from the dictates of natural reason.\(^{41}\) The only distinction made with regards to natural laws is the degree of certainty with which they can be derived from the first principles of reason. As such there are only
two levels of laws in Melanchthon: positive law enacted by a given ruler and deriving its obligatory force (*autoritas*) from the “authority of the ruler,” and natural law which, as we shall see below, provides both the normative foundation for political authority and a limiting criteria for the range of legitimate positive law. As such Melanchthon is part of a larger 16th and 17th century concern with clarifying the status of and relations between natural law and the *ius gentium* and the corresponding foundation of the state or city. I shall be arguing that Melanchthon's case against Ockham, Biel and Mair depends crucially on this further development of the Ockhamist position.

The second area of common ground is constituted by the shared criticism of the radical Augustinianism of Richard Fitzralph and his pupil John Wycliffe. It was a long standing concern of the Ockhamists in Paris to refute Fitzralph's and Wycliffe's doctrine that natural and civil *dominium* are founded on grace, going back to Pierre d'Ailly, Gerson and the Council of Constance. In doing so they argued that natural *dominium* is founded rather in the natural order of God, on natural law. Towards the end of the *Commentarii*, in a passage entitled “the magistrate may rule even though he is an unbeliever.” Melanchthon forwards a similar argument against Wycliffe. Wycliffe, he tells us, had contended that “those who do not have the Holy Spirit lose *dominium*.” Against this, Melanchthon argues that rather than being founded on grace, natural and civil *dominium* pertain to man by virtue of his nature and his natural reason. Thus when Adam sinned and fell from grace “he did not lose his *dominium* since he did not lose his reason. For natural *dominium* is nothing except the judgement of reasoning determining how and in what way we should use natural things to preserve life.” Here Melanchthon offers a definition of *dominium* that is in significant respects similar to those offered by the Parisian Ockhamists. Where they differ is on the foundation of civil *dominium*, of political authority, and it is to this issue as found in the *Commentarii* that I will now turn.

III
The *Commentarii in aliquot politicos libros Aristotelis* consists of commentaries on the first three books of the *Politics*, with discussions of various of the topics dealt with in these books, prefaced by a dedicatory letter and an introduction. In the introduction Melanchthon has two objectives. He briefly defines political philosophy, and then justifies its use to Christians, clarifying the distinction between political philosophy and the gospel. Political philosophy (*politica*) is described as “knowledge (*ars*) containing general precepts concerning the order of the state (*civitatis*) (...) it describes the form of the state, discusses private property, the rulers, the laws, the duties of subjects, contracts and punishments.” It is true that in the introduction Melanchthon singles out various radical reformers and the Roman Popes for criticism, but this is for their failing to distinguish properly between the gospel and political philosophy, thinking that “the gospel is nothing but a doctrine of politics, according to which states must be established.” Thus John Wycliff, Wolfgang Capito, Huldrych Zwingly and the Anabaptists all wanted to establish laws according to the gospel, and the Roman Popes usurped the rights to bestow kingdoms. But this, however, is not Melanchthon's main argument. Rather, it is merely a preliminary discussion setting the scene for his engagement with Aristotle's *Politics* and the arguments discussed therein. Politics proper is not the subject of theology or the domain of theologians, and it will be just as ridiculous for theologians to determine matters of politics as it would for them to interfere in the practice of medicine. Against both the popes and the radical reformers, Melanchthon argues that the gospel pertains to the spiritual and eternal justice, and that in addition there is a need for political philosophy, which describes the order of the world. The gospel approves of all laws and political orders that are in accordance with reason. The magistrate holds an office from God, and subjects must therefore obey their ruler as the vicar of God.

At the outset of his commentary on book one of the *Politics*, Melanchthon again introduces a definition of political philosophy: “Political philosophy discusses civil society and the duties
pertaining to society, and deduces the causes of society from nature.” According to Melanchthon's *Politics* that it shows the natural causes of society and of government according to a strict method. Aristotle's method starts from the “principles taken from the nature or the end of man,” that is “the laws or common sentences inscribed in nature” which it is the “business of the philosopher to determine and explain.” Moreover, what can be derived from these first principles according to a firm method may be considered a law of nature and as such divine law: “ius naturae vere esse ius divinum.” The principles or laws of nature derived from the nature of man and found in the *Politics* are in Melanchthon's view, that “man is created for society,” “the first society is the legitimate marriage between man and wife,” “from the first society comes the household, in which are parents, children and slaves,” and “in a society of many it is necessary that some rule and some obey.” According to Melanchthon's reading of Aristotle, government, that is rule and subjection, is a functional requirement of society. And it is this observation that Melanchthon puts to use in arguing that government has natural causes, that it exists in accordance with and as prescribed by natural law. In doing so, Melanchthon uses Aristotle's argument concerning natural slavery to give the natural foundation for government in general.

Aristotle gathers the causes of subjection and rule [*servitutis et imperii*]. For according to nature the more ignorant and weak obey those that are more knowing and stronger, for they need the command, guidance, and defence of others. He adduces proof of this fact from the parts of man. In man some parts naturally serve and others naturally rule and govern, likewise therefore in the multitude the more knowing should rule and the ignorant obey.

In short, Aristotle shows that “civil society cannot be maintained without *imperium.*” It is usually assumed that Melanchthon was, when dealing with the concept of *servitus*, chiefly concerned with justifying slavery and serfdom in the terms of Aristotle's arguments for natural slavery against the revolting peasants, or that Melanchthon was grounding government in natural slavery. However, it
is clear that when Melanchthon deals with the natural causes of *servitus*, this is as the counterpart of imperium or rule, such as in speaking of “causae servitutis et imperii” (the causes of subjection and rule), the two fundamental kinds of which are δεσποτικόν and βασιλικόν or πολιτικόν. Servitus, then, refers not to slavery or serfdom as such, but refers to the fact that some are subject to the rule of others. Whether it refers to slavery therefore depends on what kind of *imperium* it is related to. Strictly speaking, Melanchthon is not properly using Aristotle's argument for natural slavery, but adapting it so as to ground a hierarchy of rulers and ruled in general.

This may also be seen from Melanchthon's treatment of the disagreement between Aristotle and *iurisconsulti* who have argued that “servitude is contrary to nature, and that according to natural law human beings are initially born free.” Rather than having specific lawyers in mind, Melanchthon here seems to have in mind the Roman law passages *l. Ex hoc iure* (D. 1.1.5) and especially the *Institutes* (Inst. 1.2.1): “for at the demands of practice and human necessities, human nations established certain things for themselves: wars arose and there followed captivities and servitudes, which are contrary to natural law.” Rather than positing an absolute opposition between the position of Aristotle and the lawyers, Melanchthon argues that they are reconcilable. Aristotle speaks of the cause of servitude, why it is necessary, and the lawyers of a specific form of servitude, slavery proper.

Aristotle talks about the cause of the servitude, which the jurists refer to. The jurists talk about the effect, or a certain form of servitude. Servitude in Aristotle signifies the imbecility of the nature, [of him] that must be governed by the judgement of another. In the jurists it signifies the specific form, by which the victorious [in war] subdues the defeated.

Although Melanchthon claims to reconcile the two positions, the argument in fact comes out in favour of Aristotle, or at least his reading of Aristotle. Melanchthon argued with Aristotle that because of the weakness of human nature, and the frailty of the minds of some people, it is
necessary that some are ruled by others. And if they would do not agree to that, they must be constrained by force in order to preserve human society. "If they will not allow themselves to be ruled they must be constrained and contained by force, in order that the rest of the human race may be conserved, just as it is necessary to cut of corrupt parts of the body so that the entire body does not perish." From this it is therefore clear that society cannot exist without government, and that rule and subjection therefore have natural causes; they are constituted according to natural law. The positions in the debate become clearer when we keep the positions of Biel and Mair in mind. Biel, as we saw in section II, posited a natural equality among men and argued that servitude and government were contrary natural law. Mair read Aristotle to argue that political rule was rule of, in political terms, fundamentally free and equal people and that political rule was based on human law and convention. Melanchthon, also using Aristotle, instead posits a fundamental inequality as the basis of rule and social order. This, however, is not a theory of a general inequality between two or more identifiable groups, such as between Aristotle's natural rulers and natural slaves, but rather one that points to the general fact that some, in fact most, people need to be constrained by force, that is governed, in order to maintain society. In referring to the disagreement between the iurisconsulti and Aristotle, Melanchthon in effect pits his own position against the Ockhamists in order to show the natural, rather than conventional, source of government.

In so far as Melanchthon was arguing against the peasants and the radical preachers involved in the peasant uprisings here, he was not so much arguing for serfdom as shifting the position of the radical preachers so that they appeared to deny the legitimacy of government and subjection in general. Whereas Aristotle rightly criticised those who "out of and immoderate and unjust love of liberty" argued that servitude is contrary to nature, Melanchthon more justly, he argued, criticised the fanatical people of his own time "who claim that servitude is contrary to the gospel." In arguing both against the lawyers and the "fanatical people" of the peasant uprisings, Melanchthon introduces an argument from the fourth commandment, arguing that it "subjects all people to
servitude,” and that since the gospel does not abolish this commandment “likewise it does not condemn neither government nor servitude.” This is a further indication that Melanchthon sees the questions of government and servitude, whether in the form of slavery or not, as inextricably linked. In this connection Melanchthon argues that the fourth commandment has the status of natural law, “since this sentence is inscribed in nature, one must likewise know that the causes of subjection are truly given in nature” (426). As we have seen, both Biel and Mair argued that the duty to honour and obey one's parents stemmed from natural law. By subsuming political authority under this commandment, Melanchthon makes a crucial departure from this tradition and sidesteps the question of consent that was traditionally implied in the distinction between paternal and political authority. The question of consent, however, is precisely what Melanchthon discusses in the second relevant passage in the commentary on book 3 (see below p. 16).

Melanchthon's treatment of the second book of the Politics is relatively brief, the book being in his words totus historicus. It is mostly concerned with discussing the differences between the politics of Plato and Aristotle. There is however one passage of relevance to our discussion, the discussion of property. In the Republic, Plato argued that both women and property should be common among the guardian class, a sentiment criticised by Aristotle. Melanchthon uses this discussion as an occasion to discuss various contemporary opinions. He mentions that the opinion of Plato concerning communal property has become common among theologians, and cites the opinion that the gospel commands community of property and distinction eight in the Decretals stating that “by divine law everything is common to everybody.” (431). As we have seen both Gabriel Biel and John Mair cited the Decretals to this effect, arguing further that by natural law all things are common. Melanchthon's remarks concerning the Decretals aptly exemplifies his general approach to Ockhamist political thought. He sums up his position by stating that “the opinions that the community of property is according to divine or evangelical law must in no way be accepted, since
they are the roots of great revolts.”" He then goes on to correct this reading of the Decretals, arguing that in truth it shows that God is the author “of the legitimate division of things” as it states that “God gives human law to the human race through the rulers and the overseers of the world.” Those who argued that according to natural law all things are common are somewhat excused, however, by the fact that they speak of the state before the fall. “When we, however, speak of the present state after the Fall we rightly say that the division of things is by natural law,” for natural reason sees that the division of things is necessary, “and natural reason is natural law.”67

Melanchthon explicitly cites the iurisconsulti as being in agreement with Aristotle that private property is in accordance with nature, that is the law of nature and ius gentium.68 This line of argumentation shows that Melanchthon's case against the Ockhamists depends on his identification of divine law, natural law and the ius gentium. The Ockhamists, then, are not merely mistaken on intellectual grounds. Their position, although to some extent excusable, is inherently dangerous as it leads to rebellion and disturbances of the established order.

In the commentary on the third book of the Politics, Melanchthon starts by reiterating the main points from the two previous books, that Aristotle shows that society is natural and government necessary for maintaining society, and that therefore rule and subjection have natural causes.69 Melanchthon then, in accordance with Aristotle's text, proceeds to discuss “the various forms of rule in states” (435). After having paraphrased Aristotle's definition of a state (civitas), of citizens (cives) and a constitution in general (politia), he briefly defines the three legitimate and the three corrupt forms of constitution according to the Aristotelian scheme.70 The commentary then proceeds with a lengthy discussion of the best form of constitution, monarchy, and in this section Melanchthon engages in explicit discussion and criticism of the Ockhamist position. He starts first by treating the question of universal monarchy, of whether it is proper for one man to be the king of the entire world.71 In repudiating the view that the Pope should be the monarch of the entire world,
Melanchthon distinguishes between the office of priests, which is to teach the gospel, and government. The latter is defined, citing Romans 13, as “the power to give laws in order to prevent bodily harm and injury, and to wield the sword to make people obey, and to punish those who do not obey the laws.” Melanchthon argues that this power was instituted in Genesis 9,6 and engages in explicit polemics against the Ockhamists in a passage worth quoting at length:

If clear proof is needed, *imperium* is indeed instituted in these words said to Noah: “Whoso sheddeth man's blood, by man shall his blood be shed.” Furthermore, it is the judgement of natural reason that there must be some who rule. And as we have often said, divine law is natural law, or the judgement of natural reason. And *imperium* has been instituted in this commandment: Honour your father and mother. For this commands obedience towards superiors. Some, like Ockham, falsely say that the consent of the people confers *imperium*. [This is false,] for princes also rule the unwilling by right and rightfully hold *imperium* not merely by the consent of the people but also through legitimate war, the oppression of criminals and legitimate succession etc.  

Several important points can be drawn from this quotation. First, Melanchthon clarifies the nature of divine ordination. There is no contradiction between political authority being ordained by God on the one hand (as testified to by Genesis 9, 6 and the fourth commandment), and government existing according to natural law (the fourth commandment again and the “natural judgement of reason”) and in virtue of some kind of human mediation. The crucial question is: what is the source of *imperium*? Second, Melanchthon here explicitly connects the discussion of Ockham and consent with the discussion of book 1 concerning the foundation and institution of rule and subjection, and again Melanchthon forwards the same arguments: natural law and the fourth commandment. Melanchthon effectively denies that natural law or natural reason posits any notion of election and consent as the origin of political authority, as Ockham would have it. Criticising Ockham also provides a ready way of attacking those, such as Biel and Mair, who like him “falsely say that the
consent of the people confers imperium”. Indeed, Melanchthon's view on consent is an almost exact inversion of Biel's position. Melanchthon mentions the same proximate causes for, and sources of, possession of legitimate imperium. But while in Biel they are all reducible ultimately to the consent of the people, in Melanchthon the consent and election by the people is only one among many sources. Moreover, in the context of the commentary with its emphasis on the weakness of the nature or irrationality of men and the consequent need for subjection and rule, it is unlikely that such a consent is would be present. Melanchthon differs, then, sharply from the Ockhamists in arguing that political power exists according to natural law rather than human law or the law of nations.

The final explicit engagement with the Ockhamists is found under the section discussing “the various forms of kingship,” and can be said to function as a summary of Melanchthon's case against the Ockhamists. The section contains a brief discussion of the various forms of kingship that have historically existed, from the kings of heroic times to Melanchthon's own time. Melanchthon defines a king as “a highest power, over which no superior magistrate judges.” The first kind of kingship in heroic was unrestrained by laws and ruled for “the good of the people.” However, because of the tendency of unrestrained kingly rule to degenerate into tyranny a second form of kingship was introduced, “supreme power (summum imperium) circumscribed by written law” where the rule of law is enforced against the king by custodes. As the guardians have the right to constrain the kings, the kings cannot here be said to be αὐτοκράτορες or ἀνυπεύθυνοι. This discussion leads Melanchthon to pose the further problem of “whether private people may kill tyrants” or whether subjects may resist their ruler by force if he injures them contrary to the laws. This question, he argues, is easy to answer for the Christian, for the Gospel prohibits any form of “private vengeance.” Likewise, the subject is not merely obligated to obey the ruler because of the covenant (pactum) between ruler and subjects but also “by the mandate of God, which commands to
honour evil magistrates as well.” Both of these discussions thus concern the relative rights of rulers and subjects, the varying configuration of rights is what distinguishes one form of kingship from another.

This discussion leads Melanchthon to ask the question “which kind of kingship God approves of.” Concerning this topic he says, “there are various disputation among theologians, and some argue that subjects are everywhere slaves, and have nothing of their own. Others argue that this harshness of servitude is contrary to the Gospel.” The question then is a continuation of the previous sections. Put differently, the question is whether God approves of forms of rule where the subjects are slaves and therefore have no right against their rulers. Melanchthon rejects outright the position which criticises servitude as being contrary to the Gospel, that is on religious grounds – a position that is identified with the 12 Articles of the Swabian Peasants. On the other hand, he refers to a discussion of the problem of whether subjects are everywhere slaves as a topic of political philosophy: “The former [opinion], which I remember discussed by John Mair the Parisian theologian, deserves some examination.” This is indicative of Melanchthon's attitude to the peasants and the Ockhamists respectively. Whereas the position of the peasants is flatly rejected as confusing the Gospel and politics, Melanchthon takes the position of Mair seriously as a piece of political reasoning.

As mentioned in section I, Mair had discussed this topic in his exposition of the Gospel of Matthew in 1518 and in his commentary on the Sentences from 1519. Mair's discussion concerned precisely the rights of the people or the subjects against their rulers. As we saw, Mair's argued that given the nature of political authority itself the people must be said to be free and have the right to depose the ruler. Against Mair, Melanchthon forwards a strict constitutional pluralism, arguing that God approves of all legitimate forms of government, that is forms of government that punish evil and reward good, and that are in accordance with the judgement of reason and the laws of nature. Following his Aristotelian naturalism, the appropriate form of government depends on local
conditions and the character of the people, and is in some places harsher and in some places milder. “Some places subjects are truly slaves. In other places the power of kings is limited by laws and a certain liberty conceded to the people.” Melanchthon then cites 1 Samuel 8 to argue that “the harshest form of rule” is also approved by God and described as the right of kings. Both liberty and servitude, however, have certain limits according to natural law. Natural law commands that slaves must have enough to sustain their families, and lords may therefore not take everything at will. Likewise liberty is limited by natural law in such a way that we are commanded to do what is necessary “in order to maintain common society” - such as obeying rulers and paying taxes. There is therefore no necessary opposition between subjection in the form of slavery and political subjection, and they are not mutually exclusive, according to Melanchthon. Instead he emphasises their common character as forms of rule. Natural law, then, is both constitutive of political authority and limits its legitimate exercise.

Although there are important similarities between Melanchthon's concept of dominium and that of the Ockhamists, as I have shown in section II, Melanchthon's political naturalism means that there are significant differences as well. To illustrate this point, we may turn to again to Melanchthon's case against Wycliff. For Biel and Mair, natural and civil dominium are distinct, the first existing by nature and the second being introduced by convention. According to Melanchthon, by contrast, civil dominium, in the sense of political authority, is “the execution of natural dominium” since after the Fall political authority with the power to enforce the law became necessary.

For natural dominium may also be defined in this way, that it is the law of nature which ordains that some rule so that they may restrain the evil people. For it is certain that Adam retained a natural knowledge of the law, in the same way as he retained the use of reason. In turn civil dominium is the execution of natural dominium. For for societies to be governed in an orderly way (ut ordine administrantur respublicae) it is necessary to entrust governmental power to certain specific persons
and to prevent the rest from governing. This is called civil *d ominium*, and it is a certain effect of natural *d ominium*.80

The fact that “Adae comissum est *imperium* in familiam,” along with Genesis 9,6 and the fourth commandment, shows that *d ominium civile* – that some rule and some obey – is the natural ordination of God.81 This was precisely not the case for either Mair or Biel, where the paternal rule only becomes political rule through the consent of the ruled and the community confers *imperium* on the ruler. Mair had used Aristotle's distinction between paternal and political to support the conventionalist account where the ruler's power is ministerial in relation to the community, derived from the people; Melanchthon, while collapsing the two, used Aristotle in such a way that the ruler's power became ministerial in relation to God.82

IV

Given the fact that Aristotle explicitly rejected the opinion that paternal and political authority is of the same kind, and the important use to which this distinction was put by his contemporaries, it is natural to ask whether and how Melanchthon deals with Aristotle's explicit distinction. It would be remarkable if it would be simply ignored, being present in both the *Politics* and the *Nicomachean Ethics*. Melanchthon does indeed remark on this distinction, not in his commentary on the *Politics*, but in his commentary on the fifth book of the *Ethics* published alongside the commentary on the *Politics* in the 1535 edition. As would be expected, his discussion of this problem in the *Ethics* is compatible with his arguments in his commentary on the *Politics*. The passage in question is from chapter 6 of book 5 where Aristotle discusses “political justice,” which is found among “people who are free and either proportionally or arithmetically equal.”83 Here Aristotle explicitly argues that “what is just for a master and for a father are not the same as” political justice, because the
politically just or unjust “depend on law, and exist only among people where law is natural, namely, those who share equally in ruling and being ruled.” In commenting on this passage Melanchthon argues, with some plausibility, that the difference between the “herile & Paternum iustum” and the “civile iustum” refers to the necessity of the rule of law in societies. The rule of law is what distinguishes political government from tyrannical government, and laws create a certain form of equality between ruler and ruled. “And this place excellently teaches us about the dignity of the laws, to consider why they would be necessary, namely that they ensure equality between the ruler and the citizens, so that the magistrate does not impose more [upon the citizens] than the law and right reason prescribes.” Although this is a far cry from the popular sovereignty propagated by Melanchthon's contemporaries, it shows that to Melanchthon the rule of kings should be rule by law as well as limited by laws, both natural and positive. Political equality and justice is, for Melanchthon, subjection to the law on the part of both ruler and ruled.

Accordingly the longest discussion in the commentary is devoted to the discussion of laws, and the question of whether the commonwealth should be governed according to the will of a good prince or according to written and certain justice or laws. Melanchthon agrees with Aristotle that it is better for the commonwealth to be governed by written laws, since “the law is reason without passion” and he cites with approval Aristotle's dictum that “he who bids the law rule may be deemed to bid God and reason alone rule. And they that wish for a man to rule put beasts in charge.” The reason, then, why rulers must govern in accordance with law is essentially the same as why subjection is necessary in the first place: the weakness of the human nature.

Given that he concurs with Aristotle that it is better for the laws than for men to rule, Melanchthon's use of the French parliaments, the German electors, and the Spartan ephors as examples of the custodes earlier in the Commentarii is therefore normative and not merely descriptive. In that the custodes have the right to enforce the law against the rulers Melanchthon operates with a certain distinction or division of powers within the governmental structure (or
constitution), and the laws are as such to be considered part of the constitution. As he emphasises in the section on laws, Romans 13 calls the laws God's ordination, “for without laws, judges and civil ordinances there would is no order in government”. The safeguard against abuse of political authority is thus not, as in the conciliarist tradition, the ultimate authority of the community or the people over the ruler. Instead it is a configuration of powers within the structure of government. It is not the community that acts to constrain a bad ruler, but rather persons invested with governmental or political power on their own.

Following from the preceding discussion, I want to suggest further that Melanchthon's polemics in the commentary on the Politics shed important light on crucial passages on his 1528 Scholia on Paul's letter to the Colossians. The passage commenting on verse 23, which Melanchthon argues provides a “Christian politics,” discusses the relationship between Scripture and philosophy.

For it teaches what the office of rulers is, that it pleases God, that it is being defended and conserved by God, and that subjects must diligently obey their rulers. Some people read the political books of the philosophers, which I also cherish and wish to be read, since they contain many morally good precepts (honest praecepta). But it is much more useful to have these scriptural passages diligently read than the disputations of the philosophers, which, since they can teach us nothing about the will of God towards rulers, do not show us what is the firmest foundation of political authority (firmissimum presidium magistratum). Neither will the subjects be able to fulfil their duties for long if they think that commonwealths have been created by the decision of men (homo tantum consilio constitutas esse respublicas), and think that they may avenge themselves against rulers who have done them wrong (injurias magistratum arbitrabuntur licere ulcisci).

This passage clearly shows Melanchthon's problem with contemporary Ockhamist political thought. The conventionalist account - “that commonwealths have been created by the decision of men” - is
liable to lead to rebellion against rulers. The preceding discussion suggests that already in the *Scholia* of 1528, Melanchthon had the positions of Biel and Mair in mind. And it is this concern with the danger of rebellion, as evidenced by the peasant uprisings in 1525, that informs Melanchthon's use of Aristotle. There are further parallels to support this conclusion. First, the notion of the ruler as the vicar of God is prominent both in the *Scholia* and is emphasised in the introduction to the *Commentarii*. Secondly, in both writings Genesis 9,6 is adduced to show that *imperium* has been ordained by God.\(^9^0\) The *Commentarii*, then, is an elaboration on what it means to say that political authority exists according to the will of God, namely that it exists according to natural law, and that it is part of the divinely ordained natural order.

There is some evidence that before the events of 1525 Melanchthon held a position significantly closer to that of Biel and Mair. In fact, as late as 1523 Melanchthon was arguing that rulers derive their *imperium* from the people. This was in the context of giving an opinion on whether it would be just for the Prince-Elector of Saxony Frederick the Wise to wage war against the Emperor in order to defend Luther and the Gospel. On this occasion Melanchthon argued that the Prince would not have just cause, since he could only legitimately wage war with the consent of the people from whom he had received *imperium*. In this case, the people would not want war to be waged on behalf of the gospel since they did not believe.\(^9^1\) In light of the *Scholia* and the *Commentarii* it seems that Melanchthon abandoned this theory in favour of the concept of the ruler as the worldly representative of God, both under the influence of the peasant uprisings and the writings of Luther, and consequently abandoned the theory of consent.

Given that Melanchthon used Aristotle in the *Commentarii* to argue against the key principles in Ockhamist political thought, which are recognised to have been instrumental to the development of constitutional monarchy, are we, then, justified in characterising Melanchthon's position as essentially absolutist? This is a question that has been explicitly affirmed in recent scholarship on
the Commentary,\textsuperscript{92} and one could argue that there are elements that point in the direction of later absolutist thinkers such as Robert Filmer. It is true that for Melanchthon, and Luther, it is illegitimate for subjects to resist their rulers. But this is true for most of Melanchthon's contemporaries and even in the conciliarists, where it is only the community as a whole that may resist the ruler. There are admittedly some concrete similarities between Filmer and Melanchthon in his \textit{Commentarii}. First, there is the common opposition to the “scholastic” political thought,\textsuperscript{93} that is to say, the conciliarist principles discussed in section II above. Second, Filmer mentions a variety of means by which the king may come to power, a list similar to that given by Melanchthon, and as in the work of Melanchthon there is no mention of the idea that they should all be reducible to original consent. Third, and more striking, is the similarity between Melanchthon's assertion that Adam “was given \textit{imperium} in the family” in accordance with natural law, and Filmer's argument that all kings derive their title to rule from the power Adam originally held over his family, and that this title is according to natural law. Likewise Filmer stressed the fourth commandment as a confirmation of the “Natural Right of \textit{Regal} Power.”\textsuperscript{94}

None the less, there are important reasons to resist the characterisation of Melanchthon as an absolutist of Filmer's kind. Filmer had constructed a theory of “particularistic inegalitarianism” where certain identifiable persons inherited their power from Adam.\textsuperscript{95} Melanchthon never argued that all later titles to rule are derived from that of Adam or as such derived from paternal power. Rather Adam's title to rule is only one example of political authority in accordance with natural law. Rather than a particularistic theory of inequality, Melanchthon forwarded a general theory of inequality as the basis of political rule. But as was remarked above, this is not a theory of inequality between to identifiable groups, but rather points to the weakness of human nature, the fact that men need to be coerced by governmental authority and the rule of law for the maintenance of human society. And this goes for subjects as well as rulers.

Furthermore, it should be kept in mind that Melanchthon wrote his commentary well before
Bodin developed his theory of sovereignty, which is absolutely fundamental to the conception of political authority found in Filmer and other absolutists. While Melanchthon defines a king as “a highest power, over which no superior magistrate judges,” as we have seen it is not a problem for him to speak of a second form of kingship as “supreme power (summum imperium) circumscribed by written law” over which the rule of law is enforced by custodes in obvious contrast to later absolutist writers. If we define absolutist monarchy as the unitary and undivided rule of one king who is above the laws and subject only to God, then Melanchthon's conception of political authority and order in the Commentarii is decidedly not absolutist.

V

This article has shown that the most important intellectual context for understanding the political position that Melanchthon was developing his commentary on Aristotle's Politics was the late mediaeval Ockhamist political thought of Gabriel Biel and John Mair. Using Aristotle's naturalism within the theological framework of the political order as ordained by God Melanchthon counters the conventionalist account of the Ockhamists where the ruler's authority is derived from the consent of the people, which he sees as potentially seditious. Rather than being grounded in human law and the consent of the people, political order – servitus and imperium – is grounded in natural law. Lutheran political thought as developed by Melanchthon may thus be characterised as depending crucially on the notion of government as ordained by God – the magistratus as vicarius Dei – in accordance with the laws of nature.

This does not, however, mean that Melanchthon's account of political authority is absolutist. As evidenced by the arguments for resistance developed by Melanchthon the figure of Romans 13 is quite flexible, allowing for a notion of limited constitutional monarchy. Rather than the power of the people or the community to depose the ruler Melanchthon emphasises the rule of law, natural and positive as a corrective to the abuse of political authority. In addition to his natural law account
of government as such, Melanchthon develops a form of constitutionalism where according to positive law there is a certain division of powers within the governmental structure, and in this case kings are not, as Melanchthon put it, αὐτοκράτορες or ἀνυπεύθυνοι. In the end, it is necessary for both rulers and subjects to be restrained by law. Melanchthon's political thought, then, suggests that it is theoretically possible to develop constitutionalist position separated from notions of popular sovereignty and instead grounded in natural and positive law. The development of theories of constitutionalism may not necessarily be tied as closely to the arguments of John Mair and other late mediaeval conciliarists as has been suggested by the existing scholarship. This, however, is a historical question that cannot be answered on the basis of an analysis of Melanchthon's Commentarii, and as such it exceeds the limits of this article.

Bibliography

Primary sources


———. *In Quartum Sententiarum*. [Paris], 1519.


———. *Philosophiae Moralis Epitome*. Argentorati [Strassburg]: Crato Mylius, 1538.


*Secondary sources*


Dauber, Noah. ‘Deutsche Reformation: Philipp Melanchthon’. *In Politischer Aristotelismus Die


3 The commentary was published in three different editions, in 1530 on its own, in 1531 alongside Melanchthon’s commentary on the first three books of the *Nicomachean Ethics*, and again in 1535 with the addition of a commentary on book five of the Ethics. See *Verzeichnis Der Im Deutschen Sprachbereich Erschienenen Drucke Des XVI. Jahrhunderts: VD 16* (Stuttgart: Anton Hiersennam, 1983), M2737–39.


9 Graham G. White, *Luther as Nominalist: A Study of the Logical Methods Used in Martin Luther’s Disputations in the Light of Their Medieval Background* (Helsinki: Luther-Agricola-Society, 1994), 26f.


11 Philipp Melanchthon, *Commentarii in Aliquot Politicos Libros Aristotelis* (Wittenberg: Joseph Klag, 1530), fol. [Cvi r]. This edition will be referred to as “Commentarii 1530.”


Ibid., 7.

Ibid., 84.

Ibid., 87.

Ibid., 85.

“non tamen haec [i.e. potestas dominandi] naturalis est generi humano, nec fuisset in statu naturae integrae. Nam omnes homines ex eadem radice originem duxerunt, ex Adam scilicet et Eva, quibus iure naturali communis est possesio et communis omnium libertas, ut dicit Isidorus V Etymologiae. Sed hominum culpa exigente, sive iure humano facta est rerum divisio, ita et concessa est potestas dominandi.” Ibid., 86.

For a succinct account of the significance of Mair for the development of theories of popular sovereignty, see Skinner, ‘Humanism, Scholasticism and Popular Sovereignty’, 256f.

John Mair, In Quartum Sententiarum ([Paris], 1519), fols aijv and avijr.

Ibid., fol. XCIXd.

Ibid., fols Cc–Cla.

Ibid., fol. CIII d.

See references in note 14 above.


Maurer, Der Junge Melanchthon Zwischen Humanismus Und Reformation, 1: Der Humanist:37ff.

Philipp Melanchthon, Philosophiae Moralis Epitome (Argentorati [Strassburg]: Crato Mylius, 1538), 100.

Mair, In Quartum Sententiarum, fols CIII c.

Ibid., fols Ca ff. Compare Johannes Altenstaig, Vocabularius Theologie (Hagenau, 1517), article on dominia, M2v., Altenstaig, citing Gerson, enumerates six kinds of dominia. (m2v). Altenstaig was also educated at Tübingen.

Oberman, Harvest, 18f.

Melanchthon, Commentarii 1530, fol. [Bviii r].

Ibid., fol. B r.

Ibid., fol. [Bvi r]; Philipp Melanchthon, Commentarii in Primum, Secundum, Tertium & Quintum Ethicorum Philippi Melanchthonis. Eiusdem in Aristotelis Aliquot Libros Politicos Commentaria (Argentinae: Johannes Albertus, 1535), fols L8 v – L9 r. This edition will be referred to as “Commentarii 1535.”

Melanchthon, Commentarii 1535, L8r–v.

On this problem, see Brett, who, following Juan de Salas, delineates four different positions on the relation between natural law and the ius gentium. Brett, Changes of State, 77. Brett seems unaware of the fact that Melanchthon forwards a very definite position in this debate.


Melanchthon, Commentarii 1530, fol. Diiij v.

“[Adam] non amisit dominium, sicut nec rationem amisit. Nihil enim est dominium naturale, nisi iudicium rationis,
D'Ailly defined natural *dominium* as “Nothing other than the right or dispositional power of using something in accordance with the law of nature” cited in Francisco de Vitoria, *Political Writings*, ed. Anthony Pagden and Jeremy Lawrance (Cambridge University Press, 1991), 358. Jacques Almain defined natural *dominium* is the “faculty or immediate power of taking up inferior things for one's sustenance, according to the dictates of natural law” Almain, ‘Question at Vespers’, 14f.

“The politica ars est continens generalia quaedam praecepta de ordinatione civitatis (…) certam formam divitatis descriptit, disputat de rerum divisione, de communiis, de Magistratibus, de legibus, de populi officiis, de contractibus, de poenis.” Melanchthon, *Commentarii 1530*, fol. Aiiij v.

“Evangelium nihil esse aliud nisi politicam doctrinam, iuxta quam civitates constituentiae sint.” Ibid.

De Bauber as in note 7 above.


Ibid., fol. Biij v.

Quoted in Brett, *Changes of State*, 75f.


“Si qui regi non patiuntur, hi vi opprimendi et continendi sunt, ut reliqua multitudine generis humani conservari possit, sicut a corpore interdum praecidi membra corrupta oportet, ne totum corpus pereat.” Ibid., fol. Bij r.

Where the Ockhamists deposited an absolute distinction between rule of the free people, that is political rule, and *dominium* as “Nothing other than the right or dispositional power of using something in accordance with the law of nature” cited in Francisco de Vitoria, *Political Writings*, ed. Anthony Pagden and Jeremy Lawrance (Cambridge University Press, 1991), 358. Jacques Almain defined natural *dominium* is the “faculty or immediate power of taking up inferior things for one's sustenance, according to the dictates of natural law” Almain, ‘Question at Vespers’, 14f.

“The politica ars est continens generalia quaedam praecepta de ordinatione civitatis (…) certam formam divitatis descriptit, disputat de rerum divisione, de communiis, de Magistratibus, de legibus, de populi officiis, de contractibus, de poenis.” Melanchthon, *Commentarii 1530*, fol. Aiiij v.

“Evangelium nihil esse aliud nisi politicam doctrinam, iuxta quam civitates constituentiae sint.” Ibid.

De Bauber as in note 7 above.


Ibid., fol. Biij v.

Quoted in Brett, *Changes of State*, 75f.


“Si qui regi non patiuntur, hi vi opprimendi et continendi sunt, ut reliqua multitudine generis humani conservari possit, sicut a corpore interdum praecidi membra corrupta oportet, ne totum corpus pereat.” Ibid., fol. Bij r.

Where the Ockhamists deposited an absolute distinction between rule of the free people, that is political rule, and *dominium* as “Nothing other than the right or dispositional power of using something in accordance with the law of nature” cited in Francisco de Vitoria, *Political Writings*, ed. Anthony Pagden and Jeremy Lawrance (Cambridge University Press, 1991), 358. Jacques Almain defined natural *dominium* is the “faculty or immediate power of taking up inferior things for one's sustenance, according to the dictates of natural law” Almain, ‘Question at Vespers’, 14f.

“The politica ars est continens generalia quaedam praecepta de ordinatione civitatis (…) certam formam divitatis descriptit, disputat de rerum divisione, de communiis, de Magistratibus, de legibus, de populi officiis, de contractibus, de poenis.” Melanchthon, *Commentarii 1530*, fol. Aiiij v.

“Evangelium nihil esse aliud nisi politicam doctrinam, iuxta quam civitates constituentiae sint.” Ibid.

De Bauber as in note 7 above.


Ibid., fol. Biij v.

Quoted in Brett, *Changes of State*, 75f.


“Si qui regi non patiuntur, hi vi opprimendi et continendi sunt, ut reliqua multitudine generis humani conservari possit, sicut a corpore interdum praecidi membra corrupta oportet, ne totum corpus pereat.” Ibid., fol. Bij r.

Where the Ockhamists deposited an absolute distinction between rule of the free people, that is political rule, and *dominium* as “Nothing other than the right or dispositional power of using something in accordance with the law of nature” cited in Francisco de Vitoria, *Political Writings*, ed. Anthony Pagden and Jeremy Lawrance (Cambridge University Press, 1991), 358. Jacques Almain defined natural *dominium* is the “faculty or immediate power of taking up inferior things for one's sustenance, according to the dictates of natural law” Almain, ‘Question at Vespers’, 14f.

“The politica ars est continens generalia quaedam praecepta de ordinatione civitatis (…) certam formam divitatis descriptit, disputat de rerum divisione, de communiis, de Magistratibus, de legibus, de populi officiis, de contractibus, de poenis.” Melanchthon, *Commentarii 1530*, fol. Aiiij v.

“Evangelium nihil esse aliud nisi politicam doctrinam, iuxta quam civitates constituentiae sint.” Ibid.

De Bauber as in note 7 above.
Itaque posterior prorsus est repudianda, de priore nonnihil disputandum est, quam memini agitatam a Ioanne Maiore Parisiensii Theologo” Ibid.

Alibi vere servi sunt subditi. Alibi regum potestas legibus circumscripta est, & quaedam libertas concessa populis.” Ibid., fol. [Cvij v].

Potest igitur dominium naturale hoc quoque modo definiri, quod sit lex naturalis, quae ordinet certos, qui praesint, ad cohercendos impios. Constat enim Adam post peccatum retinuisse notitiam naturalem legis, sicut retinuit rationem. Porro civile dominium est executio naturalis. Nam ut ordine administrantur respublicae, necesse est ceris personis mandare magistratus, et reliquis interdicere administratione. Id dicitur civile dominium, estque effectus quidam domini naturalis” Ibid., fol. [Dvj r].


Et hic locus docet preclare nos de dignitate legum quaere necessaria sint, videlicet, ut aequalitatem inter Magistratum & cives efficiant, ne Magistratus pluram imponat, quàm lex & recta ratio praescribit.” Melanchthon, Commentarii 1535, fols L5v–L6r.

Melanchthon, Commentarii 1530, fols [Cvijv]ff.

“Qui legem volunt civitati dominari, hi videntur Deum ac leges dominari velle. Qui vero hominem dominari volunt, hi beluam praeficiunt.” Ibid., fols Dij r–v.

“Nam sine legibus, sine iudiciis, sine institutis civilibus, nulla est in imperiis ordinatio.” Ibid., fol. Diiij r.

“Quare libenter hunc locum tractabimus, qui quasi quandam πολιτικὴ Christianorum continet, Docet enim quod sit officium Magistratum, quod Deo placeat, quodque a Deo defendatur, & conservetur, quod subditi debeant illis religiose obedire. Leguntur Philosophorum libri, quos equidem amo, & legi velim, multa enim honesta præcepta continent, Sed multo plus utilitatis adferent hi scripturæ loci diligenter in specti, quam illæ Philosophorum disputationes, que, quia nihil de voluntate Dei erga magistratus tradere possunt, non ostendunt, quod sit firmissimum presidium magistratum. Nec subditi in officio esse poterunt, si putabunt homano tantum consilio constituatas esse respublicas, si injurias magistratum arbitrabuntur licere ulisci.” Melanchthon, Scholia, fols 60r f.

Ibid., fols 63r, 66v. For the Commentarii, see above p. 12 and p. 14, note 82.


Dauber as in note 7. Skinner argues that the main significance of Lutheran political thought, apart from its contributions to the development of resistance theories, lay in developing and legitimising absolutist monarchies.


Filmer, Patriarcha, 2. Chapter 1 § 1.

On the two last points, Ibid., chapter 1 §§ 3 and 10.