

**THOMAS MORE AND CHRISTOPHER ST. GERMAN :
THE BATTLE OF THE BOOKS**

by J.A. GUY

At 3 p.m. on Thursday 16 May, 1532, in the garden at York Place, Westminster, Thomas More handed back the white leather bag containing the great seal of England to Henry VIII, and thereby resigned the office of lord chancellor. It was the final, most awkward and most poignant moment of his career as a royal councillor and servant. It was an admission of public defeat ; it was also an act of public defiance in face of the Submission of the Clergy that had taken place some hours before. ¹ The ironical inflexion of More's voice, the fierce gaze of his eyes, familiar to all who have stood before Holbein's great portrait, and the nobility of his composure all gave the lie to his excuse that he was 'not equal to the work'. Yet, even on this most bitter occasion for both king and More, some of the warmth that had once characterised their relationship temporarily resurfaced. As More reminded Henry in March 1534, when that warmth had evaporated beyond all memory, 'Ye were so good and gracious unto me, as at my poor humble suit to discharge and disburden me, giving me licence with your gracious favour to bestow the residue of my life in mine age now to come, about the provision for my soul in the service of God, and to be your grace's bedesman and pray for you.' ² More had asked to withdraw entirely from public life, in order to fortify his soul for the greater trials he knew must come, and to pray for the king and his government -- and Henry had replied kindly.

It pleased your Highness further to say unto me, that for the service which I before had done you (which it then liked your goodness far above my deserving to commend) that in any suit that I should after have unto your Highness, which either should concern mine honour (that word it liked your Highness to use unto me) or that should pertain unto my profit, I should find your Highness good and gracious lord unto me. ³

More brought that suit to Henry VIII in the spring of 1534, when the king wished to include him, together with Bishop Fisher, in an act of attainder as a misprisoner of the Nun of Kent's alleged treason. Representations from the Council finally obliged Henry to change his mind, for the evidence of More's treasonable involvement was non-existent.

More's escape, however, owed nothing to Henry's promises in the garden -- quite the reverse -- and More soon learned the terrible extent of the king's wrath and animus against a man who, as Henry believed, had betrayed his former trust and friendship.

Why had Henry VIII turned against More in 1534, rather than 1532? What had Sir Thomas been doing as a private citizen in Chelsea? He had, of course, been writing books: at Eastertide 1533 his *Apology* was published by William Rastell, followed by *The Debellation of Salem and Bizance* in October the same year.⁴ And in December 1533 More put the finishing touches to his *Answer to the Poisoned Book* -- a confutation of George Joye's *Supper of the Lord* -- which Rastell put out at Christmas time.⁵ In this paper, I shall look at the circumstances surrounding More's *Apology* and *Debellation*. As I hope to show, these books, which comprised More's side of his polemical feud with Christopher St. German, can be harnessed to illuminate a major historical problem concerning More's last years of life: to identify what Henry VIII probably believed to have been a breach of trust following More's resignation of the chancellorship.

The *Apology* and *Debellation* were components of a public controversy, the chronology of which must be explained. Towards the end of 1532, or at the beginning of 1533, Christopher St. German wrote *A Treatise concerning the Division between the Spirituality and Temporality*, a tract printed at least five times between February 1533 and the end of 1537.⁶ The book accused the clergy of undue harshness towards laymen and unfair partiality towards their fellows, the chief cause of St. German's discontent being the methods used by the church courts in the detection, trial and punishment of heresy and heretics. More responded with his *Apology*, a blockbuster which left no stone unturned in the battle first to defend the traditional privileges of church and clergy, and secondly to discredit both St. German's actual case and his motives for making it. In addition, More included in the work a defence of his own conduct in respect of the detection of heretics undertaken while he was lord chancellor, an area in which More had played an active role and for which he had reason to feel sensitive after his resignation. The *Apology* was, in turn, answered by St. German's *Salem and Bizance*, published in September 1533.⁷ Curiously enough, *Salem and Bizance* were Englishmen engaged in a dialogue on the subject of More's quarrel with St. German. Quite why such characters had to be invented is far from plain, but Professor Trapp has offered two possible explanations. Either *Bizance* may be a punning reference to a famous patriarch of Constanti-

nople, St. Germanus (c. 674-733), or the title *Salem and Bizance* may deplore the fact that Christendom was rent by internal squabbles, as between More and St. German, while the two greatest christian shrines, Jerusalem and Constantinople, languished in the power of the Turk.⁸ Either way the work attacked More's *Apology* and renewed St. German's assault on what he still maintained were the biased and unjust procedures of the heresy laws and church courts. By way of rebuttal, More wrote *The Debellation of Salem and Bizance*.⁹ As he himself said, when *Salem and Bizance* came off the press at Michaelmas 1533, 'I suddenly went in hand therewith, and made it in a breyde'. Elsewhere he said that he composed the *Debellation* 'in few days'.¹⁰

St. German answered *The Debellation of Salem and Bizance* with *The Additions of Salem and Bizance*, published in mid-1534. Yet the title of *The Additions* was something of a misnomer. For the book's five chapters sidestepped the main theme of More's *Debellation*, which had been the justification of inquisitorial procedures in church courts in cases of suspected heresy. St. German's *Additions* instead continued his earlier attacks upon clerical greed and abuses, faults in liturgical observation, provincial canons, pilgrimages, the law of tithes -- and so on. *The Additions* did introduce some new material: St. German analysed the technical limitations placed on ecclesiastical juridical process by the act of appeals of 1533 (24 Henry VIII, c. 12). He fired, too, an opening salvo in the campaign by which the history of St. Thomas of Canterbury would be rewritten. However, St. German now had little to say upon heresy and heretics beyond repeating his claim that 'men will so lightly report as they do, that there be many heretics', and noting with satisfaction that the newly-enacted heresy statute (25 Henry VIII, c. 14) had restored English law to the position reached immediately before Henry IV's Statute *De Heretico Comburendo* (1401).

It was, in fact, Henry VIII's revised heresy law, which had received the royal assent on 30 March 1534, together with the First Act of Succession, that had vanquished More's defence of the *status quo* in his *Debellation*. Legislation had overtaken the debate: there was little more to be said. The details of the new heresy law were not identical to St. German's arguments in *Salem and Bizance*, but we have reason to suspect that St. German's writings and the Commons' campaign to change the law of heresy since 1532 were connected all along.

Regarding the participants in this literary conflict, we know well enough who More was, but who was Christopher St. German?¹¹ St. German, a Warwickshire man from Shilton, near Coventry, was aged

seventy-two when his feud with More commenced. Like More, he was an English common lawyer ; he was of the Middle Temple, a barrister intimately acquainted with the maxims and procedures of English law who had practised, among other places, in the courts of Star Chamber and Requests. He had retired from active legal practice in 1512 or thereabouts, in order to study and write books. He had not married and had no immediate family. When he died, aged over eighty, in 1541, his estate was valued mainly in books, and he directed that these be sold in order to provide benefactions to his nephews and nieces. In particular, though, St. German was the author of the most famous legal treatise composed between the time of Fortescue and that of Sir Edward Coke. He wrote the two dialogues on English law collectively known as *Doctor and Student*, the first being published in 1528 and the second in 1530.¹² *Doctor and Student* went through numerous editions ; it was on sale in rival commercial editions within twelve months of initial publication ; it was a standard law text for English legal students not merely in the Tudor and Stuart period, but right up until the Victorian law reforms of the 1870s consolidated the existing system of superior courts into the Supreme Court of Judicature, thus rendering St. German's historical account of the legal system technically obsolete.

St. German's collision with More stemmed unquestionably from the ideas he first mooted in the second dialogue of *Doctor and Student*, and we shall examine those ideas shortly. Meanwhile, we should note that St. German played a role in the politics of the 1530s and the making of the English Reformation ; for a special reason, he was a valuable asset during the divorce crisis ; circumstantial evidence suggests he was in touch with Henry VIII and his policy advisers on the divorce, Thomas Cranmer, Edward Foxe, Thomas Cromwell and Thomas Audley. In 1531, St. German published an appendix to *Doctor and Student* entitled *New Additions*, and that tract was important because it was linked to a draft for parliamentary legislation which St. German was permitted simultaneously to prepare. The *New Additions* comprised a blistering review of the issues disputed between church and state in 1531.¹³ The subjects included the efficacy and legal validity of the statute of mortuaries, which had been enacted in 1529 ; the question of lay property passing into mortmain ; the extent of parliament's jurisdiction over appropriated benefices and sanctuaries ; the rights disputed between church and state regarding trees and grass in churchyards ; the issues of clerical apparel and dilapidations ; the matter of parliament's right on behalf of

Englishmen to validate the 'true' incumbent of the papacy in case of schism ; parliament's right to enforce strict observation of catholic liturgical worship on idle or slovenly priests, together with its power to demand mutual respect and good relations between clergy and laity ; parliament's power to regulate admissions to the priesthood and religious life ; its right to control shrines, pilgrimages and the investigation of miracles to eliminate clerical rackets, profiteering and superstition ; its power to dictate the assignment of tithes and to oversee the conduct of ecclesiastical visitations -- and so on. Debating the pros and cons in *New Additions*, St. German was distinctly in favour of unilateral reforming action on the part of the state against the church in the name of efficiency and good government. Furthermore, almost all the issues raised in *New Additions* were constructively tackled in St. German's parliamentary draft along unilateral lines : there can be no shadow of doubt that Christopher St. German was at work in 1531 on a programme of parliamentary reform and propaganda designed to purchase peace between church and state at the expense of the clergy's traditional privileges and jurisdictional independence, and for the benefit of the Crown and laity, who were now to control virtually the whole gamut of ecclesiastical functions save the purely sacramental life of the Roman church.

Furthermore, St. German had more than a foot on the greasy pole in 1531, because the special reason that made him such an asset to Henry VIII and his advisers was that he had shed light upon the most intractable problem of the day, namely the divorce issue. For *New Additions* did not only promote the cause of those unilateral reforms which St. German desired by statute, it also addressed itself to the fundamental question of statutory competence in the situation of 1530 to 1532, the question that alone blocked immediate action on the divorce at that time. For until May 1532, the schemes of Henry VIII's men were directed to a divorce pronounced by an archbishop or committee of bishops, and enforced throughout the realm by act of parliament.¹⁴ The one obstacle was, could parliament lawfully legislate in defiance of papal anathema and Roman custom ? What were the boundaries of parliament's power ? St. German's *New Additions* formulated a succession of arguments in favour of the omnicompetence of statute, the most robust of which was that the king-in-parliament was 'the high sovereign over the people, which hath not only charge on the bodies, but also on the souls of his subjects.'¹⁵ Despite, then, Professor Elton's claims for the revolutionary mind and thought of Thomas Cromwell, it was Christopher St. German who, two years before the act of appeals, and three before the supremacy act, was the first Englishman to articulate the

theory of the sovereignty of the king-in-parliament -- the theory that erected the English Reformation and that has subsequently prevailed, save during the eleven years of the English Republic and Cromwellian Protectorate.

Yet the most devastating aspect of St. German's work, from the point of view of the English church, sprang from the *general* theory enshrined in the dialogues known as *Doctor and Student*. Any man could argue, assert or propose, but could such views prevail against centuries of Roman tradition or English custom? St. German was a dangerous man, because between 1528 and 1530 he had, in *Doctor and Student*, constructed a brilliant, comprehensive and *systematic* theory of law within an English context, something miles ahead of a mere amalgam of separate theories or proposals. In short, he did for English law what, a generation or so later, John Jewel and Richard Hooker did for the Anglican church. Within St. German's framework, the universal laws of God and Nature were shown to be rationally antecedent to, and harmoniously co-existent with, native English common law (the law of man) and good conscience (equity), despite the fact that conscience, as derived from natural reason and moral calculation, might speak directly contrary to individual rules of common law in specific instances. The key to St. German's theory was that equitable interventions in the name of good conscience, which were sometimes necessary to mitigate the rigour of common law, were designed to reinforce, not to contradict, existing legal principles. General rules of law could not be expected automatically to take cognisance of every particular human situation, but since positive human law had always *originated* from the laws of God and Nature, it could never be discarded or discounted, but must, in difficult cases, be interpreted in accordance with the presumed intention of the legislator. Normally, this added element of flexibility, when applied to such difficult cases, could avert any obvious injustice to particular individuals, although (at worst) St. German conceded that equity must never be allowed to overrule or nullify an accepted maxim of law, even if manifest injustice might result.

The effect of St. German's theory was twofold. It created the impression that English law was an homogeneous *corpus*, the pervasive logic of which was to produce similar results in similar situations or types of case, and it enhanced vastly the status of English common law with regard to other species of law, especially canon and papal law. It was a radical feature of St. German's thought that it showed no greater, or less, favour to clergy or laity under the law, a position bolstered by

his ancillary account of the historical origins of property rights. According to the first dialogue of *Doctor and Student*, private property was an institution of human convenience, probably introduced by Nimrod at a time when the world's population had increased to the point where common possession was no longer practicable. It followed that property *was not a divine institution*, and property rights were firmly vested by St. German within the temporal sphere of jurisdiction, where they were subject to regulation by the law of man. In his second dialogue, St. German led his doctor of divinity and student of common law into debate upon a series of test cases, the purpose of which was to demonstrate that there were few, if any, areas of ecclesiastical activity, beyond the exercise of purely sacramental functions, which did not in some sense touch property rights. Yet, in St. German's thought, property rights were subject to *human positive law*, the law of the state. For example, it pertained to the church to have the probate and execution of wills, but the church was barred from deciding such issues as the lawful age of majority for the purposes of inheritance. The goods of convicted heretics were temporal property, as it was claimed, 'and belong to the judgment of the king's court'. Thirdly, covenants made upon gifts of property to churches should be strictly enforceable in both law and conscience; general rules of property law were involved, and such points 'must of necessity be judged after the rules and grounds of the law of the realm [that is, common law] and after no other law'. Whenever the church made laws pertaining to men's goods or property, men were not obliged to observe those laws, for two reasons: first, the ecclesiastical arm in such cases was no better than another human legislator who had exceeded his authority; and secondly because, where property rights were at stake, the church 'may err and be deceived and deceive other, either for singularity or for covetise, or for some other cause'. St. German exhorted common lawyers to prepare systematic studies of the ecclesiastical laws and Roman canons, to know 'when the law of the church must be followed and when the law of the realm'. But such inquiries, if undertaken on the basis of St. German's terms of reference, nudged English common law inexorably towards the apex of the jurisprudential pyramid, because St. German had resolved the sixteenth-century conflict of laws in favour of English common law and statute, and had simultaneously erected common law as the species of law which should properly govern the consciences of Englishmen in matters of equity.¹⁶

The issues debated by More and St. German between 1532 and 1534 sprang from St. German's general proposition in *Doctor and Stu-*

dent that no greater, or less, favour should be shown to clergy or laity under the law. St. German's *Treatise concerning the Division* set out to show why grudges and division had arisen between clergy and laity over the years, and what reforms were required to restore unity and harmonious relations between church and state.¹⁷ More's *Apology*, in fact, disputed the existence of widespread division between church and state, and depicted St. German as an *agent provocateur*; the main point, though, was More's categorical rejection of the *Division*'s premise that the law under which clergy and laity were to be equal was English common law and statute except where the clergy could prove that an ecclesiastical law rested expressly on the law of God. The validity of that premise was witnessed by the following arguments from the *Division*: that the church had historically made laws in its own interests which exceeded its powers; that these laws were in the nature of a conspiracy against the laity; that the clergy had exempted themselves from trial in the English courts of common law, to the detriment of clerical discipline; that *ex officio* proceedings in church courts in cases of alleged heresy were unfair, vexatious and contrary to natural justice, because accused persons were denied their normal common-law rights; and, finally, that the clergy used church courts to enforce clerical obligations on the laity in the matters of offerings, tithes, mortuaries, probate fees, etc., when they had no lawful authority to touch rights of property, which were temporal matters subject to the exclusive jurisdiction of the state and royal courts.

More cast his *Apology* as an attack on protestant theology and its assumptions, a justification of his own campaign against protestant writers and books as lord chancellor, and as 'a defence of the very good old and long-approved laws, both of this realm and of the whole corps of Christendom', which laws the author of the *Division*, as More claimed, 'to the encouraging of heretics and peril of the catholic faith with warm words and cold reasons oppugneth'.¹⁸ We shall focus here on the last of More's declared aims. He tackled first St. German's accusation that the clergy adhered to canon law above the law of the realm, notably in proprietorial and disciplinary matters. More thought that this charge simply reflected St. German's bad faith. He pointed out that canon law was the common law of Christendom: the specific laws which St. German had singled out for criticism were, in fact, obeyed and observed, without resistance or objection, throughout Europe, and the heresy laws, in particular, had been ratified by temporal and spiritual arms alike for generations. It was the heretics who feared those laws. The

ecclesiastical laws had been made in councils and synods with the assistance of the Holy Spirit, who, according to Christ's own promise, was as much present and was of such assistance as in the time of the Apostles. More held that Christians ought to receive laws made by such authority without grudge or arguments. And if a provincial council erred, there were ways to make amends. Furthermore, if the clergy occasionally interpreted canon law partially against the laity, did not laymen also sometimes pursue their own interests in executing common law? The discovery of one black sheep did not entitle St. German to condemn the entire English clergy as corrupt or vainglorious. When there had been one traitor among the twelve Apostles, why did he expect a perfect clergy? The English clergy were, in More's opinion, as effective and well-disciplined as any in Europe -- a finding certainly endorsed by modern ecclesiastical historians. Far from St. German's goals being the right ones, then, the most efficacious route to peace, unity and harmony between temporality and spirituality was for the two estates to forge an alliance to extirpate protestants and heretics from church, state and society. The true faith, as practised for over a thousand years, would thus be liberated from such controversies and disputes as those currently being engineered by St. German.

Concerning *ex officio* procedure in heresy cases in spiritual courts, More branded heresy as a crime *simpliciter*; heretics were traitors to God. If the existing ecclesiastical system was altered to permit the admission of common-law rules of accusation and evidence, the streets 'were likely to swarm full of heretics before that right few were accused, or peradventure any one either' (*CW9*, p. 130/29-31). Hearsay evidence was necessarily admissible, and More asserted that it was in practice in the royal courts, too, in cases of felony and corruption of justice -- this, said the ex-chancellor, had been his personal experience. Admittedly the canon law permitted trial of heresy on suspicion without any witnesses at all, in which case a man might be put to his purgation and to penance without clear proof one way or the other, as had sometimes happened. But that law, noted More, had been made by a general council of the church; did St. German deny the authority of general councils? In an extended treatment, More next subjected canon and common law to a precise investigation in order to prove that, if St. German's opinion of natural justice was to be given full credence, English common law and statute would have to be revised as much as, or more than, ecclesiastical law. Yet More's ultimate argument was the one founded on enforcement. He concluded this section of his *Apology*, as he had begun, by

observing that in every session of gaol delivery and in every court leet throughout the realm, the first charge given to the jury was to enquire of heresy. And despite this, a mere five or so presentments for heresy had resulted in a fifteen-year period. If *ex officio* procedure was to be disrupted even marginally, heresy would increase and multiply. The Catholic faith would be subverted, with the result that mankind would be faced with the vicissitudes and misfortunes that sprang from God's vengeance.¹⁹

Finally, More attacked St. German's propositions that ecclesiastical law was in the nature of a clerical conspiracy against the laity, and that the English clergy had exempted themselves deliberately from due process in the courts of common law. He re-emphasized that the main body of ecclesiastical law was not English provincial law, but the common law of Christendom, the making of which might not easily be laid at the door of the English clergy, so that it was even more unfair to blame English clerics for the substance of canon law than it was to criticise them for obeying and executing it. In any case, provincial canons, even supposing that these were numerous, were not made at 'confederacies' of clergy; they had been the business of synods lawfully instituted and recognized throughout Christendom since the time of the late Roman emperors. In England, moreover, convocations were invariably summoned by royal writ, hence it was untrue to claim, as St. German did, that they and their membership formed a law unto themselves. More ended this passage on a note of comprehensible humour. Provincial assemblies, as he had heard, were committees to be avoided at all costs by prospective members: 'For I could never wit them yet assemble for any great winning but come up to their travail, labour, cost and pain, and tarry and talk, etcetera, and so get them home again' (*CW9*, p. 145/9-12).

But it was More's occasional tendency in his *Apology* to dismiss his opponent's arguments humorously or with a quibble that helped provoke St. German into launching the counter-offensive which was *Salem and Bizance*. It is, too, a tribute to the overwhelming intellectual achievement of *Doctor and Student* that More's case that canon law was the common law of Christendom no longer carried immediate conviction in this dispute. For St. German had *already* conditioned his readers, and More's, to the *a priori* notion, as it would have appeared to More, that similar sorts of situations and types of legal case should result in similar solutions, whether or not these matters were adjudicated before royal or ecclesiastical courts. One law or the other had to give, and in St. German's system that was canon law. Yet *Salem and*

Bizance pressed home with greatest force St. German's arguments on heresy and heresy trials in England.²⁰ After a preliminary sortie against More's use of terminology and definitions, St. German noted that previous discussion had admitted the possibility that heresy trials could take place without the benefit of witnesses. But how could such trials ever have begun, if a man's heresy was a secret in his own breast? The supposed 'heretic' must have been denounced or accused by someone, and if that accuser would not appear in court, then the original accusation was probably malicious. St. German had already proposed that accusations of heresy should be channelled centrally through the King's Council, which would assume the role of initial investigator before passing cases back to the bishops for judgement. His idea was in the interests of natural justice, uniformity of practice and fairness to accused persons as against malicious accusers, but More had rejected it out of hand. Indeed, he had rejected it twice, once when proposed in St. German's *Treatise concerning the Division*, and once when St. German had included the idea as suitable for enactment in his parliamentary draft of 1531.²¹ St. German was adamant that it was necessary to protect defendants from spiteful, vexatious and unsubstantiated charges; he believed More's contrary stand to be irrational, unreasonable and illegal, designed to prop up an ailing ecclesiastical procedure that overtly incited rumour, rancour and malice in society.

Turning to More's comparison of the admissibility of evidence in heresy cases in church courts with that in cases of felony and corruption of justice in common-law courts, St. German now claimed to have found flaws in More's knowledge of legal practice at grass-roots level. Persons arrested for felony on suspicion were never arraigned on that arrest prior to proclamation made that evidence be laid, and if no evidence was forthcoming, the prisoner was delivered out of prison without fine or other punishment, even if he were bound over. By contrast, persons accused of heresy were obliged to make purgation on suspicion, nor were they permitted oath-helpers. The worst that could happen to suspects at common law, or even in Star Chamber, was thus far less than under canonical procedure, namely that they would be temporarily imprisoned, bound over and then released, unless public accusation was made. St. German noted that, where More had alleged that accusers upon juries of presentment at common-law sessions were not accustomed to reveal the names of their sources of information, this was because jurors could not be bound to help the party to his writ of conspiracy. Furthermore, the accusers themselves appeared in public, and judges did not proceed *ex officio* at common law. More had quipped

that he would rather trust the truth of one judge than of two juries, but that was skating on excessively thin ice, as St. German thought : 'it is not the manner of the judges to lay untruth upon a jury, nor yet to commend them that do it, but it be proved before them of record after the order of the law' (*Salem and Bizance*, sig. G5V). As a former lord chancellor More should have known better.

In the second part of his *Debellation of Salem and Bizance*, More focused the full intensity of his intellectual searchlight on St. German's case against *ex officio* proceedings in church courts.²² He had truly perceived that St. German laboured 'to bring the spiritual judges in suspicion and obloquy, and make the people ween that they marvellously did with much wrong and cruelty mishandle men for heresy'. (*The Debellation*, sig. A1-A1V). To rebut the first of St. German's points, More argued that a man might be a witness of heresy, but not a denouncer. For several persons might have relevant knowledge of heresy which could be combined to effect proof, when each individual's knowledge was insufficient in itself to convict. *Ex officio* accusation made provision for that situation, which, if it were not covered, would expose souls to the teaching of 'perilous heretics'. Secondly, it was mere conjecture on St. German's part that evidence obtained secretly was malicious ; if it was indeed secret, the extent of its malicious ingredient could not adequately be calculated by outsiders. Moving on to St. German's proposal for centrally-based heresy investigations co-ordinated by the King's Council, More announced, thirdly, that his position had been misunderstood by his opponent : it was quite right that the Council should do all in its power to assail heresy, to which end the law officers from the lord chancellor downwards were bound by their oaths of office ; More's point was that this conciliar-based procedure should not be enacted as law, either to supplement or replace the due process of the bishops. The reason was that canonical procedure, based on the law of the church, which was the common law of Christendom, had been carefully devised with reference to countries other than England. Was there a King's Council in all the territories of Christendom ? Not so, especially in Germany, applied to which St. German's idea would be singularly inappropriate.

More tackled next St. German's example of the person accused of heresy *ex officio* without witnesses, who was driven to his purgation and penance without a clear-cut case being proved one way or the other against him. According to More, such a man was well, not harshly, treated, because if he could not clear his name when given the opportunity,

but seemed to observers so like a heretic that they could not positively reject the possibility that he was indeed such, then his conviction for heresy was good enough justice. Finally, More returned to the comparison between the respective procedures of canon law and common law with regard to arrests on suspicion, accusations and rules of evidence. He noted that St. German's purported vindication of common-law procedure was irrelevant to the controversy, for failing to address the true point at issue, which was whether or not more people were wrongly convicted on suspicion of heresy than on suspicion of felony. Whether or not people were delivered from gaol by proclamation, or whether those indicted knew the names of their accusers -- these were questions far removed from the key issue of conviction of innocents. Yet taking St. German's arguments on their merits, More held that, in any case, canonical purgation and common-law accusatory procedures gave those accused persons who were subsequently discharged equal warning and 'a good lesson' for the future. (We should observe that More's automatic assumption was 'No smoke without fire !')

This survey has provided a mere outline of More's *Apology* and *Debellation*, but the time has come to begin stocktaking. My chief concern is to identify what Henry VIII believed to have been More's breach of trust between 1532 and 1534.

More's literary battle with St. German was a *cause célèbre*, a public conflict waged by intellectual titans ; it was akin to a major political confrontation in a national daily newspaper. Above all Christopher St. German had been within Henry VIII's counsels in 1531 when he wrote *New Additions* and drafted his parliamentary programme of reform in the same year. He was the first exponent of the Herrician theory of the sovereignty of the king-in-parliament. It is true that his star waned after 1532, when the decision was taken not to seek an annulment of the king's marriage to Catherine of Aragon under the direct authority of an act of parliament. It is equally plain that St. German was no intellectual puppet, no sordid slave of the propaganda machine of Henry VIII and Thomas Cromwell. I have argued elsewhere that his status in the 1530s was that of an independent scholar in touch with, but not a pensioner of, the government of Henry VIII -- there is a considerable weight of evidence in favour of that view.²³ Nevertheless, it is important to notice one indisputable fact : his entire literary output of the period 1531-4, from *New Additions* to *The Additions of Salem and Bizance* was published by the king's printer, Thomas Berthelet. We know that the bulk of Berthelet's work as king's printer was material

passed to his press by the government, and the suspicion is overwhelming that St. German's *New Additions*, his *Treatise concerning the Division, Salem and Bizance* and its *Additions* had been adopted as part of the secondary line of official propaganda justifying and exploring the nature of the Henrician revolution that the king and his advisers put out in the 1530s. Despite Professor Elton's assertion that none of St. German's books was published by Berthelet, and that his writings thus have no relevance to a discussion of official propaganda, Berthelet, in fact, printed three editions of *New Additions*, four of the *Treatise concerning the Division*, and one each of *Salem and Bizance* and its *Additions*.²⁴ The evidence of such extensive patronage by the king's printer cannot be ignored or discounted. In attacking St. German with such relentless zeal, Thomas More was not merely nourishing his soul as a private citizen in prayer and meditation at Chelsea -- he was confuting the king's propaganda.

And lest this opinion should invite scepticism, I propose a brief excursion into the technicalities of my case, in order to demonstrate the full chain of proof. It may be asked, first, why did More wait for the *Treatise concerning the Division* in order publicly to assail St. German, when he might already have replied to *New Additions*, which, as I have described it, was a truly subversive tract from More's point of view? Secondly, why did More pretend, as he did in his *Apology* and *Debellation*, not to know the identity of his opponent, devising an elaborate charade by which that anonymous writer was characterised as an obscure country priest dubbed 'The Pacifier' and 'Sir John Some-say'. It should be said immediately that St. German always wrote anonymously, a habit which has led modern scholars into difficulties. But this anonymity created no problems for St. German's contemporaries. It was common knowledge in Chancery Lane and at the inns of courts that he had written *Doctor and Student*, as John Bale knew. But *New Additions* was published by Berthelet as an appendix to *Doctor and Student*, as its title-page made clear. Next, the *Treatise concerning the Division* shared a manifest common origin with *New Additions*: the ideas, assumptions, definitions and proposals, the list of clerical abuses and purported quotations from 'John Gerson', the hypothetical cases and examples, even the prose style and sentence structure -- all these are the same in the two books, for St. German was a repetitious man. Moreover, we know that *Salem and Bizance* and its *Additions* were by the same author as the *Division*, for all these books were St. German's side of the controversy with More. Yet *New Additions* and the *Division* were also linked to St.

German's parliamentary reform programme of 1531 -- his comprehensive scheme for the entire progress of the Henrician Reformation prior to the Submission of the Clergy.²⁵ St. German's programme included the preparation of an English New Testament, the reform of procedures for the investigation of heresy, the rigorous enforcement of Catholic liturgical worship, the abolition of clerical abuses and alleged profiteering, and the amelioration of poverty and social distress by secularized schemes of state roadworks, wage and price regulation, and local taxation. The parliamentary draft is extant in the Public Record Office, where it is corrected by St. German after the fashion of an author in full charge of his text. His handwriting has been identified, in turn, by comparison with his holograph letter of 1539 to Thomas Cromwell and the original manuscript of his *Little Treatise concerning Writs of Subpoena*.²⁶ It is clear that the 'St. German' who wrote these papers is our man, because his letter to Cromwell takes up family matters residual both to other legal documents concerning St. German, and to his will, while the *Little Treatise concerning Writs of Subpoena* was another supplement to *Doctor and Student*.

If, however, St. German wrote the parliamentary draft and the related *New Additions* and *Treatise concerning the Division*, we can no longer continue to suppose that More was ignorant of his true identity when he composed his *Apology* and *Debellation*. For More had been lord chancellor and chairman of Henry VIII's Council in Star Chamber when St. German published *New Additions* and prepared his parliamentary draft. The King's Council was responsible for managing government policy in Parliament. It stretches credulity too far to assume that anyone could seriously have drafted parliamentary legislation in 1531 without the knowledge, though not necessarily with the personal approval, of the lord chancellor. But the man who prepared the parliamentary draft wrote *New Additions*, the *Treatise concerning the Division*, *Salem* and its *Additions*. And there is further evidence that More knew his opponent's identity. At the opening of the *Debellation*, he describes his adversary as by reputation 'one greate cunnyng man', whose handwriting is 'nere to gyther and with a smale hande': this is a perfect picture of the compact lines and minute characters of the hand of Christopher St. German.²⁷ We have to conclude that More's reference, given the other evidence, is a hidden clue to inform posterity of his true knowledge of his opponent.

Manifestly, however, More could not have refuted St. German in 1531 while he remained lord chancellor. As a king's councillor and offi-

cer of state, he was bound on oath not to subvert government policy, however much he might have disliked that policy personally. In fact, none of St. German's actual proposals became translated into official government measures before the Submission of the Clergy (May 1532) -- this may even testify to More's activity behind the scenes. Yet St. German's initial lack of impact cannot alter the fact that he had enjoyed Henry VIII's confidence when his parliamentary draft was conceived, and when his books were passed to Berthelet for printing. When More resigned in May 1532, he promised not to meddle in affairs of state, but to fortify his soul, and to pray for king and realm. His personal safety depended on that resolution. However, when the *Treatise concerning the Division* was published, More dared to intervene. St. German was a dangerous man; More held it to be his Catholic (and public) duty to refute the *Division's* arguments. Thus the controversy began. In political exile, More believed he might answer St. German provided he was circumspect. But discretion demanded that he should profess ignorance of his 'anonymous' adversary's identity in his *Apology* and *Debellation*. By this method, he could conscientiously maintain ignorance of the fact, too, that the *Division* and *Salem* were published with express government approval. In short, More could defend himself from a charge of meddling in politics after his resignation, while his depiction of St. German as a misguided, rustic cleric in the *Apology* and *Debellation* added a note of irreverent humour that enhanced More's polemical position.

On its merits, More's device was indeed legally watertight; his profession of ignorance as to St. German's true identity was justified by the strict rules of English law. In law, a man could only 'know' what had been certified to him directly, either verbally before witnesses or in writing. He 'knew' no more nor less. Since More had left the Council and withdrawn to Chelsea in May 1532, he could 'know' thereafter only rumours or conjectures concerning St. German's role in government policy, or regarding Berthelet's printing work. London gossip was not legal 'knowledge', failing authorized information. More's technical position was strong in 1533. Yet politics and coercion sometimes overtook law and morality in the revolutionary situation of the 1530s. In particular, Henry VIII's emotional fear of Catholic counter-offensive against his government's propaganda on divorce and schism in mid-1533 is well documented by the quest for intelligence. Thomas Cromwell sent his servant Stephen Vaughan to Antwerp in early August 1533 to gain news of the underground press.²⁸ Vaughan's report confirmed pre-

vious suspicions that at least one of Bishop Fisher's seven tracts against the divorce had reached Antwerp via Friars Peto and Elstow, 'beyng the only men that have and do taken upon them to be conveyers of the same bookes into Englonde, and conveyers of all other thinges into and out of Englonde.' Vaughan urged that, 'If pryvey serche be made and shortly, peradventure in the howse of the same Busshop shalbe founde his first copie.' With reference to More, he continued: 'Maister More hath sent often tymes, and lately, bookes unto Peto in Andwerp, as his book of the confutation of Tyndale, and Frythe his opynyon of the sacrament, with dyvers other bookes. I can no further lern of More his practises, but if yow consider this well, yow may perchance espye his craft.' Although More had committed no offence in his literary defence of the Catholic cause, he was suddenly under investigation.

Cromwell knew well enough that his servant had axes to grind. Nevertheless, Vaughan's report was only marginally edited by Cromwell upon receipt in England. The editor of the *State Papers* thought that a copy was prepared for Henry's eyes -- it certainly looks from Cromwell's amendments to Vaughan's original as if such a copy was made for the king or Council. If so, a misleading impression was given. For Vaughan's principal informant was none other than George Joye, Protestant author of *The Supper of the Lord* -- hardly an impartial observer of the Catholic underground. Joye's name was deleted by Cromwell throughout the report in favour of the words 'oon whoo'. Otherwise, Vaughan's 'intelligence' was communicated virtually intact.

Since Vaughan had so exaggerated the danger in mid-1533, it was hardly surprising that fears were aroused of active Catholic conspiracy. In January 1534, Cromwell personally interviewed William Rastell, More's publisher, to investigate a rumour that More had written a reply to the *Articles devised by the Whole Consent of the King's Most Honourable Council*, published by Berthelet in late December 1533 and distributed at Court two days after Christmas.²⁹ The *Articles* were a piece of front-line official propaganda, probably devised at a Council meeting on 2 December. They defended the divorce, denounced Clement VII's excommunication of Henry VIII, asserted that the pope had no more authority than any other bishop *extra provinciam* [outside his own diocese], and accused him of heresy for denying the decree *Sacro-sancta* of the Council of Constance (1415). Copies were quickly nailed up in London and throughout the realm: it was the most extensive exercise in public persuasion since Henry's marriage to Catherine of Aragon had been annulled by Cranmer at Dunstable. The harvest had been abundant in 1533, and the threat of popular disorder was thereby redu-

ced -- even so the Council was taking no chances. For its greatest worry since at least the beginning of 1532 had been that England would be subjected to papal interdict, and that this would fuel co-ordinated Catholic resistance.

Hearing of Cromwell's visit to Rastell, More sent the minister a letter on 1 February 1534, informing him that he had written nothing since the *Articles* appeared in print. His latest work, *Answer to the Poisoned Book*, was already on sale. Yet he had read the *Articles*, 'once over and never more'. In some matters he knew not the law, in others the facts, thus he would not presume to answer the tract whoever had written it. More continued :

And then while the matter partained vnto the Kinges Highnes, and the boke professteth openly that it was made by hys honorable Counsaile, and by them put in print with his Graces licens obtained therunto, I verely trust in good faith that of your good mind toward me, though I neuer wrote you worde thereof, your selfe will both think and say so much for me, that it were a thing far vnlikely, that an answer shold be made therunto bi me ... Yet suerly if it shold happen any boke to come abrode in the name of hys Grace or hys honorable Counsaile, if the boke to me semed such as my selfe would not haue giuen mine owne aduise to the making, yet I know my bounden duety, to bere more honour to my prince, and more reuerence to his honorable Counsaile, than that it coulede become me for many causes, to make an aunswere vnto such a boke, or to counsaile and aduise any man els to do it.³⁰

Here More offered a statement of principle. He affirmed the distinction between books published 'openly' in the name of king or Council and other literature. His duty as a subject precluded his making answer to the king's propaganda.

The trouble was that, by answering the *Treatise concerning the Division and Salem*, More had already rebutted Henry's propaganda in the eyes of the regime. More and the government were now applying different definitions. Whether its propaganda was 'openly' declared as such on its title-page was manifestly irrelevant to the Council in the wake of the schism. More relied, too, on the 'anonymity' of St. German and his lack of strict legal 'knowledge' of what the Council passed to Berthelet's press at a time when Henry VIII had started to feel haunted by the Catholic underground. Some form of collision was inevitable.

On 21 February 1534, the bill of attainder against Elizabeth Barton, the so-called Holy Maid or Nun of Kent, was laid before the House

of Lords. Fisher and More, the latter at Henry VIII's own insistence, were named among those who 'by the act shalbe atteynted of mysprision and have imprisonment at the kynges will and lose all their goodes'. More's name was eventually deleted -- the accusation was a sham. Yet why had Henry's affection for his former chancellor -- visible even at York Place in May 1532 -- turned to malice and hatred a month before the First Act of Succession was on the statute book? The reason was in part that More had refused to attend Anne Boleyn's coronation the previous June. But it must in part, too, have reflected Henry's current mental association of More and Fisher as equal partners in the Catholic press campaign against 'his' jurisdictional revolution. Nowhere was the juridical aspect of the Henrician schism better defended than in those books of Christopher St. German which were printed by Berthelet. Since we must evaluate the *Division* and *Salem* as components of the king's secondary line of propaganda, More's *Apology* and *Debellation* gain political significance. However More perceived his position in law and morality during 1533, Henry VIII believed that his ex-chancellor had broken his trust. Within the volcanic recesses of the king's consciousness, Thomas More's mere existence came to pose an intolerable threat.

13 Woodland Road
Bristol BS8 1TB

John GUY
Department of History

NOTES

1. J.A. Guy, *The Public Career of Sir Thomas More* (New Haven and Brighton, 1980), pp. 200-01.
2. *The Correspondence of Sir Thomas More*, ed. Elizabeth F. Rogers (Princeton, 1947), pp. 488-89 (no. 198). Quotations in this paper are given in modernised spelling, except for some vital quotes towards the end where the original spelling is retained.
3. *Correspondence*, ed. Rogers, p. 489.
4. *The Apology*, ed. J.B. Trapp, is vol. 9 of *The Yale Edition of the Complete Works of St. Thomas More* (New Haven and London, 1963 -). *The Debellation of Salem and Bizance* is forthcoming as vol. 10 of *The Yale Edition*.

5. *Correspondence*, ed. Rogers, p. 468 (no. 194).
6. *A Treatise concerning the Division* is reprinted as appendix A in Trapp's edition of More's *Apology* (CW9).
7. *Salem and Bizance* will be reprinted as appendix A in CW10.
8. These are J.B. Trapp's explanations (CW9, p. lii, note 1), upon which I cannot improve. He prefers the second explanation because *Salem and Bizance* expressly considers a crusade. The second explanation is reinforced by St. German's appeal to English apocalyptic feeling in chaps. 22 and 23 of *Salem and Bizance*: he calculates the number of the Beast and prophesies the destruction of Islam.
9. CW10 will include an historical introduction by the present writer, together with a textual introduction by Clarence H. Miller.
10. Quotations from More's preface to *The Debellation*; in the glossary of CW8, « breyde » is translated by « outburst. »
11. For St. German's biography, see J.A. Guy, *Christopher St. German on Chancery and Statute* (London, Selden Society, Supplementary series, in the press).
12. *Doctor and Student*, ed. T.F.T. Plucknett and J.L. Barton (London, Selden Society, 1974).
13. *New Additions* is reprinted as an appendix to the Selden Society edition of *Doctor and Student* cited above, pp. 315-40.
14. See Guy, *The Public Career of Sir Thomas More*, chaps. 7-9.
15. Plucknett and Barton, p. 327.
16. Further discussion will be found in Guy, *Christopher St. German on Chancery and Statute*.
17. See More's *Apology*, CW9, appendix A.
18. Quotation from *The Debellation*, sig. B1^v (1533 ed.).
19. More repeated these arguments in his *Debellation*, where he defends himself from St. German's criticisms in *Salem and Bizance*.
20. See especially chaps. 15 and 16 of *Salem and Bizance*.

21. The parliamentary draft, S.P. 6/7, art. 14 (*Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII*, ed. J.S. Brewer et al., London, 1862-1932, vol. 5, no. 50), is held at the Public Record Office, London. It will be printed in full in my *Christopher St. German on Chancery and Statute*.
22. The most impressive chapter of *The Debellation* is the fifteenth, the first chapter in part two of the book; it refutes chap. 15 of *Salem and Bizance*. This is the passage that defends *ex officio* proceedings in church courts in cases of suspected heresy. One does not have to agree with More's case to be struck by the power of his argument.
23. The matter is discussed in my *Christopher St. German on Chancery and Statute*.
24. *A Short-Title Catalogue of Books Printed in England, Scotland and Ireland, and of English Books Printed Abroad*. Second edition by W.A. Jackson, F.S. Ferguson, and K.F. Pantzer (London, 1976-), vol. 2, nos. 21563-4, 21587-7.7, 21584, 21585.
25. See above, note 21.
26. For all this see my *Christopher St. German on Chancery and Statute*. It is hoped that CW10 will contain illustrations of St. German's handwriting.
27. Quotation from More's preface to *The Debellation*.
28. *State Papers during the Reign of Henry VIII*, Record Commission, 5 parts in 11 vols. (London, 1831-52), part 5, no. 372.
29. *Correspondence*, ed. Rogers, pp. 467-68 (no. 194); *Letters and Papers*, vol. 6, no. 1571; the *Articles* is reprinted in *Records of the Reformation: the Divorce, 1527-1533*, ed. Nicholas Pocock, 2 vols. (Oxford, 1870), 2, 524-31.
30. *Correspondence*, ed. Rogers, pp. 468-69 (no. 194).

• Spring 1983.

R.Q. (XXXVI, 1) is firmly under the sign of Florence: Marsilio Ficino, between P.O. Kristeller's article and book review, claims 50 pages; other Italians are A. Poliziano and T. Campanella, of whose *City of the Sun* (as Englished by Daniel J. Donno) Charles Trinkaus writes: « It makes this text widely available and invites the now more easy comparison with Thomas More's *Utopia*. » More is of course present in several of the books reviewed here, like the *Richard III* of Charles Ross, and the two books by A. Godin -- monograph and thesis. And he is central to Alistair Fox's study and Brian Gogan's thesis also reviewed.