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Cornelis Augustijn, Amsterdam – Jean Delumeau, Paris – Miriam Usher Chrisman, Northampton/Mass. – Geoffrey R. Elton, Cambridge – Michael Erbe, Berlin – Heinold Fast, Emden – Leif Grane, København – Hans R. Guggisberg, Basel – Erich Hassinger, Freiburg/Br. – Hans J. Hillerbrand, Dallas/Texas – Robert M. Kingdon, Madison/Wisconsin – Bernd Moeller, Göttingen – Heiko A. Oberman, Tübingen – Steven E. Ozment, Cambridge/Mass. – Francis Rapp, Strasbourg – Heinz Scheible, Heidelberg – Paul S. Seaver, Palo Alto/Calif. – Giorgio Spini, Firenze – Lewis W. Spitz, Stanford/Calif. – James M. Stayer, Kingston/Ont. – David C. Steinmetz, Durham/N.C. – Gerald Strauss, Bloomington/Ind. – Robert C. Walton, Münster (Westf.)

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Melchior von Meckau: A Missing Link in the Eck Zins-Disputes of 1514–1516?*

By Lawrence G. Duggan

In the years 1514, 1515, and 1516 Johannes Eck defended in Augsburg, Ingolstadt, Bologna, and Vienna a number of theses concerning the taking of interest. In a sense this was nothing new, for theologians and canonists had wrestled with various forms of the problem since the thirteenth century, when the church had extended the Biblical prohibition on usury to cover the laity precisely at the same time that the rapidly developing economy of Europe required the creation of acceptable forms of money-lending by Christians. Annuities, property gages, bills of exchange, the *census* or rents, the sale of offices, tax-farming, discretionary deposits – these and other modes of *de facto* lending evolved in the later Middle Ages to satisfy these needs, proved within carefully defined limits acceptable to the overwhelming majority of churchmen, and were technically enforceable at law. In fifteenth-century Germany the *census* dominated the market, and ecclesiastical thinkers and administrators were then preoccupied with such questions as whether the buyer of the rent (or creditor) had the right to cancel the arrangement or whether the seller of the rent (or debtor) might redeem the rent in parts rather than as a single whole. By the time Eck entered upon his academic career, Scholastic thinking on such subjects was complex, mature, and influential on the course of economic development. Then, as now, the Scholastics were damned no matter what they did, sometimes for creating “casuistical” solutions for a problem defined by Scripture, sometimes for raising annoying obstacles to the presumably inexorable advance of modern business techniques.¹

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1. Note the tone in the following typical sentence in Götz Freiherr von Pölnitz: *Jakob Fugger, Kaiser, Kirche und Kapital in der oberdeutschen Renaissance* (Tübingen, 1949) I, 313: “Jene romanische Eleganz, die über Schwierigkeiten, die man nicht wahrhaben durfte, hinwegglitt und sich aus Lebensvernunft mit Übelständen als Gegebenheiten menschlichen Daseins ohne die schwerblütige Problematik nordischer Menschen abfand, war den deutschen Predigern und Gelehrten nicht gegeben.” By contrast, if one did not know better, one might infer from the following judgment of Heiko Augustinus Oberman: *Werden und Wertung der Reformation. Vom Wegestreit zum Glaubenskampf* (2nd ed., Tübingen, 1979), pp. 186–87, concerning the church’s failure to approve the *contractus trinus* in the early sixteenth century that the church has no choice except to accept and rationalize current

What Eck sought to defend was the so-called *contractus trinus* or triple contract, according to which an investor in a business undertaking voluntarily renounced whatever share of the profits to which he might be entitled in return for a fixed return of five per cent. Although the triple contract resembled a combination of a partnership with a rent (on which, in fact, the prevailing rate of return in southern Germany for most of the fifteenth century had been five per cent), it more precisely involved the application of insurance to a business contract.² This agreement effectively undermined two of the principal conditions on which the licitness of money-lending arrangements had depended in traditional Scholastic thinking, i.e. the element of risk and the absence of a predetermined rate of profit. Nevertheless, the validity of this kind of contract was accepted with qualifications by some notable thinkers, including Angelus de Clavasio, Gabriel Biel, Conrad Summenhart, and Cardinal Cajetan.³

Angelus Carletus de Clavasio (Angelo da Chivasso), vicar-general of the Observant or strict Franciscans, had written his tract in 1485, and Eck interestingly noted in 1515 that the business practice he was considering had existed for about forty years.⁴ What must arouse our curiosity, then, is why such a hot dispute over the issue arose in southern Germany some time later in the second decade of the sixteenth century. Professor Heiko Oberman in his *Werden und Wertung der Reformation* is aware of the problem and speculates that perhaps

business practice: "So entzieht sich die Mainzer Fakultät in falscher Bescheidenheit der Pflicht, eine brennende Zeitfrage zu klären, und flüchtet sich in einen dogmatisch abgegrenzten Raum, welcher die theologische Fakultät angesichts neu aufbrechender Fragen zum Exerzierplatz von Theorien degradieren muß ... Auch das seit 1512 tagende Reformkonzil, das V. Lateranum, behandelt im April 1515 die Wucherfrage nur mühsam und ohne klare Ergebnisse. Als schließlich nach weiteren 50 Jahren der Auseinandersetzung und Unsicherheit das Zinsnehmen kirchlich approbiert wird, war das vom IV. Lateranum (1215) und Konzil von Lyon (1274) geschärfte christliche Gewissen in Finanzfragen bereits so lange im Stich gelassen, daß die Welt der *haute finance* schon längst gezwungen war, ihre eigene Ethik zu entwickeln ..."

2. Cardinal Van Roey: "Le *contractus germanicus* ou les controverses sur le 5% au XVI^e siècle en Allemagne," *Revue d'histoire ecclésiastique*, III (1903), 905-910, regarded the contract as a combination of a partnership and a rent; but J. Schneid: "Dr. Eck und das kirchliche Zinsverbot," *Historisch-politische Blätter für das katholische Deutschland*, CVIII (1891), 255-56, had already pointed out that the second contract in the arrangement was an *assecuratio sortis*. Eck similarly insisted that a census or rent was not involved (Oberman, *Werden und Wertung*, p. 175, n. 36). For a lucid discussion, see John T. Noonan, Jr.: *The Scholastic Analysis of Usury* (Cambridge, Mass., 1957), pp. 202-04.

3. See Noonan, *Scholastic Analysis*, pp. 202-229, especially pp. 204-08, 211-12; and Oberman, *Werden und Wertung*, pp. 174ff.

4. Noonan, *Scholastic Analysis*, p. 210.

the conscience of Jacob Fugger (who had been destined for the clergy and was a canon in minor orders when the death of four elder brothers required his being brought back into the family business in 1473⁵) was somehow moved to demand a resolution of the question.⁶ Whether or not Eck was actually in the pay of the Fuggers, certainly all historians would concur that Fugger was most interested in promoting Eck's views and did aid his journey to Bologna in 1515. Although Fugger was undoubtedly not responsible for Conrad Köllin's soliciting the opinion of Cardinal Cajetan in 1515,⁷ Fugger probably did help bring about the invitation to Eck to dispute *de licitis usuris* in January 1514 before the provincial chapter of the Carmelites in Augsburg, in whose church the Fuggers established their chapel in 1509 and in the Renaissance splendor of which five of them, including Jacob, were to repose.⁸ Still, all these facts, which may or may

5. Otto Fellingner: *Der Karmeliterorden und der deutsche Kaufmann im Mittelalter* (Bonn dissertation, Cologne, 1914), p. 16, emphasizes this more strongly than does Pölnitz, *Jakob Fugger*, I, 11–16.

6. Oberman, *Werden und Wertung*, pp. 164–165.

7. Pölnitz, *Jakob Fugger*, II, 332, repeats the common error that the Dominican Köllin, who was a native of Ulm, was also prior of the order's house in Ulm. On this "fact" Pölnitz then erects the following innuendo: "Daß der Prior dabei im Einvernehmen mit Jakob Fugger, dem Schloßherrn des benachbarten Hauses Kirchberg handelte, ist nicht ganz unwahrscheinlich." Although Köllin was born in Ulm around 1476 and entered the Dominicans there in 1492, he left for Heidelberg in 1500, was elected prior there in 1505, and in 1511 went to the house in Cologne, where he remained until his death in 1536. Furthermore, he had already on several occasions turned to Cajetan for advice. In 1511 he acceded to the desire of the faculty of theology at Heidelberg that he publish his lectures, but only on the condition that Cajetan approve them. In 1514, nearly a year before the consultation on the triple contract, Köllin submitted five questions in moral theology to Cajetan, and in 1521–22 he sent off more cases for the Cardinal's learned consideration. In short, there is no need to imagine Jacob Fugger lurking stealthily in the background here. See Nikolaus Paulus: *Die deutschen Dominikaner im Kampfe gegen Luther (1518–1563)* (Erläuterungen und Ergänzungen zur Janssens Geschichte des deutschen Volkes, 4, Heft 1–2; Freiburg i.B., 1903), pp. 111–119, 133. The text of Cajetan's responses to Köllin's inquiries of 1514–15 is printed in Thomas De Vio Cardinalis Caietanus, *Scripta philosophica. Opuscula oeconomico-socialia*, ed. P. Zammit (Rome, 1934), pp. 171–78, 184–85. Cajetan's views on the triple contract were sufficiently complex that Paulus, *Dominikaner*, p. 119, thought them hostile, whereas Pölnitz, *Jakob Fugger*, I, 317–19, believed them favorable. See the careful discussion in Noonan, *Scholastic Analysis*, pp. 211–12.

8. Pölnitz, *Jakob Fugger*, I, 314–15; Fellingner, *Karmeliterorden*, pp. 18–20. Curiously, nothing about this disputation is recorded in the protocol of the chapter meeting of 15 January 1514 printed in Adalbert Decker, O. Carm.: *Die oberdeutsche Provinz der Karmeliten nach den Akten ihrer Kapitel von 1421 bis 1529* (Archivum historicum Carmelitenum, 1: Rome, 1961), pp. 322–26. The meeting was convened primarily to investigate the maladministration of Provincial Johannes Fortis, who was deposed as a result (*ibid.*, pp.

not add up to something, do not explain what pricked Jacob Fugger's conscience at this time — this on the assumption, of course, that the controversy originated in Fugger's doubts.

Public agitation, stirred up especially by humanists, had something to do with it, as Professor Oberman correctly observes.⁹ He also believes, quite rightly, that in prosopographical investigations we may find some new keys to the understanding of this period. While Oberman has demonstrated some fascinating parallels and personal interconnections between the Eck disputes of 1514–1516 and Luther's of 1518–1520,¹⁰ Götz Freiherr von Pölnitz anticipated Oberman's call more than thirty years ago in his two-volume study of Jacob Fugger.¹¹ He discerned one of the sources of that private discontent which grew into public controversy in Bernhard Adelman von Adelmansfelden (1459–1523), canon of Eichstätt and Augsburg, who detested Eck, his fellow canon at Eichstätt from 1510 onward, and who evidently blamed Jacob Fugger's money for his failure to obtain the see of Augsburg 1505 and in revenge later inspired Willibald Pirckheimer to translate Plutarch's treatise on usury into Latin. The escalation of the public acrimony soon engaged many clerics, humanists, councilors, and patricians: Oecolampadius, Luther's teacher Jodocus Trutvetter, Sebastian Ilung, Anton Kress, Conrad Peutinger, Christoph Scheurl, and others; and behind these individuals the old rivalry between Augsburg and Nürnberg and their mercantile families flared up anew.¹² Was one of them responsible for

53, 64–65). Incidentally, since we are concerned here with prosopographical details and interconnections and particularly with Brixen connections, it is necessary here to correct another common error. The presiding officer at this chapter meeting was not Stephen of Brixen, but Stephen of Brescia (*Brixia* in Latin), a frequent misidentification in the literature (e.g., Schneid, "Dr. Eck," p. 659, and Pölnitz: "Die Beziehungen des Johannes Eck zum Augsburger Kapital," *Historisches Jahrbuch*, LX [1940], 690).

9. Oberman, *Werden und Wertung*, p. 178.

10. *Ibid.*, pp. 187–94.

11. Besides the work cited in n. 1 above, see also Pölnitz' prosopographically rich if confusing "Beziehungen des Johannes Eck," pp. 685–706 (n. 8 above).

12. *Ibid.*, *passim*; idem, *Jakob Fugger*, I, 314–19; Schneid, "Dr. Eck," pp. 582–88. On Bernhard Adelman von Adelmansfelden, see *Lexikon für Theologie und Kirche* (2nd ed., Freiburg i.B., 1957–67), I, 143–44. The intercity rivalry is underscored in the opening phrase of Scheurl's life of Kress, which otherwise throws little light on the origins of the debate: "Orta contentione cum vicinis, liceretne mercatori dare centum, & eis saluis pacto quotannis recipere quinque, ipse [i.e., Kress] partem negatiuam, vtpote magis piam & conscientiae amiciorem sustinuit, aduersariorum argumenta luculenter refellens extat super ea re consilium egregium, quo facile se ostendit clarissimum fuisse iureconsultum." Christoph Scheurl, "De vita et obitu reverendi patris Antonii Kressen, I.V.D. Praepositi Norimbergensis in Collegio S. Laurentii," in Willibald Pirckheimer: *Opera politica, historica, philologica*

the publication of Clavasio's treatise in Lyons in 1512?¹³ Many questions like this remain unanswered about how and why this significant controversy developed. It will probably be some time, and only after the patient work and individual contributions of many scholars, before we can begin to hope for some intimate understanding of this fascinating detective story.¹⁴

This paper would like to propose one possibly fruitful line of inquiry which has so far not been pursued, although Pölnitz provided some of the clues and much of the potentially relevant evidence for its solution.¹⁵ Did the controversy originate in any way with, or because of, those people who had concluded such contracts with Jacob Fugger and other mercantile entrepreneurs whose far-flung commercial ventures and mining enterprises required massive investments of capital? At first glance it would seem not, for Peutingers, the Augsburg chronicler Clemens Sanders, and others implied that the principal beneficiaries were widows, orphans, wards, and pensioners.¹⁶ Pölnitz, however, suggests a

et epistolica, ed. Melchior Goldast (Frankfurt, 1610, repr., Hildesheim—New York, 1969), pp. 352–53. Pölnitz follows tradition in assigning the date 1513 to Pirckheimer's translation of Plutarch's treatise, but it has been convincingly argued that the correct date of publication is January 1515: *Willibald Pirckheimers Briefwechsel*, eds. Arnold Reimann and Emil Reicke, II (Munich, 1956), 518, n. 1. It is possible that another "unknown" person had an interest in Pirckheimer's translation, but the editors of his letters appear to contradict themselves in speculating on this person's identity: *ibid.*, II, 473–75, nos. 336–37, especially n. 1 in both instances.

13. Noonan, *Scholastic Analysis*, p. 411.

14. The issue as such does not appear in the *Abschied* of the *Reichstag* of Trier and Cologne in 1512, but it may have been discussed in connection with the monopoly question, one of many items treated under the rubric "von den Gottes-Laesterern": *Neue und vollständigere Sammlung der Reichsabschiede* (Frankfurt, 1747), II, 144. This *Reichstag* awaits thorough and basic research.

15. Besides the works cited in nn. 1 and 11 above, see the even richer and more confusing article, "Jakob Fugger und der Streit um den Nachlaß des Kardinals Melchior von Brixen (1496–1515)," *Quellen und Forschungen aus italienischen Archiven und Bibliotheken*, XXX (1940), 223–94.

16. Klaus Hansen: "Petrus Canisius's Stand on Usury: An Example of Jesuit Tactics in the German Counter Reformation," *ARG*, LV (1964), 199–201, especially 199, n. 27; *Konrad Peutingers Briefwechsel*, ed. Erich König (Munich 1923), pp. 249–51, no. 153 (a letter to Eck dated 19 December 1514): "Non sunt usuarii mercatores, qui de centum solvunt quinque, (nec) recipientes: viduae, infantes, pupilli, orphani et qui ob divitias sacerdotum multa deglutientium nec redditus nec alia bona emere possunt, quibus etiam id, quod habent, absque lucro in usus necessarios absum[m]ere improbat." Noonan, *Scholastic Analysis*, p. 210, n. 20, says that Eck held similar views, but Professor Steven Rowan of the University of Missouri at St. Louis informs me that this is a misreading of Eck's position. This large subject of who invested in these businesses, especially in the late fifteenth and early sixteenth centuries, needs much painstaking investigation. Several decades ago

number of times that highly-placed German prelates, as well, deposited their money with the Fuggers for similar purposes. On the whole, he adduces very little proof for this assertion and so, given his clear anticlerical and anti-Roman prejudice, relies instead on innuendo and on the nicely circular argument that these churchmen understandably desired secrecy and hence left no record of their negotiations.¹⁷ Although Jacob Fugger had the first inventory of the firm's accounts drawn up upon the death of his brothers in 1511,¹⁸ only a summary of it survives as an appendage to the first full inventory ordered by Anton Fugger after the death of Jacob in 1526. With the exception of the Hungarian Bishop Ladislas Szalkán of Gran (†1526), no ecclesiastical creditor of the house of Fugger figures prominently here or in the subsequent inventories of 1533 or 1536.¹⁹

But Pölnitz does supply a great deal of information about one ecclesiastical creditor whose deposits with the Fuggers grew to be enormous, who also lent much money to the Emperor Maximilian, and whose estate stirred up many

the conclusions of Werner Sombart: *Der moderne Kapitalismus* (4th ed., Munich–Leipzig, 1921), II, 167–68, were sharply attacked by Jakob Strieder: *Zur Genesis des modernen Kapitalismus. Forschungen zur Entstehung der großen bürgerlichen Kapitalvermögen am Ausgange des Mittelalters und zu Beginn der Neuzeit, zunächst in Augsburg* (Leipzig, 1904), and *Studien zur Geschichte kapitalistischer Organisationsformen. Monopole, Kartelle und Aktiengesellschaften im Mittelalter und zu Beginn der Neuzeit* (Munich–Leipzig, 1925), pp. 100–105. A recent, albeit restricted, instance of such research is by Ursula Schmidt: *Die Bedeutung des Fremdkapitals im Goslarer Bergbau um 1500* (Berlin diss., Goslar, 1970).

17. Pölnitz, *Jakob Fugger*, I, 217–28, and II, 221–22; idem: *Anton Fugger* (Tübingen, 1958–67), I, 20–21; idem, “Jakob Fugger,” in *Jakob Fugger, Kaiser Maximilian und Augsburg 1459–1519*, ed. Stadt Augsburg (Augsburg, 1959), p. 11.

18. Jakob Strieder: *Die Inventare der Firma Fugger aus dem Jahre 1527* (Zeitschrift für die gesamte Staatswissenschaft, Ergänzungheft 17: Tübingen, 1905), p. 2.

19. *Ibid.*, pp. 57–67, especially p. 60; Pölnitz, *Anton Fugger*, I, 616–30, n. 148 (1533), and II, 34–35 (1536). Bishop Ladislas had earlier held the sees of Vacium (1514–20) and Agria (Erlan) (1520–24) before obtaining Gran in 1524. He was killed in battle at Mohács. Hermann Kellenbenz: *The Rise of the European Economy. An Economic History of Continental Europe from the Fifteenth to the Eighteenth Century*, rev. and ed. Gerhard Benecke (New York, 1976), p. 114, says that the Carinthian monastery of Millstatt held shares (*Kuxen*) in the lead-mining operations at the Bleiberg near Villach which the Fuggers had opened in 1495; but this abbey does not figure in the inventories listed above (nn. 18–19), and I have found nothing relevant in the following studies, although silver was mined on the monastery's lands themselves: Hermann Wiessner: *Geschichte des Kärntner Bergbaues, I, Geschichte des Kärntner Edelmetallbergbaues* (Archiv für vaterländische Geschichte und Topographie, 32: Klagenfurt, 1950), p. 160, and Erika Weinzierl–Fischer: *Geschichte des Benediktinerklosters Millstatt in Kärnten* (Archiv für vaterländische Geschichte und Topographie, 33: Klagenfurt, 1951).

questions after his death in Rome on 3 March 1509: Melchior von Meckau, bishop of Brixen and cardinal. Born around 1440 of a baronial family in the service of the bishops of Meißen, he studied at Leipzig and Bologna before embarking on his ecclesiastical career at the Curia (1471–) and as canon of Meißen (1471) and Brixen (1472), dean of Meißen (1473), provost of St. Lorenz in Nürnberg (1478), provost of Magdeburg (1479), pastor of Ehingen in the diocese of Constance (1480), provost of Meißen (1482), coadjutor-bishop of Brixen with the right of succession (1482), bishop of Brixen (1489), and cardinal (1503). Like his brother Caspar, he entered the service of the Habsburgs, to whom he owed many of his promotions. He was posted *Rat* or councillor of Duke Sigismund of the Tyrol in 1473 and of the young Maximilian in 1483, and it was he who solemnized the marriage of Maximilian and his second wife, Bianca Maria Sforza of Milan, in 1494.²⁰

This last fact, Melchior's frequent diplomatic activity at the papal court on Maximilian's behalf, and his receipt of the red hat all suggest that the ties between Maximilian and Melchior von Meckau were closer than was customary for a royal bishop and his overlord, and indeed they were. Melchior not only lent the ever-impecunious Maximilian considerable sums of money – which was scarcely unusual – but he also formed from the 1490s until his death a kind of financial *ménage à trois* with Maximilian and Jacob Fugger, sometimes borrowing from Jacob, but ordinarily lending to Maximilian and depositing large sums with Jacob. Pölnitz estimates that between 1487 and 1494 the Fuggers loaned Maximilian around 625,000 gulden. By 1493 Melchior had loaned Maximilian at least 22,000 ducats, which the Fuggers were scheduled to repay on Maximilian's behalf. When they did so in 1496, Melchior deposited 20,000 gulden with Jacob and thereby established the pattern. Pölnitz' figures do not always agree with each other or add up correctly, but that is of little moment here. What they indisputably reveal is how indebted the Fuggers were to Melchior. In 1501 he deposited with the Fuggers another 25,000 gulden; at Christmas 1505, another 100,000 or 108,931 gulden; in January 1506, 19,000; and at Christmas 1507, 25,000. By 1508 the Fuggers owed him 133,000 gulden, excluding interest, and at the time of his death in March 1509, 152,931 gulden. That this was a potentially crushing debt for the firm is revealed in the net worth of the house in March 1510: only 198,915 gulden.²¹

20. On Melchior, see Leo Santifaller: *Das Brixner Domkapitel in seiner persönlichen Zusammensetzung im Mittelalter* (Innsbruck, n.d. [1924]), pp. 379–81; *Lexikon für Theologie und Kirche*, VII, 251; Franz Sinnacher: *Beyträge zur Geschichte der bischöflichen Kirche Säben und Brixen in Tyrol* (Brixen, 1820–37), V, 1–116.

21. Pölnitz, *Jakob Fugger*, I, 63, 79, 218, 221–23, and II, 30, 201, 203–05, 220; *idem*,

What was the source of Melchior's vast sums? Not his incomes as a pluralist; nor his possible misappropriation of a legacy of 20,000 gulden left by his brother Caspar (†1498).²² These sums, whatever comforts they provided, scarcely permitted Melchior to make such tremendous loans. The revenues of the see of Brixen did, however, as the long negotiations and final payments after Melchior's death revealed. Although a small bishopric and long under the "protection" of the counts of the Tyrol, Brixen stood to profit enormously from the great upsurge in mining in the Tyrol in the fifteenth century. Some of the most profitable lodes of silver and copper, e.g. Schwaz, Gastein, and Gossensass, no longer stood under the direct overlordship of the bishops, but instead had been enfeoffed to the counts of the Tyrol in the High Middle Ages. This crucial point must never be forgotten about the disastrous campaign of Nicholas of Cusa during his tenure as bishop of Brixen (1450–1464) not only to reform the monastery of Sonnenberg, but also to resuscitate all the high medieval claims of feudal overlordship of the bishops over the counts. In December 1452, in fact, Cusa journeyed to Wiener-Neustadt to secure from Frederick III a confirmation of Frederick II's donation to the bishops, made in 1218, of all mining and mineral rights in the see. Cusa's ill-advised and embarrassing efforts culminated in his capitulation and humiliation at Bruneck at Easter 1460 (which included renunciation of all unreasonable mining claims) and in Pope Pius II's appointing his headstrong friend to the vicar-generalship of Rome to extricate him from a diplomatic cul-de-sac.²³ Relations

"Nachlass des Kardinals Melchior," pp. 228–35, 240; Sinnacher, *Beyträge*, V, 84–85, 95, 103–04.

22. Pölnitz, *Jakob Fugger*, II, 202.

23. Albert Jäger: *Der Streit des Cardinals Nicolaus von Cusa mit dem Herzoge Sigmund von Österreich als Grafen von Tirol* (Innsbruck, 1861), I, 48–58, 75–76, and II, 13; Henry Bett: *Nicholas of Cusa* (Philadelphia, 1932; repr., Merrick, N. Y., 1976), pp. 49–77; Ernst Geis: *Die Entwicklung der kapitalistischen Organisations-Formen im deutschen Erzbergbau im Ausgang des Mittelalters und zu Beginn der Neuzeit* (Munich diss., 1925), p. 42. It is noteworthy that the dispute over mining rights is not mentioned at all by Otto Stolz: *Geschichte des Landes Tirol*, I (Innsbruck–Vienna–Munich, 1955), 495–97, who does, however, provide a useful summary of the bibliography on the struggle (*ibid.*, p. 497, n. 79). On these mines, see Stefan Worms: *Schwazer Bergbau im 15. Jahrhundert. Ein Beitrag zur Wirtschaftsgeschichte* (Vienna, 1904); Otto Stolz: "Die Anfänge des Bergbaues und Bergrechtes in Tirol," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, XLVIII (1928), 207–63, especially 209–18; R. Klebelsberg, ed.: *Schwazer Buch. Beiträge zur Heimatkunde von Schwaz und Umgebung* (Innsbruck, 1951), especially the essays by G. Mutschlechner (pp. 113–25) and Josef Weingartner (pp. 158–72); and Hans Hochenegg *et al.*, eds.: *Das Verleibbuch des Bergrichters von Trient 1489–1507* (Innsbruck, 1959), pp. 7–24.

between the bishops of Brixen and the counts of the Tyrol were never to be as bad again, partly because the counts' financial need compelled them to come to terms with their subjects, but especially because the counts soon succeeded in bringing about the selection of more loyal bishops. Melchior von Meckau was one of them. On 25 May 1489, shortly after he assumed the miter, he signed with Frederick III and Maximilian an accord that divided evenly between the bishops and the Habsburgs all the costs and the profits of the mines in the bishopric for the next five years.²⁴ In August 1498, in a charter issued concerning the new coadjutor-bishop of Brixen, Maximilian confirmed existing arrangements respecting the mines.²⁵

What was the nature of the financial arrangements concluded between Melchior von Meckau and Jacob Fugger? Were they simple deposits *a discrezione* in the Italian manner or some form of the triple contract? Although in remarking on the accrued interest due to Melchior Pölnitz implies that these were no mere discretionary deposits on which "gifts" might be made, he nowhere speaks about the specific nature of the contracts. Franz Sinnacher notes, however, that besides a considerable quantity of gold, silver, and cash, Melchior's estate included *three* letters of indebtedness (*Schuldbriefe*) in which the Fuggers acknowledged that they owed him 152,931 gulden.²⁶ Was this a *triple* contract? That indefatigable chronicler, Marino Sanuto, who was perhaps in a position to know, provides another piece of confirmatory if not conclusive evidence. Under the date 5 March 1509 he noted the demise of the "richissimo" cardinal of Brixen who, "they say," had on deposit with the Fuggers more than 200,000 ducats for a return of five per cent per annum, which was the ordinary return on triple contracts.²⁷ And a final tantalizing if evanescent hint: In their answer of 10 January 1515 to Eck's request for opinions on his theses from the principal German faculties of theology, the professors at Mainz had counselled that, in the absence of a definitive pronouncement from Rome, it would be wise "a tali contractu (qui ecclesiasticis singulariter licitus non est) abstinere quam sese involvere."²⁸ Did the reverend professors at Mainz have any special reason to

24. Sinnacher, *Beyträge*, V, 8-9.

25. *Ibid.*, V, 57-58. The value of these agreements is made clear in the fact that by 1500 all the mines in the Tyrol were yielding 128,000 gulden of total Habsburg revenues of 218,000 gulden from the hereditary lands: Kellenbenz, *European Economy*, p. 185.

26. Sinnacher, *Beyträge*, V, 120.

27. Marino Sanuto: *I diarii*, eds. Rinaldo Fulin *et al.* (Venice, 1879-1903), VIII, 11: "Avisa di la morte li a Roma dil reverendissimo cardinal brixinense, homo vechio e richissimo, fo qui orator per il re di romani, havia assa' gotte. Si dice à molti danari in man di Focher [Fugger] a ducati 5 per 100 a l'anno, e si dice più di ducati 200 milia."

28. The text is printed in Oberman, *Werden und Wertung*, pp. 428-29.

single out clerics, especially since the clergy had been more or less subject to the same rules as the laity regarding usury since the thirteenth century? Perhaps not, but one wonders.

Let us assume for the moment that Melchior had signed a series of triple contracts with the Fuggers, even though a sure answer must await perusal of documents in Brixen, Bolzano, Innsbruck, Augsburg, Nürnberg, Vienna, Rome, and possibly elsewhere. In any case many parties had a strong if not easily definable interest in the disposition of Melchior's estate: Jacob Fugger, his principal debtor; the cathedral chapter of Brixen, the interim administrator of the vacant see which had provided so much of the money to underwrite Fugger's ventures; Maximilian, who had borrowed and would continue to borrow heavily both from the bishopric and from Jacob Fugger and whose attitude was therefore not necessarily clear; the German church and foundation of Santa Maria dell'Anima in Rome, to which Melchior had disbursed very little of the money his brother Caspar had willed to it; and Pope Julius II, who certainly knew that Melchior was rich and who invoked canon law to claim the estate of a bishop who had died in Rome. Small wonder, then, that despite Maximilian's payment to the Fuggers of 10,000 gulden from the estate in January 1510, and despite payment to the cathedral chapter of Brixen about the same time of 58,000 gulden (which Maximilian promptly retained as a loan), the case dragged on for years.²⁹ In the Fall of 1515 Bishop Christoph von Schrofenstein of Brixen was summoned to Innsbruck by Maximilian to discuss the 32,000 gulden belonging to the estate which was still in the hands of the Fuggers. Both the emperor and the bishopric claimed the money. Since Cardinal Matthäus Lang, Bishop of Gurk and Maximilian's principal adviser, supported Maximilian's view, Bishop Christoph found it prudent to lend the emperor more money (borrowed in part from the Fuggers) lest he fall from grace.³⁰ And as late as 1533 Duke George of Saxony would write to Hilfrich von Meckau that the question of Melchior's estate was still unresolved.³¹

Thus far it is clear that many parties had a decided interest in the adjudication of a large and complex estate; but at the moment it can remain only a matter of speculation what exactly their interests were and how their attitudes might have changed in the course of the debate. If we assume that Jacob Fugger raised

29. Pölnitz, "Nachlass des Kardinals Melchior," p. 260; Sinnacher, *Beyträge*, V, 121. The chapter was originally supposed to receive 80,000 gulden.

30. Sinnacher, *Beyträge*, V, 148-50.

31. Pölnitz, *Anton Fugger*, I, 601, n. 74. Duke George was also one of Maximilian's creditors: F. Gess: "Habsburgs Schulden bei Herzog Georg," *Neues Archiv für Sächsische Geschichte und Altertumskunde*, XIX (1898), 213-43.

the whole issue of the triple contract (and Professor Oberman seems to imply that he did, Bernhard Adelman von Adelmansfelden's prodding of Pirckheimer notwithstanding) and that the estate question was one reason for Fugger's raising the issue (and the chronological coincidence suggests such a possibility), he evidently regarded it as in his interest that the legitimacy of the contracts be upheld. But since we know that his financial position at the turn of the second decade of the sixteenth century was pinched, it may also have been very much in his interest that the adjudication of the case be protracted. By contrast, his enemies — and Pölnitz believes that the Gossembrot knew of the 1496 agreement between the Fuggers and Melchior von Meckau³² — presumably wanted the contracts declared null and void, although it is not immediately apparent how the legal consequences would have served their advantage. What of Maximilian, who owed everyone money? Did he hope to pit both sides against each other so as somehow to emerge triumphant? What was the basis of his claim to Melchior's estate in 1515? One might conclude from his confrontation with the bishop of Brixen that Maximilian thought that a verdict against the bishopric would strengthen his own claim, in which case Maximilian's interest ran directly counter to that of his principal financier. This is not at all inconceivable. As far back as 1502 Maximilian's advisers had vainly sought to free the king from the ever-tightening Fugger tentacles.³³ Clemens Bauer has suggested that in 1507 Maximilian deliberately encouraged the public airing of the question of monopolies to bring pressure to bear on the great southern German mercantile families to provide him with money for his projected Italian expedition.³⁴ In 1511, when Julius II fell gravely ill and Maximilian sought to capture the papacy through the payment of large bribes in Rome, Jacob Fugger appeared less than enthusiastic about the venture and about financing it.³⁵ Julius' recovery scotched the plan, but did Maximilian nevertheless harbor resentment against Jacob Fugger? Whether or not he did, his new *Großschatzmeister* as of 1513,

32. Pölnitz, *Anton Fugger*, I, 361, n. 92.

33. Max Jansen: "Jakob Fugger und der Wiener Kongress 1515," in Max Jansen, ed.: *Hermann Grauert zur Vollendung des 60. Lebensjahres gewidmet von seinen Schülern. Festgabe zum 7. September 1910* (Freiburg i.B., 1910), p. 183.

34. Clemens Bauer: "Conrad Peutingers Gutachten zur Monopolfrage. Eine Untersuchung zur Wandlung der Wirtschaftsanschauungen im Zeitalter der Reformation," *ARG*, XLV (1954), 146.

35. The definitive treatment now, pending completion of the fourth volume of his massive biography of Maximilian, is by Hermann Wiesflecker: "Neue Beiträge zur Frage des Kaiser-Papstplanes Maximilians I. in Jahre 1511," *Mitteilungen des Instituts für österreichische Geschichtsforschung*, LXXI (1963), 311–32.

Jacob Villinger, again attempted to break the Fugger hold, and again in vain.³⁶ Did he do anything to encourage Fugger's enemies? Of course one did not have to be personally affected by the disposition of Melchior's estate to become interested in the case. Thanks to a post courier, Sanuto in Venice knew within two days of Melchior's death in Rome,³⁷ and decades later Luther recounted the story of the rich cardinal of Brixen whose fabulous wealth had excited the greed of Julius II.³⁸ The tale, in short, achieved a quick and perduring fame. Who knows whether mischievousness or malice moved someone to stir up a hornet's nest?

Questions of this sort begin to multiply without end once one reconsiders the whole controversy from this mundane and intensely personal point of view. It is of course entirely possible that I have scented here not a fox but a griffin, but we will never know until scholars in many nations have carefully reexamined the old sources and uncovered new ones in the light of this hypothesis. In what we Americans now like to regard as the good old days, we might have possessed the time, the daring, and above all the money to try to solve this prosopographical puzzle. Such times are, unfortunately, gone.

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36. Clemens Bauer: "Jakob Villinger, Gross-Schatzmeister Kaiser Maximilians," in his *Gesammelte Aufsätze zur Wirtschafts- und Sozialgeschichte* (Freiburg-Basel-Vienna, 1965), pp. 246-46.

37. Sanuto, *Diarii*, VIII, 10-11, prefaced the entry recorded in n. 27 above with these words: "A dì 5. A nona fo letere di Roma, di oratori, di 3, et fo per corier spazato per todeschi in Alemagna; le letere nostre è di 3, hore 15."

38. *D. Martin Luthers Werke. Kritische Gesamtausgabe. Tischreden*, V (Weimar, 1919), 518-19: "Und sagte der Herr Doctor [Luther]: 'Dass ein Bischof von Brixen einmal zu Rom gestorben, welcher auch war ein Cardinal gewesen und sehr reich, und als er war tot gewesen, hatte man bei ihm kein Geld gefunden, denn allein ein Zeddelin eines Finger lang, das in seinem Aermel gesteckt war. Als nu Papst Julius denselbigen Zeddel bekommen, hat er balde gedacht, es würde ein Geldzettel sein, schickt bald nach der Fugger Factor in Rom und fraget ihn, ob er die Schrift nicht kenne? Der selbige spricht ja, es sei die Schuld, so der Fugger und seine Gesellschaft dem Cardinal schuldig wären und machte dreimal hundert tausend Gulden. Der Papst fraget: Wenn er ihme solch Geld erlegen könnte? Des Fuggers Diener sprach: alle Stunde. Da fodert der Papst zu sich den Cardinal aus Frankreich und England, und fraget: Ob ihr König auch vermöchte drei Tonnen Goldes in einer Stunden zu erlegen? Sie sagten: Nein. Da sprach er: Das vermag ein Bürger zu Augsburg zu thun. Und hat der Papst Julius dasselbige Geld bekommen.'"

Johannes Ecks Verteidigung des dreifachen Vertrags in den Jahren 1514–1516 ist gut bekannt. Es wird jedoch oft übersehen, daß dies ein Geschäftsverfahren war, das schon seit 40 Jahren existierte. Warum also brach ein solch hitziger Streit über dieses Verfahren erst im zweiten Jahrzehnt des 16. Jahrhunderts aus? Kürzlich geäußerte Vermutungen machen den Ursprung der Debatte noch rätselhafter. Der Autor weist darauf hin, daß Melchior von Meckau, Kardinal von Brixen, eine bedeutsame Rolle in diesem Rätsel spielen könnte. Er hatte große Summen bei Jakob Fugger deponiert (möglicherweise in der Form von dreifachen Verträgen), und starb 1509 in Rom. Seine Hinterlassenschaft löste einen jahrelangen Streit unter den Interessenten, einschließlich Papst und Kaiser, aus. Waren die dreifachen Verträge, die angeblich den Hauptbestandteil des Vermögens darstellten, ein Auslöser der heftigen Debatte über den Vertrag?

Mira et nova diffinitio iustitiae: Luther and Scholastic Doctrines of Justification

By Alister E. McGrath

The tantalising autobiographical fragment of 1545¹ has long been a source of controversy among Luther scholars.² In this fragment, which serves as a preface to the Wittenberg edition of his Latin works, Luther rehearses his career down to the year 1519 before turning to a consideration of the theological question that had been troubling him for some time. He describes how he had long been concerned to understand St. Paul's *Epistle to the Romans*, but had found Romans 1, 17 a stumbling block: *Iustitia Dei revelatur in illo*. Luther relates how

1. WA 54.179–87; Otto Scheel: *Dokumente zu Luthers Entwicklung (bis 1519)* (Tübingen, 1929), No. 511; pp. 186.14–193.5. For Luthers relation to his medieval context in the light of the most recent scholarship, see A. E. McGrath: "‘Augustinianism’? A critical assessment of the so-called ‘medieval Augustinian tradition’ on justification," *Augustiniana* 31 (1981), pp. 247–267; "Forerunners of the Reformation? A critical examination of the evidence for precursors of the Reformation doctrines of justification," *Harvard Theological Review* 75 (1982), pp. 219–242. For the development of the doctrine of justification within the Western theological tradition as a whole, see A. E. McGrath: *Iustitia Dei. A history of the Christian doctrine of justification* (3 volumes: Cambridge, U.K., in press).

2. E.g. see the very different positions associated with Bizer and Bornkamm: Ernst Bizer: *Fides ex auditu. Eine Untersuchung über die Entdeckung der Gerechtigkeit Gottes durch Martin Luther* (3. erweiterte Auflage: Neukirchen, 1966); H. Bornkamm: "Zur Frage der *iustitia Dei* beim jungen Luther," *ARG* 52 (1961), pp. 16–29; 53 (1962), pp. 1–60.