

## Chapter Three

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# *Augustine and Aquinas: Church and State*

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### **Christians and the State**

The attempt by Christian thinkers in the West to provide an account of the nature of political society draws upon a number of different sources. Christianity was born into a world dominated by Roman institutions, including Roman law, and by Greek philosophical concepts. Roman ideas on the nature of the ‘civitas’ defined political society as a community under ‘the rule of law’; Plato and Aristotle, on the other hand, saw the ‘polis’ as an agency of moral education and formation since for them it was impossible to live a fully human life outside society. Only beasts and gods, Aristotle said, live outside the ‘polis’: beasts because they are sub-human and gods because they are superhuman. For the Greeks the civil law must always be in accordance with the moral law, otherwise tyranny ensues. Tyranny is that form of government where the naked will and power of the ruler (be the ruler one or many) prevails – in other words, where might is right.

The Christians of the first three centuries took an ambivalent attitude to the Roman State. Some were convinced that the end of the world and the advent of the kingdom of God were nigh, so that for them it was not a pressing concern to elaborate a Christian theory of the State. Others identified the State with the anti-Christian and ‘pagan’ Roman State and rejected it completely. For them the Church, the community of believers, was the only true ‘society’. Just as the Christian philosophers had no need of pagan wisdom since the Scriptures were sufficient for them, so also Christians had no need of Greek and Roman political concepts and institutions. The ‘City of God’, the Church, was sufficient for them. Theocracy (the view that

the Church is the only authentic political authority) and fideism (the view that faith is the only authentic avenue of knowledge) tend to go hand in hand. Other Christians recognized the role of the State and groped tentatively towards some kind of theory about the relationship that ought to obtain between the Church and the State – the supernatural society and the natural society – just as in the sphere of knowledge certain Christian thinkers attempted to define the relationship between what is known by ‘faith’ through revelation and what is known by ‘natural reason’ alone.<sup>1</sup>

## St Augustine and *The City of God*

St Augustine of Hippo (354–430) was the first Christian thinker to grapple with these questions about the respective roles of the two ‘societies’ – Church and State – in an explicit way. It needs to be remembered, however, that St Augustine was not a political philosopher in the way that both Plato and Aristotle were. Augustine was primarily a theologian expounding the content of the Christian faith and his remarks on the nature of political society are in the nature of *obiter dicta*. Thus the *De Civitate Dei* (*The City of God*) is not a book on political philosophy in the same sense as Plato’s *Republic* and Aristotle’s *Politics*. *The City of God* is a general apologia or defence of Christianity against the charges of those who attributed the fall and decline of the Roman Empire (Rome was sacked in 410 A.D. by Alaric) to the influence of Christianity, and Augustine’s reflections on Church and State are incidental to his apologetic purpose. For all that, it is not difficult to construct from what Augustine says in *The City of God* a theory about political society and the inter-relationships between society and the Church.<sup>2</sup>

As we have already remarked, for Augustine the Church is not just a group of people with a common set of religious beliefs and practices; it is a society in the strict sense, that is a community of believers with its own organization and its own laws and its own ‘common good’. The very title of his celebrated work, *The City of God*, makes that clear. (‘Civitas’, it might be remarked, does not mean ‘city’ in the modern sense: it is rather the body of ‘cives’ (citizens) and has much the same sense as the Greek ‘polis’ and our

<sup>1</sup> See Henry Chadwick, *The Early Church*, (Harmondsworth, 1967). On St Augustine’s background and context see Peter Brown, *Augustine of Hippo*, (London, 1967), especially pp. 287–338.

<sup>2</sup> *The City of God* is available in an English translation by John Healey in the Everyman edition, (London, 1945). See the introduction by Sir Ernest Barker. See also the bibliography in Herbert A. Deane, *The Political and Social Ideas of St Augustine*, (New York, 1963).

'society'.) For the Greeks the 'polis' was the supreme form of society (superior to the family and the clan), but for Augustine political society is subordinated to the higher form of society brought into being with the Christian church. One can see from this how radically different Augustine's perspective is from that of Plato and Aristotle. The supernatural society that is the Church is in effect founded by God and it is sustained by His spiritual help or grace; it is only in this society that people can be 'saved' and made fully happy through union with God; again, this society is based upon the altruistic love of its members for God and for each other.

By way of contrast with this supernatural society, the city of God or the Church, Augustine describes the 'earthly society' (*civitas terrena*), that is the secular society, with its laws and institutions, which exists outside the Church. Augustine's attitude to the 'earthly society' is ambivalent: thus at times he appears to admit that it has its own proper place and role in providing for our non-spiritual welfare and that from this point of view it is good in itself; at other times he appears to suggest that the earthly society only comes into being because of human sinfulness after the Fall, so that if the Fall had not taken place then the State would not have been necessary and the Church would have been sufficient; at other times again, he says quite explicitly that secular society originates in human selfishness or 'self love' and that it is typified by conflict and power. Augustine says:

These two cities derive from two different loves – the earthly city derives from the love of self which rejects God: the heavenly city derives from the love of God which rejects love of self. The first seeks human glory; the second desires only to bear witness to God, the greatest glory. . . . The first is governed by ambitious tyrants led by the lust for power: the second is one in which all work together in love, both the rulers in ruling and the subjects in obeying.<sup>3</sup>

At times indeed Augustine's view of political society outside the Church seems to be a theological version of Hobbes' theory of the State: that is to say, political society is defined as that form of human society in which there is a locus of absolute power or 'sovereignty'. So in the famous passage in *The City of God*, Augustine writes as follows:

Without justice are kingdoms anything more than the results of robbery? Robber gangs are in fact little kingdoms for they are under a commander and sworn together in a confederacy, the pillage being shared out among them. And if these gangsters become powerful enough to build forts and conquer cities and neighbouring countries,

<sup>3</sup> *The City of God*, Book 14, ch. 28.

then their confederacy is no longer called a gang but is adorned with the high-sounding title of 'kingdom', not because they have ceased to be really gangsters, but because they may now continue to be so with impunity. The pirate's retort to the great Alexander of Macedon was very much to the point: when the King asked him what right he had to lord it over the seas, the pirate replied cheerfully: 'Well what right have *you* to lord it over the whole world? I am called a pirate because I happen only to have a small ship: you are called a King simply because you have a navy behind you'.<sup>4</sup>

Augustine's final position appears to be that in principle the State does have its own proper autonomy and purpose – the preservation of peace and order – and that the Church must respect the independence of the State and not interfere directly in the political order. As he puts it:

... The spiritual society, while it is here on earth, is made up out of people from different temporal societies and does not concern itself with the laws made by those societies. It does not go against these laws but rather observes them, so long as they have as their purpose the preservation of the temporal order and do not oppose the worship of the One True God.<sup>5</sup>

However, in practice human beings are so corrupted by the effects of sin that they are incapable of acting altruistically if they are left to their own devices. Unless they are helped by God's grace, mediated through the Church, they will tend to follow their own individualistic self-interest and political society will be very much as Hobbes described it, a mechanism of power and coercion for regulating conflicts between self-interested individuals. From this perspective Augustine's view of the State is a pessimistic one in that he thinks that politics is basically a power-game and that we ought not to expect too much from politics and politicians. In the last resort the State is a necessary evil.

Again, while in *principle* Augustine's view of Church and State is not a theocratic one where the State becomes absorbed into the Church, in *practice* Augustine's position lends itself to a theocratic interpretation. This is in fact what happened in Western Christian thought from the sixth century onwards. Thus Gregory the Great in the late sixth century, under the influence of Augustine, sees the State and the political order as the instrument of the Church; again Isodore of Seville at the end of the seventh century argues that the State is simply the 'secular arm' of the Church employing force to

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<sup>4</sup> *ibid.*, Book 4, ch. 4.

<sup>5</sup> *ibid.*, Book 19, ch. 17.

establish and maintain Christian beliefs and morality. The religious ceremony of the coronation of kings and queens in Western Europe was in fact a symbol of the dependence of the secular political power upon the spiritual power of the Church. In other words, the king or the queen or the emperor held their power from God through the intermediary of the Church.<sup>6</sup> Augustine's influence continued in Calvin's theocracy in Geneva, and in the early Puritan settlements in the United States which were for the most part theocratic in outlook. His position also has echoes in some modern Christian views which claim that the Church can and must interfere directly in politics in order to secure its spiritual and moral ends.

The debate about the relationship that ought to obtain between the Church and the political order continued right through the Middle Ages both at the practical level in the struggles between popes and kings and emperors, and at the theoretical theological level. By the thirteenth century, partly due to the realities of politics and partly due to the introduction of Aristotelian thought into the new universities, a new view began to emerge in which the State – the 'temporal power' – was seen as having complete independence in its own sphere, and the Church – the 'spiritual power' – was likewise seen as a 'perfect society' with its own proper autonomy. Christ's injunction: 'Render to Caesar the things that are Caesar's and to God the things that are God's', was constantly invoked to give Biblical justification for this new dualistic view.

## Aquinas on the Two Societies

The introduction of Aristotelian philosophy to the West in the thirteenth century had a revolutionary effect upon Christian theology in that it forced Christian thinkers to acknowledge the autonomy and independence of the 'natural order' and of 'natural reason' (what could be discovered by reason alone without the help of religious revelation). The intrinsic value of the natural world, including political society, was recognized and the provinces of philosophy and the sciences (though these latter were not yet fully defined) were also seen as having their own independence. Christian theology, explicating the body of supra-rational knowledge (gained through religious revelation) of the supernatural order of reality, complemented this natural knowledge and did not contradict or overrule it. The medieval theological dictum, 'grace does not destroy nature but complements and perfects it', expresses this view very nicely.

<sup>6</sup> See H.X. Arquillière, 'Reflexions sur l'essence de l'augustinisme politique', in *Augustinus Magister*, (Paris, 1954), vol. II, pp. 996–7. See also J.N. Figgis, *The Political Aspects of St. Augustine's 'City of God'*, (London, 1921).

In the area of political society this implies that the State has its own intrinsic value as securing the peace and order necessary for living the good life and in maintaining the basic human 'virtues'. Whether or not a society is a good and just society has therefore nothing to do with the Church since the Church's function – the spiritual and supernatural good of its members – is quite distinct from that of the State. As said before, Church and State are viewed as two distinct societies with diverse but complementary purposes and aims. To paraphrase the dictum mentioned before, the Church does not destroy or overrule the State or make it unnecessary, but presupposes it and complements it.

This new view was given its clearest formulation in the thirteenth century by St Thomas Aquinas (1225–1274), and it is largely Aquinas' position on Church and State that was adopted later by the Catholic Church.

Aquinas' views on political society are developed mainly in 'The Treatise on Law' which is part of the vast work, the *Summa Theologiae*.<sup>7</sup> In the Treatise Aquinas provides a subtle and detailed analysis of what he calls 'natural law' (*ius naturale*), that is the basic moral rules or laws on which political society depends, and positive civil law (*ius civile*), that is the body of law promulgated by the ruler of the State. He also discusses the 'divine positive law', that is the laws or regulations promulgated within the Christian Church and which apply only to members of the Church.

Like his Greek philosophical masters, Aquinas thinks that it is possible to elaborate a detailed set of moral rules by rational reflection on 'human nature'. Whatever fulfils or actualizes the basic potentialities or needs of human beings is morally good in that it makes us more fully human, and whatever frustrates these basic human 'inclinations' is morally bad in that it makes us less human. Aquinas' theory is in fact very similar to that of Aristotle in that for both the morally good person is the one who is fully actualized as a human being.

According to Aquinas the laws of the State ought to be framed in accordance with the moral law: in fact the function of the State is to translate into concrete political practice in particular circumstances those moral rules which are concerned with others. The civil law therefore acts as a moral pedagogue in that its function is to make the citizens more morally virtuous. 'It is evident', Aquinas says, 'that

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<sup>7</sup> The Treatise on Law is available in an English translation by Thomas Gilby in *St. Thomas Aquinas: Summa Theologiae*, vol. 28, (London, 1965). See also *The Political Ideas of St. Thomas Aquinas*, D. Bigongiari, (ed.), (New York, 1963). For background see T. Gilby, *Principality and Polity: Aquinas and the rise of State Theory in the West*, (London, 1958). See also A.P. d'Entrèves, *Natural Law: an introduction to legal philosophy*, (London, 1970).

the proper effect of law is to lead its subjects to their proper virtue: and since virtue is that which makes its subject good, it follows that the proper effect of law is to make those to whom it is given, good, either simply or in some particular respect'.<sup>8</sup> Aquinas recognizes, however, that the law is a crude instrument for inculcating morality and that there are severe limits to what the law can do in making people virtuous. There are many immoral acts which do not directly affect others and the law does not concern itself with these. (Gluttony, for example, is a moral fault but we do not expect there to be a law against gluttony.) Again, in many cases the attempt by the law to control immorality may bring about more harm than good. In these cases the principle of lesser evil enjoins that no law should be enacted and that the immorality in question should be tolerated. For example, prostitution is a moral evil but the attempt to forbid prostitution by laws may bring about more harm than good, so that it is better for the State to tolerate prostitution. As Aquinas says:

Human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous ones, from which it is possible for the majority to abstain: and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus the human law prohibits murder, theft and suchlike.

And again:

The purpose of human law is to lead men to virtue, not suddenly, but gradually. Wherefore it does not lay upon the multitude of imperfect men the burdens of those who are already virtuous, viz. that they should abstain from all evil. Otherwise these imperfect ones, being unable to bear such precepts, would break out into yet greater evils. . . .<sup>9</sup>

However, Aquinas insists very firmly that unless the civil law of the State is in accordance with the moral law it does not have the force of law at all. Following Augustine he says that a law which is not just (i.e. not in line with the moral law) 'seems to be no law at all': 'if in any point it deflects from the law of nature (the moral law) it is no longer a law but a perversion of law'.<sup>10</sup> Thus a law may be duly promulgated by the authorities of the State and it may be enforceable in the courts, but if it is contrary to the moral law it has no real force so that a citizen may legitimately refuse to obey it

<sup>8</sup> *Summa Theologiae*, 1, 11, 92, 1.

<sup>9</sup> *ibid.*, 1, 11, 96, 2.

<sup>10</sup> *ibid.*, 1, 11, 95, 2.

(though of course the citizen may have to suffer the sanctions imposed by the courts for his disobedience: again the citizen has to take account of the possible effects of his refusal to obey a law). Aquinas' position here, it is clear, is quite contrary to later positivist views of the law proposed by Austin and others according to which a law is simply the command of the legal sovereign.

For the positivist it is nonsensical to say that an unjust law is not really a law since a law is a command that is decreed by the appropriate legislative authority in the State and enforced by the judicial system. But for Aquinas, while a law may be duly promulgated and enforceable, it cannot, if it is unjust, have a claim upon my obedience any more than a bandit who puts a gun to my head and coerces me has a claim upon my obedience. As a latter-day follower of Aquinas, Professor Peter Geach, has robustly put it:

University people argue mightily about whether laws that violate these principles are laws or (as Aquinas called them) mere violence. Of course it doesn't matter whether you *call* them laws or not: the question is what consequences follow. An unjust piece of legislation exists *de facto*, as an institution: but it is no debt of justice to observe it, though it may be imprudent to ignore it. And though a private person should not lightly judge a law to be unjust, its contrariety to the Law of Nature and the peace and justice of society may be so manifest that such a judgement is assured. . . . I think Old John Brown rightly so judged about the slave-owning U.S. Commonwealths of his time.<sup>11</sup>

Aquinas' position is also contrary (at least in theory) to the views of later political theorists such as John Stuart Mill who distinguish very sharply between the sphere of personal morality and the sphere of law which is solely concerned with preventing 'harm' to others. For Mill the law has no moral function. There is no doubt that for Aquinas, on the other hand, law and morality are inextricably intertwined and the law and State have a moral purpose. In practice, however, Aquinas' ideas can be interpreted in a quasi-Millian sense in that the province of the civil law is restricted to preventing those acts 'without the prohibition of which human society could not be maintained' and has nothing directly to do with acts of private morality. A number of modern Catholic thinkers have developed Aquinas' ideas in this way.<sup>12</sup>

As has been said, for Aquinas the sphere of civil law does not depend for its legitimacy upon the Church. Of course, there is, or

<sup>11</sup> *The Virtues*, (Cambridge, 1977), p. 128. See also John Finnis, *Natural Law and Natural Rights*, (Oxford, 1980), pp. 363–6 on 'Lex injusta non est lex'.

<sup>12</sup> See my essay 'Catholics and the Free Society' in Max Charlesworth, *Church, State and Conscience*, (St Lucia, 1973). See also J.E.A. D'Arcy, *Conscience and its Right to Freedom*, (London, 1961).



ought to be, a coincidence between what the Church enjoins upon its members and the moral law and the civil law of the State, but the Church cannot dictate to the State nor interfere directly in the political order.

Since the law of the State is subordinate to the moral law any kind of political absolutism is ruled out for Aquinas. In other words, might is not right and the mere will of the ruler does not have the force of law. But Aquinas goes further than this in holding that political authority and power spring from the community which, so to speak, transfers its political authority and power to the rulers. The political sovereign, Aquinas says, 'has not the power to frame laws except as representing the people'.<sup>13</sup> Aquinas therefore rejects any theocratic idea – political authority and power come from the Church – or any divine right of kings theory – political power is given by God directly to the ruler. The ruler is the representative (*vice gerens*) of the people and his power is legitimate in so far as it furthers their 'common good'. The citizens have no obligation to obey a ruler who flouts the moral law or who does not rule for the good of all the people. At the same time civil disobedience is not to be undertaken lightly since it may foster contempt for the law.

Following Aristotle's *Politics* Aquinas distinguishes three different forms of government or 'régimes': monarchy (government by one), aristocracy (government by the élite few), democracy (government by all the people). Which régime will be chosen will depend upon the circumstances of the people. However, Aquinas argues that a 'mixed régime' is best:

This is the best form of polity, being partly monarchy, since there is one at the head of all; partly aristocracy, in so far as a number of persons are set in authority; partly democracy, i.e. government by the people, in so far as the rulers can be chosen from the people and the people have a right to choose their rulers.<sup>14</sup>

This, so he says, was the form of government established by Moses for the Jews. One could surmise that something like the constitutional structure of the United States with a President (monarch), Senate and Congress (aristocracy), with all elected by the people as a whole (democracy), would fit Aquinas' description of the 'mixed régime' quite well.

## Developments

The big question, which Aquinas leaves unresolved, is who is to interpret the moral law and judge when there is a conflict between it

<sup>13</sup> *Summa Theologiae*, 1, 11, 97, 3.

<sup>14</sup> *ibid.*, 1, 11, 105, 1.

and the civil law? In the Middle Ages from time to time the Church tended to claim to be the interpreter of the moral law and the judge of any conflicts between it and the law of the State. But there is nothing in Aquinas' theory which gives the Church this right. The interpretation of the moral law is the business of 'natural reason' and the Church authorities have to use the ordinary processes of reason just like the rest of us. If one were to follow out the logic of Aquinas' position one would have to say that they have no more competence in the sphere of 'natural law' than they have in the sphere of the natural sciences. The Church has special rights only within the area of its own competence, the spiritual welfare of its members.

Later Catholic thinkers distinguish between the 'direct power' of the Church over the political order, and what they call the 'indirect power' of the Church vis-à-vis the State. They reject the first, but they argue that in pursuit of its proper spiritual and religious purposes the Church may sometimes run up against a certain law of the State. Thus for example the Church might, in pursuit of its religious mission, set up its own educational system; but then it might come into conflict with a law of the State decreeing that only a State-controlled education system will be tolerated. In this case the Church may, in defence of its own proper religious interests, legitimately protest against the policy of the State.<sup>15</sup> To that extent it may (indirectly or obliquely) 'play politics'.

Clearly the theory of the 'indirect power' of the Church can be interpreted in a very permissive way so that the Church is allowed a good deal of interference in politics. But, by and large, later Catholic thinkers, including the nineteenth and twentieth century Popes in their statements on social questions (Leo XIII, Pius XII, John XXIII), have resisted this temptation and kept fairly closely to the position established by Aquinas.

Aquinas' ideas have also been developed by certain twentieth century Catholic thinkers with reference to liberal democratic 'pluralist' societies where the State largely opts out of the realm of private morality and restricts itself to providing a framework of peace and order within which people can, as Mill puts it, follow out their own 'experiments in living'. Catholic political philosophers such as John Courtney Murray welcome the advent of the liberal democratic state in that it has no religious (or anti-religious) commitment. The Church, like any other group, is free to live within such a society and to fulfil its specific religious task without being tempted to play politics. In the older 'confessional' societies (sixteenth and seventeenth century France, nineteenth century Austro-Hungary) in which the Church had a privileged place, the

<sup>15</sup> J. Maritain, *The Things That Are Not Caesar's*, (London, 1939). J. Lecler, *The Two Sovereignities*, (London, 1952).

Church's religious mission was often compromised by its political commitments. In modern liberal democratic societies the Church cannot demand any special or favoured place: it must take its chance in promulgating its views with other groups. But because of this the Church's essential spiritual mission is more clearly manifested.<sup>16</sup>

## Conclusion

What point do the ideas of Augustine and Aquinas have for contemporary political theory? No doubt, the medieval debates over the relations between Church and State do not now have much application in modern liberal democratic societies where the Christian churches have for the most part lost their special and favoured position and churchmen no longer wish to 'play politics'. There are, however, still some (like the 'Moral Majority' in the United States) who argue that the State should actively espouse specific religious views, and in Islamic societies such as Iran there is a strong tendency towards theocracy with the religious authorities assuming political power and using the law to enforce Islamic beliefs and precepts. The theory of the two societies elaborated by Augustine and Aquinas obviously has something to say with regard to these theocratic tendencies.

In more general terms, Augustine's political 'realism' has continuing relevance in that it reminds us that in practice in the political order self-interest remains a pervasive factor, and in that it warns us not to expect too much from politics. As it has been put, for Augustine

the two major defects of fallen man, perversity of will and ignorance . . . infect every action that the State takes through its all too human agents. Since all those who bear political power – rulers, officials, judges, policemen, soldiers – are only men, their judgement is fallible, their information is inevitably inadequate and often incorrect, and their decisions are frequently biased by passion and self-interest. Their actions, even when they are successful, never dispose of the problems that they face, whether these be domestic issues or foreign relations.<sup>17</sup>

Aquinas' relevance lies in a different direction. As we have seen, Aquinas insists that the main instrument of the State, law, necessarily has a moral basis. Any positivistic theory of law which defines it merely in terms of the will of the 'sovereign' – whatever the

<sup>16</sup> John Courtney Murray, *We Hold These Truths*, (New York, 1960).

<sup>17</sup> Herbert A. Deane, *op. cit.* p. 234.

State decrees through its duly appointed legislative and judicial bodies – is defective for Aquinas and his followers. Thus it has been argued that it is only on a natural law basis that a justification can be provided for human rights (claims by the individual against the decrees of the State) and for international law (a legal system which transcends particular State systems). The contemporary rejuvenation of Aquinas' natural law theory by Finnis<sup>18</sup> and others shows how much point and meaning it still has even for those who do not subscribe to Aquinas' Christian world-view.

## Further Reading

### On St Augustine:

Peter Brown, *Augustine of Hippo*, (London, 1967). The best general introduction to St Augustine – man and work.

Herbert A. Deane, *The Political and Social Ideas of St Augustine*, (New York, 1963). A good survey of Augustine's political thought.

J.N. Figgis, *The Political Aspects of St Augustine's 'City of God'*, (London, 1921). An old but still useful commentary.

### On St Thomas Aquinas:

A.P. d'Entrèves, *Natural Law: An Introduction to Legal Philosophy*, (London, 1970). A little dated but still valuable as an introduction.

John Finnis, *Natural Law and Natural Rights*, (Oxford, 1980). A sophisticated and up-to-date analysis of Aquinas' natural law theory by an Oxford legal philosopher.

T. Gilby, *Principality and Polity: Aquinas and the rise of State theory in the West*, (London, 1958). Quirky but illuminating on Aquinas' political theory.

### General:

Max Charlesworth, *Church, State and Conscience*, (St Lucia, 1973). Essays on contemporary aspects of Church–State relations.

J. Lecler, *The Two Sovereignities*, (London, 1952). A scholarly treatment of Catholic Church–State relations.

J. Maritain, *The Things That Are Not Caesar's*, (London, 1939). An old but still excellent analysis of the theory of 'indirect power'.

John Courtney Murray, *We Hold These Truths*, (New York, 1960). An illuminating attempt to reconcile traditional Church–State theory with liberal-democratic society by a great American Jesuit thinker.

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<sup>18</sup> John Finnis, *op. cit.*

## Marsilius of Padua (c.1275-c.1343)

Marsilius of Padua - Marsiglio dei Mainardini - was born shortly after the death of St Thomas [Aquinas](#), in Padua, Italy. He studied medicine at the Universities of Padua and Paris, and became Rector of the University of Paris in 1312 or 1313. His major political work, a long and complex treatise called *Defensor pacis*, was finished in 1324 and dedicated to the German king Ludwig of Bavaria. He subsequently wrote two shorter works, Marsilius of Padua *De translatione imperii* (c.1326) and Marsilius of Padua *Defensor minor* (c.1340), the latter being, as one might expect, a condensed version of *Defensor pacis*. *Defensor pacis* was at first published anonymously, but in 1326, in circumstances that are not clear, the identity of its author became known and Marsilius thought it prudent to leave Paris. He and a colleague, John of Jandun, took refuge in the court of Ludwig of Bavaria, who had been in conflict with Pope John XXII since the disputed imperial election of 1314. Marsilius seems to have accompanied Ludwig on his Italian expedition of 1328. *Defensor pacis* was formally condemned by John XXII in the Bull *Licet iuxta* in 1327.

Marsilius, like St Thomas, is steeped in [Aristotle](#); but while St Thomas has relatively little to say on the subject of 'Church and state', Marsilius uses Aristotelian modes of thought to strike at the root of the medieval Church's claim to fullness of power in temporal matters. The Church's interference in such matters is, he says, one of the most notorious causes of civil strife, and his purpose is to offer a remedy for such strife. *Defensor pacis* is the antithesis of the arguments put forward by [John of Salisbury](#) in the *Policraticus*. On the analogy of body and soul, John of Salisbury had argued that the government of a kingdom ought to be entirely subject to ecclesiastical supervision and that the prince should be subject, if necessary, even to deposition at the Church's behest. Marsilius, by contrast, wishes not merely to reduce the Church's role or curb its pretensions, but to exclude the Church entirely from all part in the conduct of temporal affairs.

A kingdom or state is, Marsilius argues, a sufficient or 'perfect' community. By this, he means exactly what Aristotle means when he describes the *polis* in similar terms: a community within which human beings can live to the full the kind of life appropriate to their kind. If such a life is to be achieved and enjoyed in peace, the various occupations in which men engage must be harmonised with one another for the common good. Following Aristotle, Marsilius mentions six such occupations: farmers, artisans, merchants, soldiers, priests and magistrates. Social harmony is achieved when the magistrates govern the other groups for the good of all according to law. Although he has a preference for elective kingship, it does not much matter to Marsilius whether government is in the hands of one, few or many, provided that the object sought by government is the common good rather than a sectional or individual good. In this, again, he follows Aristotle's analysis of constitutional forms. We note that, as with St Thomas, this new Aristotelian political thought is entirely divested of 'Augustinianism': there is no suggestion that human association and its ends are in themselves base or sin-laden. Granted that they are not our final ends, the ends at which organised human life aims are nonetheless worthwhile.

Marsilius thinks that government should be government according to law. The rule of law is the best safeguard against the perversion of government by individual or partial interests: another Aristotelian motif. Unlike St Thomas, Marsilius is a legal positivist. Whereas St Thomas is an 'intellectualist', holding that the authority of law comes from the rationality of its content, and ultimately from its association with divine reason, Marsilius is a 'voluntarist' who defines law simply as the will or command of a human legislator, a *legislator humanus*,

reinforced by the threat of coercive sanctions. A not-unintended effect of this definition is to exclude the possibility of a law being declared invalid by the Church because of some alleged defect of moral content. Law, Marsilius thinks, should emanate from the *universitas civium*, the 'universality of the citizens': that is, from the people, or at least from the 'weightier part' of the people (what he means by 'weightier part' is not entirely clear). There are several reasons for this. If law is made by one or a few, it can more easily become subservient to particular interests. People are more ready to obey laws if they feel they have made those laws themselves. The purpose of law is to secure the common good, and the people themselves are the best judge of what is in the common good. Finally, if the law is to be enforced successfully against transgressors, the co-operation of the whole community is required for this to be done effectively. Also, and for similar reasons, Marsilius favours a republican form of government. Princes or magistrates - the *pars principans*, the 'ruling part' - should be elected by the people over whom they are to exercise authority. In making these recommendations, Marsilius has the model of the Italian civic republics in mind, although he seems to intend his political prescriptions to have universal application.

If a state is a sufficient community governed by law, it follows that none of its citizens can claim exemption from the law. Priests are no longer a people set apart, as the medieval Church had insisted for so long. The priesthood is just another occupational group within the community. Its members, *qua* citizens, have no more claim to be exempt from the civil law because they are priests than builders do because they are builders. By the same token, there is no reason why ecclesiastical property should be exempt from taxation merely because it is the property of the Church rather than of any other association within the state. For Marsilius, because individual members of the clergy are just as much citizens as anyone else, their traditional claim to be beyond the reach of secular jurisdiction carries no weight. This is not to deny that the clergy are ministers of the divine law. Moreover, Marsilius does not dispute that the divine law is law in the proper sense. It is the command of a Legislator, Almighty God, and it is reinforced by the threat of coercion in the form of eternal damnation. But the good to which the divine law is directed is not of this world, nor will the sanctions by which it is reinforced apply in this world. The role of the clergy is to prepare us, by instruction and admonition, for the life that is to come after this one. The affairs of this world are entirely in the hands of the secular authorities; the affairs that are in the hands of the ecclesiastical authorities are not of this world. The ecclesiastical authorities therefore have no right to interfere in temporal matters, and no right to coerce any member of the community. Like physicians, they may teach and advise, but they may not compel. Heretics, simply in so far as they are heretics, may not be coerced at all; in so far as their heresy involves criminal behaviour, they should be coerced by the secular power only.

Marsilius is not content merely to exclude the clergy from temporal affairs. He wishes to challenge the whole way in which the Church is governed. Just as sovereignty in the political community should lie with the universality of the citizens, the *universitas civium*, so should the Church be governed by the *universitas fidelium*, the 'universality of the faithful'. The hierarchical organisation of the Church is a matter of convenience only. It has no supernatural origin. Apart from a certain pre-eminence in dignity, the pope is in a position of equality with other bishops. Final authority in matters of doctrine and scriptural interpretation should be vested not in the pope, but in a General Council, which should include secular as well as ecclesiastical delegates. The Council should be elected by the citizens of the various sovereign states, and its decisions should be enforced, in so far as enforcement is necessary, by the secular governments of those states. The pope should be chosen by the people as represented in the Council, and the Council should have the right to depose him.

Marsilius wrote at a time when the Church was demoralised by the migration of the papal curia to Avignon, and when the emergence of nation-states in Europe was in any case eroding the traditional supranational claims of the papacy. He is an early precursor of the 'conciliar movement' associated with Jean Gerson (1363-1429), Nicholas of Cusa (1401-64) and Aeneas Sylvius (1405-64): this movement sought, albeit without ultimate success, to replace the authority of the pope with that of a representative Church council. Without too much simplification, we can say that *Defensor pacis* began to sound the death-knell of the 'high' medieval ideal of papal monarchy and to prepare the way for the increasing secularisation of political thought during the fifteenth and sixteenth centuries.

### ***Further reading***

#### ***Primary sources***

- Marsilius of Padua *Defensor pacis*, ed. A. Gewirth (New York: Columbia University Press, 1980).
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#### ***Secondary sources***

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- Coleman, J. : *A History of Political Thought* (Oxford: Blackwell, 2000).
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