

2009-04

God's co-workers: Remi Brague's treatment of the divine law of Christianity

von Heyking, John

Intercollegiate Studies Institute

“God’s Co-workers: Rémi Brague’s Treatment of the Divine Law in Christianity.” Essay
contribution to Symposium on Rémi Brague’s *The Law of God: A Philosophical History of an
Idea*, *Political Science Reviewer*. XXXVIII. Spring 2009: 76-104.

<http://hdl.handle.net/10133/2538>

Downloaded from University of Lethbridge Research Repository, OPUS

God's Co-workers: Rémi Brague's Treatment of the Divine Law in Christianity

The Law of God: The Philosophical History of an Idea by Rémi Brague, trans. Lydia G. Cochrane (Chicago: University of Chicago Press, 2007) (LG)

We live in an imprudent age. It is not simply that modern times have witnessed some of the worst horrors of human history. Rather, we have difficulty understanding what prudence means. We generally think of prudence as cunning, or better, as that intellectual faculty that enables us to make exceptions to general rules when those general rules, regrettably, do not obtain in every situation. We think this way because we think of social reality, and nature (when it so moves us), as acting according to general, well-regulated norms of repetitive and predictable behavior.¹

Our imprudence is related to our confusion about the nature of law, which, as Rémi Brague demonstrates in his *The Law of God: The Philosophical History of an Idea*, derives from the modern rejection of certain presuppositions of divine law found among the three Abrahamic traditions, especially in the understandings expressed during the Middle Ages. Central to our confusion is the way modern assumptions fracture law from counsel and turn it into a form of command. According to Brague, law and counsel are unified in the medieval Jewish, Islamic, and Christian minds because law, as a “dictate of reason” (Aquinas) directing human beings to the good, takes the form of counsel out of what is owed to human beings as rational creatures. In modernity, law and counsel are disconnected from the good, as is fitting for beings whose reason is now seen as instrumental. Instead of law and counsel being united, counsel became self-interested cunning, and law became command. The subtle reasoning behind the extrinsic nature of the law

and its movement upon the human intellect and will found among the medieval thinkers was spliced into Machiavellian cunning that needs to be controlled by the strong sovereign who stands above the realm and exerts his will upon it.²

Brague's account of divine law is not merely an historical recapitulation of an old, quaint, and outdated idea. Moreover, in showing that divine law implies a "separation of church and state," Brague does more than describe the historical predecessors to our contemporary liberal arrangements. Instead, Brague's account, while overly compressed in some instances, enables us to gain clarity about the impasse we experience in our contemporary political orders, and to think of ways of moving beyond that impasse. According to his diagnosis, our modern impasse concerning the nature of law is fragmentation between law and counsel, which means that we are confused about 1) the good the law intends and 2) the means of fulfilling it. In examining the idea of divine law, Brague enables the reader to gain clarity not only about the meaning of "divine law" but also the nature of law per se, because he demonstrates how reasoning about the divine law requires reasoning about what stands above law.³ For instance, in Christianity (e.g., Thomism) divine law stands above and separate from natural law as well as human law. Human law must conform to natural law, and divine law strives for something higher than natural law. In striving for something higher than natural law, the reader of Brague's work is forced to consider whether one can still speak of "law" at all, or at least the common sense understanding of law which seems to be a rule or norm that describes "a constant relation among phenomena" (LG, 236) in recognizable and typical situations and events.⁴

The advantage of examining Brague's treatment of divine law in Christianity, and elaborating on its implications, lies precisely in the clarity of Christianity's claim that, in fulfilling the law, it clarifies the nature not only of divine law but also of law per se. Moreover, Christianity claims to "solve" the tension between law and counsel by equating the two.⁵ This equation is implicit in Brague's historical coverage of "church-state relations" in medieval Christianity in Chapter 9 of *The Law of God*. It is seen more clearly in his

treatment of St. Thomas Aquinas in Chapter 13. Our analysis of his treatment of Christianity, as well as our explication of its principles, will focus on these two aspects.

Brague reminds the reader that, in the Christian tradition, law does not at all refer to norms or commands. Rather, “law” must be understood in terms of prudence (*providentia*), which is about knowing individuals in their particularity. Our consideration of law as intending the good of things in general gets refined into a consideration of *providentia* that intends the goods of individuals. However, can *providentia*, which is individual knowledge, be reconciled with a view of law that groups individuals under a general norm? Whither law? Is Christianity’s replacement of the Old Law with the New Law actually a misnomer? Are the symbols, “New Law,” or “law of Christ,” or “law of liberty” in fact terms mistaken for something else? Are they ironic nods to the predecessors of Christian order, Judaism and Stoicism? Or, as Eric Voegelin has argued, must Christianity, which represents a differentiation of consciousness of reality, necessarily draw upon its antecedent more compact cultural and spiritual symbols to articulate itself?⁶ Christianity, as Brague shows, is the revelation of a person, not law. But Christianity and its teachings still exist in the world and draw upon our experiences of the world, including the cosmos, to communicate its meaning.⁷ Chief among the world’s symbols is the affirmation of the created order (to be redeemed) that expresses itself as the lastingness and endurance of the cosmos, though man’s earliest experience of law was as decisions and punishments, that is, of what we might call law’s instantiations (LG, 11–4).⁸ Law as a norm reflects the cosmos in its lastingness and its governance over human beings. Yet, man’s purpose in Christianity transcends the cosmos, just as it transcends the articulation (though not the substance) of divine law. In Christianity, then, one may surmise that “divine law” constitutes a necessary compromise, and one that is necessarily meaningful, with the *saeculum*.

Christian Scripture

To speak of divine law within Christianity is to evoke something

ambiguous, to say the least. Brague observes that while “the law of Christ” (*ennomos Christou*) became a commonplace among Christian thinkers, it was actually “an isolated turn of phrase” for Paul (1 Cor. 9:21; LG, 92 & 210). Christianity does not produce a law in the same sense as found in either Judaism or Islam. Rather, Christianity introduces a person while keeping the content of the law more or less the same as in Judaism. Action remains more or less the same, meaning Christian “law” changes little. Even so, the change in purpose and means of obtaining the goal of action undergo revolutionary change, “The Christian reinterpretation of the commandments affects their context, not their content” (LG, 69). The paradox of Christian “law” is that the revelation of Christ changes nothing in one sense and everything in another sense. Near the end of the book, Brague reformulates a statement of Benjamin Constant that Christianity’s morality is “common morality” while also “ennobl[ing] all the virtues” (LG, 259–60). The direction Brague takes with this reformulation requires refinement, which will be considered below when we discuss Thomas Aquinas.

With Christ, the end of law is friendship with God (John 15:15; LG, 225). This makes law superfluous as an extrinsic cause of virtue, as now human beings are “God’s co-creators” (1 Cor. 3:9). No longer disciples, human beings are no longer subjects whose nature it is to be under law as is the case with Judaism. Brague concentrates on two innovations concerning human anthropology that Christianity introduces and that provide the substructure for humans’ ability to share friendship with God: conscience and autonomy (LG, 88–90). Paul draws upon Stoicism to symbolize the “holy spirit [that] indwells within us, one who marks our good and bad deeds and is our guardian” (LG, 88)⁹ The upshot of this is that good and evil are simultaneously available to all, as Gentiles now have access to knowledge of the law. The problem now resides in whether we can will the good. Conscience (*syneidesis*) enlightens us about what we should do, but it requires the work of the Holy Spirit to give it effect. Paul also adapts *autonomos* in a manner consistent with one of Aristotle’s usages: the Gentiles who have the law written upon their heart “are themselves a law.”¹⁰ The actions of certain individu-

als are themselves a form of law. Christianity then teaches that the content of the law is open to all human beings. It also teaches that a few can become autonomous, those “co-creators” or *virtuosi* who embody the law and for whom the good is what “he possesses on his own.”¹¹

In revealing the divine law as a person, whereby Christ is consistently referred to as the law instead of as the lawgiver, Christianity purports to surpass Judaism and Islam in its understanding of the divine law and the possibility of our realization of it. In order to make good on its claim, Christianity needs to address an impasse found in both Judaism and Islam. In those other Abrahamic faiths, divine law is revealed by the legislator. The law is meant to coordinate relations among people: the covenant for the Jews and the *umma* for Muslims. However, the perfection of the law, or its perfect embodiment, the legislator (frequently identified as a philosopher, in the case of Maimonides for the Jews and al-Farabi for the Muslims) is solitary (LG, 198). The fulfillment of human happiness, the sociability of human beings, is strangely denied in its perfection. In identifying Christ with the law, instead of the lawgiver, Christianity seems to bypass this impasse. Co-creators are friends with God and friends with one another. Their inherent sociability is perfected because either they share in human perfection or they are denied the form of perfection ascribed to the Jewish and Muslim legislators insofar as only Christ is law. Moreover, the co-creators are denied that form of perfection because there is nothing to legislate in Christianity. Christianity takes what is written upon the human heart, but in revealing the law as person, it prescribes the way of fulfilling the law. Even so, only those infused with the Holy Spirit “are themselves a law.” Has Christianity delivered on its promise of reconciling law and counsel?

Practical Origins of Separation of Church and State?

As noted above, Brague argues that Christianity deepens and elevates the common culture. In medieval Europe, this common culture was the inheritance of Rome, where “popes and emperors both claimed to be their heirs to the city of Rome” (LG, 134). The Latin

Middle Ages are also purportedly the source where the freedom of Christians worked itself out in practical terms, thereby allowing a separation of church and state that not only preceded the modern separation, but also without the problems associated with modern understandings of law, divine or otherwise.

Brague's treatment of politics in the Middle Ages in Chapter 9 is in fact the most historical of any of the chapters in the books. That is, this chapter focuses more on the practical engagement between "church" and "state" than on the theories that sustain their positions and in such a way that differs from his treatment of Judaism and Islam. This is not to say that there is no principle to examine. Quite the contrary. With Christianity, one finds not necessarily a political recipe for rulers to follow. Rather, one finds an expanded public arrangement, that transcends the political, and to which political and ecclesiastical actors appeal, the "new regime of salvation" (LG, 211). As a result, it is misleading to claim that "separation of church and state" preceded the modern liberal democratic separation because the modern one rejects the basis upon which the medieval version was based. Brague summarizes the medieval arrangement:

In the Middle Ages, unlike what has seemed totally obvious from modern times to today, the game was not played between the church and the state. Instead, Christianity was stretched between two poles that both—first the papacy, then the empire, following in its traces—attempted to crystallize into a state. That movement ended up forming the church as we know it today and, in reaction to it, the first incarnations of the modern state. This combat took place on the level of the law, which each of the two adversaries sought to articulate around the divine to its own advantage (LG, 136).

The medieval "separation" was in fact two poles along a single continuum that expressed the substance of the community, but one whereby that substance could enable political and ecclesiastical actors to trace the limits of the law, thereby preserving the realm of

human liberty that law does not regulate (LG, 144). Eric Voegelin, referring to this civilizational continuum as *sacrum imperium*, provides a succinct formulation of the problem, “universal empire as a power organization and the universal spiritual community tended toward each other and finally met, but they did not amalgamate.”¹² The *sacrum imperium* was an ideal only; it never existed in fact. A closer look at the issues explains why.

Brague’s treatment of medieval history summarizes significant practical judgments made by figures who, usually unintentionally, maintained the integrity of that continuum. For example, Brague observes that canon law contrasts with the laws of Judaism and Islam by preserving the space for human beings to exercise their practical judgment through legislation. Canon law is not founded upon:

Christianity’s fundamental sources . . . Consequently, it does not put into operation an exegetic method comparable to those of Judaism and Islam. Islamic ‘theocracy,’ as the direct power of the legislator-God, always runs the risk of short-circuiting human mediation. Conversely, Christian ‘hierocracy,’ which delivers legislation over to the priest, makes the intermediary of a human law necessary” (LG, 145). It seems the Latin West contained within it the insistence that individuals and statesmen in particular, possess freedom to exercise *phronesis*, to make laws that could be genuinely ascribed to human judgment. It is noteworthy that the one great exception to this freedom, the encyclical of Pope Boniface VIII, *Unam Sanctam*, that “most extreme expression of the claims of the Holy See, formed his conception of the role of the pope by taking inspiration from the theory of the caliph developed by Avicenna.¹³

Brague describes the history of the Latin West as a series of adjustments and contestations between the two poles of the Gelasian two swords, papacy and empire. Both sides claimed to represent the “city of Rome” in its universality, and both sides claimed sacrality.

Significantly, the empire justified its sacred status not by appealing to Scripture, but Roman jurisprudence, as in the case of Frederick Barbarossa (LG, 139). Concerning the latter, Brague lists various sacraments and charisms imputed to the offices of various kings, including the examples of French kings miraculously healing cases of scrofula (a type of tuberculosis that attacks the lymph nodes) after being crowned (LG, 140). The effect of both sides—papacy and empire—laying claim on sacrality is to cancel one another out. In fact, Brague observes how considering this scheme as dualistic is too simplistic: “The presence of the papacy and its increased power imposed some constraints particular to the West. Three forces contended for control: the pope; local ecclesiastical institutions, divided into the secular clergy (the bishops) and the regular clergy (the monastic orders); and the temporal power, where there were also divisions among local sovereigns and between the latter and the emperor. This opened the way to a many-sided conflict in which the various forces formed alliances with one another” (LG, 134). Brague adds that the pan-European Cluniac monasteries and the universities played a crucial role for the papacy in countering imperial and local power.

In defending *libertas* (LG, 135), each actor essentially defended his own turf. In Brague’s account, no individual actor (or alliance of actors) sought *libertas* as an ideal or sought to limit the claims of politics or the church. Rather, the competing actors in this “multipolar” world inadvertently created, or perpetuated, a world in which political and ecclesiastical claims had to be restrained because someone else would object. The intermediaries of human law and practical judgment were necessary to regulate these claims because the playing field was crowded. Yet, these actors played on a field that made these human intermediaries possible, and even fostered them. Stated differently: in defending his own turf, each actor acknowledged the legitimacy of the other actor(s) to defend his own turf. They all agreed no single institution could take “ownership” of the entire political realm, as was the case, for instance, of the ancient polis or Roman empire with their civil religions.¹⁴

Three characteristics of the Christian West require clarifica-

tion in order to understand what gave room to these human intermediaries. For the first, we need to return to Paul's Epistles, which show the adaptation of the perfection of the Christian community in the Holy Spirit to the imperfect world. Central to the Christian community is its continual prudential adjustments to the imperfect world. According to Eric Voegelin, "the greatness of Paul lies in his quality as a statesman that enables him . . . to transpose the community of the perfect with Christ into an idea that took into account the practical problems of a community that did not at all consist of perfect saints."¹⁵ As a result, the exercise of *phronesis*, whose Pauline exercise Voegelin refers to as the "compromises of Paul," is built into the Christian idea of divine law. Voegelin lists five such "compromises" that underwrite the adjustments: 1) with history, combining the appearance of the Messiah, the Israelite Law, and the law of the Gentiles as revealed through creation; 2) with the weakness of man, which prompted Paul to speak of the unique gifts or *charisma* of individual members in the *corpus mysticum* (Ephesians 4:4–7). Significantly, the diversification of the *charismata* promoted equality and therefore contributed to preserving Christian neighborliness; 3) the law of love maintains the contents of the Israelite law but revolutionizes its content; 4) eschatological indifference to social problems, such as taking slavery for granted (1 Timothy 6), despite the glaring gap between the perfect spiritual brotherhood and real-world conditions; and 5) governmental authority is ordained by God (Romans 13:1), which is not a rule envisaging a permanent establishment, "but as a provisional arrangement that is necessitated by the coexistence of the invisible realm and the world until, with the second coming of Christ, the tension between the two is resolved into the visible supernatural glory of the kingdom of God (2 Thessalonians 2)." However, political rule is not listed among the *charismata* of the *corpus mysticum*, which explains why partisans of the empire frequently tried to sacralize kingship on the basis of Roman antiquity and Hebrew Scripture instead of the New Testament.¹⁶ The coronation of Charlemagne was the high point of this effort to reconcile Scripture to "common morality," but the subsequent failure to maintain the empire made it difficult for rulers to

legitimate their rule by appealing to the *charismata*. Not only was it difficult to appeal to Scripture for their rule, but there were too many other rulers in the field. The *sacrum imperium* was an ideal only, and at least part of the tension between empire and papacy was the result of the fact that the papacy had to compete not just with a single emperor, but with numerous territorial kings, as well as bishops asserting the rights of the national churches.

While several of these Pauline “compromises” might imply a kind of indifference toward “the world,” they in fact reflect the freedom the divine law provides Christians in arranging their political and social affairs because divine law is not dictated as a norm, but rather as a person. Paul’s vision of the resurrected provides him the freedom to perform the impressive feat of ecclesiastical “statesmanship” in founding the community. Crucially, what this means is that neither pole of the Gelasian “theo-political” spectrum can fully absorb or represent the Christian person. It seems the Incarnation of divine law as a person, expressed in terms of Pauline statesmanship and “compromise” here, introduces into the *saeculum* the idea of permanent reformation, if not to say revolution, whereby no institution—political/imperial and ecclesiastical—can fully absorb the human personality, which, as the recipient of divine gifts, lives in tension toward God:

. . . the Christian idea of the person in immediacy to God would prove the permanent irritant against the institutions. The idea of the Christian person would function doubly as an agent of revolt against the institutionalization of the relations between the soul and God and as an agent of regeneration of the institutions. . . . The public institutions of imperial Christianity (church and empire) have, from their beginning, absorbed the problems of the spiritual soul and its destiny into their pattern. It would seem impossible, on principle, that situations like the popular dissatisfaction with the empire religion of Ikhnaton, or the apolitism of the Hellenic schools, or the Chinese “associationalism” in conflict with the Confucian public order could arise in a Christian civilization. As a matter

of fact, situations of this particular kind do not arise; the tensions assume specifically different forms. For the designation of this specific difference we may appropriately use the term *reformation*. The movement of the spirit has become institutionalized in the church; hence, the spiritual movements from the bottom of society cannot be in generic opposition to the institutions.¹⁷

We have found the conflict between papacy and empire cannot be characterized as a conflict between two monoliths. Moreover, we have traced the vitality of their conflict to an inability of each to make a special claim on the human personality. This inability creates a vitality that Voegelin refers to as the permanent “reformation” that occurs within this civilization. Prompted by Brague’s suggestive historical overview of medieval European political order, we have traced the reformation back to the vision of the human person expressed in the Paul’s epistles. We have seen it at work in the nitty-gritty of political life in the Christian Middle Ages. We now turn to its philosophical exposition, as Brague relates it in St. Thomas Aquinas.

St. Thomas Aquinas

Brague refers to St. Thomas Aquinas as one of the three “miracles” of the Middle Ages (along with Maimonides and Ghazali) because he provides the deepest philosophical exposition of the divine law in Christianity.¹⁸ Thomas treats divine law as counsel offered to a friend instead of as a commandment. As such, it takes the form of providence as knowledge of individuals and not as a general norm:

the intellect operates in the singular, activated by one individual or another. There is no Man, no ‘humanity,’ but a plurality of persons, all of whom are irreplaceable. Providence must thus reach people where they are, which is to say in their variety, a variety so great that the instinct common to the species does not suffice to regulate it. It pertains to individuals within the diversity of circumstances in which they must act,

the complexity of which they themselves are able to grasp. The rational creature can grasp the reason of providence. He or she is thus capable of taking onto himself or herself the exercise of such a providence. The rational creature has a share in providence not only as object, but as subject (LG, 222).

Law is the form that providence takes in relation to a free being, "Thomas defines law as the way we act when in full possession of our freedom" (LG, 223). Law does not command, but is the expression of the free being. Freedom has its own logic. Thus, human beings are co-creators with God because they partake in God's providence; they are friends of God, which is the end of the law.

Brague's equation of law with providence contains an ambiguity because the usual meaning of the latter is to approach beings in their general way of being, and not as individuals. This is one of the reasons Socrates claims the superiority of dialectic over law.¹⁹ Might Brague have overlooked some political reasons for Aquinas to invoke the language of law when in fact the essence of law's aspiration is in fact not law-like?²⁰

In order to address this impasse, a closer look at Thomas's treatment of the inner logic of divine law, in the form of the "New Law," is necessary.²¹ One of the unusual aspects of the three questions of the *Summa* that constitute his discussion, which complete the so-called treatise on law that precedes the treatise on grace,²² is the frequency with which Thomas refers to the Holy Spirit. He refers to it 34 times in these three questions, leading at least one commentator to refer to it as one of three "zones of great pneumatological concentration" of the *Summa*.²³ The concluding three articles of the so-called treatise on law also constitute a bridge from that treatise to the treatise on grace. Both consider the extrinsic principles of acts, of law and of grace. Questions 106–108 on the New Law reflect the transformation from law to grace. Closer inspection of these questions helps us to see the conversion of law from general principle to individuated judgment, as well as helping us to understand how Aquinas avoids the antinomianism that might arise.

However, before proceeding with the New Law, it is worth-

while to glance ahead to the treatise on grace and notice how Thomas treats the Holy Spirit as the person of the Trinity who bestows knowledge not only of matters of faith and prophecy (the light of grace), but also, “Every truth by whomsoever spoken is from the Holy Ghost as bestowing the natural light, and moving us to understand and speak the truth, but not as dwelling in us by sanctifying grace, or as bestowing any habitual gift superadded to nature.”²⁴ In the main body of the article, Thomas draws on Aristotle’s *On the Soul* (III.4) to observe how the intellectual act is a movement that begins with the first mover that places its impress upon the intellect. As Aristotle argues, “thinking is a way of being acted upon.”²⁵ Thomas’s distinction between the Holy Spirit’s gifts of the light of grace and the natural light overturns the false dichotomy of revelation and natural reason frequently attributed to him because the act of the intellect is experienced as a gift and therefore one of passive noëtic reception that precedes discursive reasoning.²⁶ Even so, this harmonious relationship of faith and reason also enables him to acknowledge the rational structure of faith, thereby avoiding fideism or antinomianism because Thomas can assert a rational standard for acts of faith. Or put more precisely: Thomas can identify the rational nature that inheres in genuine acts of faith.²⁷ This ability will become crucial when Thomas turns his attention to addressing the paradox of how the New Law simultaneously maintains the standards of the Old Law, while maintaining that the *virtuosi* that they are a law unto themselves.

Turning back now to the New Law, we see that, as the concluding three questions of the so-called treatise on law, they elaborate what is already present in the previous questions on the nature of law and on the natural, human, and divine laws. Already in the objections of the first question of the treatise (Q.90), Aquinas must grapple with the two main alternatives as to the nature of law: whether it pertains to reason or will. He answers that it pertains to reason, but he cannot dismiss the objection that it pertains to will because he needs to explain what moves us to act according to law. He excludes coercion from his definition of law later in that same question, so the attractiveness of law must reside in the good

it achieves. Elsewhere he writes that the “specific nature of law in fact is to arouse man to do good.”²⁸ Law not only places the good before the intellect, but must appeal to the good of the individual the lawmaker wishes to have obey the law. Law cannot do this on its own, and, as we shall see, the last three questions of the so-called treatise on law attempts to demonstrate how law must be understood in order to unite intellect and will, that is, to equate command and counsel, “to arouse man to do good.”

Also in Q. 90, Thomas avers the individuated nature of law that Brague notices. Thomas defines law as “nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated.”²⁹ Law is an expression of reason established for a particular community “by him who has care of the community.” It is individuated insofar as it is tailored to a particular community; it is general insofar as it ignores differences among the multitude of individuals it governs. Aquinas expands on the individuation of law in the next question (Q. 91) when he observes that human reason needs to proceed from the general precepts of the natural law “to the more particular determination of certain matters.”³⁰ Human law and divine law determine the natural law. Determination means more than applying general laws to specific circumstances. Thomas seems to suggest this meaning in two parts of Q. 95.2 when he describes human laws as determinations of natural law, in the way a craftsman determines the general form of a house to some particular shape and when the choice of a particular punishment for an evil-doer is an act of determination. Yet, determination also means completion of something, as if the general form were insufficient. For instance, in his *Commentary on the Nicomachean Ethics*, Thomas describes determination as the movement from potency to act.³¹ In the realm of speculative reason, it is the resolution of a problem, or the movement from uncertainty to certainty.³² Determination in the realm of practical reason, then, is the movement of human potency to act, that is, the full activation of the virtues. In terms of the relationship among laws, it is not merely the application of natural law to particular circumstances, but, in keeping with Brague’s reminder that divine law is brought to

us in the mode of individuated knowledge (judgment), law-making itself becomes a process of seeking practical knowledge. As Robert Miner explains, “such that the acquisition of true knowledge about particulars is not anterior to the process of law-making, but is acquired through the very performance of the activity.”³³ Law-making is a central part of the practical intellect that constitutes the “dictate of reason” that forms part of the definition of law. So much so that even though the ruler legislates, the citizens participate in law-making in giving or withdrawing consent. This was a crucial part of the Old Law that established the Israelites as a mixed regime.³⁴

The purpose of the Old Law was to promote friendship. The first article of Q. 105 explains how the Israelite constitution is mixed and in accordance with Aristotle’s understanding of the mixed constitution. Thomas observes but does not comment on the fact that the divine law’s provision for mixed government is identical to that offered by Aristotle’s natural understanding. Already in Q. 100 he had indicated that the moral precepts belong to the law of nature.³⁵ In fact, his subsequent discussion of the Old Law’s provisions could fall under the heading of the natural law. The subsequent articles fit with Brague’s observation that the divine law is not overly concerned with politics, but, rather, with governing ethical relations in promoting friendship (a. 2), economic relations in promoting just exchange, the Israelites’ treatment of foreigners (a. 3), and the household (a. 4). In identifying the purpose of the law as the promotion of friendship, Thomas identifies the character of political society as in accordance with the natural law, citing Cicero’s (as quoted by Augustine) definition of a commonwealth.³⁶ The commonwealth as founded upon consent promotes friendship, which is to say that the political relationship is inferior to friendship. For instance, the law provides the space for the free property-owning members of society to exercise just exchange. The purpose of the Old Law is to accustom people to “give of their own to others readily.”³⁷ He provides the example of the Old Law’s requirement that one may eat from another’s vineyard so long as what moderate amount he takes is consumed on the grounds, ensuring enough is left over for the

property owner. The Old Law requires people to make small sacrifices to get them accustomed to give of themselves in friendship.

The transition from Q. 105 on the judicial precepts of the Old Law to Q. 106 on the New Law jars the reader's attention because of its radical shift of focus. Q. 105 ends with a detailed discussion of ethical obligations within the household, while Q. 106 must carry the load of introducing the reader to the enormity of the Incarnation. Questions 106-108 document the conversion of the soul from the letter of the law to its spirit, from the written law to the law of the heart. Thomas's task is challenging because he needs to explain the revolutionary nature of the New Law that is written on the heart. This task requires him to remove the possibility that the New Law in fact undermines law (by promoting antinomianism) without turning the New Law into the legalism that characterized the Israelites, "Wherefore the letter, even of the Gospel would kill, unless there were the inward presence of the healing grace of faith."³⁸ His exposition of the New Law, as the grace of the Holy Spirit, must show what Torrell refers to as the "structural presence" of the Holy Spirit—its natural light in this case—and must discourage those who think the Holy Spirit "bloweth where it willeth."³⁹

Our understanding of Thomas' task is assisted by noting the coincidence of the task of the New Law in instructing human beings and the task of Thomas the teacher in instructing the student. Just as the New Law, the grace of the Holy Spirit, teaches, so too does the form of any given question in the *Summa* imitate the discussion between teacher and student. The form and substance of the question unite in a common purpose, "As natural to the mind, this process is the nature that the art of teaching imitates, and its task is completed when the student within his own mind is holding a discourse similar to that which the teacher holds in knowing a truth."⁴⁰ *Disputatio* cultivates habits of thought and friendship that prepare the student reading the *Summa* in like manner to how the New Law prepares one for the grace of the Holy Spirit: both prepare the intellect and the affections. The *disputatio* exercises the student's discursive intellect (*ratio*) and prepares him to perceive through *intellectus* the truth of the question. The *disputatio* brings

the student around to receive the illumination of the natural intellect under the Holy Spirit, but, as Bird observes, the example of the teacher leading the student is the necessary component of the intellectual process enabling the student to comprehend the truth. The embodied relationship of the teacher and the student forms the mode of the intellect's participation in the natural light. The form of the *Summa* presupposes the person of the master is present, not as the object taught, but as a non-presence to teach disciples to think and live freely.⁴¹ Etienne Gilson alludes to this non-presence in his observation that the "*Summa Theologiae*, with its abstract clarity, its impersonal transparency, crystallizes before our very eyes and for all eternity [Aquinas's] very interior life."⁴²

With this in mind, we can see how Q. 106, art. 1, considers how the law is instilled in the heart. The Gospel itself is not law, but it appeals to the intellect and to the affections, which the Old Law as command could not do. In speaking to the intellect, "the Gospel contains certain matters pertaining to the manifestation of Christ's Godhead or humanity, which dispose us by means of faith through which we receive the grace of the Holy Ghost: and with regard to the affections, it contains matters touching the contempt of the world."⁴³ If the New Law is a law, it is a peculiar law. It is the revelation of a person whose life and acts provide the means for fulfilling the law. It is not law so much as, in Brague's terms, a "regime of salvation": "The new law is the law of faith, law of liberty. Christ does not give that new law, for example, by dictating it in the Sermon on the Mount; rather, by making the grace of the Spirit overflow on the believers who form his mystical body, as communicated by the sacraments and in the faith" (LG, 224).

As Brague notes, the New Law provides autonomy through the economy of salvation (LG, 223–4), the passage from the Old Law to the New. One of the competing viewpoints to which Thomas needed to respond was that if the New Law is the law of liberty, then do not the standards of the Old Law become obsolete and irrelevant in the new era? Will not the new era create an era of autonomous agents, "a third state corresponding to the Holy Ghost, wherein spiritual men will hold the first place" in possessing the

grace of the Holy Spirit more perfectly than ever before?⁴⁴ This is the position of Joachim of Fiore and his followers. Jean-Pierre Torrell has noted that the “tenor of this response, as the content of the whole of article 4, is naturally addressed against Joachim of Flora and his disciples.”⁴⁵ The Joachite position takes the liberty and autonomy of the Christian infused by the Holy Spirit and transports it to a new level of history, guided by its own intelligentsia. Thomas rejects the argument as “foolish,” “senseless,” and “most absurd” because it rips apart the Trinity into historical categories. The Joachites believed the Holy Spirit had still to descend after the Resurrection and Ascension in the form of the Spirit-infused clergy. As a result, they believed history, instead of being divided into the time of the Old Law and the time of the New Law, has a Trinitarian structure: the ages of the Father (Old Law), Son (New Law), and Holy Spirit (era of the free spirits).⁴⁶ Related is Thomas’ concern about the antinomianism of the Joachite position. Bearers of the Holy Spirit are rules unto themselves, *virtuosi* (LG, 225–6). For Thomas it would be going too far to identify this with the clergy at the vanguard of a progressive history (though we have yet to clarify what Aquinas regarded as the nature of the *virtuosi*).

In order to avoid the Joachite historical and antinomian fallacies, Thomas addresses the relationship of the Old Law to the New Law in the next question.⁴⁷ Both share the same end, but the New Law is “nearer” to its end. The Old Law is the “law of fear” while the New Law is the “law of love.”⁴⁸ The Old Law restrains the hand, while the New Law restrains the will, and so extends to the interior acts of sins. He avoids the twofold Joachite fallacy in his response to whether the New Law fulfils the Old.⁴⁹ Christ fulfilled the precepts of the Old Law in his works (the person) and doctrine. He fulfilled the Old Law through His doctrine in three ways: 1) by extending the prohibitions (e.g., against murder and adultery) to acts of the will; 2) by “prescribing the safest way of complying with the statutes, that is, by simplifying the prohibitions (e.g., in forbidding perjury, it is safer simply to abstain altogether from swearing, “save in cases of urgency”). This was meant to eliminate the legalism that results from adding a maze of exceptions to general

rules; 3) by adding “some counsels of perfection.” The New Law only eliminates the Old Law’s ceremonial precepts, which Thomas explains as foreshadowing the New Law, which, by completing the Old Law, is final, “Thus the promise of a future gift holds no longer when it has been fulfilled by the presentation of the gift. In this way the legal ceremonies are abolished by being fulfilled.”⁵⁰ As a result of this interiorization that also preserves the rational purpose of the Old Law, the New Law both lightens the burden by removing some precepts, while making it more difficult by prohibiting “certain interior movements of the soul” that are most burdensome for those lacking in virtue.⁵¹ Thus, the New Law is also the “law of liberty” because it gives individuals greater discretion as to what they must do or avoid.⁵² Of course, the Sermon on the Mount prescribes right interior actions with regard to himself and toward neighbor,⁵³ and it maintains the moral precepts of the Old Law because they are essential to virtue.⁵⁴ Even so, it “directs man’s intention” away from worldly goods toward beatitude, the “new regime of salvation” according to Bregue.

Thomas addresses the “content” of the New Law in the final question of the treatise on law. In article 1, he indicates that the New Law prescribes few additional external acts, including confession, because it deals chiefly with internal acts.⁵⁵ He also instituted sacraments for obtaining grace: Baptism, Eucharist, Holy Orders of the ministers of the New Law, Penance, indissoluble Matrimony, and Confirmation.⁵⁶ Rather, the “Lawgiver” has left most external acts to the discretion and love of the believer, and so the New Law is called the “law of liberty.”⁵⁷ The other reason for its being called the “law of liberty” is that “the grace of the Holy Spirit is like an interior habit bestowed on us and inclining us to act aright, it makes us do freely those things that are becoming to grace, and shun what is opposed to it.”⁵⁸

The New Law directs man’s interior movements toward himself and toward his neighbor.⁵⁹ The final question of the treatise on law appropriately deals with Christ’s counsels: “The counsels of a wise friend are of great use, according to Prov. xxvii.9: *Ointment and perfumes rejoice the heart: and the good counsels of a friend*

rejoice the soul. But Christ is our wisest and greatest friend."⁶⁰ The commands listed in article 3 are obligations and outline the moral struggle that fallen man undergoes to obtain righteousness. The counsels, appearing at the conclusion of the treatise on law, imply a degree of perfection on the part of the human being taking them, for "a counsel is left to the option of the one to whom it is given." The commands of the New Law "have been given about matters that are necessary to gain the end of eternal bliss . . . but the counsels are about matters that render the gaining of this end more assured and expeditious." The purpose of the commands and counsels are the same, but the counsels are for those more capable and willing to seek that end. It follows they are freer, and more likely the *virtuosi*, the closer friends, of God.

The three counsels are 1) perpetual poverty, 2) perpetual chastity, and 3) obedience. The counsels correspond to the three goods of the world that perfection rejects: concupiscence of the eyes, concupiscence of the flesh, and the pride of life, which consists chiefly of honors. Of course, as a Dominican, Thomas has in mind monastic practice as the form these three counsels of perfection take.⁶¹ Thomas defended the monastic orders against charges of their being parasites on society.⁶² Rather, in *Contra impugnantes*, Thomas defends the religious orders as living the apostolic life, living as friends of God and evangelizing the world.⁶³ If the New Law reveals the person Jesus Christ, then the religious orders living out the apostolic life are the best approximation of the law because they strive to replicate the life of Jesus. They serve as markers for the perfect life amidst the fallen *saeculum*. As such, they serve as markers for that space in the *saeculum* that serves as the entry point for human freedom. By accepting the three counsels, they lovingly live the New Law by going beyond it, and their vows reflect the reality that transcends the *saeculum*. If the *saeculum* is fallen and therefore in bondage, by following the counsels they mark the space where genuine liberty takes place, and their evangelization, including their association with rulers, allows for the *saeculum* to partake in freedom to a fuller extent than before the New Law took place.⁶⁴

Thomas does not indicate that they offer policy advice. Rather, inspired by charity, they are an “instrument for salvation” for the sovereigns they befriend.⁶⁵ By cautioning them especially against the “pride of life” and by offering a positive example of the superiority of the contemplative life infused by *caritas* over the political life, they not only restrain sovereigns and exhort them about the limits of servile worldly glory, but also assert the freedom upon which the active life draws. Their presence among sovereigns constitutes a reminder of the tension human beings inhabit between the *saeculum* and eternity, and therefore constitutes the locus and anchor of their liberty.

Yet, religious orders are not present simply to restrain excessive love of worldly honor. *Caritas* involves love of neighbor, and love of God is a special motivation Christians have in practicing justice. This is why, for instance, Thomas, unlike Aristotle, treats piety, as a gift of the Holy Spirit, as a matter of justice owed toward God and not only toward one’s parents as the ancient Greeks had it.⁶⁶ Piety motivates Christians to love their neighbor, thereby motivating a special responsibility to promote justice. Yet, as this article’s placement in the *Summa* suggests, justice is about more than formal rules and procedures, as law, as Brague shows, is more than a norm. For Christians, law, and so justice, is a person intending the good of irreplaceable and unique individuals. Possibly for this reason, equity (*epieikeia*), the virtue for judging individual cases whose diversity the law is inadequate to handle, is the subject of Q. 120. If Christian “divine law” is in fact a person, then equity would be the virtue par excellence of the model Christian statesman.⁶⁷ That such a virtue characterizes the model of the Christian statesman and not the vast majority of people claiming to be Christian or statesmen helps explain Thomas’s reticence in discussing equity as well as the general emphasis on the symbol, law, in Christianity. Moreover, as a matter of justice, the practice of equity would be guided by the natural light of the Holy Spirit, thus enabling Thomas to show how equity, while a special calling for Christian statesmen, is not restricted to them, but is available to anyone open to the natural light. While the religious orders, whose institutional presence in the

courts of the sovereign serves as the presence of the divine law over the natural and human law, do not themselves have equity because they lack political *phronesis*, they can motivate those sovereigns who do have political *phronesis* to be specially motivated to practice justice, which includes equity, and, of course, mercy.

Even so, members of the religious orders are not necessarily the *virtuosi* and most certainly are not laws unto themselves. Or more accurately, not all Dominicans are the *virtuosi*. The critics of religious orders to whom Thomas replied in his *Apology for Religious Orders* claimed, among other things, that members of religious orders only put on the appearance of their vows and used their special social position to advance their concupiscence, desire for wealth, and ambition. These are well-known and historically popular criticisms, which, in the hands of thinkers like Machiavelli and Luther, helped to undermine the ancient and medieval understanding of political and moral order.⁶⁸

Thomas was himself enough of a *virtuosus* to avoid identifying the *virtuosi* with the monastic orders. Human freedom implies that human excellence cannot be exhausted by an institution, whether political, ecclesiastical, or monastic. Stated more boldly, Thomas himself is the *virtuosus*, the friend of God, at least for his time. He was not just a spiritually mature man but *the* spiritually mature man of the Latin Middle Ages; he articulated the exemplary intellectual system of the Latin Middle Ages, but he also articulated the great synthesis of Western civilization. His “miracle,” as Brague puts it, is the Holy Spirit’s gift bestowed on the twin wings of the natural light and the light of grace. The work of Thomas explicates the freedom and its root upon which the exercise of the speculative intellect but also the practical intellect worked in the Middle Ages. The freedom that his work explicates sustains the West’s “separation” of church and state in general.

Conclusion

Brague’s *The Law of God* considers the Christian approach to divine law in such a way as to force the reader to reconsider not only the various ideas and doctrines that Christians up to Thomas

Aquinas have elaborated, but also to reconsider how the revelation of a person shows the intent of law to be the good of individuals. By this, Brague, as well as Paul, Augustine, Aquinas, and others Brague mentions, does not regard the human good as private and individualistic. Rather, the human good must be thought of as “plurality of persons, all of whom are irreplaceable. Providence must thus reach people where they are, which is to say in their variety” (LG, 222). By recollecting law as person, Brague points to how one needs to think about rejoining law and counsel after they have been torn asunder by modernity’s instrumentalization of reason.

Part of this effort entails working out the priority of *phronesis* to law understood as a norm, and the priority of *providentia* (which intends the good of the individual) under the light of the natural light over *providentia* under the light of grace. Even so, priority in a relationship does not mean superiority or that the inferior partner is obsolete. Gaining clarity about the nature of law does not entail antinomianism. Moreover, the Christian claim of these priorities owes their formulations to those symbolizations from which the claim springs: the Old Law and Greek philosophy. Divine law in Christianity needs to find its partner in the Old Law, not to mention in Islam and the other world religions and traditions not covered by Brague. Even so, Brague provides guidance in helping us ask the right questions.

John von Heyking
University of Lethbridge

- 1 As Roger Masters has argued, modern science, which includes social science, tends to view law as norms that regulate homogeneous and measurable “objects.” This view of law differs from ancient and medieval accounts of law as a dictate of reason, and where reason is taken as seeing patterns (Roger Masters, *Beyond Relativism: Science and Human Values*, (Hanover, NH: University Press of New England, 1993), Part I. The result is that the ancients and moderns, who take the nature of something to be “for the most part” instead of always and recurring, give greater scope for the practice of *phronesis*.
- 2 By contrast, Plato has the Athenian Stranger associate law as com-

mand with the lawgiving of despots and tyrants (Plato, *Laws* 859a).

- 3 Physicist Paul Davies poses the question of the nature of physical laws (i.e., what makes a law a law?) as a matter that transcends physics. In other words, he admonishes physicists to enquire into the nature of faith in order to understand the nature of law, which transcends the realm of physical explanation, "Clearly, then, both religion and science are founded on faith—namely, on belief in the existence of something outside the universe, like an unexplained God or an unexplained set of physical laws, maybe even a huge ensemble of unseen universes, too. For that reason, both monotheistic religion and orthodox science fail to provide a complete account of physical existence. This shared failing is no surprise, because the very notion of physical law is a theological one in the first place, a fact that makes many scientists squirm" ("Taking Science on Faith," *New York Times*, 24 November 2007 (http://www.nytimes.com/2007/11/24/opinion/24davies.html?_r=1&pagewanted=1&oref=slogin)).
- 4 On norm as starting points in twentieth-century jurisprudence, see Eric Voegelin, *The Nature of Law and Related Selected Legal Writings, Collected Works of Eric Voegelin*, vol. 27, eds. Robert Anthony Pascal et al. (Baton Rouge: Louisiana State University Press, 1991), 39. Voegelin refers to the understandings of norms found in the neo-Kantian understandings of Hans Kelsen.
- 5 As we shall see, Christianity does not purport to solve anything about the nature of law. If anything, it clarifies its inner tensions and its relationship with the intelligence that informs its nature.
- 6 "The challenge must meet the primary experience of the cosmos on its own ground and show its truth to be inadequate in the light of more differentiated insight. The old truth and the new are closely related because, after all, they are two verities about the same reality; they are equivalent symbolizations, to be distinguished by their place on the scale of compactness and differentiation. Considering this close relation, the 'own ground' of the primary experience is of considerable importance, as it is the same ground on which the challenging differentiations have to move," Eric Voegelin, *The Ecumenic Age, Order and History*, vol. 4, (Baton Rouge: Louisiana State University Press, 1974, 71–2). Voegelin uses the example of Jesus' refiguring the "I am" statement of the Thornbush in his response to the Pharisees (John 8:24).
- 7 Brague's companion book to *The Law of God* is *The Wisdom of the World* (Chicago: University of Chicago Press, 2003), which precisely

- strives to determine man's moral experience of the cosmos (see LG, 257).
- 8 See also Eric Voegelin, "Immortality: Experience and Symbol," *Published Essays, 1966–1985, Collected Works of Eric Voegelin*, vol. 12, ed. Ellis Sandoz (Baton Rouge: Louisiana State University Press, 1990), 88–91.
 - 9 Quoting Seneca, *Letters to Lucilius*, 41.2, in Seneca, *Epistles*, trans. Richard M. Gummere, (Cambridge: Harvard University Press, 2000).
 - 10 Rom. 2:14; Aristotle, *Politics*, 1284a30–14; *Nicomachean Ethics*, 1128a52.
 - 11 LG, 226. "Hence it is the virtuous man (virtuosus), as we read, who is the measure and rule of human acts" (St. Thomas Aquinas, *Summa Theologiae*, trans. Fathers of the Dominican Province, (Westminster, MD: Christian Classics, 1948), I.1.6.r3. Hereinafter *ST*. The virtuosus for Aquinas is comparable to the mature man (spoudaios) of Aristotle (cf. John Finnis, *Aquinas*, [Oxford: Oxford University Press, 1998], 50).
 - 12 Voegelin, *The Middle Ages to Aquinas, History of Political Ideas II, Collected Works of Eric Voegelin*, vol. 20, ed. Peter von Sivers, (Columbia, MO: University of Missouri Press 1997), 66. On its imperial dynamics, see John von Heyking, "Post-9/11 Evocations of Empire in Light of Eric Voegelin's Political Science," in *Empire: Ancient and Contemporary*, eds. David Tabachnick and Toivo Koivukoski, (Toronto: University of Toronto Press, forthcoming).
 - 13 LG, 144, citing Sten Gagnér, "Boniface VIII and Avicenna," in *Proceedings of the Second International Congress of Medieval Canon Law*, eds. Stephan Kuttner and J. Joseph Ryan, (Vatican City: S. Congregatio de seminariis et studiorum universitatibus, 1965), 261–79.
 - 14 See V. Bradley Lewis, "Gods for the City and Beyond: Civil Religion in Plato's Laws" and Matthias Reidl, "Truth versus Utility: The Debate on Civil Religion in the Roman Empire of the Third and Fourth Centuries," in *Civil Religion Then and Now: The Philosophical Legacy of Civil Religion and Its Enduring Relevance in North America*, eds. Ronald Weed and John von Heyking, (Washington, DC: Catholic University of America Press, forthcoming).
 - 15 Eric Voegelin, *Hellenism, Rome, and Early Christianity, History of Political Ideas I, Collected Works of Eric Voegelin*, vol. 19, ed. Athanasios Moulakis, (Columbia, MO: University of Missouri Press, 1997), 169–72. See also, Jeffrey C. Herndon, *Eric Voegelin and the Problem of Christian Political Order*, (Columbia, MO: University of Missouri

- Press, 2007).
- 16 Voegelin, *The Middle Ages to Aquinas, History of Political Ideas II, Collected Works of Eric Voegelin*, vol. 20, ed. Peter von Sivers, (Columbia: University of Missouri Press 1997), 62–3.
 - 17 Voegelin, *Renaissance and Reformation, History of Political Ideas IV, Collected Works of Eric Voegelin*, vol. 22, ed. David L. Morse and William M. Thompson, (Columbia: University of Missouri Press, 1998), 132–4.
 - 18 LG, 228. Brague's treatment of medieval Christianity's other great spokesman, Augustine, leaves too many questions unanswered and overlooks the nuances in his affirmation of politics. For an alternative account, see my *Augustine and Politics as Longing in the World*, (Columbia, MO: University of Missouri Press, 2001); related to the friendship theme is also my "The Luminous Path of Friendship: Augustine's Account of Friendship and Political Order," in *Friendship and Politics: Essays in Political Thought*, eds. John von Heyking and Richard Avramenko, (South Bend, IN: University of Notre Dame Press, 2008), 115–38.
 - 19 See Plato, Phaedrus, 277d.
 - 20 An example of this kind of argument is made by Edward Goerner, who argues that Thomas' natural law teaching is provisional and directed toward the "bad man." Beneath his natural law teaching is in fact a teaching on natural right and phronesis, which Thomas had good reasons to veil, including the fact that his students were beginners and lacking prudence, the political climate of the time was quasi-anarchic and beset with internecine warfare in which war-loving participants used war as a way of determining God's judgment over their disputes, and because of the presence of numerous enthusiastic millenarians who thought Gospel liberty supersedes law (E. A. Goerner, "Thomistic Natural Law: The Bad Man's View," *Political Theory*, 7(1) (February 1979): 101–22; "Thomistic Natural Right: The Good Man's View," *Political Theory*, 11(3) (August 1983): 393–418).
 - 21 *ST I-II.106–108*.
 - 22 *ST I-II.109–114*.
 - 23 The others are the aforementioned treatise on grace (I-II.109–114) and the section on the gifts of the Holy Spirit (I-II.68–70). See Jean-Pierre Torrell, O.P., *Saint Thomas Aquinas: Spiritual Master*, vol. 2, trans. Robert Royal, (Washington, DC: Catholic University of America Press, 2003), 155.
 - 24 *ST I-II.1098.1.r1*.

- 25 Aristotle, "On the Soul," in *On the Soul and On Memory and Recollection*, trans. Joe Sachs, (Santa Fe, NM: Green Lion Press, 2001), 429b26.
- 26 A point Thomas and Aristotle appear to share. On Aristotle and passive knowing, see William O'Grady, "About Human Knowing," *St. John's Review*, XXXVII (1) (Winter 1986), 41.
- 27 The 2006 Regensburg Lecture by Pope Benedict speaks to the rational nature of faith, though, strangely, he does not refer to Thomas (http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/sep-tember/documents/hf_ben-xvi_spe_20060912_university-regensburg_en.html).
- 28 In *ad. Rom.* VIII, 2, lect. 1, quoted in Torrell, *Saint Thomas Aquinas*, 205.
- 29 *ST I-II.90.4.*
- 30 *ST I-II.91.3.*
- 31 St. Thomas Aquinas, *Commentary on Aristotle's Nicomachean Ethics*, trans. C. I. Litzinger, O. P. (South Bend, IN: Dumb Ox Books, 1993), IX.1904.
- 32 Otto Bird, "How to Read an Article of the *Summa*," *New Scholasticism*, April 1953, 27/2: 154.
- 33 Robert Miner, *Truth in the Making: Creative Knowledge in Theology and Philosophy* (New York: Routledge, 2004), 10.
- 34 *ST I-II.105.1.* See art. 2 where he affirms Augustine's reference to Cicero's definition of a people as including consent to ius.
- 35 *ST I-II.100.1.*
- 36 *ST I-II.105.2.*
- 37 *ST I-II.105.2.r1.* See also r.4.
- 38 *ST I-II.106.2.*
- 39 Torrell, *Saint Thomas Aquinas*, 169, 223; John 3:8.
- 40 Bird, "How to Read an Article of the *Summa*," 150–1.
- 41 See "On the Teacher. Disputed Question on Truth, 11," Thomas Aquinas, *Selected Writings*, ed. Ralph McInerny (New York: Penguin, 1998), 193–216; Torrell, *St. Thomas Aquinas*, 21.
- 42 Etienne Gilson, *The Christian Philosophy of St. Thomas Aquinas*, trans. L. K. Shook (New York, 1956), 376, quoted by Torrell, *St. Thomas Aquinas*, 21.
- 43 *ST I-II.106.1.r1.*
- 44 *ST I-II.106.4.obj. 3.*
- 45 Torrell, *St. Thomas Aquinas*, 206.
- 46 The Joachite three stages of history would influence later modern

three-stage notions of history (Eric Voegelin, *Modernity Without Restraint: The Political Religions; The New Science of Politics; and Science, Politics, and Gnosticism, Collected Works of Eric Voegelin*, vol. 5, ed. Manfred Henningsen (Columbia, MO: University of Missouri Press, 2000), 178–80; Matthias Riedl, *Joachim von Fiore: Denker der vollendeten Menschheit* (Würzburg: Königshausen & Neumann, 2004).

- 47 ST I-II.107.
 48 ST I-II.107.1.
 49 ST I-II.107.2.
 50 ST I-II.107.2.r2.
 51 ST I-II.107.4.
 52 ST I-II.108.1, 108.2.r.2.
 53 ST I-II.108.3.
 54 ST I-II.108.3.r.3.
 55 See ST I-II.108.1.r2.
 56 ST I-II.108.2.
 57 This is one of the few instances where Thomas refers to Jesus Christ as the “Lawgiver,” which, as an exceptional usage, seemingly confirms Brague’s view that Christianity generally tends to avoid this locution.
 58 ST I-II.108.1.r2. This is not the place to consider the subtle manner Thomas resolves human free will with the “promptings of grace.”
 59 ST 108.3.
 60 ST 108.4.
 61 See also *Summa Contra Gentiles* III.130–138. Providence is the topic of Book III, and includes his discussion of divine law.
 62 See his *Apology for Religious Orders*, trans. John Procter, O. P. (London: Sands and Co., 1902) at <http://www.diafrica.org/kenny/CDtexts/ContraImpugnantes.htm>.
 63 See *Apology for Religious Orders*, 4, ll. 880–89; Jean-Pierre Torrell, O. P., *Saint Thomas Aquinas: The Person and His Work*, vol. 1, trans. Robert Royal (Washington, DC: Catholic University of America Press, 2005), 90.
 64 Thomas defends their association with sovereigns in *Apology for Religious Orders*, 4.7; see also Josef Pieper’s association of chastity with justice (*The Four Cardinal Virtues* [South Bend, IN: University of Notre Dame Press 1965], 158–9). Thomas Martin, O.S.A., explains why Augustine, for his part, promoted “urban monasticism” over the desert variety as “a provocative yet functional model for what community can be and can achieve” in “Augustine and the Politics of Monas-

- ticism,” *Augustine and Politics*, eds. John Doody et al. (Lanham, MD: Lexington Books, 2005), 167.
- 65 *Apology for Religious Orders*, 4.7.5.
- 66 *ST II-II.121*. See also Goerner, “Thomistic Natural Right,” 416.
- 67 The place of equity and statesmanship in general in Christianity, is under-theorized. In addition to Goerner (“Thomistic Natural Law” and “Thomistic Natural Right”), see my *Augustine and Politics in the World*, (Columbia, MO: University of Missouri Press, 2001), especially chap. 4, and Fr. James V. Schall, “A Latitude for Statesmanship?: Strauss on St. Thomas,” in *Leo Strauss: Political Philosopher and Jewish Thinker*, eds. Kenneth L. Deutsch and Walter Nicgorski, (Lanham, MD: Rowman and Littlefield, 1994), 211-30).
- 68 See Machiavelli’s portrayal of Father Timoteo in *Mandragola*. Friedrich Nietzsche, while no friend of Christianity, notes, with special reference to Martin Luther, the elimination of the religious orders constituted a major step toward producing the mediocrity of morals upon which the modern state rests (for details, see Richard Avramenko, “Zarathustra and His Asinine Friends,” in *Friendship and Politics*, 296–300).