

## COMMENTATOR'S INTRODUCTION

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During the first half of the twentieth century, philosophy of religion was widely viewed as dead, not even a domain of serious questions but only of “pseudo-questions.” A pseudo-question has the grammatical form of a question but does not actually mean anything. For example, among logical positivists the question “Is there a God?” was considered meaningless because such sentences as “God exists” and “God does not exist” are neither true by definition nor verifiable by reference to sense data. This view of meaning is rather obviously hoist by its own petard, for the statement “A sentence is meaningful only if it is either true by definition or verifiable by reference to sense” is itself neither true by definition nor verifiable by reference to sense data. So if the criterion is true, then it is meaningless, and therefore *not* true. Perhaps it is not surprising that philosophy of religion, that supposed corpse, rose from the dead. In fact religion, along with other supposedly dead fields of inquiry such as ethics, has become one of the most active lines of philosophical investigation.

Then, during the second half of the twentieth century, social scientists, philosophers, and even some theologians touted what was called the “secularization thesis,” which held that religious influence and authority were in terminal decline. A corollary was that to survive at all, religions would have to embrace secularity and become as little like themselves as possible.<sup>1</sup> These claims have not fared well either, for renewed religious faith is bursting out all over the world – sometimes, unfortunately, faith in gravely defective religions, but sometimes, fortunately, not -- while the denominations and religious groups that did gamble on accommodating themselves to the surrounding secular culture have been suffering shrinkage and evanishment. We may say one thing for the secularization thesis. Although it is not universally true, it does give an accurate description of the upper strata of Western society, so that religious and supposedly non-religious views have come to *contest* the Western public square.<sup>2</sup> A remark widely attributed to sociologist Peter Berger makes the piquant observation that if the people of India are the most religious on the planet, and the people of Sweden the least, then America is a country of Indians ruled by Swedes.

In that sense, this book is for the Indians. If interested Swedes read along too, my joy will be complete. It offers a line-by-line discussion and analysis of some of what Thomas Aquinas writes about Divine law in the *Summa Theologiae*. In doing so it fills out and deepens what I have written in my earlier *Commentary on Thomas Aquinas's Treatise on Law and Companion to the Commentary* (as well as my commentaries on his views of virtue and of happiness and ultimate

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<sup>1</sup>See e.g. Harvey Cox, *The Secular City: Secularization and Urbanization in Theological Perspective* (Princeton, New Jersey: Princeton University Press, 1965, rev. ed. 2016).

<sup>2</sup>I say “supposedly” because the worldviews and ways of life commonly called non-religious have decided views about religion. Not only do they pass hostile judgment on the worldviews and ways of life that admit to being religions, but also, just like admitted religions, they too embody claims about matters of unconditional loyalty or ultimate concern.

purpose, although in their cases the connection is less direct). With some additional detail, small portions of those books have been recycled here so that the book is self-contained, but most of the work is new. One may think of those small portions as a promissory note, since they undertook the obligation that the present work attempts to pay.

I cannot include everything St. Thomas writes about Divine law, or this volume would be three or four volumes. However, I have chosen carefully. Two Articles are included from the First Part of the Second Part (hereafter I-II), Question 91, where St. Thomas establishes the reality of various kinds of law including eternal, natural, Divine, and human. The rest of the selections are from Questions 98-108, where he undertakes close scrutiny of Divine law itself. Since the division of the *Summa* into treatises was devised by later scholars rather than by St. Thomas himself, the titles of the treatises vary somewhat. I am calling Questions 90-108 the *Treatise on Law*, but Questions 98-108 the *Treatise on Divine Law*.

## THE OBJECTION TO GOD

Some of my students protest whenever St. Thomas mentions God, and even more when he mentions Holy Scripture. Why must he “drag God into things?” Shouldn’t an atheist should be able to make just as much sense of ethics as anyone else? One answer is that St. Thomas isn’t dragging God into the picture. God is in it already. Human nature wouldn’t exist without God; natural goods wouldn’t exist without God; in fact, there wouldn’t be anything without God. The moral order depends on God in the same way that everything depends on God.

And this answer is good so far as it goes, but it is incomplete. Although it shows how natural law depends ontologically upon God, it doesn’t show how it depends *practically* upon God. After all, someone might suggest that for practical purposes, God can be ignored. Even conceding that He made our nature, still, now that we have been made, we should seek what is naturally good for us just because it is good. Yes, He commands it, the protester says, but surely that is not the reason why we seek it. Who made Him the boss?

However, the notion that we can ignore God and still seek the good rests on the facile and unconsidered assumption that that God is one thing, and good another.

For what if God *is* our good? What if, in some sense, friendship with Him is our *greatest* good? That is exactly what St. Thomas proposes. But in that case, even if we do pursue the good “just because it is good,” it isn’t redundant that He commands it. Now “friendship with God” might mean either natural friendship with God, which lies in the concordance of wills, or supernatural friendship with God, which lies in a loving union. Supernatural friendship with God lies beyond anything we can reach by human power alone. But even natural friendship with God would be a colossal good, if only it could be achieved. Consider just the good and beauty of mortal friendship. We enjoy it, yes. But we also appreciate it, and this fact itself is a good; it reflects and thereby doubles the original enjoyment. Did I say doubles? Say rather triples, quadruples, quintuples, as the enjoyment of friendship reverberates in the strings of memory,

gratitude, and delight. If we never remember our friends, have no gratitude for them, and are never moved to joy just because they *are*, we can scarcely be said to have experienced friendship at all. We are diminished, impoverished, mutilated; something is wrong with us.

But if all that is true even in the case of goods like mortal friendship, then shouldn't it be still more deeply true in the case of friendship with God? If we cannot take joy in remembering Him, being grateful to Him, and delighting in the thought of Him, aren't we missing the very note on which the chord of good is built?

We are missing it, and this fact alters and deepens the motive for listening to all the rest of those notes. True, the law directs us to nothing but our good. The Objector responds, "Then we should have done it anyway, even apart from God's command." But is it possible that part of what makes it good for us lies in doing it just because He commands it?

What lover has not known the delight of doing something, just because the beloved asked? What child has not begged Daddy to give him a job to do, just so he could do it for Daddy? What trusted vassal did not plead of a truly noble lord, "Command me!" just in order to prove himself in loyal valor? If in such ways, even the commands of mere men can be gifts and boons, then why not still more the commands of God?

Even so, it may seem that such a book as this puts the cart before the horse: How do we even know that there is a Divine law?

We take a step toward the answer by remembering that in St. Thomas's view, faith is not a constriction of reason by blind dogma, as it is so often viewed in our own time. Rather it is the unshackling of reason by grace and its enlargement by the data of Revelation, so that reason is not only set free from sin but given more to work with. Those who say "Don't speak to me of faith! I follow reason alone!" have a shallow, shabby view of reason itself.

But to say this does not fully answer the question. After all, the whole point of Revelation is that it exceeds what we could have figured out for ourselves. How can it be *reasonable* to submit to help from *beyond* human reason? This is a good question, but it has an answer. Submitting to Divine help is reasonable in at least five ways.

1. Since the reality, power, wisdom, and goodness of God can be philosophically demonstrated, it is reasonable to consider Revelation *possible*.
- 2.
3. Since even though we have a natural inclination to seek the truth about God, our finite minds could never equal His infinite mind, it is reasonable to consider Revelation *necessary*.
- 4.
5. Since He who gave us the inclination to seek Him must desire us to find Him, it is reasonable to consider Revelation *likely*.
- 6.

7. Since the record of Revelation is well-attested by miracles, it is reasonable to believe Revelation *authentic*.
- 8.
9. Since faith is accompanied by the experience of grace, it is reasonable to believe Revelation *confirmed*. The psalmist cries, "O taste and see that the Lord is good!" Expressing the same thought in a different key, St. Paul exhorts, "test everything; hold fast what is good."<sup>3</sup>
- 10.

By the light of Revelation, the mind is not only able to see more clearly those things that lie within its natural reach, but is also able to understand and explain many other features of the world that would otherwise have remained utterly baffling, such as why our hearts are so divided against themselves. Thus, when reason rejects Revelation, it is not being more true to itself, but more. Only illuminated by God can it come into its own.

The hope of faith is that one day our thoughts may be lit not only by the reflected light of Revelation, but by the direct illumination of face of God Himself: That although now our minds only smolder, one day they will blaze with fire.

#### **FOR WHOM THIS BOOK IS WRITTEN**

I intend this book for scholars, for students, and for serious general readers, and I reject the view that although a book can be either scholarly or accessible to non-scholars, it cannot be both. Obviously this book will interest Christians and those inquiring into Christianity. However, I am not writing for Christians alone.

On the contrary, this book is for all who are interested in ethics, law, political theory, and jurisprudence; in metaphysics, psychology, and philosophy of nature; in history of ideas, history of reception, and medieval studies; in systematic theology, philosophy of religion, and the relation between Scripture and doctrine; in the relation between St. Thomas and his predecessors, whether pagan, like Aristotle, Jewish, like Maimonides, or Christian, like Maximus the Confessor and Augustine of Hippo; and in the relation between faith and reason. May God grant that the book will also contribute to dialogue between Christians and Jews, Christians and Muslims, and Catholics and various sorts of Protestants, especially Lutheran. Moreover I keenly hope it will contribute to conversation between Christians and persons who do not count themselves as believers of any sort, including those sometimes called post-Christians. Crucial to this hope is the fact that although St. Thomas quotes Holy Scripture, he doesn't just thump it and say "The Bible says!" He offers philosophical arguments for such things as the reality of God and the reasonableness of Revelation, and he makes further use of the tools of reason to investigate what he believes God has revealed.

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<sup>3</sup>Psalm 34:8; 1 Thessalonians 5:21 (RSV-CE).

It is curious how often even Christians assume that one must already be Christian to be interested in what St. Thomas has to say. I confess that this seems irrational to me. Christians read books by atheists; why shouldn't even the most resolutely secular reader engage with a thinker like St. Thomas? In a case familiar to me, an external reviewer praised a book manuscript by saying that it had challenged all his most deeply held assumptions, but then complained that in the fourth chapter it had mentioned God. "God," he said, "does not belong in political theory." It would have been better had the reviewer allowed the manuscript to challenge that assumption too. How curious that the Lord of the Universe might exist, yet not be important enough to think about.

The argument is sometimes made that a secular point of view is the only one for a self-respecting thinker to adopt because it is theologically *neutral*. No, it isn't. To exclude consideration of God from our thinking would be reasonable only if either there were no God, or even if there were He could not make a difference to anything else, or even if He did, we could not know anything about Him. These assumptions are not neutral about the God of Revelation; they reject Him. For Revelation proposes that God does exist, He makes all the difference to everything else, and we can know a great deal about Him.

\_\_\_\_\_ While we are reconsidering our assumptions, let us reconsider a few more of them. One, usually unconscious, is the supposition that the present condition of human nature *simply is* human nature. St. Thomas does not think it is. In his view, we have not always been as we are, we are not meant to be as we are, and we do not have to be as we are. Yet he also disagrees with secular thinkers who suppose that what ails us can be cured by human powers alone. From earliest times we have been disordered by the abuse of free will, and free will alone is insufficient to heal the disorder. To think so is even more absurd than to think that a surgeon who had cut off his marvelous hands could marvelously sew them back on. What we require is final reconciliation with God, the healing of the breach brought about by sin -- not only the dislocation between man and God, but the interior dislocation within ourselves. Only God Himself can bring this about, but one must accept the scandalous offer.

Another such supposition, this one usually conscious, is that nothing in Divine Law that seems odd to us requires investigation. Our own biases, we imagine, are simply truth; the last twenty minutes are what all history was aiming at. Now it is true, and a wise maxim of study, that nothing should be believed without reason. But it is unreasonable to regard, say, an Old Testament rule about what to eat, what to wear, or how to deal with foreigners as unreasonable just because we don't immediately perceive the reason for it. St. Paul gets it right, I think, in the passage we saw above, when he writes, "Do not despise prophesying," but adds, "test everything."

The danger of not questioning the outlook of our own time is twofold. Being heirs of the Law, we imagine that we may kick away the ladder by which we climbed. Having kicked it away, we fall from our supposed height. Thinking ourselves better than the Law, we fall beneath it. For example, we despise the wars of the Old Testament on grounds of their cruelty, forgetting that

we are heirs of the long lesson in mercy that God gradually taught a cruel people. But then, secure in the delusion of our mercy, we think nothing of firebombing Dresden.

## **DIVINE LAW AS REAL LAW**

Before jumping into St. Thomas's arguments, it may be good to clarify some of the ideas we will be dealing with, starting with Divine law. This is important not only for students and general readers but also for scholars, because the nineteenth and twentieth century revival of interest in St. Thomas was highly selective, giving especially scant attention to his detailed examination of Torah, which he calls the Old Law. The present time provides an opportunity to rectify that omission.

To begin, Divine law is really law – it is not just an incomprehensible edict of someone with a big stick. To be genuine law, an enactment must “bind the conscience.” This means that it must be capable of laying a duty upon us, that it must be a suitable rule and measure of the acts of a rational being. To do this, it must be an ordinance of reason, it must be for the common good, it must be made by competent public authority (not just blind power), and it must be promulgated or made known. Divine law satisfies these criteria, for the mind can see that it makes sense, it promotes both our temporal and eternal good, it is made by the public authority of the whole universe, and, unlike natural law, which is promulgated through the deep structure of the created intellect, it is promulgated in words.

Among the various kinds of law, we find a certain order. We recognize that it is wrong to disobey just laws. But human beings cannot whip up entire new moral obligations all by themselves; even an ordinance such as “drive only on the right side of the road,” which could have required driving on the other side instead, does not come from nowhere, for it presupposes a duty to take care for the safety of our neighbors. But where does this preexisting duty to take care for the safety of our neighbors come from? There is no sense in calling it a “social construction,” for in that case we could change it to suit ourselves, and the whole point of morality is that duties are binding whether we like them or not -- we don't invent right and wrong, we discover them. The place where we discover them is in the kind of being that we are -- the constitution of the human person – for among other things, a person is by nature a proper thing for other persons to care for. So human law must be rooted in the natural law.

But where does *that* come from? If the kind of being that we are is merely a meaningless and arbitrary result of a process that did not have us in mind, then morality is meaningless. Granted that what conscience presents to us as law really is law, and not just a collection of urges, then I think we must believe that the process did have us in mind. Of course we are contingent beings; we did not have to exist. But however far back we must go, at last contingent realities must be explained by realities that are not contingent. Effects presuppose a First Cause, contingent beauties presupposes a First Beauty, and contingent meanings – including the meaning of human nature -- presupposes a First Meaning. This is what we call God, and the pattern by which He created and governs the universe is called the eternal law. So for human law

to be real law there must be a natural law, and for natural law to be real there must be an eternal law.

Now suppose that there were no eternal law. Then natural law would be arbitrary, which means it would not really be law. But in that case human law would be merely blind power, so that it would not really be law either. So one must either accept the whole package – or reject it. If we accept it, everything makes sense. If we reject it, nothing does.

## **DIVINE LAW AND NATURAL LAW**

Just now we were speaking of human, natural, and eternal law, but the book is about *Divine* law. Where does *that* come in?

It is easy to become confused about this question. St. Thomas's presents his main discussion of natural law in I-II, Question 94, long before the portions of the *Summa* included in this commentary. Yet it would be a dreadful mistake to think of his theories of natural and Divine law as separate and disconnected. In fact, his theory of Divine law *completes* his discussion of the natural law, tying up strings and answering questions that would otherwise have gone unanswered. This becomes especially clear in I-II, Question 100, Articles 1 and 3. Article 1 is included in this commentary, and although Article 3 is not included, I discuss it in detail in the chapter on Question 100, Article 11.

According to St. Thomas, both natural and Divine law are reflections of eternal law, the former in the structure of the created order, the other in the words of Revelation, as though these were a pair of mirrors. Why then do we need two reflections, two mirrors? Why isn't natural law enough? The most fundamental reason is that God intended us for a supernatural purpose which our natural reasoning is insufficient to fathom without help. But there are other reasons too. For example, because of the uncertainties of human reasoning it is all too easy to make mistakes about the remote implications of the natural law, and even to lie to ourselves about its basics. Divine law removes such deceptions and uncertainties.

Since Divine law comes to us by Revelation rather than by unaided reason, one might suppose that it would be a bolt out of the blue with no discernible connection with what our minds can recognize as good. The great surprise (though it should not be a surprise) is that this is not so. Even though reason could not have worked all of it out ahead of time, it is intelligible to reason. Having received it, we can understand it; we get the point.

I do not mean that once we accept Revelation, what reason can work out for itself is cast aside. One of St. Thomas's most important and characteristic teachings is that reason is a *preamble* to Revelation. He writes,

The existence of God and other like truths about God, which can be known by natural reason, are not articles of faith, but are preambles to the articles; for faith

presupposes natural knowledge, even as grace presupposes nature, and perfection supposes something that can be perfected. Nevertheless, there is nothing to prevent a man, who cannot grasp a proof, accepting, as a matter of faith, something which in itself is capable of being scientifically known and demonstrated.<sup>4</sup>

For if it were unreasonable even to believe that God exists, then how could we believe that this God really had revealed Himself?

Echoing Christ, St. Thomas holds that all of the moral content in Divine law flows from the Two Great Commandments, to love God and to love neighbor. But these Two Great Commandments turn out to grow from the same great spine as natural law – that good is to be done and evil avoided. For to what is love directed? To what is good. And what is good? This turns out to be twofold, for the Supreme Good is God Himself, our final end, but our neighbor is a created image of that Good. So loving God and loving neighbor go together, and the notion of loving one of them but not the other is simply nonsense:

Now since good is the object of dilection and love, and since good is either an end or a means, it is fitting that there should be two precepts of charity, one whereby we are induced to love God as our end, and another whereby we are led to love our neighbor for God's sake, as for the sake of our end.<sup>5</sup>

Before going on we must take care not to fall into a mistake. Loving our neighbor for God's sake does *not* mean loving our neighbor merely as a tool, an instrument, or a ladder for climbing up to God. Far from it. The idea is to love our neighbor *as God Himself loves him*, because by His grace we are enabled to share in His own love for our neighbor. A human analogy may be helpful here. If I love my wife, then just because I do care for her, I share in her care for all those for whom she cares. In much the same way, if I love God, then just because I love Him, I share in His love of all those whom He loves. This is more than loving having natural love for our neighbors, for one who loves his neighbor for God's sake actually participates in Divine love.

But we were talking about the reasonableness of accepting Revelation. Consider then the passage in which Moses is commending God's commandments to the Hebrews. He asks the people, "And what great nation is there, that has statutes and ordinances so righteous as all this law which I set before you this day?"<sup>6</sup> There would be no point in daring them to make the comparison unless they were able to make it – unless the human mind can recognize the body of laws being set before it as a more perfect expression of what it already dimly knows.

So the natural and Divine law are complementary. Should we not have expected this?

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<sup>4</sup>I, Q. 2, Art. 2, ad 1.

<sup>5</sup>II-II, Q. 44, Art. 3. See also ad 3: "To do good is more than to avoid evil, and therefore the positive precepts virtually include the negative precepts. Nevertheless we find explicit precepts against the vices contrary to charity."

<sup>6</sup>Deuteronomy 4:8 (RSV-CE).

Don't they both reflect the same eternal Wisdom in the mind of God? Perhaps these connections should not be pushed too hard, because the Divine law does have a much higher source of illumination, directing us not only to goods within reach of our natural powers, but to the Supreme Good, God Himself, who is not to be attained by any means but His own grace. Without grace, the natural mind is forlorn, bereft of all hope of knowing its Author. Yet even so, it knows *about* Him; it experiences both inward and outward pricklings of the light of a Sun it cannot see. It recognizes that it comes from Him; it perceives its debt to Him; it desires to know the truth about Him; it feels its own desperate incompleteness. The ancient Athenians, who inscribed an altar TO AN UNKNOWN GOD, were much to be pitied that they did not know Him.<sup>7</sup> Yet how much more fortunate they were than beasts and atheists, for they knew how the altar should be inscribed!

One who reflects seriously will see further into the Divine law by considering the natural law -- and he will see further into the natural law, by considering the Divine.

### THOMAS AQUINAS AND HIS ENLIGHTENED CRITICS

The thinkers of the Enlightenment, which in many ways was more like an endarkenment, denied what we have just been saying. For various reasons -- in some cases religious skepticism, in other cases fear of religious wars -- they tried to sever the connections between reason and faith, between philosophy and theology.<sup>8</sup> Their aim was to make ethics theologically *neutral*. It was to be a body of axioms and theorems which any intelligent, informed mind would consider obvious once they were properly presented -- so obvious that it would make no difference what religion or wisdom tradition the mind followed, what the mind thought of Revelation, or whether it had experienced Divine grace.

This was a mistake, for neutrality is impossible. Have human beings a common moral ground? Yes, because there is one God, one human nature, and one natural law. But is our common ground a neutral ground? No. In fact, it is a very slippery one. Not all views of God, not all views of the structure of reality, not all views of human nature itself are equally adequate. Some make it harder to see the common ground and harder to stand on it. Some may even prevent us from *wanting* to stand on it. Consider for example the view that God or human nature can change. St. Thomas holds that whatever in us can change is not in fact our nature, and that any god that can change is not in fact God. Beliefs in a human nature that can change in its essence, or in a God who can become what He is not, make it very difficult to see what really is our nature and to acknowledge what really is God.

It its failure to recognize the fact that the common ground is not a neutral ground, the Enlightenment project crumbled. As a result of this error, the very idea of a universal ethics came

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<sup>7</sup>Acts 17:23.

<sup>8</sup>The following paragraphs are adapted from the Preface to the Second Edition of my book *What We Can't Not Know: A Guide* (San Francisco: Ignatius, 2011).

into disrepute. The older and more classical approach to universal ethics, which St. Thomas represents, does not make such an error. This is one of the many reasons why it is now enjoying a modest revival and renaissance, although the secular world tries hard not to notice.

What might such a revival and renaissance mean? The Enlightenment thinkers believed that we could speak with each other only by setting aside our traditions and regarding them as irrelevant. By contrast, St. Thomas recognizes that we *must* speak from within our traditions, because only these give us something to say to each other.<sup>9</sup> Paradoxically, for insight into what we hold in common, we must fall back on what we do not hold in common. Consequently, rather than being divorced from theology, natural law theory must be reintegrated with it -- not because we do not seek common ground, *but just because we do*. There is no need to pretend that conversation among Christians, Jews, Muslims, and atheists is an easy undertaking. However, the attempt will be much more fruitful if these Christians, Jews, and Muslims are not required to impersonate the atheist.

## THOMAS AQUINAS AND THE JEWS

Several sections ago I spoke of God teaching a long lesson in mercy to a cruel people. Something we dare not forget is that in St. Thomas's view, *all* of the peoples of Old Testament times were cruel. The distinction of the Hebrew people was not that they were more cruel than the others, but that they had been separated from the others so that alone among the nations, they could be gradually weaned of their cruelty by God Himself. In Torah, Moses reminds the people that God did not set them apart because they were better than other nations, but to instruct them in better ways:

Do not say in your heart, after the Lord your God has thrust [the pagan nations] out before you, "It is because of my righteousness that the Lord has brought me in to possess this land"; whereas it is because of the wickedness of these nations that the Lord is driving them out before you. Not because of your righteousness or the uprightness of your heart are you going in to possess their land; but because of the wickedness of these nations the Lord your God is driving them out from before you, and that he may confirm the word which the Lord swore to your fathers, to Abraham, to Isaac, and to Jacob. Know

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<sup>9</sup>What, specifically, does Christian revelation give us to say? We say that the natural law can be known by "unaided" reason, but while not wrong, this way of speaking leaves something to be desired, for as we see later, even the natural law may be grasped by our minds only dimly and reluctantly without additional light. I have discussed five modes of the Divine illumination of natural knowledge in "Nature Illuminated," which is Chapter 3 of *The Line Through the Heart: Natural Law as Fact, Theory, and Sign of Contradiction* (Wilmington, Delaware: ISI Books, 2009). A highly condensed version of the argument is presented in "Natural Law Revealed," *First Things*, No. 188 (December 2008), available at <https://www.firstthings.com/article/2008/12/natural-law-revealed>.

therefore, that the Lord your God is not giving you this good land to possess because of your righteousness; for you are a stubborn<sup>10</sup> people.<sup>11</sup>

In similar recognition of fault, St. Paul writes, “God shows his love for us in that while we were yet sinners Christ died for us.”<sup>12</sup> One of the Church’s eucharistic prayers asks God to admit the communicants into some share and fellowship with the holy Apostles, martyrs, and all the saints, “not weighing our merits, but granting us your pardon.”

St. Thomas believes that the Revelation of God to the Jewish people was authentic, so that they are true heirs of the Old Testament covenants. He insists that they must be allowed to practice their rites,<sup>13</sup> strongly opposes taking Jewish children to baptize them against their parents’ will,<sup>14</sup> and treats the great Jewish commentator Maimonides with deep respect. As we see later on, he views the basic moral precepts of Jewish law as a supreme reflection of natural law, treats its judicial precepts as a model from which all nations can learn, and believes that by anticipating the Messiah, its ceremonial precepts teach even Christians how to think about the sacrifice of Christ.

## **DIVINE LAW AS DIVINE PEDAGOGY**

A point about Divine law which is often missed is that it is an exercise in Divine pedagogy. According to St. Thomas, the Old Law is, so to speak, the first edition of Divine law, given by God to the Hebrew people, and its chief purpose is to direct external actions. Though it was good, it was incomplete -- a preparation for the coming of the Messiah.

The New Law, or Law of the Gospel, is the second edition. It is the fulfillment of Divine law, given to the Church by Jesus, who is that Messiah. According to St. Thomas, it cleanses human nature, uplifts it beyond what it can achieve by its own resources, and transforms the interior motive with which exterior actions are performed, so that human beings can be brought into fellowship with God.<sup>15</sup>

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<sup>10</sup>Literally, “stiff-necked.” The Old Testament uses this expression frequently. For example, in the Law, see Exodus 32:9, 33:3,5, and 34:9; in the Prophets, Jeremiah 7:26, 17:23, and 19:15; and in the historical books, 2 Chronicles 30:8 and 36:13 as well as Nehemiah 9:16-17 and 29.

<sup>11</sup>Deuteronomy 9:4-6 (RSV-CE). Compare the words of God in the second chapter of the book of the prophet Ezekiel.

<sup>12</sup>Romans 5:8 (RSV-CE).

<sup>13</sup>II-II, Q. 10, Art. 11.

<sup>14</sup>II-II, Q. 10, Art. 12.

<sup>15</sup>The next few paragraphs are adapted from my lecture “Of Course Human Law Develops: Can Natural and Divine Law Develop?” delivered at the symposium “Aquinas on the Development of Law,” sponsored by the Aquinas Institute and held at Blackfriars Hall, Oxford University, Oxford, England, March, 2019.

At the time when the Divine law of the Old Testament was given, the ancient Israelites were a violent and uncouth people. God Himself calls them stubborn, reminding them that He has not chosen them because of their righteousness. During the periods of gravest disobedience, he allows them to suffer setbacks, defeats, and disasters to return them to their senses. Consequently, we must not assume that everything recorded in the Old Testament is approved by the Old Testament. The Law itself was provisional, a teaching device intended to impart the first steps toward righteousness and give the people a sense of what it might mean to be truly holy. It is not that any of the Ten Commandments could be repealed – but there is a lot more to the Law than the Decalogue, and some of it anticipated later developments.

Ordinary human law can develop over time in several ways, for in the first place the understanding of the legislators may become better or worse, and in the second place the people for whom they are legislating may become better or worse. Well-made laws help the people under them to *become* better, so that eventually they will be able to bear better laws.

Can Divine law also develop? Considering the cautions expressed in the previous section, it might seem that the answer should be a sharp “No.” Divine wisdom is perfect; it can no more improve than decay. Moreover, not only is our creational design unchanging, but the supernatural destiny to which Divine law directs us is fixed; whether or not each of us gets there, God made us for beatitude. And yet in certain other surprising ways, St. Thomas maintains not only that change and development are possible in Divine law, but that they have actually taken place.

Are these changes and developments of such a nature as to give comfort to those who deny the reality and stability of moral basics? No, but they are real. Consider for example the change in the rule about divorce. The Divine law of the Old Testament, which St. Thomas calls Old Law, permitted the repudiation of wives. According to Christ, divorce was never pleasing to God, but the Old Law permitted it “because of the hardness of their hearts” – that is, to avoid a still worse fault. According to ancient Christian opinion, the worse fault was that if these ancient men had not been permitted to divorce their wives, *they would have murdered them*. Christ instituted a development of Divine law by putting an end to the Old Law’s dispensation from the indissolubility of marriage.<sup>16</sup>

From this point of view, the Old Law was not God’s final word, and was never intended to be. Yet the giving of the Old Law *nurtured the people and brought them to greater maturity* so that they could one day be given a better law still, as babies can grow up and eat meat.

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<sup>16</sup>The Old Law on divorce: Deuteronomy 24:1-4. The New Law on divorce: Matthew 5:31-32, 19:3-12. St. Thomas on the danger of wife-murder: Supp., Q. 67, Art. 4, ad 4, and Art. 6; Summa Contra Gentiles, III, Chapter 123. St. Thomas cites the *Opus Imperfectum*, an incomplete fifth-century commentary on Matthew believed in St. Thomas’s day to have been composed by Chrysostom.

The change in certain precepts is only part of the difference between the Old Law and the New. According to Thomas Aquinas, the greatest contrast is that unlike the Old, the New is not primarily a written code at all. Of course it also sets certain precepts and counsels in words, and these are crucial. But its chief element is the healing grace of the Holy Spirit, to which the doors were opened by the atoning death and resurrection of Christ – grace which finally enables human beings not only to understand the law, but to follow it. But this difference must not be misunderstood, for according to St. Thomas, such grace was also available to those who lived in the ages before He came and who longed for the Christ who was to come.

## **LANGUAGES, TERMS, AND TRANSLATIONS**

As in my previous commentaries, in each Article I follow the same order of presentation. I offer the well-known translation of the Fathers of the English Dominican Province, now in the public domain, in the left-hand column; my own paraphrase, always consulting the Latin, in the right-hand column; then line-by-line commentary; and finally brief discussions of selected themes.

Because the Blackfriars translation tends to be quite literal – at least in the sense that it prefers to render Latin terms with English cognates when they are available -- my paraphrase is rather free. Occasionally, though, when the Blackfriars translation itself is somewhat free, as well as in those cases when I think it is misleading, my paraphrase is more literal, just so that none of St. Thomas's nuances are lost. When St. Thomas's prose is awkward and complex, I sometimes even rearrange whole sections of text, but since the readers can always compare my wording with the original, it is always clear what I have done.

Many of St. Thomas's transitions are puzzling. Sometimes his arguments place premises and conclusions in a different order than we would normally place them. Sometimes he even buries a conclusion, implying but not stating it. Besides trying to clarify such obscurities, I try to present my explanations in such a way that the reader is habituated to the way St. Thomas's language and arguments work. I also modernize archaisms, although I retain them occasionally, especially when God is addressed, or when altering the archaisms would cause confusion. Because so much depends on keeping track of his various distinctions, I have also made somewhat greater use of italics than is customary in a book of this kind.

The Blackfriars translation often inserts quotation marks, although they are not present in the Latin. This is misleading, because except in the case of Holy Scripture, St. Thomas is not usually quoting word for word. Although I have allowed these quotation marks to remain in the Blackfriars text, my own paraphrase omits them except when I am actually quoting. Moreover, whenever any variation of St. Thomas's words from the passage he is citing is significant, I comment on it. Another quirk of the Blackfriars translation is that it capitalizes the word "Divine" in the phrase "Divine law," but not, for example, the word "eternal" in the phrase "eternal law." Simply to forestall the confusion that might result if the translation capitalized "Divine" but the

commentary did not, I have retained the capital D. I have also retained the capitals for the two types of Divine law, Old and New.

Typically, the Blackfriars translation completes, or even supplies, St. Thomas's fragmentary citations. Although these additions are generally most helpful, they are occasionally erroneous. For this reason, I have omitted them from the Blackfriars text, so that the wording shows only what St. Thomas actually wrote. This leaves for the commentary the details of the passages to be discussed. Where I think the citations inserted into the Blackfriars translation are mistaken, I say so.

Where pronouns are concerned, I generally follow the traditional English convention – the one everyone followed, before politically motivated linguistic bullying became fashionable – according to which such terms as “he” and “him” are already “inclusive.” Except where the context clearly indicated the masculine, they were always used to refer to a person of either sex. Readers who choose differently may write differently; I ask only that they extend the same courtesy to me. In the meantime, since my language includes masculine, feminine, neuter, and inclusive pronouns, any rational being who feels excluded has only him-, her-, or itself to blame.

Since I am writing not only for scholars but for others as well, I take certain troubles for the convenience of the others. In particular, in quoting from works other than the *Summa Theologiae* (such as the writings of Aristotle and St. Augustine of Hippo), I try to use reliable editions that are in the public domain and are available on the Internet. Sometimes this is impossible or inconvenient. The specialists, of course, will have their own favorite translations.

When I provide quotations from the Bible, I most often use either the Douay-Rheims American version or DRA (an American English translation of the Latin Vulgate that St. Thomas used, and that is also employed by the Dominican Fathers translation of the *Summa*), or the Revised Standard Version Catholic Edition, or RSV-CE (which is sometimes more clear and often more beautiful). Which translation I am using is always indicated in footnotes. When the chapter and verse divisions of the DRA differ from those of more recent translations, I indicate this fact in the notes as well. Although the DRA is full of archaisms and is rather awkwardly phrased, it has certain significant advantages. For example, the distinction among the different kinds of Divine law precepts is often obscured by the proliferation of Bible translations which do not use a standardized vocabulary. In particular, the Vulgate (and the DRA) lend themselves to the threefold distinction among “precepts,” “ceremonies,” and “judgments” which is so important to St. Thomas's understanding of Divine law's architecture. By contrast, contemporary translations may use any of the terms “laws,” “rules,” “commandments,” “decrees,” “statutes,” “ordinances,” “teachings,” “judgments,” “rites,” or “regulations,” leaving things in a state of confusion. Sometimes, too, the Vulgate gives a different meaning to a passage than some contemporary translations do, so that in order to understand what St. Thomas himself is talking about, the newer ones are not helpful and we must stick to the DRA.

Just because a portion of my readers may be encountering St. Thomas for the first time, it may be helpful to explain the method by which I refer to other sections of the *Summa*

*Theologiae*. The *Summa* is divided into the *Prima*, or First Part, the *Prima Secundae*, or First Part of the Second Part, the *Secunda Secundae*, or Second Part of the Second Part, the *Tertia*, or Third Part, and finally the *Supplementum*, or Supplement, which was completed after St. Thomas's death using works he had written earlier. These main parts are abbreviated "I," "I-II," "II-II," "III," and "Supp." A Question, abbreviated "Q." in the singular and QQ. in the plural, followed by a numeral, is not one query but a set of related queries; each of the individual queries is addressed in an Article, abbreviated "Art." with a numeral. Usually, though not always, an Article phrases the query in such a form that the traditional answer is "Yes." Possible Objections to giving a "Yes" answer are enumerated as "Obj. 1," "Obj. 2," and so forth; St. Thomas's Replies to the Objections are enumerated as "ad 1," "ad 2," and so forth. Although the Objectors are hypothetical persons, not real ones, it is remarkable how far St. Thomas goes to present their arguments forcefully, and, sometimes, how much he lets them get away with in order to make their arguments seem plausible – for example, they often quote Scripture selectively, tearing it out of context and ignoring other passages that might bear on the point at issue. In the spirit of this exercise, I often write as though they were real persons, for example, speaking not only of "the first Objection," but also of "the first Objector." The *sed contra*, or "On the other hand," is usually a brief restatement of the view to which the Objectors are objecting. Sometimes it merely cites a representative authority, but sometimes it goes a little further by presenting a brief argument. However, the *respondeo*, or "Here is my response" – sometimes also called the *solutio* -- is St. Thomas's own argument, which is sometimes rather different and always more complete.