Aquinas
Political Writings
Edited by
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itself, which is to understand and ratiocinate, and that which is produced by such activity. In the case of speculative reasoning, what is produced is first of all the definition; second, the proposition; third, the syllogism or argument. And since, according to what the Philosopher teaches in the *Ethics*, practical reasoning also makes use of a kind of syllogism in determining a course of action, as noted above, we therefore find that in practical reasoning there is something which stands in the same relation to actions as the proposition does to the conclusions in speculative reasoning. And such universal propositions of practical reason directed to actions have the character of law. These propositions sometimes come under active consideration, while sometimes they are held in the reason by means of a habit.\(^{13}\)

*ad 3*: Reason receives its power of moving from the will, as stated above.\(^{14}\) For it is because someone first wills an end that his reason then proceeds to issue commands concerning the things which are directed to that end. But in order that what it commands may have the character of law, the will itself must be in accord with some rule of reason. And it is in this way that we are to understand that the will of the prince has the force of law: otherwise (i.e. if it were not in accord with some rule of reason), the will of the prince would have more the character of iniquity than of law.

**articulus 2**: Whether law is always directed to the common good

It seems that law is not always directed to the common good as to its end.

*obsticio 1*: For it pertains to law to command and prohibit. But some commands are directed to particular goods. Therefore the end of law is not always the common good.\(^{15}\)


**articulus 3**: Whether, as Law, it is the guiding principle of human acts because it is their rule and measure, as stated above.\(^{16}\) Now, just as reason is the first principle of human acts, so reason itself must be guided by something which is the first principle of everything it does;\(^{17}\) and it is to this guiding principle that law must chiefly and mainly be directed. Now the first principle in practical matters, which are the object of practical reasoning, is the final end.\(^{18}\) And the final end of human life is happiness or blessedness, as noted above.\(^{19}\) Law must therefore attend especially to the ordering of things towards blessedness. Moreover, since every part of something is ordered in relation to the whole as imperfection to perfect, and since one man is a part of a perfect [i.e. a complete or self-sufficient] community, law must attend to the ordering of individual things in such a way as to secure the common happiness. Hence the Philosopher, having first defined lawful acts, makes mention of both happiness and the political community; for he says at *Ethics* 4 that we call those lawful acts 'just which tend to produce and preserve happiness and its components for the political community',\(^{20}\) the perfect community being, as he says at *Politics* 1, the State.\(^{21}\)

\(^{16}\) *Summa theologicae* 1:95, 380

\(^{17}\) *Ibidem* 1:94, 379a 9–10.\(^{22}\)

\(^{18}\) *Economica* 2:95, 53 (PL 52:130 and 196).

\(^{19}\) *Economica* 1:20 (PL 52:22).

\(^{20}\) *Politics* 1:1 (1250a28).

\(^{21}\) *Politics* 1:1 (1250a28).
Now in every genus, that which is called the chief member of it is the
guiding principle of the others, and the others are said to be ordered in
relation to it.44 Fire, for example, which is chief among hot things, is the
cause of heat in mixed bodies, and these are said to be hot in so far as they
participate in fire. Hence, since law may be called chief of those things
directed to the common good, it must be that any other precept having to
do with a particular act can have the character of law only in so far as it is
itself directed towards the common good. And so every law is directed to
the common good.

ad 1: 'Command' signifies the application of law to those things which are
regulated by law. Now the ordering of things towards the common good
which is the concern of law to bring about includes particular ends also;
and it is in this way that commands are given with respect to certain
particular matters.45

ad 2: Human actions are indeed concerned with particular things which
do not belong to the same species or genus as the common good; but
those particular things can nonetheless be directed [by the law] to the
common good because the common good is the end which all men have
in common.

ad 3: Just as in the case of speculative reasoning nothing is validly estab-
lished other than by being inferred from demonstrable first principles,
so too in the case of practical reasoning nothing is validly established
other than by being ordered to the final end, which is the common good;
and whatever is grounded in reason in this latter sense has the character
of law.

articulus 3: Whether the reason of anyone whatsoever can make laws

It seems that the reason of anyone whatsoever can make laws.

objection 1: For the Apostle says (Romans 2:14): 'When the Gentiles, who
have not the law, do by nature those things that are of the law, these are a
law unto themselves.' But he is speaking of everyone in general. Therefore
anyone can make a law for himself.

44 Cf. Metaphysics 5.18 (1014a11).
45 I.e. even when the law's commands are 'directed to particular goods' they are so directed with
a view to achieving the common good rather than a private or individual good. See n. 15 above.

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objection 2: Moreover, the Philosopher says that 'the intention of the legis-
lator is to lead men to virtue.'46 But any man can lead another to virtue.
Therefore the reason of any man can make laws.

objection 3: Moreover, just as the prince of a State is the State's governor,
so each head of a family is the governor of his household. But a prince can
make law in the State. Therefore any head of a family can make law in his
own household.

sed contra: Isidore says at Etymologies v and in the Decretum that 'Law is
an ordinance of the people whereby something is sanctioned by those of
high birth in conjunction with the commons.'47 It is therefore not the task
of anyone whatsoever to make law.

respondio: Law properly so called looks first and foremost to the ordering of
things to the common good. But to order something to the common good
is the business of the whole community, or of someone acting on behalf
of the whole community. Therefore to make law is either the business of
the whole community, or it belongs to the public person who has care of
the whole community; for, as in all things, the ordering of something to
an end is the concern of him to whom the end belongs.

ad 1: As stated above,48 law is present in someone not only as in one who
rules, but also, by participation, as in one who is ruled. And it is in this
latter way that each man is a law unto himself: in so far as he participates
in the order that he receives from one who rules him. Hence also the
Apostle adds (Romans 2:15): 'Who show the work of the law written in
their hearts.'

ad 2: A private person cannot be entirely effective in leading another to
virtue; for he can only admonish, and if his admonition is not accepted,
he does not have the power to compel which law must have if it is to be
effective in leading people to virtue, as the Philosopher says.49 This power
to compel is vested in the community or in the public person whose duty
it is to inflict punishments, as will be said below;50 and so the making of
laws belongs to him alone.

46 Ethic 11, 4 (1105b35).
47 Etymologies 5.10 (PL 83:2005); Dist. 1, c. 1: Lex est constitutio (CIC 153).
48 Art. 2 ad 2.
49 Ethic 11.3 (1108a30).
50 I-IIae 924 ad 13 (p. 101, below); Dallas 643 (p. 455, below).
law

ad 3: Just as one man is part of a household, so a household is part of a State; and a State is a perfect community, as is said at Politics 1.3. And so just as the good of one man is not the final end, but is subordinated to the common good, so too the good of one household is subordinated to the good of the whole State, which is a perfect community. Hence he who governs a family can indeed make precepts or statutes of a kind, but these do not have the character of law properly so called.

articulus 4: Whether promulgation is essential to law

It seems that promulgation is not essential to law.

objecio 1: For the natural law most certainly has the character of law. But the natural law needs no promulgation. Therefore it is not essential to law that it be promulgated.

objecio 2: Moreover, it belongs properly to law to oblige someone to do or not do something. But the obligation to fulfill a law is binding not only upon those in whose presence it is promulgated, but upon others also. Therefore promulgation is not essential to law.

objecio 3: Moreover, the obligation of law extends also to what is yet to be, since, as the laws state, ‘laws impose a necessity upon future transactions’. But promulgation is to those who are present. Therefore promulgation is not a necessary part of law.

sed contra: It is said in the Decretum that ‘laws are established when they are promulgated’.

response: Law is imposed upon others as a rule and measure, as stated above. Now a rule and measure is imposed by being applied to whatever is ruled and measured by it. Hence, if a law is to acquire the binding force which is proper to law, it must be applied to the men who are to be ruled by it. Such application is made by its being brought to their notice by promulgation. Promulgation is therefore necessary for the law to acquire its force.

Thus from the four foregoing articles the following definition of law can be inferred: that it is nothing but a certain ordinance of reason for

the common good, made and promulgated by him who has care of the community.

ad 4: The natural law is promulgated precisely by the fact that God has inserted it into the minds of men in such a way that they are able to know it naturally.

ad 5: Those who are not present when a law is promulgated are obliged to observe the law in so far as it is brought to their notice by others, or can be so brought, after it has been promulgated.

ad 6: Promulgation in the present time extends also into the future because of the enduring character of the written records through which the law is in a certain sense being promulgated continuously. Hence Isidore says that ‘law’ [ius] is derived from ‘reading’ [legendo] because it is written down.

(b) Summa theologiae IaIIae 91: The various kinds of law

We come next to the various kinds of law; and here there are six things to consider:

1. Whether there is an eternal law
2. Whether there is a natural law
3. Whether there is a human law
4. Whether there is a Divine law
5. Whether the Divine law is one or several
6. Whether there is a law of sin

articulus 1: Whether there is an eternal law

It seems that there is not an eternal law.

objecio 1: For every law is imposed on someone. But there was not someone from eternity on whom law could be imposed, for only God has existed from eternity. Therefore no law is eternal.

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