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“Resurrecting St. Thomas Aquinas:

An Essay on the Role of Christian Lawyers and Judges Within the Secular State”©

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TABLE OF CONTENTS

Preface

Introduction

Summary

Part One St. Thomas’ Catholic Theology

- I. Scholasticism and the Medieval University
- II. Thomism
- III. Divine Law: The Old Testament
- IV. Divine Law: The New Testament

Part Two St. Thomas’ Philosophy of Law

- I. Four-Fold Theory of Law (Eternal, Divine, Natural, and Human Law)
- II. Eternal Law
- III. Natural Law
- IV. Human Law

Conclusion

The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

PREFACE

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the second essay in this series: “Resurrecting Saint Thomas Aquinas.”¹

INTRODUCTION

St. Thomas Aquinas’ (1225-1274 A.D.)² life and thoughts influenced my decision to choose law school and a career as an attorney as a viable form of Christian service in lieu of the traditional Christian ministry. Without St. Thomas, I likely would have never tried to reconcile my Christian faith to the practice of law, or even to think about the implications of Christian principles in practical day-to-day law practice. As I recall, during the late 1980s, I wrote an undergraduate, political science paper³ on St. Thomas, titled, “How St. Thomas Saved Christianity from the Secularization of the 13th Century.” (As I now look back upon the quality

¹ This essay is dedicated to my Catholic friends.

² Throughout this essay, I shall refer to St. Thomas Aquinas as “St. Thomas,” “Saint Thomas,” and “Thomas

² Throughout this essay, I shall refer to St. Thomas Aquinas as “St. Thomas,” “Saint Thomas,” and “Thomas Aquinas.”

³ This research occurred at Morgan State University (Baltimore, MD).

of my work and thoughts, I am quite pleased.) At this time, my interest in St. Thomas Aquinas was purely an interest in his theory of law, as it related to the emerging materialism of the new mercantile middle classes which were then challenging the landed European aristocracy. This new bourgeoisie was challenging the tenets of Christianity and the Church; and I envisioned St. Thomas as the man who had saved both western civilization and the Church from collapsing. At that time, I had no interest in religion or Catholic theology. I was interested in, and impressed with, how St. Thomas conceptualized human-made civil laws, natural law, the Sacred Scripture (i.e., “Divine law”), and eternal law (i.e., the will of God). I became quite impressed with how St. Thomas linked the four broad categories of law together, to wit: Eternal law → Divine Law → Natural Law → Civil Law. The theme of my undergraduate paper was that St. Thomas had looked upon an emerging, corrupt, commercialized, thirteenth-century-Italian and western European world and concluded that this new, secular world order was beginning to undermine Christianity and traditional Christian values. I concluded that St. Thomas had completed his grand work, the *Summa Theologica* in order to save Christianity and the Catholic faith from misguided, money-hungry and corrupt secularists. I applauded St. Thomas’ four-fold theory of law, because it held accountable the secular states to God’s law and to natural justice. And I also concluded that there was in St. Thomas’ Catholic theology and philosophy a very practical legal theory. This ideal stayed with me in law school, and I have never really gotten rid of it, even after twenty years of law practice. Since then, even as a non-catholic Christian, I have viewed St. Thomas as the model of a Christian legal theorist, as a preeminent example of how Christian lawyers and judges—and not just Catholic Christians-- should conceptualize the relationship between Christianity and secular legal institutions. And, like the Roman Catholic Church, I still cannot let go of Saint Thomas’ understanding of “nature” as a reflection of the law of God (i.e., his “natural theology”); or of his understanding of “reason” as the primary tool of reconciling real world to law of God. Perhaps the very best summation of St. Thomas’ system—my own words are not as good—can be found in the Wikipedia on-line article on St. Thomas, which states:

Thomas viewed theology, or the *sacred doctrine*, **as a science**, the raw material data of which consists of written scripture and the tradition of the Catholic Church. These sources of data were produced by the self-

revelation of God to individuals and groups of people throughout history. Faith and reason, while distinct but related, are the two primary tools for processing the data of theology. Thomas believed both were necessary — or, rather, that the *confluence* of both was necessary — for one to obtain true knowledge of God. Thomas blended Greek philosophy and Christian doctrine by suggesting that **rational thinking** and **the study of nature**, like revelation, were **valid ways to understand truths** pertaining to God. **According to Thomas, God reveals himself through nature, so to study nature is to study God.** The ultimate goals of theology, in Thomas's mind, are to use reason to grasp the truth about God and to experience salvation through that truth.⁴

In law school, while conducting constitutional legal research, and years later-- throughout twenty years of law practice-- I have observed St. Thomas' ideas (or similar ideas from other natural-law theorists who were inspired by St. Thomas) impact practical human affairs. For example, two subjects which I researched in law school, and relied upon during my private law practice, are the struggle for a *Bill of Rights* to be ratified to U.S. Constitution during the late-1700s and the struggle for civil rights during the 1960s, -- social and political movements that were deeply rooted in the sort of natural law and natural theology which St. Thomas Aquinas exhorted during the thirteenth century. For instance, after the U.S. Constitution was ratified in 1787, several well-respected American citizens and patriots protested against it, because at time the U.S. Constitution did not provide for a Bill of Rights that would guarantee the basic rights which they understood to be the fundamental natural rights of man. Thus, in 1791, Congress enacted the following ten amendments to the U.S. Constitution:

Amendment 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment 2. A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

⁴ https://en.wikipedia.org/wiki/Thomas_Aquinas

Amendment 3. No soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 7. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment 8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 9. The enumeration in the Constitution, of certain rights, shall not be construed to *deny or disparage others retained* by the people.

Amendment 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Hence, the first ten amendments to the U.S. Constitution reflected the Eighteenth-Century struggle for the “Rights of Man,” which grew out of natural law theory that was deeply rooted in both Protestant and Catholic thought. Of course, the next seventy years of American history, from 1790 to 1860, revolved largely around the “Rights of Man” as it pertained to American slavery. Thus, this conflict over the substantive meaning of “fundamental rights” was most vividly represented in the constitutionality and legality of Article IV, Section 2 of the U.S. Constitution (i.e., the “fugitive slave” provision); the international African slave trade; the entire institution of American slavery; and, subsequently, racial segregation laws. This conflict resulted in the American civil war; post-civil war constitutional

amendments and statutes; and, later, the American civil rights laws of the late 1960s. In his famous *Letter From the Birmingham City Jail*, the Baptist clergymen Martin Luther King, Jr. poetically described, in Thomism-like⁵ terms, the reasons why racial segregation laws in the United States did not implement natural justice or natural law:

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may well ask: "How can you advocate breaking some laws and obeying others?" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that "an unjust law is no law at all."

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. *To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law.* Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the Jewish philosopher Martin Buber, substitutes an "I it" relationship for an "I thou" relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically and sociologically unsound, it is morally wrong and sinful. Paul Tillich has said that sin is separation. Is not segregation an existential expression of man's tragic separation, his awful estrangement, his terrible sinfulness? Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is

⁵ Throughout this paper, I shall refer to St. Thomas' understanding of law, theology, and philosophy as "Thomism," as it is popularly referred to in the Roman Catholic world.

morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong....

I hope you are able to see the distinction I am trying to point out. In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

Of course, there is nothing new about this kind of civil disobedience. It was evidenced sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar, on the ground that a higher moral law was at stake. It was practiced superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practiced civil disobedience. In our own nation, the Boston Tea Party represented a massive act of civil disobedience.

We should never forget that everything Adolf Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was "illegal" to aid and comfort a Jew in Hitler's Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country *where certain principles dear to the Christian faith are suppressed*, I would openly advocate disobeying that country's antireligious laws.⁶

Here, Dr. King explicitly defends disobeying laws that offend “certain principles dear to the Christian faith” and he masterfully used, among other doctrines, both Catholic theology and Thomism in order to appeal to conscience and to argue that racial segregation laws in the United States were unrighteous and unjust, and thus should be repealed.

⁶ Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015), pp. 437-440.

Perhaps unwittingly or subconsciously, I adopted St. Thomas' approach to Christianity and the secular Legal Academy; and, afterwards, I relied upon his theology to guide my legal career as a Christian lawyer within the secular state. What follows are my thoughts on why I believe that St. Thomas Aquinas should still be the preeminent model for Christian lawyers and judges in the Twenty-First Century.

SUMMARY

St. Thomas Aquinas' Catholic theology and philosophy of law are called "Thomism," a term which the Roman Catholic Church has adopted to describe his entire philosophy. Thomism holds that to understand God, one must understand nature; and to understand nature, one must know the biological and physical sciences, and be willing to seek after truth regardless of its source. St. Thomas thus sought after theological truth from the world of the natural sciences, the ancient Greek philosophers, and even from Islamic and Jewish theologians. The Catholic Church continues to hold St. Thomas as the model for the Catholic priesthood, and his teachings are thus mandatory in Catholic seminaries. However, St. Thomas is also a model for Christian lawyers and judges—both Catholic and non-Catholic—because he devised a comprehensive legal philosophy that conjoins Christianity to the verifiable truths from secular sciences and philosophy. St. Thomas' approach to law and religion overturns the faulty presumption that Christian religion is fundamentally irrational and opposed to the sciences. For this reason, if I had one paraphrase to define St. Thomas, it would be: "Reason is God." Importantly, St. Thomas philosophy of law has much to say about the natural rights foundations of American jurisprudence, particularly those found in the Bill of Rights, the Civil War Amendments, and federal civil rights laws. The history of American civil rights and liberties is so closely rooted in the Christian conception of human dignity and natural theology (as St. Thomas Aquinas, Thomas Jefferson and many of the Founding Fathers, Abraham Lincoln, Martin Luther King, Jr. and many others conceptualized it), that the natural law doctrine of Thomism may closely reflect the true origins of the Declaration of Independence and the U.S. Constitution.

PART ONE: St. Thomas' Catholic Theology

I. Scholasticism and the Medieval University

I think that modern lawyers and judges too often forget that Christianity comes to us after twenty centuries of having been thoroughly vetted, investigated, cross-examined, and re-cross-examined; and yet this ancient religion is still standing. Christianity was initially vetted by Jewish detractors; it was also vetted by the ancient Roman magistrates; it was afterwards vetted by secular philosophers, lawyers, historians and other non-Christian theologians; and it has continuously been vetted even by Christian theologians and scholars. Throughout all of this vetting and testing of the Christian faith, a system of complex and sophisticated Christian thought emerged inside of the Catholic Church—through its monasteries, schools and universities. “[M]onks and nuns taught classes; evidence of these immediate forerunners of the later university at many places dates back to the 6th century AD. The earliest universities were developed under the aegis of the [Roman Catholic] Church by papal bull as *studia generalia* and perhaps from cathedral schools. It is possible, however, that the development of cathedral schools into universities was quite rare, with the University of Paris being an exception.”⁷ “The first universities in Europe with a form of corporate/guild structure were the University of Bologna (1088), the University of Paris (c. 1150, later associated with the Sorbonne), and the University of Oxford (1167).”⁸ Thomas Aquinas was the heir and product of ancient Catholic monasticism and up-start 13th Century (Medieval) European Universities which carried on the tradition vetting and improving Christian thought. As a Catholic monk and priest, St. Thomas became a “child of the university.”⁹ He attended

⁷ <https://en.wikipedia.org/wiki/University>

⁸ *ibid.*

⁹ “In 1245 Thomas was sent to study at the Faculty of the Arts at the University of Paris, where he most likely met Dominican scholar Albertus, then the Chair of Theology at the College of St. James in Paris. When Albertus was sent by his superiors to teach at the new *studium generale* at Cologne in 1248, Thomas followed him, declining Pope Innocent IV’s offer to appoint him abbot of Monte Cassino as a Dominican. Albertus then appointed the reluctant Thomas *magister studentium*. Because Thomas was quiet and didn't speak much, some of his fellow students thought he was slow. But Albertus prophetically exclaimed: ‘You call him the dumb ox, but in his teaching he will one day produce such a bellowing that it will be heard throughout the world.’ Thomas taught in Cologne as an apprentice professor (*baccalaureus biblicus*), instructing students on the books of the Old Testament and writing *Expositio super Isaiam ad litteram* (*Literal Commentary on Isaiah*), *Postilla super Ieremiam* (*Commentary on Jeremiah*) and *Postilla super Threnos* (*Commentary on Lamentations*). Then in 1252 he returned to Paris to study for the master's degree in theology. He lectured on the Bible as an apprentice professor, and upon becoming a *baccalaureus Sententiarum* (bachelor of the *Sentences*) devoted his final three years of study to commenting on Peter Lombard’s *Sentences*. In the first of his four theological syntheses, Thomas composed a massive commentary on the *Sentences* entitled *Scriptum super libros Sententiarum* (*Commentary on the Sentences*). Aside from his masters writings, he wrote *De ente et essentia* (*On Being and Essence*) for his fellow Dominicans in Paris. In the

monastic schools, attained a great Catholic education, and served as a distinguished theologian and professor.¹⁰ He afterwards attended the University of Paris, which was only the second European university to be established. Indeed, European higher education had taken place for hundreds of years in Christian cathedral and monastic schools (also called the *Scholae monasticae*). Here, monks and nuns kept the torch of knowledge aflame while many of the former provinces of the ancient Roman Empire fell into the Dark Ages. Thus, the modern European university grew out of Roman Catholic civilization and influence.

During the Thirteenth Century, A.D., Thomas Aquinas was introduced to, and embraced, a system of thinking and learning called “scholasticism,” which was “the system of theology and philosophy taught in medieval European universities, based on Aristotelian logic and the writings of the early Church Fathers and having a strong emphasis on tradition and dogma.”¹¹ Revolutionary changes were occurring in Medieval and Christian thought inside of universities. “The rediscovery of Aristotle's works - more than 3000 pages of it would eventually be translated - fuelled a spirit of inquiry into natural processes that had already begun to emerge in the 12th century. Some scholars believe that these works represented one of the most important document discoveries in Western intellectual history.... After Aristotle re-emerged, a community of scholars, primarily communicating in Latin, accelerated the process and practice of attempting to reconcile the thoughts of Greek antiquity, and especially ideas related to understanding the natural world, with those of the church.”¹² Scholasticism focused on applying Aristotelian logic and thoughts about natural processes to biblical passages. And here, as a leading scholastic theorist, St. Thomas made his most important contributions.

[St. Thomas] was the foremost classical proponent of natural theology and the father of Thomism. His influence on Western thought is

spring of 1256 Thomas was appointed regent master in theology at Paris and one of his first works upon assuming this office was *Contra impugnantes Dei cultum et religionem* (*Against Those Who Assail the Worship of God and Religion*), defending the mendicant orders, which had come under attack by William of Saint-Amour. During his tenure from 1256 to 1259, Thomas wrote numerous works, including: *Questiones disputatae de veritate* (*Disputed Questions on Truth*), a collection of twenty-nine disputed questions on aspects of faith and the human condition prepared for the public university debates he presided over on Lent and Advent; *Quaestiones quodlibetales* (*Quodlibetal Questions*), a collection of his responses to questions posed to him by the academic audience; and both *Expositio super librum Boethii De trinitate* (*Commentary on Boethius's De trinitate*) and *Expositio super librum Boethii De hebdomadibus* (*Commentary on Boethius's De hebdomadibus*), commentaries on the works of 6th-century Roman philosopher Boethius. By the end of his regency, Thomas was working on one of his most famous works, *Summa contra Gentiles*.” https://en.wikipedia.org/wiki/Thomas_Aquinas

¹⁰ Ibid.

¹¹ <https://www.google.com/#q=Scholasticism>

¹² <https://en.wikipedia.org/wiki/University>

considerable, and much of modern philosophy developed or opposed his ideas, particularly in the areas of ethics, natural law, metaphysics, and political theory. Unlike many currents in the Church of the time, Thomas embraced several ideas put forward by Aristotle — whom he called "the Philosopher" — and attempted to synthesize Aristotelian philosophy with the principles of Christianity. The works for which he is best known are the *Summa Theologica* and the *Summa contra Gentiles*. His commentaries on Sacred Scripture and on Aristotle form an important part of his body of work. Furthermore, Thomas is distinguished for his eucharistic hymns, which form a part of the Church's liturgy.¹³

The “scholastic method” was method of learning that placed strong emphasis on dialectical reasoning in order to extend knowledge by inference and to resolve contradictions. St. Thomas’ most famous work, the *Summa Theologica*, reflects this scholastic method. For example, the “scholastic method” was something like the following:

- A. Question Presented
- B. Objection #1 to Question Presented
- C. Objection #2 to Question Presented
- D. Objection #3 to Question Presented
- E. Response to Objection #1
- F. Response to Objection #2
- G. Response to Objection #3
- H. Summation and Resolution of Objections and Responses

Thus trained in this tedious Scholastic method, St. Thomas produced voluminous encyclopedic inquiries into theological and philosophical questions. Thus, “Aquinas's masterwork *Summa Theologica*, considered to be the pinnacle of scholastic, medieval, and Christian philosophy, began while Aquinas was regent

¹³ https://en.wikipedia.org/wiki/Thomas_Aquinas

master at the *studium provinciale* of Santa Sabina in Rome, the forerunner of the Pontifical University of Saint Thomas Aquinas, *Angelicum*.”¹⁴

II. Thomism

Throughout this paper, I shall refer to St. Thomas’ understanding of law, theology, and philosophy as “Thomism,” as it is popularly referred to in the Roman Catholic world. In addition to conventional Catholic teachings, Thomism stands largely upon the shoulders of Augustinian legal theory¹⁵ and Aristotelian philosophy. Both St. Augustine (354-430 A.D.)¹⁶ and St. Thomas (1225 – 1274 A.D.) drew heavily from the wells of ancient Greek philosophy; and St. Thomas drew heavily from the well of St. Augustine’s theology. However, St. Augustine was more influenced by Plato; whereas St. Thomas was more influenced by Aristotle.¹⁷ It is their efforts at synthesizing Greek philosophy and Christianity that are of great significance to Christian lawyers and judges and the legal profession as a whole, because their synthesis incorporated into Christianity all of subjects which the modern academy calls the biological sciences, mathematics, and physics.¹⁸

Diagram 1.

St. Augustine’s Catholic Theology ----→	Greek Philosopher: Plato
St. Thomas’ Catholic Theology ----→	<u>Greek Philosophers: Aristotle and Plato;</u> <u>Catholic Theologian: Augustine</u>

¹⁴ <https://en.wikipedia.org/wiki/Scholasticism>

¹⁵ See Apostolate Paper #1, “Resurrecting Saint Augustine of Hippo: An Essay On the Role of Lawyers and Judges Within the Secular State.”

¹⁶ Throughout this paper, I shall refer to Saint Augustine as “Augustine” and “St. Augustine,” as well as “Saint Augustine.”

¹⁷ “Like his teacher Plato, Aristotle's philosophy aims at the universal. Aristotle's ontology, however, finds the universal in particular things, which he calls the essence of things, while in Plato's ontology, the universal exists apart from particular things, and is related to them as their prototype or exemplar. For Aristotle, therefore, epistemology is based on the study of particular phenomena and rises to the knowledge of essences, while for Plato epistemology begins with knowledge of universal Forms (or ideas) and descends to knowledge of particular imitations of these. For Aristotle, ‘form’ still refers to the unconditional basis of phenomena but is ‘instantiated’ in a particular substance (see *Universals and particulars*, below). In a certain sense, Aristotle's method is both inductive and deductive, while Plato's is essentially deductive from *a priori* principles.”

<https://en.wikipedia.org/wiki/Aristotle>

¹⁸“In Aristotle's terminology, ‘natural philosophy’ is a branch of philosophy examining the phenomena of the natural world, and includes fields that would be regarded today as **physics, biology and other natural sciences**. In modern times, the scope of *philosophy* has become limited to more generic or abstract inquiries, such as ethics and metaphysics, in which logic plays a major role. Today's philosophy tends to exclude empirical study of the natural world by means of the scientific method. In contrast, Aristotle's philosophical endeavors encompassed **virtually all facets of intellectual inquiry**.” <https://en.wikipedia.org/wiki/Aristotle>

St. Thomas' philosophy of law, as stated in detail in *Summa Theologica*, reveals that he was significantly influenced by St. Augustine's theology and philosophy of law.¹⁹ (I shall discuss more on this below). Perhaps the only major difference between St. Augustine's Catholic theology and St. Thomas' Catholic theology was their incorporation two different Greek philosophers into their Catholic perspectives. However, understanding the major differences between Plato and Aristotle does not help to distinguish St. Augustine's theology from St. Thomas' theology. Whatever St. Augustine may have lacked from not having read Aristotle²⁰ was adequately substituted from his profound insight into the nature of human beings and natural phenomena—an insight which, at least from my perspective, certainly rivals Aristotle's natural philosophy. Altogether, the influence of St. Augustine's theology and Aristotle's natural philosophy upon St. Thomas was profound. Several Catholic theologians, philosophers, and scholars have summarized and consolidated St. Thomas Aquinas' most important theological and philosophical ideas (i.e., Thomism) into Twenty-Four Theses, or the "24 Theses of Thomism,"²¹ from which we can readily see Augustinian and Aristotelian influences. Not only do these "24 Theses" exemplify a very high quality of scholasticism, but they also reflect a very careful and thoughtful Christian theology that is the very quintessence of advanced scientific inquiry and reason.

A. **Ontology (Theory of Existence; Nature of Being; Existentialism)**

1. St. Thomas developed an "action" theory, which consists of principles of "potency" and "act." "Potency and Act divide being in such a way that whatever is, is either **pure act**, or of **necessity** it is composed of potency and **act as primary** and intrinsic principles."²²
2. St. Thomas opined that "**act is perfection.**" Thus, "**act**" is not limited; unless inhibited by "**potency**," which itself has a capacity for perfection. "Hence in any order in which an act is pure act, it will only exist, in that

¹⁹ Ibid.

²⁰ I have found no evidence that St. Augustine did not study Aristotle, but only that he was greatly influenced by Plato and the Platonists.

²¹ <https://en.wikipedia.org/wiki/Thomism>

²² Ibid.

order, as a unique and unlimited act. But whenever it is finite and manifold, it has entered into a true composition with potency.”²³

3. St. Thomas believed that the one true God is “**pure act**” and an “**absolute being.**” “All other things that participate in being have a nature whereby their being is restricted; they are constituted of essence and being, as really distinct principles.”²⁴
4. St. Thomas believed that God and all other created things were not equal, but that all other created beings were analogically similar to God, “both attribution and proportionality.”²⁵
5. St. Thomas believed that there were natural laws inside of every created being or creature. “In every creature there is also a **real composition** of the subsisting subject and of added secondary forms.... Such composition cannot be understood unless being is really received in an essence distinct from it.”²⁶
6. St. Thomas believed that how every created being or creature relate to each other comprise “relational laws” (i.e., the “accident”) which are separate and apart from the beings or creatures themselves. “Besides the **absolute accidents** there is also **the relative accident**, relation. Although by reason of its own character relation does not signify anything inhering in another, it nevertheless often has a cause in things, and hence a real entity distinct from the subject.”²⁷
7. St. Thomas held that “[a] spiritual creature is wholly simple in its essence. Yet there is still a twofold composition in the spiritual creature, namely, that of the essence with being, and that of the substance with accidents.”²⁸
8. St. Thomas also held that “the **corporeal creature** is composed of act and potency even in its very essence. These act and potency in the order of essence are designated by the names form and matter respectively.”²⁹

B. Cosmology (Study of the Nature of the Universe; Astronomy; Physics)

9. St. Thomas held that “[n]either the matter nor the form have being of themselves, nor are they produced or corrupted of themselves, nor are they

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

included in any category otherwise than reductively, as substantial principles.”³⁰

10. St. Thomas also held that “[a]lthough extension in quantitative parts follows upon a corporeal nature, nevertheless it is not the same for a body to be a substance and for it to be quantified. For of itself substance is indivisible, not indeed as a point is indivisible, but as that which falls outside the order of dimensions is indivisible. But quantity, which gives the substance extension, really differs from the substance and is truly an accident.”³¹
11. St. Thomas held that “[t]he principle of individuation, i.e., of numerical distinction of one individual from another with the same specific nature, is matter designated by quantity. Thus in pure spirits there cannot be more than [one] individual in the same specific nature.”³²
12. St. Thomas held that “[b]y virtue of a body's quantity itself, the body is circumscriptively in a place, and in one place alone circumscriptively, no matter what power might be brought to bear.”³³
13. St. Thomas held that “[b]odies are divided into two groups; for some are living and others are devoid of life. In the case of the living things, in order that there be in the same subject an essentially **moving part** and an essentially moved part, the substantial form, which is designated by **the name soul**, requires an organic disposition, i.e. heterogeneous parts.”³⁴

C. Psychology (Study of the Human Mind; Human and Animal Behavior)

14. St. Thomas believed that the body weighs down the soul, and causes corruption. “Souls in the vegetative and sensitive orders cannot subsist of themselves, nor are they produced of themselves. Rather, they are no more than principles whereby the living thing exists and lives; and since they are wholly dependent upon matter, they are incidentally corrupted through the corruption of the composite.”³⁵
15. St. Thomas believed that, although the body can die and decompose, the human soul is itself incorruptible and immortal.³⁶
16. St. Thomas believed that the human soul is also rational. “This rational soul is united to the body in such a manner that it is the only substantial form of the body. By virtue of his soul a man is a man, an animal, a living thing, a

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

body, a substance and a being. Therefore the soul gives man every essential degree of perfection; moreover, it gives the body a share in the act of being whereby it itself exists.”³⁷

17. St. Thomas believed that the human intellect is really the immortal human soul; “[f]rom the human soul there naturally issue forth powers pertaining to two orders, the organic and the non-organic. The organic powers, among which are the senses, have the composite as their subject. The non-organic powers have the soul alone as their subject. Hence, the intellect is a power intrinsically independent of any bodily organ.”³⁸

18. St. Thomas believed that the human body and the human intellect were intertwined, and “[i]ntellectuality necessarily follows upon immateriality, and furthermore, in such manner that the further the distance from matter, the higher the degree of intellectuality. Any being is the adequate object of understanding in general. But in the present state of union of soul and body, quantities abstracted from the material conditions of individuality are the proper object of the human intellect.”³⁹

19. St. Thomas believed that knowledge accumulation, memory and imagination are elements of the immortal human soul. “Therefore, we receive knowledge from sensible things. But since sensible things are not actually intelligible, in addition to the intellect, which formally understands, an active power must be acknowledged in the soul, which power abstracts intelligible likeness or species from sense images in the imagination.”⁴⁰

20. St. Thomas believed that knowledge accumulation, memory, and imagination, which are elements of the soul, enable us to learn universal laws of nature. “Through these intelligible likenesses or species **we directly know universals, i.e. the natures of things**. We attain to singulars by our senses, and also by our intellect, when it beholds the sense images. But we ascend to knowledge of spiritual things by analogy.”⁴¹

21. St. Thomas believed that the **human will** is subordinate to human intellect, or **judgment**. “The will does not precede the intellect but follows upon it. The will necessarily desires that which is presented to it as a good in every respect satisfying the appetite. But it freely chooses among the many goods

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

that are presented to it as desirable according to a changeable judgment or evaluation. Consequently, the choice follows the final practical judgment. But the will is the cause of it being the final one.”⁴²

D. God (God’s Essence; Eternity; Initial Cause; Supreme Reason)

22. St. Thomas believed that we can know God when we study and know nature or things created. “We do not perceive by an immediate intuition that God exists, nor do we prove it a priori. **But we do prove it a posteriori, i.e. from the things that have been created, following an argument from the effects to the cause: namely, from things which are moved and cannot be the adequate source of their motion, to a first unmoved mover; from the production of the things in this world by causes subordinated to one another, to a first uncaused cause; from corruptible things which equally might be or not be, to an absolutely necessary being; from things which more or less are, live, and understand, understanding, maximally living and maximally a being; finally, from the order of all things, to a separated intellect which has ordered and organized things, and directs them to their end.**”⁴³
23. St. Thomas believed that “[t]he **metaphysical motion of the Divine Essence** is correctly expressed by saying that it is identified with **the exercised actuality of its own being**, or that it is subsistent being itself. And this is the reason for its infinite and unlimited perfection.”⁴⁴
24. Finally, St. Thomas believed that “[b]y reason of the **very purity of His being, God is distinguished from all finite beings**. Hence it follows, in the first place, that **the world could only have come from God by creation**; secondly, that **not even by way of a miracle can any finite nature be given creative power**, which of itself directly attains the very being of any being; and finally, that **no created agent can in any way influence the being of any effect unless it has itself been moved by the first Cause.**”⁴⁵

Thus, St. Thomas clearly incorporated elements of Platonism (perhaps through Augustinian theology) into Thomism. But the important point here is to note St. Thomas is a preeminent example to modern-day lawyers and judges, because he devised a comprehensive legal philosophy that conjoins Christianity to the verifiable truths from secular sciences and philosophy. St. Thomas’ approach to law and religion overturns the faulty presumption that Christian religion is

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

fundamentally irrational and opposed to the sciences. In addition, throughout St. Thomas’ grand works, the *Summa contra Gentiles* and the *Summa Theologica*, he continuously refers to St. Augustine’s writings as a primary authority on Catholic doctrine and theology. For example, in the *Summa Theologica*, St. Thomas writes:

And from this point of view Augustine says that God has made man in one plan and horse on another; and that the plans or types of things exist severally in the divine mind (De div. quaest., LXXXIII, 46). And herein also is defensible in some sort the opinion of Plato, who supposes Ideas, according to which all beings in the material world are formed.

And in the ancient and medieval worlds in which Augustine and Aquinas lived, they would have understood “Greek natural law” and “Greek natural philosophy” to include a broad range of Greek philosophical subjects, such as the biological and physical sciences. Thus, when St. Thomas speaks of “natural law” or “natural philosophy,” he speaks of it from an Aristotelian perspective. “In Aristotle's terminology, ‘natural philosophy’ is a branch of philosophy examining the phenomena of the natural world, and includes fields that would be regarded today as **physics, biology and other natural sciences**. In modern times, the scope of *philosophy* has become limited to more generic or abstract inquiries, such as ethics and metaphysics, in which logic plays a major role. Today's philosophy tends to exclude empirical study of the natural world by means of the scientific method. In contrast, Aristotle's philosophical endeavors encompassed **virtually all facets of intellectual inquiry**.”⁴⁶ It is thus important to point out here that when St. Thomas spoke of “natural law” or the “laws of nature,” he had in mind the ancient Greek and medieval perspective of this concept.

Diagram 2.

Ancient/Medieval Philosophy (Natural Law)	Metaphysics, Ethics, Abstract Inquiries, Religion, Mathematics, Biology, Astronomy, Astrology, Physics, etc.
Modern Philosophy	Metaphysics, Ethics, Generic or Abstract Inquiries

⁴⁶ <https://en.wikipedia.org/wiki/Aristotle>

St. Thomas believed that the physical world contained natures, which reflected God's natural law, which covered the whole gamut of subjects taught in today's modern universities, particularly mathematics, the biological sciences, and physics. In fact, "*St. Thomas Aquinas believed that truth is to be accepted no matter where it is found.* His doctrines draw from Greek, Roman, Jewish, and Muslim philosophers. Specifically, he was a realist (i.e., he, unlike the skeptics, believed that the world can be known as it is). He largely followed Aristotelian terminology and metaphysics, and wrote comprehensive commentaries on Aristotle, often affirming Aristotle's views with independent arguments. Thomas respectfully referred to Aristotle simply as 'the Philosopher.'^[4] He also adhered to some neoplatonic principles, for example that "it is absolutely true that there is first something which is essentially being and essentially good, which we call God, ... [and that] everything can be called good and a being, inasmuch as it *participates* in it by way of a certain assimilation...."⁴⁷ It is thus noteworthy that St. Thomas, who was himself a Christian lawyer and jurist, embraced truth no matter where it was found. For this and other reasons, St. Thomas stands as an exemplary example for not only the Catholic priesthood, but also for the Christian lawyers and judges, as well as the entire secular bar and bench.

III. Divine Law: The Old Testament

St. Thomas' Catholic theology was grounded in Roman law and natural-law theory. In the *Summa Theologica*, he refers to the Old Testament as the "Old Law" and to the New Testament as the "New Law," and he then provides a very legalistic analysis of Decalogue (Five Books of Moses) and the New Testament. Thus, I find in St. Thomas Aquinas' Catholic theology a very careful and thoughtful analysis of law or jurisprudence that is based upon a very sophisticated reasoning process, which he applied to both Sacred Scripture as well as to secular law. As I shall explain later, St. Thomas' Catholic theology was a complicated system of law, in which the Bible or Sacred Scriptures are considered as "Divine Law."

For instance, he divided the Old Testament Law (i.e., the Law of Moses) into three categories: (1) the moral precepts; (2) the ceremonial precepts; and (3) the judicial precepts. With respect to the first category on "moral precepts," St. Thomas made the following twelve observations

⁴⁷ <https://en.wikipedia.org/wiki/Thomism>

(1) First, St. Thomas concluded that the moral precepts of the Old Testament Law belonged to, and reflected, natural law or the law of nature. He contended in *Summa Theologica* that good or proper human conduct depended upon “reason”; and that right reason required a proper understanding of nature. “Now since human morals depend on their relation to reason,” he concluded, “which is the proper principle of human acts, those morals are called good which accord with reason, and those are called bad which are discordant from reason. And as every judgment of speculative reason proceeds from the natural knowledge of first principles, so every judgment of practical reason proceeds from principles known naturally, as stated above. . . . from which principles one may proceed in various ways to judge of various matters.” St. Thomas acknowledged that not every person has the proper education in the sciences or philosophy to be able to judge complex matters. However, on the whole, nature teaches each of us the basic difference between right and wrong, based upon natural reason. “[A]nd since also every judgment of human reason must needs b[e] derived in some way from natural reason; **it follows, of necessity, that all the moral precepts belong to the law of nature;** but not all in the same way. For there are certain things which the natural reason of every man, of its own accord and at once, judges to be done or not to be done: e.g. ‘Honor thy father and thy mother,’ and ‘Thou shalt not kill, Thou shalt not steal’: and these belong to the law of nature absolutely. And there are certain things which, after a more careful consideration, wise men deem obligatory. Such belong to the law of nature, yet so that they need to be inculcated, the wiser teaching the less wise: e.g. ‘Rise up before the hoary head, and honor the person of the aged man,’ and the like. And there are some things, to judge of which, human reason needs Divine instruction, whereby we are taught about the things of God: e.g. ‘Thou shalt not make to thyself a graven thing, nor the likeness of anything; Thou shalt not take the name of the Lord thy God in vain.’”

(2) Second, St. Thomas held that the Old Testament Law promoted the same “moral virtues” which were sought after by the philosophers (i.e., Aristotle, Plato, etc., etc.). St. Thomas stated

that “[i]t is therefore evident that the Divine law fittingly proposes precepts about the acts of all the virtues....”⁴⁸

St. Thomas states in *Summa Theologica* that secular human law is primarily concerned with “justice” between persons, whereas the Old Testament law is primarily concerned with both **justice** and **moral virtue** (i.e., man’s relations to God.)

St. Thomas writes in *Summa Theologica* that “[t]his life in common of man with man pertains to justice, whose proper function consists in directing the human community. Wherefore human law makes precepts only about acts of justice; and if it commands acts of other virtues, this is only in so far as they assume the nature of justice, as the Philosopher explains (Ethic. v, 1). But the community for which the Divine law is ordained, is **that of men in relation to God**, either in this life or in the life to come.”⁴⁹ [Here we find St. Thomas’ implicit assumption that the secular civil law does not need (and cannot) to regulate all moral virtues that have no bearing on the essential requirement to ensure “justice” between human beings.]

St. Thomas concludes that the Old Testament Law “proposes precepts about all those matters whereby men are well ordered in their relations to God.”⁵⁰

Significantly, St. Thomas concludes that **God is Reason (i.e., Divine Law)**, and that man’s reason or mind “is God’s image.”⁵¹ He then concludes that “that Divine law proposes precepts about all those matters whereby human reason is well ordered. But this is effected by the acts of all the virtues: since the intellectual virtues set in good order the acts of the reason in themselves: while the moral virtues set in good order the acts of the reason in reference to the interior passions and exterior actions.”⁵²

⁴⁸ Ibid. at 1390-1391.

⁴⁹ Ibid. at 1390-1391.

⁵⁰ Ibid. at 1390-1391.

⁵¹ Ibid. at 1390-1391.

⁵² Ibid. at 1390-1391.

(3) Third, St. Thomas concluded in *Summa Theologica* that the Five Books of Moses (i.e., the Decalogue) were derived, in one form or another to the Ten Commandments; and that these Ten Commandments were reflections of natural law and natural reason (i.e., “first general principles”). The “first general principles, for they need no further promulgation after being *once imprinted on the natural reason* to which *they are self-evident*; as, for instance, *that one should do evil to no man*, and other similar principles: and again those which the careful reflection of wise men shows to be **in accord with reason**; since the people receive these principles from God, through being taught by wise men. Nevertheless both kinds of precepts are contained in the precepts of the Decalogue....”⁵³

(4) Fourth, St. Thomas next concluded that the Decalogue is derived from the Ten Commandments, which contains 6 or 7 commandment that govern man’s relations to man, and 3 or 4 which govern man’s relation to God. Thus, the whole of the Old Testament Law (i.e., the Five Books of Moses) revolves around these basic legal mandates.⁵⁴

(5) Fifth, St. Thomas continues his same train of thinking as mentioned in his his Fourth conclusion, namely, as he states in the *Summa Theologica*, that “I answer... ., *just as the precepts of human law direct man in his relations to the human community, so the precepts of the Divine law direct man in his relations to a community or commonwealth of men under God.* Now in order that any man may dwell aright in a community, two things are required: the first is that he behave well to the head of the community; the other is that he behave well to those who are his fellows and partners in the community.”⁵⁵

With regards to the duty that man behave well with his fellows and partners in a community, St. Thomas enunciates a legal theory that is strikingly modern, to wit: “To his neighbors a man behaves himself well both in particular and in general. In particular, as to those to whom he is indebted, by paying his debts: and in this sense is to be

⁵³ Ibid., p. 1392.

⁵⁴ Ibid. at p. 1393.

⁵⁵ Ibid. p. 1395.

taken the commandment about honoring one's parents. In general, as to all men, by doing harm to none, either by deed, or by word, or by thought. By deed, harm is done to one's neighbor---sometimes in his person, i.e. as to his personal existence; and this is forbidden by the words, "Thou shalt not kill": sometimes in a person united to him, as to the propagation of offspring; and this is prohibited by the words, "Thou shalt not commit adultery": sometimes in his possessions, which are directed to both the aforesaid; and with this regard to this it is said, "Thou shalt not steal." Harm done by word is forbidden when it is said, "Thou shalt not bear false witness against thy neighbor": harm done by thought is forbidden in the words, "Thou shalt not covet." The three precepts that direct man in his behavior towards God may also be differentiated in this same way. For the first refers to deeds; wherefore it is said, "Thou shalt not make . . . a graven thing": the second, to words; wherefore it is said, "Thou shalt not take the name of the Lord thy God in vain": the third, to thoughts; because the sanctification of the Sabbath, as the subject of a moral precept, requires repose of the heart in God. Or, according to Augustine (In Ps. 32: Conc. 1), by the first commandment we reverence the unity of the First Principle; by the second, the Divine truth; by the third, His goodness whereby we are sanctified, and wherein we rest as in our last end."⁵⁶

(6) Sixth, St. Thomas concludes that God (Reason) is himself the end of human life and civilization. In the *Summa Theologica*, he states, “it is clear, since the order of reason begins with the end, that, for a man to be inordinately disposed towards his end, is supremely contrary to reason. *Now the end of human life and society is God.*”⁵⁷ He concludes that the Law of Moses was designed for this objective and purpose.

(7) Seventh, St. Thomas concluded that the Old Testament Law was the “highest wisdom.” In *SummaTheologica*, he states, “I answer that, The highest wisdom is contained in the precept s of the Divine law: wherefore it is written (Dt. 4:6): "This is your wisdom and understanding in the sight of nations." Now it belongs to wisdom

⁵⁶ Ibid. p. 1395.

⁵⁷ Ibid., pp. 1397 – 1398.

to arrange all things in due manner and order. Therefore it must be evident that the precepts of the Law are suitably set forth.”⁵⁸

(8) Eighth, St. Thomas admonishes us to apply the Law of Moses with prudence, based upon the circumstances of each case. This is very significant, but St. Thomas insists that the “intent” of the lawgiver (i.e., God) is “justice,” and he concludes that “the letter of the law” should not be interpreted in a manner that prevents justice. In the *Summa Theologica*, St. Thomas states that the “precepts admit of dispensation, when there occurs a particular case in which, if the letter of the law be observed, the intention of the lawgiver is frustrated. Now the intention of every lawgiver is directed first and chiefly to the common good; secondly, to the order of justice and virtue, whereby the common good is preserved and attained. If therefore there be any precepts which contain the very preservation of the common good, or the very order of justice and virtue, such precepts contain the intention of the lawgiver, and therefore are indispensable. For instance, if in some community a law were enacted, such as this---that no man should work for the destruction of the commonwealth, or betray the state to its enemies, or that no man should do anything unjust or evil, such precepts would not admit of dispensation. But if other precepts were enacted, subordinate to the above, and determining certain special modes of procedure, these latter precepts would admit of dispensation, in so far as the omission of these precepts in certain cases would not be prejudicial to the former precepts which contain the intention of the lawgiver. For instance if, for the safeguarding of the commonwealth, it were enacted in some city that from each ward some men should keep watch as sentries in case of siege, some might be dispensed from this on account of some greater utility. Now the precepts of the decalogue contain the very intention of the lawgiver, who is God. For the precepts of the first table, which direct us to God, contain the very order to the common and final good, which is God; while the precepts of the second table contain the order of justice to be observed among men, that nothing undue be done to anyone, and that each one be given his due; for it is in this sense that we are to take the precepts of

⁵⁸ Ibid., pp. 1397 – 1398.

the decalogue. Consequently the precepts of the decalogue admit of no dispensation whatever.”⁵⁹

(9) Ninth, St. Thomas concludes that adjudication is both a divine and a secular function, but not every act or omission is subject to both secular and divine authority. St. Thomas explained in *Summa Theologica* that “Divine law and human law are differently situated as to the appointment of penalties; since the penalty of the law is inflicted only for those things which come under the judgment of the lawgiver; for the law punishes in accordance with the verdict given. Now man, the framer of human law, is competent to judge only of outward acts; because "man seeth those things that appear," according to 1 Kings 16:7: while God alone, the framer of the Divine law, is competent to judge of the inward movements of wills, according to Ps. 7:10: "The searcher of hearts and reins is God.”⁶⁰

(10) Tenth, St. Thomas observes that the act of “charity” falls within the Law of Moses, but not always.⁶¹

(11) Eleventh, St. Thomas concludes that the additional Old Testament Laws, which were instituted by Moses and Aaron, likewise were designed to implement the first principles of the Ten Commandments, and of natural reason. As St. Thomas explained in *Summa Theologica*, “the first commandment of the decalogue forbids the worship of strange gods: and to this are added other precepts forbidding things relating to worship of idols: thus it is written (Dt. 18:10,11): ‘Neither let there be found among you anyone that shall expiate his son or daughter, making them to pass through the fire: . . . neither let there be any wizard nor charmer, nor anyone that consulteth pythonic spirits, or fortune-tellers, or that seeketh the truth from the dead.’ The second commandment forbids perjury. To this is added the prohibition of blasphemy (Lev. 24:15, seqq) and the prohibition of false doctrine (Dt. 13). To the third commandment are added all the ceremonial precepts. To the fourth commandment prescribing the honor due to parents, is added the precept about honoring the aged, according to Lev. 19:32: "Rise up before the hoary head, and honor the person of the aged man"; and likewise all the

⁵⁹ Ibid., pp. 1400-1401.

⁶⁰ Ibid., pp 1402-1403.

⁶¹ Ibid. p.1404.

precepts prescribing the reverence to be observed towards our betters, or kindness towards our equals or inferiors. To the fifth commandment, which forbids murder, is added the prohibition of hatred and of any kind of violence inflicted on our neighbor, according to Lev. 19:16: "Thou shalt not stand against the blood of thy neighbor": likewise the prohibition against hating one's brother (Lev. 19:17): "Thou shalt not hate thy brother in thy heart." To the sixth commandment which forbids adultery, is added the prohibition about whoredom, according to Dt. 23:17: "There shall be no whore among the daughters of Israel, nor whoremonger among the sons of Israel"; and the prohibition against unnatural sins, according to Lev. 28:22,23: "Thou shalt not lie with mankind . . . thou shalt not copulate with any beast." To the seventh commandment which prohibits theft, is added the precept forbidding usury, according to Dt. 23:19: "Thou shalt not lend to thy brother money to usury"; and the prohibition against fraud, according to Dt. 25:13: "Thou shalt not have divers weights in thy bag"; and universally all prohibitions relating to peculations and larceny. To the eighth commandment, forbidding false testimony, is added the prohibition against false judgment, according to Ex. 23:2: "Neither shalt thou yield in judgment, to the opinion of the most part, to stray from the truth"; and the prohibition against lying (Ex. 23:7): "Thou shalt fly lying," and the prohibition against detraction, according to Lev. 19:16: "Thou shalt not be a detractor, nor a whisperer among the people." To the other two commandments no further precepts are added, because thereby are forbidden all kinds of evil desires.”⁶²

In other words, under St. Thomas' legal theory, Reason or Natural Law is the foundation of the Ten Commandments, which are the foundation of the additional Laws of Moses.

(12) Twelfth, St. Thomas places a high emphasis on “justice” as being the ultimate objective of the Old Testament Law. For this reason, he concludes that the true purpose and objective of the Old Testament Law is to effectuate “justice,” which is really justification. In the *Summa Theologica*, he writes “*justification means first and properly the causing of justice; while secondarily and improperly, as it were, it may denote a sign of justice or a disposition thereto.*” St.

⁶² Ibid., pp. 1405-1406.

Thomas believed that the “habit of justice” is what makes human beings “just.”⁶³

IV. The New Testament Law

St. Thomas believed that the New Testament Law was a written law that was also inscribed in the heart, by grace of the Holy Spirit through faith in Christ.⁶⁴ “Hence Augustine says (De Spir. et Lit. xxiv) that “as the law of deeds was written on tables of stone, so is the law of faith inscribed on the hearts of the faithful”: and elsewhere, in the same book (xxi): ‘What else are the Divine laws written by God Himself on our hearts, but the very presence of His Holy Spirit?’”⁶⁵ St. Thomas also believed that the New Testament Law is based upon “the inward presence of the healing grace of faith.”⁶⁶

St. Thomas believed that the New Testament Law was appropriately withheld from humankind until it was fulfilled with Christ’s death and resurrection, although the reasons which he gives in the *Summa Theologica* are skeletal and need further explanation. However, St. Thomas goes on to state that New Testament Law and the Old Testament Law have the same objective, although the New Testament Law is a perfection of the Old Law.⁶⁷ “Accordingly then,” he writes, “two laws may be distinguished from one another in two ways. First, through being altogether diverse, from the fact that they are ordained to diverse ends: thus a state-law ordained to democratic government, would differ specifically from a law ordained to government by the aristocracy. Secondly, two laws may be distinguished from one another, through one of them being more closely connected with the end, and the other more remotely: thus in one and the same state there is one law enjoined on men of mature age, who can forthwith accomplish that which pertains to the common good; and another law regulating the education of children who need to be taught how they are to achieve manly deeds later on. We must therefore say that, according to the first way, the New Law is not distinct from the Old Law: because they both have the same end, namely, man's subjection to God; and there is but one God of the New and of the Old Testament, according to Rom. 3:30: ‘It is one God that justifieth circumcision by faith, and uncircumcision through faith.’” According to the second way, the New Law is distinct from the Old Law: because the Old Law is like a pedagogue of

⁶³ Ibid., p. 1407.

⁶⁴ Ibid., p. 1478.

⁶⁵ Ibid.

⁶⁶ Ibid., p. 1479.

⁶⁷ Ibid., pp. 1479-1480.

children, as the Apostle says (Gal. 3:24), whereas the New Law is the law of perfection, since it is the law of charity, of which the Apostle says (Col. 3:14) that it is "the bond of perfection."⁶⁸

Part Two St. Thomas' Philosophy of Law

I. Four-Fold Theory of Law (Eternal, Divine, Natural, and Human Law)

St. Thomas conceptualized law as a divine mandate. In other words, in St. Thomas' worldview, all law, even secular human law, flows from God. To the Christian jurist, this is very significant, because even a secular law that conflicts with God's law or God's will remains binding and valid, but does not actually bind the human conscience. In fact, depending upon circumstances, St. Augustine and St. Thomas offered the proposition that such human laws may be conscientiously resisted if they posed immediate and imminent danger. For this reason, the duty of Christian lawyers and judges within the secular state is to carefully examine laws in order to ascertain whether they conflict with God's will, which St. Thomas insists is the "common good." To help us to understand his philosophy of law, St. Thomas divided law into four types: eternal law, divine law (previously discussed as the Old and New Testament laws), natural law, and human law. In the remaining sections, I shall further discuss how St. Thomas defined the eternal, natural, and human laws.

II. ETERNAL LAW

St. Thomas believed that God was the Supreme Artificer and Governor of every creature and thing that exists, and that God's Divine Wisdom "moves all things" in a manner that "bears the character of law. Accordingly the eternal law is nothing else than the type of Divine Wisdom, as directing all actions and movements."⁶⁹

St. Thomas adopted St. Augustine view that "knowledge of the eternal law is imprinted on us."⁷⁰ According to St. Thomas, "all men know the truth to a certain extent, at least as to the common principles of the natural law: and as to the others, they partake of the knowledge of truth, some more, some less; and in this respect are more or less cognizant of the eternal law."⁷¹

⁶⁸ Ibid., p. 1484.

⁶⁹ Ibid., pp. 1342-1343.

⁷⁰ Ibid., pp. 1343-1344.

⁷¹ Ibid., pp. 1343-1344.

St. Thomas also believed that all other laws—natural law, divine law, and secular human law-- are derived from God’s eternal law. “Since then the eternal law is the plan of government in the Chief Governor,” he observed, “all the plans of government in the inferior governors must be derived from the eternal law. But these plans of inferior governors are all other laws besides the eternal law. Therefore all laws, in so far as they partake of right reason, are derived from the eternal law. Hence Augustine says... that “in temporal law there is nothing just and lawful, but what man has drawn from the eternal law.”⁷² St. Thomas understood that eternal law to governed mankind and everything created; that mankind governed, to a greater or lesser extent, other human beings and lesser creatures; and that all things created were governed by God’s natural law, which is derived from eternal law.

We must speak otherwise of the law of man, than of the eternal law which is the law of God. For the law of man extends only to rational creatures subject to man. The reason of this is because law directs the actions of those that are subject to the government of someone: wherefore, properly speaking, none imposes a law on his own actions. Now whatever is done regarding the use of irrational things subject to man, is done by the act of man himself moving those things, for these irrational creatures do not move themselves, but are moved by others, as stated above Consequently man cannot impose laws on irrational beings, however much they may be subject to him. But he can impose laws on rational beings subject to him, in so far as by his command or pronouncement of any kind, he imprints on their minds a rule which is a principle of action. Now just as man, by such pronouncement, impresses a kind of inward principle of action on the man that is subject to him, so God imprints on the whole of nature the principles of its proper actions. And so, in this way, God is said to command the whole of nature, according to Ps. 148:6: ‘He hath made a decree, and it shall not pass away.’ And thus all actions and movements of the whole of nature are subject to the eternal law. Consequently irrational creatures are subject to the eternal law, through being moved by Divine providence; but not, as rational creatures are, through understanding the Divine commandment.”⁷³

⁷² Ibid. pp. 1344-1345.

⁷³ Ibid., pp. 1346-47.

Importantly, St. Augustine acknowledged that not all human beings willingly subject themselves to the eternal law, but only those who are righteous and good, stating:

Accordingly, the good are perfectly subject to the eternal law, as always acting according to it: whereas the wicked are subject to the eternal law, imperfectly as to their actions, indeed, since both their knowledge of good, and their inclination thereto, are imperfect; but this imperfection on the part of action is supplied on the part of passion, in so far as they suffer what the eternal law decrees concerning them, according as they fail to act in harmony with that law. Hence Augustine says (*De Lib. Arb. i, 15*): "I esteem that the righteous act according to the eternal law; and (*De Catech. Rud. xviii*): Out of the just misery of the souls which deserted Him, God knew how to furnish the inferior parts of His creation with most suitable laws."⁷⁴

III. NATURAL LAW

St. Thomas' theory of natural law is perhaps the most important legal theory for secular jurists and lawyers. And it is perhaps of critical argument in favor of Christianity for Christian lawyers and judges to utilize, because St. Thomas insists that that "natural law" is actually "reason" itself.

In the *Summa Theologica*, he states that "the natural law is something appointed by reason" and that "the precepts of the natural law are sometimes considered by reason actually, while sometimes they are in the reason only habitually...."⁷⁵ St. Thomas believed that "natural law" was really "practical reason," dealing with self-evident and less obvious matters, and requires intellectual integrity and honesty.⁷⁶

According to St. Thomas, natural law is not simply reason, but it is also "right reason" based upon a correct comprehension of facts and phenomena, some of which are self-evident, and others not so obvious and thus requiring additional inquiry or advanced learning and education. For this reason, St. Thomas also believed that "moral virtue," was really an expression of natural law; because natural law's end is toward the Good of all humankind. For St. Thomas, moral

⁷⁴ Ibid., p. 1348.

⁷⁵ Ibid., p. 1349.

⁷⁶ Ibid.

virtue in nature is thus rooted in God’s eternal law; moral virtue is thus an expression of adherence to natural law as well as to God’s eternal law. In addition, St. Thomas believed that “natural law” is universal and known by everyone. “It is therefore evident that,” he observed, “as regards the general principles whether of speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all....”⁷⁷ As St. Thomas explained in the *Summa Theologica*:

We may speak of virtuous acts in two ways: first, under the aspect of virtuous; secondly, as such and such acts considered in their proper species. If then we speak of acts of virtue, considered as virtuous, thus all virtuous acts belong to the natural law. For it has been stated... that to the natural law belongs everything to which a man is inclined according to his nature. Now each thing is inclined naturally to an operation that is suitable to it according to its form: thus fire is inclined to give heat. Wherefore, since the rational soul is the proper form of man, there is in every man a natural inclination to act according to reason: and this is to act according to virtue. Consequently, considered thus, all acts of virtue are prescribed by the natural law: since each one's reason naturally dictates to him to act virtuously. But if we speak of virtuous acts, considered in themselves, i.e. in their proper species, thus not all virtuous acts are prescribed by the natural law: for many things are done virtuously, to which nature does not incline at first; but which, through the inquiry of reason, have been found by men to be conducive to well-living.⁷⁸

Interestingly, St. Thomas believed that natural law *in its first basic principles* could not be “changed” or blotted out, although he did believe that natural law could be “subtracted from” or “added to” for the improvement of human living.⁷⁹ Unfortunately, he does not provide detailed examples of how he might apply his conclusions, say, to modern-day challenges to conventional human sexuality (i.e., transgender identity and homosexuality); but we may assume that the Catholic Church, which continues to uphold Thomism as establish Catholic theology, has correctly interpreted St. Thomas’ views on these issues.

IV. HUMAN LAW

⁷⁷ Ibid., p. 1353.

⁷⁸ Ibid., p. 1352.

⁷⁹ Ibid., pp. 1355-1356.

Finally, we come to St. Thomas' conception of human law, or of what modern-day lawyers and judges refer to as secular civil, criminal, and constitutional laws, etc. St. Thomas considered human law to be in close cooperation with the dictates of eternal and natural law, in that the objective of human law is to lead to the common good of humanity. St. Thomas also believed that the necessity of civilization—food, clothing, shelter, the attainment of property, and moral virtue—required human law. For this reason, St. Thomas concluded that human law was a sacred gift to all of humanity which had fallen in to sin and disgrace. St. Thomas wrote: “[t]herefore in order that man might have peace and virtue, it was necessary for laws to be framed: for, as the Philosopher [Aristotle] says (Polit. i, 2), ‘as man is the most noble of animals if he be perfect in virtue, so is he the lowest of all, if he be severed from law and righteousness’; because man can use his reason to devise means of satisfying his lusts and evil passions, which other animals are unable to do.”⁸⁰

Without question, St. Thomas believed that “justice” was the chief end and purpose of human laws. And in reaching this conclusion, he relied heavily upon St. Augustine's theology. In the *Summa Theologica*, St. Thomas writes, “As Augustine says (De Lib. Arb. i, 5) ‘that which is not just seems to be no law at all’: wherefore the force of a law depends on the extent of its justice. Now in human affairs a thing is said to be just, from being right, according to the rule of reason. But the first rule of reason is the law of nature, as is clear from what has been stated above. . . . Consequently every human law has just so much of the nature of law, as it is derived from the law of nature. But if in any point it deflects from the law of nature, it is no longer a law but a perversion of law.”⁸¹ St. Thomas believed that human law must be appropriately divided in order to govern different types of activities and people⁸², but all with the same end with is the common

⁸⁰ Ibid., p. 1357.

⁸¹ Ibid., p. 1358.

⁸² “[L]aw is framed as a rule or measure of human acts. Now a measure should be homogeneous with that which it measures, as stated in Metaph. x, text. 3,4, since different things are measured by different measures. Wherefore laws imposed on men should also be in keeping with their condition, for, as Isidore says (Etym. v, 21), law should be ‘possible both according to nature, and according to the customs of the country.’ Now possibility or faculty of action is due to an interior habit or disposition: since the same thing is not possible to one who has not a virtuous habit, as is possible to one who has. Thus the same is not possible to a child as to a full-grown man: for which reason the law for children is not the same as for adults, since many things are permitted to children, which in an adult are punished by law or at any rate are open to blame. In like manner many things are permissible to men not perfect in virtue, which would be intolerable in a virtuous man. Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.” Ibid, p. 1359-1360.

Good of the community. In fact, St. Thomas does not hesitate in stating the “common good” should be the chief objective and end of all law:

Whatever is for an end should be proportionate to that end. Now the end of law is the common good; because, as Isidore says (Etym. v, 21) that "law should be framed, not for any private benefit, but for the common good of all the citizens." Hence human laws should be proportionate to the common good. Now the common good comprises many things. Wherefore law should take account of many things, as to persons, as to matters, and as to times. Because the community of the state is composed of many persons; and its good is procured by many actions; nor is it established to endure for only a short time, but to last for all time by the citizens succeeding one another, as Augustine says (De Civ. Dei ii, 21; xxii, 6).⁸³

“In this respect,” St. Thomas observed, “human law may be divided according to the different kinds of men who work in a special way for the common good: e.g. priests, by praying to God for the people; princes, by governing the people; soldiers, by fighting for the safety of the people. Wherefore certain special kinds of law are adapted to these men.”⁸⁴ For Christian lawyers and judges, it is significant to note here that St. Thomas also believed that human laws must be “measured” and “proportionate to its rule and measure,” which are “the Divine law and the natural law.”⁸⁵ In other words, St. Thomas opined to in order to ascertain whether a human law is “just,” one must ascertain whether such law was contrary to, or aligned with, Divine law (i.e., the Old and New Testament laws) and natural law.

Importantly, St. Thomas believed that human law simply was not equipped or designed to compel private individuals to adopt or embrace virtuous lifestyles. Human law simply cannot compel men and women to adopt all of the desired moral virtues, but rather human law can only compel those moral virtues that are absolutely necessary to promote the common good or the common weal.

According to St. Thomas, there is a “species of virtues” that have the sole object of the “private good of an individual”; and these sort of virtues may not be compelled by human law. As St. Thomas explained, “[n]ow all the objects of virtues can be referred either to the private good of an individual, or to the common good of the multitude: thus matters of fortitude may be achieved either

⁸³ Ibid. 1362.

⁸⁴ Ibid., pp. 1360-1361.

⁸⁵ Ibid., p. 1359-1360.

for the safety of the state, or for upholding the rights of a friend, and in like manner with the other virtues. But [human] law... is ordained to the common good. Wherefore there is no virtue whose acts cannot be prescribed by the law. Nevertheless *human law does not prescribe concerning all the acts of every virtue*: but only in regard to those that are *ordainable to the common good*---either immediately, as when certain things are done directly for the common good---or mediately, as when a lawgiver prescribes *certain things pertaining to good order*, whereby the citizens are directed in the upholding of the common good of justice and peace.”⁸⁶ Again, for St. Thomas, human law is “ordained to the common good.”⁸⁷ Significantly, St. Thomas believed that a human law which did not promote the common good was simply “unjust,” and not rooted in the eternal or the natural law. In the *Summa Theologica*, he explained:

I answer that, Laws framed by man are either just or unjust. If they be just, they have the power of binding in conscience, from the eternal law whence they are derived, according to Prov. 8:15: "*By Me kings reign, and lawgivers decree just things.*" Now laws are said to be just, both from the end, when, to wit, they are ordained to the common good---and from their author, that is to say, when the law that is made does not exceed the power of the lawgiver---and from their form, when, to wit, burdens are laid on the subjects, according to an equality of proportion and with a view to the common good. For, since one man is a part of the community, each man in all that he is and has, belongs to the community; just as a part, in all that it is, belongs to the whole; wherefore nature inflicts a loss on the part, in order to save the whole: so that on this account, such laws as these, which impose proportionate burdens, are just and binding in conscience, and are legal laws. On the other hand laws may be unjust in two ways: first, *by being contrary to human good*, through being opposed to the things mentioned above---either in respect of the end, as when an authority imposes on his subjects burdensome laws, conducive, not to the common good, but rather to his own cupidity or vainglory---or in respect of the author, as *when a man makes a law that goes beyond the power committed to him*---or in respect of the form, as when *burdens are imposed unequally on the community*, although with a view to the common good. The like are acts of violence rather than laws; *because, as Augustine says (De Lib. Arb. i,*

⁸⁶ Ibid., p. 1364.

⁸⁷ Ibid.

5), *"a law that is not just, seems to be no law at all."* Wherefore *such laws do not bind in conscience*, except perhaps in order to *avoid scandal or disturbance*, for which cause a man should even yield his right, according to Mat. 5:40,41: "If a man . . . take away thy coat, let go thy cloak also unto him; and whosoever will force thee one mile, go with him other two." Secondly, laws may be unjust through being opposed to the Divine good: such are the laws of tyrants inducing to idolatry, or to anything else contrary to the Divine law: and laws of this kind must nowise be observed, because, as stated in Acts 5:29, "we ought to obey God rather than man."⁸⁸

St. Thomas also believed that human laws should be changed upon the attainment of new knowledge, new truths, and more reliable information governing the specific subject matter of law. The reason for this change, explained St. Thomas, is because "human law is a dictate of reason, whereby human acts are directed. Thus there may be two causes for the just change of human law: one on the part of reason; the other on the part of man whose acts are regulated by law. The cause on the part of reason is that it seems natural to human reason to advance gradually from the imperfect to the perfect. Hence, in speculative sciences, we see that the teaching of the early philosophers was imperfect, and that it was afterwards perfected by those who succeeded them. So also in practical matters: for those who first endeavored to discover something useful for the human community, not being able by themselves to take everything into consideration, set up certain institutions which were deficient in many ways; and these were changed by subsequent lawgivers who made institutions that might prove less frequently deficient in respect of the common weal."⁸⁹ As a rule of thumb, however, St. Thomas believed that "human law should never be changed, unless, in some way or other, the common weal be compensated according to the extent of the harm done in this respect. Such compensation may arise either from some very great and every evident benefit conferred by the new enactment; or from the extreme urgency of the case, due to the fact that either the existing law is clearly unjust, or its observance extremely harmful."⁹⁰

CONCLUSION

St. Thomas Aquinas' ideas have inspired my role as a Christian lawyer within the American secular state, because they hold secular laws accountable to a

⁸⁸ Ibid., pp. 1365-1366.

⁸⁹ Ibid., p. 1369.

⁹⁰ Ibid., p. 1370.

Higher Law, which I conceptualize as equity, substantive and procedural due process, and fundamental human rights. Indeed, St. Thomas' ideas have profoundly shaped my understanding of how Christian lawyers and judges should at least define the common objectives of secular laws and universal moral laws: "justice" and the "common good" of all humanity. Indeed, St. Thomas' encyclopedic treatises on law and theology (particularly the *Summa contra Gentiles* and *Summa Theologica*) are not only the legacy and heritage of the Catholic Church but are also a major cornerstone of Christian jurisprudence (i.e., how secular lawyers and judges should interpret and administer human law). Today, more than ever, Christian lawyers and judges must determine whether the natural law and natural rights tradition, which is at the foundation of not only American constitutional law but also of over two thousand years of western and world jurisprudence, should be whimsically jettisoned in favor of a civil rights discourse that is well-grounded not in the philosophy of nature, physics, biology, mathematics, the social sciences and history, but rather in the arbitrary *legal logic of the syllogism*.⁹¹ If worse comes to worst, will today's Christian lawyers and judges have the moral courage of Dr. Martin Luther King, Jr., who cited St. Thomas as an authority in his famous *Letter From the Birmingham City Jail*, wherein he stated that "[i]f today I lived in a Communist country **where certain principles dear to the Christian faith are suppressed**, I would openly advocate disobeying that country's **antireligious laws**"?⁹² St. Thomas' *Summa Theologica*, which is still the authority in the Roman Catholic Church, is *a guide*, as well as a reminder, to Christian lawyers and judges to be forewarned against the faulty and arbitrary legal logic of the syllogism. Indeed, secular human laws cannot be made arbitrarily. Instead, secular human laws must be held accountable to the eternal laws of nature; and they must be discovered in the natural world, taking into consideration the long-term as well as the short-term objectives of the common good.

THE END

⁹¹ Within American constitutional jurisprudence, this arbitrary legal logic holds that, for example, discrimination against "white women" or "women" has the same social and historical meaning as discrimination against, e.g., "Native Americans"; or that the plight of "same-sex marriage" during the Twenty-First Century has the same constitutional meaning and natural effect as the plight of "interracial marriage" during the 1960s. I do not here argue in favor of, or against, same-sex marriage; nor do I here contend that discrimination against "women" or "same-sex" couples are unworthy of credence, or that such discrimination should not be remedied. My point is that each so-called protected class should establish the merits of their own legal claims or assertions with well-founded arguments that are rooted in natural law (science, physics, biology, mathematics, etc.) and to not simply rely upon faulty legal reasoning that "discrimination against one group is exactly the same as discrimination against another group." In summary, I believe along with St. Thomas Aquinas that we should accept the truth wherever the truth may lead or can be found.

⁹² Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015), pp. 437-440.

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