

*Both St. Thomas and Chesterton were aware that
human laws do not always
conform to the natural and eternal laws.*

St. Thomas and Chesterton on law, human and divine

By Thomas Storck

■ It was not Zeus who gave the order,
And Justice living with the dead below
Has never given men a law like this.
Nor did I think that your pronouncements
were
So powerful that mere man could override
The unwritten and unfailing laws of heaven.
These live, not for today and yesterday
But for all time; they came, no man knows
whence.
—Sophocles, *Antigone*

The quotation above, spoken by Antigone in response to an unjust enactment of the king, shows that even among pagans there was a realization that the divine law was above the laws made by man, and that at times human laws could contradict divine law. But unfortunately, man's experience of law is too often of corrupt human laws, leading some to become cynics and proclaim,

like Thrasymachus in Plato's *Republic*, that law is nothing but "the advantage of the stronger," just another racket by which we try to exploit one another.

And each ruling group sets down laws for its own advantage; a democracy sets down democratic laws; a tyranny, tyrannic laws; and the others do the same. And they declare that what they have set down—their own advantage—is just for the ruled, and the man who departs from it they punish as a breaker of the law and a doer of unjust deeds. This, best of men, is what I mean: in every city the same thing is just, the advantage of the established ruling body. (338e-339a)¹

But the Catholic tradition, while aware of the propensity of men to pervert the law, is likewise aware of the glorious vocation of law, both human and divine, provided that human

law reflects and follows divine law. The classic presentation of the Catholic view is that of St. Thomas Aquinas in the treatise on laws in the *Prima Secundae* of the *Summa Theologiae*.² But a more contemporary presentation of the same doctrine can be found in G.K. Chesterton's 1908 novel, *The Man Who Was Thursday*. As a novel about a group of police detectives, we might expect the book to deal extensively with law, especially with human law. And so it does. But Chesterton's work of fiction is in fact a portrayal in dramatic form of the doctrine of law, both divine and human, set forth so brilliantly by St. Thomas. Just as Aquinas holds human law to the high standard of reflecting the divine law, so Chesterton deals in different ways with human laws that have been twisted so as no longer to be in harmony with the "unwritten and unfailing laws of heaven." I shall first expound the doctrine of St. Thomas on the relationship between human and divine law and then show how Chesterton's novel is an illustration of Thomas' key teaching on the necessary harmony of human and divine law and the role of reason in law. Lastly I will add a few reflections on the usefulness of this Thomistic teaching for us today.

In article 1 of Question 90 of the *Summa Theologiae* I-II, at the very outset of the treatise on law, Thomas takes up the fundamental question: whether law is something pertaining to reason. This is the fundamental question concerning not only human law, but all law, for if law is not an expression of the rational there is ultimately no reason why it cannot become simply an expression of will, ultimately therefore of mere power, "the advantage of the stronger." Indeed Thomas, even before he deals explicitly with the question of the agreement of human law with natural law (in 95, 2), already states in this introductory article that unless the will of the human legislator is regulated by reason, his will as expressed in human laws "would be more wickedness than law" (ad 3).

Why is this question of the rational charac-



ter of law so important? It derives from Aquinas' basic understand of reality, including God himself. In question 91, article 1, he discusses the eternal law. The eternal law is the very principle of God governing the universe. "It is clear, moreover, supposing that the world is ruled by divine providence... that the entire community of the universe is governed by divine reason." God does not govern his creation arbitrarily, after the manner of a tyrant.

But if we say that God governs the universe according to the eternal law, does this mean that God is subject in some way to a law external to himself? How could God be subject to anything? Is it not necessary to maintain that God is free to govern his creation entirely according to his good pleasure? When we recall the doctrine of God's absolute simplicity, that there are no divisions or parts in him, and realize that divine reason and divine providence, and hence the eternal law itself, cannot be something external or other than God, we can see that Thomas is not asserting that God is subordinate to anything.³ Therefore the eternal law, the norm which regulates all other laws of any kind, is not different from God himself. Thomas concludes this article

(91, 1) by saying, "But the end of divine governance is God himself; nor is his law different from himself" (ad 3). In other words, in God himself is this reasonable law, or, to put it more correctly, God himself is reason, hence God is law, but always law understood as an expression of reason, not of arbitrary power or self-interest.

The second chief pillar of any sort of law according to Thomas, along with its rational character, is that it must aim at the common good. He considers this in question 90, article 2. It is particularly noteworthy that he links this concern for the common good with order: "it is necessary that law properly respect order toward common felicity." In a theme that Chesterton later takes up, order is not conceived by Aquinas as something oppressive. Rather the false orders so often created by human governments are not examples of true order at all. Indeed, when he turns his attention explicitly to human law (questions 95 and 96), Aquinas states that any human law not in accord with natural law (and thus ultimately with the eternal law) is not law, but "a corruption of law" (95, 2) and such enactments are "more acts of violence than laws" (96, 4). Thomas is perfectly clear about the necessity, then, that human law accord with the eternal law via the natural law. Indeed, any human regulations which do not accord with higher laws do not bind in conscience "except perhaps on account of avoiding scandal or turmoil" (96, 4).

It is interesting to notice, moreover, some of the examples that St. Thomas gives of unjust human laws, enactments which are really not laws at all. He mentions, as one might expect, "laws of tyrants leading to idolatry or to any other thing contrary to the divine law," but he also speaks of instances when the burdens [*onera*] imposed by rulers "do not pertain to the common good, but more to their own greed or glory" or when "burdens are inequitably distributed, even if they are ordained to the common good" (96, 4). One thinks perhaps of large corporations that pay no income tax,

or of failing Wall Street investment banks rescued by the taxpayer, or of payroll taxes in the United States, a regressive tax on low-income earners, which were raised at the same time as income taxes for the wealthy were lowered in the early 1980s. Thus one can see why many are persuaded by Thrasymachus' dictum that "in every city the same thing is just, the advantage of the established ruling body."

The radical nature of the understanding of law set forth by Thomas Aquinas and the classic tradition in general must be kept always in mind as we consider Chesterton's novel. Law as something necessarily conformable to divine reason and the common good, and the unjust and violent character of all human enactments that are mere expressions of the "interest of the stronger" place in a different light protests against injustice and against the pseudo-order so often imposed upon human societies by tyrannical or avaricious ruling classes.

G.K. Chesterton's *The Man Who Was Thursday* is about a group of special police detectives recruited in London to discover the plots of a secret anarchist society which aims at the entire destruction of human civilization, if not the whole human race. Most of these detectives have backgrounds unusual in the world of law enforcement—one is a poet, another an actor, another a physician. They are deliberately recruited from the intelligentsia since they are to deal with the highest strata of anarchist, those disillusioned intellectuals who are the true menace to mankind.

The ordinary detective goes to pot-houses to arrest thieves; we go to artistic tea-parties to detect pessimists. The ordinary detective discovers from a ledger or a diary that a crime has been committed. We discover from a book of sonnets that a crime will be committed. We have to trace the origin of those dreadful thoughts that drive men on at last to intellectual fanaticism and intellectual crime (24-25).⁴

We have seen that St. Thomas demands that human law be in accord with natural law,

which in turn is in accord with eternal law, the very being of God himself, and thus necessarily of the common good of the universe and of all human communities. This is also an important component of the crusade against the anarchists in Chesterton's novel. In the chance encounter that Gabriel Syme, the poet soon to be a detective, has with the policeman who recruits his services, Syme initially accuses the police of persecuting "some poor harmless tramp" and proclaims that they are "cruel to the poor" (23). The modern state and its law enforcement apparatus concentrate all their energies on persecuting the poor and ignore the more genteel crimes of the rich. Syme continues,

Yes, the modern world has retained all those parts of police work which are really oppressive and ignominious, the harrying of the poor, the spying upon the unfortunate. It has given up its more dignified work, the punishment of powerful traitors in the State and powerful heresiarchs in the Church (25).

The "philosophical policeman" does not deny this. In fact, he carefully distinguishes the intellectual anarchists, whom the special detectives are to pursue, from ordinary anarchists, who commit "those chance dynamite outbreaks from Russia or from Ireland, which are really the outbreaks of oppressed, if mistaken, men" (26). And later in the novel one of the detectives explains that they are not after "such unfortunate madmen as may here or there throw a bomb through starvation or German philosophy, but a rich and powerful and fanatical church, a church of eastern pessimism, which holds it holy to destroy mankind like vermin" (77). Thus at the outset Chesterton implicitly distinguishes two sides of human law and law enforcement, that side which merely is "the harrying of the poor, the spying upon the unfortunate," and that which pursues the true enemies of humanity, the elite inner ring of anarchists who do not hate injustice, but hate their fellow men. The policeman who is recruiting

Syme to the detective corps explains to him:

They have but two objects, to destroy first humanity and then themselves. That is why they throw bombs instead of firing pistols. The innocent rank and file are disappointed because the bomb has not killed the king; but the high-priesthood are happy because it has killed somebody. (26-27)

Chesterton's concept of order likewise partakes of the same character as Aquinas' conception. Gabriel Syme, who was raised by avant-garde parents and in reaction to them had turned toward a profound respect for order, was already aware of the threat from anarchism, although he did not fully understand the form it took, even before he met the "philosophical policeman." "He did not regard anarchists, as most of us do, as a handful of morbid men, combining ignorance with intellectualism. He regarded them as a huge and pitiless peril, like a Chinese invasion" (22). Before becoming a detective he had attempted to make a living as a poet and essayist and "poured perpetually into newspapers and their waste-paper baskets a torrent of tales, verses and violent articles, warning men of this deluge of barbaric denial" (23). After his employment by Scotland Yard his initial contact with the anarchists, which leads to his subsequent infiltration of the anarchist society, comes about through his meeting with the anarchist poet, Lucian Gregory. Gregory is incensed when Syme introduces himself as a "poet of law, a poet of order" (2). Gregory proclaims that "an anarchist is an artist.... The poet delights in disorder only" (3). Syme replies,

The rare, strange thing is to hit the mark; the gross, obvious thing is to miss it. We feel it is epical when man with one wild arrow strikes a distant bird. Is it not also epical when man with one wild engine strikes a distant station? Chaos is dull...I tell you...that every time a train comes in I feel that it has broken past batteries of besiegers, and that man has

won a battle against chaos. (3-4)

The concept of order as exciting and chaos as dull seems at first counter-intuitive. But if we remember Aquinas' idea of order as the expression of the divine law then we can see how this is true. "It is clear, moreover, supposing that the world is ruled by divine providence...that the entire community of the universe is governed by divine reason." The kind of order that St. Thomas speaks of might be seen in the concept of human health, both physical and mental. Health is clearly an example of order, disease of disorder. But which one is more exciting or interesting? Similarly a political community in which the powerful oppress the poor and enforce their (unjust) human laws with rigor—this is not order, but rather the highest type of disorder and violence for St. Thomas and Chesterton. The "chance dynamite outbreaks from Russia or from Ireland, which are really the outbreaks of oppressed, if mistaken, men" are acts of violence to be sure, but so are the unjust laws which they protest and struggle against. True law and order, however, are not oppressive concepts, rather the preconditions of a healthy human existence.

One of the most dramatic moments in Chesterton's novel occurs when some of the undercover detectives, who have been posing as members of the Supreme Anarchist Council, are pursued by the one remaining detective who was unaware of their true identity and of the fact that the anarchists' ruling group is really made up entirely of undercover policemen. Syme and his companions rush to attack the detective and the crowd of ordinary citizens who have turned out to capture them, and Syme makes a short speech about resisting the anarchist "philosophy of dirt and rats" (96). The one detective, who had served as the Secretary of the Anarchist Council, is taken aback.

The Secretary, ever since Syme's speech, had stood with his hand to his stricken head, as if dazed; now he sud-

denly pulled off his black mask.

The pale face thus peeled in the lamplight revealed not so much rage as astonishment. He put up his hand with an anxious authority.

"There is some mistake," he said. "Mr. Syme, I hardly think you understand your position. I arrest you in the name of the law."

"Of the law?" said Syme, and dropped his stick. (97)

Although up to the moment that the Secretary uttered those words, Syme and his companions had believed him to be one of the inner ring of anarchists, "the most utterly unhappy man that was ever human" (66), the simple phrase, "in the name of the law," worked like magic for the detectives. For they knew that no anarchist would ever appeal to law. When the Secretary says "in the name of the law," they saw, and we are to see also, not the kind of human laws that Antigone objects to or that Thrasymachus cynically supposes to be the only type of law; but rather an echo of law as a reflection of the very order and beauty of God himself and of his governance of the universe for the common good of all, the kind of law and order that animates a healthy human body.

We have seen that both St. Thomas and Chesterton were aware that human laws do not always conform to the natural and eternal laws. Thomas wrote that many rulers distribute taxes and other legal burdens not according to the common good "but more to their own greed or glory" and Chesterton knew that not infrequently the main thrust of human law consisted in oppression of the poor. Those who rule human political communities too often are the wrong people. As Father Ian Boyd wrote of Chesterton,

What he makes clear both in his fiction and in his other writing is his conviction that the least suitable people are likely to hold the positions of authority, and that the perennial problem in politics is the

giving of power to the people who are least likely to seek it. That is why he usually presents himself as the spokesman for the inarticulate majority against the insolent minority which oppresses them.⁵

Today hardly any rulers would even theoretically recognize the rights of God over nations. Thus we face the same difficulty as did Antigone—namely, we have human rulers who, in one way or the other, have enacted laws which do not correspond to divine and natural law. Wherever there is legal permission for abortion this is a paramount example of the overthrow of divine law, but there are many other examples as well. Allowing for what are called same-sex marriages is another signal instance, for here it is felt that the mere will of the legislature or the judiciary can overcome the obvious meaning and intention of the human body itself. Nor does it make any difference whether unjust laws are enacted by voters or legislatures or by some sort of judicial imposition: man has no right to contradict God.

The problem of human law, then, is to insure that whatever form of political regime may exist, that its enactments respect the order, ultimately divine in origin, which flows through the eternal and natural laws and into all true human law. In human history too often Thrasymachus' criticism is accurate and "each ruling group sets down laws for its own advantage; a democracy sets down democratic laws; a tyranny, tyrannic

laws; and the others do the same."

Chesterton was well aware that in the England of his time, for the most part nominally a democracy, the authority of the law was directed in large part toward "the harrying of the poor, the spying upon the unfortunate." St. Thomas, while he expounds the theory and framework of how laws should operate, was equally aware of the ubiquity of man-made oppressive laws which are "more acts of violence than laws." But both authors set forth the glorious vision of how law ought to operate, how it ought to reflect divine order and justice and be directed toward the good of the whole. If this vision were adhered to in human affairs, then when the law is invoked, our response would be that of Syme, who upon hearing the Secretary say, "Mr. Syme...I arrest you in the name of the law," was relieved and full of gratitude that justice and rationality really did rule in the affairs of men. ■

End notes

¹ Allan Bloom translation (New York: Basic Books, c. 1968)

² Questions 90 through 108.

³ On God's simplicity, see the *Summa Theologiae* I q. 3, a. 2-4, and also the *Summa contra Gentiles*, chapters 16-23.

⁴ I will indicate references to *The Man Who Was Thursday* simply by page number to the Dover edition (New York: Dover, 1986).

⁵ Ian Boyd, *The Novels of G. K. Chesterton, a Study in Art and Propaganda* (New York: Barnes & Noble, 1975), pp. 154-55.



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