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Volume 54, numéro 1, février 1998

Éthique et corps souffrant

URI : <https://id.erudit.org/iderudit/401140ar>

DOI : <https://doi.org/10.7202/401140ar>

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Éditeur(s)

Faculté de philosophie, Université Laval

ISSN

0023-9054 (imprimé)

1703-8804 (numérique)

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Citer cet article

Haggerty, W. P. (1998). Heinrich Rommen on Aquinas and Augustine. *Laval théologique et philosophique*, 54(1), 163–174. <https://doi.org/10.7202/401140ar>

HEINRICH ROMMEN ON AQUINAS AND AUGUSTINE

William P. Haggerty

RÉSUMÉ : De prime abord, l'étude magistrale de Heinrich Rommen touchant la théorie politique catholique, The State of Catholic Thought, semble déprécier l'œuvre d'Augustin au profit de la tradition thomiste. Toutefois, la préférence de Rommen pour Thomas d'Aquin n'implique pas une répudiation d'Augustin. S'employant à défendre la tradition catholique à propos de la loi naturelle, il soutient que les œuvres de Thomas (ainsi que celles de ses disciples scolastiques tardifs) fournissent un fondement théorique à la pratique de la démocratie constitutionnelle moderne. Les écrits politiques d'Augustin, en revanche, n'auraient pas une pertinence aussi claire eu égard aux problèmes de la modernité.

ABSTRACT : At first glance, Heinrich Rommen's magisterial study of Catholic political theory, The State in Catholic Thought, appears to slight the work of Augustine, emphasizing instead the Thomistic tradition. Rommen's preference for Thomas, however, does not entail a repudiation of Augustine. In defending the tradition of Catholic natural law, he argues that the works of Thomas (and his Late Scholastic disciples) provide a theoretical grounding for the practice of modern constitutional democracy. The political writings of Augustine, on the other hand, are not so clearly applicable to the problems of modernity.

Neglected by contemporary scholarship, Professor Heinrich A. Rommen (1897-1967) devoted his entire career to an investigation, elaboration and defense of the Catholic tradition in political and social philosophy. In the estimate of one critic, Rommen's work not only helped to "clarify the Catholic position," it also presented "the issues of political philosophy with a comprehensiveness and a moral seriousness which are far from being common."¹ To a great extent, the particular circumstances of Rommen's life helped to mold his philosophical interests. Born in 1897 in Cologne Germany, Heinrich Rommen studied at the Universities of Munster and Munich, receiving advanced degrees in Politics and Economics from the University of Bonn in 1929. During most of the 30's, he served as the director of the Institute for Social and Economic Order in Munich. Harassed by the Nazis for his theoretical writings as well as for his work with Catholic Action, Professor Rommen emigrated to the United States in 1939. He later taught at the University of Minnesota and spent

1. Leo STRAUSS, *What is Political Philosophy? and Other Studies*, Glencoe, Ill., Free Press, 1959, p. 284.

the last fifteen years of his career as a professor of politics and philosophy at Georgetown University. Throughout his career, he was chiefly concerned with examining the status of the Church in relation to modern constitutional democracy. Against the aristocratic and monarchic sentiments of his fellow Catholics, Rommen maintained that the Church's theological tradition did provide genuine support for modern versions of democracy. At the same time that he defended the validity of liberal democracy on Catholic principles, he wished to call attention to the threat posed by contemporary totalitarian regimes, both right and left. His work on *Natural Law*, for instance, was directed to a large part against the "abuse of the idea of natural law in contemporary legal and political philosophy generally, but in particular in those circles most influenced by the Nazi Weltanschauung."² He insisted that the most substantial defense against the most tyrannical form of rule could be found in the rich soil of Catholic speculation on the state.

Yet his work was not merely an examination of modern practice. In addition, Rommen sought to understand Catholic political thought in light of modern political philosophy and its intellectual challenges. He would maintain that the orthodox Christian teaching (in its pre-modern form at least) provides a helpful corrective to possible excesses in modern theory precisely because it places or locates "politics" within a certain designated sphere. In pursuing this line of inquiry, he was not unlike other contemporary political theorists, such as (among others) Eric Voegelin, Leo Strauss, and Michael Oakeshott. Yet these thinkers, while helpful in illuminating the differences between ancient and modern philosophy, did not write from a consistently Christian (let alone Catholic) perspective. By examining the Church's relation to the Western political-philosophical tradition as a whole (both ancient and modern), he offers a critique of this tradition that arises from a peculiarly Catholic understanding. In doing so, he emphasizes the uniqueness of the Catholic tradition in politics, a uniqueness that first emerges in sharp contrast to the classical pagan teaching. Thus, in his magisterial *The State in Catholic Thought*, he presents the "characteristics of the philosophy of the state as it has developed and found shape and substance in Catholic thought." Touching upon the major elements in Christian political thought, and written specifically to counteract the "fundamental errors" of totalitarianism, the work blends theory and practice, philosophy and theology, to establish the "basic principles of civic government."³

From the standpoint of the study of contemporary political philosophy, the importance of his project would seem obvious; unfortunately, though his work has been quietly influential to three generations of scholars, it has not yet received the critical attention it deserves. As a first step in this task, I should like to focus in this article upon a peculiar problem in his *The State in Catholic Thought*. While the work purports to be an account of the Catholic tradition as a whole, it appears to place a greater emphasis upon Thomas Aquinas than on Augustine—even to the point of ig-

2. Thomas R. Hanley makes this claim in the preface to his translation of Rommen's *Natural Law*, St. Louis, B. Herder, 1947, p. IV.

3. Heinrich ROMMEN, *The State in Catholic Thought*, St. Louis, B. Herder, 1945, p. v. All references to this text hereafter shall be placed in parentheses next to the quotation.

noring Augustine. At first, this neglect is not surprising : following the model of Aristotle, an opportunity unavailable to Augustine, Thomas elaborated a comprehensive system of Catholic philosophical principles. Yet Rommen's preoccupation with Thomas might seem questionable—at least with respect to political questions : after all, Augustine's *De Civitate Dei* is the first serious attempt to reflect upon political life in the light of Christian revelation. In the following paper, I would like to examine Rommen's treatment of both Augustine and Aquinas, and then offer some explanation for his apparent dependence upon Thomas.

Even a cursory reading of *The State in Catholic Thought* reveals a certain imbalance in Rommen's analysis. The work reads like a treatise on Thomas : the "*philosophia perennis*," which Rommen speaks of, is largely a "*philosophia Thomistica*." He begins by accepting the "traditional Thomistic doctrine of the distinctions between nature and grace, between philosophy and theology, and between natural reason and theology" (114). Indeed, his entire chapter on the "Idea of Order," a statement on first principles, seems a summary of Thomistic metaphysics and ontology. Nor does he limit his Thomism to the theoretical sciences : when speaking of political things, Thomas takes precedence. By basing political philosophy on "natural reason and natural law, and not on revelation and supernatural theology," Rommen follows Thomas's lead ; thus, all "political institutions," including regimes, "are not to be judged by the theological errors which ideologically called them into existence but by their conformity to natural law" (111-112). Moreover, the basis of the political community, the sociality of human nature, is primarily the Thomistic claim that the "end" of the state is "objectively given in man's nature and in the order of the universe" (34). When he wants to emphasize the Christian notion of the "dignity of the human person" against the "headless herd" or the "totalitarian bee-hive state" of modern politics, he recalls Thomas's understanding which rests upon the human intellect, *i.e.*, the "*intellectualis substantia*" founded in "the image of God" (44). His understanding of law, political authority and the common good, his treatment of the secondary and subordinate associations in the state, his discussions of the political virtues of justice and prudence and the moral task of the state, are all glosses on Thomistic texts. If the "Thomistic approach is rational, moral and objective," opposing positions (primarily modern) are "irrational, causal, and subjective" (35). I do not wish to caricature Rommen's position, nor to belittle the merit of his achievement : the work is a veritable treasury of political opinions, positions and theories. Nonetheless, the overwhelming impetus of his thought is largely Thomistic in character.

But what about his treatment of that other pillar of the Catholic tradition, of the very "Augustinian legacy" Thomas so faithfully defended ? Save for an occasional reference in footnotes, Rommen's study of Augustine is confined to three rather unspectacular passages. In examining the history of the Catholic position on "Church and State," he speaks briefly of Augustine's contribution to the debate in the *De Civitate Dei*. The *De Civitate Dei*, the "first Christian philosophy of history," presents the doctrine of the two cities : the city of man, the "purely secular state," lacking Christian faith, "lapses from bad to worse, driven by unbridled ambitions and lust for power." Corrupted by "original sin," the "power of (man's) nature" can not sustain

the workings of a just state ; the new realm of peace and order, of "*tranquillitas ordinis*," can be erected only through the "reliance" upon "God's revealed truth, dispensed by the Church." Thus, the state must base itself upon the "hallowing order" of the *De Civitate Dei*, "the Heavenly City." Nonetheless, though he praises the work as the "first expression of Christian political philosophy," Rommen discerns in the *De Civitate Dei* an "undeniably theocratic strain" ; Augustinian "theocratism" in his reading "could easily lead and has led to the idea that the state's mission is solely subordinated to the Church." Because it is grounded "on his pessimism about human nature," Augustine's thought "undervalued" political things so much so that it had to be "corrected by the less pessimistic outlook of St. Thomas." Moreover, the *De Civitate Dei* was largely responsible for shaping the "political ideal of the Middle Ages," i.e., that of the "*mundus Christianus*," the comprehensive Christian culture (515). Yet the pursuit of this ideal led to what Rommen considers the central political problem of mediaeval life, the struggle between the emperor and the pope : the clear danger, on the one hand, of Caesero-papism, of the ruler "tempted to become Caesar and Pope" and its implicit threat to the "*libertas ecclesiae*" ; and, the corresponding temptation to the pope, on the other hand, of seeking "to become emperor" (516).

A second, shorter, passage on Augustine concerns his misappropriation at the hands of the early Reformers. In contending that the "origin of the state lay in sin," the Reformers mistakenly claimed him as an ally, "overlooking" his subtle and "antithetic style." Misreading a crucial passage in the *De Civitate Dei*, they also ignored his consistent teaching in other texts "that the state would have evolved even in the status *naturae integrae* or *purae*" (229). In this context, Rommen notes :

It is true that the masters taught that some qualities of the state originate in sin ; for instance, its coercive power. But they taught, too, that in the state of pure nature political authority would have been necessary, though only a directive, not a coercive one [...]. The Reformers usually misinterpreted St. Augustine who often calls "*status naturalis*" what later was called "*status supernaturalis*" (229).

But by far Rommen's lengthiest treatment of Augustine's political teaching is found in his section on "The Idea of Natural Law." Here Augustine, the "adversary" of Pelagianism, "the foe of Manicheism," becomes primarily an early representative of the Christian philosophy of "natural law" ; he clearly presented in his works the foundation of human law in natural law, and the distinction between the eternal and natural law. When all is said and done, Augustine's enduring achievement, to Rommen, appears to be his contribution to "the idea of a natural law as the basis of a morally acceptable political philosophy" (165). Augustine seems the first act in a drama that culminates in the High Scholasticism of Thomas Aquinas.

This unswerving reliance upon Aquinas and the corresponding neglect of Augustine is doubly unfortunate for Rommen. By apparently slighting the Augustinian position, he deprives his work of a rich source of Christian speculation on political matters. On the basis of its historical influence alone, the *De Civitate Dei* deserves more than an occasional reference in footnotes. In Book 19, for example, Augustine not only reveals the profound deficiencies of classical political theory, but he shows, with singular clarity, the harsh limitations placed upon man in political communities.

The examination of political life, in all its manifestations, presents a scene of discord and utter misery. Though the "*tranquillitas ordinis*" underlies the whole of nature and every human activity, man upset that order through his sinfulness and thus upset the order of his nature, and the original harmony he possessed in fellowship with other men. It is in the context of man's fallen condition that we can understand the doctrine of the two cities. Because it must make use of earthly peace, the Heavenly City, that "part on pilgrimage in this condition of mortality" (*pars ejus, quae in hac mortalitate peregrinatur*), obeys the laws of civil society.⁴ Confronted with the conditions of the earthly city, the Christian is not taken in or distracted by the promise or "increase of earthly goods"; he thus holds a dual citizenship. The interconnected themes of original sin, of dual citizenship, and of the two cities, are politically (and theologically) more potent than Rommen's analysis would seem to suggest.

But if Rommen's neglect of Augustine leads him to slight this tradition, his praise of Thomas results somewhat in a loss of critical distance. He is much too quick to defend Thomistic teaching, and much too harsh on those who would deny Thomas his rightful place in the sun. At one point, he cites the common criticism that the Catholic philosophical tradition established by Thomas has become tainted with the arch-hellenism of Aristotle. In responding to this attack, Rommen credits Thomas with removing the "transitory" "coverings" from Aristotle to reveal the "generally human core," "the metaphysical content of Aristotelian philosophy." Thomas's use of Aristotle was not uncritical: he wisely "incorporated" Aristotelianism into Church teaching only after he washed it clean of "its Arabic and Jewish commentators" (24). But though Thomas may have "eliminated" that which was "contradictory towards the Augustinian legacy," it remains an open question whether the writings of Aristotle, even thoroughly cleansed of non-Christian commentators, are as unproblematic as Rommen seems to suggest.⁵

Our brief examination reveals an apparent problem with Rommen's treatment, a problem which his critics might claim he does not fully acknowledge: he ignores Augustine at his peril, and he embraces Thomas uncritically. This problem is not a trivial one, for the uncritical adoption of Thomas, or any thinker in the tradition, often results in a narrowing of perspective. Yet serious difficulties arise when we try to account for the reasons why this is the case. A first possibility suggests a purely historical consideration: writing in the first half of this century, Rommen took to heart Leo XIII's call, in his encyclical *Aeterni Patris*, that "teachers endeavor to implant the doctrine of Thomas Aquinas in the minds of students, and set forth clearly his solidity and excellence over others."⁶ His work would thus be seen in association with the general line of Neo-thomist thought in the first half of this century. Yet if this is the case, it does not say much for Rommen: any self-respecting Thomist would not

4. ST. AUGUSTINE, *De Civitate Dei*, 19. 17. (coll. "Corpus Christianorum," *Series Latina*, 48), p. 684. The English translation is taken from the Henry Bettenson edition, with an Introduction by John O'Meara, London, Penguin Classics, 1984.

5. I do not wish to suggest here that Thomas did not explore this problem in his work, but rather that Rommen himself has not considered this difficulty seriously.

6. LEO XIII, *Aeterni Patris* (1879), section 31.

merely wish to assert, but also to defend, his acceptance of Thomas ; and given Rommen's intelligence, his deep knowledge of the tradition, and his consistent praise of Augustine, it is a tough argument to buy.

A second, albeit more troubling, possibility involves a claim Rommen makes in his preface concerning the subject-matter of his work :

The adjective "Catholic" here means, so to speak, the place where this philosophy grew and found its home. It does not imply that this political philosophy is based on theology or revelation. It is based on natural reason and on rational principles (v).

Because of his heavy reliance upon the works of Aristotle and the tradition of Roman law, Thomas — perhaps to a greater extent than Augustine — apparently provides a more substantial and comprehensive philosophical grounding. Rommen's preference for Thomas seems reasonable then, given his expressed emphasis upon a Catholic philosophy largely independent of revelation. This suggestion, unfortunately, leads to a more bothersome set of questions. If the Catholic political tradition Rommen embraces is primarily philosophic, a summary or harmonious blend of Christian and non-Christian philosophical sources, what then is uniquely "Catholic" about it ? Does Rommen's indifference to theology involve an implicit denigration of revelation with respect to wisdom about political things ? Even more troubling is the problem Leo Strauss cites in his perceptive review of *The State in Catholic Thought* :

Yet one cannot help noting a certain lack of clarity in what he says about the character of political philosophy. In his preface he claims that the political philosophy which he presents in his work is based on reason and not revelation. Later on, however, he declares that "continuous respect for theology," nay acceptance of "faith and revelation," is of the essence of that very political philosophy (p. 13ff., 116). How little he succeeds in limiting himself to political philosophy proper, as distinguished from a political teaching based on revelation, may perhaps best be seen from his statement that "no state can live without the beneficent form of divine religion" (p. 603 ; compare p. 327ff. and 708ff.), that is, of the Catholic religion.⁷

Strauss sees the other side of the dilemma. Taking Rommen at his word, he finds a fundamental confusion in his writing : the Catholic political-philosophical tradition both depends, and does not depend, on the fact of revelation. Strauss's interpretation suggests at the very least that the question concerning the relation between reason and revelation, or the question concerning Athens or Jerusalem (or Rome), a problem central to any analysis of Catholic political thought, is never adequately explored in Rommen's work.

Thus far, our suggestions have not proved helpful : Rommen emerges either as a sectarian Neo-thomist or as a thoroughly confused defender of the Catholic tradition. I would like to suggest a third possibility, one which does not fully answer the above problems, though it may provide a stronger defense of Rommen's work. He maintains throughout *The State in Catholic Thought* that his study concerns a defense of Catholic principles in light of modern practice. He takes it further, however : he contends that the works of Thomas, particularly as elaborated by the theorists of Late

7. L. STRAUSS, *op. cit.*, p. 283.

Scholasticism (Suarez, Vittoria, Bannez), provide a theoretical grounding for the practice of modern constitutional democracy. More to the point, the Late Scholastics, writing at the beginning of modernity, embraced and refined Thomistic natural law, and it is to this tradition Rommen looks when seeking a foundation for the practice of modern democracy. In short, *The State in Catholic Thought* is largely an "*apologia pro lege naturale*"; and while the works of Thomas play a significant role here, the writings of Augustine, historically associated with the danger of "theocratism," are not so clearly applicable to the peculiar theoretical problems of modernity. To make this point clear, we might take as an example of Rommen's project his treatment of the origin of political authority. Since the Catholic position "asserts the ultimate divine origin of authority," the secondary question arises how, or in what manner, particular men in particular communities participate in this task. In addition to the "divinely instituted social nature of man," the "actual founding" of a civic order requires "the mediation of purely human and natural factors": despite appearances, it is the "free decision of men uniting themselves to a *unitas ordinis*" that serves "actually the immediate cause of the existence of the state" (429). The same question arises with respect to the origin of political authority: what is the ground of authority, of the distinction between ruler and ruled, and thus the ground of one's obedience to any political authority?

To Rommen, there are three possible answers offered within the Catholic political-philosophical tradition, one of which he quickly dismisses. At various times in the history of the Church, political theorists have argued the case for some version of Divine Right, where authority is vested in a "certain person by a special act of God." The right of authority, immediately conferred by God, can not be abolished or dismissed through any merely human act. Though it was established initially within the Byzantine tradition, Rommen traces the development of this position in the West specifically to the writings of the "imperial jurists" of "princely absolutism" working in early modernity. Rommen maintains that this position has had little influence on Catholic political philosophy primarily because it "is irreconcilable with the fundamental idea of a law of nature" (435).

The other two positions established in the tradition seem at war with each other. The "designation theory," defended by many conservative theorists in the nineteenth century, begins with a claim about the origin of the state: "distinguished by natural gifts," an individual, or group, is thus "marked by Providence [...] for the position of rule." Though possessing no "original right," the ruling authority, by reason of his very gifts, offers the "best guaranty of the realization of the common good." In discerning this "providential distinction," the body politic has a "moral duty" to "accept his authority." Yet their consent is not the cause, but merely the "condition" of his holding authority; they do not — strictly speaking — "transfer authority" in the "*pactum subjectionis*," they merely "designate" (431). In sketching this position, Rommen identifies its salient points. First and foremost, the designation theory unequivocally maintains that "political authority is transferred to its holders immediately by God"; however, this transfer is not effected through "direct intervention" by some "mystical act," but rather through "secondary causes." Unlike Divine Right, designa-

tion does not "exclude free human acts," the "consent of the people." Nevertheless, because consent does not involve an act of "transfer," authority does not "in any way, even for a moment...rest with the people." In the formative act of designation, the people cooperate with "providential direction." By stressing the "natural historical factors providentially directed," the designation theory has no room for a notion of "contract." The "free, though morally necessary, decision" of the body politic is narrowly confined to the secondary exercise of designation (443).

The third position, the "translation theory" (whose adherents include the Church Fathers, Thomas and, in particular, the seminal political thinkers of Late Scholasticism), begins from an altogether different starting-point. The ground of political authority in this position ultimately "rests by natural law with the members of the body politic." On account of historical circumstances, political authority may be "transferred" or translated to an individual or group; the possession, and exercise, of authority, however, depends upon the "formal or informal consent" of the political body. Their act of translation serves as both "the moral and juridical cause" of "actual authority" in the community. Rommen takes care to distinguish this position from the designation theory. Though "political authority originates in God," it "rests at the moment of formation" in the people. On the basis of natural law, and given the evident equality of men, "no individual or group" possesses any right before the act of transfer; in turn, the citizens are under no obligation to transfer authority to any particular person. The act of transfer involves "a free act of the people" whereby "the originally immediate democracy" is transformed into "another constitutional form." All forms of government, except the immediate democracy, hold authority by positive human law, not on the basis of natural law. Clearly, the moment of consent, the *pactum subjectionis*, is given greater importance. Whereas the designation theory, in rejecting the social contract, looks upon consent as the "condition of immediate transfer of authority from God," translation theory holds that the "free consent" is the "concrete historical cause" of obligation. And whereas the moment of designation emphasizes "providential direction," the movement of translation celebrates the "free will of man" (446).

According to Rommen, the nineteenth century witnessed the emergence and eventual victory of the designation theory. With the conservative reaction to many aspects of "modern civilization," Catholic theorists required a new position. In order to argue "against the atomistic claim that the political authority is only a sum of the rights of individuals," such critics stressed the "proper value and objective function" of "public authority independent of the will"; and, in place of the liberal interpretation of the social contract as "the absolutely free and arbitrary decision of autonomous and self-sufficient individuals," they idealized the "necessity of the social process" and "providentially prepared historical developments" (455). As partisans of the Romantic reaction, they turned inevitably to the benevolence of history: they sought to reduce "the part played by man's free action as a cause of political authority," and they strove to enlarge the importance of traditional institutions and customs. The act of transfer was consequently reduced, in their account, to "a final designation of the

person who is already to some extent designated by providence and recognisable by his extraordinary gifts" (456).

In pursuing this end, conservative proponents of the designation theory not only worked to promote its strengths, but also to show the weaknesses of the translation theory. They employed a number of arguments in this endeavor; Rommen examines, and answers, each in detail. They first claimed that the translation theory was not in line with the general character of the tradition, but rather was an historical aberration of sixteenth-century Late Scholasticism. There were two thrusts to this attack: first, they claimed that Thomas did not adhere to the basic principles of translation. Rommen concedes that he dealt with the issue "incidentally," but contends that its basic outline can be derived from the Thomistic understanding of political things. Thomas's argument is drawn from three premises:

- (1) It is the exclusive excellence of the rational nature that it strives after its essential end in the way of self-leadership and self-government (*quasi res agens vel ducens ad finem*), while the non-rational nature is directed by outside influence to its end (*Summa theol.*, Ia IIae, q. 1, a. 2).
- (2) To direct to the end is the task of him whose end it is (*ibid.*, q. 90, a. 3).
- (3) Human beings, uniting themselves in political life, are rational and free, and the end of their union is the common good. Then it would follow that to direct something to the common good is the task of the community (460).

Central to Thomas's reasoning here, Rommen notes, is the "idea of the body politic as an independent, free, self-directing person." Once this is granted, the argument leads to "the doctrine that originally the people in the act of uniting for the political life really became the holder, the self-directing subject, not the directed object, of political authority" (460). Ignoring this argument, the conservatives concluded that the translation theory was an "historical innovation" of the sixteenth century. Now Rommen admits that its full articulation emerged at this time, but argues that it was not an "innovation" but rather the necessary historical reaction to the emerging absolutism of early modernity (461). For example, Suarez used the framework of translation theory "against the destructive inroads of absolutism" (462). If the "cause of princely power" is "the act of transfer from the people to the king," then the "people" become more than "mere matter of the prince's absolute will" (463). In his position, the "prince's rights were subordinated to and measured by his actual service to the common good" (464).

In their second argument, the conservatives maintained that the translation theory was "unhistorical"; in short, it denied the "historical fact of the priority of the monarchy," and it offered no "historical proof" for a "social contract" (464).⁸ To this, Rommen responds that "recent work in ethnology" and anthropology show that "primitive cultures were essentially democratic." His examination of early German

8. To a great extent, conservative thinkers owed this emphasis on history to Joseph De Maistre. In his estimation, man might think that "in the social order [...] he is the sole author of all that is done through his agency," yet "the more one examines the role of human agency in forming political constitutions, the more one becomes convinced that it enters only in an infinitely subordinate manner, or as a simple instrument." Joseph DE MAISTRE, *On God and Society: Essay on the Generative Principles of Political Constitutions and Other Human Institutions*, translated by E. Greifer and L.M. Porter, Chicago, Regnery, 1959, p. 14-15.

history suggests a similar conclusion : "the beginning of political evolution was not the subjection of the body politic to a prince, who, so to speak, owned it, but, on the contrary, liberty and self-government in the form of popular sovereignty" (465).

Their central argument, however, concerned an implicit-and misleading-identification of the translation theory with versions of modern social contract theory. To such thinkers, the very "idea of contract" embodied "the destructive individualism" of modernity. However pointed their attack, Rommen notes, they unfortunately confused the liberal idea of the "social contract" with the "status contract" of translation theory, which :

[...] gives birth [...] first and foremost to a durable, peaceful status of common life, necessary for the common purpose of the good life, and so to the higher form of political existence which is the outgrowth of the idea of the perfection of human nature (466).

In contrast to the liberal "contract," the "status contract" suggests that the "objective end of political life should control the subjective wills," that the "status is never at the mercy of the arbitrary will of individuals." The "objective end [...] of the *ordo iustitiae legalis*," founded upon "man's nature and the teleology of the *status politicus*," serves "as objective norm," and "controls the matter of the social contract." Though "the birth of the individual states" may depend on the "intervention of the will," this "will is informed and directed by the rational nature and will of men" (467).

In light of his rebuttal, Rommen stands clearly on the side of the translation theory. It provides, he argues, a better explanation of the "frequently occurring problem of revolutionary change in constitutional law" ; it emphasizes the principle that "authority itself" must be "materially measured by the fulfillment of its end." Those critics who say it weakens authority by making it "too dependent upon the consent of the ruled" do not see the integrity of its understanding of political life : it does not sacrifice "order" for the sake of social progress, for both "authority and citizen" must realize the common good in "mutual cooperation and allegiance." (471) In concluding, Rommen wonders whether, by placing so much weight upon tradition and custom, proponents of the designation theory ignore the character or quality of the tradition they so earnestly defend. An excessive devotion to tradition may be as politically and morally dangerous as an inordinate promotion of individual consent.⁹

It is important to see how Rommen's strong defense of the translation position is part of his attempt to ground modern practice on the traditional Catholic theory of natural law. In admonishing conservative critics of democracy, he notes that they "forgot that technical political institutions may be indifferent, and may therefore be defended and upheld on the basis of Catholic political thought as long as they actually serve the common good" (437). It is not the underlying "form" that makes institutions "commendable," but "their functioning in the realization of the common good in actual life" ; regimes must be "measured" not by the "ideologies that helped intro-

9. In fairness to Rommen, he does allow for a more generous attitude toward the designation theory. Though he argues consistently that the translation theory possesses "greater merits," he notes at the end of his discussion that the differences between the two positions "are not absolute ; they are styles or moods of thinking, not differentiations in basic principles" (472).

duce them," but rather by their "service" to the public. Thus, while condemning much of liberal theory as "philosophically and theologically" wrong, Rommen sees in liberal democracy — in practice at least — a vital and morally substantial regime. This assumption is at work in his treatment of the translation theory: while taking pains to distinguish it from the theoretical defects of social contract and its inherent dangers, he discerns in this theory a genuine grounding for modern democracy. Now the core of the translation theory he finds in the works of Late Scholasticism. But these theorists, according to Rommen, developed "fully and completely" what Thomas Aquinas "had taught implicitly and in outline."¹⁰ By uncovering the Thomistic roots underlying the fully articulated theory of Suarez, however, Rommen ultimately connects the translation theory to the tradition of natural law, a tradition that provides a sound philosophical basis for modern practice. Rommen admits that the natural law offers no advice on the ideal regime; but he would argue that, though "it does not proclaim that democracy [...] is the sole admirable form of government," it condemns any regime "which does not recognize the fundamental rights of the person."¹¹ And while Thomas does not embrace democracy, let alone liberal democracy, he provides — in germ — the principles of self-government.

Thus, Rommen's clear preference for Thomas does not necessarily entail a denigration of Augustine, but involves his larger defense of natural law. And if this defense is the central aim of *The State in Catholic Thought*, as I would argue, it is not surprising that, when Augustine is mentioned, he is praised largely for his contribution to this position. Augustine's work has other virtues, virtues which Rommen in another context would fully acknowledge, but which are not germane to the conceptual framework of *The State in Catholic Thought*. But why would an eagerness to defend natural law necessarily lead to the neglect of Augustine? Isn't Augustine, as Rommen himself asserts, part of this tradition? From his few references to Augustine's work, we can partly justify Rommen's silence here. First, as we have noted, the *De Civitate Dei* was associated with a "theocratic strain" in the history of the Church, with the threat of Caesero-papism. In a book which attempts to establish the "reasonableness" of Catholic political philosophy before modern audiences, it would be rhetorically imprudent for Rommen to dwell upon a work historically linked to the monarchical convergence of Church and State. Though he indeed never suggests that the meaning of *De Civitate Dei* was captured in its various political interpretations, Rommen does imply that the writings of Thomas, and his sixteenth-century followers, do not suffer from this problem. In addition, we have seen how Rommen stresses Augustine's greater emphasis on human sinfulness, what he considers Augustine's more "pessimistic outlook." This no doubt is of central importance to his defense of natural law. The early Reformers, with their stark view of the disastrous effects of original sin on human nature, rejected in varying degrees the efficacy of natural law. In positing the utter depravity of natural man, they maintained that nature could no longer serve as a basis for moral or political life. Now Rommen claims that the Re-

10. H. ROMMEN, *Natural Law*, p. 62.

11. *Ibid.*, p. 265.

formers misappropriated the teachings of Augustine, and the very example he gives of such misappropriation not only concerns their attitude towards human sinfulness but also involves their teaching about political authority. If the "origin of the state lay in sin," as they argued, then the force of self-governance, a principle which supposedly runs throughout Thomas's work, would be seriously weakened. Yet both the idea of natural law and the translation theory presume the capacity of self-governance on the part of human nature. Thus, for Rommen, Augustine's link with the Reformers is as rhetorically unfortunate as his historical association with mediaeval Caeseropapism ; and, by focussing solely upon Augustine's contribution to natural law, Rommen can delicately avoid this association.

There is, moreover, an additional benefit to Rommen's strategy. Speaking of Late Scholasticism, he notes :

It felt obliged in theology to point out that human nature is not wholly corrupt, that man as a free rational being is not, as the Reformers contended, like a stone absolutely impotent before the grace of God, but that man by his free will cooperates with grace by helping to put himself into a disposition, into an openness to grace (462).

In the end, Rommen prefers the translation theory to the designation theory not only because it is more compatible with the natural law but also because it conforms more closely to the orthodox Catholic teaching on grace. Ironically, despite their reliance upon history and Church tradition, the adherents of the designation theory, in presuming that man is overwhelmed by "providentially prepared historical developments," shrink the sphere of human freedom, and thus unwittingly endorse a view of fallen man more akin to the Reformers than to Catholic orthodoxy.