JUSTICE IN THE THEOLOGY OF THOMAS AQUINAS:

REDISCOVERING CIVIC VIRTUE

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by

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Abstract

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This dissertation develops a contemporary account of civic virtue that is rooted in the moral, political, and theological work of St. Thomas Aquinas, and, more specifically, as it can be developed from the concept of legal or general justice that Aquinas adopts from Aristotle. As we define and develop the concept, civic virtue refers to a firm and stable orientation of the will directing all acts of the virtues toward the common good of one’s society. Even as the core of civic virtue derives from Aquinas’ conception of legal justice – hence we are calling it a Thomistic account of civic virtue – we also note the ways in which our account goes beyond and further develops ideas that can be traced back to Aquinas’ work; for example, in considering the role that the passions play in civic virtue. The dissertation begins by tracing the historical development of modern Catholic social thought, noting how historical, political, and intellectual trends in the West contributed to considerably less attention being paid to Aquinas’ concept of legal justice in contemporary Catholic moral and political thought. We also place our account of civic virtue into dialogue with contemporary discussions in political philosophy and natural law. These first two steps provide a contemporary context within which we place our
exegetical and constructive account of civic virtue as a resource for Catholic moral theology today. The historical and exegetical section focuses on an interpretation of Aquinas’ discussion of legal justice within the context of his wider theological and ethical aims, as well as the context of thirteenth century medieval European society. Finally, the dissertation concludes with a constructive account of Thomistic civic virtue for contemporary moral theology by combining our historical and exegetical insights and research with the dialogue partners of Catholic social thought, political philosophy, and natural law. In doing so, we seek to demonstrate that such an account of civic virtue has much to contribute to contemporary Christian theological discussions, on both a theoretical and practical level.
For Seancito y Mi Amor
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CHAPTER 1:
INTRODUCTION

One of the maladies of our time is shattered confidence in human nature. We are inclined to
believe that the world is a pandemonium, that there is no sense in virtue, no import in integrity;
that we only graft goodness upon selfishness, and relish self-indulgence in all values; that we
cannot but violate truth with evasion. Honesty is held to be wishful thinking, purity the squaring
of the circle of human nature. The hysteria of suspicion has made us unreliable to ourselves,
trusting neither our aspirations nor our convictions. Suspiciousness, not skepticism, is the
beginning of our thinking. This sneering doctrine holds many of us in its spell. It has profoundly
affected the character and life of modern man. The man of today shrinks from the light. He is
afraid to think as he feels, afraid to admit he believes, afraid to love what he admires.

- Abraham Joshua Heschel

1.1 A Survey of a Civic and Theological Landscape

A recent analysis of multiple surveys administered to ‘Millennials’ - young adults
born after 1980 and coming of age in the new Millennium - by the Pew Forum on
Religion and Public Life suggests that young adults are much less likely to attend a
church or belong to a particular religion or denomination than their predecessors, but that
they are just as likely as their elders to hold firm beliefs when it comes to the existence of
God, the importance of prayer and spirituality, and the importance of acting according to
moral standards and values.\textsuperscript{1} This is certainly not surprising, and tends to coincide with what Charles Taylor has called the “nova effect”\textsuperscript{2} of non-traditional religious or moral options available to contemporaries. But what is perhaps surprising is that at least one reason these young adults cite for their lack of interest in becoming religious ‘joiners’ has to do with the negative ways which they perceive churches (or other religious groups) to have become overly involved in contentious political debates and issues. Certainly this is not the only reason that Millennials are turned off by more traditional forms of church membership, but this data suggests that Christian churches are struggling to provide a language and practice in which members feel both supported and nurtured in their faith, and empowered to think for themselves on moral issues that are related to political and social engagement.

Certainly, part of this has to do with the ways in which Western political discourse has become increasingly polarized, and more focused on winning elections and maintaining power than pursuing truth, justice, or the common good, as is exemplified in the phenomenon of the “culture wars.”\textsuperscript{3} Similar trends are also confirmed by recent research undertaken by the sociologists Robert Putnam and David Campbell, who note a shrinking moderate religious middle with more religious believers in America moving

\footnotesize{\textsuperscript{1} \url{http://pewforum.org/docs/?DocID=510}, accessed 3/1/10.}

\footnotesize{\textsuperscript{2} Charles Taylor, \textit{A Secular Age} (Cambridge: Belknap Press of Harvard University, 2007), p. 299, where Taylor writes that “[i]t’s as though the original duality, the positing of a viable humanist alternative [to traditional Christian belief in the West], set in train a dynamic, something like a nova effect, spawning an ever-widening variety of moral/spiritual options, across the span of the thinkable and perhaps even beyond.”}

\footnotesize{\textsuperscript{3} For the classic exposition of the way the term has come to be used in relation to contemporary American politics, see James Davison Hunter’s \textit{Culture Wars: The Struggle to Define America} (New York: Basic Books, 1991).}
into one of two more polarized camps – either the far left or the far right - in the period between 1982 and 1997.\textsuperscript{4} It is not surprising that the more the Christian churches have become involved in such forms of cultural and political engagement, especially as the language and tone used in these forms of engagement frequently resort to the uncharitable vilifying of one’s neighbors, the less young people are drawn to seek to define their own sense of justice and the truth within the formal structures of the Christian tradition.

When it comes specifically to the tradition of Catholic moral theology a further difficulty is encountered. Official, magisterial teachings of the Catholic Church on issues relating to morality and political life have not sufficiently attended to the need to foster a truly creative form of thinking and engagement among its members such that they feel empowered to think critically on their own about issues of justice and pursuing the common good. This may seem at first to be a surprising claim, since Catholic social thought has fostered a rich tradition of thinking about the common good, social justice, solidarity, human rights, the pursuit of justice and peace, etc., and that these concepts have proven remarkably influential for fostering Catholic engagement in civil society and political life.\textsuperscript{5} While this kind of practical reflection and application in light of principles


\textsuperscript{5} We could note the example of programs like Just Faith that have become very popular in Catholic parishes (and some other Christian denominations), where individuals study the core principles of Catholic social thought and seek to apply them to their daily lives (see www.justfaith.org). One is also reminded of the “Base Ecclesial Communities” that were a foundation of the movement which led to the development of Liberation Theology in Latin America, where parishioners gathered in their homes and parishes and reflected upon the situations of poverty and political oppression that they encountered in their daily lives in light of the Gospel (See Gustavo Gutierrez, \textit{A Theology of Liberation: 15th Anniversary Ed.}, Maryknoll: Orbis Books, 1988, p. xli). Moreover, as we will continue to see, this kind of on-the-ground
has taken place from the ground up, and sometimes with the approval of local pastors, bishops, and the hierarchy, official Church documents have not always fostered or nurtured the kind of rational and critical thinking skills necessary for this kind of local engagement in civil society. For example, in John Paul II’s encyclical, *Veritatis Splendor* (1991), often regarded as his commentary on the state of moral theology at the time, he is severely critical of the state of Catholic moral theology. In response, Pope John Paul II upholds the doctrine of intrinsic evil and the existence of a set of objective, universal moral norms.\(^6\) While the concept of intrinsic evil may be defensible on its own terms, it is important for us to note what effect the use of such an approach and language has had on moral reasoning among the faithful. More specifically, when the concept of intrinsic evil, or what is often popularly referred to in the political arena as “non-negotiables,”\(^7\) are translated into the field of political deliberation and choice they are frequently invoked as conversation stoppers. In other words, the phrases intrinsic evil or “non-negotiables” are frequently invoked within political discussions to stop the process of rational deliberation in order to make one particular choice of political action seem clear – they are used to stop short, rather than foster, critical or creative thinking.

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\(^6\) John Paul II, *Veritatis Splendor*, Ch. II, Part IV.

\(^7\) These are frequently listed as including five “non-negotiable” values: abortion, euthanasia, embryonic stem cell research, human cloning, and homosexual marriage (see, for example, the “Voters Guide for Serious Catholics” published by Catholic Answers Action in 2006 – [http://www.caaction.com/pdf/Voters-Guide-Catholic-English-1.pdf](http://www.caaction.com/pdf/Voters-Guide-Catholic-English-1.pdf), accessed 3/17/11). We should also note that this language of non-negotiables seems to have emerged specifically within a partisan political viewpoint, rather than evolving out the Catholic moral theological tradition itself.
Ultimately, this brings us to the issue of practical reason or prudence that is at the heart of the matter. Prudence is the virtue of the intellect which allows one to take the basic principles of Catholic moral thought – or natural law - and apply them within the specific contexts in which one must rationally discern, deliberate, choose, and eventually act to put such concepts into practical effect. If it is true, as Cardinal Martino (then president of the Pontifical Council for Justice and Peace) states, that “the principles of the Church’s social doctrine…are based on the natural law,” then it must also hold that putting those principles into action requires the virtue of prudence. Unfortunately, it is our assessment that this kind of theoretical reflection upon the nature of prudence, or practical reason, has been lacking in recent Catholic social thought. Therefore, it will be worthwhile to reflect more systematically than has been done up to now, on the manner in which these principles can be used to foster creative and critical engagement within civil society; that is, to reflect upon the nature of the virtues, including justice and prudence, in regard to pursuing the common good.\footnote{Cardinal Renato Raffaele Martino, “Letter of Introduction,” Compendium of the Social Doctrine of the Church (Washington, D.C.: USCCB Publishing, 2005), § 2.}

It is into this context that this dissertation seeks to provide a viable answer to the question of the kind of virtues that Christians will need in order to engage critically and

\footnote{Lisa Sowle Cahill seems to agree with this sentiment as she proposes a revisionist account of Thomistic practical reason that avoids the universalist claims of Enlightenment reason, but also avoids the deflated hopes of post-modern, deconstructivist accounts of reason (“Toward Global Ethics,” Theological Studies 63.2 (2002): 324-344). While we agree with her general claims in regard to thinking about the place of practical reason in civic virtue, and that we will need to be careful about the manner in which we re-appropriate a classical, medieval thinker such as Aquinas, it will become evident that we find more to retain in Aquinas’ perspective on practical reason than Cahill does, even as we develop his insights beyond anything he explicitly says in later chapters.}
effectively in civil and political life in modern constitutional democracies. The contours of this answer emerge out of the concept of civic virtue that we develop throughout this work. It is our basic contention that there are rich resources within the Christian tradition, specifically within the moral, political, and theological thought of Thomas Aquinas, that have been overlooked or underdeveloped for a wide array of reasons within contemporary Catholic moral, political, and social thought; and, furthermore, that we can re-appropriate these resources in order to develop a contemporary Thomistic account of civic virtue that proves fruitful for a theological understanding, on both a theoretical and practical level, of the ways in which we seek to build up and enhance the common good within contemporary constitutional democratic regimes. In doing so our primary audience is to those conscientious Catholic thinkers in general, and specifically to Catholic moral theologians, who are concerned with the ways that we think about, talk about, and act with regard to the common good of the particular societies in which we live and work. It is our hope, however, that in addressing this primary audience there will be elements that all Christians, those who practice other faith traditions, and all people of good will will find appealing or helpful for their own engagement in civil and political life. Finally, even as these are our primary interlocutors we also hope that those who engage the discourse of political philosophy, or who are interested in promoting the kind of civic virtue that we are advocating here, would also find that this work presents

10 While much of our research remains focused on Western forms of government – constitutional democracies – we believe that our account of civic virtue, rooted as it is in a sense of common human nature, is applicable in any genuinely human social milieu, even as it may look very different than we are describing it here. Developing a multi-cultural account of Thomistic civic virtue would be beyond the scope of this project, but an interesting possible future context in which to continue developing our ideas.
ideas worth considering from within their own field of expertise. Ultimately, we see the practice of civic virtue as an expression of the human spirit. This is not to say that there are not other realms of human experience within which the virtues are an expression of the human spirit, but rather to the extent that such an expression of civic virtue reflects something common to human nature and human experience, that those of any background could find it appealing or inspiring, and perhaps even worthy of emulation.

To begin, let us provide some foundational definitions of the key terms and concepts that will be engaged throughout this work. Civic virtue, as we understand it in this current work, derives from the concept of legal or general justice and that Thomas Aquinas picks up from Aristotle’s analysis of the virtue of justice. We propose that civic virtue can be understood as a firm and stable disposition of the will to direct all acts of the virtues toward the common good of one’s community. In this sense, then, it would be possible to think of civic virtues, or a whole set of affections, passions, dispositions, beliefs, and values that support the consistent desire to pursue the common good. As we move through this work, however, we will continue to refer to the core concept of civic virtue because we find that the general orientation of the will toward the common good remains a coherent enough concept to be referred to simply as civic virtue, even as it encompasses all of these other elements. It should be kept in mind, then, that this core concept will always incorporate these other elements that will continue to be defined and explained in the following chapters.

Secondly, the object of civic virtue is by definition the common good. The concept of the common good has been a remarkably flexible and influential ideal that has been upheld within the tradition of Catholic moral thought; yet there remains a certain
amount of ambiguity when it comes to the ways in which particular thinkers are using and defining the concept. Thus, it is not always entirely clear what is meant when the phrase is used by Catholic moral theologians. For example, the temporal common good can be considered analogically as related to the ultimate Common Good of the universe, who is God; it can be considered as a good that transcends individual human goods or it is sometimes seen as the sum total of the goods that individuals posses; or it can be defined as an instrumental good that secures the possibility for persons to pursue their own, individual ideals of the good or human flourishing, their own self-interest. Each of these various points of view will be taken up and considered in what follows, but for our purposes we are defining the common good as a set of ideals or values that are embodied in a particular way of life within a community and which provide a meaningful context in which members of a community are enabled to engage in collective endeavors. The common good is a collection of these ways of life, practices, ideals, and values and is roughly equivalent to what Augustine calls a community’s “common objects of love.”

This definition will be worked out and defended more fully in later chapters, but we believe it to be an adequate representation both of what Aquinas seems to mean when he speaks of the object of general justice as the common good, and of the ways that we see the common good functioning (or potentially functioning) within modern constitutional democracies.

With these basic definitions in place, it will also be helpful to lay out an initial exposition of some of the key concepts related to civic virtue that we will be considering

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11 De Civitate Dei, 14.28
and developing further in later chapters. We have already mentioned that practical reason is an essential element of the manner in which civic virtue aids the agent in moving from the general desire to pursue and enhance the common good into the choice of particular acts that are deemed to foster and sustain the common good of one’s society. Within the context of Catholic moral theology, this leads us into discussions of natural law, the role of the will and the intellect in the structure of human action, the virtue of prudence, as well as the role of the emotions (in Aquinas’ language, of affections and passions). These related concepts indicate that part of our project of developing an account of civic virtue requires us to present the contours of an account of the human person, of a Christian anthropology, that serves as the foundation for acts of civic virtue. In doing so, we will continue to present claims in support of seeing practical reason as an expression of human reason’s capacity to participate in the Eternal law through the natural law. We also claim both civic virtue in general, and prudence in particular, are intimately tied to the agent’s loves and desires; as such, the emotions (affections and passions) will have a central role to play in our account of practical reason.

Paying attention to the ways in which emotions have a central role to play in the manner in which practical reason seeks truth in action also means that we will pay attention to the particulars of any given situation in which a practical, moral decision must be made. This means that we do not present a universalist view of reason as capable of grasping abstract, universal norms and truth, and then to apply them deductively in any given context. Rather, we present a view of practical reason that is more local, contextual, and engaged with the emotions of the agent than the model offered by the predominant modern accounts (such as those influenced Kant, Rawls,
Habermas, and even the account offered by John Paul II). Moreover, since we have already indicated that the way we speak about the common good and civic virtue matters deeply for how we reason together on practical issues, we will examine the role that rhetoric plays in our account of civic virtue. This is another area in which we will move beyond what Aquinas says on this topic – he in fact says very little about rhetoric – and bring in Aristotle’s discussion of rhetoric into our account. As we will see, it turns out that rhetoric provides a means of tethering our discussion of the emotions more directly to practical deliberation than may have been immediately apparent in the ways that natural law is typically understood in Catholic moral thought. Moreover, we claim that rhetoric, when understood in this way, becomes extremely important for the way in which we use human reason to pursue the truth in action and the common good when we deliberate and act together within human societies.

Of course, no discussion of the virtues in relation to Aquinas’ work can fail to recognize the existence of two forms of the virtues that exist within the human soul: the acquired and the infused. We maintain that there is both an acquired and infused form of civic virtue, the latter being a part of that which is infused into the soul along with grace at the moment of conversion, along with the theological virtues, gifts, and beatitudes. Moreover, we find this to be an appealing aspect of our account of civic virtue for several reasons. On the one hand, and from within the discourse of Catholic moral theology, it allows us to consider the role of civic engagement within the life of the wayfarer moving through the earthly city and on the way to the heavenly city. This allows us to conceive the ways that justice, civic virtue, and charity work together and yet maintain their distinctive elements in the Christian life. Or to state it another way, it allows us to
see how participating in the common life and the common good of one’s society is an essential element of the Christian life, fully compatible with and sustained by the virtue of charity and the desire for beatitude. On the other hand, since we are proposing a theological account of civic virtue in modern democratic regimes which are marked by the presence of a plurality of religious and philosophical worldviews, we can speak about the acquired form of civic virtue as a normative ideal for all human persons without imposing a distinctively Christian understanding of it on those from other religious or philosophical backgrounds. This allows us to uphold the belief that all human persons have a common nature, a common call to engage in civil society, and a common good toward which persons of a wide diversity of backgrounds can work cooperatively together to achieve. The theoretical and practical consequences of upholding the existence of both the acquired and infused forms of civic virtue will thus be explored throughout this work.

With this general picture of a Thomistic account of civic virtue in place, and having considered the ways in which it can make a contribution to contemporary Catholic moral theology, we can turn to consider how each of the chapters that follows contributes to developing our account.

1.2 Structure of the Dissertation

Chapter 2

Chapter two begins to lay out the context within which we are engaging in a contemporary retrieval of Thomistic civic virtue by presenting the historical and
ideological reasons why the core of our account – that is, of Aquinas’ discussion of legal justice – has been downplayed or overlooked in contemporary Catholic social thought. The main thrust of the argument in this chapter revolves around the Catholic Church’s tendentious relationship with the modern nation-state as it emerged in the late eighteenth and early nineteenth centuries, especially after the French Revolution, in which the most ideologically secular forms of the nation-state emerged. We will not remain focused exclusively on France, however, but will present a broad historical appraisal of the ways that various Western states emerged in the eighteenth and nineteenth centuries, and how after the breakdown of the medieval synthesis – that is, the intimate relationship between altar and throne - the Catholic Church struggled to find a coherent and consistent manner of dealing with the modern state both theoretically and practically, and how this confusion led to a downplaying of the nature of the state and of civic virtue.

In this historical account, we will look at how the Catholic Church’s official responses to the modern state and and the philosophical trends of liberalism that under gird it made it almost impossible to develop anything like what we are calling civic virtue. The intellectual and historical turning points that marked the beginning of change in the Catholic Church’s relationship with this new world order, however, begin with the Papacy of Leo XIII, especially his publications *Aeterni Patris* (1879) and *Rerum Novarum* (1891). The former marked the beginning of an intellectual revival of Thomas Aquinas’ Christian philosophy, which also led back to his moral and political thought and brought with it fresh ideas about how a broadly Thomistic understanding of political life might provide a flexible yet normative approach to analyze and engage in the modern context. The latter of course marked the beginning of the tradition of modern Catholic
social thought, and brought some of Leo’s Thomistic principles to bear on the “social question” of his day. Pope Leo’s efforts to bring Aquinas’ insights into the nature of moral and political life led the way to the Church developing a more consistent and coherent approach to Christian engagement in the context of the modern nation-state, which also begins to open the way for a substantive appreciation of civic virtue.

Another important development that may appear to be a small contribution at first, but which has seemed to us to have greater significance than is often recognized, is Jacques Maritain’s distinction between what he calls the “Body Politic” – and what we are calling civil society – and the state. This conceptual distinction is very helpful as we consider the role that civic virtue within individual persons plays within the context of the modern state. For on the one hand, we are maintaining that civic virtue is applicable within the forms of government and statecraft that are most predominant in the West today, and hence our theory must take account of the reality of the modern state. On the other hand, discussions of the state, both theological and philosophical, have been concerned with the tendency of the modern state to drift toward tyrannical or totalitarian forms of statecraft.12 By focusing on civil society as the predominant social realm within which civic virtue is cultivated within individuals – ultimately, of course, civic virtue is cultivated within the soul of individuals - we are able to recognize the need for and the correct place of the state. That is, we can recognize that any well-organized and just civil society that pursues the common good must have some form of authority to direct and

12 Perhaps no one has contributed to an understanding of the nature of totalitarianism than the prolific German scholar, Hannah Arendt, who first published The Origins of Totalitarianism in 1951. For a recent edition, see Origins of Totalitarianism: A New Edition with Added Prefaces (San Diego: Harcourt, Inc., 2009).
hold together the various functions that need to be undertaken to coordinate that kind of activity on such a large scale, while simultaneously recognizing that the true human and spiritual power which lends credibility to state power resides in the people who make up the civil society.\textsuperscript{13} This is just one of the ways that civic virtue can provide a normative ideal for those who live within the modern state while also providing a critical stance from within which one can engage in a critical patriotism toward one’s leadership and government.

We will also trace in this chapter the continued development of the tradition of Catholic social thought, noting both the advances made that begin to open up the space within which we are engaging in our retrieval of civic virtue and the ways in which a conception of civic virtue remains underdeveloped. This section ends with a consideration of some prominent thinkers within this tradition and notes the ways in which a notion of civic virtue has still not been developed from Aquinas’ work to the extent that we believe it could be. We will also indicate the various ways in which the common good has been conceptualized within Catholic social thought and those who have contributed to its ongoing development. Here we will see that our manner of understanding the common good as the object of civic virtue both draws upon and

\textsuperscript{13} Another reason that I find this category of civil society helpful is because I want to avoid as much as possible the use of the term “citizen” when referring to those agents who possess and practice civic virtue. The reason I want to avoid this term is because I want to uphold a vision of pursuing the common good that is not limited only to those with legal citizenship status in regard to the state. Although this may be a contested claim, it is my belief that a vibrant and healthy civil society within modern states is often made up of members of a community who would not be considered citizens in the way that states would recognize them. These kinds of members of a community might include, but are not limited to: migrant workers, immigrants, those displaced by war, famine, revolution, political oppression, etc. It is my contention that these individuals and groups also contribute to civil society in various ways in the modern state, and therefore I prefer to avoid the use of the term citizen.
continues to develop this tradition. This will lay out some of the parameters of the contemporary context within which we undertake our own retrieval of civic virtue, and note some of the lacunae within Catholic social thought that our account can begin to address.

**Chapter 3**

Chapter three continues the description of the context within which we are developing our account civic virtue that was begun in the previous chapter, except that in this chapter we will engage the discourses of political philosophy and theological discussions of the natural law. In regards to political philosophy, we will begin with the work of John Rawls since he has had such a tremendous impact upon discussions of justice in the Anglophone world in the late twentieth and early twenty-first centuries. We will focus on how Rawls’ “sense of justice” is both similar to, and dissimilar from, our own conception of civic virtue. We will also consider how he construes the relationship between the good and the right in relation to our own manner of defining that relationship, and especially how he – and most liberal thinkers – remain reticent to draw upon the language of the common good. On the discussion regarding the good in general, and the common good in particular, we will also bring in William Galston’s attempts to make the goods and values of liberalism and what he calls “value pluralism” more explicitly known. Since liberalism is the intellectual tradition out of which modern constitutional democratic forms of government have developed, placing our account of civic virtue into dialogue with some of the contemporary thinkers who best represent this
tradition in political philosophy today can help us to further clarify the place and contributions that our Thomistic account can make to the contemporary landscape.

Another helpful example of the manner in which classical virtue language and the concept of the common good is capable of interacting with and being applicable in the modern liberal paradigm can be found within Philip Pettit’s classical republican thought. Given that he has a basic commitment to many of the same ideals that are held by liberal thinkers such as Rawls and Galston, it is especially enlightening for us to consider the ways in which he advocates for a certain conception of the virtues required of members of a polity and for a concept of the common good. His work serves as a helpful for us as we seek to bridge our own classical notions of virtue and the common good with modern liberal thought.

Next we turn from philosophical discussions back to theological discussions of the natural law as the broader theological context within which we are developing our account of civic virtue. In fact, we see our account of civic virtue as just one expression of the various ways in which the natural law paradigm can be applied within theological ethics today. The natural law provides a context for thinking about practical reason as the application of certain first principles which are universally accessible to human reason, but which take concrete form and become meaningful only when they are put into practice in contingent historical circumstances. Therefore, we will consider the work of John Courtney Murray and John Finnis, both of whom have done work in the twentieth century to retrieve Aquinas’ natural law tradition and to apply that tradition within the context of modern political life. Analyzing their work will help us to begin to lay out the general contours of the natural law as we see it as providing a theoretical framework
within which to apply our theory of civic virtue, as well as to note how we are interpreting Aquinas’ work on the natural law as part of an ongoing – and often hotly debated - tradition of such interpretation.

Chapter 4

Having laid out the contours of the modern context within which we are retrieving a Thomistic sense of civic virtue, we then move into an historical and exegetical reading of Aquinas and some of his medieval scholastic contemporaries on justice, focusing in particular on his discussion of legal justice. This chapter proceeds in several sections. In the first, we consider the discussion of justice among the medieval scholastics prior to Aquinas, including the work of Peter Lombard as well as those commentators who drew upon the work of Cicero and then later that of Aristotle. Here we will see that successive commentators were able to offer some clarifications on the virtues in general, and justice in particular, and that Aquinas inherits a rich, if perhaps still somewhat inchoate, reflection upon the nature of justice which he then takes up and develops in a more systematic fashion, especially in the *Summa Theologiae*.

In focusing in on Aquinas’ mature work on the virtue of justice, and especially on legal justice, we will pay particular attention to the *Secunda secundae*, a significant portion of which is taken up with the consideration of the virtue of justice. As we move through our textual analysis of this virtue, we will note the elements of Aquinas’ thought that we are picking up and developing into our own Thomistic account of civic virtue. Our aim in this section is to be clear about what we are taking up from Aquinas and appropriating into our account, what, if anything, we are rejecting, and where we are
moving beyond what Aquinas explicitly says in regards to justice. On this last point, for example, we move into a consideration of the role of the passions in practical reasoning in general, but more specifically in regards to the will and its role as the motivational source from which all human action and acts of civic virtue derive. And on this point we are basing our account of the role of the passions in acts of civic virtue on the analysis of the passions offered by Aquinas, but we are also indicating those areas in which we aim to move beyond and draw out the implications of what he writes on this topic.

In this section we will also continue to develop a Christian anthropology – an account of the soul and its various faculties – out of which acts of civic virtue will become intelligible. That is, we will begin to describe how it is that the human intellect can perceive and be motivated through the will - the intellectual appetite - to pursue the common good as the object of human acts. Our exegesis of Aquinas on these points will serve as the foundation from which we develop a contemporary, constructive account of civic virtue in the following chapter.

**Chapter 5**

In the last chapter we move into a synthesis between the interpretation of Aquinas offered in chapter four and the material that we had considered in the previous chapters. The aim of this last chapter is to bring the entire project from potency to act by more fully defining what it means to engage in acts of civic virtue, and what it means for an agent to possess a critical conception of the common good as the foundation of such acts. Here we will provide a more detailed description of the common good than the brief exposition offered earlier in this chapter.
In this last chapter we will also come back full circle to where we began this chapter; that is, with a discussion of the rhetoric that sustains and fosters the pursuit of the common good. Moreover, we will argue that this not merely a lateral concern of our project; rather, drawing upon our insights from Aquinas and supplementing them with a consideration of Aristotle’s *Rhetoric*, we claim that rhetoric is itself tied closely to practical reason and the emotions; that is, rhetoric matters for the manner in which we pursue the truth in action. Thus, a full explication of the manner in which civic virtue functions within an agent requires us to look closely at the ways in which we deliberate together as societies in regards to the common good and the best means of achieving and securing it. In this section we will also look at the work of Martha Nussbaum, especially as she deals with the role of the emotions in practical deliberation and in so far as her project of recovering and defending Aristotle within modern liberal thought provides an important dialogue partner for our own Aristotelian-Thomistic account of the emotions’ role in practical deliberation and the political significance of this phenomenon.

Thus, this last section of the dissertation will be concerned with completing our description and definition of acts of civic virtue by providing a complete theoretical paradigm for understanding our contemporary retrieval and accounting of Thomistic civic virtue, both on a social and individual level. We will also provide some concrete examples of contexts in which deliberation about the common good is particularaly salient within modern democratic regimes in order to demonstrate the normative and practical implications of our account of civic virtue. The goal by the end of this chapter is to have provided a coherent account of civic virtue as a whole and to have shown why it is an important and timely concept that can make some contributions to the state of
Catholic scholarship on these issues relating to Christian engagement in civil society, as well as to Christian ethics in general.
CHAPTER 2:
CIVIC VIRTUE IN EARLY MODERN AND CONTEMPORARY CATHOLIC
SOCIAL THOUGHT

the people are the multitude of human persons who, united under just laws, by mutual friendship, and for the common good of their human existence, constitute a political society or a body politic…The people are the very substance, the living and free substance, of the body politic…I should finally like to point out that the people have a special need of the State, precisely because the State is the particular agency specializing in the care of the whole, and thus has normally to defend and protect the people, their rights and the improvement of their lives against the selfishness and particularism of privileged groups or classes

- Jacques Maritain

2.1 Introduction

The aim of this chapter is to trace the development of Catholic social thought from the early modern period, beginning with the rise of the nation-state following the Napoleonic wars, into the contemporary period. The genealogy provided here seeks to demonstrate the ways in which Aquinas’ conception of legal justice, and what we are calling civic virtue, has been transformed by the Catholic Church’s tendentious relationship with the nation-state, especially its more militantly secular forms that sought to remove the Church’s influence from society and politics, and how a recovery of the concept of civic virtue is lacking, or at least under-developed, in much of the contemporary discourse. In order to trace this development, this chapter will be divided
into two main sections. The first proceeds along historical lines, tracing the development of the Catholic Church’s relationship between the civil authorities following the breakdown of the medieval synthesis of Latin Christendom, into the rise of the modern nation-state, and all the way up until the publication of *Dignitatis Humanae* at the Second Vatican Council in 1965. While tracing this historical development, which culminates in the Church’s official endorsement of religious freedom and certain tenets of the modern, democratic nation-state, we will pay particular attention to the understanding of justice and civic virtue assumed by Catholic thinkers. We will discover that while a certain kind of piety and civic virtue towards those vested with the power to rule remains throughout these stages, the understanding of how this civic virtue is to be directed towards one’s society and its rulers undergoes some dramatic shifts, especially as Catholic thinkers struggle to come to terms with the new forms of liberal or democratic state government.

Although there is no clear-cut distinction between the various stages of this development, there are some particular moments that demarcate subtle shifts in attitude and understanding towards the developments in European politics of the nineteenth century. These will be duly noted where appropriate. These shifts take place in several eras. In the first period we consider, we see a tendency toward *legitimism* and *integrism*: the former refers primarily to deference to princely authority, and as an ideology functions to deter citizens from popular revolutions; the latter indicates a belief that the only legitimate forms of government are those where the Church is intimately involved in the mechanism of state functioning and administration, especially in regard to those governments that had legally contracted agreement of temporal authority in conjunction with the Catholic Church through the system of patronal privileges (*ius patronus*).
Subsequently, we witness cracks beginning to form in the wall of this patronal system of legitimism and integrism in the European peasant/workers revolutions of 1848, which is followed by a time of uncertainty on the part of Church with regard to the preferred attitude or approach to be taken toward civil authority. Here we witness an often-confused admixture of legitimism with increasing uneasiness towards all civil authority that does not easily fit into the mold of the Catholic princely rule (including residual ambivalence towards the nation-state as in France, but also towards princely or kingly rulers favorable to various forms of Protestantism). In fact, throughout the nineteenth century, Catholic thinkers fall within a spectrum of opinions in regard to civil authority: from the earliest endorsements of certain elements of liberalism and democracy in Felicite de Lamennais to the most reactionary defenders of the ancien regime model of princely authority closely wedded to the Church. Finally, during the papacy of Leo XIII (1878-1903), a durable yet flexible attitude toward various forms of legitimate temporal and civil authority begins to be developed within official (i.e., magisterial) Roman Catholic thought. I say begins because, as we will see, Leo set in motion a process of thinking with regard to civil authority that would take several generations of Catholic reflection before taking on its current dominant form of preference for democracy after World War II and in the documents of Vatican II, and because this process continues to refine itself into the twenty-first century as well.

The second stage brings us to a consideration of the contemporary discourse on civic virtue in Catholic social thought over the past several decades. This will involve an examination of some contemporary thinkers (including David Hollenbach, George Weigel, and Michael Novak) who are consciously engaged in Catholic social thought in
regards to civil authority. While not all of these writers deal directly with the concept of civic virtue, a general attitude towards the common good and one’s society and nation can be found within their work. Looking at their work will help us to see how those on all sides of the political and theological spectrum lack an adequate account of civic virtue, and that a fuller account of civic virtue would help to address some of the shortcomings of the contemporary discourse of Catholic social thought. I believe that a fully adequate conception of civic virtue remains underdeveloped in this tradition not only because it is attenuated in the entire discourse of modern Catholic social ethics, and that this is evident in thinkers on both the political left and right today. It is my assertion that in the American political and theological context, there is a tendency for these thinkers to allow their political stances to define their understanding of a theological conception of civic virtue, rather than attending first to theological tradition and allowing that to be the controlling discourse in their work. Fully developing this theological account of civic virtue will be the aim of Chapters four and five, but it is my goal that by the end of this chapter, my readers will agree that a more robust account of civic virtue is necessary and potentially quite fruitful for the continued development of Catholic social thought.

2.2 Church, State, and Civic Virtue in Modernity

2.2.1 The French Revolution through the Papacy of Leo XIII
Prior to Leo XIII’s decision to take up “the social question” in *Rerum Novarum* in 1891, official Roman Catholic thought was concerned with trying to negotiate ways to understand the Church in relation to the new and evolving forms of the modern, liberal nation-state. While the political contours of post-Christendom, continental Europe had been evolving towards a new paradigm of state sovereignty since at least the Peace of Westphalia (1648), the roots of the crisis of modernity in the Church can be found primarily in the French Revolution of 1789. Not only was the political alliance between Church and state of the Ancien Regime of the Bourban dynasty brought to an abrupt halt, but a militantly anti-clerical state emerged in France, especially after the publication of the *Civil Constitution of the Clergy* on July 12, 1790. Under these conditions, all Church property was assumed as the property of the state, all clergy were paid as civil servants, and clergy and bishops were to be elected by popular vote.

In order to comprehend what a radical shift the Revolution caused for the Church it will be helpful to look a little more closely at the situation in Europe prior to 1789. In this context, France (along with Spain) held a unique place in European politics in that an intimate connection between altar and throne was maintained on a national scale. After the Reformation of the sixteenth century it was not uncommon for local princes and kingdoms to officially endorse the particular denomination of Christianity which they found to be most personally appealing, most politically expeditious, or some combination thereof. Thus, after the end of medieval Christendom, in which there was no political alternative to common law alliances between the local bishops of the Roman Church and princes or kings, the Church survived by aligning itself with princes or kings who were willing to provide support and protection to the Church in Catholic lands. This is what
Russell Hittinger has called the “ius patronus,” or the system of patronal privileges.\(^1\) As noted previously, this type of patronal union took on its most intimate forms in Spain and France, while in the rest of Europe, these alliances were formed on a much more \textit{ad hoc} basis with local princes or kings (especially in the Germanic lands where the battle between Protestantism and Catholicism was much more at the fore of Church-state relations).

There were two consequences resulting from this kind of \textit{ad hoc} system of patronal privileges, one positive, and the second ambiguous at best. The first was positive, and can be best understood as a survival mechanism of the Church in continental Europe after the Reformation; patronal privilege, along with the maintenance of the papal estates in Italy, allowed the Church to maintain a temporal authority, thus assuring her continued capacity to carry out the pastoral mission to preach the Gospel in the visible structures and law of the Church. The second consequence was much more ambiguous, since it meant that the Church was dependent upon the protection of princes or kings who felt convinced of the spiritual necessity, or political expediency, of securing a place for the Roman Church in their lands. By the end of the nineteenth century about the only thing that liberals and conservatives in the Church could agree upon was that the system of patronal privileges needed to end and that the Church needed to find new ways to exist independently within the systems of modern nations. What is important to note for the moment, however, is that the “architects of the French Revolution of 1789 did not

invent, but rather inherited, the principle that the Church, as a visible and temporal society, was the property of the state.”

The novelty of the French Revolution was not the patronal status of the Church in regards to civic authority, but rather that the civil authority was thoroughly infused with an Enlightenment political philosophy of laicite; that is, a vision of secular government, which, in this particular form of Revolutionary France, was not only indifferent to religion, but hostile to the ways in which Catholic French ideology had upheld a hierarchical social strata that was seen to be at odds with the ideals of equality, fraternity, and liberty of the Revolution. The Church’s response to the Revolution is exemplified in Pope Pius VI’s response to the Civil Constitution of the Clergy with the publication of his encyclical letter, Charitas, on April 13, 1791. In the letter, he declared the Constitution to be “composed of principles derived from heresy,” and pronounced any official member of the Church who had sworn the oath obedience to the Constitution to be immediately suspended from the exercise of his office.

The immediacy of the crisis of the Revolution for the Church was lessened with the ascendency of Napoleon Bonaparte through a 1799 coup d’etat and Napoleon I’s installation as Emporer of France in 1805. A concordat between Napoleon and the Vatican was accepted, somewhat begrudgingly, by Church officials in 1801. Napoleon unilaterally appended his own “Organic Articles” to the concordat, which upset the

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2 Ibid, p. 6.

Vatican by recognizing Catholicism as the predominant religion of France, while not enforcing it upon the citizenry, which could have easily re-incited the kind of Protestant zeal which partially fueled the Revolution in the first place. For the time being, the Roman Church could fall back upon its theory and practice of “legitimism”; that is, a stance toward civil power that defends the sovereign authority of princes and kings as a God-given power, vested in the rulers, and to be respected by all citizens and Catholics as a principle of Eternal and natural law. Moreover, legitimism was rooted in a view of the social order as relatively static, in which the landed nobility could be called upon to practice Christian charity and noblesse oblige, earning their salvation through care of the poor; while the peasantry could work the land in humility and patience, earning their salvation through patient endurance of suffering in a Christ-like humility. God had placed each person within a particular and essential role in a hierarchical society, and the stability of social existence depended upon the maintenance of such social positions.

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6 While it is easy to view this system as paternalistic and condescending from our contemporary viewpoint in which we have embraced many of the Enlightenment ideals of equality and democracy, it should be noted that the Catholic thinkers who advocated such an appeal to charity and humility can not be entirely dismissed as arrogant or unconcerned with the plight of the poor. Given their genuine belief in the static nature of the social order as part of God’s plan for society, their resistance to change and to embracing a more radical social equality is not entirely without merit. Moreover, they had a different conception of equality operative in their thinking; one which saw each person as inherently equal before God, but in which this equality was manifested in the obligation to fulfill different virtues corresponding to one’s status in society. In God’s eyes, the prince or lord who practices genuine charity and who provides for the peasants on his land was following Christ equally as well as the humble peasant who worked the land and provided for his family, accepting his lot in life and the generosity of his lord. Even if this ideal was not always faithfully practiced, it still served as an ideal of social equality and political stability that had served Church and society for centuries. Resistance to social change in the nineteenth century should
This ideology was to be used by Catholic thinkers in support of the many attempts at restored monarchies throughout Europe in the nineteenth century.

However, it should not be taken for granted that the only strands of Catholic thought in regards to the state was that coming out of the official channels of the Vatican. We will continue to see that as the modern state continued to grow and develop, and as industrialization came into continental Europe (beginning in the 1840’s), Catholic thought on Church-state relations and what would become “the social question” (which is still an anachronistic term to apply in the early nineteenth century) covered a wide spectrum of beliefs. Scholars have attempted to classify these strands of Catholic thought in a variety of ways. For our purposes it will suffice to divide the period into two camps: the conservative view represented by legitimism, which tended to seek a restoration of altar and throne in some form analogous to various forms of the Christendom model; and the liberal view, which saw some of the advances of the French Revolution and the modern nation-state, especially those elements which endorsed equality and freedom, as reconcilable with and often even necessary corollaries of Christian faith, the Gospel, and always be seen against this backdrop, even if we can look back and see the problems inherent in such a system from our contemporary vantage point.

For example, Michael J. Schuck divides Catholic thought in the nineteenth century into three categories: traditionalism, cosmopolitanism, and transformationalism. Traditionalism can be roughly equated with what we have called legitimism above; cosmopolitanism combined certain elements of classical, republican views of liberty, equality, and citizenship with Catholic teaching; while transformationalism usually refers to some form of Christian socialism, even if this did not always equate to endorsement of the more radical elements of later nineteenth century socialism seeking (violent) revolution [Michael J. Schuck, “Early Modern Roman Catholic Social Thought: 1740-1890,” in Modern Catholic Social Teaching: Commentaries and Interpretations (Edited by Kenneth R. Himes, O.F.M. Washington, D.C.: Georgetown University Press, 2005: 99-124), p. 101]. Paul Misner, on the other hand, following Charles Davis, further divides Catholic thought in the nineteenth century into “the ‘radical,’ the ‘liberal,’ the ‘conservative,’ and the ‘reactionary’” [Misner, Social Catholicism, p. 32].
natural law. As we will continue to see, each of these stances had a quite different view toward the role of civic virtue in public life.

The most influential of this latter strand of liberal Catholic social thought can be found in the work of Felicite Robert de Lamennais. After the upheaval in continental Europe settled down for a brief period following the Napoleonic wars (which ended in 1815), Lamennais was the principle, though by no means only, figure of liberal Catholic thought in the 1830’s and the following decades. After King Charles X was overthrown by the revolution of France in 1830, Lamennais, along with Henri Dominique Lacordaire and Charles de Montalembert began to publish L’Avenir, a daily newspaper advocating for separation of Church and state and democratic political principles. On the other hand, the most conservative strain of Catholic thought at this time was advocated by Joseph de Maistre, who was also joined by the likes of Louis de Bonald and Donoso Cortes.

Pope Gregory XVI represents the legitimist and restorationist hopes of the majority of Catholic opinion of the 1830’s, which he expressed consistently in his encyclical letters. In Cum Primum (June 9, 1832), Gregory urged obedience to the

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8 One should bear in mind here that when we use the term liberal to describe thinkers of the nineteenth century, we should not confuse this with later twentieth or early twenty-first century conceptions of social liberals. For even Lamennais could write that “religion is found near the cradles of all peoples, as philosophy is found near their tomb” [See “Essai sur L’indifference,” in Oeuvres Completes de F. de La Mennais, vol. 1 (Paris: P. Daubree et Cailleux, 1836-37), p. 21.] Compared with Leo XIII’s later openness to philosophy’s legitimacy in its own domain in Aeterni Patris (1879), Lamennais hardly seems progressive. But we will continue to see that his openness to certain forms of democratic government and endorsement of freedom and equality will have an enduring impact on Catholic social thought all the way into the twentieth century.

9 Schuck, “Early Modern Roman Catholic Social Thought,” p. 108.

Russian emperor over against the attempts by republican-minded Poles to overthrow their subservience to the emperor. In the same year, in Mirari Vos (August 15) he condemned the doctrines of the separation of Church and state and of “indifferentism,” a theory circulating at the time which took several forms. One form of indifferentism was defended by some of the more moderate liberals, such as Lamennais, who were advocating a form of state-sponsored indifferentism, in which the state could be indifferent in terms of its endorsement of particular religious traditions, or what we would now call religious freedom for its citizens. Despite the relatively moderate nature of Lamennais’ views, Pope Gregory took aim at him (without naming Lamennais directly) two years later in Singulari Nos (June 25, 1834) where he writes:

he cloaked the Catholic teaching in enticing verbal artifice, in order ultimately to oppose and overthrow it…Finally, [his work] concerned that freedom of conscience which should be thoroughly condemned and the repulsive conspiracy of societies enkindling destruction of sacred and state affairs, even from the followers of false religions, as We have made clear by the authority handed down to Us.12

Lamennais’ support for liberty, despite his desire to remain loyal to the Catholic Church, eventually led him to officially break with the Church in a public manner when he published Paroles d’un Croyant in 1834.13

We should not have the impression, however, that all Catholic social thought in this period was focused entirely on France. While the French Revolution, and the impact

12 Pope Gregory XVI, Singulari Nos, §3.
which it had on the political structure of Europe in the nineteenth century is of central
disjoint as well. One of the more important developments to consider for our genealogy is Belgium’s
independence from the Protestant Dutch Netherlands in 1830. Two factors contributed to
Belgium playing a unique role in Catholic social practices in the nineteenth century.
First, Belgium remained a majority Catholic country, and, secondly, it was the first nation
of Continental Europe (following Britain) to move from a predominantly agricultural to
an industrial economy in the 1840’s.\textsuperscript{14} Belgium established a moderate constitutional
democracy following its independence in 1830, and Belgians enjoyed a relatively
peaceful co-existence between their Catholic identity and official religious tolerance by
the state. Throughout the nineteenth century, however, the Vatican’s attention was more
often distracted by the confrontational state policies of France and Prussia, such that the
benefits of the more moderate forms of liberal political theory practiced by Catholics
(and others) in Belgium were overlooked until a later date.

A similarly positive experience in regard to the practice of state-sponsored
religious tolerance was also experienced by Catholics in the United States during the
nineteenth century. The earliest Catholic endorsements of the American system of
religious tolerance and freedom can be found in the works of the eclectic public
intellectual and Catholic convert, Orestes Brownson, and that of the founder of the
Missionary Priests of St. Paul the Apostle (also known as the Paulists), Isaac T. Hecker.\textsuperscript{15}

\textsuperscript{14} Misner, \textit{Social Catholicism}, p. 22.

\textsuperscript{15} Aaron I. Abell. \textit{American Catholicism and Social Action: A Search for Social Justice 1865-
Hecker and the Paulist priests mostly made their influence felt through the publication of the Catholic World (founded in 1865), whose mission was to seek greater unity between “Catholicism, reason, and liberty.” Brownson, on the other hand, was to give rise to the “Americanist controversy,” through his insistence that through their works of public charity and social activism, Catholics could convert all of Protestant America into the great Catholic society that it was intended to be, and in doing so show forth to the world the most perfect vision of liberty and Catholic political life. He went so far as to claim that

As a people we have very generally the conviction that divine Providence has given us an important mission, and has chosen us to work out for the world a higher order of civilization than has hitherto obtained…We have a manifest destiny…The manifest destiny of this country is something far higher, nobler, and more spiritual - the realization, we should say, of the Christian ideal of society for both the Old world and the New.\footnote{17}

The brashness of his claims (not to mention his blatant racism\footnote{18}) led to Rome’s official rejection of the Americanist claims in Leo XIII’s Testem Benevolentiae (1899). A more sober and realistic assessment of the contributions of the American political context would have to await the work of John Courtney Murray in the twentieth century.

\footnote{16} Ibid, p. 24.


\footnote{18} Brownson writes proudly that Americans find themselves “comparatively free from all admixture with the inferior races of Asia and Africa, and also with that of the aborigines of the country…Our population combines the best qualities of the English, the French, the German, and the Irish” (Ibid, p. 566).
Back on the European continent, the inequalities fostered by the rise of industrialization, and the poor treatment of the workers in this new situation, led to the spread of socialist thought, some of which was embraced by the more radical Christian thinkers. For example, Philippe Buchez, a Christian socialist, believed that the true ideals of the French Revolution had yet to be realized in a “democratic republican socialist society of Christian inspiration.”\(^{19}\) The hopes for some combination of Catholic and socialist thought, however, were quickly withdrawn after the series of workers’ revolutions that spread throughout continental Europe in 1848. During these revolutions, Pope Pius IX fled to Gaeta in Sicily, not to return to Rome until 1850; Louis Phillip abandoned the throne in Paris; and prince von Metternich left his throne in Vienna.

Horrified by the disruption of order in these revolutions, officials in the Vatican responded by supporting the re-establishment of traditional political powers, even if these powers, such as the re-established Second Republic of France (1848-1852), were hostile to workers’ rights. The Roman Church’s support for the anti-labor policies and attitudes of the Second Republic is one factor which contributed to an exceptionally high level of anti-clerical sentiment in the workers’ movements in France and elsewhere in the mid-nineteenth century.

Meanwhile, however, new forms of Catholic thought and response to the political landscape began to emerge in the mid-nineteenth century. The revolutions of 1848 awakened a new awareness of the extent to which industrialization was changing the political landscape of Europe, and eventually all but the most recalcitrant conservative

\(^{19}\) Misner, *Social Catholicism*, p. 53.
thinkers in the Church began to realize that the system of the *ius patronus* would need to be abandoned in favor of what Hittinger calls a “Gregorian ideal of liberty.”20 A growing appreciation of the need for a new way to think about the freedom of the Church vis-à-vis civil and temporal authority was beginning to grow within the world of Catholic political thought. The full extent of the necessity of these changes was not yet fully grasped, however, nor would a fully adequate response be worked out for several more decades, but one can see the seeds of change being planted in the new, if not always fertile, soil of post-1848 European relations between Church and state. As we will continue to see, the need to address the “social question” and conditions of the working classes would also contribute to a reformulation of traditional manners of thinking in regards to Church-state relations.

Yet one thing was completely clear following the revolutions of 1848 and the growing popularity of socialist responses to the problems posed by industrialization: the Church now had a battle to fight on two fronts. Liberalism, with its false notions of human liberty, had long been considered by officials in Rome to be the cause and root of disturbance and revolution in the social order, as well as a natural enemy of true religion. But now socialism came to be seen as the bastard offspring of liberalism. By casting off due deference to the God-given authority of the civil authorities, in accepting a materialistic and atheistic conception of history (which would be more fully developed later by Karl Marx and other socialist thinkers in the 1860’s and 70’s), and in fomenting

20 Hittinger, “Introduction,” p. 8. The “Gregorian ideal” is a reference to Pope Gregory VII’s reforms of the Church in eleventh century. He worked to resolve the investiture controversy, re-establishing the control of the papacy to appoint bishops over and against the claims of princes or kings.
class struggle which led to such violent revolutions as those witnessed in 1848, socialism was now perceived by the Vatican to be an unacceptable alternative for socially conscious Catholics as well. In the years following 1848, and leading up to the publication of Quanta Cura and its Syllabus of Errors by Pius IX in 1864, liberalism and socialism would more and more come to be seen as the logical consequences of all the errors contained in what Pius referred to as the heresy of “Modernism.” The negative poles which Catholic social thought needed to avoid had now been well-established (extreme liberalism and socialism), but it was much more difficult to put together a coherent system of thought on the positive political recommendations to be taken by Catholics in the nineteenth century. It is this ambivalence towards modern forms of state power that led to the changing attitudes towards civic virtue among Catholic thinkers at this time.

Meanwhile, the more progressive elements of Catholic social thought were often developing on the ground level, just outside of the notice of Vatican officials. One of the most important advancements towards the development of this kind of new thought was spurred by the need to address social changes in Europe and began with the establishment of the journal La Civilita Cattolica by the neo-Thomist Jesuit priests, Matteo Liberatore and Luigi Taparelli.21 A Thomistic natural law method of considering

21 Russell Hittinger, “Two Modernities, Two Thomisms: Reflections on the Centenary of Pius X’s Letter Against the Modernists” (Nova et Venera 5:4 (2007): 843-880), p. 859; and Misner, Social Catholicism, p. 128. The Jesuits were uniquely suited to foster a revival of Thomistic thought at this time, especially as they had inherited a tradition of Thomistic social thought from the Salamanca school of Spain in the sixteenth and seventeenth centuries from such thinkers as Bellarmine, Mariana, Molina, Suarez, Vitoria and others. I was also pleasantly surprised to see that La Civilita Cattolica is still being published to this day in Italy, making it the longest continual publication in that country for the last 160 years. (see www.lacivilitacattolica.it)
first principles in light of contingent historical circumstances provided these Jesuits with the overall framework and flexibility that was so desperately needed to work out practical solutions to the multitude of problems of labor and international politics within a coherent and consistent philosophical and theological system of thought. *La Civilita* began in Naples, but was moved to Rome shortly thereafter, and one of the students of Liberatore and Taparelli, Vincenzo Pecci, would go on to become Pope Leo XIII in 1878. Through Leo, and through his establishment of the Accademia di San Tomasso D’Aquino in 1879, this brand of Neo-Thomist thought would come to provide just the kind of synthetic method necessary to provide the principles of Catholic social thought in the modern era.

On the German front, the most important figure for social Catholicism and its nascent recognition of the need to address the labor movement is the bishop of Mainz, Wilhelm Emmanuel von Ketteler. In 1849 he published *The Great Social Questions of the Present*, in which he drew heavily on critiques of liberalism’s emphasis on freedom and equality as the root of the social ills of the age. Yet by the time of his publication of *The Labor Problem and Christianity* in 1864, he had taken a more moderate stance towards liberalism and the possibilities offered by the modern nation-state for addressing the social problem. By the end of 1869 he came to endorse the British labor-union model in which labor was to organize on its own in order to gain the political power necessary to advocate for labor rights on the level of the state by seeking protection through law and
more directly political measures. And while Kettler was one of the earliest Catholic thinkers to see a positive role for a more liberal state in the advocacy and protection of the rights of workers and those most vulnerable in society, he was by no means an uncritical advocate of the state. His defense of workers’ rights and unions and the freedom of the Church vis-à-vis civil authority placed him at odds with the legitimist strain of Catholic social thought, but his staunch loyalty to the Church and the Roman See allowed him to remain in good standing with some of the more conservative elements of the Church, fostering a dialogue between populist strands of German Catholicism and Rome that would also make positive contributions to events leading up to Rerum Novarum.

In the same year that Ketteler published *The Labor Problem and Christianity* (1964), Pius IX published his encyclical *Quanta Cura* along with its addendum, the *Syllabus of Errors*. In these two documents the pontiff took a decidedly reactionary stance to the movements of the age and the crisis of modernity that would have a lasting effect on Catholic thought and political involvement for many decades to come. In *Quanta Cura* (December 8, 1864), Pius IX condemns the teachings of the modernists as contrary to natural and Eternal law, and as enemies of the order and peace of human civilization and justice. He writes that

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22 See Misner, *Social Catholicism*, pp. 90, 126, 139. For Misner, Ketteler is clearly the hero of social Catholicism of the nineteenth century, and he repeatedly stresses the manner in which Ketteler came to believe in the necessity of labor to engage with the mechanisms of state power in order to advance their cause. Michael Schuck also discusses Ketteler’s importance for the cosmopolitan form of Catholic thought in the period from 1849-1871 (“Early Modern Roman Catholic Social Thought,” p. 112).
Applying to civil society the impious and absurd principle of *naturalism*, as they call it, [they] dare to teach that “the best constitution of civil society and (also) civil progress altogether require that human society be conducted and governed without regard being had to religion any more than if it did not exist; or at least, without any distinction being made between the true religion and false ones.”

Thus does he attack the state-sponsored “indifferentism” of liberals such as Lammenais. The two-pronged attack against liberalism and socialism continues in Pius’ thought in these documents, although the emphasis is certainly on the former. Likewise, proposition 80 of the *Syllabus of Errors* declares null and void the following: “The Roman Pontiff can, and ought to, reconcile himself, and come to terms with progress, liberalism and modern civilization.” Hittinger notes how the approach taken by Pius IX and later by Pius X, which he calls the “paper wars” method of attacking liberalism, was ultimately unsuccessful because “the bishops could not agree on any over-arching theory to unify [the various denouncements made in the *Syllabus*].”

One such attempt to make sense out of the *Syllabus* is represented in the well-known “thesis-antithesis” model developed by the bishop of Orleans, Felix Dupanloup. He tried to work out an interpretation of the *Syllabus* and its condemnations that was at least open to some of the more liberal notions of freedom and equality, but his system

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23 Pope Pius IX, *Quanta Curam*, § 3. It is also worth noting that although much of the tone and conclusions of *Quanta* and the *Syllabus* are reactionary and overdrawn, there are elements that still seem prophetic. For example, Pius writes that when “the genuine notion itself of justice and human right is darkened and lost, and [then] the place of true justice and legitimate right is supplied by material force,” and that “human society, when set loose from the bonds of religion and true justice, can have, in truth, no other end than the purpose of obtaining and amassing wealth, and that (society under such circumstances) follows no other law in its actions, except the unchastened desire of ministering to its own pleasures and interests” (§ 4).

24 English text from www.papalencyclicals.net/Pius09/p9syl.htm.

became so complex and difficult to understand that it had very little practical effect. Hittinger writes that the “ordinary person had to keep fixed in mind that the Syllabus lists liberal theses rather than Catholic doctrines, and then had to go in search of just the right negation.”  One had to try to come up with the antithesis of the theses provided in the Syllabus, and decide whether or not these antitheses could be squared with Catholic doctrine. Once again, a method for systematically and positively defining Catholic thought in regards to the state and modern civil authority was still sorely lacking. In this situation of confusion with regard to the proper forms of civil authority, no coherent conception of civic virtue was possible.

The event which sounded the death-knell for the ius patronus model was the seizure of the papal states in 1870. The concordat signed between Rome and Napoleon I in 1801 had meant that France assumed protection of the papal estates from any form of populist movements in Italy, or against the more powerful Prussian or German armies of the north. However, as France’s energy was drawn towards political concerns north of Italy by its defeat in the Franco-Prussian war (1870-71), Vittorio Emmanuele II took advantage of the weakened political power of the papal states and annexed them into the newly united Italian state in 1870, moving his official Royal residence to the Quirinal Palace in Rome.  


27 These events led to the suspension of the First Vatican Council, begun in 1868, but not before definition of papal infallibility could be ratified by the counsel (though by no means unanimously) on July 18, 1870. See Pastor Aeternis (First Dogmatic Constitution on the Church of Christ): Session 4: July 18, 1870 (Notre Dame: Orestes Brownson Council Press, 2007), Ch. 4, par. 9.
Several other popular movements deserve mention for the ways in which they contributed to the development of nineteenth-century Catholic social thought. In 1871 the Oeuvre des circles catholiques d’ouvriers (OCCO) was founded, partly due to the influence of the St. Vincent de Paul Society, founded in 1833, which brought the wealthier members of French society into direct contact with workers and their families and those suffering from the effects of industrialization in 1860’s and 70’s. The OCCO was one of the first groups that gathered workers, Catholic intellectuals, Church leaders, and members of the French aristocracy together to discuss a distinctively religious response to the labor question and the social and structural roots of poverty. In 1885 the first meeting of the Fribourg Union gathered socially conscious Catholics together in Switzerland to discuss political and social events of the time. In 1886 the first Catholic Conference in Liege brought together European socially conscious Catholics who began to realize that the Catholics and the proletariat workers had an important common enemy: they had both experienced oppression at the hands of overly aggressive and centralizing liberal states. Finally, Catholic workers in Belgium and Germany had been able to achieve much greater success in their organizational efforts, and were making important advances in their relations with employers and in bringing about the first sets of worker’s protection laws. Each of these various movements represented and contributed to the

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28 This particular form of “social Catholicism” is to be differentiated from the forms of Catholic thought and involvement that advocated charity from the wealthy, and resignation from the poor. These two approaches are of course never completely absent even from contemporary Catholic social thought, but a growing awareness of the issues of justice that under gird vast inequalities in wealth and resources, and a commitment to working to restructure society to address those changes is what marks social Catholicism off from other forms of charitable action.

29 Despite Bismarck’s initial animosity towards labor under the newly unified Germany Empire (established in 1871), and partly due to the growing power of socialists in the parliament (Reichstag), the
development of Catholic social thought, especially as they represented a “turn to the people” in Catholic social thought, which provided an alternative to either legitimism or integralism.\(^3^0\)

The spark which finally lit the fires of Catholic social thought from the top of the hierarchy arrived with the election of Vincenzo Giacchino Raffaele Luigi Pecci to the papacy in 1878, where he took the name Leo XIII. Leo introduced new and more flexible methods of thinking into the political situation between the Church and the state, the most important of which was his consideration of the possibility of Christian endorsement of certain forms of democracy. He did this primarily through his rehabilitation of Thomistic moral, political, and legal thought which he learned from his Jesuit educators at La Civilita Cattolica. In his first encyclical, Inscrutabili Dei Consilio (April 21, 1878), he concerned himself with a continuation of the condemnation of the present evils in society just as his predecessor, Pius IX, had done. And he remained extremely critical of both socialism and the over-arching power of the centralized, liberal nation-state throughout his papacy.

Yet there was also much to be accounted as new for the pontiff in 1878. He was the first pope since the eighth century not to inherit the papal states.\(^3^1\) Moreover, under

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first labor protection laws were passed in Germany in 1883-4. These laws provided insurance funds to cover sickness and accidents, and in 1889 old-age and disability insurance were set up with the aid of contributions from the German state (Misner, Social Catholicism, pp. 119-20).

\(^3^0\) Misner, Social Catholicism, p. 191. When this turn to the people was eventually combined with the personalism of the Neo-Thomist system of philosophical and theological logic, one of the most powerful and enduring intellectual and popular tools of Catholic social thought would be forged.

Leo’s leadership the Church was still partially bound up in, and trying to remove itself from, the old forms of Church-state relations of the *ius patronus* model. Hittinger indicates, for example, that France, Austria, Spain, and Portugal still maintained an *ius exclusivae* to veto papal candidates. And, while the Council of Trent had decreed that all nominees for the office of bishop must be approved by Rome, as late as the 1870’s “the Holy See nominated bishops in only five countries, four of them predominantly Protestant.” Finally, in the year 1500 there were approximately five hundred independent political entities throughout Europe, but by the time of Leo’s papacy, there were only twenty-five. These statistics serve as an indication of how much had changed with the rise of the nation-state following the Napoleonic wars and throughout the nineteenth century.

One of the ways in which Leo took advantage of the social and political situation during his papacy was in his prolific use of the encyclical letter, nine of which deal directly with political issues. In the rest of this section, we will focus on the ways in which Leo deals with and develops Church teaching in relation to the state in the twelve years between *Aeterni Patris* (August 4, 1879) to *Graves de Communi Re* (January 18, 1885).

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32 Fortunately, they chose to exercise this right in rejecting cardinal Bilo, the chief architect behind Pius IX’s *Syllabus of Errors*, which led to the nomination of Pecci and his eventual election to the papacy (Ibid, p. 42).

33 Council of Trent, Session 24, ch. 1, “Decretum de Reformatione,” in *Conciliorum Eocumenicorum Decreta, Editio Tertia* (Edited by Josepho Albergo, et al., Bologna: Istituto per le Scienze Religiose, 1972), pp. 759-761. Pius VI also upholds this right against the *Civil Constitution of the Clergy*, which mandated by French law that all public offices of the Church were to be filled by popular vote (*Charitas*, §18).

34 Hittinger, “Leo XIII,” p. 44.

Pecci had been educated by the Jesuits of *La Civilita Cattolica*, and was clearly influenced by their belief that the principles of Thomas Aquinas’ moral and political thought could be articulated in the modern age to the benefit of the Church and society. He did not, however, advocate for an uncritical re-appropriation of Aquinas’ thought. He established the Pontifical Academy of St. Thomas Aquinas in Rome in 1879, and ushered in the official age of renewed attention to Thomistic Christian philosophy with the publication of *Aeterni Patris* in the same year.

Here we witness a move toward what Hittinger has called the “Leonine synthesis,” a synthesis that was so desperately needed to address the political and social complexities of the nineteenth century. Leo XIII inherited an unsystematic mess when it came to official Catholic thought in regard to social, moral, and political problems. He undertook the task of trying to reconcile the condemnations of *Quanta Cura* and the *Syllabus of Errors* with the affirmation of the integrity of faith and natural, human reason at the First Vatican Council. He saw in Aquinas’ method of moral reasoning a system

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36 As Schuck notes, Leo’s thought was quite prolific on social and moral issues, and he published no less than nine major encyclicals on these issues. He writes that these “include the restoration of Thomistic philosophy (*Aeterni Patris*) and discussions of socialism (*Quod apostolici munerus*), marriage (*Arcanum*), the character of political power (*Diuturnam*), the problem of freemasonry (*Humanum genus*), a Christian theory of the state (*Immortale Dei*), the nature of human freedom (*Libertas*), the moral ordering of human life (*Exeunte iam anno*), and the meaning of citizenship (*Sapientiae Christianae*)” (“Early Modern Roman Catholic Social Thought,” p. 117).

37 Leo exhibits this flexibility, historical consciousness, and openness to genuine change throughout *Aeterni Patris*. For example, he writes, “the wisdom of St. Thomas, We say; for if anything is taken up with great subtlety by the Scholastic doctors, or too carelessly stated – if there be anything that ill agrees with the discoveries of a later age, or, in a word, improbably in whatever way – it does not enter Our mind to propose that for imitation to Our age” (§31).

38 Hittinger, “Introduction to Modern Catholicism,” p. 12. Vatican I declared that “reason, does indeed when it seeks persistently, piously, and soberly, achieve by God’s gift some understanding, and that most profitable, of the mysteries, whether by analogy from what it knows naturally, or from the connection
of thought that maintained a connection between Eternal and natural law, between
metaphysical truths and principles of the Catholic faith and the application of first
principles in historical, contingent circumstances. He also began to envision an approach
to civil authority and the state that allowed for various forms of legitimate government
without the desire to return to the more rigid forms of legitimism and integrism.

Leo’s vision for Christian philosophy involved a belief that reason attains to its
most lofty and noble ends when it is infused with the knowledge of the Word of God. At
the same time, however, he was also able to maintain that philosophy and the natural and
social sciences have a distinct domain and object of inquiry in which they exercise their
own proper autonomy. On the former, he writes

For, not in vain did God set the light of reason in the human mind; and so far is
the super-added light of faith from extinguishing or lessening the power of the
intelligence that it completes it rather, and by adding to its strength renders it
capable of greater things. 39

On the one hand, while the supernatural gift of faith is congruent with human reason, it
does not obfuscate or replace it, but rather adds to it, extending its domain of knowledge
by providing truths not directly accessible to reason. Yet, on the other hand, there are
authentic realms of human knowledge which can be explored in freedom and autonomy
through the proper use of science and philosophy: “But in the case of such doctrines as
the human intelligence may perceive, it is equally just that philosophy should make use

of these mysteries with one another with the final end of humanity…Even though faith is above reason,
there can never be any real disagreement between faith and reason” (Dei Filius, ch. 4, §4-5).

39 Aeterni Patris, §2.
of its own methods, principles, and arguments.”

This recognition of the distinction and connection between the realms of faith and knowledge allowed Leo to be open to certain forms of progress in science and politics, while still being able to articulate how the Church can have important contributions to make in these domains. This fusion between the natural law and the law of the Gospel is what Hittinger refers to as Leo’s “twofold pedagogy,” which is evident throughout his encyclicals.

We can trace Leo’s consistent application of these principles in regards to his thinking about the nature of the state in his subsequent encyclicals. For example, in *Diuturnum* (June 29, 1881), he rejects the Rousseauean notion that civil power derives entirely from the freely contracted will of the people, in favor of upholding a notion of civil authority as “natural and necessary,” rather than a contingent circumstance relying upon a civil contract. Yet while upholding a thicker ontological conception of the natural and necessary elements of some form of civil authority and of the state, he is also able to carve out a nuanced position that recognizes the viability of certain modern developments in statecraft. He writes that

> Those who may be placed over the state may in certain cases be chosen by the will and decision of the multitude, without opposing or impugning the Catholic doctrine. And by this choice, in truth, the ruler is designated, but the rights of

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40 Ibid, §8.


42 Diuturnum, §5.
Notice here that Leo is upholding a more substantive and natural foundation for the state than many modern contract theories of state power advocate. In a sense, the state has an ontological status rather than a purely contractual or contingent status. Even as he is drawing upon elements of Catholic thought that have deep roots in the medieval period, we are witnessing a slight change in thinking in regards to the means through which political authority may be instituted. Although the state itself cannot come into

43 Ibid, §6. Moreover, this is not an entirely new or radical position, since similar arguments had been made by Cajetan, Bellarmine, and Suarez in the sixteenth century Salamanca School (see Yves R. Simon, Philosophy of Democratic Government (Chicago: University of Chicago Press, 1951), pp. 158-176.

44 Besides the historical and political trends that we are tracking in this chapter and that contributed to tensions between the Church and the state in the nineteenth century, there are also linguistic and philosophical issues which often lie just below these more external, political manifestations of this these tensions. While we cannot deal fully with these issues here, we can note that in the original Latin of the various encyclicals that we have been dealing with (from Pius VI to Leo XIII), the terms used to refer to the state are res publica and civitas (See Acta Sanctae Sedis). In the English translations provided by Carlen, O’Brien, and Shannon, these are both translated as “state” (in Carlen, moreover, “State” is always capitalized). Jacques Maritain notes a similar difference when he writes that “the very word State only appeared in the course of modern history; the notion of the State was implicitly involved in the ancient concept of city (polis, civitas) which meant essentially body politic” (Man and the State, Chicago: University of Chicago Press, 1951, p. 14). The difficulty here lies in the fact that in the original context for these terms, res publica and civitas did not refer to anything like the modern nation-state, in either size or extent of centralized power. (Indeed, the modern state did not even exist in the original use of these terms). The closest we can come to a comparison would be with the Roman republic, which did have a large area of political power and a centralized form of republican government. This understanding of the state/res publica endures in the West through thinkers like Cicero and Justinian. Yet when these ideas were placed into the context of medieval Latin Christendom, the civitas was a much smaller, local urban context with more local forms of government. For now, we should just note these differences of understanding and we will continue to pay attention to these semantic and conceptual differences, especially when we develop Thomas’ thought on civic virtue in chapter three and when we pick up and develop the theme of civic virtue in chapter four.

45 One should not get the false impression, however, that this was a completely new conception in Catholic thought. The Thomist thinkers of the Salamanca school in Spain in the sixteenth century had developed what came to known as “translation theory,” which argued that quasi-democratic forms of government could be reconciled within a Thomistic natural law framework if one saw the will of God in establishing political authority as “translated” through the will of the people. As we will see, this theory was picked up by Yves Simone (he called it “transmission theory”) in his Philosophy of Democratic Government (1951).
existence solely because of the will of the people, the delegation of power to particular individuals within the state may be an acceptable form of assigning the proper roles and functions of political authority. When compared with the attitudes towards liberalism and democracy in encyclicals such as Pius VI’s *Charitas* or Gregory XVI’s *Cum Primum*, we are witnessing the crack in the wall which would lead to more direct endorsement of democratic forms of government in later official Roman Catholic thought.

In *Immortale Dei* (November 1, 1885), Leo advocates for the mutual cooperation between Church and state as the most beneficial arrangement for the order of civil society, but what he does not claim for Church-state relations is equally important. He does not indicate that Church-state relations need to take the form of direct legal agreement by way of concordat or patronal privileges. This represents another important advance towards the endorsement of a theory and practice of the autonomy of Church vis-à-vis the state, and vice-versa.

The watershed moment, of course, for social Catholicism begins with the publication of *Rerum Novarum* on May 15, 1891. In this document we can witness the convergence of several streams of thought and activity from all over Europe in the nineteenth century. The concern for the working classes and the need for the Church to take a stance on the side of the workers was highly influenced by the work of Catholic labor organizers in Germany and Belgium, and especially due to the writings and advocacy of bishop Ketteler of Mainz. It was in the context of the labor movement that Catholic thinkers began to become more open to the possibility of endorsing some of the more positive roles that the state could enact in civic affairs. This was especially true as labor organizers became increasingly aware of the necessity for state intervention in the
protection of the rights of workers, as the state was often the only civic body with the power to effectively influence the owners of capital to bring about more favorable conditions for the working classes. We can see the way these practical concerns influenced Leo when he writes that

the first duty, therefore, of the rulers of the State should be to make sure that the laws and institutions, the general character and administration of the commonwealth, shall be such as to produce of themselves public well-being and private prosperity.\textsuperscript{46}

If official Catholic teaching was to remain opposed to socialist revolutionary forms of advocacy for workers, it needed to find an alternative solution to protect the rights of workers while still maintaining the principle of order and harmony within society. State protection of workers’ rights was the most effective means to achieve this aim. Yet this endorsement of a positive role for the state remains mixed with a general uneasiness towards the potential for the over-extended use and abuse of totalitarian power by the centralized, liberal nation-state; something experienced both by Catholics and labor organizers in France during the Second and Third Republics and in Germany during Bismarck’s \textit{Kulturkampf}. This emphasis on the role of the state in protecting rights led to a de-substantialization of the state in Catholic thought. As we will see later, these very subtle shifts towards personalism and rights could sometimes be, and later often were, interpreted as an endorsement of more individualist forms of social thought, a lessening

\textsuperscript{46} \textit{Rerum Novarum}, in \textit{Catholic Social Thought: The Documentary Heritage} (Edited by David J. O’Brien and Thomas A. Shannon, Maryknoll: Orbis, 2004), §26. Leo also indicates that workers should have recourse to the laws of state in the protection of their rights (§13), and that the positive role for the state is to be found in the protection it offers to the most poor and vulnerable in society (§27).
of the ontological and substantial nature of the state, and a decreased emphasis on the
deways in which the common good is primary to and essential for the securing of individual
goods. This ambiguity towards the state contributes to the ambiguity about the role of
civic virtue in all later Catholic social thought.

The principle which Leo used to dislodge and challenge the theory of the absolute
authority and sovereignty of the totalitarian state was a combination of Thomistic
personalism and the principle of subsidiarity. We can see this form of thinking evident
when he writes that “[m]an is older than the State, and he holds the right of providing for
the life of his body prior to the formation of any State.”47 The state, therefore, while a
natural and necessary element of the social nature of the human life, is grounded in the
deeper ontological nature of the human person, made in the image of God, and the
modern state fulfills its role most aptly when it serves to protect the rights of individuals
and of corporate bodies within society.48

On the one hand, these endorsement of rights, personalism, and subsidiarity
represent important developments in Catholic social thought, because they provided a
powerful and flexible intellectual framework within which to limit the totalizing power of
the modern, sovereign nation-state. It also provided a way to approach the modern state
without resorting to the tactics employed by those who advocated for a return to


48 For example, Leo writes: “Particular societies, then, although they exist within the State, and are
each a part of the State, nevertheless cannot be prohibited by the State absolutely and as such. For to enter
into a ‘society’ of this kind is a natural right of man; and the State must protect natural rights, not destroy
them” (Rerum Novarum, §38). We can also witness here the full embrace of a doctrine of natural and
inherent rights in the human person, a concept which was developed by Luigi Taparelli, S.J., among others
(see Saggio Teoretico di Dritto Naturale, Roma: Edizioni ‘La Civilta Cattolica,’ 1949).
legitimism and integrism. On the other hand, however, it also led to a lessening of the traditional Catholic understanding of the ontological, not merely contractual, pragmatic, or functional, status of the state. Hittinger writes that the “more thoughtful Catholic thinkers were not in doubt that this entailed a weakening and diffusion of political passion; but this was the price to be paid for curbing l’intégrisme of the right and the left.”

This represents another important move in our tracing of the development of Church-state relations and how this shaped the understanding of civic virtue in Catholic social thought. The move towards a Christian humanism and greater emphasis on the ontological status of other civic bodies within the state was necessary for the continued development of the tradition, yet it also had the consequence of lessening individual commitment to civic engagement, especially at the level of the state.

Towards the end of his papacy, Leo XIII issued another encyclical that would come to have significant effect on developments in regards to the Church-state relations and civic virtue. On January 18, 1901, he issued *Graves de Communi Re*, in which he explored the possibility of a Christian form of democratic government. In this letter we see that Leo was open to the possibility of a form of democratic government that would be compatible with Christianity. The false understanding of democracy that he aims to correct is one which “aims at putting all government in the hands of the masses, reducing all ranks to the same level, abolishing all distinction of classes, and finally introducing a community of goods.”

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50 *Graves de Communi Re*, §5.
of society advocated by previous popes and upheld by Leo. This is not the egalitarianism of later Catholic social thought, but Leo’s openness to considering certain forms of democracy, even of Christian democracy, opened the way for some more radical changes in the Catholic Church’s understanding of itself in relation to the liberal state that were to continue to develop in the twentieth century.

### 2.2.2 Pius X to Vatican II

From the death of Leo XIII and the election of Pius X until the publication of *Quadragesimo Anno* by Pius XI in 1931, two simultaneous trends were occurring in the Church that were often at odds with each other. On the one hand, *Rerum Novarum* had given new energy to social Catholics throughout Europe and America, leading to all sorts of new activities on the social front, including the beginning of the Semaines Sociales in France in 1904 followed by Action Francaise, and similar study weeks in Italy which led to Catholic Action groups throughout Italy. Meanwhile, one of the most well-organized elements of social Catholicism at the turn of the century, the Volksverein für das katholische Deutschland, often referred to as simply the Volksverein, organized many forms of social support for workers, including insurance against sickness, injury, and unemployment, retirement pensions, etc. This model was so effective and appealing that a Central Verein movement even began among German speaking Catholics in the United States.\(^{51}\) On the other hand, however, legitimist and integrist elements remained strong

\(^{51}\) Abell, *American Catholicism and Social Action*, p. 18.
throughout the Church, and Pius X became increasingly concerned with a new brand of philosophical and theological liberalism that he feared was being encouraged by openness to more moderate forms political and practical liberalism among Catholics. In reaction to this fear, Pius X returned to what Hittinger refers to as the “paper wars” approach.

The first major event of Pius’ papacy was what would come to be known as the Separation - the law passed by the Third Republic in France which officially separated Church and state in 1905. This ended the concordat that had existed since it was signed by Napoleon I in 1801.\(^\text{52}\) It also had the consequence of shaking up social Catholics and providing fuel for the more radical integrist elements of the Church. As early as the 1880’s forms of Christian democracy were being experimented with in France\(^\text{53}\) and Belgium,\(^\text{54}\) and German Catholics had found an ally in the Central Party, which, although it was not explicitly Christian, was a major factor in redirecting power away from Bismarck’s *Kulturkampf* suppression of labor and Catholicism.\(^\text{55}\) Despite the *non expedit* issued in 1868, which forbade Italian Catholics from participating in the electoral politics of the newly united Italian kingdom, forms of Christian democracy were becoming

\(^{52}\) Misner, *Social Catholicism*, p. 290.

\(^{53}\) Marc Sangnier had created the Sillon, a group the eschewed political ties but advocated Christian democracy as an inevitable outcome of the historical processes at work in late nineteenth and early twentieth century France (Ibid, p. 293).


\(^{55}\) Ibid, p. 175.
enticing to Italian social Catholics as well.\textsuperscript{56} In response, Pius X “came more and more to fear that this kind of modernism, the practical kind [represented by Christian democracy and Christian trade unions]” was the cause of a deeper problem of theological liberalism that threw the entire \textit{preambula fidei}, the basic philosophical foundations of the faith, into question.\textsuperscript{57}

On the practical level, Pius X ended diplomatic relations with the Third Republic in France, and modified the \textit{non expedit} in his encyclical to Italian Catholics, “Il fermo proposito” (June 11, 1905). In the letter he recommended that the bishops should encourage the faithful to vote when it was necessary to prevent a subversive candidate, that is, one who did not support the rights of the Church, from being elected. On the theoretical level, he issued \textit{Pascendi Dominicis Gregis} in 1907, in which he attacked the philosophical system of liberalism directly, calling modernism the “synthesis of all heresies.”\textsuperscript{58} In contrast to the practical and political liberalism of the more moderate forms of the modern state, such as that experienced in Belgium and the United States, philosophical and theological liberalism was more akin to what Pius X calls a practical agnosticism, materialism, and immanentism that in practice leads the way to theoretical atheism.

\textsuperscript{56} The most influential of these thinkers is Luigi Sturzo, who developed the P.P.I. (Italian Popular Party), a Christian democratic party, after WWI. We will consider his influence in greater detail below below.

\textsuperscript{57} Misner, \textit{Social Catholicism}, p. 286.

\textsuperscript{58} Pius X, \textit{Pascendi Dominicis Gregis}, § 39.
The battle between practical action and philosophical principles was soon to be brought to the forefront in the question regarding Christian participation in unions that were not explicitly Christian in nature. Pius X’s ideal was that Christian unions would serve the Catholic faithful and that they would combine their political organizing with education in the faith. As far as direct engagement in Christian democracy was concerned, Pius X did everything in his power to end these activities, by asking the Sillon to disband in 1910, which it did, and by putting an end to the Lega democratia nazionale in Italy.\textsuperscript{59} In contrast to Leo XIII’s careful application of principles in the contingencies of history, Pius X returned to attempting to reign in liberal Catholics by means of two methods: the first was the return to list making and paper wars, and the second was in taking direct legislative action against Catholic groups involved in social and political life.\textsuperscript{60}

Despite this return to a more integrist position, Pius X issued an important letter to the bishops of Germany toward the end of his papacy, \textit{Singulari Quadam} (September 24, 1912), in which he gave the bishops permission to allow the faithful to participate in unions with other, non-Catholic members. In drawing on the tradition begun with \textit{Rerum Novarum}, even Pius X knew that he could not afford to lose more of the faithful by forbidding them to engage in this much-needed work to improve the conditions and rights of labor.

\textsuperscript{59} Misner, \textit{Social Catholicism}, p. 286.

\textsuperscript{60} He accomplished this goal by disbanding both the more integrist movement, the “Opera dei Congressi,” and the more liberal movement, the “Lega Democratica Nazionale” (Ibid, pp. 241, 286).
Pius X was succeeded by Benedict XV in 1914, and much of his papacy was taken up with questions of war and peace both during and following the outbreak of the First World War (1914-1918). His leadership for the most part encouraged the re-grouping of the Catholic Church after the war, in which he saw the central task of the Church as reinvigoration of society with the ideals and virtues of the Gospel through preaching. This concern of his is expressed in *Humani Generis* (June 15, 1917) and *Maximum illud* (November 30, 1919). In the former he writes

> If on the other hand We examine the state of public and private morals, the constitutions and laws of nations, We shall find that there is a general disregard and forgetfulness of the supernatural, a gradual falling away from the strict standard of Christian virtue, and that men are slipping back more and more into the shameful practices of paganism.\(^{61}\)

While Benedict’s attempts at brokering a peace treaty during the War were largely ignored, if not resented, he was eventually able to re-establish diplomatic relations with France in 1922. Moreover, he witnessed the first full-scale communist revolution in Russia in 1917, and saw the ways in which the Church was persecuted by the new communist regime. Thus, by the end of the First World War, and after witnessing the devastating effects of the first communist revolution, Hittinger’s account of the official thought of the Roman Catholic Church as “adamantly antistatist”\(^{62}\) is not overdrawn.

Recalling, however, our earlier admonition that Catholic thought is a plurality of theories and practices ranging from official Vatican channels to the work of Catholics on

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\(^{61}\) Benedict XV, *Humani Generis*, § 2.

\(^{62}\) Hittinger, “Introduction to Modern Catholicism,” p.16.
the ground, social Catholicism and certain forms of civic virtue did continue thrive, especially in the efforts to rebuild society after World War I. This was true both in Europe and the United States. With the approval of Pope Benedict XV, Fr. Luigi Sturzo led the Italian Popular Party (P.P.I.) in the elections of 1919, ushering in a renewal of Christian democratic action on the peninsula. The principles of Sturzo’s civic thought can be found in his book, *Church and State* (1939), and his brand of popular, Christian, democratic action was basically an endorsement of the ideals of earlier liberals like Lammenais and *L’Avenir* group.⁶³

In the United States, the first official involvement by the bishops in regards to the social question came in the efforts to support the United States during the War and to rebuild society and the economy after the War. From August 11-12, 1917, a General Convention of Catholics was called at the Catholic University of America, during which they endorsed the work of the Knights of Columbus in supporting soldiers and the war effort, and they established the National Catholic War Council.⁶⁴ During the War, the council launched a national Campaign for Civic Instruction, and they commissioned John A. Lapp to write pamphlets on democracy and civics for Catholics that were eventually used in public schools in the United States.⁶⁵ In 1919, the council published the document, “Social Reconstruction: A General Review of the Problems and Survey of the Remedies,” and in the same year it became a permanent body and changed its name to

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the National Catholic Welfare Council. The document was written by John Ryan, the most influential Catholic social thinker in the United States in the early twentieth century. He earned his doctorate in economics from the Catholic University of America in 1906, and was the leading Catholic spokesman for progressive social reform, especially in regards to issues of labor, until his death in 1945. The vision of social order outlined by the letter, which came to be known as the “Bishops’ Program” was essentially put into effect (except for its endorsement of worker-ownership in corporations) by Franklin Delano Roosevelt’s New Deal in the 1930’s.

The more moderate form of religious tolerance practiced in the United States made it much easier to develop this kind of direct civic engagement than many Catholics were experiencing in the early twentieth century in Europe. As Fogarty notes, many liberal democrats in Europe came to see the Church’s reactionary stance as the enemy of progress. Unfortunately, this led to even more radically militant secular forms of liberalism. The turn to even more radical forms of totalitarian states in the twentieth century, such as communist Russia, Fascist Italy, or Nazi Germany, would be a further jolt to the Catholic Church’s fears about the powers of the modern state.

In the same year that Pius XI was elected to the papacy, in 1922, Benito Mussolini rose to power as the Prime Minister of Italy, and was later to rename himself the Duce of Fascism and Head of the Italian Government. The Italian Fascist party had been in existence since 1915, but the centralization of the state apparatus that was at the heart of its political program truly began under Mussolini. Pius XI had realized by this

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Ibid, p. 206f. This council would eventually become the United States Conference of Catholic Bishops.
time that the “paper wars” approach to modernity was not going to be effective. James Weisheipl writes that this led to an affirmation that “[l]egislation did not stimulate a return to the authentic thought and spirit of St. Thomas. Legislation rather led to the production of safe textbooks.”  The approach undertaken by the pope to the situation at the time was to encourage Catholic Action in its various forms throughout Europe, especially in Italy and France, and to sign concordats in order to protect the temporal power and autonomy of the Church. John Pollard records that

During his seventeen-year pontificate, Pius XI signed concordats with seven other states: Bavaria and Lithuania (1924), Poland (1925), Prussia (1929), Baden (1932), Austria and the German Reich (1933), and came close to an agreement with three more – Albania, Czechoslovakia and Yugoslavia.

Catholic Action in Italy had been so successful in its organizing efforts that by the time of Pius XI’s pontificate, it had established throughout the mainland of Italy “banks, mutual benefit societies, peasant cooperatives, industrial trade unions, recreation and cultural associations, not to mention a flourishing press.” Moreover, Catholic Action became increasingly important as a resistance to Fascism after Mussolini successfully disbanded Sturzo’s PPI in 1926.

A compromise was made, however, between the Vatican and Mussolini through the signing of the concordat, also known as the Lateran Treaties, in 1929. This treaty was negotiated between heads of the state in the Vatican and Mussolini in an attempt to end

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67 Quoted by Hittinger, “Two Modernities, Two Thomisms,” p. 873.


the “Roman question” which had lingered since the disbanding of the Papal states in 1870. The treaty created the Vatican City as the independent property and state of the Vatican, but it was the first concordat signed with a Fascist head of state rather than a democratic one.\textsuperscript{70}

The peace between the Vatican and Mussolini achieved during the Lateran Treaties was to be brief, however. As the centralizing aims of the Fascist party under Mussolini increased, the independent power of the Catholic Church was bound to come into conflict with a state power intent upon central control of every facet of political and social life. These tensions came to a head in 1931, in part due to publication of Pius XI’s \textit{Quadragesimo Anno}.

As the fortieth anniversary of \textit{Rerum Novarum} approached, celebrations were scheduled throughout Rome, and much anticipation could be felt on the part of the Catholic faithful of Italy and elsewhere throughout the world. When Pius XI published \textit{Quadragesimo Anno} on May 15, 1931, the Fascist press immediately claimed that the Italian state had already achieved all the goals of the social order outlined by the encyclical. In fact, they argued that they had gone far beyond the demands of \textit{Rerum Novarum} and \textit{Quadragesimo Anno}.\textsuperscript{71} There was no escaping, however, the critiques of the Fascist state that were contained within the letter. The most striking of these appears in Pius’ appropriation and development of the term ‘subsidiarity.’ The Fascist Italian state had taken over control of all labor union activity and established a single, state-run

\textsuperscript{70} Ibid, p. 5.

\textsuperscript{71} Ibid, p. 138.
trade union system. Thus, the challenge could not have gone unnoticed when Pius XI writes that

it is an injustice and at the same time a grave evil and a disturbance of right order to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies.²²

In the context of Catholic resistance to the new forms of totalitarian state power of the twentieth century, the principle of subsidiarity came to take on a central importance as an endorsement of plurality in social life and as a check on absolute state sovereignty. It was in Quadragesimo Anno as well that the phrase ‘social justice’ is introduced into the Catholic lexicon, and the first time that there is reference made to “Catholic social teaching” or “doctrine.”²³ Moreover, a continued ambivalence and struggle to define itself vis-à-vis these new forms of state power can still be witnessed in the Vatican’s

²² Pius XI, Quadragesimo Anno (Edited by O’Brien and Shannon), § 79. As an interesting historical aside, Oswald Nell-Breuning, the ghost writer of Quadragesimo Anno, notes that there was some confusion on this point at the time, as many readers took certain elements of paragraphs 91-96, the only section of the encyclical written by the pope’s hand himself, to be an endorsement of the state syndicalist system as the most favorable for the “peaceful collaboration of the classes” (§ 96). In contrast to this reading, Nell-Breuning reaffirms that the document is to be interpreted as “progressive, liberal, definitely democratic, against individualism and against statism; in short, correct” (“The Drafting of Quadragesimo Anno,” in Readings in Moral Theology, no. 5 (Mahwah, NJ: Paulist Press, 1986, p. 65).

²³ Pius XI, Quadragesimo Anno, § 20. We should also note that the phrase ‘social justice’ seems to have been introduced to avoid the ambiguity of the phrase ‘legal justice,’ since the latter could make it seem as if all one needed to do in order to fulfill the obligations of justice was to follow the positive laws of one’s nation. Obviously, this would be an unacceptable position from a natural law standpoint. This change of terminology, important as it may have been, indicates one more manner in which the idea of legal or general justice has been downplayed in modern Catholic social thought. For example, Jeremiah Newman argues that the phrase ‘social justice’ captured and conveyed essentially the same meaning as was intended in Aquinas’ use of legal or general justice (Foundations of Justice: A Historical-Critical Study in Thomism, Cork: Cork University Press, 1954), and Bernd Kettern claims that the phrase was introduced in order to reconnect the concept of legal justice with its social dimension, and to tie it more closely with the concept of the common good (“Social Justice: The Development of the Concept ‘Iustitia’ from Thomas Aquinas Through the Social Encyclicals,” in Principles of Catholic Social Teaching, Edited by David A. Boileau, Milwaukee: Marquette University Press, 1998: 85-101, p. 85).
relationship with Mussolini and Fascism. A systematic approach to Church-state relations was still desperately needed before a fully robust understanding of civic virtue could be embraced.

Shortly after these events in Italy, the second form of anti-communist nationalism that would evolve into a totalitarian state begun to take a firmer hold in Germany. In 1933, Adolf Hitler was elected chancellor of the Weimar Republic, and within one year he had transformed the Republic into the Third Reich, a single-party state of Nazi National Socialism that was equally, if not more, totalitarian as the Fascist ideal in Italy.

Continuing its policy of concordats, and perhaps overly optimistic about the claims of the Nazis to be opposed to communism, a concordat was signed between Hitler’s Third Reich and the Vatican under the Secretariat of Cardinal Pacelli, who was to be elected Pius XII in 1939. This was also the same year that Germany invaded Poland and is recognized by most scholars of history as the beginning of the Second World War.

While these concordats with totalitarian states are easy to criticize, especially from a contemporary vantage point, the popes were not acting without precedence or reason in forging them. Officials in the Vatican had experienced Europe in the nineteenth and early twentieth centuries as a constant battleground in which it had to defend its rights against either a laicist or socialist/communist state, both of which sought the end of the Church’s influence upon society in either temporal or spiritual affairs. Although things would prove to be other than they seemed, no doubt Pius XI and Pius XII saw the concordats with Mussolini and Hitler as important opportunities to maintain the Church’s existence in continental Europe. The folly of this logic is only seen with
greater clarity after the disaster of World War II, which would challenge the Roman Church to rethink its stance towards the modern state, and indeed towards civil society.

Italian Fascism ended in 1943 and with the Allied Victory of 1945, National Socialism met its end as well. Once again, the period of reconstruction following the Second World War took up the majority of the Church’s efforts, and there was little advancement made in theory or practice in regards to Church-state relations. A new world order was soon emerging, however, that would challenge the Church to rethink its position vis-à-vis certain forms of democratic government in the post-World War II world. Although Pius XII issued no major encyclicals that are included in the usual canon of Catholic social thought, some of this post-war thinking can be found in his Christmas addresses, which he broadcast over the Vatican radio each year. Already in his Christmas address of 1942, we can see a turn away from dealing directly with the Church-state problematic, and a turn toward considering the relationship of the Church with society as a whole.74 For example, one can see the principles of personalism and a focus on society rather than state when he declares that “the origin and the primary scope of social life is the conservation, development, and perfection of the human person.”75

Three other important shifts can be witnessed in these addresses of Pius XII, shifts which would come to be endorsed in a more thoroughgoing manner at the Second Vatican Council. The first of these is an endorsement of a juridical state; that is, a

74 J. Bryan Hehir calls this a movement from a Church-state paradigm to one of Church and world (“Church-State and Church-World: The Ecclesiological Implications.” Proceedings of the CTSA, vol. 41 (1986): 54-74).

75 Pius XII, “The Internal Order of States and Peoples (1942)” (in Course Packet from Todd Whitmore’s Catholic Social Teaching, spring 2007), p. 54.
political system in which the power of the state is checked by constitutional and juridical structures. The second is a turn toward drawing more directly upon the life Jesus Christ and from the Scriptures as the foundation and model for the kind of justice which the Church endorses. Third, there is a turn toward a more direct endorsement of, and calling upon of nations to pursue peace for the sake of the continued solidarity and existence of the whole human race, viewed as a unified body with a common destiny.

Thus, although no major social encyclicals were written at this time, official Roman Catholic thought was making some dramatic shifts in its attitude towards the state during and immediately following World War II. These shifts would open to the way for the possibility of re-conceptualizing civic virtue as the issue was taken up at the Second Vatican Council.

Prior to dealing with the developments of the Second Vatican Council, three important Catholic thinkers deserve mention who would come to have a great impact upon the development of Catholic social thought in the latter half of the twentieth century: Yves R. Simon, Jacques Maritain, and John Courtney Murray, S.J. Each of these thinkers was inspired in his own creative work by the natural law system of reasoning which they inherited from Leo XIII’s renewal Thomas Aquinas’ Christian

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76 Recall that the two have always worked together in Catholic social thought, as when Hittinger writes about Leo XIII using a “twofold pedagogy,” referring to natural law and the Gospel.

77 In his 1942 address Pius XII outlines five points for the proper ordering society, and the fourth of these is “the rehabilitation of the juridical order” [“The Internal Order of States and Peoples (1942),” p. 63]. The second shift can be seen in his 1952 address, in which he spends an entire section discussing “Jesus and the poor” and what this means for the duties of Christians everywhere [“The Rights of Man (1952),” p. 170ff]. Parts of this section read as if they could have been written by Liberation theologians as they began to interpret Scripture through the eyes of the poor in Latin America. And thirdly, the appeal for peace and solidarity resounds throughout Pius XII’s Christmas addresses [E.g. “Hope for the Future (1950),” p. 144].
philosophy, and each of them made important contributions to developing a distinctively Catholic and Thomistic manner of endorsing democratic forms of government. Part of the reason they were successful was because the pragmatic benefits of democracy were becoming entirely obvious, but it was also because they were able to do so without endorsing the kind of philosophical liberalism that would negate religious truth and that had so worried popes such as Pius IX and X. Moreover, by the simple fact that they endorsed a democratic form of self-ruling government, a significant window was opened for the practice of civic virtue.

Simon published his treatise, *A Philosophy of Democratic Government*, in 1951, in the same year that Maritain published *Man and the State*. These two works served to solidify the movement towards a Catholic/Christian endorsement of democracy, not just as one of many possible forms of government, but as the single best form of government available to limit the power of the state from overstepping its bounds. 78 Both men sought to establish the following principles: that democratic forms of government and self-rule are consistent with the Christian tradition 79; that plurality is an essential element of the modern world which cannot be ignored by the Church or the state 80; that vesting a certain element of power in the people and in constitutional forms of government is the best

78 In his history of Christian democracy, Michael Fogarty claims that by the end of the nineteenth century the battle in favor of Christian democracy in Western Europe had already been won, and that the subsequent history was a fine tuning of the practical and theoretical elements (*Christian Democracy in Western Europe*, p. 177f).


method of preventing either communism or totalitarian control of the state apparatus\textsuperscript{81}; that the state serves the purpose of protecting rights and serving the common good\textsuperscript{82}; and that practical democracy is distinguishable from philosophical liberalism. \textsuperscript{83}

Murray, on the other hand, was more concerned with the issue of religious freedom, and more specifically with advocating the more moderate form of religious tolerance that was practiced in the United States as opposed to the more militantly laicist liberal states of Europe after the French Revolution. To this end he argues in *We Hold These Truths* (1960) that the First Amendment of the American Constitution which forbids the state establishment of religion and upholds the religious freedom of all citizens is what he calls an “article of peace” rather than an “article of faith.” If the First Amendment is taken to be the foundation of an entire school of political philosophy that must be assented to with an act of faith, then it has become an article of faith. The faith in question here is one in which the state is the ultimate authority in which the “Churches are inevitably englobed within the state,”\textsuperscript{84} and in which the Church is subordinate to the power of the state. But he argues against this “theological interpretation”\textsuperscript{85} of the First Amendment in favor of a political and practical interpretation, in which agreement among people on the level of performance in regards to religious freedom can be sought

\textsuperscript{81} Simon, Philosophy of Democratic Government, p. 72; Maritain, Man and the State, p. 7.

\textsuperscript{82} Simon, Philosophy of Democratic Government, p. 52; Maritain, Man and the State, p. 12.

\textsuperscript{83} Simon, Philosophy of Democratic Government, p. 124; Maritain, Man and the State, p. 180f.


\textsuperscript{85} Ibid, p. 54.
without making the further claim that religious truth is arbitrary. In this sense, the First Amendment is an article of peace, establishing the peaceful co-existence of citizens embracing a plurality of ideals about the ultimate good of human life.

For Murray, this fact makes religious freedom acceptable, in fact even preferable, to Catholics. Arguing along similar lines as Simon and Maritain, he concludes that this interpretation of the First Amendment “serves sharply to set off our constitutional system from the system against which the Church waged its long-drawn-out fight in the nineteenth century, namely, Jacobism, or…sectarian Liberalism, or…totalitarian democracy.”86 For Murray, the European laicist form of religious freedom is not truly freedom, but rather an attempt to abolish the Church from society, whereas the American proposition is that religious freedom can be a practical and political principle which allows for the peaceful co-existence of a multitude of persons within a unified political body. Moreover, this political body can come to agreement on the practical norms which govern its community, precisely because there is a “heritage of an essential truth, a tradition of rational belief, that sustains the structures of the City and furnishes the substance of civil life.”87 This heritage is upheld for all of society in the Church’s tradition of the natural law. For Murray, the existence, truth, and durability of the natural law is only underscored by the consensus achieved by the American constitutional

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86 Ibid, p. 67.
87 Ibid, p. 10.
system, and this system represents the most hopeful contemporary embodiment of the natural law in the modern world.\textsuperscript{88}

Each of these three thinkers draws upon Aquinas and others to make significant contributions to Catholic political discourse that is helpful for developing our own account of civic virtue. For example, both Maritain and Murray uphold the value of civic friendship as a foundation for a just society. Maritain calls this “civic amity,”\textsuperscript{89} and he underscores the ways in which the “free approval of the people” in exercising their civic virtue is the most important check on the temptation towards sovereignty by the state or other social movements.\textsuperscript{90} Murray uses the same phrase, “civic amity,” to refer to the kind of cool and dry rational argument that should characterize the search for justice in the \textit{polis}.\textsuperscript{91}

Maritain makes an important distinction between “Nation, Body Politic, and the State” that is also helpful for situating our account of civic virtue. One of my central claims in this chapter is that a certain ambiguity about the role of the state remains in Catholic social thought and that this has led to downplaying the role of Aquinas’ conception of legal justice, from which we are developing a theory of civic virtue. Maritain, however, reminds us that the state is only one part of a whole that is much

\textsuperscript{88} For a fuller explication of Murray’s thoughts on the role of the natural law in civil society (especially in the American context), see chapter Chapter 13, “The Doctrine Lives: The Eternal Return of the Natural Law” in \textit{We Hold These Truths}, pp. 295-336.

\textsuperscript{89} Jacques Maritain, \textit{The Person and the Common Good} (Translated by John J. Fitzgerald, New York: Charles Scribner and Sons, 1947), p. 68.

\textsuperscript{90} Maritain, \textit{Man and the State}, p. 145.

\textsuperscript{91} Murray, \textit{We Hold These Truths}, p. 7.
larger, and is the location out of which the practice of civic virtue arises, than the state itself: this is what he calls the “Body Politic” or “Political Society,” and is often referred to as civil society. For Maritain, political society is the place of authentic human freedom and action; whereas the state is simply the topmost apparatus whose job it is to secure the conditions for the flourishing of the body politic. He writes that

The Body Politic or the Political Society is the whole. The State is a part – the topmost part – of this whole. Political Society, required by nature and achieved by reason, is the most perfect of temporal societies. It is a concretely and wholly human reality, tending to a concretely and wholly human good – the common good…. Justice is a primary condition for the existence of the body politic, but Friendship is its very life-giving form.92

In this scheme, the state is necessary93 but is legitimate in so far as it is supported and sustained by a free and flourishing body politic.94 This approach to the relationship between civil society and the state begins to open up the space within which our account of civic virtue can most fruitfully be developed; that is, even as civic virtue must concern itself with political authority and the state, it is rooted in a more fundamental human reality, which is the human society that is the soil from which civic virtue is cultivated.

92 Maritain, Man and the State, p. 10.

93 It seems, however, that Maritain sees it more as a necessary evil of the temporal city than a fully natural good. Maritain admits that while the state may be necessary for the attainment of justice, “I do not like it” (Man and the State, p. 20). Moreover, he seems to verge on utopianism when he begins to discuss his view about how as societies come to a greater understanding of the practice of justice, especially one that is based on his model of a “new Christendom,” that the role of the state would become less and less important, if not completely unnecessary.

94 For a very interesting account of the manner in which a vibrant civil society contributed to bringing down some of the most notorious totalitarian state systems of the twentieth century, such as the Chinese Qing dynasty and the Soviet Union, among others, see Jonathon Shell’s The Unconquerable World: Power, Nonviolence, and the Will of the People (New York: Metropolitan Books, 2003), especially chapters 6-8.
In Simon’s work the natural and necessary function of civil authority, which in modernity is best exemplified by a constitutional, democratic state, is most clearly upheld, and his approach seems to best capture the essential element Thomas Aquinas’ thought on the necessity of the state (*res publica, civitas*). He develops in a more systematic and in-depth manner the role of the will or intention to the common good that is an essential element of justice, and which requires state authority in order to achieve it. This is particularly important for our account of civic virtue, which is by definition a stable orientation of the will toward the common good of civil society. Simon argues that in small, homogenous communities where there is little or no disagreement about the means by which the common good is to be achieved, that there is very little need for authority. However, as the size of a political community grows and plurality increases among citizens, so too does disagreement about the means through which the common good can be achieved. In this situation, we are dealing with “the very intention of the common good,” and this requires the oversight and direction of political authority.\(^{95}\)

The problem of authority arises out of the fact that every person by nature pursues his or her own particular, private good. The same can be said of each group within a nation. This is both natural and good, but “the intention of the common good, materially considered, is the business of a public reason and a public will,” and this, in turn, “demands the operation of authority” which functions through the apparatus of the legal, juridical, and constitutional systems of the state.\(^{96}\) Yet the state, despite having this role

\(^{95}\) Simon, Philosophy of Democratic Government, p. 36.

\(^{96}\) Ibid, p. 48.
as the protector and promoter of the common good, cannot demand the uncritical assent of the will of its citizens. Rather, it helps to coordinate the consent and intention of the governed toward the good of all, and always remains checked by the participation and civic virtue of the people, as well as the freedom of various social institutions, such as the Church and a free press.⁹⁷ In this way, the general will towards the common good is fostered both in individuals and by the state, without the state becoming a univocal Hegelian state that imposes its will upon the people.

Finally, we must turn to consider the development of official Catholic thought in regards to the state and civic virtue during Vatican II. The Council Fathers make two important shifts in the discourse which come to have a bearing on the further development of the concept of civic virtue during and after the council. The first is the endorsement of constitutional democracy as the most favorable form of government to respect the dignity and rights of the human person. This opens the way for a further consideration of civic virtue, since constitutional democracy tends to be open to and to encourage civic engagement from its citizenry. The ambivalence in regards to democracy that characterized earlier Church teaching had led to less emphasis on this kind of civic engagement, while the endorsement of democracy extended the possibilities of application for civic virtue. The second move shifts the discourse away from the Church-state problematic, and toward an analysis of the Church’s role in society and culture rather than in the state; a similar shift that we witnessed in Maritain’s analysis of political society. This second move actually has a twofold effect on the subsequent

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development of civic virtue: on the one hand it continued to endorse Catholic engagement in seeking to build up the common good of their own societies and of the global common good, but on the other hand, it left a great deal of ambiguity in regards to the Church’s attitude toward the role of the state. This ambiguity remains with us up to this day, and contributes to the continued ambiguity in regards to civic virtue at the level of participation in the state.

Pope John XXIII had set the tone for the Second Vatican Council’s attitude toward the issues of his day with the publication of *Pacem in Terris*, his encyclical letter dated April 11, 1963. The pontiff, showing how far the Church had developed its thinking since the paper wars of Pius IX and X, now endorses the value of freedom\(^8\) and provides the first full-fledged endorsement of constitutional democracy within a major social encyclical.\(^9\) When it came to the official documents produced during Vatican II, however, attention shifted away from the issue of Church and state, and moved towards analysis of society and culture. John Courtney Murray indicates that several discussions of the relationship of the Church to the modern state were proposed during the drafting phases of *Gaudium et Spes* and *Dignitatis Humanae*. Yet none of these schemas made it into the final documents.\(^10\) By turning to focus its attention on the centrality of the human person, and in attempting to develop a solid ecclesiology upon which the Church could build its understanding of her role in the modern world, J. Bryan Hehir indicates


\[^9\] Ibid, § 52 & 68.

that it left the questions of Church and state in the nineteenth century and began to look forward to the Church’s role in the modern world.\textsuperscript{101}

\textit{Gaudium et Spes} begins by stating that “the pivotal point of our total presentation will be man himself,”\textsuperscript{102} and goes on to endorse conscience and freedom/civil liberty. The document then moves from a consideration of the human person to analysis of society and culture, and the human person’s role within them. The discussion is quite lofty and often inspiring, but also lacks much concrete focus or precision. The only concrete, practical endorsement of any kind of direct social or political engagement that is recommended by the document is in upholding the rights of labor unions to strike.\textsuperscript{103} The same kind of abstraction and lack of specific detail can be found in the discussion on “The Life of the Political Community” in Chapter 4 of Part II. The general notions of endorsing a juridical-political order which protects the basic rights of individuals, that the political community (not the state) exists in order to promote the common good, and that a positive system of law is necessary for the maintenance of justice and rights are all upheld. This does not reflect a more systematic reflection of the Church’s growing appreciation of and respect for the ancient philosophical and theological roots of the Catholic tradition that could be used to bolster a Catholic appreciation for modern forms of democracy (as, for example, Simon, Murray, and Maritain had done in their work). In fact, Murray considers this section “uninspired and inadequate,” and he bemoans the fact

\textsuperscript{101} J. Bryan Hehir, Church-State and Church-World, p. 57.
\textsuperscript{102} Gaudium et Spes, § 3.
\textsuperscript{103} Ibid, § 68.
that “there is no mention of the cardinal political principle of the consent of the governed, which is as old as Aristotle and Cicero, and which was central to the political thought of the High Middle Ages.”\textsuperscript{104} Civic virtue is endorsed in a general manner in that citizens are encouraged to develop “a generous and loyal devotion to their country,”\textsuperscript{105} but a more systematic reflection, drawing upon the rich theological and philosophical resources of the Church on political life and the state is lacking from this document.

\emph{Dignitatis Humanae} also represented an important advancement for the Church in her decision to endorse religious freedom as a fundamental human right over and against its previous admonition that political authorities are under a divine mandate to promote, endorse, and enforce religious truth in its citizens. While this document repeatedly upholds the belief that although the state was not to be considered competent to judge on issues of religious truth, that individuals as such were still under a “moral obligation to seek the truth.”\textsuperscript{106} This moral obligation is repeated throughout the document in order to combat the fear that \emph{Dignitatis Humanae} could be seen as endorsing a kind of religious and moral indifferentism. The desire to uphold the negative kind of freedom secured by religious freedom was an instrumental good designed to allow room for individuals and societies to pursue the obligations of seeking the truth.

As we noted above, these developments in the Church’s understanding of herself as an agent within the modern world at the Second Vatican Council had a twofold effect

\textsuperscript{104} Murray, “The Issue of Church and State,” p. 602.

\textsuperscript{105} Gaudium et Spes, § 75.

on the subsequent development of civic virtue. On the one hand, the growing awareness of the need to pursue a global common good grounded in peace and human rights opened the way for Catholics to participate in political and social life on a multitude of levels. Yet, simultaneous to this, the continued ambiguity regarding the role of the nation-state in pursuing this common good (on a local, national, or global level) fostered this residual ambivalence about modern statecraft that has lingered in Catholic social thought since the nineteenth century. Getting a clearer picture of what the tradition, rooted in Aquinas’ political and moral thought, has to say regarding the role of civic virtue in statecraft will be one of the primary goals of later chapters. For now we can continue to note this ambiguity towards civic virtue, and we can now turn to briefly consider how this ambiguity remains up to our current day.

2.3 Civic Virtue in Contemporary Catholic Social Thought

If my contention is correct that civic virtue remains underdeveloped throughout modernity and into the current theological and political strains of Catholic social thought, and that this is due largely to the struggles between the Church and the modern state which began in the nineteenth century, and continued up through the twentieth (and into the twenty-first), then we should be able to see a lack of development on this issue in contemporary writers as well. The aim of this final section will be to demonstrate that this remains true up unto the present day. While I want to keep our view of civic virtue wide enough to encompass the whole of range of its application, from the local to the international common good, we will focus here on three key thinkers in the American
discussion of the Catholic social tradition’s relevance for contemporary political thought. This attenuation of civic virtue and its object, the common good, can be seen in the work of David Hollenbach, Michael Novak, and George Weigel.

Of these three thinkers, Hollenbach comes closest to endorsing the vision of civic virtue and the pursuit of the common good to the manner in which I am trying to develop these notions. For example, he claims that what we need in a modern, pluralistic, liberal, democratic state is a virtue of civility, which he defines as “a personal virtue that leads citizens to seek to live together cooperatively.” Moreover, he is interested in providing a conception of the common good that challenges the thin notions of the good which are upheld in much liberal political thought. He believes, as do I, that the Christian tradition possesses deeper theological resources than are often employed in liberal thought, and that these can make significant contributions to the contemporary discourses about politics in the contemporary age. His development of the theological reasons that sustain such engagement, however, remain rather thin and underdeveloped. Following Murray, Hollenbach’s analysis of civic virtue and public engagement remains focused on the level of providing reasons for affirming the right of religious freedom, and, without developing this concept much further, makes the rather obvious claim that there are reasons internal to the Christian tradition for becoming involved in civic life. Drawing on Augustine’s *City of God,* he argues for the autonomy of the terrestrial city and the desacralization of politics, and he adds that Aquinas further develops the analogical relationship between

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the historical common good and the ultimate good of communion with God. Yet even as we agree with these basic tenets, he does not explore what deeper theological resources the Christian tradition might bring to bear on the development of civic virtue; this is something we aim to further develop in later chapters. When it comes to the actual analytic and/or prescriptive work of his text, much of the substantive work is done by social scientific data and liberal political thought. Thus, even though we agree with the basic parameters of Hollenbach’s project, the fullness of the theological depth which grounds civic virtue is sorely lacking in his discussion.

If we turn to consider the other side of the political spectrum in the American context, the neoconservative thinkers Novak and Weigel have an even more attenuated understanding of the role of civic virtue. They seem to have a deep-seated distrust of the authority of the state or of any political authority in pursuing the common good, and thus they continue to mirror the ambiguity about positive benefits of the modern state, other than the securing of negative rights, that we have witnessed in Catholic thought throughout our genealogy. In fact, if we were to accept their understanding of the manner in which the common good functions in contemporary liberal democracies, a Thomistic account of civic virtue would be completely unintelligible in their system. The key problem with trying to square neoconservative political and economic thought with Aquinas and the tradition of Catholic social thought revolves around their understanding

of what Novak calls “order unplanned,”109 and what Weigel calls “ordered liberty.”110 This problem is even more pronounced in Novak’s work, but is endemic to both thinkers.

Novak argues that people in liberal societies do not (in fact, cannot) intend the common good, but that they can only discover it in working out of their own economic self-interest. For Novak, practical intelligence yields choices which are based on an individual’s estimation of the maximization of “self-interest rightly understood,”111 and that in doing so, the common good is (miraculously) achieved as a collection of individuals choices. He writes that the liberal conception of the common good, which he believes can be squared with the Catholic understanding, is that its “essence consists in mutual cooperation apart from the common intention, aims, and purposes” of individuals or of society as a whole.112 While thinkers such as James Madison, Lord Acton, and Alexis de Tocqueville are invoked to defend this conception of the common good, the theories which really seem to be driving Novak’s work, but which are never footnoted or invoked, are Adam Smith’s invisible hand and rational choice theory. The problem is that in a Thomistic, or even broadly Catholic understanding of the common good, the belief that we can achieve the common good without directing the intention of the will towards it is absurd.


111 Picking up this concept from Tocqueville, he develops what he perceives to be the correct understanding of self-interest in chapter 2 of *Free Persons and the Common Good*, pp. 41-74.

112 Ibid, p. 83.
As we have already stated briefly, and as we will develop in more detail in the following chapters, a Thomistic account of civic virtue derives from the will to pursue justice and the common good of one’s community. The belief that the common good can be achieved without the direction of either the will of certain individuals or of some form of civil authority completely negates all of the insights of the tradition of Thomistic moral philosophy upon which Catholic social thought has been developed. As Thomas Rourke notes, the society which Novak is describing, is one “in which none intends…a particular good [and] is like a dead world.”\textsuperscript{113} The ultimate fault in Novak’s line of reasoning comes from transposing many of the assumptions operative in contemporary free market economics into the realm of political and moral thought, and in the process completely eliminating the possibility of developing a Thomistic account of civic virtue.

Weigel’s work also admits of similar faults in assuming that a version of Catholic moral and political philosophy can be developed out of an economic theory of free markets. To be fair, in his attempt to proclaim a “Catholic moment” for American Catholicism in the late 1980’s and early 1990’s, he does present a more robust conception of the moral tradition of the Church than Novak. In order to do this, he must argue that his vision of the Church’s contribution to public debates about civic virtue goes beyond the material concerns of a bourgeois Church, which is “characterized by a selfishness and radical individualism which has little or no concern for moral norms, or

for the common good.” And yet his analysis of the moral contribution to be made to contemporary culture by the Catholic Church remains focused almost exclusively at the level of sexual morality, while his approach is completely incapable of accounting for social or moral problems that arise out of the kind of alienation and exclusion that is often fostered by the forces of an unfettered free market. Nowhere is this more evident than in his recent commentary on Benedict XVI’s social encyclical, *Caritas in Veritate* (June 29, 2009). In this article he suggests that the social justice claims made by Benedict in the encyclical do not represent his true thoughts, and can be disregarded as misbegotten remarks inserted into the document by the Pontifical Council for Justice and Peace.

Benedict’s true thoughts, according to Weigel, lie in his concern for the “life issues,” while any remarks that he makes about the problems of exclusion, alienation, or disproportionate distribution of wealth in today’s market economy are a remnant of those who still hold to the Marxist ideology which dominated socially conscious Catholics in the 1970’s.  

The refusal on the part of Novak to admit of any role for the virtue of justice or civic virtue in terms of willing the common good, and Weigel’s narrowing of all political and moral analysis to issues that do not touch on the need for public authority or the state

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114 George Weigel, Catholicism and the Renewal of American Democracy, p. 16.

115 See George Weigel, “*Caritas in Veritate* in Gold and Red” (*National Review*, July 7, 2009). Not only is this an absurd claim, and insulting to the pope himself, but it also completely ignores the thoughts which the pope has proclaimed on these issues in other arenas. For example, Benedict XVI has written that "democratic socialism has proved to be a healthy counterweight to radical liberal positions…It was able to transcend confessional divisions…On many points, democratic socialism has been and remains close to Catholic social doctrine, and it has at any rate made a considerable contribution to the creation of a social consciousness" [*Values in a Time of Upheaval* (Transrated by Brian McNeil, San Francisco: Ignatius Press, 2006), p. 144].

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to exercise its authority in regulation of the market represent significant attenuations of
the theory and practice of civic virtue as developed out of the work of Thomas Aquinas
and his followers. These thinkers have been very good at pointing out the ways in which
a neoconservative economic, political, and moral account of civic life may be in
conformity with Catholic social thought on certain issues, but they seem completely
unwilling to admit that the Catholic tradition might also provide important critiques of
their neoconservative political stances. The desire to fit the Catholic social tradition into
the narrow confines of either an extreme liberal or conservative paradigm leads to a
significant denigration of the full theological account of civic virtue which we are
working to develop.

2.4 Conclusion

The aim of this chapter has been to trace the impact of the tendentious and
ambiguous relationship between the Catholic Church and the rise of the modern nation-
state following the French Revolution at the close of the eighteenth century and into
contemporary Catholic social thought. My claim has been that throughout the nineteenth
century no consistent or systematic approach to dealing with these issues as they arose in
various contexts (France, Prussia/Germany, Belgium, America, etc.) was worked out by
the official magisterial teaching of the Church, and that this led to a deep ambiguity about
the theory and practice of civic virtue. Of course, Catholics of all stripes continued to
maintain their involvement in the civil and political lives of their various communities
and nations, and so the tradition and practice of civic virtue never completely died out. If
one could pick two moments which most greatly contributed to the possibility of
developing a more systematic and consistent understanding of civic virtue in the last two
centuries and a half, they would be Leo XIII’s publication of both *Aeterni Patris* and
*Rerum Novarum*, and the official endorsements of constitutional democracy and religious
freedom at the Second Vatican Council. As we have noted, these watershed moments
established a consistent philosophical and theological paradigm, rooted in the work of
Thomas Aquinas, for dealing with moral and political issues, and they opened the way for
engagement in the pursuit of justice at all levels of civil society; from the most local
level, to the various levels of state government, up to the global common good. These
developments and shifts in the discourse of Catholic social thought have opened the way
for a deeper and richer theological development of a Thomistic account of civic virtue.

This does not mean, however, that a full account of Thomistic civic virtue has
been adequately developed, or fully appreciated in contemporary social thought. The
ambiguity regarding the role of the state has been one factor that has contributed to this
lack of attention to the general will to pursue the common good. Another factor, one that
is especially prominent in the United States, has been the ways in which Catholic social
thinkers have been influenced by the negative pull of the culture wars mentality, which
forestalls the possibility of seeing common good(s) that we hold together on a local,
national, and global level. We have also seen how these factors have continued to exert
an influence on the contemporary discourse of Catholic social ethics, and have
contributed to a continued lack of development of civic virtue as a theological resource
within the Church’s tradition.
It is my contention that developing a fuller account of Thomistic civic virtue can address some of these lacunae in the contemporary discourse. And this will be the goal of the following chapters, especially Chapters four and five. Before turning our attention directly to Thomas Aquinas himself, we will need to look closely at some of the other contemporary theories and thinkers that touch upon issues central to our account of civic virtue. These theorists will be helpful for developing our account of civic virtue by providing touch stones in the contemporary discourse with which our account of civic virtue can engage. It is to these contemporary theories of justice and natural law to which we will turn our attention in the following chapter.
Democratic societies progress by democratic means – that is, when citizens participate fully and fairly in public life, working for the common good.

- Paul Rogat Loeb

3.1 Introduction

Since a primary aim of this study of civic virtue is to support and sustain a responsible manner for Christians to engage in public discourse on political matters with others in the context of constitutional democracies, the goal of this chapter will be to consider the place of civic virtue in contemporary discussions of political philosophy and the natural law. Our purpose is to consider what elements of these contemporary discourses will be most helpful in advancing our own account of civic virtue, and which elements will need to be challenged if we are to sustain our own theological discourse on justice.

Our analysis of a broad range of thinkers in this chapter will focus on two key areas: an emphasis on the goods to be pursued in political life, with special attention to the role of the common good; and the importance of noting the ways in which a healthy
civil society and state depend upon and in turn foster the development of particular kinds of moral subjects; that is, they depend upon the instantiation of certain forms of civic virtues. By placing our account of civic virtue in dialogue with contemporary theories of justice and natural law we can begin to account for the ways in which each of these two categories will be defined and put into practice in a Thomistic understanding of civic virtue. A central argument of this thesis is that our theory of civic virtue must be both what Willam Platcher calls “unapologetically theological,”¹ while at the same time engaging in what Robin Lovin calls “unapologetic politics.”² Thus, we will put forth a theory that upholds the importance of rational discourse that also attends to the place of the emotions in deliberation, that takes account of the importance of both the good - especially the common good - and the right, and the ways in which civil society and government depend upon and foster the formation of particular kinds of moral subjects.

3.2 Civic Virtue in Contemporary Political Philosophy

It would be difficult to argue, since the publication of A Theory of Justice in 1971, that anyone has had more of an influence on the debates about justice in the Anglo-Saxon world in the last four decades than John Rawls. As Lovin argues, Rawls “changed the terms of the discussion”³ on justice, and his work has continued to have an influence


³ Ibid, p. 118.
upon the discourse of Western political thought. More to the point of our own work, however, Rawls’s work is frequently read as primarily defending a conception of right from which the foundational principles of justice can be derived in a manner that all members of society could be reasonably expected to agree with such principles, and which focuses primarily on the institutions and procedures that will sustain such principles. In this line of thought Rawls opens his *Theory of Justice* with the claim that “justice is the first virtue of social institutions.” And yet, even as Rawls focuses on the objective elements of justice (standards of fairness, institutions, laws, etc.) he also devotes a significant portion of the latter part of this same work to developing a theory of what he calls “a sense of justice,” and to considering the kinds of sentiments, dispositions, attitudes, and habits the citizens of a well-ordered society must cultivate if such a society is to be capable of sustaining itself over a long period of time. On this last point, we will consider how Rawls’s analysis of the necessity of a sense of justice might help us to consider the kind of civic virtue that modern, constitutional democracies tend to demand of their citizens.

Throughout his discussion Rawls also consistently upholds the primacy of the right over the good. Thus, even as he acknowledges that every individual will develop a rational plan of life out of a consistent vision of the good, he maintains that such a conception of the good remains personal and private, while the principles of justice are derived from no publicly agreed upon conception of the good. Indeed, he argues that such a shared conception of the good is practically impossible, and theoretically

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problematic, as it could lead to one minority group enforcing their view of the good upon others. Moreover, in maintaining the priority of the right over the good he argues that the principles of justice therefore place restrictions on what can be considered a reasonable vision of the good out of which individuals construe their daily choices, habits, and preferences. As we explore his work in more detail below, we will argue that although we agree with Rawls’s assertion that both institutions/procedures and individual sentiments and dispositions are necessary to sustain a just society, we believe that a better account of this relationship can be provided by a Thomistic theory rooted in classical virtue language that upholds the primacy of the good over the right than the contractarian model that he provides. More specifically, our account of the common good as the object of civic virtue provides a foundation for the principles of justice that is clear enough to provide normative structure to society, while remaining flexible enough to allow for a plurality of views of the good without the hegemonic enforcement of one view of the good upon the majority by a minority group.

On this last point, William Galston has made a concerted effort to make the goods and purposes of liberal democracies explicitly known and articulated so that they can be most efficiently pursued in the modern political arena. It is our contention that a more stable and descriptively accurate conception of justice than the Rawlsian contractarian view can be derived from placing these goods, and the means of achieving them, at the center of democratic deliberation. Moreover, since our account of civic virtue focuses on the object of the common good, Galston’s work provides us with a language for speaking about such goods within liberal polities that engages deeply held convictions about the nature of the common good. We will argue that while we can draw on important insights
from Rawls on the nature of justice, Galston’s theory of the goods to be pursued by the liberal state and his emphasis on “value pluralism” provide the most helpful paradigm for bringing our account of civic virtue into fruitful dialogue with the contemporary theories and practices of constitutional democracies.

Another important strand of thought within the tradition of constitutional democracy that has been in dialogue with and critical of certain elements of liberalism is what has been called classical republicanism, and which has been defended by thinkers such as Quentin Skinner, J.G.A. Pocock, and Phillip Pettit, among others. This tradition draws on some of the same political thinkers as Aquinas did, especially by placing an emphasis on Cicero’s republican thought, as well as other classical sources. While philosophers such as Skinner have done much to advance the historical research on classical republicanism, Pettit has done the most to advance this tradition by incorporating its insights into a constructive account of republicanism for the modern period. He argues for a theory of “freedom as non-dominination” as the most solid foundation for contemporary constitutional democracies. Moreover, since he has a robust account of the place of the common good and civic virtue and engagement, he is an ideal conversation partner for our discussion. His work will help us to deepen our appreciation for the manner in which classical and/or medieval conceptions of justice as a virtue

5 William Galston, Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice (Cambridge: Cambridge University Press, 2002). He explains the basic foundations of the concept of value pluralism, which he draws from the political philosopher Isaiah Berlin, on pages 3-11, and then defends the concept throughout the entire book.

6 The main lines of Pettit’s constructive account of freedom as non-dominination are taken up in Republicanism: A Theory of Freedom and Government (Oxford: Clarendon Press, 1997), which we will consider in more detail below.
continue to hold important sources of insight for contemporary political theology and philosophy.

3.2.1 Liberalism as the Context of Modern Debates on the Good(s) of Political Life

The term “liberalism” is used here in a much broader context than may at first be apparent to the contemporary reader. When the claim is made that the political philosophers with which we are engaged in this chapter are defenders of the project of liberalism, we are referring to a political conception of the value of individual freedom that goes back to at least the seventeenth century in thinkers such as Thomas Hobbes and John Locke. Our definition of liberalism upholds this primacy of individual liberty and is also roughly congruent with what Judith Shklar has labeled “fear liberalism,” which upholds that “cruelty is an absolute evil, an offense against God or humanity. It is out of that tradition that the political liberalism of fear arose and continues amid the terror of our time to have relevance.” In this scenario, “[l]iberalism has only one overriding aim: to secure the political conditions that are necessary for the exercise of personal freedom.” This is the simplest way to classify a wide array of thinkers who are considered liberal, and we will continue to point out ways in which our account of civic virtue upholds the concern to defend individual liberty, and ways in which it may also challenge this as the only or overriding aim of political morality.

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9 Ibid, p. 23.
The general category of liberalism should not be confused with what most people in the West mean today when they consider a liberal approach to politics. This latter, narrower meaning of the term refers to those who are on the left of the political spectrum of contemporary Western politics, and who advocate in general for greater state involvement in securing basic goods for the most vulnerable in society and greater state intervention in the management of the economy. These liberal ideals are contrasted with conservative political thought that tends to advocate for more free-market ideals and a smaller role for government aid to vulnerable members of society. In our use of the term liberalism, both contemporary liberals and conservatives draw upon liberalism as a philosophy that undergirds modern constitutional democracies, in that they uphold individual freedom as a basic good to be preserved by the state, they tend to value pluralism, and they advocate for the separation of Church and state. The paradox here is that those on the farthest right of the contemporary political spectrum, like libertarians such as Robert Nozick,\(^\text{10}\) are actually the most stringent of liberal thinkers, in the broader sense of the term as it is used here. That is, thinkers such as Nozick defend the highest level of personal freedom and the lowest level of state involvement in securing the goods of political life. The difference between liberals and conservatives, in this narrower sense, is focused more on specific policy ideals and the extent of the power which the state should wield over individual and collective choices, rather than an argument over the centrality of freedom or the nature of the modern state as such. Unless otherwise noted, the terms ‘liberal’ or ‘liberalism’ as they are used throughout this chapter refer to

\(^{10}\) See Nozick’s *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
the broader, historical tradition of liberal political thought which upholds the political centrality of personal freedom.

### 3.2.2 Rawls and Galston on the Goods of Liberalism

Both Rawls and Galston have provided important theoretical reflection on the nature of liberal political life in the late-twentieth and into the twenty-first centuries, and both have an account of the necessary kinds of virtues, dispositions, attitudes, and sentiments that tend to sustain and foster a vibrant civil society. Moreover, the distinctive manner in which each of them discusses the role of basic human goods in political and moral deliberation provide useful points of comparison for us to make our own argument for a Thomistic account of civic virtue that takes a generally agreed upon conception of the common good seriously as the foundation for political life.

In *A Theory of Justice* Rawls sets out to derive two fundamental principles of justice that function as a heuristic device to guide the institutions, laws, and practices of a just society. To do so, he sets up a hypothetical situation in which mutually disinterested individuals are placed in what he calls the “original position,” which is located behind a “veil of ignorance.” In this non-historical, but rather purely hypothetical context, each individual has no information about what his or her social location will be, but must come to an agreement with other potential members of this society in regards to how the basic principles of justice or fairness should be organized. Since these actors behind the veil of ignorance do not know what their position will be in society it is assumed that, if they are rational, they would choose a situation in which equality of opportunity would be available to all, and in which “they must protect their liberties, widen opportunities, and
enlarge their means for promoting their aims whatever these are.” Thus, these individuals are to arrive at what he calls a “reflective equilibrium,” in which they agree on the basic principles of justice, prior to having any knowledge about what their aims or goals might be once they are placed into an actual, historical society.12

Since individuals do not know what goods they are to pursue, and they are to be free to pursue whatever goods they may choose, Rawls defends his theory as upholding the priority of the right over the good.13 That is, the principles of justice cannot be derived from a theory of the good life for human persons since there is not only an endless plurality of definitions of the ultimate human good to choose from, but also the choice of such a good for Rawls is ultimately an individual and/or arbitrary choice. Rather, the principles of justice must be grounded in what is right or fair for all members of society, regardless of the goods or ends which they choose to pursue.

In this hypothetical context, Rawls proposes that two basic principles of justice would be chosen by rational agents working together towards a reflective equilibrium within the original position. These are as follows:

First: each person is to have an equal right to the most extensive basic liberties compatible with a similar liberty for others.
Second: social and economic inequalities are to be arranged so that they are both

11 Ibid, p.143.
12 This does not suggest that this kind of deliberation has ever actually taken place, but rather that it provides a heuristic and epistemological function by providing a non-metaphysical, theoretical foundation for the validity and reasonableness of the principles of justice which follow. In Political Liberalism he refers to the original position as “a device of representation” (p. 24).
13 Rawls, Theory of Justice, p.31.
(a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.14

The first principle ensures the basic protection of individual rights such as political liberty, liberty of conscience, personal freedom, private property, freedom from arbitrary arrest and seizure under terms defined by law, etc.15 The second principle helps to ensure the democratic principle of fairness and equality of opportunity. The first part of the second principle (2a) is what Rawls also calls the “difference principle,” which states that “the higher expectations of those better situated are just if and only if they work as part of a scheme which improves the expectations of the least advantaged members of society.”16 The difference principle indicates that despite the inequalities in wealth, privilege, and power that tend to accrue over time, his theory of justice is designed to create the conditions under which these inequalities would actually be to the benefit not only of the privileged but also of the least advantaged members of society.

The two principles of justice, and especially the difference principle, offer a heuristic principle for judging the justice of certain institutional arrangements, even as it provides a set of parameters within which the procedural elements of justice must function. Thus, Theory is sometimes interpreted as if it focuses exclusively on the procedural elements of justice, and support for this is found in the fact that the actors in the original position are described as acting out of mutual disinterest and in accord with

14 Ibid, p. 60.
15 Ibid, p. 61.
16 Ibid, p. 75.
strict conceptions of what is considered reasonable. Rawls’ theory of justice would provide the grounds for fairness in a modern democracy if “there is an independent standard for deciding which [distributive] outcome is just and a procedure guaranteed to lead to it.”17 This does not indicate, however, that Rawls adheres to a strictly procedural conception of justice such as one might find in nineteenth century legal positivism, but only that the two principles of justice are a heuristic device that provide some of the motivating force behind the structures, laws, and institutions that uphold fairness and equality of opportunity in the modern state.

While Rawls is frequently criticized for upholding a more formal or abstract form of justice that does not take seriously the embodied, historical existence within which actual citizens must make choices,18 he is not unaware of the need to account for the ways in which moral agents live and act within just societies in concrete, historical circumstances. He provides such an account in two different places in his work: the first is in part three of Theory where he outlines his account of the good and of the sense of justice required of citizens in a well-ordered society; and the second is in Political Liberalism (1993) where he pays closer attention to the manner in which individuals tend to draw upon what he calls “comprehensive philosophical and moral doctrines”19 of the good in their own political deliberations. We will consider each of these approaches in

17 Ibid, p. 85.

18 Much of Michael Sandel’s critique of Rawls’ theory of justice focuses on these concerns in Liberalism and the Limits of Justice (Cambridge: Cambridge University Press, 1982).

19 Rawls, Political Liberalism, p. xv.
turn, as they demonstrate Rawls’s insights into the nature of the kind of moral agents that
are necessary to sustain a well-ordered society.

While the foundational elements of deriving the two principles of justice are
grounded in the hypothetical original position, Rawls also notes that in order to provide a
complete theory of justice as fairness he must take account of the kind of sentiments and
dispositions that are required of citizens in order to maintain a well-ordered society over
time. In providing such an account, he proposes three phases of moral development that
a person would normally move through in coming to accept the principles of justice. The
first is what he calls the morality of authority, in which children come to reciprocate the
love they receive from their family by obeying their commands. The second phase is
called the morality of association, in which the person accepts “the moral standards
appropriate to the individual’s role in the various associations to which he belongs,” and
in which the basic “cooperative virtues” are inculcated. In the third and final phase, the
individual comes to accept and to act out of the basic principles of justice as if they were
the guiding principles of their own individual, moral conduct. He describes this process,
culminating in a sense of justice, in the following manner:

once the attitudes of love and trust, and of friendly feelings and mutual
confidence, have been generated in accordance with the two preceding
psychological laws, then the recognition that we and those for whom we care are

20 While he does sometimes use the language of the virtues (Theory, p. 437), he prefers to use the
more Humean language of sentiments, which he defines as “permanent ordered families of governing
dispositions, such as the sense of justice and love of mankind (§ 30), and for lasting attachments to
particular individuals or associations that have a central place in a person’s life” (Ibid, p. 479).

21 Ibid, p. 472.
the beneficiaries of an established and enduring just institution tends to engender in us the corresponding sense of justice.\textsuperscript{22}

It seems, then, that on closer inspection, Rawls has a significant account of the sense of justice that is necessary to be ingrained in individual consciousness in order to sustain a just, well-ordered society.\textsuperscript{23} On this account, Rawls can be a helpful interlocutor for developing our approach to civic virtue, especially since we will also want to account for the manner in which individuals who possess civic virtue have both an attachment to other individuals and institutions in their community and a personal, intellectual, and emotional grasp of the principles of justice out which they base their actions in civic life and direct them toward the common good. In fact, as we will see most fully in Chapter five, it is precisely these principles that form a part of what makes up our sense of the common good as the ideals and values that constitute our society’s ongoing manner of life.

Once we accept that Rawls does indeed have a rich and helpful account of the sense of justice the question for us then becomes whether or not we would want to embrace his contractarian account of justice as fairness as the most viable foundation for our account of civic virtue. One way of approaching this question is to consider what to make of a tension that emerges between Rawls’s account of the development of a sense of justice and some of the assumptions that he makes at the beginning of \textit{Theory}. For

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{22} Ibid, pp. 473-4.
\item \textsuperscript{23} Indeed, he writes that “a correct theory of politics in a just institutional regime presupposes a theory of justice which explains how moral sentiments influence the conduct of public affairs” (Ibid, p. 493).
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\end{footnotesize}
example, the agents in the original position are said to be acting from a thin account of the good, and as mutually disinterested agents. As Susan Moller Okin points out, however, Rawls’s sense of justice “recognizes the importance of feelings,” is more dependent upon a realization of mutuality, reciprocity, and concern for the perspective of others, and is in tension with the earlier language of rational choice that undergirds the process of deriving the two principles of justice.  

Thus, there seems to be a tension between parts one and three of Rawls’s Theory. What we want to claim is that this tension arises out of Rawls’s insistence upon the priority of the right over the good, and that it need not be a tension if the priority of the right over the good were reversed; and, more specifically, that bringing in an appreciation of the common good as the purpose toward which the principles of justice are directed would help to decrease this tension in Rawls’ work.

Throughout Theory Rawls does not contend that his theory of justice as fairness is the only or the best theory that could conceivably be identified, but he insists that it provides a better account of our striving for justice than that provided by his primary interlocutor: that is, by utilitarian theory. Thus, Rawls repeatedly makes appeals to the superiority of the contract theory which upholds the priority of the right in comparison with utilitarian theory which derives its sense of justice from a theory of the good that is grounded in seeking pleasure and avoiding pain. Rawls therefore identifies the


25 This contrast is made throughout Theory, but a very clear comparison is made between these two approaches to justice when he writes that “the contrast between a teleological theory and the contract doctrine may be expressed in the following intuitive way: the former defines the good locally, for example,
superiority of his Kantian contract theory over against the relative weaknesses of the utilitarian theory, and on this point we agree with Rawls. The problem, however, is that Rawls never seriously entertains the possibility of other “teleological” approaches that derive a theory of justice from a conception of the good such as that provided by classical or medieval thinkers such as Aristotle, Cicero, or Aquinas. It is our contention that there are other ways of construing the relationship between the good, specifically the common good, and the right than are presented in Rawls’ work, and that when we engage in such a comparison, the primacy of the good over the right can account for the subjective requirements of justice in a manner that avoids the tension that we see in Rawls’s work between the more affective, inter-subjective description of the sense of justice and the more abstract, rational, and mutually disinterested description of the agents in the original position. In pre-modern theories of the good and of virtue (which to our knowledge Rawls never directly engages), we need not assume that those who reasonably arrive at principles of justice for a well-ordered society must begin from such an ahistorical position of mutual self-interest.

Before moving on from Rawls, however, we must first turn to consider the rather different manner in which he construes the role of the good in his later work, especially in Political Liberalism. The most important development between Theory and Political
Liberalism is the distinction he makes between “comprehensive philosophical and moral doctrines and conceptions limited to the domain of the political.” In *Theory*, Rawls had articulated a distinction between what he calls “thick” and “thin” conceptions of the good. Rawls came to believe that the theory of justice put forth in *Theory* was a comprehensive philosophical doctrine of the right that, although it propounded to be a thin theory of the good, it actually upheld a thick theory of the good. As a thick, comprehensive philosophical doctrine, it excluded other views of the good from the conversation, and thus did not leave space for individuals to choose their own comprehensive theory of the good.

In rethinking his theory, however, Rawls made several modifications to his account that are important for our appreciation of the way in which a conception of the common good as the foundation of acts of civic virtue might be developed in constitutional democracies, and for further clarifying our analysis of the difficult nature of the relationship between the good and the right in developing a theory of civic virtue. In *Political Liberalism* Rawls develops the “political conception of the human person,” which recognizes that for individuals to act according to a rational plan of life, they need to adhere to full, thick conceptions of the good in their daily choices and actions. Thus, he could account for the undeniable reality that every individual leads his or her life based on some comprehensive view of the good. He proposes that a political conception of the human person, on the other hand, could be developed that would account for the

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27 Ibid, p. xvii.
ways in which individuals place outlying limits on their conception of the good in order to engage in political deliberation in a context of plurality. Within the parameters of right set by his theory of justice as fairness, individuals could conceivably agree upon these basic parameters while still being free to pursue their own conception of the good within the bounds set by the principles.

For the purposes of Political Liberalism he defines the political conception of the human person primarily in terms of his or her role as a citizen, and as possessing two basic powers: moral powers and the powers of reason. The moral powers include “a capacity for a sense of justice and for a conception of the good,” and the powers of reason include “judgment, thought, and inference.” Rawls also assumes, however, that every person within society will adhere to a certain comprehensive moral, philosophical, or religious doctrine, which defines the good that he or she chooses to pursue and which is drawn upon to make political and moral decisions. It is precisely these comprehensive commitments that lead individuals to adopt a “rational plan of life” which they use to order and rank the various values and goods that guide moral decision-making.

Rawls’s position in Political Liberalism thus implies a distinction between the private individual who acts consistently out of a comprehensive theory of the good and the public individual, the “political” person, who limits his or her conception of the good based on the requirements of the principles of justice. Thus, he allows that individuals

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28 Rawls, Political Liberalism, pp. 19.

29 He writes that citizens are “regarded as having at any given time a determinate conception of the good, that is, a conception specified by certain definite final ends, attachments, and loyalties to particular persons and institutions, and interpreted in the light of some comprehensive religious, philosophical, or moral doctrine” (Ibid, p. 74).
can, and often do, formulate their political viewpoints by drawing upon their own comprehensive theory of the good, and he agrees that they can draw from such doctrines in order to raise issues of justice for consideration within the public discourse as long as they are *eventually* willing to defend these ideas using the principles of “public reason”\(^{30}\) which are *in theory* accessible to all. This is what he describes as “*the proviso.*”\(^{31}\)

It is particularly interesting that Rawls affirms the Catholic conception of the common good as falling within the parameters of what he considers an acceptable concept, derived from a particular comprehensive religious doctrine, for public deliberation in a pluralistic context. He writes that

> Political liberalism, then, does not try to fix public reason once and for all in the form of one favored political conception of justice…[it] also admits Habermas’s discourse conception of legitimacy (sometimes said to be radically democratic rather than liberal), as well as Catholic views of the common good and solidarity *when they are expressed in terms of political values.*\(^{32}\)

As we continue to develop our account of the common good and civic virtue, we will argue that the principles of right or justice find their true ground and meaning when they are related to, and derived from, a rational and critical grasp of the nature of the common good as instantiated in the values and ideals that sustain a community’s ongoing way of life. Unfortunately, Rawls’ priority of the right over the good cannot admit of such a

\(^{30}\) Ibid, LectureVI.


\(^{32}\) Ibid., p. 142, italics added.
manner of construing the common good, and hence cannot be a foundation for the account of civic virtue that we are developing.

We can note that these later changes which Rawls makes to his account makes his approach to justice much more compatible with our account of civic virtue, which upholds a view of the common good that is informed by religious and theological commitments. The question remains, however, as to whether or not there is a manner of construing the relationship between the good and the right that is less problematic than the Rawlsian contractarian account, even as we may note the merits of such an account. For example, Bryan Garsten indicates that the attempt to make individuals argue for their political beliefs on the grounds of a public, universally acceptable mode of discourse, such as in Rawls’ public reason, can lead to what he calls “liberal alienation.” In describing this alienation he writes that

[a]s a number of commentators have noticed, frustration, disaffection and a move toward fanaticism are common responses to liberal efforts to disengage from substantive conflicts over seemingly intractable matters, especially those involving moral or religious issues.33

On this point, Garsten’s observations help us to see is that the attempt to limit the public discussion on the issue of basic goods to the narrow conception of the good that can in theory be agreed upon by all reasonable members of society has actually led some who hold other viewpoints to feel pushed out of the discourse of public reason, precisely

33 Bryan Garsten, Saving Persuasion: A Defense of Rhetoric and Judgment (Cambridge: Harvard University Press, 2006), p. 184. Garsten’s account of rhetorical deliberation will be taken up again in our final chapter as we consider the process of working out the middle axioms of the natural law by drawing upon an Aristotelian-Thomistic account of prudence.
because under the conditions of _the proviso_ they perceive that their own viewpoints of the good are ruled out by the constraints of public reason.

We contend that the two problems or tensions that we have flagged in Rawls’s contractarian theory - i.e., the tensions between parts one and three of _Theory_, and the problems that arise in imposing a theoretically universal conception of public reason - can be better addressed by an account that upholds the primacy of the good over the right, provides an account of the common good, and which provides greater space for individuals to publicly frame issues of justice within the language provided by their own comprehensive doctrines. We will eventually show how it is that these two tensions do not even arise in our account of civic virtue in which the right is derived from a conception of the good, but for now we simply note that these are problems which arise out of Rawls’s manner of construing the relationship between the right and the good.

William Galston’s work proves to be especially helpful on the issue of the possibility of upholding the priority of the good over the right while still operating in a liberal paradigm and recognizing the need for certain virtues and dispositions in order to sustain a just society. For example, William Galston notes that in his experience of working during the Clinton administration to find consensus among special-interest groups on matters of domestic policy, these groups did not set aside their desired goods in order to uphold the priority of the right. Rather, each group argued for what it saw as the good(s) that it wanted to promote. Despite the existence of plural conceptions of the
good, Galston contends that this did not lead to “deliberative anarchy,” but rather that “[t]here can be right answers, widely recognized as such, even in the absence of general rules for ordering or aggregating diverse goods.” Even though he does not use the phrase, Galston seems to be hinting that something like a conception of a common good can emerge even without shared agreement on a comprehensive doctrine of the good among those who deliberate in democratic societies.

To show how this is so, Galston provides an account of the goods, values, and purposes of liberal theory that is in fact a comprehensive doctrine, but one which is still capable of being applied amidst the contemporary reality of pluralism. In doing so, he is beginning to outline what we would call a critical conception of the common good. In Stephen Macedo’s words, Galston’s theory of the goods of liberalism is properly “limited but pervasive.” If we take Galston’s approach to value pluralism and his insistence that we start from the standpoint of the good it becomes considerably easier to engage in a discussion of the goods that constitute the common good within pluralistic societies from within our own account of civic virtue.

Another advantage to Galston’s account of liberal goods is that his emphasis on goods allows for a thicker description of the kinds of virtues that are necessary to sustain modern democracies, and thus he helps us to see the kinds of moral subjects that are

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34 This is precisely the fear expressed by Alasdair MacIntyre that a lack of consensus about the good or about justice in society will lead politics into being “war carried on by other means” (After Virtue, Notre Dame: University of Notre Dame Press, 1981, p. 253).


fostered within liberal polities. His emphasis on the development of the human person as a necessary correlate to the liberal commitment to equality of opportunity means that there is significantly more room for “self-discipline and sacrifice” than is typically recognized by liberal political thinkers.\textsuperscript{37} Galston insists that these virtues will not entail the same level of perfectionism or sacrifice required of civic republicanism or of Christianity, but that nevertheless they do place demands upon citizens, such that some visions of the good will be ruled out and the pursuit of such goods will be legitimately curtailed through the coercive power of the state or through more subtle pressures exerted by the power of the “social imaginary”\textsuperscript{38} held by the majority of citizens. The securing of justice in society means that certain instantiations of the good will need to be curtailed through the force of law or other forms of social pressure, even while allowing for the widest range of expression and freedom possible. This further underscores our contention that our Thomistic conception of civic virtue can account for the need to develop a certain basic level of virtue in citizens, while also leaving room for the development of more perfectionistic doctrines of virtue such as are found in the Christian tradition or others.\textsuperscript{39} It can also help us to account for the manner in which as we uphold

\textsuperscript{37} Ibid, p. 220.

\textsuperscript{38} We are deriving this concept of the social imaginary from Charles Taylor’s work where he writes that the social imaginary refers to “the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations which are normally met, and the deeper normative notions and images which underlie these expectations” (\textit{Modern Social Imaginaries}, Durham: Duke University Press, 2004), p. 23. Taylor’s social imaginary is another manner of describing the common good as a set of ideals and values that are embodied in a society’s way of life.

\textsuperscript{39} On this point, the distinction between the acquired and infused forms of the virtues in general, and of civic virtue in particular, will become particularly salient. For example, our account upholds a basic level of civic virtue that is expected of all active members of a civil society (an acquired form), while also
the primacy of the good over the right, there is room for both individual autonomy and freedom of expression and also the necessary, coercive use of law in holding citizens accountable to minimum standards set by the principles of justice.

To introduce the language of the virtues, which in contemporary philosophy is most often cast in Aristotelian language, is to court a certain amount of criticism from liberal thinkers. There is a general tendency to read Aristotle as advocating for civil life as the privileged locus for the exercise of the excellence (i.e. virtue) of the good person, and thus to value a certain kind of perfecting of the human person as the responsibility of the state. The liberal fear, exemplified in Shklar’s fear liberalism, is that this desire to foster perfection will lead to totalitarianism, tyranny, and arbitrary use of power by public officials. For example, Charles Larmore claims that since Aristotle “embraced the much stronger claim that political life is the domain in which the moral virtues are best exercised,” then the state’s role is to at best foster, and at worst enforce, the good life for its citizens as it sees fit. His reasons for this rest on his interpretation of the Politics where Aristotle asks “whether the excellence of a good man and a good citizen is the same or not.” Larmore interprets Aristotle as advocating for a positive answer to the question, while Galston argues that “[i]t turns out that they are nearly always different.”

It seems clear that Galston’s reading is a closer interpretation of Aristotle, for Aristotle

upholding the belief that the fullness of virtue is found within the infused form that directs all acts toward God as the ultimate end of human life. The ramifications of this distinction will be more fully explored in Chapters four and five.


41 Aristotle, Politics, III.4. 1276b17-18.

42 Galston, Liberal Purposes, p. 218.
himself writes that “it is evident that the good citizen need not of necessity possess the excellence which makes a good man.”

While this could be dismissed as simply an exegetical dispute, the implications for the way in which virtue language can or cannot function within liberal political thought are quite significant. For this point opens up the possibility that there may be certain political virtues that are required of all citizens, but that these virtues do not represent the pinnacle of human excellence such as would be pursued or demanded in a more extensive religious or philosophical doctrine than liberalism purports to be. In other words, there is room for talk of liberal virtues that represent a sort of minimum requirement for those living in civil society in such a way that there also remains a conceptual space for a fuller vision of virtue and human perfection to function alongside of the minimum virtue required of members of a community or society. Moreover, our own account of civic virtue, although it implies the existence of a functioning civil authority or state, does not demand that this authority is solely responsible for enforcing civic virtue upon the citizens, although it will certainly be one facet of a complex set of social situations that instantiate civic virtue. Our account of civic virtue recognizes that the human power and creativity of civic engagement resides not in the state apparatus, but in the wills of individuals and the ethos that forms part of the conception of the common good that sustains and motivates civil society as a whole and individual acts of civic virtue.

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43 Aristotle, Politics, III.4. 1276b34-35.
Liberalism then, for Galston, represents a vision of political life in common with other free and equal citizens who are called to take responsibility for their own lives in a way that is not necessarily as inherently individualistic as many communitarian critics charge it with being.\textsuperscript{44} Once again, Galston’s theory seems to hint at something like the common good, even though he never draws upon the term. For Galston, the tension between self-restraint and liberty, or between “virtue and self-interest is a tension within liberalism, not between liberalism and other traditions.”\textsuperscript{45} As we noted in the previous chapter there is good reason to critique an account of civic virtue founded on self-interest alone from within the tradition of Catholic moral theology, and the liberal virtues articulated by Galston or the sense of justice articulated by Rawls function in a similar way to restrain the tendency towards \textit{pleonexia} - that is, the vice of desiring more than one is due, which Aristotle takes to be the vice most opposed to justice - within modern notions of freedom. On this point, it is perhaps ironic to note that thinkers such as Galston, Raz, and Rawls - despite being heavily criticized by many on the religious right - actually uphold a stronger concern for the well-being of others and an appreciation for

\textsuperscript{44} Raz has also made a concerted effort to show that liberal values are not individualistic in the sense that they are often criticized for being. This is a theme running throughout \textit{The Morality of Freedom}, where he writes that “[i]f there is one general thread to the argument of this book it is its critique of individualism and its endeavour to argue for a liberal morality on non-individualistic grounds” (p. 18). Some of the specific details of this argument become most clear when he expresses the manner in which personal autonomy and rights require a deeper appreciation of the values, virtues, and goals that are only expressed as “collective goods” (cf. p. 199) which transcend the individualism that is often thought to be the bedrock of liberal political thought. Moreover, as we noted above, Rawls’s account of the sense of justice indicates that there is more room for talk of mutual interest and concern for the other in his own liberal theory than he is often credited with recognizing.

\textsuperscript{45} Galston, \textit{Liberal Purposes}, p. 217.
the communal and reciprocal nature of justice than do the neo-liberal Christian thinkers such as Novak and Weigel that we considered in the previous chapter.

By engaging two prominent liberal political theorists, John Rawls and William Galston, we have seen that liberal thought is not as individualistic or atomistic as many critics of liberalism charge it with being, though it does have a strong resistance to drawing upon a critical conception of the common good. Rawls’s sense of justice is a necessary element of his theory of justice as fairness that is often overlooked, and it demonstrates the need for citizens to develop certain virtues, attitudes, dispositions, or sentiments in order to sustain a well-ordered society. We have also noted that despite the merits of Rawls’s account of justice, we believe that at least two problems that emerge from his theory can be avoided by an account that upholds the primacy of the good over the right, and which articulates a conception of the common good. Moreover, we noted that Galston’s account of liberal goods and virtues, and Raz’s construal of collective goods, demonstrates that there are other ways of construing the relationship between the good and the right in liberal thought than the one provided by Rawls’ contractarian theory. As we engage later in a constructive account of how a Thomistic theory of civic virtue might function within modern constitutional democracies, we will continue to place our account in dialogue with these kinds of liberal thinkers in order to show that our account can make important contributions to the Church’s theological discourse on justice and to contemporary political philosophy.
3.2.3 Alternative Conceptions of Virtue and the Good in Classical Republicanism

As we noted above, Philip Pettit has done more than any other thinker in the tradition of classical republicanism to take the historical insights of the tradition and apply it to a modern, constructive account of republican political thought. He notes that many of the essential commitments of this tradition have functioned to create and sustain the institutions and practices that have been forged to uphold modern, liberal politics, but that these influences have often been overlooked, or intentionally downplayed, by liberal political thinkers. Thus, he is interested in furthering the aims and goals of liberal freedom, but wants to do so by drawing our attention to the implications of some of the forgotten elements in liberalism that were formed by traditions of political thought with more ancient roots. Classical republicanism, as Pettit describes it, fits within our broad definition of liberalism outlined at the beginning of this chapter, but is also critical of some of the directions that more contemporary liberal thought has developed, especially those that place a sole emphasis on negative rights. And, most importantly for our purposes, his account has a much more robust appreciation of the common good and the manner in which a certain conception of virtue is necessary to sustain political freedom.

Pettit’s republicanism shares with liberalism an overriding concern with the centrality of individual freedom as the defining characteristic of modern political institutions in the West. However, he adds an important clause to our understanding of freedom by basing his theory of government on the conception of “freedom as non-
Domination is defined as “having your choices blocked or inhibited by others” in an arbitrary manner, and it is significant for Pettit that one can be considered to possess freedom in a negative sense, while still not being free of arbitrary forms of coercion from others. That is, one could be formally free in the sense of not being coerced directly by the force of law into a particular set of choices, but still be constrained by those with other forms of power. For example, a person may be free under the law to apply for a permit to build a home for his family, but if he is forced to pander to the whims of a locally elected city official - say through a bribe or by needing to please him by returning a favor - then although he is formally free, he is not free of arbitrary interference by the prince or city official. Pettit stresses that even if the terms of a relationship are consensual or contractual, arbitrary forms of coercive power can still be present. The recent debates over predatory lending in the mortgage and credit card industry are particularly poignant examples of such forms of arbitrary power despite the presence of a consensual, contractual agreement between borrower and lender.

To make his case for the superiority of a republican theory of freedom as non-domination, Pettit claims that what is needed is another way of conceptualizing freedom that pre-dates the two options laid out by Isaiah Berlin in his widely influential thesis, “Two Concepts of Liberty” (1958). Berlin’s two concepts are what he calls negative and positive freedom. The negative conception is, in a basic sense, “the area within which a


man can do what he wants,” whereas positive liberty derives from the capacity to be the master of one’s actions and destiny. Ultimately, Berlin claims that basing a political philosophy of government on a positive notion of freedom is likely to lead to tyranny, as particular notions of perfectionistic self-development become enforced by the external apparatus of the state. We have already seen how this fear of an enforced vision of the good by the state is an abiding concern of liberal theorists. In his well-known analysis of rights, Wesley Hohfeld calls this negative sphere of freedom either a “privilege” or an “immunity,” as opposed to the kinds of “claim rights” that would place more responsibility on others to fulfill an obligation towards one with such a right. Thus, Berlin and most liberal political theorists argue that the best way to prevent abuses of power by the state is to focus exclusively on securing a space for the negative freedom of individuals.

There are two consequence of adopting this negative sense of freedom that are in tension with our account of civic virtue. One is that it fosters an attitude that tends to see the use of classical language in regards to virtue as a threat to individual freedom; the


49 Ibid, pp. 16-19.

50 Wesley Hohfeld, Fundamental Legal Concepts as Applied in Judicial Reasoning: And Other Legal Essays (Edited by Walter Wheeler Cook, New Haven: Yale University Press, 1923), pp. 36-38, 60-63. As Hohfeld notes, the term immunity “is far more likely to be used in the sense of physical or personal freedom (i.e. absence of physical restraint), as distinguished from a legal relation” as indicated by the technical sense of a claim right (p. 49). Elsewhere he states the relationship between positive, claim rights and negative immunities and privileges in the following manner: “A Right is one’s affirmative claim against another, and a privilege is one’s right or freedom from the claim of another. Similarly, a power is one’s affirmative control over a given legal relation as against another; whereas an immunity is one’s freedom from the legal power or ‘control’ of another as regards some legal relation” (p. 60).
other is that it tends overlook the space of civil society as the true locus of civic virtue and creativity by pitting individual freedom against state enforcement. The former suggests why we have seen an allergic reaction on the part of many liberal thinkers to virtue language that is too strongly perfectionistic or elitist. Democracy affirms the equal freedom and capacity of each and every citizen and virtue language too often smacks of elitist perfectionism. Pettit is also concerned with the “tyranny of the democratic elite,” but what is most interesting for our purposes is that he has a way of defending some more classical notions of freedom and virtue that also recognize the inherent goodness of individual autonomy in contemporary political life. In other words, his theory upholds the importance of civic virtue in such a way that it is applicable in the conditions of modern states; it upholds a strong role for a republican form of civic virtue without enforcing a monolithic view of the good upon society. His theory of freedom as non-domination is compatible with the liberal notion that the state cannot and should not enforce an unlimited comprehensive view of the good on its citizenry, but it is also dependent upon robust conceptions of civic engagement and virtue that take place in a social context of which the state itself is only the top most part; that is, in civil society. Pettit’s republican thought is able to appreciate the importance of the practice of civic virtue within civil society as a manner of holding those with power in the state

51 Pettit, A Theory of Freedom: From the Psychology to the Politics of Agency (Oxford: Oxford University Press, 2001), p. 162. Pettit is also concerned to demonstrate that his theory can draw upon classical sources in such a way that it does not rely upon the narrow conceptions of citizenship as the property-owning, male-only class of individuals that it was in ancient Greece or Rome. He also recognizes that this makes modern statecraft much more complex and demanding, but that this is a price we must be willing to pay to uphold the freedoms that we cherish (Republicanism, pp. 95-6).
accountable without reducing our analysis of social life to individual vs. state-sanctioned actions.

In moving from the principle of freedom as non-domination into a theory of government, Pettit must provide some middle axioms for demonstrating how this notion of freedom can be used to support the actual functioning of modern governments. In its most basic elements, Pettit’s recommendations resemble what we have seen is standard in most liberal constitutional democracies: he promotes “an empire of laws, rather than men”; dispersal of legal powers in a bicameral congress, executive, and judicial branch; and the idea that the law should be relatively resistant to rapid change through majority will, such as through a constitution or common law arrangement. The philosophical differences between Pettit and those liberals that we have considered above does not lie directly in the constitutional or legal arrangement of the modern state (the basic principles of right or justice), but rather in the way in which a republican notion of freedom as non-domination will function as a heuristic principle to guide civic action and state policy. Moreover, freedom as non-domination does not presuppose that the principles of justice will suffice to bring about just government action and policy. Rather, it looks to the active involvement of the members of civil society to create, sustain, and hold accountable the institutions and the offices of those who are responsible for directing the actions of the state. In other words, it calls upon citizens to partake in active forms of civic engagement such as are required of civic virtue.

52 Pettit, Republicanism, p. 173.
This means that government power will likely have a considerably wider scope for classical republicans than for those who adhere more strictly to negative-rights based theory, or a free-market liberal paradigm. It also suggests that the instantiation of virtue that this requires is not something that comes top-down from a sovereign government, but rather that it is the ground-up cultivation of virtue within members in a civil society which forms, sustains, and holds government accountable. While this republican ideal of freedom is more demanding upon the state, it is so precisely because it is more demanding upon the members of the polity. This is especially true the larger the state becomes, because as it increases in size and scope the more likely it is to begin to exercise arbitrary power in a way that would contradict the very foundational principles of republicanism. Pettit is fond of repeating the truism that “the price of liberty is eternal vigilance,” as well as the belief that political power by its very nature has a corrupting tendency upon those who possess it. He seeks to provide a middle way between “the sparse and heartless sort of government with which rightest liberals pretend to be satisfied,” and the “interventionism, majoritarian rule – the potentially tyrannical sort – which populists have to countenance.” He is seeking a middle way between a negative-rights only approach that leaves the government too little power to protect the most vulnerable, while trying to avoid the pitfalls of an overly active, centralized state. Moreover, we will want to note that it is precisely in Pettit’s way of conceiving this third

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54 Ibid, p. 12.
possibility that the concepts of virtue and the common good become central for his republican theory.

The way to “keep the bastards honest” for Pettit is to claim that the state may only intervene in ways that track the common interests of the members of civil society. Here we can see elements of Cicero’s conception of the common good as an ongoing way of life embodied within a community at work. In order for this to occur, freedom as non-domination must be accepted by all to be a part of the manner in which we conceive of the common good. Freedom is, of course, primarily an individual good in the sense that subjection to arbitrary coercion by any one person is an affront to modern notions of liberty. This conception is shared by all liberal thinkers. But what other contemporary liberals, especially those whose work is grounded in a theory of negative freedom or liberty rights, have a difficult time articulating is why freedom as non-domination should be seen as an essential aspect of the common good.

Pettit provides at least two reasons for why freedom should be considered part of the common good. The first has to do with the ways in which it will be seen as “a common good from the point of view of each vulnerability class.” That is, if freedom as non-domination is a central good and aim of liberal societies, then it will be an affront to this common good if even one group or individual is subjected to arbitrary coercion, and


56 To be even more precise we should note that freedom is always an individual good, but that Pettit helps us to see how sustaining this good as a good for all requires communally shared values and ideals that are embodied in a society’s way of life, in its structures, institutions, and laws.

these groups will often be the best situated agents to point out the forms of arbitrary power that are being perpetuated against them. Secondly, one can argue that if the principle is violated for any one group, it makes it that much more likely that an unchecked power of the government could subject other groups, including one’s own, to such power. Thus, all have a common interest in upholding freedom as non-domination as a part of the manner in which the common good is perceived. Even those who are not directly affected by such arbitrary coercion, whose negative rights have in no way been violated, have a stake in upholding freedom as non-domination as a common good for everyone in society.

One of the goals of a constitutional democracy, then, must be to work towards the conditions in which freedom as non-domination is accepted as a common element of the language in which members of civil society talk about and conceptualize justice. And in order to this, it will also be necessary to have a language for recognizing and discussing the common good. Thus, Pettit indicates that a critical conception of the common good is an important element of developing the kind of virtue required of citizens to uphold a just society.

The preceding considerations lead us to the heart of why Pettit’s republican theory is so helpful for advancing our own Thomistic account of civic virtue. In order to maintain a robust sense of justice grounded in a concern for freedom as non-domination, classical notions of virtue and a critical conception of the common good must be revived within Pettit’s theory. He is, however, able to revive notions of virtue in ways that maintain the concerns with individual freedom and pluralism that are central to liberal thought, and therefore he is able to avoid some of the problems typically associated with
the use of virtue language in the liberal tradition. In the following chapter we will
demonstrate how our account of civic virtue is similarly able to avoid these problems
raised by liberal thought.

We have already dealt with Pettit’s answer to the charges that classical virtue is
perfectionist and elitist, and therefore inimical to democratic institutions. But another
charge often leveled against those who advocate for greater use of the language of virtue
in modern politics is that it will entail the attempt to make civic life the privileged locus
of the good for all citizens. The implication of such a charge is that if a more robust
language of civic virtue is adopted, all members of civil society who do not choose a life
involving direct political or civic engagement must be considered less than fully virtuous,
or less-than-ideal citizens.

For example, Rawls indicates that his theory of political liberalism has no
problem with a form of classical republicanism that insists that citizens “must also have
to a sufficient degree the ‘political virtues’ (as I have called them) and be willing to take
part in public life.” But he takes issue with the tradition, rooted in the virtue ethics of
Aristotle, that he calls “civic humanism,” which insists that “taking part in democratic
politics is the privileged locus of the good life.” It is possible that a similar charge could
be leveled against Pettit, even though his own appropriation of virtue comes more from
Cicero than from Aristotle. On closer inspection, however, it turns out that this charge
does not hold for the way in which he proposes to make use of civic virtue in his theory.

58 Rawls, Political Liberalism, p. 205.

Pettit insists, along with all liberal thinkers, that his theory need not entail complete unity of agreement upon a monolithic view of the good of the human person, and that individuals are free to pursue a vision of the good as they see fit. Civic virtue - either in Pettit’s formulation of it or in our own - is one component of a virtuous character, though not necessarily the primary or only element of a just disposition. His belief that governments and the agents who work for them are inherently prone to corruption makes it essential that all members of a polity be willing to engage in the mechanisms of contestation and proclaiming one’s voice that are an essential element of a healthy civil society as the foundation for democratic governments. For this at least, civic virtue will be required.\textsuperscript{60}

Thus, Pettit claims that “republican laws must be supported by habits of civic virtue or good citizenship – by habits, as we may say, of civility.”\textsuperscript{61} When this habit of civility, required of all members of a polity, is combined with the heuristic device of seeking out and identifying those cases of marginalization in which individuals or groups are subject to arbitrary coercion, we have a much more robust conception of civic virtue than is usually presented within liberal political thought. Civic virtue has gained a significant amount of critical power beyond the usual liberal virtues of civility, tolerance, equality, and respect for rights - necessary as these are - and it now demands that citizens

\textsuperscript{60} Moreover, we use the broader term ‘civic’ virtue instead of limiting it to only ‘political’ virtue which would imply direct involvement in the political structure. The distinction between civic virtue in general, and political virtue in particular, will be dealt with in more detail in Chapters four and five. Civic virtue, on the other hand, although it involves political action in the traditional sense, also incorporates many forms of community engagement that enhance the common good even if they are not seen as directly political.

\textsuperscript{61} Pettit, \textit{Republicanism}, p. 245.
go one step further and take a stand for those who are most vulnerable and subjected to arbitrary power precisely because this is a way of protecting the common good. By using this classical language of goods and virtues, Pettit demonstrates how the right is more securely derived when the good is upheld as primary. Moreover, it coheres a bit more closely with the theory of civic virtue that we seek to advance in this work, because it is grounded in a substantive view of the common good, and because it requires the engagement of individuals and groups in civil society to keep government functioning well and honestly; that is, in service to the common good.

One of the continuing weaknesses of much liberal political theory that has emerged from our analysis is a difficulty in identifying or recognizing the common good, or any conception of the good that is not reducible to a sum of individual goods. Since our account of civic virtue is rooted in the common good as its object, and is applicable in modern constitutional democracies, we will need to demonstrate why being able to critically conceptualize the common good is an essential element of a theory of civic virtue that supports and sustains a just civil society and government. Thus, there is still an important space for engaging in more ancient or medieval forms of thinking about political theory which take the common good and virtue seriously (such as theories rooted in Cicero, Aristotle, and Aquinas62). Pettit’s distinctive manner of drawing upon some of these sources while upholding freedom as non-domination as an element of the common good, and the theory of civic virtue that can be developed out of it, are elements

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62 As we continue in the next chapter, we will argue that these classical notions of justice, especially in Aquinas, are not as inimical to individual freedom as is commonly believed either on a popular level or by liberal theorists.
of his work that we will want to continue to develop from within our own theological account of civic virtue.

We have already stated that the theory of civic virtue that we are proposing in this dissertation is at home within the tradition of the natural law. It is our belief that a theological conception of the natural law represents the most hopeful and fruitful manner for engaging in public discourse on issues of justice in a reasonable manner that is both unapologetically theological, but also open to conversation with others. In the next part of this chapter we turn to consider some of the contemporary debates within the discipline of Christian moral philosophy and theology in regards to the natural law, and to consider what elements of these approaches to the natural law might best support our account of civic virtue.

3.3 Natural Law as the Theological Context of Civic Virtue

As we noted in the previous chapter, Pope Leo XIII’s insistence on a recovery of Aquinas’ natural law method of reasoning in regards to issues of justice and political life led to a resurgence of scholarship on Aquinas. The fruits of this renewed attention to Aquinas and other classical sources of the Christian tradition, such as the Church fathers, ripened around the time of the Second Vatican Council (1962-65), and thinkers such as Jacques Maritain, Yves Simon, and John Courtney Murray were able to articulate a coherent moral philosophy grounded in the work of Aquinas to be put to use within the
context of modern, liberal constitutional democracies.\textsuperscript{63} We will engage Murray’s reflections on the functions of natural law within modern states, since he undertakes a very interesting and distinctive manner of arguing for the congruence between the two in \textit{We Hold These Truths} (1960). This was certainly one of Murray’s most influential methodological contributions to the tradition of Roman Catholic moral thought in regards to modern political regimes (along with his work on religious freedom), and it represents his continual commitment to working at “the growing end”\textsuperscript{64} of the moral tradition of the Catholic Church and modern political thought. His attention to history, tradition, and especially to Aquinas, makes his work an interesting and instructive example for us to consider in developing our own growing end of the tradition in regards to civic virtue. Murray also places a premium on civic unity and friendship, rooted in rational dialogue, as essential elements of the use of the natural law in the struggle for justice in political life. Although we will want to retain these central insights into the nature of civic virtue/friendship and rational deliberation, we will also want to challenge the elitism inherent in his theory. Recognizing the pitfalls of Murray’s elitism will set us up to articulate an account of civic virtue that is compatible with a more democratic and egalitarian conception of participation in civic life.

\textsuperscript{63} Not that they were the first to do so. We saw in the previous chapter how the Salamanca Jesuits of the sixteenth and seventeenth century had argued for the congruence between Aquinas’ thought and emerging forms of democratic government and that Lammenais had argued for the congruence between Catholic moral and political thought and some moderate elements of the emerging liberalism of the modern state in the nineteenth century.

Unfortunately, Murray never undertook a fully systematic or constructive account of the natural law, and neither will we be able to do so here. He did, however, develop some of his most significant insights into the continued relevance and applicability of the natural law in regards to his reflections upon the “American experiment” in *We Hold These Truths*. He argues that despite the nearly unanimous agreement that the tradition of the natural law is dead throughout the nineteenth and into the early twentieth century, “[i]ts reappearance after its widely attended funeral is one of the interesting intellectual phenomena of our generation.”65 In the light of this potential revival of a natural law philosophy as a basis for contemporary jurisprudence and political theory, Murray makes two bold claims. The first is that the old tradition of the natural law - which he juxtaposes to the newer tradition of the “law of nature” in thinkers such as Hobbes and Locke - has continued to thrive, and can become applicable again from within the tradition of the Roman Catholic Church. The second claim is more ambitious: in a few short pages he make a judo-like move on the entire project of modern liberalism and claims that what thinkers such as Hobbes and Locke (and those who endorse this newer ‘law of nature’ approach) were actually articulating, although in poor form and with misbegotten epistemological assumptions, was a form of the old natural law tradition. Murray contends that their thought will only become intelligible and sustainable once again if it is placed back into the metaphysical context out of which it was originally articulated (most cogently by Aquinas) in the tradition of the Catholic Church’s moral thought.

65 Murray, *We Hold These Truths*, p. 299.
The goal of natural law theory for Murray is simply “to give a philosophical account of the moral experience of humanity and to lay down a charter for essential humanism.”66 It supplies Christians with a means of articulating a public moral philosophy in regards to public life that is accessible to reason, and is best suited to the conditions of plurality which define modern political reality.

Murray then takes his readers through a tour de force of the foundations of modern liberal thought, and demonstrates how these thinkers fall away from the traditional natural law understanding of the goals of political life. The modern law of nature developed, in Murray’s account, in the course of the eighteenth century, most prominently by Hobbes and Locke, and rather than upholding life together in society as natural for humankind, it posited that in the state of nature one law is primary and foundational: the law of survival or self-preservation. What these modern thinkers recognized, however, was that self-preservation could be best secured by enticing individuals to work together to preserve their lives, and most especially their property, if they come together in society on the basis of improving their chance at self-preservation and self-interest by protecting each individual’s rights. In such a case, Murray notes (correctly) that this view of society left us with the belief that “the ‘common good’ is nothing real in itself,” but is rather a “symbol for the qualitative sum of individual goods.”67 This inability to critically conceive of the common good remains part of liberal theory, as we saw above, and as we will continue to see below.

67 Ibid, p. 305.
Just when it seems that Murray has put the nail in the coffin of the law of nature in its entirety, he makes a very surprising move. He argues that although Hobbes and Locke did not fully understand what they were doing, and although they grasped some essential elements of political philosophy incorrectly, they also simultaneously transmitted the core elements of the true, older natural law doctrine within their philosophy; it is thus retrievable today if we can learn to see the true core of their thought and re-appropriate it. In a fascinating rhetorical move, Murray writes:

Against the principle of absolutism...Locke asserted (in debased form) the central medieval tradition of the supremacy of law over government, and of government by law which is reason, not will. Against the central point of divine-right theory...he asserted (on philosophically indefensible grounds) the medieval principle that sovereignty is ‘translated’ from the people to the ruler...Finally, against the absolute centralization of power in the monarch, he asserted (again on false premises) the medieval doctrine of the right of the people to participate in government.⁶⁸

Here the judo move is completed against Locke and the Enlightenment foundations of the entire project of liberal political thought by noting that if we can arrive at a correct understanding of the foundational errors which undergird these problems, we can retrieve the older natural law tradition, while still retaining all the benefits that have been secured for humankind in modernity, such as an emphasis on freedom, equality, and human rights, the end of the ancien régime, and the proper separation of the temporal and spiritual powers of government and Church, etc. Moreover, it is the tradition of Catholic moral thought, which has kept the true foundation of a natural law account of political philosophy alive, that can show the way forward in returning to the true form of moral

⁶⁸ Ibid, p. 313.
thought that has been guiding our political deliberations (albeit in a ‘debased’ form) all along.

This move allows Murray to make several more distinctive claims that would contribute to a richer understanding of the true nature of politics from within the tradition of natural law. It would place the modern tradition of human rights - which Murray and all modern Catholic social thought seek to affirm - within a broader tradition of right (deriving from the Latin *ius*: translated as ‘right’ or ‘just’). This moves the public conversation beyond pragmatic agreement on the issue of defense of human rights to the metaphysical foundations of a concept of justice. Of course, Murray is not unaware of the difficulty that trying to secure agreement on the metaphysical foundations of a conception of political philosophy raises, but he does believe that a conversation can at least be had at this level. He notes that

The whole metaphysic involved in the idea of natural law may seem alarmingly complicated; in a sense it is. Natural law supposes a realist epistemology…Secondly, it supposes a metaphysic of nature, especially the idea that nature is a teleological concept…Thirdly, it supposes a natural theology…Finally, it supposes a morality, especially the principle that for man, a rational being, the order of nature is not an order of necessity, to be fulfilled blindly, but an order of reason and therefore of freedom.\(^69\)

Unfortunately, Murray can do no more than note what the embrace of such a metaphysic entails, and he does not work out a systematic account of how such ideas might be

\(^{69}\) Ibid, p. 327-8. We are now arriving at a conception of justice that is rooted in a classical/medieval understanding that is teleological in a completely different sense than the way the term is used by Rawls to refer to utilitarian theories as teleological. It is this kind of natural law account that we believe will provide a superior basis not only for developing an account of civic virtue, but also for avoiding the problems we noted with Rawls’s theory of justice as fairness.
defended in the context of modernity. He simply posits them as an essential element of a natural law ethic, and his assertion seems to imply that he has faith in the possibility that such claims could be discussed rationally and perhaps persuasively defended in the face of the many arguments against it which are characteristic of liberal thought for the last four hundred or so years. Considered in the light of some of the recent retrievals and defenses of natural law philosophy (and its metaphysical foundations) among both philosophers and theologians, Murray’s comments on the possibility of this kind of dialogue seem to have been more prescient than they may have at first appeared. As we develop a rudimentary account of an action theory that is an element of civic virtue in the following chapters, we will also need to demonstrate that a full comprehension of the manner in which the will is reduced from potency to act, especially in regard to the common good, requires that we pay attention to some of the metaphysical commitments that under gird Aquinas’ account of practical reason and human willing and action.

The discussion of a teleological metaphysic of nature and natures has remained a central point in attempts to retrieve and defend a natural law ethic up to this day. For example, in his earlier work, MacIntyre makes the well-known point that as we recover an ethic of virtue, we must reject the “metaphysical biology” that serves as a foundation for Aristotle’s virtue ethics (After Virtue, p. 162). Yet in his later work, he has reversed his opinion and believes that we must retrieve some kind of over-archi ng teleological aim which makes sense out of all the teleological striving of each individual nature, as well as providing some sense of order in a hierarchy of goods that acts as a guide to moral choices in the use of practical reason. He indicates this need in Whose Justice? Which Rationality? (Notre Dame: University of Notre Dame Press, 1988), where he argues that justice can only fully be comprehended in Aquinas’ work if it is placed in light of Aquinas’ “metaphysical biology” (p. 198). MacIntyre has not, however (as of yet), undertaken a more systematic, philosophical defense of what it would mean to posit this claim, but he has recognized it as essential to defending the project of natural law as it is found in the Aristotelian-Thomistic tradition. Other important contributions to this effort to retrieve, defend, and extend the implications of asserting a metaphysics of the nature of the human person in theological ethics have been undertaken by Jean Porter (see Nature as Reason: A Thomistic Theory of the Natural Law (Grand Rapids: William B. Eerdmans’ Pub. Co., 2005), pp. 82-124) and Stephen J. Pope (see Human Evolution and Christian Ethics (Cambridge: Cambridge University Press, 2007), especially pp. 129-157, 268-296).
At the same time as he is interested in defending the metaphysical foundations of the natural law, Murray is also concerned with contributing to American civil life by drawing out several other practical implications that are most at home in the natural law tradition. One of the most significant of these implications for our purposes is the role of civic friendship as an essential element of a society well-ordered by the rule of law. For Murray civic unity is fostered by civic friendship and this friendship is most adequately expressed in a rational conversation which engenders a continuous search for what is true and just in society. Moreover, this kind of rational public debate that sustains a search for truth and justice in a democratic regime “depends upon the virtue of the people who undertake it.”\textsuperscript{71} If we are to maintain the laws and institutions that sustain freedom, it will require discipline in order to restrain the “selfish inertia of men,”\textsuperscript{72} who come together to create the laws and institutions that are required in order to achieve basic civic unity and friendship. Although Murray undertakes no attempt to elaborate the kind of virtue ethic that is implied by a Thomistic retrieval of natural law, he is right in indicating that civic friendship and the kinds of moral formation that this requires – that is, the civic virtues - is an essential element of appeals to the natural law as a foundation of a public moral philosophy.

Thus, Murray remains an important and inspiring figure for those who wish to maintain his central insight that the best resource available for Catholic thinkers to engage in the public debates about issues of justice and policy in modern, constitutional

\textsuperscript{71} Murray, \textit{We Hold These Truths}, pp. 36-7.

\textsuperscript{72} Ibid, p. 37.
democracies remains the tradition of the natural law. He has demonstrated that the natural law draws upon central tenets of Catholic theology, especially as it is derived from the metaphysical philosophy that upholds the existence of a human nature made in the image of God, capable of partaking in the Eternal Law through reason, and applying the first principles of the natural law in the contingencies of history. He has shown that Catholicism and modern, liberal forms of political life are not entirely incompatible, and that a significant contribution to be made to the public debate about our civic lives together is the need for continuing to draw upon the language of virtue and self-sacrifice if we wish to sustain the institutions and laws that guard our freedom.

While we will take up each of these points as a foundation for our own account of civic virtue from within the tradition of the natural law in the following chapters, there is one element of Murray’s work that will need to be revised even as his central insights remain helpful more than half a century later. As we noted above, Murray does not develop a full-blown theory of virtue as it is rooted in the tradition of the natural law, but he does indicate that some practice of the virtues of self-restraint and civic friendship will be necessary to secure the basic foundations of justice. We can also deduce from Murray’s work some of the implications of how his theory might be developed into a richer account of civic virtue. While we will want to retain the central insights that he provides into the necessity of some form of civic virtue, there is an inherent elitism that we will need to challenge in order to apply these foundations to the contemporary context of democracy and pluralism that define today’s political world.

We now turn to consider the problems that arise from the elitism that is inherent in Murray’s understanding of the application of the natural law, and especially the
problems this poses for democracy and an account of civic virtue that assumes that all members of civil society have a responsibility to contribute to the discourse on issues of justice. Murray points out throughout his discussions of the natural law in *We hold These Truths* that order, and the application of the first principles of natural law to the contingencies of history and policy, is the work of the wise man (*sapientis*).\(^73\) In her analysis of Murray’s work on the natural law, Jean Porter points out that there is very little role for intermediate norms that help the community move from first principles to practical applications, but rather “the perceptions and judgments of the wise appear to function as a substitute for the discernment of intermediate norms in Murray’s thought.”\(^74\)

One of the essential ingredients of democracy, however, (as Pettit has indicated well) is the continual need of vigilance and moral discernment on the part of the members of the civic body to ‘keep the bastards honest’ and hold political leadership accountable. If the application of the natural law is left to the elite leadership of a nation, then it becomes all too easy for “an ideology which sustains the power relations of society,” to be covered over “with a veneer of reasonableness.”\(^75\) As we have seen, it is an enduring characteristic of liberal thought to be concerned with the perfectionistic and elitist tendencies of virtue language and the potential for tyranny that political power tends to engender in those who possess it. It is perhaps ironic, then, that Murray does not engage

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\(^73\) Murray, *We Hold These Truths*, pp. 88, 111, 118, et al.


\(^75\) Ibid, p. 37.
with this particular concern of liberal thought, nor does he attempt to demonstrate how
the liberal apprehension in regards to perfectionism and elitism is either (a) not a problem
for the virtue ethic implied by his natural law theory, or (b) not a central or legitimate
anxiety of liberal theory. For in order to defend his elitist account of the role of the wise
in political deliberation he would need to defend either (a) or (b). As we move forward
we will want to continue working toward a way to salvage the language of virtue while
not resorting to this kind of moral perfectionism or elitism. As we will see in the
following chapters, a more democratic appreciation of the nature of political and civic
prudence will be especially helpful in this regard.

Throughout this chapter a correlate of the central argument that we have been
developing about the timeliness of our account of civic virtue is that, following Galston’s
insight, the best place to start when religious thinkers seek to promote their own
distinctive ideas in regards to justice and civic life is with a discussion of the goods that
they seek to advance. Moreover, since our own account of civic virtue ties together an
account of general justice as a virtue of the will with a firm commitment to pursuing the
common good, discussion of goods suits our account of civic virtue quite well. Since the
“new natural law theory” put forth most prominently by Germain Grisez and John Finnis
begins with a discussion of the goods to be pursued by rational agents, it seems that it
could be a potentially fruitful resource for continuing to develop our account of civic
virtue. It turns out, however, that the new natural law theory ends up with an overly
Kantian view of the role of reason, with a nearly exclusive emphasis on the will and
choice to the exclusion of all other elements of moral deliberation (such as the passions).
Moreover, the shortcomings of such an account become especially evident when we
attempt to derive a virtue theory from their work. Virtue becomes reduced to the role of following the dictates of reason, rather than being intimately connected with the emotions which form an integral part of Aquinas’s action theory. We will focus especially on John Finnis’ work because he has had such an immense impact upon a wide array of academic fields, including moral philosophy and theology, jurisprudence, and political philosophy. Moreover, while Grisez has emphasized the manner in which his theory of the natural law is grounded in the thought of Thomas Aquinas, he has come to see his own work as filling in some important lacunae in Aquinas’ work, whereas Finnis has continued to defend his account of the natural law as an explication of Aquinas’ own theory.76

Finnis claims to have put forth a theory of the natural law that is intelligible in the modern world in which the metaphysical account of a teleological human nature is no longer defensible, and he claims to be incorporating the most important insights from both the teleological Aristotelian-Thomist tradition and the Kantian deontological tradition. Thus, his account claims to be able to articulate exceptionless (categorical) moral norms that are - or at least could potentially be - rationally intelligible and enforceable to any human being who embraces the general requirements of practical reasonableness, without recourse to metaphysical deduction from first principles and without needing to engage in the tricky debates over the teleology of human nature.77

76 This becomes most evident in his publication of *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), where he defends without significant modification his earlier theory put forth in *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), while deepening that theory’s exegetical dependence upon the work of Thomas Aquinas.

77 These represent the two main problems that Finnis finds with neo-Thomist thought.
Since he rejects any necessity for a metaphysical epistemological foundation for practical reason, Finnis makes a strong distinction between practical and speculative reason, the latter of which he claims has no direct impact upon moral reasoning about the goods of human life.

Finnis claims that it is the basic goods to which every rational person can agree that provide the “intelligent objective” and motivating principle of our practical moral reasoning. Since, for Finnis, the first principle of the natural law (good is to be sought and evil avoided) combines with our natural inclination towards basic goods, then the

‘human goods’ {bona humana} directed to by these first principles must – precisely because they are the subject-matter of primary (underived [i.e. self-evident]) practical principles – be the primary or basic human goods. Since ‘good’ and ‘end’ are interdefinable, they are equally our basic ends.

Thus, since the end of practical reasoning is the attainment of basic human goods, the list of basic human goods must be defended as rationally desirable for any and every human person. The list of these basic goods provided by Finnis is as follows: life, knowledge, play, aesthetic experience, sociability (friendship), practical reasonableness, and religion. Human flourishing is understood as the way in which one chooses a rational plan of life that respects the basic rules of practical reasonableness in striving for each of these individual goods without any arbitrary preference for one over the other.

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79 Ibid, p. 80.

80 Finnis, *Natural Law and Natural Rights*, pp. 87-8.
Finnis goes on to argue that there can be no hierarchical ordering of the basic human goods in one’s decisions about how to deliberate in regards to achieving these goods, and that one must respect each and every basic value (good) in every single choice and act. As long as one chooses to order one’s life according to a rational plan of life (an idea which he picks up from Rawls), and orders that life according to the basic requirements of practical reasonableness, then that person is said to be following the basic dictates of the natural law. In our analysis we will focus on the implications of his approach to the natural law in relation to virtue in general, to justice in particular, and to the common good.

The first way that we can see problems arising in the new natural law theory is in regards to Finnis’ treatment of the relationship between virtues and the emotions (we will see later that Aquinas uses the terms “affections” and “passions”). Virtuous actions end up being reduced to the will’s assent to following the categorical norms that are laid down by practical reason in choosing this or that particular object. As Finnis states it, “virtue is simply the perfection of the human capacities involved in action, i.e. the powers of understanding and responding to intelligible goods and of choosing and carrying out one’s choices well.”

While Finnis is correct to note that virtue is a perfection of the natural capacities of the person, it is hard to square this account of virtue with Aquinas’ insistence that virtuous actions also involve the correct ordering of the passions and the cultivation of proper affections of the will towards objects that will contribute to the agent’s well-being. Finnis’ account of the will as the motivating force behind human

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action takes no account of the role of the affections or the passions, even as these are a significant part of the way that Aquinas describes human action. By constructing an account the natural law that is essentially voluntarist - that is, it relies almost exclusively on the will’s choice of specific goods - Finnis has reduced action to a movement of the will only, and he has left out an account of how the emotions play an in important role in reducing the will from potency to act.

Turning to justice, it is significant that Finnis is one of the few contemporary thinkers who recognizes that Aristotle’s term ‘legal justice,’ and what Aquinas calls ‘general justice,’ have been overlooked in contemporary discourse on Aquinas and justice. The problem with his understanding of general justice, however, derives from his inability to see justice as a virtue having to do primarily with interactions between individual persons, because his theory remains overly focused on the primary importance that he ascribes to goods over persons. For example, he writes that “Aquinas’ explanation of this now forgotten sense of the word ‘justice’ [i.e. general justice] begins with the observation that ‘one who serves some community serves each of the people {omnibus hominibus} contained within it.” Although he quotes Aquinas here as describing general justice as involving service towards the people, Finnis’ analysis remains confined to the realm of goods. Sins against justice, however, are not just a failure of the individual’s moral obligation to act in accord with the dictates of practical reasonableness (though they are certainly unreasonable), but are rather direct offenses

82 Finnis, Natural Law and Natural Rights, VII.2, p. 164ff, and Aquinas, p. 118.

83 Finnis, Aquinas, p. 118.
against what is owed in justice to other persons; and, more generally, they are offenses against the common good. This will become most obvious as we move to his discussion of the common good as the object of the virtue of general justice.

In his discussion of the common good Finnis makes the same mistake in interpreting Aquinas that we have witnessed is a blind spot of liberal thought; that is, an inability to conceptualize a common good that is not a sum of individual goods. He writes that

in the case of the political community (VI.6), the point or common good of such an all-around association was said to be the securing of a whole ensemble of material and other conditions that tend to favour the realization, by each individual in the community, of his or her personal development.\(^84\)

With this understanding of the common good established, there is no alternative but to consider the common good as an instrumental good for the securing of a greater sum of individual goods; and in fact this is precisely what we find. In his more recent work, Finnis writes: “This specifically political common good is limited and in a sense instrumental.”\(^85\) As we have noted throughout, it is true to say that each individual must at least have the capacity to participate in the common good, but this does not mean that it is reducible to quantitative analysis on the level of individual goods; the common good must be a good that fosters, but also transcends, the individual good. Any object that we would count as a part of the common good, whether material or spiritual in nature, exists on its own and independent of the individual goods that also need to be secured for

\(^{84}\) Finnis, *Natural Law and Natural Rights*, p. 154. Italics added.

\(^{85}\) Finnis, *Aquinas*, p. 239.
individuals. The common good cannot be participated in on an individual level alone and must be held together in common within society if it is truly to be something more than an aggregate sum of individual goods.

If we combine our observations in regards to his comments on general justice and the common good, we can get to the heart of the problem with Finnis’ insistence on the priority of goods over persons. If the common good is a sum total of individuals’ striving to secure their own goods and flourishing in conjunction with others in society, then it is difficult to see how justice can be a “perpetual and constant will to render to each one [person] his due.” Justice has to do primarily with relationships between individuals in society, not between individuals and goods (although rectifying relationships, as in commutative justice, may involve the transfer of goods), but Finnis has no conceptual language for talking about justice in these categories. As Hittinger notes, the “emphasis upon human goods rather than human persons is, at the very least, a difficult hermeneutical question,” especially if we are trying to defend a Thomistic account of justice or natural law. On the issues of the virtue of justice and the common good, accepting Finnis’ sole emphasis on goods (to the exclusion of a substantive role for the virtues) and his overdependence upon a Kantian-voluntarist construal of will and choice would make the account of civic virtue that we wish to advance unintelligible. Our Thomistic account of civic virtue requires a critical conception of the common good, an account of virtue and the will that also pays attention to the role of emotion in practical


deliberation, and a manner of linking practical and speculative reason such that practical deliberation is never done entirely independently of metaphysical commitments. (Each of these points will be explored in greater detail in the following chapters.) In the end it turns out that despite the promising hope that Finnis’ focus on goods would provide a helpful way for us to discuss the vision of the good that we wish to promote in our account of civic virtue, the new natural law theory provides little help in advancing our own constructive account.

3.4 Conclusion

We have considered quite a diverse array of thinkers from various traditions of thought in this chapter, but we can note that many of these thinkers underscore in their own distinctive manner the necessity of cultivating some form of what we are calling civic virtue in order to sustain just societies, especially as we understand this in the predominant forms of Western government (i.e., constitutional democracies). For example, Rawls defends the need to develop a sense of justice in citizens and upholds the necessity of certain political virtues such as tolerance, fairness, and equality. Galston indicates the need for a non-perfectionistic, but still pervasive and demanding, conception of virtue. Pettit demonstrates how drawing upon more ancient theories of government such as classical republicanism might indicate the manner in which even more is demanded of members of a civil society in keeping government structures and officials honest than is typically recognized in liberal political thought. Murray convincingly demonstrates that civic friendship and dialogue are essential elements of the virtues that
sustain democratic principles. And Finnis believes that virtuous individuals who are able to act for their true good are an essential element of a just society.

If we return to the two points that we listed as central themes at the beginning of this chapter, we can see how we have advanced our case for the timeliness and need for a Thomistic account of civic virtue. These include: (1) an emphasis on the centrality of the good in general, and a critical conception of the common good in particular, in political discourse; and (2) the ways in which democratic societies depend upon and foster certain kinds of moral subjects who embody the civic virtues that sustain a healthy civil society and government.

On the first point we have made several advancements for our own argument. For example, we noted how Rawls’s conception of public reason and “the proviso” have fostered what Garsten calls “liberal alienation” by those who wish to draw directly upon their comprehensive viewpoints without needing to translate them into a sovereign, purely rational discourse. We also noted the problems that arise from the inherent elitism in Murray’s theory of the natural law and its implications for civic virtue. Combing these two insights indicates that we will want to continue to develop an account of civic virtue that draws upon political prudence as a means of civil discourse that does not require all members of civil society to defer to judgment found in one, rational public discourse or in ‘the wise’ who occupy places of prominence in society. In other words, we need a more democratic theory of deliberation and judgment that accounts for the ways in which individuals can reason together in society to create and sustain just institutions and laws – an idea that will be taken up fully in Chapter five.
On this same point, we noted how two problems that arise out of Rawls’ construal of the relationship between the right and the good\(^{88}\), might be better addressed, or may not even arise as problems, in a theory that upholds the priority of the good over the right as well as a critical conception of the common good. These problems cannot be fully addressed until our fifth chapter, but for now we note that our account of civic virtue upholds the priority of the good over the right and demonstrates how the principles of justice (\textit{ius}) can be derived from such an account. On this point as well, Galston has been particularly helpful for making the goods and values of liberal polities more explicitly known and recognized than Rawls’s theory. We have seen that his conception of the goods, ideals, and values that are a distinctive element of liberal thought implies something like the common good as we are describing it, even as he continues to avoid using the language of the common good. And, drawing on the work of Pettit, we have seen that classical and/or medieval political theories that uphold a more central place for virtue language are also capable of advancing arguments for the necessity to consider some goods as part of the common good which is not reducible to a sum of individual goods. We will continue to develop this notion of the common good as the object of civic virtue in the following chapters.

\(^{88}\) Recall that these two problems are: (1) the tension or conflict between Part One of \textit{Theory} where the principles of right are derived from the actions of mutually disinterested parties, and Part Three where it becomes clear that the sense of justice that justice as fairness requires for its long-term stability requires mutual interest, reciprocity, and emotional attachments to individuals and institutions; and (2) the ways in which individuals may feel that their full political opinions (derived from a comprehensive theory of the good) are excluded from the discourse of public reason (even as this is not the intention of Rawls or those who uphold a similar conception of public reason).
We have also considered how Finnis’ theory of natural law helps us to see at least one way that we do not want to construe the priority of the good over the right. While his theory does offer a way of thinking about Aquinas and the natural law that upholds the primary place of goods, it involves a voluntarist understanding of the will and of virtuous actions that we want to avoid. Our own account of civic virtue will pay closer attention to the nature of the will in virtuous actions such that we will need to account for some of Aquinas’ metaphysical commitments that demonstrate a closer connection between speculative and practical reasoning, and we will demonstrate that the emotions play a much stronger role in practical deliberation than Finnis’ theory can account for.

At this point in our study we have demonstrated the manner in which a Thomistic account of civic virtue can address some of the lacunae found in modern Catholic social thought, contemporary political philosophy, and recent accounts of the natural law that draw explicitly upon Aquinas’ own natural law theory. Thus, in our next chapter we turn to take a close look at Aquinas’ work to consider what points will be most salient for developing a Thomistic theory of civic virtue. This will set us up to address some of these lacunae in providing a contemporary theological perspective on civic virtue rooted in the work of Thomas Aquinas that can be applicable and helpful in the context of contemporary Catholic moral thought and political philosophy.
CHAPTER 4:

CIVIC VIRTUE IN THOMAS AQUINAS’ ACCOUNT OF JUSTICE

O God,
all-powerful and all-knowing
without beginning and without end,
You Who are
the source
the sustainer
and the rewarder of virtues…
Grant that I may
through justice
be subject to You,
through prudence
avoid the beguilements of the devil,
through temperance
exercise restraint,
and through fortitude
endure adversity with patience

- St. Thomas Aquinas

4.1 Introduction

As is often the case in Aquinas’ work, the concept of civic virtue that we are
developing from his thought can appear eminently simply and extremely complex at the
same time. On the one hand, our working definition of civic virtue is developed out of
the concept of legal or general justice which Aquinas takes up, with slight modification,
from Aristotle’s *Nicomachean Ethics*, and concerns the development of the will to direct
all acts of virtue towards the common good of one’s community. On the other hand, our

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account explicitly goes beyond and builds upon what Aquinas has to say about general justice, as general justice and civic virtue are not identical and civic virtue is a much broader concept. Our Thomistic account of civic virtue draws inspiration from the concept of general justice and many related concepts in Aquinas’ work, yet it also extends the discussion in order to create a fuller picture of what a Thomistic account of civic virtue might entail for our present context.

This suggests that our task in this chapter is twofold. First, in order to best appreciate what Aquinas has to say about justice and its foundational role for our account of civic virtue, we will need to consider his treatise on justice (II-II. 57-122) within the social, cultural, and intellectual trends of thirteenth century Europe, within his own discussion of the virtues, and in relation to other virtues and concepts that are closely related to justice (such as the will, prudence, charity, and natural law, among others).

Our second task, however, will be to extend some of the implications of his discussion of justice that he himself does not make explicit in order to begin to create a fuller picture of what a Thomistic account of civic virtue entails.

For example, while Aquinas claims that as a virtue of the will justice does not have anything to do directly with the passions (II-II. 58.9), we will want to explore what kind of emotional dispositions one might expect to find within the agent who possesses civic virtue (such as joy [cf. I-II.59.5] or compassion). Likewise, we will discover that Aquinas’ discussion of prudence in relation to general justice provides a promising way forward beyond the elitism that could be implied in a Thomistic account of natural law as we previously witnessed in John Courtney Murray’s work. In doing so, we will move beyond what Aquinas explicitly says about this connection, but we will still want to
ground our extension in his own work and discussion of the passions and prudence. Meanwhile, we should keep in mind the twofold goal of this chapter: to engage in a historical and exegetical analysis of Aquinas’ account of justice in order to deepen our understanding of what a Thomistic account of civic virtue entails, as well as to begin to highlight some of the ways that we will want to extend Aquinas’ own insights in order to develop a contemporary, Thomistic account of civic virtue.

In order to accomplish these tasks, the middle part of this chapter will be divided into three main parts. In the first we will situate Aquinas’ account of justice within the social and intellectual trends of his day; second, we will take a close look at Aquinas’ discussion of justice and interrelated concepts (focusing especially on his mature work in the Summa Theologiae); and, third, we will begin to consider some of the implications of what Aquinas writes about justice that go beyond what he explicitly says, but which will be necessary for a fuller appreciation of a Thomistic conception of civic virtue. As we go along, we will note the ways in which we are picking up essential elements of Aquinas’ thought in developing our own Thomistic account of civic virtue, and we will also note the places that we will want to extend Aquinas’ account as needing some further development. This will also prepare us to place Aquinas’ work in dialogue with the trends that we have already discussed in regards to Catholic social thought and contemporary political philosophy, in order to move into our fifth chapter in which we take up a fully constructive (rather than an historical or exegetical) account of civic virtue, placing the insights from this current chapter into dialogue with our own contemporary intellectual, cultural, moral, and political milieu of western thought at the beginning of the twenty-first century.
4.2 The Virtue of Justice in Medieval Moral and Political Thought

Although Aristotelian discussions of the virtues were not unknown in by the scholastics,¹ and other thinkers were highly influential upon the development of medieval political thought (especially Cicero and Augustine) the translation of Aristotle’s texts (the *Nicomachean Ethics* and the *Politics*) into Latin facilitated the possibility of closer study of a wider array of Aristotle’s works. Thus, our analysis of the scholastics’ philosophical and theological treatment of justice will focus upon the period prior to the first translation of the *Ethics* by Robert Grosseteste from 1246-1247,² and the more accurate re-translations of the *Ethics* and the *Politics* by William of Moerbeke toward the end of the 1260’s.³ In fact, Aquinas’ teacher and mentor, Albert the Great, was the first master to comment on the texts of Aristotle, and his full explication of the virtue of justice was never completed in his *Summa de Bono*. Thus, one could say that Aquinas was in a unique position to contribute further to the development to the discussion of the virtues (and the virtue of justice in particular), drawing upon a wider array of Aristotle’s texts available to him in Latin. Moreover, medieval discussions of justice drew upon a vast array of philosophical and theological sources representing many different theoretical and

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¹ The version of the *Nicomachean Ethics* known as the *ethica vetus* can be traced to an unknown time during the twelfth century (see Cary J. Nederman, “Aristotelian Ethics before the Nicomachean Ethics: alternative sources of Aristotle’s concept of virtue in the twelfth century” in *Medieval Aristotelianism and its Limits: Classical Traditions in Moral and Political Philosophy, 12th-15th Centuries*, Brookfield, VT: Variorum, 1997), p. 55.


methodological approaches to the virtue of justice, many of which presented either inconsistent or incompatible considerations of justice. Therefore, Aquinas’ attempt to reconcile these previous sources with his own insights presented some particularly difficult philosophical and theological challenges, and required him to make some subtle (but extremely important) advances in the scholastic discussion of justice. It will be helpful to note these changes in order to appreciate the manner in which Aquinas’ discussion of justice opens up a way to develop an appreciation of civic virtue that would have been difficult to derive from previous scholastic discussions.

Scholastic reflection upon morality and politics in the High Middle Ages was greatly influenced by one of great systematic works that laid the foundation for the social and political unification of Europe which took place from the eleventh to the thirteenth centuries: Peter Lombard’s *Sentences* (completed between 1145-58). The *Sentences* became the foundational text of medieval theology for (at least) the next two hundred years, whose influence was felt in all scholastic theology. Lombard’s treatment of the virtues is almost exclusively focused upon a theological construal of the virtues. Even when he makes reference to the cardinal virtues he is referring to virtues instilled in the agent by God rather than naturally acquired virtues. Lombard’s discussion of the theological virtues of faith, hope, and love takes up ten *distinctions* of the *Sentences* (*Lib. III. Sent. Dist. XXIII-XXXII*), whereas the discussion of the cardinal virtues is discussed

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4 Southern, *Scholastic Humanism: Volume 2*, pp. 140-146. Southern writes that the *Sententiae* “drove all competitors from the field, and became the first, the greatest, and (until, in the nineteenth century, when Thomas Aquinas was recognized as the scholastic theologian *par excellence*) the only universal textbook of theology which the schools ever produced…Peter Lombard’s work may therefore be claimed as one of the great formative works of western intellectual history. It is certainly the humblest of all great works” (p. 145).
in one, brief distinction. Fortunately, the fact that the book of Wisdom (8:7) mentions the four cardinal virtues did provide enough of a grounding to warrant a brief discussion of these virtues. Nevertheless, Lombard did find it important to include a discussion of the cardinal virtues (Lib. III Sent., Dist. XXXIII), and it continued to serve as a holding place for subsequent development of scholastic thought upon the cardinal virtues. And the lack of development on the cardinal virtues in the Sentences perhaps even spurred a greater curiosity and a desire for a unifying way to approach the cardinal virtues both from a philosophical and a theological perspective in his subsequent commentators.

Prior to Lombard, scholastic reflection upon the cardinal virtues was not entirely unknown. For example, Peter Abelard (b. 1079- d. 1142) had taken up Cicero’s philosophical account of justice, incorporating it into his Dialogos (published in 1141), where he affirms the Ciceronian definition of justice as “a habit of the mind, preserving the common interest, and assigning to each one his due.” Moreover, the Roman jurist Justinian’s definition of justice as “a constant and perpetual will rendering to each one his due,” (which would be picked up later by Aquinas as the primary definition of justice) was also well-known to scholastic theologians, and was equated with Cicero’s definition by a student of Abelard. In addition, Cary Nederman has demonstrated that familiarity with an Aristotelian analysis of the virtues would have been well-known to all scholastics

5 Cicero, De Inventione III, c. 53. “Iustitia est habitus animi, communi utilitate conservata, suam cuique tribuens dignitatem.”

6 “Iustitia est constans et perpetua voluntas suum unicuique ius tribuens.”

in the twelfth and thirteenth centuries. He provides evidence that Cicero and Boethius
drew upon Aristotle in their discussions of virtue, and that thinkers such as John of
Salisbury (ca. 1115-1180), Abelard, Alan of Lille, and others were utilizing Aristotelian
language of choice and the mean.\footnote{Nederman, “Aristotelian Ethics,” pp. 55-75, and especially 72-3.}
However, Peter Lombard’s preference for a
theological account of the virtues was to have a large impact upon the subsequent
scholastic reflection upon the virtue of justice, and it is to his treatment that we now turn.

As we have already noted, Lombard was primarily concerned with a theological
analysis of the virtues, focusing especially on Christ as the paradigmatic example of the
perfection of all virtues, including the cardinal virtues (see especially \textit{Lib. III Sent.}, Dist.
XXXIII, c. 2).\footnote{This is a point that Aquinas will maintain in his later writings as well (e.g. III. 7.2), while also
supplying an added layer of nuance by providing a more thorough analysis of the acquired cardinal virtues.}
Moreover, further reflection upon the discussion of justice was instigated
by Lombard’s choice to derive his definition from a quote from Augustine’s \textit{De Trinitate}
where he had defined justice as consisting “in helping the wretched.”\footnote{English text can be found in Giulio Silano’s translation of \textit{The Sentences, Book 3} (Toronto: Pontifical Institute of Medieval Studies, 2007), p. 135. “Iustitia est in subveniendo miseris” (\textit{Lib. XIV De Trinitate}, c. 9, n. 12; \textit{Lib. III Sent.}, Dist. XXXIII, c. 1, n. 2).}

By incorporating this definition, Lombard moved the scholastic discussion of justice away from the
classical philosophical conception of what is due and combined this with the Augustinian
definition. This definition seems to relate justice more closely to acts of mercy rather
than to acts of rendering what is due. As we will continue to see, the medieval discussion
of justice, following Lombard’s influence, necessitated further refinements in order to
explain how justice and mercy differ in their species.

\footnote{Nederman, “Aristotelian Ethics,” pp. 55-75, and especially 72-3.}

\footnote{This is a point that Aquinas will maintain in his later writings as well (e.g. III. 7.2), while also
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In regards to justice as a cardinal or natural virtue, Lombard had very little to say other than to claim that since Scripture proclaims that “justice is immortal”\(^\text{11}\) it must somehow continue in the state of blessedness, but that it will not have the same nature of assisting the wretched since there will be no evil.\(^\text{12}\) Moreover, Lombard did not make a clear distinction between the virtues as an effect of grace and grace itself, and thus all the virtues could be seen as various modalities of the central virtue of charity.\(^\text{13}\) For him there was essentially no difference between the virtues and the actions of grace in the human soul, a point of which Aquinas himself was well aware (I-II. 110.4). Lombard writes that “grace is not incongruously called virtue,” or that “grace itself is virtue.”\(^\text{14}\)

Thus, in the Sentences virtue was primarily understood as the action of God in the human soul.

One can see that Lombard’s text left room for continued development on the topic of justice, and given the fact that all of the masters began their theological careers by commenting on the Sentences and reading many of his sources, it would not be long before vigorous discussion about how to classify the cardinal virtue of justice began.

Some of the questions that emerged from the Sentences include: What is the relationship...

\(^{11}\) “Iustitia enim immortalis est” (Wisdom 1:15; Lib. III Sent., Dist. XXXIII, c. 3, n. 2).

\(^{12}\) Ibid, c. 3, n. 2-5.

\(^{13}\) Once again, we see that Aquinas retained many of Lombard’s central insights, while developing his own distinctions and contributions to the discourse. On this particular point, he still maintains that charity is the form of all the virtues (II-II. 23.8) and thus retains Lombard’s teaching on charity as the central virtue in the Christian life, but he also adds a distinction between grace as a created substance in the soul and as the principle of the infused virtues (cf. I-II. 110. 1-3). In doing so he distinguishes between grace and the virtues themselves.

\(^{14}\) “Illa gratia virtus no incongrue nominator…ipsa gratia est vertus” (Lib. IV Sent., Dist. XXVII, c. 5).
between acts of justice and those of mercy or charity? What role do the cardinal virtues play in the life of the wayfarer prior to arriving at the state of blessedness (and how do they function to regulate a well-ordered society)? In what manner does justice (or the other cardinal virtues) remain in the state of blessedness? What is the relationship between the cardinal and the theological virtues, both in this life and in the next? Lombard’s texts naturally leads into such questions and to clarify some of these issues would require a greater amount of philosophical reflection than had been undertaken in the Sentences themselves.

Very little attention was given to further clarification of the role of these virtues in the late twelfth century, but in the early thirteenth century, perhaps encouraged by a growing general knowledge of Aristotle’s philosophy through contact with the Muslim world and Muslim-Aristotelian thought (like Avicenna and Averroes), we begin to see attempts from various scholastics to clarify some of these problems. As scholastic masters began more and more to apply their learning and knowledge to practical issues relating to the increasingly complicated and sophisticated political and legal unification of Europe (both in the Church and in secular government), greater attention was also paid to the manner in which the virtues function as an essential element of a well-ordered society. This meant that greater attention must be paid to the manner in which the virtues help one “to live well in this mortal life.”

Thus, it became necessary to consider the difference between those virtues that function in the human person (either as a believer or a non-believer) in regards to the ordering of human society, and those that function in

15 “quibus in hac mortalitate bene vivitur” (St. Augustine, Lib. IV De Trinitate, c. 9, n. 12; quoted by Lombard, Lib. III Sent., Dist. XXXIII, c. 1, n. 3).
regards to arriving at the state of blessedness. In this regard, an early distinction can be seen between the ‘political’ and the ‘catholic’ virtues. For example, this distinction can be found in the work of Simon of Tournai (b. 1130- d. 1280) where he writes that

There are two species of virtue that are distinguished by their duties and ends. For if a quality of mind is set up for the execution of a political duty on account of a political end, it is called a political virtue; by which manner citizens, whether unbelievers or Jews or gentiles, are said to have virtues, if they have a firm disposition of the mind set up for the execution of the duty of an office as established in one’s own country for preserving or protecting the republic…although it is insufficient for salvation. But a catholic virtue is one that consists in a disposition of the mind constituted for the execution of a catholic duty or a catholic end; by which manner the faithful are said to have virtues, if they have a mind constituted for executing a duty according to the catholic religion as it has been established, purposefully because of God that they might prosper by Him.¹⁶

Likewise, in the work of another scholastic, William of Auxerre (d. 1231), who undertook the first philosophical and systematic attempt at the classification of the virtues, this distinction is described in terms of ‘political’ or ‘theological’ virtues.¹⁷ In these thinkers, the political virtues are acquired through frequently acting well, whereas the latter (catholic or theological virtues) are solely from God, but the distinction remains an important one in the early thirteenth century. It seems clear that the scholastics’

¹⁶ “Due sunt species virtutis, que his officiis et finibus distinguuntur. Si enim qualitas mentem constituat ad exsequendum officium politicum fine politico, dicitur virtus politica; quo modo cives, licet infidelis ut iudei vel gentiles, dicuntur habere virtutues, si mentes habeant firmo proposito constitutes ad exsequendum debita officia secundum institute patrie propter rem publicam conservandam vel confederandam…licet sit insufficiens ad salutem. Virtus autem catholic o que constanti proposito mentem constituit ad exsequendum officium catholicum fine catholico; quo modo dicatur fideles habere virtutes, si mentes habeant constitutas ad exsequenda officium secundum catholic religionis institute, finaliter propter Deum ut eo fruantur” (translation and emphasis mine; Lottin, Psychologie et Morale, p. 107). Subsequent translations from Lottin are also mine.

¹⁷ Ibid., p. 143-4. Auxerre writes that “quoniam hec est differentia inter virtutes politicas et theologicas quod politice virtutes generantur ex frequenti bene agree, theologice autem sunt a solo Deo.”
familiarity with classical thinkers such as Cicero and Justinian, as well as their concern to provide moral guidance in regard to the role of the virtues in creating a well-ordered, Christian society, led to a growing appreciation of the distinctive function of the ‘political’ virtues in the human soul. As we will continue to see, justice came to be the most difficult of these political virtues to define and categorize.

If we turn from the general treatment of the political virtues to the scholastics’ discussions of the particular virtue of justice, we find continued distinctions and clarifications in regards to defining and explaining the nature of justice as a virtue. There were two related questions that dominated discussions of justice in the early thirteenth century. The first was related to the fact that justice was primarily associated with its most biblical connotation; that is, that the possession of the virtue of justice refers to the state of one justified through faith in Christ (cf. Rom. 5:1). This led commentators to ask a second question about whether or how God’s act of justification differed from particular acts of justice on the part of individuals. The second question arose out of the attempts to distinguish acts of justice from acts of mercy or charity.

The first question, that of distinguishing the cardinal virtue of justice from the justification of the elect, remained in the work of all scholastic thinkers prior to Aquinas, including his own teacher, Albert the Great. For example, we find in Alexander of Hales’ commentary on the Sentences that

Justice is understood in many ways: in the most general manner, generally, and the least general manner…The most general manner is that according to which

18 According to Torrell, Alexander of Hales was the first master to introduce Lombard’s Sentences as the primary textbook for teaching theology in the years 1223-27 (Saint Thomas Aquinas, p. 40).
justice is said to be in the justified when the impious is made pious; thus it includes all virtues, in which manner it is understood in Matt. 15 in [the feeding of] the four thousand. [Generally] according as it is ordered to the good of God and neighbor, and thus it has a predefined act. It is also understood in the least general manner, such that it is ordered to render to each one that which is his due, either to one’s neighbor or to God, and thus it includes the three theological virtues...for instance if one’s neighbor is considered as in the image of God, it pertains to charity; but if she is considered as sharing in our same nature, then it pertains to justice.19

We can witness here several attempts to clarify some of the issues that we have outlined above. First of all, in its most general and broadest sense, justice is understood to refer to the justification of the elect. Yet Alexander also moves the discussion forward by bringing in the discussion of that which is due as an essential element of the virtue of justice, which he indicates as the narrowest sense of the word justice. In this narrowest sense, justice involves rendering what is due to God or to one’s neighbor. Moreover, one can render what is due to one’s neighbor either as an act of charity (if she is considered under the aspect of being in the image of God) or as an act of justice (if she is considered under the aspect of being one’s fellow human). Here we have greater precision of language and philosophical analysis of the virtue of justice and an advancement of the discussion and still some ambiguity in regards to how acts of justice might differ from acts of charity. In the way that Alexander parses the difference, it rests solely on a subjective differentiation on the part of the intention of the agent (whether he considers

19 “Iustitia multipliciter accipitur: generalissime, et generaliter et minus generaliter…
Generalissimo modo est secundum quod iustitia dicitur esse in iustificato quando de impio fit pius; sic comprehendit omnes virtutes, quo modo sumitur 15 Matth. De quatuor millibus hominum. [Generaliter] secundum quod est ordinata ad dilectionem Dei et proximi, sic habet actum determinatum. Item accipitur minus generaliter, ut est ordinate ad reddere unicuique quod suum est, scilicet proximo et Deo, et sic comprehendit tres theologias virtutes...nam si proximus consideratur ut Dei imago, pertinent ad caritatem; ut autem consideratur ut communicans eamdem naturam nobiscum, sic est iustitia” (Lottin, Psychologie et Morale, p. 293).
her in regards to the image of God or to her humanity), but it does not actually distinguish the difference between the two species of acts. The scholastic penchant for the differentiation of acts and virtues could not rest with such a subjective definition.

Finally, it is not clear in Alexander’s text how it is that the three theological virtues are somehow included in specific acts of justice. This comment from Alexander only underscores the difficulty that these thirteenth-century scholastics encountered in attempting to distinguish the difference between the cardinal virtues in general, justice in particular, and the three theological virtues. Despite definite advances in clarifying the nature of justice, we have not yet arrived at a clear distinction between what constitutes an act of justice verses an act of charity, or a clear manner of parsing the difference between the cardinal virtue of justice and God’s act of justification of the elect, and yet this distinction is essential for making space for an understanding of civic virtue.

Prior to the translations of Aristotle’s texts, William of Auxerre is the only other scholastic known to have undertaken a more systematic and philosophical account of the virtue of justice.\(^{20}\) William’s treatment of the virtues was even more philosophical and systematic than previous discussions, and in his work we can see another stage in clarifying some of the issues that have been flagged. In his treatment of justice, he divided justice into three distinct species: mercy, obedience, and latria (a term derived from Greek referring to offering due service to God). Thus he writes that

\(^{20}\) Although Albert the Great began such an account in his *Summa de Bono*, relying especially upon the works of Aristotle in regards to the other three cardinal virtues, and introducing the practice of dividing the virtues into subjective, integral, and potential parts, he unfortunately ended his account before arriving at his deeper analysis of the parts of justice (see Lottin, 321-2).
Mercy is by way of being elicited, whereas justice is by way of being commanded; since considering that something is to be given to a poor person because it is his, it is a command of justice to give the poor person alms; however, mercy elicits the will in giving, since it is to be given through listening to the one in need… We say that justice which is a cardinal virtue is understood in two ways. In one way, according as it is ordered to God and to one’s neighbor: to God by means of subjection; to one’s neighbor by means of some kind of equality… hence according to this meaning mercy is not divided from justice, but is a species of justice, and thus speaks Augustine when he says: ‘justice is helping the wretched,’ not as describing it, but in indicating its species by an example.  21

Once again, we witness in William’s work an attempt to define what distinguishes mercy from justice: in this case it is a difference between what is commanded by justice and what is elicited by mercy. Even though it is still not entirely clear how an act of justice itself is distinct from an act of mercy, he is trying to capture the manner in which justice implies the idea of a specific claim or duty that generates an obligation to act towards another (either God or one’s neighbor) in a particular manner. Furthermore, William attempts to reconcile Augustine’s emphasis on what seems to be a merciful act (i.e., helping the wretched) by incorporating this kind of act as falling under a particular species of justice. Thus, the sense of justice as being something that is due or owed to another (either to God or to one’s neighbor) is retained as one species of justice (falling under the species of obedience). It is important to notice that considerations of “due” are beginning to occupy a space greater prominence in the scholastic discussions of justice.

21 “quoniam considerando quod dandum est pauperi quia suum est, imperat iustitia dare pauperi elemosinam; misericordia vero voluntatem dandi elicit, attendens quoniam dandum est indigent… Dicimus quod iustitia que est una cardinalium dupliciter accipitur. Uno modo, secundum quod est ordination ad Deum et proximum; ad Deum quidem per modum subiectionis; ad proximum per modum cuiusdam equalitatis… unde secundum hanc acceptionem non dividitur misericordia a iustitia, sed est species eius, et sic loquitur Augustinus cum dicit: iustitia est subveniendo miseris, non describendo, sed in specie notificans, per exemplum” (Lottin, pp. 304-5).
It is clear that Aquinas learned a great deal from his own teacher, Albert the Great, in regards to his use of Aristotle and his treatment of the cardinal virtues. Aquinas was certainly familiar with Albert’s two commentaries on the *Nicomachean Ethics* and Albert’s treatment of the virtues in the *Summa de Bono* (even though his treatment of justice was never completed in this work). In his *Summa de Bono* Albert writes that justice is generally understood in three ways. In one of these ways it is not called a special virtue, but is better called the effect of virtue in general…and to my judgment this same effect of grace in a virtue is the general justice that makes the unjust just, and the impious pious…But justice is also understood in two other ways than the preceding manner; that is, of all customary manners of acting in themselves, not as distinct from this way of acting or another; and this justice is all virtues, and its reason does not differ one from the other. And the third general mode of justice is in accord with nature and the office of man in as much as he is a man…But first justice is called being made holy; second, however, according to custom; and third according to congruity [with nature].

Note that the general sense of justice is still concerned with its biblical connotation of justification by faith, whereas by extension it refers to customary practices that define just actions of a particular society, and finally in regards to what is natural for humankind. 

There is no attempt, however, to further differentiate between acts of justice and acts of mercy (even though there is no direct reference made to mercy), nor is direct reference

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22 We know that Aquinas drew upon Albert’s two commentaries because he incorporated them into his *Tabula Ethicorum*, a sort of “index of the principal themes (index rerum notabilium)” which he used to organize his thoughts and notes on the *Ethics* prior to undertaking his own commentary and incorporating these insights into the *Secunda Pars* of the *Summa theologiae* (see Torrell, *Saint Thomas Aquinas*, pp. 229-231).

23 “iustitia generalis accipitur tribus modis. Et uno illorum modorum [non] dicit specialem virtutem, sed potius effectum virtutis in genere…et meo iudicio iste effectus gratie in virtute est iustitia generalis que de inusto facit iustum, et de impio pium…iustitia autem generalis duoibus aliis modis preter predictum accipitur; scilicet totius consuetudinis in se, non distincte ad consuetudinem huius operis vel illius; et hec iustitia est omnes virtutes, et nonnisi ratione differt ab illis. Tertius autem modus iustitia generalis debitum est decentie nature et officii hominis in quantum est homo…Sed prima iustitia a sanctis generalis vocatur; secundo vero consuetudinalis; et tertia congruitatis” (Lottin, p. 297).
made to the nature of justice as rendering unto another his or her due. What Albert’s text does help us to see, however, is the manner in which he and the other scholastics were advancing the analysis of justice to greater levels of precision by drawing upon Lombard and many of the other sources that they had available. Thus, he maintains the emphasis on justice as justification by faith, but he also incorporates the Aristotelian understanding of justice as something related both to the nature of the human person (the third sense) and to the practices and customs of one’s own community (the second sense). Moreover, in this second sense, we see that Albert recognizes the concept that justice is in a sense ‘all virtue.’ It is from Aristotle’s concept of legal or general justice as encompassing all virtue that Aquinas will develop his own notion of legal justice, which we will in turn use as a basis to begin to develop our account of civic virtue.

Thus, in surveying just a few scholastic thinkers in the two centuries immediately prior to Aquinas, we can conclude that the discussion of justice which he inherited from his masters and teachers was still in a process of development (as all discourses such as these are, and continue to be). Various attempts had been made to clarify some of the questions that arose from Peter Lombard’s association of justice with the Augustinian emphasis on acts of mercy, and yet none of them satisfactorily captured the distinguishing characteristics that separate the two species of acts. The close association between justice and mercy prevented scholastics from making what otherwise may have been an obvious distinction between justice as a ‘political’ virtue and justice as a ‘catholic’ (Simon of Tournai) or ‘theological’ (William of Auxerre) virtue, the latter form having been transformed through the action of grace. The failure to make this distinction was made all the more difficult in light of Lombard’s lack of clear distinction between
grace and virtue, which also prevented positing a distinction between natural and infused virtues. Alexander of Hales and Albert the Great both considered justice primarily as the justification of the elect, retaining Lombard’s solely theological analysis, while also beginning to pay attention to the manner in which justice functions as a cardinal (rather than theological) virtue as an essential element of building a well-ordered society. Meanwhile, William of Auxerre parsed justice into three distinct species, referring one directly to mercy, and incorporating the notion of what is due into the second species dealing with obedience, and Albert began to incorporate more of the insights of Aristotle into his own treatment of justice.

What had not fully emerged, however, from all of these discussions was an approach to justice that would provide a clear analysis of justice as a distinct virtue from mercy, that would distinguish between justice as a cardinal virtue and justice functioning in relation to grace, or that would place the emphasis on what is due to another in a purely political setting. This last point is particularly important for our purposes because it is precisely such an account of justice functioning to foster the natural, human good that would provide a clear foundation for a theory of civic virtue. Having taken a closer look at the discussions of justice that emerged in the centuries prior to Aquinas, we can have a greater appreciation for the manner in which Aristotle’s works helped to clarify some of these issues, as well as the ways in which Aquinas contributed his own distinctive insights into the medieval discussion of justice.
4.3 Thomas Aquinas’ Treatment of the Virtue of Justice and Related Concepts

4.3.1 Some Problems Associated with Justice, Aquinas’ Solutions, and their Implications for Civic Virtue

It becomes much easier to appreciate the distinctive contributions that Aquinas makes to the discussion of justice if we consider the manner in which he was able to make some subtle but dramatic shifts in the discussion of justice which made for a much neater analysis, both philosophically and theologically, than his predecessors were able to accomplish. Moreover, we can appreciate the manner in which these changes paved the way for developing a more systematic account of civic virtue. First of all, we can begin by noting that he dismisses the problems associated with the Augustinian definition of justice by opting for that of the Roman jurist, Justinian. The primary definition of justice offered by Aquinas is that “justice is a constant and perpetual will rendering to each his right [or due, ius].”\(^24\) Even this brief text indicates that Aquinas has made several important shifts away from the previous discussion. For example, his use of Justinian’s definition of justice shows a clear preference for a philosophical analysis of justice as a natural, acquired virtue, as opposed to a theological analysis of justice as an infused virtue and the gift of grace.\(^25\) In this way, he deals with the first problem encountered in

\(^{24}\) “iustitia est constans et perpetua voluntas ius suum unicuique tribuens” (\textit{Summa Theologiae} II-II. 58.1). Our English translations of the \textit{Summa} have been aided the volume translated by the Fathers of the English Dominican Province, \textit{Summa Theologica} (Notre Dame: Christian Classics, 1948) in five volumes, though we have made changes where it seemed appropriate. Latin excerpts are derived from the Leonine edition of 1897, and can be found in full at [www.corpusthomisticum.org/iopera.html](http://www.corpusthomisticum.org/iopera.html) or in any published critical edition.

\(^{25}\) This, in turn, implies that Aquinas, unlike Lombard, distinguished between grace and virtue, where grace is the cause of the infused virtues in the soul (I-II. 110.3). Moreover, his analysis is greatly
our previous analysis of scholastic discussions of justice; the emphasis on the understanding of justice as justification by faith. By opting for the philosophical analysis of justice, Aquinas is able to claim that

the justice which faith works in us, is that whereby the ungodly is justified: it consists in the due co-ordination of the parts of the soul, as stated above (I-II, Q. 113, A. 1) where we were treating of the justification of the ungodly. Now this belongs metaphorically to justice.26

By dedicating a previous section of the *Summa* (I-II. 109-114) to the treatise on grace (combined with his distinction between grace and virtue, and between the acquired and infused forms of the virtues), Aquinas is able to make a clear distinction between his treatise on justice and the problems of justification that were encountered in earlier discussions.

In a similar fashion, Aquinas makes a clear distinction between acts of justice and those of mercy (I-II. 30) or almsgiving (I-II. 32) which are included in the treatise on charity, and between justice and charity (which will be treated in greater detail below). While it is beyond our scope to go into the details of his treatment of these other species of virtues and acts, we can recognize that by giving a more systematic treatment to mercy, almsgiving, and charity in different sections of the *Summa*, he provides an open space for discussing the distinguishing features of acts of justice, thereby providing his

simplified by upholding a clear distinction between acquired and infused virtue (I-II. 61-62, especially 62.1).

26 “Ad primum ergo dicendum quod iustitia quae fit per fidem in nobis, est per quam iustificatur impius, quae quidem in ipsa debita ordinacione partium animae consistit, sicut supra dictum est, cum de iustificatione impii ageretur. Hoc autem pertinet ad iustitiam metaphorice dictam” (II-II. 58.2), italics added.
own answer (through his choice about how to structure the *Summa* and where to place his discussion of particular acts) to the question encountered by previous scholastics who relied primarily upon Lombard’s Augustinian definition of justice.

As we have already noted in highlighting Aquinas’ use of Justinian’s definition of justice, it has primarily to do with rendering undo another that which is due. In previous discussions of justice, the notion of due was typically parsed in two ways: that which is due to one’s neighbor, and that which is due to God. Aquinas, however, indicates that the object of justice, the right (*ius*), “directs man in his relations with others: because it denotes a kind of equality.”

He goes on to indicate that since there can be no true equality between a human and God, there is no justice in the narrowest sense of the term (since the justification through grace that makes one a friend of God is justice only metaphorically). Thus, he writes that since we cannot have equality with God, “it follows that we cannot make Him a perfectly just repayment…Nevertheless justice tends to make a person repay God as much as he can, by subjecting his mind to Him entirely.”

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27 “*iustitiae proprium est inter alias virtutes ut ordinet hominem in quae sunt ad alterum. Importat enim aequalitatem quondam*” (II-II. 57.1).

28 Justice properly so-called has to do with relations of equality, but justice for Aquinas also regulates all external acts, and therefore can direct certain other acts that do not denote a relationship of equality, such as happens in virtues that are annexed to justice as its potential parts (e.g., religion, piety, gratitude, revenge, observance, truth; II-II.80.1). We will discuss some of these in greater detail below when we extend our discussion of civic virtue beyond what Aquinas writes about justice.

29 “*secundum perfectam rationem, non possimus reddere Deo…quia videlicet sufficit Deo ut impleamus quod possimus. Iustitia tamen ad hoc tendit ut homo, quantum potest, Deo recompenset, totaliter animam ei subiiciens*” (II-II. 57.1, ad 3). He does, however, bring back in the notion of what is due to God when he discusses the virtue of religion as a potential part of justice. He argues, following Cicero, that religion is a virtue annexed to justice, because it has something in common with the principal (i.e., justice), but it also falls short of the fullness of that virtue. In this context he writes that “whatever man renders to God is due, yet it cannot be equal, as though man rendered to God as much as he owed Him…In this respect religion is annexed to justice since, according to Tully [*De Invent. ii. 53*], it consists in offering service and ceremonial rites or worship to some superior nature that men call divine” (Et primo quidem,
Once again, we see that the understanding of justice with which Aquinas is dealing is concerned with accounting for the obligations that arise out of a sense of what is due or owed to another person. Our account of civic virtue will also take note of this notion of due, especially as we consider our actions toward the common good as something that is due to one’s community and fellow-citizens.

Thus, even by taking a preliminary glance at the structure of the *Summa*, the initial definition of the object of justice (*ius*), and the definition he offers of justice as a virtue, it becomes apparent that his treatment of the virtue continues to advance the discourse on justice which he had inherited from his predecessors. He has made several contributions that lend to greater clarity: (a) a clear distinction between justification by faith and justice as a virtue (by treating of justification in the treatise on grace as a distinct section from the treatise on justice); (b) a clear distinction between acts of mercy, almsgiving, or charity, and acts of justice (by treating them separately as distinct virtues, each with their own distinctive objects, in the *Secunda Secundae*); and, (c) he has indicated that justice is primarily concerned with rendering what is due to one to whom it is owed (either to God or to one’s neighbor).\(^{30}\)

These decisions about how to organize the structure of the *Summa* allowed Aquinas a space to put together his own distinctive contribution to the discussion of justice, drawing on a diverse range of thinkers such as Augustine, Lombard, Cicero, and

\[^{30}\] As noted in the previous footnote, Aquinas deals with the virtue of religion as a potential part of justice that is annexed to justice, and this can be considered the highest part of justice.
Aristotle among others. Yet even this he could not do without making his own interpretations and editorial changes. For example, the text of Aristotle offered some challenges that needed to be dealt with as well before we can arrive at an understanding of justice that will yield the account of civic virtue that we wish to derive from Aquinas’ work. Perhaps the most important change that Aquinas made to Aristotle’s discussion of justice in the Nicomachean Ethics has to do with his decision to place justice in the will as the subject of the virtue, a concept that would have been entirely foreign to Aristotle himself.

Placing justice in the will required Aquinas to harmonize the diverse range of source from which he was drawing. On the one hand, Aristotle does not have a conception of a part of the soul that could be called the will. For him, the human soul consisted of the intellect and the sensitive appetite, the latter of which includes the irascible and concupiscible faculties. Yet scholastic discussions, drawing upon Augustine’s emphasis on the will (using the terms voluntas and liberum arbitrium), combined with a general scholastic knowledge of the role of the will in Stoic philosophy (through Cicero and Augustine’s comments in Civitas Dei), there was considerable argument about the role of the will in relation to the virtues. Since by definition all human action originates in the will (I-II. 8.1), some scholastics believed that all moral virtues belonged properly to the will as their subject. For example, Bonnie Kent writes that

all habits that are moral virtues properly so called, in their own right and without qualification, are habits of the will. In the later thirteenth and early fourteenth
centuries, more than a dozen thinkers defended this view. Bonaventure, Henry of Ghent, Peter Olivi, Gonsalvus of Spain, and Duns Scotus were among them.\footnote{31}

Aquinas, however, consistently defends his position that the virtue of justice resides in the will (along with charity), which is the rational appetite, while the other virtues perfect a different part of the soul.\footnote{32} This is a position that he defends throughout his entire career, from his Commentary on the Sentences all the way through to the Summa.\footnote{33}

Moreover, he felt himself at liberty to make the claim that, even though Aristotle does not use the term in his moral psychology or in his discussion of justice, Justinian’s definition of justice (which mentions the will) is “about the same definition as that given by the Philosopher (Ethic. v.5) who says that justice is a habit whereby a man is said to be capable of doing just actions in accordance with his choice.”\footnote{34} Aquinas explains his reasoning for making this interpretation in his Commentary on the Ethics, which he used as a kind of study guide in preparation for writing the Secunda Pars. In multiple places within his commentary he feels at liberty to extend the discussion of what Aristotle


\footnote{32} In his schema of the virtues in the human soul, each cardinal virtue fulfills the function of perfecting the part of which it is a subject. Thus, prudence perfects the intellect. Fortitude and temperance function to perfect the sensitive appetite of the human soul, which is broken down into the irascible and the concupiscible (I. 81.2). Fortitude perfects the irascible, and temperance the concupiscible parts of the sensitive appetite. The will, being the appetite that belongs properly to the intellect, is desireous of the good as it is comprehended in the intellect (I-II. 8.1). The will is thus the seat of justice in the human soul, since “the will moves the other powers of the soul to their acts” (I-II. 9.1), and justice is concerned primarily with external acts towards another (II-II. 57.1; 58.2; see also \textit{Sententia libri Ethicorum}, Lib. 5, L.1).

\footnote{33} Aquinas makes this same argument about the location of justice in the will, drawing upon the same quote from Anselm that “justice is rectitude of the will observed for its own sake/ (iustitia est rectitutis voluntatis propter se servata),” in his \textit{Scriptum super Sententiarum} (Lib. 3, Dist. 33, Q. 2, A. 4, QC. 3) and in the \textit{Summa} (II-II. 58.4).

\footnote{34} “Et quasi est eadem definitio cum ea quam philosophus ponit, in V Ethic., dicens quod iustitia est habitus secundum quem aliquid dicitur operativus secundum electionem iusti” (II-II. 58.1).
wrote, believing that he was simply drawing out the implications of his work. There he writes that Aristotle “properly [convenienter] explained justice after the manner of a will.” Matthias Perkams indicates that this association was made easier by the “Latin translation volunta iusta of the Greek boulontai ta dikaia,” thereby giving further weight to associating the notion of will to Aristotle’s understanding of justice. This move to place justice in the will will become important again when we pick up the account of civic virtue that this makes possible, since our definition of civic virtue includes the will to sustain and enhance the well-being of one’s community by seeking the common good.

A second area that Aquinas clarifies his own thought beyond what Aristotle says in the Ethics is in regards to the natural law, and this will also have important implications for our subsequent development of a Thomistic account of civic virtue. In Book V, chapter 7 of the Ethics Aristotle makes a distinction between natural and positive law, and upholds that natural law indicates that which is unchanging according to nature. But when it comes to his normative analysis of law, the natural law does very little work, and he favors rather a regime-centered understanding of positive law; one that changes according to the circumstances as set up by each civil body. Aquinas, on the other hand, inherits a much richer account of the natural law from medieval jurists, from Augustine and the Stoics, and from his own philosophical, Biblical, and theological


analysis of law that he had developed earlier in his treatise on law (I-II. 90-108). This allowed him to move away from the regime-centered analysis of positive law as it is found in Aristotle, and to account for a greater normative role for the natural law (as the reason’s participation in the Eternal Law\textsuperscript{37}). By making a slight modification (but one with important ramifications), Aquinas brought in a more normative sense of the natural law, thereby placing positive law (or its more specific form of expression which he and the jurists call the ‘law of the peoples,’ the \textit{ius gentium}) in a dependent, derivative relation to natural law in a way that Aristotle himself did not. In his Commentary on the \textit{Ethics} Aquinas writes that

\begin{quote}
we must take into account that political or civil is taken here in one way by the Philosopher and in another way by the jurists. The Philosopher here calls justice political or civil from the usage the citizens are accustomed to [i.e. a regime-centered understanding of positive law], but the jurists call right political or civil from the cause, viz., that some city has decreed for itself. For this reason the Philosopher appropriately designates legal or posited by law that which they [the jurists] call positive. Political justice then is properly divided by means of these two, for the citizens use justice to the extent that it is imparted to the human mind by nature and to the extent that it is posited by [human] law.\textsuperscript{38}
\end{quote}

Thus, Aquinas makes an all-important distinction here that Aristotle does not: for Aquinas, each rational human person is capable of participating in the natural law directly (by grasping the first practical precepts); \textit{and} human, positive law is grounded in the

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\textsuperscript{37} See I-II. 93.2 and I-II. 94.

\textsuperscript{38} “\textit{Sed attendendum est, quod aliter sumitur politicum vel civile hic apud philosophum et aliter apud iuristos; philosophus enim hic nominat politicum iustum vel civile ex usu, quo scilicet cives utuntur; iuristae autem nominant ius politicum vel civile ex causa, quod scilicet civitas aliqua sibi constituit, et ideo convenienter hic a philosopho nominatur \textit{legale}, idest lege positum, quod et illi dicunt positivum; convenienter autem per haec duo dividitur iustum politicum, utuntur enim cives iusto et eo quod natura menti humanae indidit, et eo quod est positum lege}” (\textit{Sent. Lib. Ethicorum}, Lib. 5, L. 12, n. 2).
immutable natural law (in that it cannot contradict the natural law), but is also flexible enough to adapt according to the dictates of human reason, the utility of the community, and the contingent, historical circumstances of each political community. This grounding of written law in natural law is incorporated into his treatise on justice when he writes, for example, that

laws are written for the purpose of manifesting both of these rights [natural and positive], but in different ways. For the written law does indeed contain natural right, but it does not establish it, for the latter derives its force, not from the written law but from nature: whereas the written law both contains positive right, and establishes it by giving it force of authority. 39

This quote also introduces us to another essential element of justice as Aquinas understands it; that is, the promulgation of a binding law requires the existence of a duly appointed authority. This in turn implies the necessity of a duly constituted political body as an essential element of a well-ordered society. For now, we need simply to note political authority is a necessary correlate of law and a well-ordered society (and hence will be an important aspect of our account of civic virtue) and we will return to this discussion of political authority below.

Moreover, his distinctive manner of understanding the relationship of the will and positive law to the natural law allowed him to skirt some of the problematic issues that derived from later forms of voluntarism, which did not tether the will to the dictates of

39 “Leges autem scribuntur ad utiriusque iuris declarationem, aliter tamen et aliter. Nam legis Scriptura ius quidem naturale continet, sed non instituit, non enim habet robur ex lege, sed ex natura. Ius autem positivum Scriptura legis et continet et instituit, dans ei auctoritatis robur” (II-II. 60.5). Note that Aquinas does not make a distinction between natural right (ius) and natural law (lex) in the Summa. See also Perkams, “Aquinas’s Interpretation,” p. 144.

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natural and Eternal law in the same way as Aquinas did. As Kent writes, “[d]isputes about the location of the virtues will accordingly reflect considerations of politics as well as ethics, psychology, metaphysics, and theology.”\textsuperscript{40} It will be important to keep this in mind as we turn to the more political ramifications of Aquinas’ account of justice, since his account of justice as residing in the will and its close connection with natural law will be an essential source for a critical appraisal of the laws of one’s society as an element of civic virtue. A purely voluntarist construal of this relationship between will and law would not allow for the kind of critical civic virtue that we are beginning to develop, because a voluntarist notion of law is overly reliant upon the (potentially arbitrary) choices of the lawmaker. In our notion of civic virtue (and in Aquinas’ conception of law), however, a law is just if it contributes to the common good and conforms to the natural law. Therefore, citizens and lawmakers both have access to a critical perspective on the law that is not afforded by deference to the will of the lawmaker as the sole justifying force of a law.

As we move into an analysis of the core from which our conception of civic virtue is derived (i.e., Aquinas’ discussion of legal justice), it is helpful to keep in mind the ways in which he addresses some of the questions that emerged in scholastic discourse on the nature of justice. First of all, his emphasis on a philosophical analysis of justice that is focused primarily on relationships denoting a certain kind of equality between human persons allowed him to sidestep many of the problems associated with the Augustinian definition of justice as related to mercy as well as the problem of considering justice as

\textsuperscript{40}Kent, Virtues of the Will, p. 229.
primarily tethered to justification through grace. This enabled Aquinas to provide an account of justice as a personal virtue that also addressed the needs of an increasingly unified and regulated European society (through a highly sophisticated system of positive law, both secular and ecclesial). Moreover, by tying the virtue of justice closely to his account of natural law (which we will continue to explore below), it became increasingly clear how essential the virtue of justice was in providing a foundation for social cohesion and a well-ordered society, and in this he continues to build on the insights of his predecessors on this point. He demonstrates this connection by showing how both the individual human mind and the positive laws of one’s society have their foundations in the natural law, which in turn is a manifestation of human reason’s participation in the Eternal law through which God governs the whole of the created universe (through his divine providence; cf. I. 22, I-II.93.3). We turn now to consider in even greater detail the manner in which Aquinas’ work can provide us with the foundations for a rich account of civic virtue.

4.3.2 Aquinas’ Conception of Legal Justice: The Foundation of Civic Virtue

Having thus established the basic contours of his treatment of justice, Aquinas then moves into a closer analysis of the various ways in which justice functions both generally and specifically to regulate the social equality upon which the stability and justness of a society and its laws rests. Beginning in II-II. 58.5, Aquinas begins to distinguish between general and specific justice, and he begins with general justice. It is immediately apparent that Aquinas’ commentaries on the Ethics and, to a lesser extent, the Politics, were highly influential for his treatment of general and specific justice. The
The distinction between general and specific justice is something that he maintained throughout his career, including a brief reference to the difference in his commentary on the *Sentences*. His treatment in the *Summa*, however, shows significant development and maturity of thought in relation to general justice, even despite the brevity of his treatment. It is worth quoting this section at length to grasp the full import of what is being stated:

Now it is evident that all who are included in a community, stand in relation to that community as parts to a whole; while a part, as such, belongs to a whole, so that whatever is the good of the part can be directed to the good of the whole. It follows therefore that the good of any virtue, whether such virtue direct man in relation to himself, or in relation to certain other individual persons, is referable to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good. It is in this sense that justice is called a general virtue. And since it belongs to the law to direct to the common good, as stated above (I-II. 90, A. 2), it follows that the justice which is in this way styled general, is called *legal justice*, because thereby man is in harmony with the law which directs the acts of all the virtues to the common good.

There is much to glean from this rich definition of general justice. First of all, general justice is distinguished from particular justice (which is primarily what is referred to in acts of justice), and is in turn divided into its distributive and commutative species (II-II.

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41 *Lib. III, Scrip. Super Sent.*, Dist. XXXIII, Q.1, A.1, qc. 3, ad. 3.

42 “Manifestum est autem quod omnes qui sub communitate aliqua continentur comparantur ad communitatem sicut partes ad totum. Pars autem id quod est totius est, unde et quodlibet bonum partis est ordinabile in bonum totius. Secundum hoc igitur bonum cuiuslibet virtutis, sive ordinantis aliquem hominem ad seipsum sive ordinantis ipsum ad aliquas alias personas singulares, est referibile ad bonum commune, ad quod ordinat iustitia. Et secundum hoc actus omnium virtutum possunt ad iustitiam pertinere, secundum quod ordinat hominem ad bonum commune. Et quantum ad hoc iustitia dicitur virtus generalis. Et quia ad legem pertinet ordinare in bonum commune, ut supra habitum est, inde est quod talis iustitia, praedicto modo generalis, dicitur iustitia legalis, quia scilicet per eam homo concordat legi ordinanti actus omnium virtutum in bonum commune” (II-II. 58.5).
58.7-8; Q. 61). Even though particular justice is the primary sense of justice, and is worthy of its own independent study, it is beyond our current study of civic virtue to move into an analysis of commutative and distributive justice. Secondly, it seems that Aquinas uses both the terms general (generalis) and legal (legalis) justice, even though the latter is preferred by Aristotle. It is likely that this reflects Aquinas’ difference in understanding of the relationship between positive and natural law, in the sense that for Aristotle, the general virtue that he calls legal justice could refer simply to following the written laws of one’s community. Yet for Aquinas, this would not be enough to make one just, for laws themselves can be unjust, and the human mind is subject to a higher law through the reason’s participation in the natural law. Thus, the term general justice better captures the idea of what Aquinas means when he picks up the concept of legal justice from Aristotle and incorporates it into his own moral and political theory, even as Aquinas continues to use both terms interchangeably throughout the Summa. General justice is not simply a propensity to follow the laws of one’s society (though it is that), but rather a more deeply engrained habit of following the dictates of the natural law.

Thirdly, general justice, since it is rooted in the will which, as we discussed above, is the part of the human soul (the rational appetite) from which all external acts flow, is capable of directing all other acts of moral virtue (whether toward oneself or to

43 Recall that we noted in chapter two that a similar concern contributed to a reticence on the part of Catholic thinkers at the end of the nineteenth and in the early twentieth centuries to use the term ‘legal justice, and that this contributed to the rise of the use of the term ‘social justice’ as a replacement.

44 “Hence if the written law contains anything contrary to the natural right, it is unjust and has no binding force…Wherefore such documents are to be called now laws, but rather corruptions of law, as stated above (I-II. Q. 95, A. 2)/ (Et ideo si Scriptura legis contineat aliquid contra ius naturale, inustas, nec habet vim obligandi… Et ideo nec tales Scripturae leges dicuntur, sed potius legis corruptiones, ut supra dictum est)” (II-II. 60.5).
another person). Therefore, justice, just like charity, can function architectonically in a hierarchy of the virtues, regulating acts relating to other virtues through the perfection of the will by orienting the will towards its proper end. In this sense, Aquinas writes that

just as charity may be called a general virtue in so far is it directs the acts of all the virtues to the Divine good, so too is legal justice, in so far as it directs the acts of all the virtues to the common good.\textsuperscript{45}

Thus, justice and charity function analogously to perfect the will and to direct all other acts of virtues in regards to their distinctive ends (the Divine good for charity, and the temporal common good for justice).

Fourthly, and closely related to the previous point, the \textit{terminus ad quem} of acts directed by general justice is the common good. The common good is a term frequently used in contemporary moral theology (especially Catholic social thought), but it often functions as a general term that can convey a wide array of ambiguous meanings. It seems that when the phrase ‘the common good’ is used by the majority of contemporary thinkers, whether in the context of Catholic social thought or in other, secular and/or political thinkers, it generally refers to a collection of individual goods that come to make up a whole of goods or services when considered from a sociological point of view. This view is made explicit in the document from the Second Vatican Council, \textit{Gaudium et Spes}, which states that the common good is “the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready

\textsuperscript{45} “Sicut enim caritas potest dici virtus generalis inquantum ordinat actus omnium virtutum ad bonum divinum, ita etiam iustitia legalis inquantum ordinat actus omnium virtutum ad bonum commune” (II-II. 58.6).
access to their own fulfillment”\(^{46}\) This mode of defining the common good would throw considerable confusion on our account of civic virtue, as it would require one to develop the will toward an aggregate of goods leading to a division of the object of civic virtue that would in turn make it nearly impossible to apply in practice.

Practical considerations aside, any Thomistic account of the common good must assume that the common good is an independently existing good that transcends the sum total of individual goods in society. Aquinas states this explicitly when he writes that

the common good of the realm and the particular good of the individual differ not only in respect of the \textit{many} and the \textit{few}, but also under a \textbf{formal aspect}. For the aspect of the \textit{common} good differs from the aspect of the \textit{individual} good, even as the aspect of the \textit{whole} differs from that of its \textit{part}.\(^{47}\)

Unfortunately, Aquinas never provides us with a distinct set of questions on his understanding of the common good, nor does he define exactly how the individual good differs in genus from the temporal common good. As we continue to explore the meaning and significance of the common good for our account of civic virtue, it will be very important to continue to explain what this formal distinction between the individual good and the common good of the whole society entails.

For this reason, it is important to pay close attention to what Aquinas seems to mean by the common good, as well as what he does not mean. First of all, Aquinas states


\(^{47}\) “\textit{bonum commune civitatis et bonum singulare unius personae non differunt solum secundum multum et paucum, sed secundum formalem differentiam, alia enim est ratio boni communis et boni singularis, sicut et alia est ratio totius et partis}” (II-II. 58.7, ad 2). Italics are in the English translation borrowed from the Fathers of the Dominican Province; bold added.
earlier in the *Summa* that each virtue is defined and distinguished in relation to its object (I-II. 55.4). Thus, he states that “legal justice is a special virtue in respect of its essence, in so far as it regards the common good as its proper object.”

In so far as the common good can be considered as a good in and of itself (which, as we have just seen, for Aquinas clearly it can), it can be the object of the special virtue of justice.

It is at this point that it seems probable that Aquinas’ understanding of general justice and the common good was deepened by his own reading of the *Politics*. For example, the purpose of law in Aristotle’s thought has to do with making citizens good and happy through the instantiation of virtue (*NE* II.1), a theme expressed by Cicero as well and picked up Albert the Great. Although Aquinas recognizes this element of human law (I-II. 92.1), he exhibits a clear preference for placing the emphasis of the purpose of law on the manner in which it serves, protects, and fosters the common good. Hence, Aquinas’ own discussion of general justice in the *Summa* is more heavily oriented toward the common good than is the discussion in Aristotle’s *Ethics*. Torrell indicates that Aquinas began his commentary on the *Politics* during his second period of teaching in Paris (1268-72), during which time he continued to work on the *Secunda*

48 “Potest tamen quaelibet virtus, secundum quod a praedicta virtute, speciali quidem in essentia, generali autem secundum virtutem, ordinatur ad bonum commune, dici iustitia legalis” (II-II. 58.6).

49 “Consequently, since the law is chiefly ordained to the common good, any other precept in regard to some individual work, must needs be devoid of the nature of a law, save in so far as it regards the common good. Therefore every law is ordained to the common good/ (unde oportet quod, cum lex maxime dicatur secundum ordinem ad bonum commune, quodcumque alius praeceptum de particulari opere non habeat rationem legis nisi secundum ordinem ad bonum commune. Et ideo omnis lex ad bonum commune ordinatur)” (I-II. 90.2). For more on this, see Jean Porter’s article, “The Common Good in Thomas Aquinas,” in *In Search of the Common Good* (Edited by Dennis P. McCann and Patrick D. Miller, New York: T & T Clark, 2005: 94-120), especially p. 109.
Pars. Aquinas’ prologue to his commentary on the Politics places a heavy emphasis on the life of the city as the most perfect good of all human societies and on the common good as the highest expression of the human good. Thus, it seems probable that a deeper appreciation for the centrality of the common good was derived from Aquinas’ reading of the earlier parts of Aristotle’s Politics.

Moreover, even though Aquinas holds that the common good is a good that transcends the good of the individual and that no individual can seek her own good without seeking the common good (I-II. 92.1, ad 3; II-II. 47.10, ad 2), he does not mean by this that the individual good is justifiably overwritten by the primacy of the common good. The potential for the common good to overshadow individual rights and autonomy is a concern of many liberal political theorists. For example, although he does not attack Aquinas or the concept of the common good directly, George Kateb vehemently defends individuality against any kind of insistence that the human person’s true good or happiness can be found in any kind of essentially social existence. These ‘anti-individualist ideals’ he lumps into one camp and pits them against democratic, rights-based individualism when he writes that

50 Torrell, Saint Thomas Aquinas, pp. 233-4. Although Aquinas’ text is incomplete, the authentic commentaries continue up until Book III, ch. 6. Torrell also indicates that earlier Latin editions had been heavily edited from Aquinas’ original manuscript, and hence the Leonine edition is indispensible for the critical accuracy of this text.

51 See the Proemium of the Sententia libri Politicorum. English translation can be found in “Commentary on the Politics,” Translated by Ernest L. Fortin and Peter D. O’Neill, in Medieval Political Philosophy (Edited by Ralph Lerner and Muhsin Mahdi, New York: Free Press, 1963: 297-334). One should also note that despite what many modern commentators eager to uphold the centrality of freedom or liberty have feared in recent literature on Aristotle and Aquinas, the common good is not a monolithic whole that is at best indifferent to, and at worst destructive of, the good of individuals. Rather, the common good is highest good because it is the only thing capable of being ordered to “the satisfaction of all the needs of human life” (Sent. lib. Politicorum, Proeumium) for individuals as well as the whole.
Nothing is worse than the horrors that do or would come from the unqualified prestige of participation in sovereign politics, the societywide bond of community, the solidarity of the armed group, and the project of social self-realization. They are horrors in themselves and are auxiliaries to further horrors of statism. The remedies for the troubles must be found, at least in any democratic setting, within rights-based individualism and the aspiration to democratic individuality.\footnote{52}

In this context, Aquinas’ comment that “the common good [is] better than the good of the individual”\footnote{53} could be taken to underwrite precisely such a concern for denigrating individual rights. This concern is only compounded for many contemporary thinkers by the fact that Aquinas himself has no account of individual, subjective, or natural human rights.\footnote{54}

On closer examination, however, we find that this is adamantly not the case in Aquinas’ thought. But in order to appreciate how this is true we must first examine more closely the different ways in which Aquinas employs the concept of the common good. Throughout his work, rather than opting to develop a fully systematic, univocal account of the common good, Aquinas upholds (at least) two conceptions of the common good, one of which is metaphysical and the other temporal. He applies these two conceptions


\footnote{53} “bonum commune sit melius quam bonum unius” (II-II.47.10).

\footnote{54} This is not to say that he does not uphold the importance of the human person’s dignity as made in the image of God (I. 93), upon which Thomistic thinkers of the late nineteenth or early twentieth centuries could build a coherent theory of natural rights, or that the concept of rights was entirely foreign to medieval discussions of justice (see Brian Tierney, \textit{The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law}, 115-1625 [Atlanta: Scholars Press, 1997]).
with great flexibility and nuance in various contexts. The metaphysical conception of the common good derives from the following principles: that God is the ultimate good of the universe (*summum bonum*) and that all created beings participate in God’s goodness through a hierarchy of being in which all things are ordered to God as to their final end. It therefore follows that God can be considered as the ultimate common

55 In the following analysis of the metaphysical participation in goodness I am indebted to the discussion of the common good in Aquinas provided by M.S. Kempshall in *The Common Good in Late Medieval Political Thought* (Oxford: Clarendon Press, 1999), especially chapters 3-4. I do not follow his analysis to its full conclusion, however, because Kempshall does not seem to uphold a clear distinction between nature and grace the way that Aquinas does. This leads him into a rather complicated analysis of the difference between the common good understood as the life of moral virtue (in which the analogical application of the metaphysical conception of the common good is employed) as opposed to the common good understood as common benefit or utility (in which the political conception of the common good is employed). For example, he writes that “when necessary, [Aquinas] can change his definition of the common good from the life of moral virtue to the common utility of material benefit. The distinction which enables him to make such a switch is the conceptual distinction between *bonum* and *utilitas*” (p. 116). This reading of Aquinas, despite Kempshall’s protests to the contrary, seems to underwrite a conception of the common good as a sum of goods or benefits that can accrue to individuals, leaving the only truly common good in political life to be construed as the good of virtue or happiness. This leads to a second problematic element of Kempshall’s work as he construes the purpose of law primarily as leading citizens to the perfection of virtue, which is a point at which we have already noted that Aquinas deviates from Aristotle’s conception of law as existing to make persons virtuous. A Thomistic account of the common good must conceive of a natural good of life lived together in society that is not reducible to the abstraction of virtue (though it certainly includes the life of virtue) nor to a sum of individual goods, but is rather a truly existent, substantial good.

56 “God is the supreme good simply/ (Deus est summum bonum simpliciter)” (I. 6.2).

57 Quoting Boethius’ *De Hebdomadibus*, Aquinas writes that “all things but God are good by participation/ (alia omnia a Deo sunt bona per participationem)” (I. 6.3, sed). See also I. 13.7 and I. 45.3, ad 1.

58 “Therefore because there is one God, the Prince not only of all the angels but also of persons and all creatures; so there is one hierarchy, not only of all the angels, but also of all rational creatures, who can be participators of sacred things/ (Quia igitur unus est Deus princeps non solum omnium Angelorum, sed etiam hominum, et totius creaturae; ideo non solum omnium Angelorum, sed etiam totius rationalis creaturae, quae sacrorum particeps esse potest, una est hierarchia)” (I. 108.1).

59 “He is not directed to anything else as to an end, but is Himself the last end of all things/ (Ipse etiam ad nihil aliud ordinatur sicut ad finem, sed ipse est ultimus finis omnium rerum)” (I. 6.3).
good for all of creation.\textsuperscript{60} Additionally, although there is one hierarchy governing all of creation, there are also distinct orders with their own distinctive ends operative within creation, which, although they have their own proper ends are still directed toward the ultimate end of all things in God.\textsuperscript{61} This last point is especially pertinent in regards to the common good of the human community, because the temporal common good can function as its own end for political life, while simultaneously being ordered towards the higher end of God in which all of creation participates. We will explore further this relationship between these two aspects of the end of human life in our discussion of charity in relation to justice and civic virtue.

Aquinas then tethers these metaphysical principles to the moral psychology of the human person through his incorporation of Aristotle’s doctrine that “the good is that at

\begin{itemize}
\item \textsuperscript{60} “Now it is manifest that the good of the part is for the good of the whole; hence everything, by its natural appetite and love, loves its own proper good on account of the common good of the whole universe, which is God/ (Manifestum est autem quod bonum partis est propter bonum totius. Unde etiam naturali appetitu vel amore unaquaeque res particularis amat bonum suum propter bonum commune totius universi, quod est Deus)” (I-II. 109.3). This is an idea that Aquinas expresses in his \textit{Scriptum super Sententiarum} as well when he writes that there are two manners in which a good is said to be common. The first is by means of predication and the second is “according to participation in one and the same thing according to number; and this fellowship can be most fully in those things which pertain to the soul, in which they are found; because through itself it attains to that which is the common good of all things, which is God / ( secundum participationem unius et ejusdem rei secundum numerum; et haec communitas maxime potest in his quae ad animam pertinent, inveniri; quia per ipsam attingitur ad id quod est commune bonum omnibus rebus, scilicet Deum)” (\textit{Scriptum super Sent. Lib. 4}, Dist. 49, Q. 1, 1, 1, ad 3). Michael Sherwin’s article has been helpful on this point (“St. Thomas and the Common Good: The Theological Perspective: An Invitation to Dialogue,” \textit{Angelicum} 70 (1993): 307-28), p. 308, footnote 2.
\item \textsuperscript{61} For example, in the discussion quoted above from I. 108.1, Aquinas recognizes that there are distinct orders of angels and of humans, each with their own intrinsic ends, but which are also simultaneously ordered toward the ultimate end of God in the over-arching hierarchy in which all things participate. On this point, Kempshall writes that “[a]ccording to book XII of the \textit{Metaphysics}, individual parts of a whole are ordered towards other parts in an intrinsic good but they are also ordered towards the extrinsic good of the whole” (p. 100).
\end{itemize}
which all things aim” in ethical life.\textsuperscript{62} Thus, the choices that one makes in regards to one’s individual good and to the common good of the community have important implications for the manner in which one moves towards union with God. A consequence of this for our account of civic virtue is that even as one strives towards the imperfect good of human society, this can be done with an eye towards the higher end of union with God in such a way that the two are not mutually exclusive.\textsuperscript{63}

At least one difficulty emerges, however, when one begins to apply this metaphysical schemata of participation in (God’s) goodness to participation in the common good in the political context. For if, following the hierarchy of orders and ends that Aquinas picks up from Psuedo-Dionysius and Boethius, one must move up through these orders in a hierarchy of goods in the ascent to God, it could seem that a certain kind of participation and submerging of the individual in the ends and ordering of the political community would be required in order to approach the perfection of life offered in the Beatific Vision.\textsuperscript{64} The same problem emerges when considered from a more directly theological standpoint. The contemplation of perfect beatitude is experienced as something essentially individual for the one called to friendship with God through grace, and it is a social phenomenon only accidentally in that there are many who are called into

\textsuperscript{62} Nicomachean Ethics I.1. See also Kempshall’s explication of these metaphysical principles and their relation to practical reason, which I am partially drawing upon here, in The Common Good, pp. 81-4.

\textsuperscript{63} This relationship between temporal common good as end and contemplation of God as end will become even more apparent as we discuss the relationship between charity and justice below.

\textsuperscript{64} Kempshall asks the question in the following manner: “Is the mediation of ends within the hierarchy of goodness so strict that the individual human being cannot attain his ultimate good in God without the good of human society? Or can the operation of the hierarchy of goodness be modified to make exception for the individual such that a human being can attain eternal beatitude directly, without the mediation of the human community?” (p. 86).
this communion (I-II. 4.8, ad 3). Fortunately, however, even though Aquinas continues to use corporeal analogies about the manner in which the good of the individual parts of the body (i.e., members of a community) are dependent upon the health of the entire body (i.e., the kingdom or state), he recognizes the limits of drawing out the analogy between the common good of the civic community and the common good toward which all created beings strive in God.

The good toward which persons aim in directing their civic life (the common good which is not the most perfect good absolutely [simpliciter], but rather of the human community), is analogous to, but does not directly correlate with, the ultimate good of beatitude with God. In commenting on NE I.1, Aquinas concludes by stating that

we should note that [Aristotle] says political science is the most important, not simply, but in that division of practical sciences which are concerned with human things, the ultimate end of which political science considers. The ultimate end of the whole universe is considered in theology which is the most important without qualification.

Combining this observation with Aquinas’ comments above on the Politics about the common good as the highest good of human society, we can conclude that he makes a clear distinction between the common good as the end of human society, and God as the common good of all of creation. Thus, although there is an analogous relationship

65 This reality is only further underscored by Aquinas’ insistence in drawing upon the Apostle’s Creed in holding together the Holy Spirit, the Church, and the communion of saints in what Torrell calls one “organic connection” (see Torrell, Saint Thomas Aquinas, Volume 2: Spiritual Master [Translated by Robert Royal, Washington, D.C.: Catholic University of America Press, 2003], p. 194.

66 “Sciendum est autem, quod politicam dicit esse principalissimam, non simpliciter, sed in genere activarum scientiarum, quae sunt circa res humanas, quorum ultimum finem politica considerat. Nam ultimum finem totius universi considerat scientia divina, quae est respectu omnium principalissima” (Sent. Lib. Ethicorum, Lib. 1, L. 1, no. 13).
between the ultimate common good and the common good of human society, it would be a mistake to draw this connection too tightly and to assume that they function in the same manner. While it may be true that natural human flourishing is not possible without some form of participation in social life, it is not true that this is an order into which each individual must be subsumed in order to participate in the process of beatification or divinization through which the soul is drawn close to God in friendship.

Another way of stating this difference is to claim that the temporal common good is different as to its genus in comparison with God as the common good. Aquinas writes that

the common good takes precedence of the private good, if it be of the same genus: but it may be that the private good is better generically. It is thus that the virginity that is consecrated to God is preferable to carnal fruitfulness.67

Thus, although procreation is an essential good for the flourishing (indeed, for the continuation) of the human community, this does not mean that individuals cannot choose a celibate form of human life. This is because the one who chooses celibacy for the sake of the kingdom of God (cf. Matt 19:12) is considering a good of another genus than that of the temporal common good (and thus in such a case “the private good is better”). Therefore, even as all things participate in God as the ultimate common good and in the hierarchical ordering of the created universe, each in the way most fitting and

67 “bonum commune potius est bono privato si sit eiusdem generis, sed potest esse quod bonum privatum sit melius secundum suum genus. Et hoc modo virginitas Deo dicata praefertur fecunditati carnali” (II-II. 152.4, ad 3).
proper to its own nature, this does not require the human individual to be subsumed into the whole of the community which the common good serves to uphold and enhance.

Once this metaphysical/temporal distinction is established we can deal more directly with the further challenge that even Aquinas’ conception of the temporal common good may be seen as opposed to human freedom and autonomy. Aquinas provides a few helpful, practical examples that demonstrate that the individual cannot be subsumed within the whole of society. For example, he considers the possibility that the common good of the kingdom might best be furthered if someone in vowed religious life were to renounce his celibacy in order to engage in a marriage that would promote the common good of the kingdom. In such a case Aquinas argues that it would not be allowed for a prelate to dispense that person from his vows in order to marry (II-II. 88.11). There are two manners of considering why this is so. The first is because the vow represents a spiritual sanctification of the individual to God, and as we saw above, spiritual goods are of a different genus than human goods and are always of greater importance. Thus, any spiritual good will be higher than any human good (even if the latter be a common good). But the same argument against dispensing from the vow could be made on the basis of the fact that (under normal conditions) no act can be commanded against the free will of the individual.68 For an act to be a truly human act it must flow from the free choice or judgment of the human will (liberum arbitrium or free

68 The rule would normally apply for free decisions and acts of individuals, but the limit case appears once someone begins to make free choices that harm the good of others or the common good, thereby contradicting the demands of justice. In such a case an individual would be restrained from acting, and even justly punished, against his or her own will (cf. II-II. 62; Q. 108, especially article 1).
judgment 69, and if it be forced to do so it would be considered as having undergone violence (cf. I-II. 6.4). Therefore, the earthly common good of the kingdom or state cannot overwrite the will of the individual who has chosen to consecrate himself to virginity. Indeed, this was no mere abstract principle in Aquinas’ own life. For he had to assert his own will in moving away from the Benedictines at Monte Cassino and in joining the Dominican friars against the wishes of his family, who at one point kidnapped him to prevent him from joining the Order of Preachers. 70 In like manner did the followers of Aquinas apply this same kind of logic in regard to the structure of free human acts in considering the consent required for the sacrament of marriage. In such circumstances the authors assert that a father cannot compel his own son to marry a particular person against his will, though he may attempt to persuade him through reason or arguments of fittingness (Supp. 47. 6).

We can turn to one final example to demonstrate that the common good is not such that it can be used arbitrarily to overwrite the will or the good of individuals, even as each individual depends upon the common good for human flourishing. 71 This principle

69 See I. 83. Note that despite the fact that we have become accustomed to translating liberum arbitrium as “free-will,” the Dominican Fathers who translated the Summa suggest the translation of “free judgment,” and Daniel Westberg suggests that it would be more accurately translated as “free choice” (see Right Practical Reason: Aristotle, Action, and Prudence in Aquinas [Oxford: Clarendon Press, 1994], p. 81). The phrase ‘free-will’ can seem to suggest a voluntarist understanding of the will, in which the will, rather than being reduced from potency to act by the object towards which it is attracted, is perceived as having a more radical freedom vis-à-vis its objects such that it seems to make arbitrary decisions amidst a wide array of potential goods. The preference for “free-judgment” is further underscored by the fact that some form of the noun iudicium or the verb iudicare recurs 25 times in Q. 83 alone.

70 Torrell, Saint Thomas Aquinas, Volume 1, pp. 8-12.

71 For example, we have noted above that the common good can overwrite the will of the individual if that person is choosing to harm others or the common good. Recall that this approach also fits with what we drew from Philip Pettit in previous chapter; that is, that the state must be capable of

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is visible in Aquinas’ discussion of the ends of the law. As we noted above, Aquinas places a greater emphasis on the purpose of law as directing human acts towards the temporal common good as opposed to a more Aristotelian emphasis on the purpose of law as directing individuals to the fullness of virtue. For Aquinas, only the Divine law (i.e., Scripture) can command the fullness of virtue (I-II. 91.4), whereas human law, though it is constituted to lead all persons *gradually* to virtue (I-II. 96.2, ad 2), is not intended to repress all vices (I-II. 96.2) nor to prescribe every act of every virtue (I-II. 96.3). For Aquinas, it is enough that the written law uphold the basic level of virtue required to protect citizens from harm and to secure justice and peace; while it is up to the freedom of the individual (along with the aid of divine grace) to pursue the fullness of virtue by following the dictates of the Divine law. Although Aquinas does not use the phrase ‘personal freedom’ in the same way as contemporary thinkers do, he is certainly acutely aware of the necessity of safeguarding such a space of freedom against the demands which could be placed upon the individual in the name of the common good. This is true in regards to the primacy of spiritual goods over temporal goods, in regards to the freedom and consent that one must exercise in order to perform a fully human act (as in choosing vowed religious or married life), and in regards to his understanding of the limits of human law.

Thus, we can begin to create a fuller picture of the common good as the object of civic virtue based on the comments that Aquinas makes upon it. First of all, we know that the common good is a good that is distinguishable from either individual goods in

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intervening in people’s lives, but it must do so in a manner that is fair, non-arbitrary, and protects the common good as well as each individual’s good.

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and of themselves, or from an aggregate sum of individual goods or services. Secondly, we can recognize that although Aquinas uses language about the superiority of the common good in relation to the individual good, he does not believe that the individual good can be overwritten arbitrarily in favor of the common good. Although we may have legitimate reasons for speaking about natural human rights and the autonomy of individual subjects as an essential element of a just society, Aquinas’ moral and political thought on the common good cannot be dismissed simply because he does not use these terms. He clearly appreciates the importance of maintaining a space within which individuals can and must choose their own good (either in pursuing various states of life such as religious life or marriage) or in having the freedom to pursue the fullness of virtue as it is prescribed in Divine law without having one’s entire moral formation subject to the positive law of one’s community. And finally, he recognizes that human law could become oppressive if it seeks to over-extend its realm of authority by assuming too great of a role in redirecting individuals away from vice or in prescribing every act of virtue. Our account of civic virtue will take up and extend each of these points as we move beyond what Aquinas explicitly claims in regards to the relationship between general justice and the common good. Given all of these points, the most important element that we will want to take from Aquinas and continue to develop in regards to the common good is his insistence that the common good is a truly existent good in which individuals participate, not as a sum of individual goods, but as a form of the good which is truly available and rationally graspable to all members of a society. Later in this chapter, and into the next, we will continue to develop our account of this common good.
as something more substantive and robust than it is usually taken to be in Catholic social thought or contemporary political philosophy.

Fifth, we can return to a point noted earlier about the necessity of political authority in order to sustain a Thomistic account of civic virtue. As Jean Porter notes, “Aquinas is the first scholastic to link legislative authority explicitly to the common good.” This in turn implies the existence of a duly appointed role for legislators and those who frame and interpret laws. While it is true that Aquinas most frequently indicates a preference for princely or kingly rule, it is certainly a legitimate application of his thought to apply the same concern for duly appointed governmental structures and legally constituted positions of authority to modern forms of constitutional democracies (as thinkers like Maritain and Simon began to do in the early twentieth century). Nevertheless, even if one wants to remain highly critical of modern democracies, Aquinas’ work clearly indicates that one cannot skirt issues of governmental structure and duly constituted authority if we want to find ways of seeking the common good and of striving toward justice and equality.

At this point, we have significantly added to our understanding of what we mean when we speak of civic virtue, as it is developed from Aquinas’ discussion of general justice. In the two articles that form the core of Aquinas’ discussion of general justice (II-II. 58.5-6), we have distinguished several of the essential features of civic virtue. First, civic virtue is distinguished from, but closely related to, the correlative species of justice that make up particular justice (i.e., distributive and commutative). Presumably,

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properly acting in regards to external goods and other persons according to the rules of particular justice is also an essential manner in which one would practice civic virtue (although the details of how one would do this is beyond our current study). Secondly, general justice is closely tied to Aquinas’ conception of law, which has a more deeply normative structure than does Aristotle’s emphasis on a regime-centered analysis of positive law. Civic virtue demands the appropriate use of the natural law, as reason’s participation in the Eternal law, and as the grounding for all positive law. Moreover, this connection between reason and law offers a critical purchase on the positive laws and practices of one’s own society (a point that we will continue to develop in our discussion of a loyal, but critical patriotism). Thirdly, the possession of civic virtue denotes a certain orientation of the will, such that it can be architectonic of all other virtues. That is, even private acts of virtue (or vice) can, and often do, have an impact upon the common good in ways that are not easily recognized in the contemporary tendency to divide our private from public morality. Fourth, civic virtue upholds the primacy of the common good as the highest good of natural, human society. Thus, civic virtue has as its object the common good of one’s community, society, or state. And fifth, our account of civic virtue entails a concern to uphold a legally constituted form of government with defined roles for those in positions of leadership who have the power to make and interpret the laws. These are five essential elements of civic virtue that we will want to continue to make use of as we move forward with our own constructive account. Before we conclude our exegetical and historical analysis of Aquinas’ work, however, we will want to take a closer look at several important and related concepts that function in connection with the virtue of justice.

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4.3.3 Some Concepts Related to Justice and their Importance for Civic Virtue

There are many ways in which justice is related to other virtues and concepts in Aquinas’ thought, but we will focus here only on those that seem most pertinent for our continuing development of the idea of civic virtue. Under this heading, we will want to look closely at some of the parts of justice, including both subjective and potential parts, and explore the ways in which these parts begin to suggest fruitful directions for developing Aquinas’ thought beyond what he says and in the direction of our account of civic virtue. This discussion of the parts of justice (especially of the subjective part known as *epikeia*) will lead nicely into a further exploration of the connection between civic virtue and the natural law and prudence (taking us beyond our earlier, explanatory discourse). Thirdly, we will briefly explore the relationship between charity and justice and how this might underscore the distinctively theological elements of our account of civic virtue. And finally, we will look at the relationship between civic virtue and the passions, which will prove to be especially fruitful as we move forward in developing our Thomistic account of civic virtue.

In II-II, question 80, Aquinas takes up the discussion of the potential parts of justice, the virtues which are annexed to justice as a principle virtue, but which in some way fall short of the fullness of that which defines justice as a virtue. These annexed virtues fall short of the fullness of justice in one of two ways: either “by falling short of the aspect of equality” or “by falling short of the aspect of due.” He follows Cicero on this point in enumerating six potential parts annexed to justice: religion, piety, gratitude, 

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73 “inquantum deficit a ratione aequalis; alio modo, inquantum deficit a ratione debiti” (II-II. 80.1).
revenge, observance, and truth. Moreover, these annexed virtues are not insignificant for a consideration of justice as Aquinas devotes thirty-four questions to them (QQ. 80-113); and, furthermore, he considers that although justice is the greatest of the cardinal virtues (because it alone considers the good of others), religion (as rendering due worship to God) may also be considered the “chief of the moral virtues.” Thus ‘potential’ does not mean that they are in some way inferior virtues, but rather that they do not fit strictly into the analytical paradigm set up in defining justice as rendering what is due between two equal persons. We will consider these virtues annexed justice in so far as they help us to paint a fuller picture of what a Thomistic account of civic virtue entails.

The most obvious connection between the potential parts of justice and our account of civic virtue can be found in his discussion of the virtue of piety. Quoting again from Cicero, Aquinas defines piety as that by which “we do our duty towards our kindred and well-wishers of our country and render them faithful service.” This is distinct from the manner in which we typically think of a pious person, as someone who is diligent in their cultic or moral-religious observances (see II-II. 101.1, ad 2). Rather, it refers to rendering that which is due towards our parents or our country, as these are in

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74 “religionem, pietatem, gratiam, vindicationem, observantiam, veritatem” (Ibid, Cicero, De Inv. Rhet., ii, 53).

75 “Ergo religio est praecipua inter virtutes morales” (II-II. 81.6). Note that religion is here considered as a moral virtue, distinct from the theological virtues, as it considers the act of worship as a rendering of that which is due, even though there can be no strict equality (and hence no true rendering of what is fully due to God) between God and a human person.

76 “pietas est per quam sanguine iunctis, patriaeque benevolis, officium et diligens tribuitur cultus” (II-II. 101.1).
some ways sources toward which we owe our very existence. And since we can never make a full repayment towards either our parents or our country for all that they have given us, there is not strict equality between us and hence piety remains a potential part of justice. As we further narrow our focus on piety to the political realm, we see that it “includes homage to all our fellow-citizens and to all the friends of our country.” Thus, piety (considered in a civic sense) also seems to be closely related to the other annexed virtues of observance (observantia; this also includes reverence or respect) and gratitude. For as we look back and consider the debt to which we owe our country and our fellow-citizens, this reflective process would instill in us a sense of gratitude for the ways in which our society has formed us and supported our lives, and for those who have been exemplars of civic virtue in furthering the goals, aims, and institutions upon which our society depends. One of the ways in which we exemplify this gratitude is to show reverence (observantia) toward those who have fostered the good of our community in particularly exemplary or virtuous ways. This may not be a customary manner in which many modern individuals feel indebted toward the community or nation in which they are born and raised, but it is certainly another manner in which Aquinas draws out the

77 Aquinas refers to the relationships that we have established between our parents and our fellow-citizens as “principles of our being / (principia nostri esse)” (II-II. 101. 1, ad 3). Notice also that it is in reference to these set of relationships and to persons that we owe these debts of piety and gratitude, not to some set of abstract principles or ideologies that define our community or nation. This will be an important point to recall when we pick up the idea of patriotism below.

78 “In cultu autem patriae intelligitur cultus concivium, et omnium patriae amicorum” (Ibid.)

79 It is our own observation that this attitude, as it is encountered in patriotic terms, tends toward two extremes. On the one hand, there is a hyper-patriotism that has little to do with gratitude or reverence, and which tends toward uncritical acceptance of whatever is done in the name of the nation. On the other hand, there is the opposite tendency to see the nation-state as the source of evil and suffering the world, and hence to focus exclusively on the critical elements of what it means to be a member of a modern state. Our
implications of his belief that the good of the individual is deeply dependent upon the good of the whole.

The reflective attitude of gratitude that is cultivated in the practice of these annexed virtues indicates that for Aquinas the heroic vision of the self-made man (I use the male term intentionally) is a foreign concept in his thought. For whether it is due to the aid of one’s parents, one’s community, or the grace of God, each human person is deeply dependent upon these goods in order to flourish or live a virtuous existence. Thus piety, reverence, and gratitude are distinctive virtues through which we express our awareness of this dependence.

These insights into the virtues annexed to justice highlight several important elements of a Thomistic account of civic virtue. The first is that, even as we want to uphold the centrality of rights language as a foundation for justice, we also have certain duties that exist alongside of and in equal importance to our rights. If we want to affirm the existence of certain, natural, innate human rights (which we do), then we will also need to affirm the natural (i.e., not conventional) nature of such duties as well. (Indeed, it can be argued that if anyone’s rights are to be respected, then there must be someone or some institution who has a duty to respect such rights.) This is perhaps one reason that Catholic social thought has consistently upheld the teaching that rights do not constitute the sole legal basis of a just society, but that rights always imply a correlative set of duties or responsibilities to one’s community and fellow-citizens. Moreover, the piety, observance, and gratitude that we are discussing here as important elements of civic conception of civic virtue seeks to find a middle ground between these two extremes in a “critical patriotism,” which we will develop further below.
virtue go beyond simply duties that attach directly to a correlative set of rights. These virtues help us to perceive accurately the socially embedded context of our existence.\(^8^0\)

We recognize that in our families and societies we are dependent, social creatures, and although our rights and duties arise from this matrix of interdependent, mutual relationships, there is a more fundamental attitude of respect found in these annexed virtues that precedes the formulation of our rights and duties and is a part of our emotional and personal attachment to the particular communities to which we owe our existence.

Indeed, without such a perception of the social nature of human existence that fosters the virtues of piety, observance/reverence, and gratitude, it becomes difficult to make appeals to social cohesion that are not based on some form of self-interest. As Clifford Kossel writes

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\text{[w]ithout this attitude [of piety] there is no motive to contribute to and support the institutions of justice by which the common good of the community is maintained and fostered – except, perhaps ‘enlightened self-interest.’} \quad \text{\[^8^1\]}
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In this brief quotation, Kossel has summed up nicely a point that is central for our main thesis: that is, that the institutions and laws which support a just society are deeply dependent upon the instantiation of what we are calling civic virtue. This civic virtue

\(^8^0\) This is another instance of the social significance of Aquinas’ assertion that it is possible to hold an accurate and adequate understanding of reality in the human mind (the “\textit{adequatio rei et intellectus},” \textit{De Veritatis} I.1). If we are not to see the modern language of rights and duties as impositions upon our natural freedom, then we must first have an adequate comprehension of the manner in which we are indebted to and constituted by the social connections that define who we are.

\(^8^1\) Clifford G. Kossel, “Piety: The Debts which Precede Our Rights,” \textit{Communio} 12 (Spring, 1985): 33-48, p. 44.
entails a certain disposition toward the common good of one’s society. Indeed, we are claiming throughout this dissertation that just institutions and just individuals (possessing civic virtue each in their own distinctive manner) are mutually dependent realities; they are two sides of one coin that make up a just and free society.

Finally, these annexed virtues also begin to suggest another important element of civic virtue; that is, it entails a loyal, but critical patriotism toward one’s nation or community. The difficulty with patriotism, to put it bluntly, “‘patriotism’ is ambiguous.”

The horrors of the all-encompassing nation-state that marked the eighteenth to the twentieth century (from the French Revolution to Italian Fascism in the West, and the various failed states that led to abusive dictatorships in post-colonial Africa or Latin America) provide ample evidence to the dangers of uncritical patriotism, and to the placing of abstract principles over the realities (and sufferings) of living human persons with whom we share a basic human dignity, equality, and relationships of mutuality and reciprocity in our local and national communities. This suggests that a true patriotism will need to stay rooted in relationship and to maintain a critical vigilance over the abuses of power toward which political leaders are often tempted. We will continue explore what kind of an account of patriotism will be most compatible with our account of civic virtue in the next chapter, but for now we can acknowledge that a Thomistic conception of patriotism is one that is based on practicing the virtues that give due honor to our fellow-citizens (concivium) as fellow-members of our community and nation, rather than a blind obedience to principles or an abstract notion of one’s state (no matter

82 Ibid, p. 45.
how noble they may be) that would lead us to harm the weak or the innocent in the name of defending principles. The kind of critical patriotism that we advocate is one which upholds the importance of the principles of justice (as derived from the first principles of natural law, see below), but also includes loyalty to one’s community. Thus, it includes a critical, loyal adherence to the principles and persons who make up a just society.

Another important element of our account of civic virtue includes the subjective part of justice that Aquinas calls *epikeia*. The virtue *epikeia* is a very peculiar virtue that Aquinas picks up from Aristotle’s discussion in Book V of the *Ethics*. *Epikeia* represents a kind of interior, higher sense of the equality that justice seeks to preserve which an agent (especially a judge who is charged with interpretation of the law) might draw upon when a strict application of the written law would lead to an unjust outcome. Aquinas describes it as follows:

since human actions, with which laws are concerned, are composed of contingent singulars and are innumerable in their diversity, it was not possible to lay down rules of law that would apply to every single case. Legislators in framing laws attend to what commonly happens: although if the law be applied to certain cases it will frustrate the equality of justice and be injurious to the common good, which the law has in view…In these and like cases it is bad to follow the law, and it is good to set aside the letter of the law and to follow the dictates of justice and the common good. This is the object of *epikeia* which we may call equity.\(^83\)

\[^83\] “cum de legibus ageretur, quia humani actus, de quibus leges dantur, in singularibus contingentibus consistunt, quae in nullis modis variari possunt, non fuit possibile aliquam regulam legis instituere quae in nullo casu deficeret, sed legislatores attendunt ad id quod in pluribus accidit, secundum hoc legem ferentes; quam tamen in aliquibus casibus servare est contra aequalitatem iustitiae, et contra bonum commune, quod lex intendit…in his ergo et similibus casibus malum sequi legem positam, bonum autem est, praetermissis verbis legis, sequi id quod poscit iustitiae ratio et communis utilitas. Et ad hoc ordinatur epieikeia, quae apud nos dicitur aequitas. Unde patet quod epieikeia est virtus” (II-II. 120.1).
The example that Aquinas gives is that in general it is just to return someone’s property to him if it is put on deposit. However, it would be contrary to the common good to return a sword to a madman who had deposited it. *Epikèia* does not so much disregard the law itself, but rather seeks to instantiate the true intention of the lawgiver (i.e., as a dictate of reason directed to sustaining and enhancing the common good) when the letter of the law does not properly do so. Given the narrow context in which *epikèia* is said to function, it would perhaps be appropriate to call *epikèia* a ‘judicial’ virtue.

Aquinas also recognizes that *epikèia* is closely connected with legal justice, and hence with our notion of civic virtue. He states that *epikèia* is a subjective part of justice and that “legal justice is subject to the direction of *epikèia*. Hence *epikèia* is as it were a higher rule of human actions.”\(^84\) Thus, a paradigmatic example of the possession of civic virtue (for one charged with interpretation and application of the law; i.e., a judge) is the capacity to recognize when the letter of the law does not accurately represent the equality or the common good which it is intended to serve, and in such an instance he or she is able to judge according to a higher (objective), and more interior (i.e., subjective) sense of justice. Throughout our study we have tried to pay attention to the fact that civic virtue will be exemplified in distinctive ways based on the kinds of roles that various citizens play within society. Thus, we can note here that the virtue of *epikèia* is a part of civic virtue that is particularly important for those who interpret the law within society, and this would apply especially to judges.

\(^84\) “*legalis iustitia dirigitur secundum epieikeiam. Unde epieikeia est quasi superior regula humanorum actuum*” (II-II. 120.2).
It seems that part of what allows the virtue of *epikeia* to get a great deal of its normative purchase for Aquinas is his understanding of the relationship between natural and positive law. In Aristotle’s treatment of *epikeia*, the only higher appeal that he can make is to the original intention of the lawgiver, but in Aquinas’ treatment of the same virtue, he is able to draw upon his deeper, normative analysis of natural law as a source for critically applying the law. As a subjective element of justice, *epikeia* must somehow function closely in relation to the natural law (considered as the reason’s participation in the Eternal law). It is precisely this capacity to judge according to a higher standard than the laws of one’s country that allows one to appropriately exemplify the use of reason according to the dictates of natural law. Civic virtue thus requires a loyal but critical attitude to be taken towards the laws and structures of one’s society, while always seeking the best way to enhance the well-being of one’s community through pursuing the common good. We find here another layer of our conception of patriotism as it functions in our account of civic virtue: it requires a loyal but critical stance towards the principles, institutions, leaders, and laws of one’s society. These are some of the hallmarks of a democratic civic virtue and the correlative patriotism which supports such a practice of civic virtue.

Aquinas finds several other ways of connecting the treatise on justice to his discussion of natural law beyond the obvious connection that Aristotle himself makes in the fifth book of the *Ethics* between natural and positive law. One of these connections occurs toward the beginning of his commentary, where Aquinas writes that
He says in the beginning that all seem to contend that justice is the sort of habit that brings about three effects in a person. The first is an inclinatio to a work of justice in accord with which a person is said to be disposed to just works.\textsuperscript{85} 

The mention here of an inclination (inclinatio) harkens back to terminology that he uses to describe the natural inclinations (inclinationes naturales) which order the natural law (I-II. 94.2).\textsuperscript{86} While this whole process is infinitely more complex than we can discuss here, it is precisely the working out of these inclinations through natural constraints, the use of reason, and the traditions, practices, and mores of one’s own society (frequently, though not always, instantiated in law, either customary or written) that the natural law is specified and put into practice. Since both the general virtue of justice and laws serve to regulate the external behaviors of citizens by directing these actions towards the common good (or preventing them from harming the common good), then both general justice (and correlatively all the other virtues when they are directed by it) and written laws are distinctively subject to the natural law in that they are both a reflection of the application of the first principles of natural law.

In fact, this is precisely what we find in Aquinas’ treatment of the precepts relating to justice. First of all, he declares, quoting from Augustine, that “\textit{declining from evil and doing good} belong to the justice of the law,”\textsuperscript{87} which is a verbatim restatement


\textsuperscript{86} See also Perkams, “Aquinas’s Interpretation,” pp. 135-6.

\textsuperscript{87} “quod Augustinus, in libro de Corrept. et Grat., ponit ad iustitiam legis pertinere declinare a malo et facere bonum” (II-II. 79.1).
of the first principle of natural law (I-II. 94.2). Moreover, in his discussion of the
precepts that can be derived from this first principle, Aquinas brings our attention back to
the foundational role of the Decalogue in working out the precepts relating to justice (I-II.
100.3) as conclusions drawn from the first principles that require only minimal reflection
(but are not, as such, *per se nota* in the same manner as the first principles). Accordingly,
since justice is concerned with actions directed towards another, and all the precepts of
the Decalogue direct us in relation to others (to God [commandments 1-3], to one’s
parents [4th commandment], and to one’s neighbors[commandments 5-10]), then the
Decalogue represents not only the precepts of justice but also the most proximate
precepts derived from the first principles of the natural law through reason. This
provides further evidence that the practice of justice and civic virtue requires a firm grasp
of the principles and precepts of the natural law as one puts them into practice in
upholding the common good of one’s community.

Closely associated with this discussion of the practice of the natural law, and
especially since justice is located in the will as the rational appetite, is the virtue of
prudence, one of the virtues which perfects the intellect as its subject. Once again, we
will not be concerned with a whole-scale analysis of prudence, but rather with noting the
essential elements of this virtue as a necessary correlate of civic virtue. As we noted
above (see footnote 32), Aquinas divides the human soul into the intellect, the will (the
rational appetite), and the sensible appetite, which is further divided into the irascible and
concupiscible. In this division, justice and prudence are closely associated as they are
both related to the intellectual powers, although in different ways. Properly speaking,
prudence is a virtue of the intellect as it perfects the practical intellect (even as the
intelect; cf. I-II.57.2), although it is also counted among the moral virtues (as are justice, fortitude, and temperance). Prudence spans and unites the speculative and practical intellects as it is the virtue which grasps the knowledge of universals (in conjunction with the virtue of synderesis; II-II. 47.6, ad 3) and applies that knowledge to contingent, historical circumstances through practical reason (II-II. 47.3). Justice, on the other hand, is a moral and not an intellectual virtue, and has its seat in the rational appetite (i.e, the will), rather than in the intellectual power itself.

Moreover, in the division of labor within the soul as Aquinas understands it, the role of prudence is to appoint the means to the ends which are indicated through the inclinations of the moral virtues:

in the practical reason, certain things pre-exist, as naturally known principles, and such are the ends of the moral virtues...while certain things are in the practical reason by way of conclusions, and such are the means which we gather from the ends themselves. About these is prudence, which applies universal principles to the particular conclusions in practical matters. Consequently, it does not belong to prudence to appoint the end to moral virtues, but only to regulate the means. 88

Prudence is therefore necessary, in addition to the other moral virtues, because in the attainment of the end appointed by the moral virtues “the inclination of nature...does not suffice for this purpose.” 89 Thus, we can see here that prudence is an essential element of

88 “ita in ratione practica praeexistent quaedam ut principia naturaliter nota, et huiusmodi sunt fines virtutum moralium...et quaedam sunt in ratione practica ut conclusiones, et huiusmodi sunt ea quae sunt ad finem, in quae pervenimus ex ipsis finibus. Et horum est prudentia, applicans universalia principia ad particulares conclusiones operabilium. Et ideo ad prudentiam non pertinet praestituere finem virtutibus moralibus, sed solum disponere de his quae sunt ad finem” (II-II. 47.6).

89 “inclinatio naturae...ad hoc non sufficit” (II-II. 47.7, ad 3).
the working out of the natural law, in that the inclinations which provide order to the
precepts of the natural law, and which point the way to the end to be pursued by the
moral virtues, need the cognitive power of the intellect (perfected through prudence) to
choose the means to the end. Thus, in the practical syllogism in which a rational agent
determines the correct action, prudence functions by drawing the conclusion (the action
or the means) by considering the minor premise (this or that particular instantiation of a
potential good) in relation to the major premise (such and such type of object falls under
the aspect of the good).

This function of prudence implies an act of judgment, and is therefore aided by
the virtue connected with prudence that Aquinas calls synesis. Synesis refers to the habit
of judging well in regards to practical matters (II-II. 51.3), and Aquinas ties this act of
right judgment closely to justice when he claims that

judgment is an act of justice in so far as justice inclines one to judge aright, and of
prudence in so far as prudence pronounces right judgment: wherefore synesis,
which belongs to prudence is said to judge rightly.\textsuperscript{90}

This quotation from Aquinas shows in a clear manner the connection between the
inclination of the moral virtue of justice and the judgment of the means to that end
through prudence (relying also upon synesis). Thus, civic virtue, by ordering the will
properly to the common good, also relies upon the act of prudence to choose the proper

\textsuperscript{90} “Sic ergo iudicium est quidam actus iustitiae sicut inclinantis ad recte iudicandum, prudentiae
autem sicut iudicium proferentis. Unde et synesis, ad prudentiam pertinens, dicitur bene iudicativa” (II-II.
60.1, ad 1)
means to achieving that good, whether by directing individual acts to the common good or by ensuring that the law is so directed as well.

The connection between civic virtue and prudence is further underscored in Aquinas’ discussion of the subjective parts of prudence, especially political prudence. There is a direct correlation between political prudence and general justice, as Aquinas writes that

just as every moral virtue that is directed to the common good is called legal justice, so the prudence that is directed to the common good is called political prudence, for the latter stands in the same relation to legal justice, as prudence simply so called to moral virtue.\(^91\)

Prudence can thus be understood to function with regard to choosing one’s own good, or in regard to choosing the common good, and in the latter way it is an essential element of our account of civic virtue. Moreover, Aquinas further divides this kind of political prudence into a further distinction between regnate prudence, which is found in the ruler of a city or a kingdom, and political prudence properly so called, which is in the subjects or citizens (II-II. 48.1). If we apply this distinction to our account of civic virtue, then it seems that there is a distinctive kind of ‘civic prudence’ (my term, not Aquinas’) that exists in one who holds a position of authority in the state, and this has some distinguishing qualities from the civic virtue required of every other citizen. We will explore further some of the implications of this distinction between regnate and

\[^91\] “Sicut autem omnis virtus moralis relata ad bonum commune dicitur legalis iustitia, ita prudentia relata ad bonum commune vocatur politica, ut sic se habeat politica ad iustitiam legalem, sicut se habet prudentia simpliciter dicta ad virtutem morale” (II-II. 47.10, ad 1).
political prudence in the next section where we extend the discussion beyond what Aquinas explicitly states.

This brings us to our third point in this section, which is to briefly explore the relationship between general justice and charity in order to highlight what might be considered the distinctively theological elements of the approach to civic virtue that we are exploring here. As we have already noted, charity is both the greatest and the form of all the virtues, and is thus capable of directing all other acts of virtue in same way that general justice is capable of doing. Moreover, we discussed that the infused form of each of the virtues (the theological and the cardinal) is given with the gift of grace at the moment of conversion (cf. I-II. 110. 2-3). Therefore, one justified by grace would be in possession of an infused form of justice, whereas one not justified by grace could potentially possess the acquired form of justice. We can thus postulate that since there would be an infused form of general justice, there would also be an infused form of civic virtue in someone who has been justified by God’s grace.  

The important point in this discussion for our purposes is that whether one possesses the acquired or the infused form of civic virtue, both forms would still be directed toward the common good as end. The difference would be found in the fact that in the case of the justified person, he or she

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92 There is indeed a body of research on the question of whether or not the naturally acquired virtues remain after the infusion of grace in the wayfarer. For example, Angela McKay argues in her doctoral thesis, “The Infused and Acquired and Virtues in Aquinas’ Moral Philosophy” (University Of Notre Dame, 2004), that Thomas is primarily concerned with an analysis of the infused virtues throughout the Secunda Secundae. Likewise, in a recent paper, “Can Christians Possess the Acquired Moral Virtues?,” (presented at Catholic Theological Ethics in the World Church, July 24-27, 2010, personal copy provided by the author), William C. Mattison argues that it is logically impossible for the acquired forms of the moral virtues to remain in one justified by grace.
would act toward the common good of the human community while also directing such acts toward the final end of God in charity. As Torrell eloquently describes it,

grace does not modify the structure of reality in its own order; the realities of this world remain what they were and keep their own finality...Thus also, in the intentions of those men and women who use the things of this earth, the world acquires a new finality, and the creation, which sin had turned away, is reoriented toward God.  

The limits of the analogy between justice and charity is that the ends (i.e., the common good versus the Divine good) do not function in the same way in relation to the other virtues. Since the end of all the infused virtues (whether the theological or cardinal virtues) is the highest end of all human life, then the truest expression of virtue will be that which has as its object the highest end of blessedness with God. “Therefore no true virtue is possible without charity.”  

Considered in one manner, this could be taken as a conversation stopper in regards to pursuing the intrinsic good of the natural end of humankind. Fortunately, however, Aquinas is much more nuanced than this. He holds that the human person has but one single end which can be considered under a twofold aspect: one as the ultimate and universal end of beatitude with God, the other as the proximate and particular end of the kind of flourishing that is possible in this earthly life (II-II. 23. 7; cf. I-II. 4.5). Moreover, the secondary end (i.e., the good of this life), although it does not contain the perfection of happiness in God, is still a good end. Therefore, an acquired virtue that is directed to the end of perfection in so far as it can be


\[94\] “Ergo sine caritate vera virtus esse non potest” (II-II. 23.7).
found in this life (even without charity), still merits the title of an authentic virtue, and it is appropriated as a proximate end through infused justice and charity once the gift of grace is given. In this way, Aquinas can make the claim that

if, on the other hand, this particular good be a true good, for instance, the welfare of the state, or the like, it will indeed be true virtue, imperfect, however, unless it be referred to the final and perfect good.95

This approach to the twofold order of ends, and the twofold order of virtues (i.e., acquired and infused) has at least two important consequences for our consideration of civic virtue. On the one hand, the most perfect form of civic virtue is when one wills the good of one’s community for the sake of, or in reference to, charity and the final end of God. Since both justice and charity are architectonic virtues of the will, then the infused virtue of charity could direct the acts of justice and civic virtue toward both the common good and toward the good of union with God at the same time. In this way the gift of grace serves to underscore the concern that a person has for the earthly common good of one’s community.96 Furthermore, he claims that “faith in Christ does not void the order of justice, but strengthens it.”97 Therefore, in a Thomistic account of civic virtue, the most perfect form of this virtue would be informed by the order of charity and would

95 “Si vero illud bonum particulare sit verum bonum, puta conservatio civitatis vel aliquid huiusmodi, erit quidem vera virtus, sed imperfecta, nisi referatur ad finale et perfectum bonum” (II–II. 23.7).

96 Take, for example, Aquinas’ insistence that “the precepts of the Decalogue are directed to the love of God and of our neighbor/ (omnia praecepta Decalogi ordinantur ad dilectionem Dei et proximi)” (II–II. 44.1, ad 3), in which the perfection charity consists. Thus, the precepts of justice are also referable to charity, further underscoring the fact that charity cannot be complete without the perfection of justice as well.

97 “fidem Christi non tollitur ordo iustitiae, sed magis firmatur” (II–II. 104.6).
seek to order the common good in reference to the final end of beatitude with God.

Another manner of stating this same principle is to claim that the order of charity (which demands love of God, love of neighbor, and love of self; cf. II-II. 26) demands also a respect for the order of justice, which is one way that an agent demonstrates the love of one’s neighbor.

On the other hand, as a virtue that is directed to its own human end, civic virtue can serves to further the bonds of civic friendship (amicitia concivium; II-II. 23.5) and the common striving toward the earthly good, in a pluralistic society. From early on within the scholastic discussion of the cardinal virtues we have seen that the ‘political’ virtues can be possessed, practiced, and even perfected by those who are not part of the Christian community. Aquinas has a significantly more sophisticated method of dealing with the difference between the natural and infused virtues than many of his predecessors, yet he also maintains that any rational adult human person can acquire the general virtue of justice through proper use of reason and repeated actions that have the common good as their object. This indicates that our account of civic virtue can serve as a foundation for building a more just social order in a pluralistic society and world, because any rational person can learn to acquire the habits of directing one’s acts to the common good and striving for equality. This twofold order in our analysis of civic virtue (considered as a natural virtue in and of itself, or considered in the light of the Christian virtue of charity)

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98 For example, earlier scholastics such as Simon of Tournai and William of Auxere believed that through the gift of charity (which, following Lombard, was the same as the gift of grace) the political virtues would be made over into ‘catholic’ (Simon) or ‘theological’ (William) virtues. Thus, he is able to incorporate the insight from earlier scholastics following Lombard (and others) that the life of grace can come to remake the entire person (into the image of Christ), while also maintaining an analytic distinction between the acquired and infused forms of the virtues.
makes it an appealing concept for working toward the common good with others in
society as well as a distinctively motivating reason for Christians not to turn away from
the effort to build a more just society through the mechanisms of law, politics, and civic
engagement.

4.3.4 Extending the Discussion

Finally, we turn our attention to some elements of Aquinas’ thought the
implications of which we wish to extend beyond what he claims. First, we will deal with
the relationship between the virtue of justice and the passions. Secondly, we will explore
some further implications of the discussion on prudence. Under this second heading,
there are two ideas to explore. The first is to consider what to make of Aquinas’
distinction between regnative and political prudence; and the second is to examine how
prudence can help us to address the issue of elitism that we saw in John Courtney
Murray’s work.

On the one hand, Aquinas states very plainly, and holds consistently throughout
his career, that “justice is not about the passions,” because of “the subject of justice, i.e.
from the will, whose movements are not passions, as stated above (I-II. Q. 22, A. 3; Q.
59, A. 4).”99 Yet, if we look further into the moral psychology of the human soul as it is
presented in Aquinas’ thought, we can make some further connections between general
justice and the passions than may seem immediately apparent. Moreover, this connection

99 “iustitia circa passiones non est... subiecto iustitiae, quod est voluntas cuius motus vel actus non sunt passiones, ut supra habitum est” (II-II. 58. 9; see also Lib. III Scriptum super Sent. Dist. 33, Q. 2, A. 4, 
qc. 3).
between justice and the passions is not entirely foreign to what Aquinas himself declares when he writes that

legal justice which is directed to the common good, is more capable of extending to the internal passions whereby man is disposed in some way or other in himself, than particular justice which is directed to the good of another individual.\textsuperscript{100}

Thus, although justice is not directly related to the passions, Aquinas recognizes that there is something distinctive about general justice (and by extension, our account of civic virtue) in which the person is oriented interiorly toward the common good, as well as exteriorly toward the good of others. Unfortunately, this connection remains under-developed in Aquinas’ own thought, and he does not have a robust account of the kinds of sentiments, passions, or affections that would be a correlative of civic virtue. This lack of development provides an opportunity for us to explore some of the ways in which the passions may be an essential element of the practice of civic virtue. In other words, the connection between external actions and the interior disposition of the will there is room to explore a deeper connection between the passions and civic virtue.

Before we move into exploring this connection further, we will need to look at what Aquinas means by the passions and how they fit into his understanding of the human soul which sets the foundation for his entire moral psychology. At the most basic level, the human person is one \textit{suppositum} made of up a soul and a body, in which the soul is the operating principle of our corporeal being (I. 75). In technical terms, what

\textsuperscript{100} “\textit{iustitia legalis, quae ordinatur ad bonum commune, magis se potest extendere ad interiores passiones, quibus homo aliquiter disponitur in seipso, quam \textit{iustitia particularis, quae ordinatur ad bonum alterius singularis personae}” (II-II. 58.9, ad 3).

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Aquinas calls a “composite” (compositum) of matter and form in the human person is what is meant by Aristotle’s philosophical term, *hylomorphism*, which refers to this same reality of matter and form. As Aquinas applies more and more levels of fine distinctions to his analysis of the various parts of the soul it is important to recall that he still considers the human person one, whole *suppositum*. Thus, even though Aquinas is a master at making these kinds of fine distinctions, he is not wielding “Phaedrus’ knife” in order to destroy the beauty and unity of the person as created in the image of God. Rather, Thomas makes distinctions with an eye to better comprehending the manner in which the whole fits together beautifully within the Divine Wisdom that holds all of creation together. Likewise, when applied to his analysis of the human person, Aquinas distinguishes in order to understand the operations of the soul and how the various parts work together, but the analysis and distinctions are always done with an appreciation for the wonder that is to be found in the complexity with which God has woven together these various parts of the human soul into a being that somehow bears the divine image in a distinctively dignified fashion. His goal remains to distinguish without confusion in order to unite without distinction.102

As he continues his analysis of the human person, the soul (the non-material element of the person), as noted above, is then divided into the intellect, which Aquinas

101 In his popular book, Robert M. Pirsig refers to Phaedrus’ knife as the tendency of modern, Western philosophy to dissect being and reality into its parts in order to study them in exquisite detail, but in the process of doing so he bemoans the fact that often the beauty of the whole is lost or destroyed (see *Zen and the Art of Motorcycle Maintenance: An Enquiry into Values*, New York: Morrow Quill Paperbacks, 1974).

102 This concept comes from Jacques Maritain’s *The Degrees of Knowledge* (Translated by Gerald B. Phalen, Edited by Ralph M. MacInerny, Notre Dame: University of Notre Dame Press, 1998), whose original French title is *Distinguer Pour Unir, ou Les Degres du Savoir*(1932).
also calls the apprehensive or the cognitive power (including the speculative and the practical parts), the rational appetite (i.e, the will), and the sensible appetite (divided into the irascible and concupiscible). The term passion derives from the Latin verb *passio*, which refers to something being undergone (as in the root of the English term ‘passive’). Strictly speaking, for Aquinas, only the corporeal matter of the body can undergo a passion. He writes that

> a passion is properly to be found where there is corporeal transmutation. This corporeal transmutation is found in the sensitive appetite…Now there is no need for corporeal transmutation in the act of the rational appetite [i.e, the will]: because this appetite is not exercised by means of a corporeal organ.¹⁰³

Hence the passions are experienced only in the irascible and concupiscible faculties, and are thus brought under the control of reason through the proper exercise of the virtues of courage and temperance.

Furthermore, the complex relationship between the sensitive appetite, the passions, and the objects toward which one is drawn or repelled, is a fundamental aspect of the motivating structure of human behavior. For if an object is considered desirable or repulsive under the aspect of something experienced as a material good that can cause pleasure or pain, it will be regulated through temperance which perfects the concupiscible faculty; if it be considered as something to be feared or that requires endurance, then it will be regulated through courage which perfects the irascible faculty. The physiological experience of such desire or repulsion towards various objects is the passions’ effect on

¹⁰³ “passio proprie invenitur ubi est transmutatio corporalis. Quae quidem invenit in actibus appetitus sensitive…In actu autem appetitus intellectivi non requiritur aliqua transmutatio corporalis, quia huiusmodi appetitus non est virtus alicuius organi” (I-II. 22.3).
the human body. Thus, in Aquinas’ account the passions are not entirely negative as they are for the Stoics, for example. Rather, they reflect an innate elements of the natural inclinations that God has endowed in a distinctive manner in the rational animals which humans are.

However, in order to make a properly informed decision about what one should be drawn toward or repulsed from, a particular object must also be considered in relation to the general and universal sense of good, and this latter task is regulated through the intellect (the apprehensive power). Strictly speaking, everything created is good in and of itself, but it is the role of the intellect to judge of each created object whether or not the attainment of it will lead to the perfection, flourishing, or happiness of the agent. If the intellect determines that an object falls under the category of a good that will lead to genuine human flourishing, then the will is simultaneously moved to desire it, and the choice of this particular object is made possible through correct application of the virtue of prudence in determining the means of achieving the enjoyment of such a good. In this manner the will undergoes the appropriate attraction or repulsion to a particular object, but since it is not a corporeal organ, it cannot undergo a passion in order to be so moved. Thus, Aquinas posits that the will experiences an affection (affectus) which does not involve a correlative bodily sensation.

This becomes especially apparent when he discusses love (caritas) because, experientially, this clearly involves something like a strong sensation of attraction for the object or person whom we love (especially as this is experienced in the love of friends, family, fellow-citizens, or God). On a strictly analytical level, when one experiences this kind of attraction through love, “they are simple affections without passion or commotion
of the soul, and thus they are acts of the will.”

Passions, therefore, are experienced in the body while affections are experienced solely in the intellect through the spiritual attraction of the will. Yet just because Aquinas distinguishes analytically between the bodily sensations that constitute the passions and the movements of the will that constitute the affections, this should not be taken to indicate that the affections are not an emotionally rich element of the human experience. For example, the friendship that is established between God and the wayfarer as a consequence of grace results in the experience of spiritual joy (see II-II. 28), and this joy is arguably one of the most exquisite emotional experience that a human person can have in this life (even as it is only a foretaste of the direct contemplation of God in the beatific vision). This provides further evidence that the will operates in tandem with the passions in the unity that is found within the agent him or herself and between his or her experiences.

Aquinas himself seems to equivocate on his strict differentiation between passion and affection in relation to acts of justice when he asks the question, “Whether there can be moral virtue without passion?” (I-II. 59.5). In the Sed Contra he claims that “No man is just who rejoices not in just deeds, as stated in Ethic. i. 8. But joy is a passion. Therefore justice cannot be without passion: and still less can the other virtues be.”

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104 “significant simplicem affectum, absque passione vel animi concitacione. Et sic sunt actus voluntatis” (I. 82.5, ad 1). Aquinas mentions this kind of affection in relation to attributing joy or love to God or the angels (I-II. 22.3, ad 3), and to the manner in which the human mind is drawn toward God in loving contemplation (I-II. 24.4).

105 “nullus iustus est qui non gaudet iusta operatione, ut dicitur in I Ethic. Sed gaudium est passio. Ergo iustitia non potest esse sine passione. Et multo minus aliae virtutes” (I-II. 59.5).
the *corpus* he clarifies that this joy is not strictly speaking a passion experienced in the body, but is rather a strong affection of the will. But he continues by stating that

> if this joy [in acts of justice] be increased through the perfection of justice, *it will overflow into the sensitive appetite*; in so far as the lower powers follow the movement of the higher, as stated above (Q. 17, A. 7; Q. 24, A. 3). Wherefore by reason of this kind of overflow, *the more perfect a virtue is, the more does it cause passion.*

Not only is it possible for passions to accompany the acts of the moral virtues (indeed temperance and courage are found in the sensitive appetite and thus function to moderate the passions directly), but the more perfect such a virtue is the more are the movements of the passions and the affections aligned. Yet on closer examination, this is not an equivocation on Aquinas’ part, but is rather an example of the manner in which Aquinas always considers the human person as one, undivided *suppositum.* He is able to maintain an analytical distinction between the affection of joy and the bodily passions, while also recognizing that in the human experience they may often go together. For those who are tempted to read Aquinas as advocating a dry, abstract, emotionless, speculative, and rationalistic ethics, quotations like these and the analysis of what follows should serve as an antidote to such readings. Human persons are embodied beings, and as such everything we experience is experienced through the unity of our existence as embodied souls.

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106 “Et si hoc gaudium multiplicetur per iustitiae perfectionem, fiet gaudii redundantia usque ad appetitum sensitivum; secundum quod vires inferiores sequuntur motum superiorum, ut supra dictum est. Et sic per redundantiam huiusmodi, quanto virtus fuerit perfectior, tanto magis passionem causat” (Ibid.). Italics added.
Thus far we have established the manner in which Aquinas distinguishes between the practical and speculative aspects of the intellect; the apprehensive power (the intellect) and the appetitive powers (either rational or sensitive); between passions (in the sensitive appetite) and affections (in the rational appetite); and we have begun to show how each of these elements must be properly aligned to make a morally correct choice when choosing this or that particular object or action. But to fully appreciate how such a correct choice can be made (and thus to understand how a Thomistic account of civic virtue might direct all acts of virtue toward the common good), we will need to look a bit more closely at the complex manner in which intellect, will, reason, prudence, affections, and passions function together in carrying out a particular act.

To begin, we have already noted that prudence joins together the speculative and practical aspects of the intellect in applying them directly to practical reasoning or deliberation leading to action. Thus, for Aquinas metaphysical principles are important for understanding the distinctive mode of human action (and therefore the Prima pars is essential for understanding the Secunda pars). Accordingly, since it is the object which defines the particular species of an act (in our account of civic virtue this object is the common good), that object must be apprehended in the intellect and simultaneously desired in the will (the rational appetite) as a worthwhile instantiation of the good the possession of which will contribute to the happiness and flourishing of the agent.

107 I am indebted in what follows to the general analysis of the relationship between intellect, will, and prudence to Daniel Westberg’s *Right Practical Reason*, especially chapters 4, 5, and 13.

108 “And just as a natural thing has its species from its form, so an action has its species from its object, as movement from its term/ (Et ideo sicut prima bonitas rei naturalis attenditur ex sua forma, quae dat speciem ei, ita et prima bonitas actus moralis attenditur ex obiecto convenienti)” (I-II. 18.2).
(Aquinas calls this an appetible good, *boni appetibilis*).\textsuperscript{109} As the faculties of intellect and will work together, the intellect holds the form or the idea of the object within the mind of the agent (I. 16.1), whereas the will is drawn to the appetible good as something external to the agent;\textsuperscript{110} and thus is the will reduced from potency to act (I-II. 9.1) by being drawn to the object which it perceives as good and therefore is moved to attain it as an end to be pursued. It is from this basic inclination to the good made manifest in particular objects that the will is in turn said to be the principle of all human action as it is capable of moving all the other powers of the human soul (I. 82.4).

Moreover, intellect and will remain intimately involved in the process of human action all the way from the speculative level down to the moment of choice and execution of the act. For the will also provides its consent in regard to the means of achieving a particular good (I-II. 15), and it is the virtue of prudence which perfects the practical reason in discerning the best means to the desired end and in executing the act.\textsuperscript{111} As we

\textsuperscript{109} I. 82.3. Thus does the practical intellect, in considering a particular object, perceive that object as an instantiation and a participation of the universal goodness (i.e., God) which can only be perceived in the speculative intellect. Note, however, that the two are not distinct; nor are the actions of the intellect and the will. As Westberg convincingly demonstrates, Aquinas does not hold that the intellect and the will are two faculties that work in sequential order, where the intellect perceives the object and then the will "chooses" to place value upon it. Rather, despite the fact that these are two separate faculties, they function simultaneously to perceive (in the intellect) and desire (in the will) a particular good as something manifesting the broader goodness of being in which all things participate.

\textsuperscript{110} "the action of the intellect consists in this – that the idea of the thing understood is in the one who understands; while the act of the will consists in this – that the will is inclined to the thing itself as existing in itself/ (actio intellectus consistit in hoc quod ratio rei intellectae est in intelligente; actus vero voluntatis perfectur in hoc quod voluntas inclinatur ad ipsam rem prout in se est)" (I. 82. 3).

\textsuperscript{111} Westberg indicates that this is why prudence is an intellectual virtue but can also be considered a moral virtue in that its function is not only to discern the best means to the end (a perfection of the intellect), but also in the carrying out of the actual act (the final perfection of the ends of the moral virtues) (*Right Practical Reason*, pp. 187-8).
noted above, the ends are provided by the moral virtues, while the best means to that end are judged through prudence.

We are now in a better position to consider how passions may interact with the intellect and the will. Most of what Aquinas has to say on this topic involves ways in which the will can be led astray through a stronger bodily sensation of desire towards an inappropriate object. This can happen indirectly in two ways according to Aquinas. The first is by way of a kind of distraction, wherein the power of the sensitive appetite becomes so fixated on a particular object of desire that it causes greater attention to be placed on that object such that the will is distracted from correctly considering it in the light of reason. Secondly, it may occur indirectly when the sensitive attraction to an object becomes so strong that it overpowers the correct use of reason, and thus passion draws the reason into the power of the passion, thereby reversing the proper order of desire (in which the reason should always control the passions). In this latter instance the person whose reason is controlled by the passions is considered by Aquinas to be insane (I-II. 77.1). In these two ways can the passions disrupt the proper order of the soul and cause one to make an incorrect choice (that is, by choosing a good that does not contribute to one’s flourishing).

Aquinas does, however, suggest that passions can also have an indirectly positive effect on the will by making the choice of the good easier in particular situations. In *De Veritate*, written during his first years as a master in Paris (1256-59),\(^\text{112}\) Aquinas writes that

when by a judgment of reason the will chooses anything it does so more promptly and easily if in addition a passion is aroused in the lower part, since the lower appetitive power is closely connected with changes in the body. Thus Augustine says: ‘The movement of pity is of service to reason when pity is shown in such a way that justice is preserved.’ And this is what the Philosopher also says in Book III of the *Ethics*, bringing in the verse of Homer: ‘Stir up your courage and rage,’ because when a person is virtuous with the virtue of courage the passion of anger following upon the choice of virtue makes for greater alacrity in the act.\textsuperscript{113}

Moreover, he continues to make this kind of connection in the *Summa*, where he claims that a properly ordered passion can help to make an appropriate action seem fitting,\textsuperscript{114} and that the virtuous person will experience passions functioning in accord with reason (I-II.59.2). Indeed, this coalescence between reason, virtue, affection, and passion leading to the correct choice of an action toward an object that contributes to human flourishing (both individually and communally) would seem to be an essential element of the human experience of existing as an embodied soul (as in the hylomorphism that we described above). We must keep this holistic picture of the human person in mind as we consider the manner in which each of these distinctive parts of the human moral psychology function both independently and in coordination with other parts in the complex process of human action.

\textsuperscript{113} “quia quando voluntas iudicio rationis aliiquid eligit, promptius et facilius id agit, si cum hoc passio in inferiori parte exciteatur; eo quod appetitiva inferior est propinqua ad corporis motum. Unde dicit Augustinus, IX de civitate Dei: servit autem motus misericordiae rationi, quando in ira probatur misericordia, ut iustitia conservetur. Et hoc est quod philosophus dicit in libro III Ethicorum inducens versum Homeri: virtutem et furorem erige; quia videlicet, cum aliquis est virtuosus virtute fortitudinis, passio irae electionem virtutis sequens facit ad maiorem promptitudinem actus” (*De Veritate*, 26.7).

\textsuperscript{114} “according to a passion of the sensitive appetite a person is changed to a certain disposition. Wherefore according as a person is affected by a passion, something seems to him fitting, which does not seem so when he is not so affected/ (secundum passionem appetitus sensitivi, immutatur homo ad aliquam dispositionem. Unde secundum quod homo est in passione aliqua, videtur sibi aliquid conveniens, quod non videtur extra passionem existenti)” (I-II.9.2).
If we apply the above analysis to our account of civic virtue, we can begin to have a fuller picture of how affections and passions are both involved in making choices that lead to pursuing and enhancing the common good of one’s community, and in doing so we are moving beyond anything Aquinas explicitly says in this regard. As we consider the reality of the ways in which we are constituted as part of our community and in relation to others in our community, we can begin to develop strong affections towards our fellow-citizens and likewise toward the common good as the object of the will.

It is precisely this kind of concurrence between the passions and the affections that we would hope for in exemplary acts of civic virtue. For it is a commonplace for individuals to speak of a ‘passion for justice,’ and Aquinas himself indicates that the passion of anger is frequently associated with injustice, as when one experiences anger at a harm done and expresses it through acts of vengeance designed to return the balance of equality that was destroyed (I-II. 46.7). We might prefer to use the term ‘restitution’ (as Aquinas does later in II-II. 62) instead of vengeance, but the idea is that undergoing a passion can inspire us to seek the restoration of equality and justice after a wrongdoing has been committed. In fact, the Latin word that Aquinas uses to refer to this kind of retaliation aimed at restoring the balance of justice is contrapassum, which implies the returning of a passion for a like passion. (Of course, when he speaks of retaliation he is referring to restoring justice through law and those appointed to administer it, not the kind of retaliation that would come from taking matters into one’s own hands.) This kind of passion would certainly apply directly in instances of commutative justice.

A similar kind of passion could be a correlate of civic virtue as when anger is appropriately directed toward those whose actions harm the common good and in such a
manner act against the particular good of each of the members of a society. Anger experienced in reaction to such an attack against the common good could motivate one to seek restitution not only for those individuals who are harmed but also for the entire community (i.e. on behalf of the common good). Such a desire for restitution on a communal level is one of the driving forces behind certain forms of restorative justice that are currently being attempted (though perhaps not as frequently as we might like) in the criminal justice system in the United States. In a similar fashion, if one truly perceives the manner in which one’s own individual good or flourishing depends upon the common good of one’s society, then the will to defend this good would likely entail an affection of the will accompanied by a passion. This display of a strong concurrence between affections and passions in regards to defending one’s country or community may also require the kind of sacrifice and endurance that can only be sustained through the virtue of courage, and thus would also require not only rectitude of the will with regard to the common good but also the proper capacity to moderate fear in order to act in defense of one’s country or society. These kinds of exemplary acts of courage are obviously required of those in military service, but they are also required of anyone possessing civic virtue as we are defining it here. For the consistent willingness to uphold the common good of one’s society in political life and communal involvement in whatever forms it may take will likewise require a good amount of courage and endurance. Moreover, the kind of critical patriotism that we are advocating as an element of civic virtue may often require citizens to bravely call their leaders to account when they veer from the path of justice and from pursuing the common good. We can conclude from all of this that courage is (at least in part) a kind of civic virtue, especially when it is put to use in
sustaining actions on behalf of one’s community and the common good when this requires endurance or in the face of challenges.

Finally, we can consider the manner in which compassion (compassio), meaning literally to ‘suffer with,’ might be related to justice, and hence may be another manner in which civic virtue relates to the passions. Although compassion is of greater concern to many contemporary theologians than it seems to have been for Aquinas (he does not use the term frequently), there are instances through which we can draw some connections from his own work. For example, in his discussion of mercy he writes that “pity is grief [compassio] for another’s distress…one grieves or sorrows for another’s distress, in so far as one looks upon another’s distress as one’s own”.115 This, he says, can happen in two ways: either through a kind of union of affection by which one makes another’s distress her own, or through a fear that a similar evil may befall herself. Thus, if we consider our fellow community members as somehow connected to us through civic friendship (which is an essential element of civic virtue), or if we rightly perceive that our own good is connected with the common good, then we would expect that compassion is connected with civic virtue in both of the ways that Aquinas outlines above. That is, we would be concerned to protect the good of another out of affection for her as a fellow citizen or member of our community; and we would recognize that an attack against the common good in any form is an attack against our own good as individuals as well.

This is something toward which Aquinas hints in his discussion of the relationship between well-wishing or benevolence (benevolentia) and charity (II-II. 27.2). This kind

115 “misericordia sit compassion super miseria aliena…intantum aliquis de miseria aliena tristatur aut dolet inquantum miseriam alienam apprehendit ut suam” (II-II. 30.2).
of benevolence towards others with whom we share a life in the commonwealth (even if we have no direct relationships of kinship or business or legal relationships) is the beginning of what would be required to develop the kind of civic friendship in which we would be moved to compassion on behalf of others. While we may not be required to love all of our fellow citizens with a union of affection such as would be accomplished in love (caritas), it does seem fitting that we would be moved by such benevolentia in desiring the flourishing of our neighbors in the practice of civic virtue. In fact, when our spiritual loves (affections) and our physical desires (passions) align in such a way that we are moved to desire the good of our neighbor and our common good, we may well experience what Diana Fritz Cates describes in the following manner: “[i]f the acts of one’s sensory and rational appetite concur, the result can be a resounding act of the will that is indistinguishable experientially from a vibrant, intellectually informed emotion.”\footnote{Diana Fritz Cates, \textit{Aquinas on the Emotions: A Religious-Ethical Inquiry} (Washington, D.C.: Georgetown University Press, 2009), p. 236.} Our account of civic virtue upholds this kind of emotional and affective experience as an appropriate and fitting disposition to be found in citizens who share a commonwealth and common good, and it forms a foundation for the moral psychology and motivational structure that undergirds the desire of the will to act in accord with pursuing the well-being of one’s community.

We turn now to consider two further implications of Aquinas’ thought that are derived from his discussion of prudence. The first has to do with Aquinas’ distinction between regnative and political prudence simply so called. He mentions the kind of political prudence required of rulers in two places, and in the first he calls it ‘legislative’
prudence (i.e., a prudence in reference to positive law, *legum positivum*, II-II. 47.12), and in the second he calls is ‘regnative’ prudence (*regnativa*, II-II. 48.1). There are two ways that we can take these comments; the first is potentially positive, and the second has some negative connotations which we will want to avoid. The first way would seem to indicate that there is a special sort of civic virtue that we would expect out of those who hold offices of leadership in society. There is a connection here to Aristotle’s discussion of whether or not the good citizen must also be a good person in possession of the fullness of virtue (*Politics* III. 4), and to Aquinas’ commentary on this section. Both Aristotle and Aquinas hold that the good citizen need only possess the virtues that would facilitate his support of the good of the community of which he is a part, and this is part of what we would also consider the essential elements of civic virtue. When it comes to the ruler, however, Aquinas, commenting on Aristotle, writes that

> a person is not said to be a good ruler unless he is good as a result of his possessing the moral virtues and unless he is prudent. For it is said in Book VI of the *Ethics* that government is a certain kind of prudence. Hence the statesman, that is to say, the head of a regime, must be prudent and, consequently, he must be a good person.\(^{117}\)

Taken in a positive sense, it would be helpful to expect this kind of virtue and civic prudence as a remedy to the cynicism and low expectations that many citizens in western, constitutional democracies have come to expect from our leaders. Thus, we would insist that a constituent element of civic virtue is a belief that there is a distinctive kind of

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\(^{117}\) “alicuius civis, ad hoc quod sit bonus, requiritur eadem virtus, quae est boni viri. Non enim dicitur aliquis esse bonus princeps, nisi sit bonus per virtutes Morales et prudens. Dictum est enim in sexto Ethicorum quod politica est quaedam pars prudentiae: unde oportet politicum, idest rectorem politiae, esse prudentem, et per consequens bonum virum” (*Sent. Libri Politicorum*, Lib. III, L. 3, n. 5).
prudence and moral virtue that we would expect in those who hold public offices in our communities and governmental structures. Moreover, those who hold public office are called upon to exercise judgment in a manner, on specific issues, that the rest of the citizenry is not called upon to make. These areas of judgment falling under the guise of political, regnative prudence regard the formulation, interpretation, and application of laws as they direct actions toward the common good (or as they discourage citizens from harming it).

The negative way that this kind of comment could be taken would be to underwrite a certain kind of elitism, in which we expect the leaders of society to make all of the important decisions in the working out of the principles of the natural law through prudence. This is the problem that we noted above with John Courtney Murray’s understanding of the manner in which the natural law is applied in society by the wise. Thus, in our account of civic virtue we want to uphold the expectation that political leaders be in possession of a certain kind of regnative prudence that allows them to make well-informed decisions about the laws of society and their application in directing them toward the common good (such as we have already witnessed as a paradigmatic example of civic virtue when a judge exercises epikeia). The recognition of the distinctive role for those who hold offices of authority does not necessarily set them above, or over and against, the rest of the citizens. In our account the prudence of those with authority is not a substitute for the participation of the citizenry, through their various ways of exercising civic virtue, in helping to create and sustain the well-being of the community. Following this line of reasoning, we will need to modify a belief that Aquinas held in
regards to the function of political prudence as it is exercised in the citizenry. For he holds that

the common good of the state cannot flourish, unless the citizens be virtuous, at least those whose business it is to govern. But it is enough for the good of the community, that the other citizens be so far virtuous that they obey the commands of their rulers.\(^{118}\)

In moving from an analysis focused on a kingdom as the best form of all governments which, Aquinas, following Aristotle, does (\textit{NE} VIII. 10; II-II. 50.1, ad 2), to a more democratic theory of civic virtue, we will want to focus less on the role of citizens as simply obeying their superiors (though they should still do so when appropriate) to an understanding of political prudence that seeks the active involvement of the citizenry in holding leaders accountable.

In fact, it is precisely the proper exercise of political prudence among the members of a community that facilitates the working out of the middle axioms of the natural law; that is, those daily choices of individuals and groups within society who must constantly discern how this or that particular action will contribute to the common good. This is a much more democratic and less elitist approach to the application of the principles of the natural law than the one proposed by Murray. It involves the participation of all those who exercise civic virtue through being involved in their own

\(^{118}\) “Unde impossibile est quod bonum commune civitatis bene se habeat, nisi cives sint virtuosi, ad minus illi quibus convenit principari. Sufficit autem, quantum ad bonum communitatis, quod alii intantum sint virtuosi quod principum mandatis obedient” (I-II. 92.1, ad 3). Aquinas applies this same logic to his discussion of political prudence as a subjective part of prudence when he writes that “some kind of rectitude of government is required in [the citizens], so that they may direct themselves in obeying their superiors; and to this belongs that species of prudence which is called political/ (Et ideo requiritur in eis quaedam rectitudo regiminis per quam seipsos dirignant in obediendo principatibus. Et ad hoc pertinet species prudentiae quae politica vocatur)” (II-II. 50.2)
distinctive manner in seeking to uphold the common good. We will continue to explore the manner in which this aspect of civic virtue (political prudence, that is) functions within a democratic regime when we continue our constructive account in the next chapter. Our goal in this section has been to begin to suggest some ways in which we might fruitfully develop Aquinas’ thought beyond what he explicitly says, so that we might explore how these insights might apply in our own political, moral, and cultural context of the twenty-first century in the following chapter.

4.4 Conclusion

We are now in a better position to provide a much fuller and richer account of what a Thomistic conception of civic virtue entails, and before moving into the next chapter it will be helpful to recount the main aspects of civic virtue that have been developed out our reading of Aquinas’ work. First of all, we noted that Aquinas inherited a discussion on the virtue of justice that was highly influenced by the theological analysis of the cardinal virtues provided by Peter Lombard’s Sentences. His emphasis on justice as referring primarily to justification, and his use of Augustine in stating that justice is reflected in acts of mercy made the subsequent scholastic analysis of justice as a cardinal virtue somewhat difficult. Thus, although philosophical reflection upon the cardinal virtues in general, and justice in particular, was not unknown to the medieval scholastic world, it is not until the work of Aquinas that we find a clear distinction made between grace and virtue, between justice as a cardinal virtue and justification of the elect, between acts of justice and acts of mercy, and a clearer distinction between nature and
grace. Furthermore, we noted how Aquinas’ use of Aristotle, combined with the distinctions just mentioned, helped him to proceed further with an analysis of justice as a naturally acquired virtue than his predecessors had done (even as the most perfect form of the virtues is always referable to the infused form). It is because of these ways in which Aquinas shifted the discourse on the virtues and upon justice in particular that we have been able to develop a much more robust and systematic account of civic virtue out of his work.

As we considered Aquinas’ own work more closely in order to develop our Thomistic account of civic virtue, our analysis proceeded in three stages. First, we looked closely at the texts on general or legal justice (II-II. 58. 5-6), and considered this as the foundational notion out of which we are developing our own account, while also recognizing that civic virtue is not equivalent to general justice but rather includes a whole set of other virtues, attitudes, emotions, and dispositions that are related to general justice. The second section involved looking at many of the concepts and ideas that Aquinas himself associates closely with the virtue of justice in his own work. And in the third section we began to extend the discussion beyond what Aquinas specifically says in order to look at some of the ways that we can develop our own account of civic virtue for our contemporary age in such a way that it could still properly be called a “Thomistic” account of civic virtue. Now that we have gone through each of these three sections separately, it will be helpful to try to systematize all that we have gleaned from Aquinas’ thought and demonstrate the various aspects that are central to our account of civic virtue.

First of all, we can conclude from our study that civic virtue is not analytically reducible to one virtue, but is rather a set of virtues, dispositions, attitudes, emotions
(including affections and passions), and acts. In its most fundamental sense, civic virtue entails a stable and firm orientation of the will of the agent or citizen to direct all the acts of the cardinal virtues toward the common good of one’s community, state, or nation, and as such it remains an architectonic disposition of the will. It is a commitment to serve, enhance, and protect this common good as the highest form of the good achievable in human society.

As the object of civic virtue, the common good is a central concept that supports our definition of civic virtue, and we have developed several important insights into what this good is in human society. Under this heading we note the following points:

- The common good is formally distinct from either the individual good or the sum total of individual goods within society.

- The common good is the object toward which all positive law aims as a dictate of reason; as such it requires the existence of a duly appointed government and political authorities.

- The common good is the highest, natural good of human individuals and societies.

- The individual good depends upon the common good as a part depends upon the good of the whole, but not in such a manner that the individual good can be overwritten in favor of the common good. Individual autonomy and freedom are necessary elements of a Thomistic conception of the common good and human flourishing.

- The common good functions as the highest temporal end of human happiness, while it is also (simultaneously) capable of being ordered toward the final end of all things in God. As such it remains an important goal towards which a Christian in the state of grace still aims, but also something toward which all persons in a pluralistic society can strive.

- The common good can be classified as an appetible good (boni appetibilis); a substantive good towards which the will can be drawn. In other words, the common good can be perceived rationally and critically grasped.
We have also considered the various ways in which civic virtue is related to, and depends upon, the proper use of reason in following the dictates of the natural law.

While we have not developed a systematic account of the natural law, we have noted the following elements of the natural law as important for our account of civic virtue:

- Aquinas’ connecting of the natural law to Divine and Eternal law allows him to provide a much more normative structure to the natural law than did Aristotle.

- All positive, written (human) law is grounded in and derived from the natural law; therefore, proper use of the natural law, as reason’s participation in the Eternal law, is a necessary requirement of creating good laws that direct the community toward the common good, and hence of practicing civic virtue.

- The basic inclinations of justice, and therefore the basic inclinations of civic virtue, are ordered toward the precepts of natural law; therefore, the precepts relating to justice point toward the Decalogue as foundational (as those precepts requirement but minimal reflection upon the first precepts of natural law).

- Reason’s use of the natural law in those who possess civic virtue allows them to gain a critical purchase on the laws and institutions of one’s society.

We then considered the parts of justice, both the potential and subjective parts. Under the potential parts, or those virtues annexed to justice but which do not fulfill the fullness of that virtue, we noted that piety, reverence, and gratitude were particular important for helping those who possess civic virtue to recognize the ways in which they have been formed by, and are dependent upon, the mutual relationships that make up a community. In considering the subjective part of justice known as epikeia, we noted that this is an essential virtue for judges and those who are charged with interpreting the law in society. This analysis also yielded some important insights into civic virtue:

- Individual rights and duties are grounded in the social nature of the person and are thus natural (not purely conventional or contractual).
- Civic virtue instills a desire to work toward the common good in a way that transcends Enlightened self-interest or the vision of the self-made individual. It challenges us to accept ourselves as mutually dependent, equal citizens, who partake of relationships of reciprocity and mutuality.

- Civic virtue demands a loyal, but critical patriotism towards one’s community or nation; this critical loyalty places persons before abstract principles (even while upholding the importance of principles), and entails a commitment to holding political leaders accountable.

Furthermore, we noted that **prudence** is an essential virtue for choosing the best means of achieving the end of common good (the end appointed by civic virtue), and for putting such decisions into action in concrete, historical circumstances. Secondly, we also indicated that “political prudence” is a particularly useful concept for developing our account of civic virtue, as it indicates a particular kind of prudence in directing individual acts towards the common good. Therefore, we note the following points in regards to the importance of political prudence for civic virtue:

- Political prudence, properly so-called, is required of all members of a polity (though each citizen will do so in his or her own distinctive manner), while there is also a special form that we are calling “civic prudence”; civic prudence is a particular capacity to reason correctly in crafting laws that will direct citizens towards the common good and is therefore required of legislators.

- The kind of elitism that separates the citizens’ political prudence from the civic prudence of leaders (especially as we found it developed in John Courtney Murray’s emphasis on the role of the wise) is explicitly rejected in our account. Rather, in our democratic account of civic virtue, citizens, in practicing their proper role in exercising political prudence, must deliberate together to work out the middle axioms of the natural law that will lead to concrete laws and actions on behalf of the common good.

As they are both virtues of the will, **charity and justice**, are uniquely related virtues, and thus the relationship between them has important ramifications for a theological description of civic virtue. On this topic, it is important to pay close attention to the twofold manner in which the one, last end of the human person can be understood.
While there is only one, final end of the human person (i.e., friendship and union with God in the beatific vision), human action can also be analyzed under the natural end of happiness or flourishing in so far as it can be attained in this life. Out of this distinction we can make the following claims for the function of civic virtue vis-à-vis charity and the Christian life of the wayfarer:

- Civic virtue aims at the highest, natural end of human life (i.e., the common good that sustains individual and corporate flourishing), while also being capable of being ordered toward the ultimate end of charity with God.

- Civic virtue is further strengthened by grace; the Christian wayfarer is further motivated and aided to pursue the good of one’s community within the life of grace (rather than to turn toward a complete contempt for the world).

- Civic virtue does not demand the full perfection of all virtues in the individual; therefore it leaves room for the individual to pursue the fullness of virtue as it is exemplified in Christ and the Divine law, and it does not demand that every act of virtue be prescribed by human, positive law.

Finally, we moved into an analysis of the kind of emotional disposition that would be cultivated by one who possesses civic virtue, focusing especially on the relationship between the will (the subject of civic virtue) and the affections and passions. While Aquinas hints at a connection between general justice and the passions, he does not develop this in any systematic way. To gain a full appreciation of the complexity of these relationships required us to take a closer look at Aquinas’ division of the parts of the soul, as well as remaining attentive to the manner in which each of these parts works together in the one suppositum that makes up the full dignity of the human person as reflecting the image of God. While the will in and of itself is drawn to the objects of its desire through spiritual movements that are called affections, and the bodily organs undergo a similar attraction through the movements of the passions, we
discovered that there are some ways in which the will and passions can interact with each other in positive or negative ways. Our goal is to demonstrate that there is a rich emotional component to the practice of civic virtue (involving both affections and passions), and that we can develop an account of this emotional experience by going beyond what Aquinas explicitly says on this topic. The following points are particularly salient for developing an account of the emotional element of civic virtue:

- Strictly speaking, the will experiences affections while corporeal organs undergo passions; affections, however, are not an emotionally vacuous experience (as friendship and joy are a result of motions of the will).

- All human action must originate in the movements of the will towards its object; thus, civic virtue is reduced from potency to act by being drawn toward and desiring the end of the common good (recognized as a boni appetibilis, a true reflection of the universal goodness of which God is the principle and in which all things participate).

- Affections such as love, friendship, or joy can be so strong that they are able to flow over into the passions (even as they remain logically distinguishable as part of the will); thus, civic virtue can be motivated by what Cates calls “a vibrant and intellectually informed” emotional disposition to defend, support, and enhance the well-being of one’s community.

- Passions such as anger, courage, and compassion can motivate acts of civic virtue so that such acts are performed with what Aquinas calls “greater alacrity.”

While our basic definition of civic virtue remains relatively simple, we can see how it entails a whole complex set of inter-related concepts, virtues, emotions, and dispositions. Here we have enumerated some of the most basic principles and concepts that make up our account of civic virtue. These principles function like a skeleton that forms the basic structure of civic virtue. In the next chapter, however, we will continue to place the flesh upon this skeleton that will make it a vibrant and appealing concept within the discourses of Catholic social thought and political philosophy.
I favour politics as practical morality, as service to the truth, as essentially human and humanly measured care for our fellow humans. It is, I presume, an approach which, in this world, is extremely…difficult to apply in daily life.

- Vaclav Havel

5.1 Introduction

We are now in a position to synthesize the previous chapters in a manner that will bring together the historical, exegetical, philosophical, and theological insights regarding civic virtue that have been developed into a constructive account of Thomistic civic virtue for contemporary Christian ethics. This process will involve bringing forth the insights gleaned from the work of Thomas Aquinas in the previous chapter, while putting them into dialogue with Catholic social thought and political philosophy, in an effort to make a contribution to a Christian understanding of the role of civic engagement within the life of the wayfarer, as a citizen of the earthly city and with an eye toward the heavenly city which is the final goal of all Christian life. It should be apparent by now that we are not suggesting an uncritical return to Aquinas’ ethical and political thought as the solution to the woes of modernity (or post-modernity). We have recounted (in Chapter 2) that the rise of the modern nation state has been one of the most significant
factors that have changed the manner in which we read, interpret, and apply Aquinas’ political thought, even as civic virtue concerns itself with community involvement in ways other than only direct involvement with the nation-state (at more local or international levels, for example\(^1\)). Thus, our account of civic virtue aims to bring forth Aquinas’ insights about the nature of civic virtue while remaining focused on the modern regimes of constitutional democracy that are the main hallmarks of contemporary, Western institutional, legal, and political thought and practice. We believe that there are certain insights into the nature of Christian engagement in law, politics, and ethics that have been neglected or underdeveloped in contemporary studies of Aquinas’ ethical and political thought\(^2\) and in Catholic social thought, and that there are rich resources within a broadly Thomistic approach to civic virtue that can help to clarify some of the ongoing debates in Christian theological discourses regarding the role of Christians in civic life.

The main task of this chapter is thus to articulate a critical account of acts of civic virtue, specifically as these are defined as acts the object of which is the common good. This task, in turn, requires several mediating steps. One of these is to define in greater detail how we are defining the common good and what it means for an agent to possess a critical conception of the common good. In other words, how does one even begin to

\(^1\) One of my favorite examples of this kind of apolitical political action is a story that Jonathan Shell recounts of a Czech beer maker who continued to follow his family’s traditional recipe for beer brewing despite the fact that the Soviet Union attempted to impose strict beer brewing guidelines that made his formula “illegal.” His persistence in practicing traditional beer brewing techniques became a political act, without ever directly engaging in statecraft, by the simple fact that it was an act of defiance and creativity in the face of a narrowly imposed conception of law (see The Unconquerable World: Power, Nonviolence, and the Will of the People, New York: Metropolitan Books, 2003, Ch. 7, “Living in Truth”).

\(^2\) Indeed, Torrell, in discussing Aquinas’ conception of law and justice in relation to his anthropology, suggests that “[t]he vistas opened up here could easily become the subject of a large book” (Saint Thomas Aquinas, Vol. 2, p. 281).
perceive the common good as a real, existent good that can become the motivating goal of individual and collective human action? Our analysis of some strands of Catholic moral thought (Chapter 2), and of most liberal thought (Chapter 3), indicate that the common good (as we are defining it) is not a conception that can be taken for granted in the contemporary context. Another mediating step involves a more synthetic and constructive analysis of the manner in which reason, will, passions, and affections are combined with the virtue of prudence in performing acts of civic virtue than we have yet been able to provide. The basic contours of such an account have been developed in the previous chapter, but here we are moving beyond what Aquinas explicitly says, and drawing on some other resources to supplement Aquinas, in order to bring the entire project from potency to act. Another mediating step involves laying out a fuller case for the manner in which the passions can contribute to, indeed are an essential element of, right practical reason or prudence, specifically in relation to acts of civic virtue. On this point, it will be helpful to bring in some examples that will help to concretize what has been up until this point a formal definition of acts of civic virtue. Specifically, we will look at how anger, compassion, and civic friendship are essential tools in the struggle for justice and sustaining the common good, and hence in acts of civic virtue. Rather than developing each of these mediating steps individually or sequentially, we will develop

At this point, I am using the terms “practical reason” and “prudence” to refer to the same basic human capacity: that is, the capacity to perceive the specific details, including the goods and ends to be pursued, of a context in which a decision is being made; to use reason, along with natural inclinations and passions, to judge which goods or ends are to be pursued in that context; and to attain such a good or end through completing actions which lead to their achievement and enjoyment.
them synthetically and in relation to each other, as we continue to develop a constructive account of civic virtue throughout the rest of this chapter.

5.2 Thickening the Common Good

Thus far we have identified the following features in regard to the common good as the object of acts of civic virtue: it is formally distinct from the individual good or the sum total of individual goods in society; it is the object and goal toward which all positive law aims; it is the highest, natural good of both individuals and communities; and it is what we have called (following Aquinas) an appetible good, a substantive good which is capable of attracting the will through the movements of the will referred to as the affections and also (indirectly) through the passions. The task before us now is to fill in with greater detail how we are defining and conceptualizing the common good, so that we can move into the next section in which we explain what it means to arrive at a critical conception of it. In other words, following the Aristotelian-Thomistic teleological approach that we are taking to human action in general, we need to know where we are going before we can provide an account of how to get there. This section aims to clarify where it is that we are headed; that is, to describe in greater detail the common good as the aim of civic virtue.

It will be helpful to begin in a kind of via negative by explaining what the common good is not. Indeed, we have already identified two ways of construing the common good that are incompatible, or at least inconsistent, with our Thomistic account. The first of these was noted in our discussion of *Gaudium et Spes* and Finnis, and is a
notion of the common good that seems to run throughout much of the encyclical tradition of Catholic social teaching. Recall that *Gaudium et Spes* defines the common good as the sum of the conditions which allow each individual member to achieve his or her flourishing (§ 26). This manner of construing the common good, however, seems to consider it an instrumental good to the securing of individual goods. Seen in this light, one could potentially argue (as thinkers like Novak and Weigel do) that if individual flourishing can be achieved by other means (say, for example, in a neo-liberal free market) then the normative value of the common good can be dismissed or redefined in favor of other alternatives that serve the same purpose. Thus, without even discussing the myriad of ways that this approach is incompatible with Aquinas’ construal of the common good (as we have already done in previous chapters), we can conclude that the common good cannot be a merely instrumental good.

A second way of construing the common good that is incompatible with our account involves equating it with a sum total of individual goods, even if that sum total is seen to have some social value. As we saw in Chapter 3, Finnis reduces the common good to both of these levels; that is, he defines it as both instrumental and as a sum total of individual goods rather than something independent of individual goods, even as it remains intrinsically linked to such individual goods. In the previous chapter, following Aquinas, we recognized that the common good is formally distinct from and transcendent to the individual good. Even as the common good remains tethered to the good of each individual person in society (indeed, each person’s good is dependent upon it), it remains a distinct good from the individual good. As we are defining it, the common good cannot
simply be the sum total of individual goods in society, but rather must be an independently existing good that can serve as the foundation for acts of civic virtue.

Having rejected these two ways of construing the common good, we can move into a thicker description of how we believe the common good functions as the overarching norm for acts of civic virtue. The difficulty that arises in trying to spell out such a definition is that, following our account of the natural law, we can recognize the basic normative contours of the common good that define and provide a common aim to human communities (as a reflection of certain natural, human inclinations), while also recognizing that these basic contours will be defined and specified in a wide variety of manners in different communities, contexts, and cultures. Therefore, we find it helpful to follow Jean Porter on this point by suggesting that the common good is identifiable in what Cicero defines as a set of ideals or values that are embodied in a particular way of life and which provide a meaningful context in which members of a community are enabled to engage in common endeavors, or what Augustine calls “common objects of love.” In this sense, the common good refers to a state of affairs, a way of living

4 It seems that there is a similar notion at work at work in the way that Oliver O’Donovan describes the aim of justice as providing members access to the social means of communication and engagement which support their flourishing. For example, he maintains that “we can be deprived of the structures of communication within which we have learned to act, and so we can find ourselves hurled into a vacuum in which we do not know how to realize ourselves effectively” (The Ways of Judgment: The Bampton Lectures, 2003, Grand Rapids: William B. Eerdmans Publishing Co., 2005), p. 68. We should note, however, that O’Donovan’s manner of construing the common good and political judgment differs from our account in at least one important way; that is, he considers political judgment to be an act that follows upon an act of injustice in order to defend the common good or rectify the harm done. For example, he writes that “Political judgment, then, is a response to wrong as injury to the public good” (59). The account of judgment that we will continue to develop below is much more constructive than reactive.

5 Jean Porter, Ministers of the Law: A Natural Law Theory of Legal Authority (Grand Rapids: William B. Eerdmans Publishing Co., 2010), p. 161, where she references Cicero’s De Republica 1.25.42 and Augustine’s De Civitate Dei 14.28 (footnote 15). See also Oliver O’Donovan’s reflections on similar themes in Common Objects of Love: Moral Reflection and the Shaping of Community (Grand Rapids:
together within a particular society or culture, that somehow reflects that which the individuals in a community hold together as the most important values and goods that will sustain and foster their flourishing both individually and collectively. On this account, the common good can refer to specific instances of tangible goods (such as those goods produced through exercising a right to engage in economic activities, own property, have access to health care, etc.), and it can also refer to more abstract goods such as freedom, autonomy, or solidarity (among others). In this respect, the common good is not conceived as one, distinct object, but rather captures a community’s shared sense of identity based on the values and goods that it upholds as essential to each member of the community, ranging from the most tangible to the most abstract forms of goods.

Taking this approach to the common good has much to recommend it. For example, it allows the common good to maintain its normative, critical purchase on any given society, without attempting to spell out a universal common good that could be applicable in any particular context.⁶ As William Barbieri describes it, “what we have instead is a complex, open-ended picture in which different goods exist, in different

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William B. Eerdmans Publishing Co., 2002). Eric Gregory also provides insights into the nature of the way in which an Augustinian notion love is a foundational notion for civic engagement, as when he writes, for example, that “we do well also to consider Augustine’s insight that how a political society thinks about the directions of its desires and loves has important consequences for the sort of life such a society might lead” (Politics and the Order of Love: An Augustinian Ethic of Democratic Citizenship, Chicago: University of Chicago Press, 2008, p. 372). Although Gregory’s work has much to commend it in regards to reflecting upon the continued significance of Augustine’s notion of love for civic engagement, I believe his account could be further strengthened by a more sustained reflection on the common good in Augustine’s thought and in relation to modern liberal thought.

⁶ This seems to be one of the more prominent ways of conceiving of the common good in the encyclical tradition and much of Catholic social thought in general. See, for example, Lisa Cahill’s “Toward Global Ethics,” Theological Studies 63.2 (2002): 324-344.
social contexts, both for individuals and for members of a broad range of types of community."⁷ On the one hand, this feature of the common good is natural and to be expected, and is even in accord with what Aquinas maintains. For he writes that “the common good comprises many things…[and] is procured by many actions.”⁸ Therefore, a multitude of natural expressions of the common good that sustains human flourishing is in line with the general observations we have made in regards to the manner in which the inclinations of the natural law are legitimately expressed in a variety of contexts.⁹

On the other hand, if this open-ended nature of the common good is taken too far, then we begin to lose any sense in which the common good functions as a normative concept. On this point, we can bring back in our discussion begun in the previous chapter about the relationship of the individual good to the common good. Even though the common good is not instrumental or reducible to individual goods, nor is it justifiably used to overwrite any person’s individual flourishing (i.e., their rights), it must also somehow allow a community to sustain and foster a genuine form of human flourishing for each member qua individual, even if we can envision that genuine human flourishing will look somewhat different in various cultural contexts. In other words, the critical test for the efficacy of the common good within any given community remains the extent to which it allows each individual within such a community access to some set of ideals,

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⁸ “Bonum autem commune constat ex multis…per multiplices actiones procurator” (I-II. 96.1)

⁹ Porter also notes some of the ways in which viable conceptions of the common good that sustain human flourishing in non-Western contexts have been considered and developed by recent scholars, such as Lawrence Rosen (in Muslim societies) and Benezet Bujo (in African contexts) (Ministers of the Law, p. 166, footnote 17).
values, and practices that enable him or her to seek his or her flourishing as a rational, self-directed creature. For example, in the context of constitutional democracies we will expect to see a concern to uphold the values of autonomy, freedom, tolerance, and equality (especially equality before the law) as a part of the way in which the common good is understood (even as we recognize that these do not comprise the totality of the common good). These are goods that are capable of sustaining and fostering a distinctively human manner of flourishing only if they are available to each and every person within the community, even as such common goods, considered as an ongoing way of life informed by intelligible ideals, are in and of themselves goods transcending the individual good. Thus, Michael Sherwin accurately describes the common good in the following manner:

The whole of all of these goods which make up the cultural heritage of a people, and which promote the full human life…this totality is the temporal common good…The common good is thus the good of the whole shared by each of its parts.  

The common good is thus formally distinct from, yet intrinsically tethered to, the good of each individual, in such a way that each person’s individual good is dependent upon the manner in which the common good is made accessible to all within a particular community.

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11 On this particular point, we can recognize why Pettit’s insights into the nature of the common good are helpful for our own account. His approach helps us to understand what is at stake in recognizing these elements of society as common goods such that the common good can function as a heuristic device for recognizing where affronts to human dignity and flourishing are taking place within society. It then allows us to direct our attention, through the various institutions of policy and/or legal action, such that we
Construing the common good in this manner allows us to connect many of the insights that we have already noticed in regards to the common good as the object of acts of civic virtue. It upholds the Aristotelian notion, that is in turn defended by Aquinas, that the common good is highest, most noble, and most divine good of natural human life and communities\textsuperscript{12}; it remains flexible enough to be applicable in a wide variety of human cultures and contexts, and is thus applicable in the context of modern pluralism; and it simultaneously retains its normative purchase because of the way that the common good is tethered to, indeed constitutive of, the good of each and every individual within a community. Moreover, as will continue to become apparent in what follows, it functions as a way of defining and providing a language for the way in which a particular community upholds its distinctive manner of life in such a way that it defines that community’s ethos. As such, it provides a starting point for practical deliberation about the good and the best means of achieving it, while also remaining open-ended and flexible enough to leave room for a critical appraisal of one’s own community in an ongoing process of critical reflection on the best means of achieving a healthy, flourishing, and just society (imperfect as this process will always be this side of the eschaton). With this basic conception of the common good more firmly in place, we are now in a position to move into a closer analysis of how an agent comes to critically conceive of the common good such that it can function as the aim of acts of civic virtue.

\textsuperscript{12} NE I.2. 1094b; Sent. Lib. Ethicorum 1.2, no. 12.
5.3 Thomism Takes a Rhetorical Turn: Aquinas and Aristotle’s *Rhetoric*

We have been defining civic virtue as “a stable and firm orientation of the will of the agent or citizen to direct all the acts of the cardinal virtues toward the common good of one’s community, state, or nation, and as such it remains an architectonic disposition of the will. It is a commitment to serve, enhance, and protect this common good as the highest form of the good achievable in human society” (see Introduction and Chapter 4). We have also maintained that the common good is the object of civic virtue, and we have described it as having the following characteristics: it is formally distinct from the individual good or the sum total of individual goods in society; it is the object and goal toward which all positive law aims; it is the highest, natural good of both individuals and communities; and it is what we have called (following Aquinas) an appetible good, a substantive good which is capable of attracting the will through the movements of the affections and also (indirectly) of the passions. The agent in possession of civic virtue must have a critical conceptualization of the common good that entails a rational grasp of the common good as a real, existent good. We do not propose, however, that this conceptualization of the common good as a motivating force in human action functions separately from the affections and passions which are an essential element of the distinctively human manner in which persons carry out rational, practical deliberation. Hence, our account remains a *cognitivist* account of civic virtue and the common good, while maintaining an essential role for the passions in exercising practical reason in regards to acts of civic virtue.

Specifically in regard to the passions, we noted in the previous chapter that on Aquinas’ own account, the passions can contribute to practical reasoning in a positive
manner by making for greater alacrity or joy in the act. This might be taken to indicate that Aquinas believes the passions to influence the process of practical reasoning after the moment when the choice is made to undertake a particular act. Understood in this way, the processes of perception, deliberation about means, and choice of an act would be separate from the experience of affection or passion, which would come after the cognitive processes. I believe, however, that it would be incorrect to read Aquinas in this manner. Rather, passions and affections play a role in the exercise of prudence or practical reasoning all the way through a cognitive process that includes both rational and emotional aspects. To see why this is so we will need to extend our discussion of the role of the passions beyond what we have undertaken thus far.

As we continue develop this account, I propose that we can extend our analysis of the role of the passions in practical reasoning by looking backward (as it were) toward Aristotle’s Rhetoric, and to some contemporary commentators on Aristotle’s moral and political though. Aristotle’s discussion of the passions in the Rhetoric is his most sustained and in-depth account of the role of the passions in practical reasoning, and thinkers such as Martha Nussbaum and Eugene Garver bring Aristotle’s discussion forward in a very helpful manner by placing it into the discourse of contemporary ethical and political thought. Moreover, as Aristotle famously notes in the Nicomachean Ethics, the practice of virtue requires of the agent not only the rational discernment of a universally binding, categorical imperative, but rather that right practical reason entails having “these feelings at the right times on the right occasions towards the right people for the right motive and in the right way” (II.6. 1106b11). There is much to get “right” (Gr. orthos) here, and one of the things we must get right is our emotional responses to
particular situations in relation to our perceptions and judgments in so far as they lead to particular actions.

Bringing in the *Rhetoric* in a more substantive manner than Aquinas does in his own political thought\(^{13}\) means that we are making several assumptions about the appropriateness of doing so. First of all, in regards to Aquinas, it must be fitting to draw upon this work in a manner that does not contradict Aquinas’ own thought on the role of the passions in practical reason, but rather helps us to extend an analysis of the passions for our own account of civic virtue. Secondly, in regards to Aristotle, it means that Aristotle himself does not see the *Rhetoric* as completely separate from his aims in the *Nicomachean Ethics* and the *Politics*, even as he does not make these connections as explicitly as we may wish. The quotation noted above from the *Ethics* shows that feeling the right way with regard to one’s passions and reasoning the right way with regard to potential objects of one’s actions is an essential element of the practice of the virtues; it is a necessary component of following the rule of reason and the mean. Both reason and passion are moderated by the mean of each particular virtue for Aristotle. Likewise, the discussion of the virtues in the *Ethics* leads naturally into his reflections in the *Politics*, as the life of virtue and practical reason that Aristotle upholds as the ideal model is one that

\(^{13}\) While there is evidence that Aquinas was familiar with Aristotle’s *Rhetoric* (for example, he quotes from it in his discussion of anger; I-II.23; II-II.158), it is also clear that he did not engage in a more in-depth analysis of the *Rhetoric*. Aquinas does not quote the *Rhetoric* as extensively as he does Aristotle’s *Nicomachean Ethics* or the *De Anima*; nor has he provided a commentary on the *Rhetoric*. Moreover, as we noted in the Introduction, Aquinas was not necessarily as concerned with developing a full-fledged political theory, but was only concerned to develop his political thought in so far as it was necessitated by the theological aims of analyzing human action that defined the *Summa Theologia*, especially in the *Secunda Pars* (see Torrell, *Saint Thomas Aquinas*, Vol. 2, p. 302).
is rooted in a particular kind of polis\(^{14}\) (\textit{NE} I.2, X.9; \textit{Pol.} I.1-2). Thus, it is common to think of the \textit{Ethics} and the \textit{Politics} as having an intrinsic, natural connection. What is less common, however, is to consider the impact of the discussion of persuasion found in the \textit{Rhetoric} in relation to Aristotle’s ethical and political thought.\(^{15}\) Aristotle’s comments regarding the unreasonable use of rhetoric and political science on the part of the Sophists (at the end of the \textit{Ethics} and the first book of the \textit{Rhetoric}) might be taken to indicate that his discussion of persuasion has nothing to do with his ethical or political thought. But as we look closely at Aristotle’s aims in the \textit{Rhetoric}, it will become clear that he is attempting to rescue the art of rhetoric from the Sophists precisely by tethering it more closely with the kind of rational deliberation that is the hallmark of virtue in the \textit{Ethics} and the \textit{Politics}. Moreover, this kind of communal and public deliberation that draws upon the rational goods and passions internal to the art of persuasion in regard to the common good is central to our conception of civic virtue as it is being developed here. Therefore, the \textit{Rhetoric} will help us to continue to build a constructive account of what it means to practice civic virtue.

The above considerations lead nicely into our third point; that is, drawing upon the \textit{Rhetoric} means that the art of persuasion is intimately associated with reason as the rule of human behavior. Effective persuasive speech can only be wrested from the

\(^{14}\) This point has particularly well-argued and documented in Alasdair MacIntyre’s \textit{Whose Justice? Which Rationality?} (Notre Dame: University of Notre Dame Press, 1988).

\(^{15}\) For example, Alasdair MacIntyre writes that “[n]o issue is more central to contemporary concerns than the relation of ethics to rhetoric. No book has more to teach us than Aristotle’s \textit{Rhetoric}. But we have been unable to learn from Aristotle for lack of adequate commentary and exposition” (Quoted from the back cover of Eugene Garver’s \textit{Aristotle’s Rhetoric: An Art of Character}, Chicago: University of Chicago Press, 1994).
control of the Sophists (in Aristotle’s time), or from political pundits who manipulate with fear and irrational argument (in our time), if it is subject to rational scrutiny, and therefore capable of being undertaken with rational and emotional integrity. In other words, rhetoric cannot be the mere manipulation of passions and logic in order to convince one’s hearers to go along with the orator’s goals, but rather must serve the rational aim of striving for the common good and civic virtue together as a community.

As Eugene Garver states it, reason itself must be a good internal to the practice of rhetoric in order for Aristotle’s analysis to remain both internally coherent and connected to his aims in ethical and political thought.16 This point is especially salient for us if we are to make use of it in deepening our analysis of a cognitivist account of the passions in acts of civic virtue. Thus, the kinds of passions that Aristotle discusses in the Rhetoric are civic passions in that they are related to (a) ethical deliberation, and (b) our life together as community members. If persuasive speech is not subject to the ends and constraints of reason itself, then rhetoric is doomed to the irrational manipulation of fears and desires, especially ones that are reducible to economic and material analysis and manipulation. It is not surprising, therefore, that in popular language an orator’s argument is frequently dismissed as being merely ‘rhetorical’ (in a pejorative sense, indicating that the speaker’s conclusions are not true) when the orator is suspected of not following reason, but rather of manipulating his or her audience by playing upon their fears or immoderate desires (which are often intimately connected). This popular manner

16 Eugene Garver, Confronting Aristotle’s Ethics (Chicago: University of Chicago Press, 2006), pp. 28, 31, 35. The notion of a “good internal to a practice” is drawn from MacIntyre’s analysis of the concept’s importance for the virtues in After Virtue, pp. 187ff.
of dismissing an orator’s argument also indicates that we continue to expect those who speak and act publically in regards to our civic life together to be held to a certain ethical standard *precisely as speakers and community members*, even if these connections are not always consciously articulated. Thus, rhetoric is intimately connected to *ethos* and character (of the shared community, both of the speaker and of the audience), such that rhetoric is only serving its true ends as an art when it helps us to deliberate about what are the best ends to be pursued, and the best means of achieving such noble ends, together in our common civic life. The capacity to do so is, of course, an essential element of our account of civic virtue.

Turning to the text of the *Rhetoric* itself, how exactly can persuasive speech lead us to grasp rationally the ends which we pursue, and to deliberate about such ends themselves and how best to pursue them? First of all, Aristotle insists that the end of rhetoric is “not so much to persuade, but to find out in each case the existing means of persuasion” (*Rhet.* I.I. 1355b14), and that a listener will be persuaded when he is convinced that the orator has provided “rhetorical proofs (pisteis)” (I.I. 1355a11).

Furthermore, the kinds of proofs provided by rhetoric are not the same as the kinds of dialectical proofs that are found in science or logic, but are rather based upon the kind of syllogistic reasoning that he calls an “enthymeme” (Ibid.). Enthymatic syllogisms occur when the major premise from which the conclusion is derived cannot be proven using strictly logical, dialectical reasoning (as is the case with any science). Aristotle notes that

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17 Garver notes that although *pistis* is usually translated as “proof,” it is also translated into English as “argument, reasoning, persuasion, belief, trust, faith, conviction, obligation, and confidence” (*For the Sake of Argument* (Chicago: University of Chicago Press, 2004), p. 3).
enthymemes frequently begin from something that is assumed (but not proven) to be common knowledge, or from popular maxims that state an apparent and/or assumed truth (hence *enthymema* is sometimes translated as “commonplaces”). For example, I did not provide a strict proof of the fact that we expect an orator to exhibit a certain level of ethical virtue in the example provided above. However, we were able to draw the conclusion that we do in fact expect such truthful conduct from public speakers from the maxim that a fallacious argument is often referred to as ‘merely rhetorical.’ In such an instance, shared common sense provides the grounds for a rhetorical proof. Hence, Garver suggests that *pistis* could be rendered as “credibles,”¹⁸ or what I like to call “statements worthy of belief,” in capturing the intended meaning of the original Greek. Thus, my readers could go along with my conclusion as a credible and reasonable outcome of my argument, even though I did not use dialectic to prove that *ethos* and character matter for the truthfulness and effectiveness of rhetorical persuasion.

Moreover, such proofs only function when there is a level of *trust* in the fact that my statements can be counted upon as reflecting a truth about the world in which we live. In other words, *ethos* (the possession of certain virtues of honesty as a speaker) is intimately connected with *logos*, or the logic of persuasive speech. This provides even further substantiation for the claim made in the previous chapter that there is a certain level of political virtue and political prudence that we demand of those who hold public offices and perform public roles (especially legislators, lawyers, judges, elected officials, etc. – this theme will be picked up again in greater detail below).

¹⁸ Garver, Confronting Aristotle, p. 17.
Thus far we have established that *ethos* and *logos* are connected in rhetoric, but we must now discuss the manner in which *pathos* matters for rhetorical proof. In other words, what role do the passions play in the kind of rhetorical persuasion that upholds reason as a good internal to the art of rhetoric? Aristotle demonstrates that there are three, interconnected forms of proof (*pistis*) to be found in rhetoric:

\[
\text{the proofs furnished by the speech are of three kinds. The first depends upon the moral character of the speaker \([ethos]\), the second upon putting the hearer into a certain frame of mind \([logos]\), the third upon the speech itself, in so far as it proves or seems to prove…[since] the orator persuades by means of his hearers, when they are roused to emotion by his speech \([pathos]\) (Rhet. I.II. 1356a3,5).}
\]

The best persuasive speech is capable of attaining to all three, and thus it is worth looking closely at the manner in which passions contribute to rhetorical and practical deliberation.

We noted in the previous chapter that Aristotle does not have a power of the human soul called the will, but he does write frequently about the faculty of human desire (*boulesis*) that is the result of proper rational deliberation about an end or good to be chosen. In the *Ethics* Aristotle refers to this as the “deliberative desire” that is the motivating force behind human acts (*NE* III.3. 1113a). Thus, it is not surprising that when Aristotle deals with desire as the basis for the cause of the passions in the *Rhetoric*, he distinguishes desires between those that are rational and those that are irrational:

\[
\text{Now, of desires some are rational, and some are irrational: I call irrational those that are not the result of any assumption \([hypolambanein]\). Such are those which are called natural; for instance those which come into existence through the body – such as the desire for food, thirst, hunger…I call those desires rational \([meta logou]\) which are due to our being convinced; for there are many things which we desire to see or acquire when we have heard them spoken of and are convinced that they are pleasant (Rhet. I.XI. 1370a5).}
\]
The goal of truthful persuasion is thus to induce those who deliberate together to bring their sense of desire into congruence with their sense of what is most noble or excellent (and these are by definition the most rational as well), and thus in their actions to contribute to pursuing the good (individually and collectively) together. For Aristotle writes, “the better and nobler the object, the better and nobler the desire” (Rhet. I.VII. 1364b19). Finally, then, he recognizes the role of the passions (ta pathe) as “all those affections which cause persons to change their opinion in regard to their judgments, and are accompanied by pleasure or pain” (Rhet. II.I.8. 1378a8). Since the goal toward which deliberation aims is a judgment in regard to action to be taken (Rhet. II.XVIII. 1391b1), the passions contribute to the art of persuasion in so far as they can be analyzed as states of mind, the objects towards which they are directed, and the occasions which cause their arousal (Rhet. II.1. 1378a8-9). When the passions are so ordered and understood, they can be put to effective, rational use by the speaker in an effort to contribute to a community’s capacity to deliberate well together in regards to the means that are to be pursued.19

On this last point, it should be noted that we are differing from Aristotle and Aquinas in this respect, in so far as it is our contention that in the context of plurality and

19 On this point, it is important to recognize that Aristotle believes that deliberation occurs only when one or more persons is deciding about a contingent situation in which the means to achieving a particular good are open to the choices of the agents, whereas the end and good toward which humans are compelled is fixed and given. For example, he writes in the Ethics that “we do not deliberate about ends, but always about means…Since, therefore, when we choose, we choose something within our reach which we desire as the result of deliberation, we may describe prohairesis as ‘the deliberative desire of something within our power’” (NE III.3. 1113a). This general belief that one does not deliberate about ends, but that they are given naturally by the ends of the virtues, is a point which Aquinas upholds as well. We will argue below that we believe it is possible to deliberate not only about means, but also about ends, and in this sense will be moving beyond Aristotle’s or Aquinas’ assumptions on this point.
democracy it is possible to deliberate not only about the means to a fixed or given end, but also about goods and ends themselves. Indeed, even as we uphold the common good as a naturally given end in our Christian, Thomistic conception of human nature, it will be essential for us to be able to deliberate about the existence of such an end if we are to have any hope of convincing others that the common good is an end that is to be pursued in contemporary communities, since it is clear that this is not taken for granted. Moreover, even though both Aristotle and Aquinas maintain that the goods or ends of human flourishing are given, they would likely both agree that that does not guarantee that everyone in a given culture will agree on what those are. For Aristotle, practical reason can be misled, and Aquinas is certainly aware of the effects of sin upon the human capacity to perceive and act upon the good, even if that capacity is not entirely destroyed. Therefore, we agree with Garver’s assertion that “[m]odern democracy makes possible reasoning about ends,” rather than only means, in a distinctively modern manner. Since our Thomistic account of civic virtue is applicable in modern constitutional democracies, this is an important difference between our account of the role of the passions in deliberation and that of both Aristotle and Aquinas. We do believe, however, that changing this point does nothing to destroy the internal logic of the manner in which pathos, ethos, and logos work together in the art of rhetoric as Aristotle describes it.

In furthering our analysis of the passions in relation to practical reasoning, we find it helpful to endorse Martha Nussbaum’s claim that passions are “intelligent

20 Garver, For the Sake of Argument, p. 190.
responses to the perception of value.”21 There are several important points contained within this phrase. First, emotions are, or at least can be, intelligent. This is one reason why our account remains a cognitivist account. Passions can be examined for the manner in which they contribute to the process of practical reasoning precisely because they are scrutinized as tethered to reason. We know from our previous analysis that the passions can distract or derail the process of practical deliberation in a negative sense. Therefore, we can conclude that in a cognitivist account of the passions, the latter must be properly ordered by reason in order to effectively contribute to right practical reason. This is what it means to call our emotions and passions intelligent.

Secondly, our emotions are responses to what we perceive as having value. This second part of Nussbaum’s maxim rests upon the same kind of teleological understanding of human action that we have witnessed in Aquinas’ account of the motivational structure of human action (even though Nussbaum’s construal of such an account will be different than Aquinas’). In other words, in order to value certain goods or ends as being worthy of drawing our attention or desire, we must value such goods or ends; we must believe that the attainment of such ends will contribute to our flourishing as human agents, to our happiness. Therefore, Nussbaum adds, “the evaluations associated with emotions are evaluations from my perspective, not from some impartial perspective; they contain an ineliminable reference to the self.”22 While Nussbaum has a distinctive manner of constructing such a eudaimonistic self-referential argument (that we will explore and


22 Ibid., p. 52.
critique below), she does highlight something that I believe is correct about practical deliberation and the virtue of prudence; namely, that it is exercised from within a particularly situated context that depends upon the perception of the details of such a context and the emotional states and attachments that persons bring into that context. Bryan Garsten aptly labels these dimensions of practical reason as “situated judgment” and “deliberative partiality.”

Closely related to this is the idea that we must then correctly perceive such goods or ends in the specific context in which we act. We do not judge from some universal viewpoint, but rather from within the very attachments, concerns, and goals that define who we are as individuals and as a society. This is another way of affirming what both Aristotle and Aquinas assert; namely, that the function of prudence is to help us move from abstract, universal principles into the realm of human action, where contingency eliminates any possibility of acting upon pre-formulated deductions that will tell us exactly how to act in particular situations. Finally, as responses our passions are tied to what we believe about certain goods or ends in general (in our speculative intellect) and to how we perceive them in their particular manifestations (through the use of prudence). Therefore, when we correctly believe a certain good to be such that it contributes to our flourishing or happiness (on an objective, universal level), and we correctly perceive such a good as a manifestation of that general good (on a subjective, particular level), then we experience the proper kinds of emotions that draw us toward the desire for that good.

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23 Garsten, *Saving Persuasion*, p. 13. In explaining these terms he writes that “[w]e judge best when we are situated within these structures of value, able to draw on their complexity and able to feel, emotionally, the moral and practical relevance of different considerations in as subtle a way as experience has equipped us to do” (p. 192).
This, too, fits with our Thomistic analysis of the manner in which an agent is reduced from potency to act through attraction to the object or end (even as we will further refine this in relation to the difference between the will’s affections and the sensitive appetite’s passions below), as well as the manner in which prudence ties together the speculative and the practical intellect in concrete situations of action.

This brings us back to a point mentioned at the beginning of this section; namely, that passions do not simply follow sequentially from the acts of perception and deliberation, such that they are like addenda to the process that gives “deliberative desire” the final force that is necessary to spur the agent into action. Rather, I have argued that passions are involved the process of rational deliberation from its very inception until the completion of the act, and that they contribute to virtuous action when they follow reason and the mean. This means that passions are not simply a response to a rational thought about a particular goal or object, but are rather an essential element of the way human persons respond to what they perceive in the concrete, contingent situations in which deliberation always must occur. Garver describes this process in the following manner:

The importance of the passions as matter for the ethical virtues comes from what they are – potential desires – and from what they lack, namely determination. Since the passions are a part of the irrational powers of the soul that follows reason, they are apprehensions of an object.24

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24 Garver, Confronting Aristotle’s Ethics, p. 103, italics added. We can also mention here Nussbaum’s insistence that “[t]he emotions are themselves modes of vision, or recognition. Their responses are part of what knowing, that is truly recognizing or acknowledging, consists in” (Love’s Knowledge: Essays on Philosophy and Literature, New York: Oxford University Press, 1990), p. 79.
From this we can conclude that the passions are an essential element of the manner in which we perceive the relevant criteria about which we deliberate when we must choose a particular course of action. The passions’ role in the process by which we perceive and are simultaneously drawn toward potential objects of human acts will become a critical element in the way in which the common good can be construed as the object of civic virtue.

However, we are still not ready to begin synthesizing all that we have discussed thus far within a Thomistic account of civic virtue. We have been maintaining throughout our discussion in this chapter that the passionate perception of value in particular goods and the process of deliberation (about both ends and means) are closely connected with the intellectual and moral virtue of prudence, but we have not yet demonstrated how this is the case. Aristotle notes a connection in at least two places in the *Rhetoric*, even as we will continue to draw out this connection more explicitly than he does. First, he notes that the *ethos*, or character, of an orator is revealed in reference to the ends which he desires and chooses to pursue. Thus, a trustworthy orator will use rhetoric to deliberate *along with* his or her audience about goods that are worth pursuing and that contribute to flourishing human lives and communities. Here he demonstrates that reason, rather than irrational pursuit of pleasure or the manipulation of fear, is a good internal to deliberation and is one of the key elements in establishing *trust* between speaker and audience. But this capacity for trustworthiness also requires a certain amount of moral virtue, including especially prudence: “Practical wisdom (*phronesis*) is a virtue of reason, which enables persons to come to a wise decision in regard to good and evil things” (*Rhet*. I.X. 1366b13). Secondly, Aristotle suggests that there are three
qualities which a successful orator must possess: “These qualities are good sense 
(phronesis), virtue, and good will” (Rhet. II.I. 1378a5). Thus, as we noted in the previous 
chapter, it is necessary that those who are in possession of civic virtue must have at least 
a basic amount of prudence and the other moral virtues if he or she is to effectively 
pursue the common good in concrete acts, especially since (as an offshoot of general 
justice) civic virtue remains architectonic of the will and the other moral virtues. Thus, if 
reason is the rule and measure of both good rhetoric and virtue, then prudence is a 
necessary virtue for rhetorical deliberation. It is the virtue which connects and applies 
the speaker’s and the audience’s beliefs and values (their ethos) with the particular course 
of action or good that is being recommended or sought in a particular situation or context. 
Without the virtue of prudence the whole project of rhetorical and ethical deliberation 
about the good and the means to achieving it falls apart.

There is one other dimension of Aristotle’s work that we will want to develop 
beauty what he writes as well. Here we can extrapolate from what Aristotle says about 
rhetorical persuasion to say more than he does about what kind of audience citizens and 
community members must be in order to participate in the kind of deliberation about the 
good for which we are advocating. If we are to develop a theory of civic virtue that is 
applicable in modern democratic regimes, then all citizens and community members are 
invited into the process of communal deliberation about ends and means that is the 
hallmark of good rhetoric. Overall, Aristotle does not seem to endorse primarily 
democratic forms of government, but he does give one indication of the possibility of a 
healthy form of democratic deliberation in the Politics:
The principle that the multitude ought to be in power rather than the few best might seem to be solved and to contain some difficulty and perhaps even truth. For the many, of whom each individual is not a good person, when they meet together may be better than the few good, if regarded not individually but collectively, just as a feast to which many contribute is better than a dinner provided out of a single purse. For each individual among the many has a share of excellence and practical wisdom (*phronesis*), and when they meet together, just as they become in a manner one person, who has many feet, and hands, and senses, so too with regard to their character and thought (*Pol. III.XI. 1281b1-7*).25

This comment can be combined with our insights into the nature of rhetorical deliberation to provide further support for our claim that the process of collective practical reasoning in regards to the good and the means toward the good is best fostered in something like modern democratic forms of government.

There is one, final piece of the puzzle to put into place before we turn to harmonizing the comments in this chapter with our Thomistic account of civic virtue. We have now reached the point where we can discuss the communal process of deliberation that will best foster civic virtue in a community’s members. Aristotle notes that there are three kinds of rhetorical speech: “deliberative, forensic, and epideictic” (*Rhet. I.III. 1358b3*). Deliberative speech for Aristotle has to do with deliberation about the best and most expedient means toward a given end. Forensic speech has to do with particular justice and whether or not an act is judged just or unjust, lawful or unlawful; this is practiced especially in the judicial system. Finally, epideictic speech has to do with assigning praise or blame to that which is considered good, excellent and noble, or

25 It is interesting to note here the similarity between this kind of corporeal metaphor, which we have seen Aquinas also uses in discussing the common good, to the way that St. Paul writes about the Church as the body of Christ made up of many members working together in one body (cf. 1 Cor 12: 12-17; Eph 4: 11-16).
evil and shameful. As such, it is intimately connected with the way that we perceive, and hence pursue, the good. Since our account of civic virtue leaves aside questions of particular justice and focuses on general justice, we need not deal directly with forensic rhetoric here, though we will note some important connections between the judicial system and acts of civic virtue as we continue. Both deliberative and epideictic rhetoric, however, will be particularly salient for our discussion of civic virtue. I want to suggest in particular that epideictic rhetoric will be the best resource for arguing for and proving (in an enthymematic, rather than a strictly logical, syllogism) the existence of the common good in the context of plurality and modern democratic societies. Both our logical (metaphysical) argument for the existence of the common good, and a rhetorical, enthymematic argument will be combined to facilitate a critical, rational grasp of the common good as the foundation of acts of civic virtue.

5.4 Reason, Will, Passions, and the Common Good: A Cognitivist Account of Acts of Civic Virtue

Now we are in a position to bring this supplemental, yet extremely important, discussion of rhetoric back into our development of a Thomistic conception of civic virtue. To begin this process, let us clarify some terms, since there are different words being used to describe and analyze human passions and emotions depending upon the author from which we are drawing. In speaking specifically about Aristotle’s *Rhetoric* I have tried to use the word passions to refer to the bodily sensations of pain or pleasure that are constitutive of deliberative desire. Nussbaum, on the other hand, frequently
refers to emotions in general and sometimes to passions in particular without much
linguistic distinction, and this also seems to be in line with our common, cultural
language, especially to the extent that it is informed by modern psychology. Yet we
have already noted that Aquinas distinguishes between passions and affections; and
moreover, this distinction is derived from his positing of the faculty of the will (the
intellectual appetite) in the human soul, a faculty which was not present in Aristotle’s
analysis. Bringing the notion of the will back into our discussion of civic virtue,
especially as we are supplementing it with the previous discussion of rhetoric’s
connection to ethics and politics, requires that we place these Aristotelian insights into
the system and language of Aquinas. In doing so, I do not believe that we are doing a
disservice either to Aristotle or to Aquinas, but rather attempting to continue developing a
tradition of thought that can be traced back to both thinkers in a coherent and intelligent
manner; a tradition which takes on new and distinctive features in the contemporary
context of plurality and democracy.

Therefore, if we maintain that civic virtue is an architectonic virtue of the will,
and that the will as such does not undergo passions but only affections, then it could seem
that perhaps the discussion of rhetoric and passion is not all that relevant to our account
of civic virtue. However, when we recall that the human person is one body-soul
composite, that reason itself is the rule or measure for all acts of virtue, and that the
virtues of the sensitive appetite which moderate the passions (temperance and courage)


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26 For a more in-depth evaluation of these linguistic and conceptual concerns see Nicholas E.
Lombardo’s *The Logic of Desire: Aquinas on Emotion* (Washington, D.C.: Catholic University of America
are functioning properly when they are brought under the “political rule”\textsuperscript{27} of reason, then we can begin to see how both passions and affections contribute to the cognitive and affection-passionate perception of the common good as the object of civic virtue. This, however, requires further explanation.

On the one hand, we have recourse to the dialectical argument about the existence of the common good that we referred to in the previous chapter. This includes Aquinas’ metaphysical discussion of God as highest Common Good of all of creation, and the temporal common good of the human community as analogically related to God as Creator. We also noted the congruence and dissimilarity between these two forms of the common good, in so far as the temporal common good can be perceived and function as a good which motivates human action, even without direct reference to God as the source of all common goods (as in the acquired form of civic virtue). This congruence and dissimilarity follows the discussion on the relationship between nature and grace, especially in recognizing that grace does not destroy but rather perfects nature. Furthermore, we demonstrated that the existence in the soul of the infused virtues of charity and justice underscores the intrinsic connection between love of God, self, and neighbor (in the order of charity), and the call to meet the requirements of justice (both particular and general) in the temporal realm, even as the acquired form of justice can similarly be a motivating virtue for those who have not received the gift of grace. This form of metaphysical deduction regarding the existence of the temporal common good is

\textsuperscript{27} Aquinas notes, following Aristotle (\textit{Pol. I.2}) that reason’s rule over the passions is similar to the political rule of a sovereign over free subjects, rather than a despotic rule of a tyrant over subjects who are not free, and therefore forced into submission (I. 81.3 ad 2). Lombardo discusses the significance of this point in greater detail (\textit{Logic of Desire}, pp. 99-101).
something that (one hopes) would be shared by all Christians who believe in God as the Supreme Good of the universe (or indeed anyone who upholds some form of metaphysical theism, no matter how generally construed). For Christians arguing in favor of the common good in a contemporary context of plurality, this would serve as the logical, dialectical proof of the existence of the temporal common good of the community. In other words, this argument is the *logos* at the heart of our claim regarding the existence of the common good, and as such forms one of the three parts that Aristotle mentions as the best form of rhetorical proof; the other two being *ethos* and *pathos*.

On the other hand, it cannot be taken for granted that all members of a modern democracy will agree with such a metaphysical argument, at least not as the starting point for an argument. In stating this, I do not claim that Christians should stop their efforts at convincing others about the truth of the analogical relationship between the existence of God and the temporal common good, but rather that our strictly logical arguments about the existence of the common good (or our attempts simply to assert this fact) have heretofore been unsuccessful in convincing the majority of those who are educated and formed in liberal, constitutional democracies that such a thing exists. This is precisely the point at which the rhetorical tools of epideictic speech, involving both *ethos* and *pathos*, can be the most persuasive means of guiding our fellow citizens into a *critical conception and perception of the common good* as a real, existent good, and thus as the cognitive structure that forms the foundation for acts of civic virtue.

Although analytically separable, epideictic speech regarding the common good, *ethos* (the character of individual Christians and Church bodies engaging in public deliberation about the existence of the common good), and *pathos* can function
simultaneously to underscore the existence of the common good in rhetorical and practical deliberation. For example, Garver claims that “[s]uccessful epideictic rhetoric is a development of self-knowledge,” and he further explains what he means by this when he writes that

when each citizen knows something, then epideictic rhetoric, through symbolic affirmations and rituals, including ritual trials, can convert knowledge from something that each person knows [individually] to something that everybody knows [collectively] and which therefore can figure in deliberations...Making common knowledge truly common is the function of epideictic rhetoric, as opposed to the deliberative rhetoric that calculates means to an end and judicial or forensic rhetoric that determines guilt or innocence in the past. It concerns collective responsibility as opposed to individual guilt.

Thus, when Christians want to demonstrate the existence of the temporal common good, we can begin with the logical assurance that it is a truly existent good (drawing upon the logos of the argument mentioned above and in the previous chapter), but then deliberate together with our fellow citizens toward demonstrating it as a truly existent good. This will be a gradual process of self-discovery that we undertake with others from a multitude of religious and philosophical backgrounds, and we are not likely to secure one-hundred percent agreement on its existence. But it is at least possible for a community’s self-understanding and knowledge of the common good to grow and expand through a process of critical reflection, deliberation, and lived experience together.

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28 For our purposes here, I am assuming that rhetorical deliberation is by definition both practical and reasonable, when it follows the general contours of reason as a good internal to the art of rhetoric as we have defined it following Aristotle and Garver’s analysis.

29 Garver, For the Sake of Argument, p. 38.

30 Ibid., p. 39, italics added.
Correlative to this need to engage in epideictic speech that praises the nobility of the common good is the need to continue to develop an *ethos* that fosters a sense of the common good, not only within Christian communities themselves, but also in the manner in which Christians and Christian communities speak and act toward those who do not share the same basic presuppositions (what Rawls calls a “comprehensive philosophical doctrine of the good”). This call to authentic witness may seem like a tautology, but it is necessary for Christians to speak and act *as if* the common good were truly our goal when we engage in public acts and deliberation if we expect anyone else to trust and believe us on this particular point. Garver indicates that “Aristotle’s great idea…is that the *ethos* that is, and ought to be, the most powerful and authoritative source of belief must be an *ethos* created by argument (*Rhetoric* I.2.1356a5-13).”

Thus, when it comes to showing others the way to a critical conception of the common good following an epideictic form of deliberation, logical argument and character are both essential ingredients in demonstrating what we as Christians believe to be an essential truth about human existence; that is, our belief that the common good is the highest natural good of human life.

Here is one area where it seems to me that combining the art of rhetoric with Christian ethical reflection can be a way forward beyond the debates about whether or not Christian ethics is “sectarian” (as James Gustafson famously described it), whether or not Christian ethics must provide distinctively Christian answers to ethical dilemmas (as

31 Ibid., p. 33.

compared, say, to those provided by secular thinkers or those from other religious traditions), or whether or not it is necessary for Christian ethicists to translate theological or philosophical insights into a language that is, in theory at least, rationally intelligible to all (as in Rawls’ *proviso* or Finnis’ conception of natural law as universally binding on all rational people). If the goal remains deliberation *together* with all persons in one’s community (however narrowly or broadly that is construed), then there is a sense of shared commitment on the part of Christians and all other members of a community toward not only (a) a process of collective deliberation, but also (b) to the temporal common good itself. The seemingly intractable problems regarding sectarianism, the distinctiveness Christian ethics, Rawl’s *proviso* and related concepts, and universal vs. particularistic moral knowledge seem to me to be less problematic if we assume the existence of plurality while also engaging in a collective process of deliberation about the good together (including deliberation about which ends to pursue and which means of pursuing them).

Once this is admitted, however, the specter of relativism (conceived of as the divorcing of objective truth from practical deliberation) will immediately raise its head, or at least scholars and theologians are likely to raise these as fears or potential pitfalls of such an approach to deliberation. I do not believe that these fears need to derail the kind of prudential, rhetorical, collective deliberation that we are advocating in our account of civic virtue; nor do they derail the search for moral truth. First of all, Aristotle believes that rhetorical proofs will ultimately be persuasive only if they reflect a general congruence between the beliefs that individuals and communities hold and the lived experience of those who deliberate (i.e. a connection between thought and reality; a
critical realism). This is nothing less than aiming at moral truth in the kind of practical reasoning that we are recommending that combines *logos*, *ethos*, and *pathos*. For example, in developing Aristotle’s conception of the emotions Nussbaum insists that ethical reflection must meet three criteria to be considered reasonable: internal consistency [reason as a good internal to the practice of deliberation], correspondence, and broad coherence and fit.\(^3^3\) In her case, this does not require any kind of “metaphysics of internal representations that allegedly mirror the world,”\(^3^4\) such as Aquinas’ conception of *phantasms* (I.76). But this distinction need not concern us in terms of getting the discussion off the ground, even as we will want to go further than Nussbaum in upholding a conception of the truth of the common good that corresponds to a metaphysical conception of an ultimate Common Good. For the purposes of Christians engaging in deliberation this is precisely where one should expect to begin the effort to move the idea of the common good from something that is perhaps known by many, if not all, individuals (even if not well-articulated in our contemporary cultural language) into something commonly recognized (and hence articulated, grasped, perceived, and acted upon).

Thus, integrating insights from rhetoric into our Thomistic paradigm only serves to increase, rather than decrease, our insistence that the virtue of prudence is what enables the agent to act in accord with the truth. Since prudence enables one to apply intellectual, speculative truth (such as the first principles of practical reason) to the concrete


\(^{34}\) Nussbaum, *Upheavals*, p. 37.
particulars of a given situation, a virtuous agent acts truthfully in so far as his or her actions correspond with the truth that good is to be pursued (and evil avoided) and with the way in which the good is best sought in a particular context. It is the nature of ethical deliberation and the virtue of prudence as we are deriving it from Aquinas that we cannot give anything more than this kind of formal definition of truth corresponding to action without delving into specific examples; hence the need for deliberation, not simple deduction. In other words, in our account of civic virtue and the correlative understanding of prudence, deliberation, and ethical truth, the search for universal ethical truth that would be binding upon all rational beings at anything beyond the formal level is a chimera. It now becomes even clearer why the kind of account of natural law offered by Finnis is incompatible with our account of civic virtue and the context-specific nature of prudence. As we have already seen, Finnis’ account not only seeks a universal moral law, but even more problematically, it leaves no role for the passions in the process of practical deliberation.

In regard to the passions, what remains is for us to integrate the passions into our critical conception of the common good. If we think of our emotional states (including passions and affections) as Nussbaum describes them as “intelligent responses to perceptions of value,” then we should think that it is possible, indeed even necessary, to feel a certain way toward the common good. Most frequently, we become aware of something like this when we experience the passion of anger towards those who harm individuals in society or the common good as a whole, a phenomenon recognized by both Aquinas and Aristotle (ST I-II.47; Rhet. I.13. 1373b3; II.2. 1378a9). Let us recall that anger is the principle passion located in the irascible part of the soul (indeed, the term
irascible derives from the Latin for anger, *ira*: I-II.46.2, ad 1), and is thus moderated through the cardinal virtue of courage or fortitude. In so far as anger is brought into the participation of reason through the exercise of fortitude, the passion of anger becomes the subject of a human virtue, thereby following the political rule of reason and the mean (I-II. 56.4). Because anger can also be left outside the domain of reason, it can either contribute to the increase in virtue or detract from it. Anger can be experienced at inappropriate times or in response to inappropriate situations (such as becoming angry when no slight has been done toward one or one’s friends); in such a case it is out of line with reason. Or anger can be experienced in too great a degree (for example, too much anger in response to a mild slight, as in when we call something a “crime of passion”), or too little of a degree (as in apathy toward injustice); in such a case anger does not follow the mean. When anger functions virtuously (according to reason and the mean), it draws one’s attention to a harm done to an individual or to the community (for our purposes we are focusing solely on harm done to the community, though in practice the two are often difficult to distinguish), and leads one to seek appropriate restitution. (It is precisely this desire for restitution that keeps our account of civic virtue closely tethered to particular justice and the judicial system.) Moreover, restoring the balance of equality that is harmed in acts against the common good is an act of general justice, and requires the faculty of judgment in determining what will be an appropriate amount of restitution. (On this point at least, we agree with Rawls that the goal of justice is to aim at a kind of fairness or equality.) Finally, we recall that such a judgment about the particulars of a just amount of restitution requires the intellectual virtue of prudence, and it requires a movement of the will to seek and desire justice (the right, *ius*).
Therefore, in order for one to be motivated to seek justice and restitution after becoming justifiably angered, one must also have a particular affection for the common good as the foundation for acts of civic virtue; and in many cases this affection will be sparked into action through the passion of anger which draws one’s attention to the injustice in the first place. A passion, in this case anger, can ignite a process that although it involves a movement of the irascible faculty, is moderated by reason and the mean as it is brought under the control of the virtue of fortitude. For fortitude demands not the extermination of anger, but rather its regulation according to the rule of reason and the mean. Yet the process does not stop there. In order for the agent to be reduced from potency to act on behalf of the common good (i.e. perform an act of civic virtue) the will, which is the principle of all human action, must also be moved. For this fortitude alone is not enough, even as it is a necessary condition. Rather, prudence is required to link together the intellect (including the will, the intellectual appetite) with the other moral virtues (in this case, fortitude), and here we can see one reason why Aquinas upholds the unity of the virtues. But the important point for our purposes here is to notice that prudence, in linking together the intellect with the moral virtues, allows for the moderation of the passion of anger through fortitude to also have an effect upon the will in seeking justice and the common good. Anger, through a movement of the sensible appetite (the irascible), when it is moderated by reason through fortitude, draws the attention of the intellect and will to a situation of injustice against the common good such that the will can thus experience an affection which moves it to engage in acts of civic virtue. As Lombardo writes, “[a]nger, however, stops short of making a decision: it presents itself, but then waits for us to make a judgment about the situation and decide
upon a course of action.”35 If we consider the recent example of the common reaction of anger to the “financial meltdown” in the United States in 2008 as a slight against the common good, we can say that the general anger experienced individually and collectively can lead us into a deeper appreciation for not only the existence of the common good, but also for the manner in which the passions can indirectly influence and move the will. Through fortitude one would experience the appropriate amount of anger toward those who infringe upon the common good, and then prudence would help to connect the passion of anger and the virtue of fortitude with the general moral virtue of justice (i.e. civic virtue). In the process the will is ignited to seek restitution on behalf of the common good through its affection for the common good, but in such a manner that it was the original sensible passion of anger that began the cognitive and emotional process that leads into an act of civic virtue. This recognition provides us with a deeper insight into the manner in which the passions function in accord with affections and virtues to lead one to recognize the existence of the common good, and thus act on its behalf in acts of civic virtue.

It is precisely at this point that the tools of rhetoric can point to a general emotional experience that is common to all (or at least a vast majority; those who have not given in to apathy) in contemporary cultures; the experience of anger at real or perceived slights against one’s sense of justice. In fact, it seems that anger at injustice is a hallmark of contemporary public and political discourse. In and of itself, and when properly brought into accord with reason and the mean, this kind of anger is healthy and

35 Lombardo, Logic of Desire, p. 239.
can lead to restitution and the restoration of justice; what Aquinas calls “zealous anger” (*ira per zelum*, II-II. 158.2). It seems, however, that our sense of anger remains incapable of guiding us toward greater justice and equality in contemporary democracies, precisely because we have lost the capacity to channel our anger into reasonable forms of deliberation that will lead us to seek justice in regards to harm done to the common good.\(^{36}\)

In response, many forms of liberal discourse have sought to remove anger from the discourse in an appeal to a higher, sovereign, ‘rational’ discourse where questions of justice can be sorted out. Meanwhile, those who are excluded from this kind of discourse seem to become only angrier and louder in their expression.\(^{37}\) As Aquinas notes, reasonable anger that cannot be appropriately expressed and addressed can quickly become inordinate, leading either to “ill-will (*mania*)” as a result of holding onto anger without proper expression or “rancor (*vindictam*)” (I-II. 46.8). We are more likely to refer to such broiling anger as resentment in contemporary discourse. It is no wonder then that our public discourses are frequently reduced to *ad hominem* attacks against individuals or groups who are perceived as a threat to our own sense of safety and security (to what we as individuals or as a separate group hold up as our good).

\(^{36}\) This lack of reasonable direction for anger in instances of particular justice is not so acute since most constitutional democracies have some form of judicial system in which anger can be channeled through a functioning set of institutions and laws, and hence it can be dealt with rationally.

\(^{37}\) Here we are close to describing the kind of shrill discourse of protest that is a characteristic of the fragmented discourse of modernity that MacIntyre describes in the opening remarks of *After Virtue*; Garsten refers to this kind of festering and ineffective anger as “liberal alienation” (*Saving Persuasion*, p. 184).
What we have lost is the effective capacity to express anger in reasonable ways that lead us to pursue general justice and the common good, and hence to practice effectively civic virtue. Part of the difficulty in doing so is the fact that although we have institutions in which forensic rhetoric can be expressed and practice (in the judicial system), and in which deliberation about the creation of laws can take place (in the various bodies of elected officials – usually congresses or parliaments), we lack institutions that support epideictic rhetoric of the sort that would help us to make sense of our collective anger at injustice against the common good.\(^{38}\) The frustration that results from this only seems to feed into deeper confusion and resentment. One can witness a good example of this kind of discord in the aftermath of the “financial meltdown” that was referred to above. Everyone, whether on the left or the right, seems to be angry, but no one seems to know (a) with whom to be angry, and (b) what exactly it is that one should be angry about. The large sums of money that individuals and firms were able to amass before it all came crashing down cannot be traced back to any one individual’s property or money. Their actions were an affront to the common good and require some form of restitution to the common good as such. (Of course, one would need to bring in forensic rhetoric in order to actually prosecute someone or some corporation for acts of injustice against the common good, but my point here is simply that we can all recognize a common sense of anger that seems incapable of being resolved through appropriate restitution.)

\(^{38}\) Garver, For the Sake of Argument, p. 189.
On the one hand, rather than argue for the implementation of some kind of public institution that would foster epideictic rhetoric in modern constitutional democracies, I believe that epideictic rhetoric is instead more akin to a cultural work of art. It is something which arises out of a shared sense of community, an *ethos*, and as such can never be fully contained in an institution. This is another instance in which the common good as described above can function as a heuristic device that provides the general contours of communal human flourishing that a particular community values and upholds. Once again, our aim is not to claim that we do not need the other institutions that were mentioned above (judicial and legislative institutions), but rather to notice what is underdeveloped in our own cultural vocabulary and self-understanding, and the intractable problems that come with such a lack of shared self-knowledge. While our account of civic virtue continues to uphold many of the institutional and legal elements of modern democratic life that serve to protect justice and basic human rights, it also asserts that something which Christian ethics can contribute to Western ethical and political thought and practice is a manner of perceiving, thinking about, talking about, and acting upon the shared commitments that hold us together as a society and a community, one of the most central of which is the common good itself.

Thus, on the other hand, there is a distinctive contribution that our account of Thomistic civic virtue can provide since it is developed out of the Catholic tradition, and a distinguishing characteristic of the Catholic tradition is the existence of an institutional, hierarchical structure. Moreover, as an institution whose primary aim is to proclaim the saving Word of God to all of humanity as a visible expression of God’s love grounded in God’s free gift of grace, the Catholic Church has a unique opportunity to contribute to
such a culture of loving and truthful rhetoric in regard to the common good of all of humanity. Indeed, this call to “speak the truth in love” (Ephesians 4:15) has been a central goal of the Catholic Church from its very foundation up into the present period, as can be witnessed in Pope Benedict XVI’s recent encyclical *Caritas in Veritate* (2009). Thus, as an institutional within human society that has a unique mission and character, the Catholic Church (functioning at its best) can serve to support and sustain the kind of rhetoric that leads to a critical conception of the common good in a tone that is loving, reasonable, and truthful. In other words, it is an institution uniquely constituted and situated to combine *logos*, *ethos*, and *pathos* in the way that could most fruitfully lead moderns to recognize and act to support the common good.

By supplementing Aquinas’ account of the role of the passions in practical reasoning with an account of rhetoric, even as we remain within a Thomistic conception of civic virtue, we now have another tool at our disposal in persuading those educated in liberal societies that the common good is a real, existent good that can be critically grasped with the help of the passions. An enthymatic syllogism used to demonstrate the existence of the common good begins by recognizing our shared cultural experience of anger at injustice. Next it can be demonstrated that a consequence of our inability to recognize such a thing as the common good (or at least to provide a common language

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39 While this notion runs throughout the entire encyclical, he notes from the very beginning that “[c]harity is at the heart of the Church’s social doctrine” and “is an extraordinary force which leads people to opt for courageous and generous engagement in the field of justice and peace” (§§, 1-2).

40 I do not mean to imply here that other Christian denominations or indeed any other religious tradition or world view cannot also contribute to this kind of rhetoric, but simply that the Catholic Church, constituted as it is as a hierarchical institution, and for all the frustrations that this can sometimes entail, is in a unique position to practice the kind of rhetoric of the common good that we are advocating here.
for talking about it as a *public* reality) derives from an underdeveloped capacity to perceive and recognize the common good. The end of this rhetorical deliberation is an increased capacity to perceive critically and cognitively the common good as an *appetible good*. This will not likely be accomplished, however, in an epiphany kind of moment for society as a whole (though individuals themselves may have such moments of clarity), but rather is a concept which will need time to develop and become incorporated into our common ways of speaking and thinking. Correlative to this deepening process of critically grasping the common good, which could begin by recognizing the common experience of a certain kind of anger at injustice, we would expect to witness a concomitant increase in an affection of the will toward the common good. This would likewise continue to support the development of our Thomistic conception of civic virtue in which the common good functions as the object which reduces the will from potency to act through the movement of the affections, and indirectly through the passions (such as anger). Notice as well that in this form of practical reasoning or prudence that we are describing as deliberation, reason is still the rule and measure of acts of civic virtue, but this is accomplished simultaneously along with the movements of *ethos* and *pathos*. In other words, it remains a cognitivist account of civic virtue while recognizing that character and passions have an important role to play in leading to a greater capacity to perceive the common good as the object of acts of civic virtue.

This line of investigation takes us back to our engagement with political philosophy in Chapter 2, and we can now see even more deeply what is at stake in our desire to uphold the capacity to deliberate together publically about the good, and not just about the right. Given the bloody history of the European religious wars of the sixteenth
and seventeenth centuries, both early modern and contemporary forms of liberal thought have attempted to remove the search for truth and a comprehensive conception of the good from public debate, and aim rather at agreement over truth, formal reasoning over prudence.\(^{41}\) While we do not wish to discount the advances in the realm of human rights and democratic forms of government found in our contemporary Western practices (nor the essential role that certain elements of Christian thought played in the development of liberalism), there are resources in the tradition of Christian ethics (specifically within the thought of Aquinas and the Catholic tradition that has kept it alive) for simultaneously noticing and pointing out something of what has been lost in liberalism; namely, a capacity to deliberate together prudentially in regards to the good and the true, and more specifically, a capacity to deliberate about the existence of the common good. The language of the good has been relegated to the realm of the individual, or at best the family or the Church, while an ongoing attempt has continued to exclude these topics (the true and the good) from public debate. Thus, it is not surprising that it is so difficult to talk about instantiations of the good that are not reducible to some measure of individual possession and hence economic analysis (as we saw in the definition of the common good in *Gaudium et Spes*, for example).

Having examined the manner in which anger can contribute to a greater critical grasp of the common good, we can now return to a discussion we began in the previous chapter and take a closer look at the account of compassion that a Thomistic account of

\(^{41}\) Garver, *For the Sake of Argument*, p. 13ff and Ch. 8, “Rhetoric and the Unity of Practical Reason”; see also Bryan Garsten’s *Saving Persuasion*, Part I, where he discusses the early modern liberal thinkers, Hobbes, Rousseau, and Kant, on their search for a sovereign discourse that would exclude the need for public deliberation regarding truth and the good.
civic virtue entails. This will provide us with another opportunity to note the ways in which a Thomistic approach to civic virtue offers distinctive insights to contemporary discussions of compassion, as well as provide further evidence of what is gained by developing a critical conception of the common good. In the last chapter we noted that compassion is a virtue which allows a person to experience another’s distress as one’s own (II-II.30.2), and that on Aquinas’ account this can happen in two ways. The first entails a sympathetic experience of another’s suffering due to a union of affection, and the second involves the belief that a similar experience may befall oneself. This second element of compassion is developed by Nussbaum, especially in *The Therapy of Desire* (1996) and *Upheavals of Thought* (2001). While I am generally sympathetic with her efforts to develop the virtue of compassion for contemporary moral philosophy, a closer look at her account of compassion will indicate why a Thomistic conception of civic virtue, and the account of compassion that it entails, provides resources for thinking about and developing compassion that are not available in liberal thought.

One of Nussbaum’s goals in *Therapy* and *Upheavals* is to construct a cognitivist account of compassion that combines “logic with compassion,”42 which draws upon a positive account of the role of the passions or emotions in practical reasoning,43 and which is rooted in a broadly Aristotelian eudaimonistic framework. In developing her account of compassion she notes that it has three cognitive elements:


43 This account of the role of the passions is even more thoroughly developed in two essays from *Love’s Knowledge*: “The Discernment of Perception,” pp. 54-105, and “Perception and Revolution.” Pp. 195-219.
the judgment of size (a serious bad event has befallen someone); the judgment of nondesert (this person did not bring the suffering on himself or herself); and the eudaimonistic judgment (this person, or creature, is a significant element in my scheme of goals and projects, an end whose good is to be promoted). The Aristotelian judgment of similar possibilities is an epistemological aid to forming the eudaimonistic judgment – not necessary, but usually very important.\footnote{Nussbaum, \textit{Upheavals of Thought}, p. 321.}

The first two elements seem straightforward enough, and for our purposes we will focus on what Nussbaum means by the eudaimonistic judgment and what this entails for her account of compassion. For Nussbaum the rational pursuit of happiness or flourishing (\textit{eudaimonia}) presupposes a distinctive set of human powers and capacities that can be developed through education and practical experience to enable an individual to strive towards such happiness.\footnote{She develops these Aristotelian insights into a full-fledged theory of rights in \textit{Women and Human Development: The Capabilities Approach} (Cambridge: Cambridge University Press, 2000).} When it comes to developing compassion, Nussbaum draws upon the second possible manner of doing so that we noted above; the belief that a similar, unjust harm may befall oneself. Therefore, the eudaimonistic judgment requires that someone must “view the other person as an important part of one’s schemes or goals.”\footnote{Nussbaum, \textit{Upheavals of Thought}, p. 330.} On her account compassion involves an acceptance of the vulnerability that is involved in recognizing that if unjust suffering can befall someone else in society, then it behooves me \textit{qua} individual to prevent such suffering from happening (or to redress the situation when it does happen), because a similar fate could befall \textit{me} in the future. This

\footnote{Nussbaum, \textit{Upheavals of Thought}, p. 321.}

\footnote{She develops these Aristotelian insights into a full-fledged theory of rights in \textit{Women and Human Development: The Capabilities Approach} (Cambridge: Cambridge University Press, 2000).}

\footnote{Nussbaum, \textit{Upheavals of Thought}, p. 330.}
is part of what she means when she claims that her Aristotelian thought always contains an “ineliminable reference to the self.”

Despite the many merits of such an account of compassion (and correlatively, rights), there is one thing that it cannot do: it cannot move beyond the self-referential perspective which defines it and into the kind of union of affection that is the basis for the first way that Aquinas describes as the basis for compassion. Moreover, and this is essential to our own account of compassion as a subjective part of civic virtue, it cannot do so precisely because there is no recognition of the common good in her account; every ethical judgment remains purely self-referential. For example, Nussbaum writes that

Compassion is our specie’s way of hooking the good of others to the fundamentally audaimonistic (though not egoistic) structure of our imaginations and our most intense desires. The good of others means nothing to us in the abstract or antecedently. It is when it is brought into line relation with that which we already understand – with our intense love of parents, our passionate need for comfort and security – that such things start to matter deeply.

The reason it is so helpful to look at Nussbaum’s construal of compassion is because she shows exactly how far one can develop an account of compassion from within a liberal paradigm and drawing upon an ancient eudaimonistic and teleological construal of humans as subjects (a unique combination to be sure); likewise, she shows us what the

47 Ibid., p. 52.

48 Of course, this is also true of Aquinas’ manner of construing ethical judgment and practical deliberation. The distinctively human good must be something that is perceived and desired by the intellect and the will respectively in order for any person to be motivated to act toward individual or shared goods of any sort. The subtle differences in how this self-referential element of human perception and motivation play out between Nussbaum and our account will be explored below.

49 Ibid., p. 388.
limits of such an approach are. Her argument for compassion always starts with the individual and ends with the individual, though it does have the merit of attempting to bring other individuals into one’s field of concern (even as her construal of compassion often seems more like Humean sympathy than Aristotelian virtue). As she stated above, this self-referential element of her theory does not necessarily make it egoistic. Her approach does not, however, show any way beyond this self-referential moment, or indicate how goods that transcend the individual might function in the motivating structure of virtue. Our Thomistic construal of compassion as a subjective part of civic virtue tethers each individual person’s good to the common good in such a manner that Aquinas’ first manner of construing compassion becomes viable. The recognition of such a shared, common good is also necessary for moving beyond the reference to the self, without ever leaving the self-referential element entirely behind, that is necessary to develop the virtues of the will, justice and charity. A critical conception of the common good allows one to engage in the kind of union of affection that enables an agent to feel compassion for another’s unjust suffering out of a sense of a shared good.

Of course, this good is never completely divorced from one’s perception of one’s own good being intimately tied into the common good, but this is a different way of construing the self in relation to others’ good(s) and to the common good than we find in Nussbaum and liberal thought. As we have just mentioned, this holds true in relation to justice and charity, both of which direct the individual to seek the good of others, even as they do so in different ways. The fact that both justice and charity, as virtues of the will, lead the agent to act upon goods higher than the individual’s good raises a paradox within Aquinas’ own thought. For he maintains throughout his moral anthropology, following
Aristotle’s opening lines of the *Ethics*\textsuperscript{50}, that the motivational structure of all human action is grounded in the innate search for the agent’s own happiness. Therefore, the assertion that the fullness of virtue simultaneously entails acting in pursuit of one’s individual happiness and the pursuit of goods that are greater than the individual’s good (i.e. the common good for justice, and God as the Supreme Good in charity) seems to present a conundrum for our account of civic virtue as an expression of general justice.\textsuperscript{51}

In other words, how can I, as an agent, desire my own good as primary and foundational while simultaneously believing that the fullness of virtue is only found in seeking to secure the good of others through the virtues of justice and charity? This conundrum is resolved, however, if it remains true that each agent’s individual good is somehow tethered to these higher goods; and indeed, this is exactly what we find in our analysis of the common good. It must be the case that human happiness and virtue is distinctively and intrinsically bound up with the pursuit of the common good of one’s community, and it is here where our account differs from the manner in which Nussbaum construes the self-referential element of all human action. On our account, the flourishing or happiness of each individual agent does not to be “hooked” to the “audaimonistic…” structure of our

\textsuperscript{50} “Every skill and every inquiry, and similarly every action and rational choice, is thought to aim at some good; and so the good has been aptly described as that at which everything aims” (*NE* I.1. 1094a1-3).

\textsuperscript{51} I am particularly grateful to Jean Porter for pointing out this paradox to me in her article that she has prepared for a *festschrift* in honor of Gene Outka, “The Desire for Happiness and the Virtues of the Will: Resolving a Paradox in Aquinas’ Thought” (personal copy). This same tension is also noted by M.S. Kempshall when he writes: “It is the corollary between happiness and goodness in the political community which makes Aquinas’ interpretation of the relationship between the individual and the common good so problematic” (*The Common Good in Late Medieval Political Thought*, p. 79).
imaginations,” as Nussbaum describes it. Rather, there is a natural recognition that the common good is an essential element of individual human flourishing; indeed, it is an essential condition for the flourishing of individual human agents to such an extent that human flourishing cannot be conceived of without being tethered to the common good in such an intrinsic and natural manner.

Moreover, this example presents another opportunity to bring in the discussion of the relationship between charity and justice that was begun in the previous chapter. On the one hand, in one who possesses infused civic virtue (and hence, by definition, also possesses charity), the self’s field of concern is extended by recognizing friendship and love with God as the highest good in the entire universe; while love of self and neighbor still have essential roles to play in the practical aspects of living according to the theological virtue of charity (as in the order of charity). Thus, love of self is not entirely left behind with the infusion of grace, but is rather placed into a broader perspective of love of self and neighbor in reference to God. Civic virtue, in this case considered in relation to the order of charity, would entail a general affective disposition or desire (i.e. affection of the will combined with the correlative passions) to promote the common good as a means of securing each person’s individual good and the good of one’s neighbor precisely because these three manifestations of the good (the Universal, the neighbor, and the self) cannot be untethered from each other on either the metaphysical or practical level. On this account, compassion is the passion of the soul that moves one
to mercy or pity for another’s suffering,\textsuperscript{52} and in so doing brings one’s perception to bear on that situation of suffering such that the will can then be moved to desire the good of another person or group within one’s community, precisely because such a good cannot be conceived apart from a shared, common good. In one with infused civic virtue, charity is expressed in conjunction with, and strengthened by, compassion and justice,\textsuperscript{53} or better, charity in fact strengthens the will to practice compassion and justice. Here is another specific instance where charity is both congruent with, and strengthens and supports the infused form of civic virtue.

Likewise, in a person who has acquired civic virtue by his or her own efforts, there is a similar increase in the capacity to develop compassion through a union of affection with others. If the common good is perceived as a real, existent good (whether by deduction or persuasion, or both), then compassion can also move that person to act on behalf of the common good, even as he or she is simultaneously securing his or her own individual good (since the two are ineluctably linked). As we have noted in the previous chapter, even though our Thomistic account upholds the common good as the highest temporal good of human existence, it does not do so in such a way that denies the

\textsuperscript{52} Recall the quote from p. 209 above where Aquinas, in the \textit{De Veritate}, quoting Augustine, notes that the passion of pity can move the will to desire justice.

\textsuperscript{53} It may even be that the charitable and the just action to be taken in such a case is to seek restitution through the legal system, drawing upon the contemporary language and jurisprudence of rights, and on this point there is absolutely no reason why a Christian would need to see this as a failure to come up with a distinctively Christian way of addressing the problem. What is distinctive about Christian ethics need not always be expressed in finding different solutions to problems of justice than others in a pluralistic society, but sometimes it may be that Christians have a different motivation for addressing such wrongs. Moreover, there may be times when the underlying structure of Christian ethical thought, which upholds the existence of the common good, may require a different approach to dealing with issues of justice, and this is the central point that we are trying to make in this comparison of liberal compassion with the account of compassion found within a Thomistic account of civic virtue.
need to protect individual goods. That is why despite our insistence on speaking about the good in public deliberation, we do not deny the necessity of speaking about the right, or about rights in particular, as a part of the way in which we defend the common good.

It does mean, however, that those who possess civic virtue and a critical perception of the common good may see situations in society as unjust which others, like Nussbaum or Rawls, do not. And it may mean that those with civic virtue are going to be willing to seek to defend that common good in ways that go beyond our typical manner of construing the boundaries of judicial, legislative, and political action. This is another way of developing a concept that we noted in the work of Philip Pettit in Chapter Two; that is, that drawing upon classical virtue theory, language, and practice can help us to see instances of injustice, and provide modes of acting to protect against or redress such injustices, that are not easily recognized in contemporary liberal thought.

But how exactly would these differences in capacity to perceive the common good actually cash out in some concrete examples? On the one hand, one must recognize, as we have done above, that there are no institutions in modern constitutional democracies whose purpose is to support epideictic rhetoric, even as the Church can make a distinctive contribution to the cultural art of deliberation about the good. There we discussed how the cultural foundations of law and justice are sustained by epideictic and other forms of rhetoric, both specifically within the Church and more generally in human cultures and communities. On the other hand, we can ask the question of whether or not this increased capacity to perceive and act upon the common good as the object of acts of civic virtue might have an impact at the level of public policy (i.e. laws) or judicial action. I believe that it would. If we return to our example of the financial
meltdown again, we could see a way in which the possession of civic virtue might have an impact on both policy and legal action. For example, laws that increase stakeholder protection by requiring banks to hold a greater percentage of their assets in liquid form, or that require greater stringency on the part of lenders before signing off on mortgage loans, could be written with even stronger protections and greater oversight than current law has mandated. On the level of the courts, it might be possible to consider that civil or criminal charges could be brought against those individuals or corporations who have harmed the common good. In other words, we could imagine the possibility of making infringements against the common good justiciable in some fashion. (The details of exactly how this might work would be far beyond the scope, or capacity, of this dissertation, but it is an idea that might be suggested from our research.) Perhaps the closest we come to such kinds of legal action now are class action lawsuits, but in the case of the financial meltdown the harm is spread out to so many individuals that even a class action suit would be difficult to adjudicate. As Thomas Friedman once quipped in a public lecture, we have privatized individual gain while simultaneously socializing risk and loss. Most would agree that this seems both unjust and unfair, and a critical conception of the common good helps us to articulate what exactly is so unjust about such a situation. It is unsustainable to draw upon the common good as an afterthought to

54 Such a bill was passed by Congress in 2010 (see http://www.nytimes.com/2010/07/16/business/16regulate.html - accessed February 4, 2011), but what we wish to note here is that if there were a culture that recognized and was more willing to act upon the common good, such reforms would meet with much less opposition and might be even more stringent than their current forms.

55 Friedman spoke at the University of Notre Dame on November 3, 2010, as part of a forum on “The Global Marketplace and the Common Good.” http://forum.nd.edu/featured-events/global-marketplace
support organizations deemed too big to fail, while failing to recognize the responsibilities demanded of the common good by all members of society in the way that we set up the laws and institutions of society. The predominance of current forms of economic analysis that reduce the good to individual goods measured solely by the market leads to just such an unjust situation.

Another possible area of application for civic virtue might be found in the debates about immigration that are taking different forms in various parts of the Western world recently. For example, in France there has been increased discussion about how to deal with immigrants from Muslim countries, especially women, who express their religious beliefs and practices through their manner of dress. In 2004 French legislators went so far as to make it illegal to wear “conspicuous” symbols of religious affiliation in public.\(^\text{56}\) And in the United States, debates go on and on about the legal status of undocumented migrant workers from Mexico and other places in Central and South America, with conservative thinkers seeking strict border controls, deportation of any illegal immigrants, and stiffer criminal penalties for being and working in the country illegally; while more progressive thinkers advocate for a path to legal citizenship or temporary work permits as a better solution. Here is one area where economic and sociological theory could actually help us to perceive the manner in which undocumented immigrants foster and contribute to the common good. For example, Jorge Borgas, an economist at Harvard’s Kennedy School of Government, argues that migrants in the workforce

contribute to a very slight increase in America’s economy.\textsuperscript{57} And a report published by the Migration Policy Institute, headed by former INS executive director, Doris Meissner, argues that immigration results in a net positive gain for productivity, competitiveness, and dynamism in both an economic and sociological level.\textsuperscript{58}

Of course, following my own recommendations for the manner in which prudence functions in practical deliberation, one cannot provide any fore drawn conclusions about what this would mean in terms of dealing with immigration from a legal or policy standpoint. But it does mean that recognizing a shared common good between members of a community (and not just legalized citizens) would significantly change the contours of the debate, and expand the range of possible solutions to the issue of immigration. While these might be interesting areas to explore in future research, our main point here is that increasing our capacity for perceiving and acting upon the common good (i.e. increasing our individual and collective capacity to acquire civic virtue) would have an impact not only at the level of cognitive perception and recognition in epideictic forms of persuasive public speech, but would also have some real cash value at the level of policy and judicial systems.

Finally, we can turn to the example of civic friendship to consider how such friendship might be further strengthened by our Thomistic account of civic virtue. We

\textsuperscript{57}See http://www.npr.org/templates/story/story.php?storyId=5312900

\textsuperscript{58}Doris Meissner, et al. “Immigration and America’s Future: A New Chapter” (Report of the Independent Task Force on Immigration and America’s Future: http://www.migrationpolicy.org/ITFIAF/finalreport.pdf - accessed February 9, 2011). Both MPI and Borgas recognize the challenges associated with immigration as well, but they argue that these challenges are worth dealing with on a policy and judicial level precisely because of the positive gains that can be found in current immigration trends in the U.S.
saw previously that Rawls’ original position, even though it is only a heuristic device, assumes that those who come together to create the principles of justice are mutually disinterested persons, and thus liberalism aims at rational agreement on principles of right rather than civic friendship. And yet our account of the common good and practical deliberation, although it also require a conception of right and principles of justice, indicates that something more than agreement on these basic principles is desirable in order for individuals to practice civic virtue. Part of what we have been arguing throughout this dissertation is that the exclusion of the good and of passions from public discourse and deliberation has created intractable problems when viewed from certain perspectives that are dominant in Western constitutional democracies, and that solutions to these problems might derive from traditions of moral and political thought that have survived in certain strands of Christian ethics (especially those that trace their roots back to Aquinas). In our previous example of collective anger toward those who contributed to the “financial meltdown,” we noticed that part of this anger arose from the general lack of trust that at least in part helped to contribute to the kinds of financial interactions that failed to protect the common good of investors, homeowners, and anyone involved in the global market. And yet trust can only be built when there is a certain kind of friendship, and a certain appreciation for the fact that we are engaged in common endeavors together as a society (one of which is seeking to enhance and protect the common good). This friendship need not entail that we have close, intimate relationships with everyone in our community or nation, for the order of charity still stands59, but it does indicate that a

59 That is, as Aquinas indicates, we have greater obligations in both justice and charity toward
certain “union of affection” is part of the social cohesion that keeps communities and nations engaged in a common pursuit together. Furthermore, it asks that we strive to develop a society in which a basic level of friendship and trust will be the foundations of our lives together and of our interactions with each other. Indeed, it is precisely this basic level of trust that the principles of justice (however one construes them) are meant to preserve, and hence in our account of civic virtue the principles of justice serve to enhance and protect the common pursuit of the good in society, even as we recognize something more that is needed to ensure the long-term sustainability of just and cohesive societies.

Here, of course, we are endorsing an alternative view of the purposes and goals of public discourse than the one offered by Rawls’ conception of “public reason.” Public reason, following the general rules outlined in Political Liberalism and the constraints of the proviso assumes that all individuals will act out of some comprehensive conception of the good, and with this at least we agree. However, Rawls’ fear of a comprehensive theory of the good that would justify overwriting the principles of right, leads him to downplay the potential for common deliberation about the good that we want to advocate in our account of civic virtue. So, on the one hand, Rawls’ later developments of a “political,” rather than comprehensive, theory of the good move us in the right direction of being able to carry on a conversation about the good in pluralistic societies. On the other hand, it does seem to place restraints on such public deliberation such that it would

those with whom we share a closer personal bond of relationships, either because of familial relation, proximity, or business association, than toward those to whom we are not related, have very little proximity, or with whom we have any kind of economic or business connections (II-II.26.1, 4-12).
preclude the kind of rhetorical deliberation about the good that we are advocating in our account of civic virtue. Indeed, we noted previously that Rawls only considers the alternative of utilitarianism and Kantian, constructive theories of right, without engaging directly with anything that might be construed as a teleological, eudaimonistic, or classical theory of virtue. In the one case that I am aware of where he does engage directly with the classical tradition he writes that the original position guarantees that “everyone is…prevented from acting on the kind of advice Aristotle [provides]…in the Rhetoric.”

The best that we can hope for from Rawls’ account of public reason and its variants in liberal public discourse is rational agreement, but our Thomistic account of civic virtue, especially when it is supported by the kind of rhetorical deliberation as an application of the capacity to reason about the principles of natural law together, asks for more. It asks community members to recognize a common good and to develop a level of civic friendship and trust that goes beyond mere agreement or truce, but that falls short of the intimacy of family and close friends.

Thus, what emerges from our account is a conclusion about what it means to accept the conditions of modern pluralism that is quite different from the traditional liberal solutions to the problem of plurality. Rather than ruling out the conditions for the possibility of anything beyond basic agreement on the principles of justice, incorporating a more democratic construal of practical deliberation amidst the conditions of plurality creates greater opportunity to seek the good together as a society. As Garver states it

60 John Rawls, Collected Papers (Edited by Samuel Freeman, Cambridge: Harvard University Press, 1999), p. 200-1. I am grateful to John Perry for his help in pointing out this particular quote to me during an email exchange regarding a recent paper that he presented at the Society of Christian Ethics.
Pluralism creates an ethical middle ground between negative respect and the positive love of intimates, between rights and politeness, between instrumental rationality between strangers and the sort of friendship or love that disposes of personal identity...We find this middle ground in the intellectual virtues of political friendship and trust.61

Although this approach is not a magic bullet that will end the kind of vitriolic public debate that defines much of our current public discourse, it is at least a way to envision a path that would move forward with a form of deliberation together about the common good that seeks to rebuild political friendship and trust; civic virtue seeks to bring these virtues back into the common ethos of modern constitutional democracies.

Indeed, as Pettit and Murray have helpfully demonstrated, there is at least enough of this kind of republican thought about civic friendship and a shared common life (Pettit) and a form of reason akin to what is found in ancient Stoic and Christian conceptions of natural law (Murray) available in the traditions of Western democracy that we are not advocating for inserting something back into a discourse that was never there in the first place. Rather, like Murray’s argument for resurrecting the doctrine of the natural law, we are trying to point out some of the underdeveloped aspects of modern political thought that have been sustained within a particular strand of Catholic social, political, and moral thought that can trace its roots back to the thought of Thomas Aquinas. Resurrecting a critical apprehension of the common good would further contribute to a capacity to build up trust and civic friendship again in an age where such common deliberation and trust seem to be threatened by the predominant forms of political engagement that are based on fear, resentment, and hatred. Certainly, at the very least, Christian ethics can offer a more...

61 Garver, For the Sake of Argument, p. 17.
substantive, humane, and charitable alternative that is grounded in something like the account of civic virtue that is being offered here. Our Thomistic account of civic virtue is one possible contribution to this task that may emerge from Christian ethics in general.\textsuperscript{62}

It is worth noting here as well that there is some sociological data that has been able to affirm a similar kind of capacity for building trust by increasing interactions with others in a pluralistic society through engaging in common pursuits together. In their recent research into the role of faith in American public life, Robert Putnam and David Campbell note that their research has provided further evidence to affirm Gordon Allport’s social contact theory, also referred to as “the Contact Hypothesis.”\textsuperscript{63} Putnam and Campbell write that

Some social capital consists of bonding, or interconnections among people with a common background. Other social capital is bridging in nature, and thus connects people of different backgrounds. While both bonding and bridging each serve important purposes, bridging is vital for the smooth functioning of a diverse society. When birds of a different feather flock together, they come to trust one another…As articulated in the mid-1950’s by Gordon Allport, the theory [of social contact] actually says that four conditions have to hold before contact diminishes prejudice: All parties must have equal status, share common goals, have intergroup cooperation, and have the support of authorities, law, or custom.\textsuperscript{64}

Thus, there is sociological data that affirms some of the claims that we have been articulating about the benefit of practicing civic virtue. When Thomistic civic virtue is

\textsuperscript{62} Eric Gregory’s \textit{Politics and the Order of Charity: An Augustinian Ethic of Democratic Citizenship} (Chicago: University of Chicago Press, 2008) offers another example of such an effort rooted more in an Augustinian, Protestant approach, but with similar aims to our own effort here.


\textsuperscript{64} Robert D. Putnam and David E. Campbell, \textit{American Grace}, p. 527.
developed within modern constitutional democracies (that uphold the value of equality as well as a functioning system of law and authority), the added impetus to recognize the common good and to “share common goals” in a context of plurality can actually lead to an increase in trust and civic friendship. This element of pursuing and enhancing the common good is an aspect of civic life that is not always adequately appreciated in contemporary Western societies, and our Thomistic conception of civic virtue can contribute to a greater appreciation for the value and social benefit (we might say the virtue) of increasing trust by pursuing common goals together. If we apply this sociological insight to our example about recognizing a shared common good with undocumented workers, we could have a greater appreciation for the manner in which the increased social capital that comes from greater social contact between citizens and undocumented workers, when undertaken in manner that recognizes some legal status or protection for such workers (which current U.S. law does not do), could potentially lead to an increase in trust and civic friendship for the entire society. It is our belief that this kind of civic friendship and trust are necessary to sustain the institutional forms of equality and rights that are so deeply cherished in contemporary democracies. Thus, our Thomistic account of civic virtue calls Christian ethics to affirm many of the basic foundations of modern democracies, while also challenging Christians and others to go beyond the current liberal paradigm that under girds democratic institutions by recognizing the common good and the way it calls us to do more than just affirm negative rights.

Another consequence of the account of civic virtue that we are developing here is the way it enhances a critical appreciation for the virtue of patriotism. In the previous
chapter we noted that a critical patriotism asks that citizens and members of a community bear a certain kind of loyalty to one’s community or nation, but that our Thomistic construal of patriotism would ground this patriotism in relationships of mutual affection with one’s fellow citizens rather than abstract principles. The latter could lead to a kind of patriotism that overlooks the good of the community or the good of individuals in pursuing principles that then become divorced from the lived context and experience of the community, essentially removing the role of prudence and practical deliberation from the virtue of patriotism. Some examples of this kind of abstract patriotism that overlooks the common good and the particulars of context might include the decision on the part of the Bush administration and Congress to go to war with Iraq in 2001, despite the existence of evidence indicating that Iraq did not have weapons of mass destruction; or more generally, the libertarian approach that seeks to solve every problem by cutting taxes and government programs; or the Marxist ideology that pits proletariat against the bourgeois owners of capital and production. Much like the problems that arose from the Neo-Thomism of the nineteenth century, each of these examples provide pre-determined, deductive solutions to problems without taking cognizance of the particulars of the context in which a judgment needs to be made. They do not practice what Garsten calls “situated judgment,” and therefore they do not allow for the practice of the virtue of

65 Evidence for this kind of idealistic denial of the concrete situation and context can be found by looking at some of the statements issued by the Project for the New American Century (founded in 1997 by several future members of the second Bush administration, including Donald Rumsfeld, Dick Cheney, Paul Wolfowitz, and the neo-conservative Catholic public intellectual, George Weigel), in which they advocate for removal of Saddam Hussein as a reason for invading Iraq (see http://www.newamericancentury.org/iraqclintonletter.htm and http://www.newamericancentury.org/iraqletter1998.htm - accessed on January 28, 2011).
prudence as an essential element of civic virtue. Nor do they exemplify the kind of appropriately self-critical, principled love of one’s community (not to mention love of any other community) that is an element of the kind of critical patriotism that we are advocating as a subjective part of civic virtue.

We can combine some of the elements of our account of civic virtue to provide an account of patriotism that avoids these pitfalls. For example, our common experience of anger led us into a deeper critical appreciation for the existence of the common good. This apprehension of the common good was then further able to strengthen a sense of compassion for our fellow citizens and community members in pointing out the kind of union of affection that can be sustained when we see our individual good as intimately connected to the good that we all hold in common. Finally, the virtue of civic friendship is required in order for us to deliberate together on public questions of justice in an atmosphere of trust. When we combine these insights with the conception of practical reason or prudence that takes cognizance of the contours of the context in which we deliberate both individually and collectively, there is no longer any room for ideology. For a good internal to the account of civic virtue that we are advocating is that we reason together about the good and the means of achieving it in such a way that the deductive application of abstract principles is not even possible.\textsuperscript{66} The kind of critical patriotism that is a subjective part of Thomistic civic virtue is grounded in a passionate commitment to the common good, which is in turn a reflection of our concern for the good of persons

\textsuperscript{66} This is not to claim that principles of justice or natural law have no place in our account of civic virtue, but rather that these principles can only be expressed in the realm of practical action that demands the virtue of prudence to apply such principles in a particular context, in a particular community, and with particular people with whom we share that community.
with whom we live together in society and for whom we feel a certain amount of affection and friendship, even if we radically disagree.

Our discussion of civic friendship and patriotism has also led us back into discussions about democratic forms of public deliberation and its relation to natural law. Indeed, Murray himself advocated for a certain kind of “civic amity,” although his account recommends a “cool and dry” form of reasoning “that characterize good argument among informed and responsible men.” However, the kind of rhetorical persuasion that draws upon people’s passionate yet reasonable attachments and which invites all members of a community into a collective process of deliberation, challenges both Murray’s form of civic friendship and the elitism that we saw in his construal of the natural law. Part of what we have been advocating in our account of political prudence as a subjective part of civic virtue is an insistence that the principles of natural law and the capacity of human reason are most fully expressed in contexts in which there is no pre-determined course of action (as a certain kind of deductive account of natural law would claim to be able to produce), and in which collective deliberation is required to arrive at the best account of the good and the best means of achieving it. In other words, the middle axioms of the natural law which allow one to reason from the first principles to their conclusions in practical action are worked out together in the process of persuasion and public discourse that we have been developing. Here is another manner

67 Murray, We Hold These Truths, p. 7.

68 While it may be true from a certain metaphysical standpoint that the common good is an end appointed by the moral virtue of civic virtue (which is the view that Aristotle and Aquinas both uphold; that the ends of the moral virtues are given and that prudence deals only with means), and that deliberation is strictly speaking only about the means to achieving the common good, the modern conditions of plurality
in which we have moved beyond what Aquinas himself claimed on this point (as a consequence of bringing in a more sustained discussion of rhetoric). We saw in the previous chapter that Aquinas, commenting on Aristotle, held that the good ruler must also be a good (i.e. virtuous) person, but that in the case of citizens it is enough that they simply obey the commands of the rulers (II-II.50.2). In our more democratic ideal of civic virtue we are developing our account beyond what Aquinas says on this point and what Murray claims about the role of the wise. Our contemporary theory of civic virtue upholds the ideal of participation by many persons in the process of deliberation about what is good and just.

On the one hand, our account of civic virtue does not defer the act of judgment on issues of justice to “the wise” as Murray does, but rather it upholds a democratic form of deliberation that draws upon the insights and virtues of as many in the community as possible, as we saw Aristotle advocating in book III of the Politics. On the other hand, however, Murray’s account of the role of the wise in his (implied) theory of natural law does hint at a grain of truth; that is, it is necessary for certain individuals to hold positions of power and authority within society in which they exercise the capacity of judgment on behalf of the community. These positions are most clearly exemplified by the roles of the legislator and the judge. It is another benefit of the Thomistic account of civic virtue that

would seem to create a context in which we can deliberate about whether or not the common good could be the end of any particular individual or public actions. Indeed, the general inability to perceive and act upon such a common good requires such rhetorical and practical deliberation to be undertaken in Western cultures. The metaphysical/logical and enthymematic/rhetorical arguments about the common good provided above are intended to address precisely this question as one of the strengths of adopting our Thomistic account of civic virtue.
we are developing here that it can address this issue in a way that avoids Murray’s elitism.

On this point, we can return to our earlier discussion about Aquinas’ distinction between political prudence and regnative prudence. In the previous chapter we claimed that a democratic theory of political prudence would allow the members of a community to work out the middle axioms of the natural law through their practice of civic virtue and prudential deliberation and judgment, and this is a central element of civic virtue that we have been developing in this chapter. But our account of civic virtue also maintains Aquinas’ distinction between general political prudence that is a subjective part of civic virtue, and the special form of regnative prudence that is asked of those who hold public offices in regards to making, interpreting, and applying laws that are aimed at fostering the common good. Here we can bring back in our insights into the manner in which ethos or character is especially required of one who wishes to persuade effectively his or her audience regarding a particular point of justice, while doing so in a manner that draws upon the audience’s passionate commitments and capacity for reason. We can extend this discussion of the virtues required of the orator to those who hold public office in modern democracies by holding them to the standards of internal consistency (reason as a good internal to the art of rhetoric) and reasonable use of the passions according to the mean (i.e. not manipulating fears and desires as Aristotle’s Sophists did and many political leaders and pundits currently do). By holding public officials to these ethical and rhetorical standards, we can construct an account of the role of public leaders that remains grounded in mutual relationships between rulers and ruled, between those who exercise general political prudence (ideally, everyone who is involved in a community’s
civic life) and those who exercise regnative prudence. This is perhaps another way of “keeping the bastards honest” as Pettit recommends in his republican construal of civic virtue. Again, while there may be basic standards of honesty and moral conduct that need to be codified into law, these are ultimately fostered and sustained by a community that collectively values such standards of conduct because they are grounded in relationships of trust and civic friendship between rulers and ruled, between citizens and members of a community and those who hold public office. The way that the relationship and distinction between political prudence and regnative prudence is construed in our account of civic virtue avoids the problems of elitism that we found in Murray, of the complacency or apathy that could potentially be fostered from Aquinas’ comment about the citizens’ role in obeying, and Rawls’ general inability to see why the standards of right or the principles of justice (necessary as they are) are not always enough to sustain a healthy and vibrant civic community. The practical deliberation about the good that is fostered in our Thomistic account of civic virtue offers a way to think about the relationship between political and regnative prudence, and hence between those who hold public office and those who exercise their civic virtue in other authoritative ways in a community, that avoids some of the difficulties that we encountered in our previous discussions of natural law, liberalism, and interpretations of Aquinas’ ethical and political thought.
5.5 Conclusion

Our goal throughout this dissertation has been to claim that there are resources within the tradition of Christian ethics, especially in the tradition that goes back to the work of the medieval scholastic theologian, St. Thomas Aquinas, that some of these resources have been neglected or underdeveloped in contemporary Catholic social thought and studies of Aquinas’ theological, moral, legal, and political work, and that these can be fruitfully developed to contribute to some of the ongoing discussions about a distinctively Christian contribution to modern democracies. To accomplish this goal, we have developed an account of what we are calling Thomistic civic virtue, and demonstrated some specific ways in which this account of civic virtue can begin to fill in some of the lacunae that we have noticed in some contemporary discussions. These areas have been noted as we developed our account, but some of the most important include a general inability to perceive (in liberal thought) or agree upon (in Catholic social thought) the common good a real, existent good that can be the foundation of acts of civic virtue; an appetible good capable of reducing the agent from potency to act. We have also noted how civic virtue entails a correlative account of prudence that we have also rooted in the work of Aquinas, and we have supplemented this account of practical deliberation by drawing upon Aristotle’s *Rhetoric* in this last chapter. In doing so, we have continued to develop a Thomistic account of natural law and prudential deliberation that accounts for an essential role for the passions and affections and yet which remains cognitivist in nature; that is, our account of practical deliberation upholds reason as the rule and measure of all acts of civic virtue, but incorporates an essential (not merely accidental) role for the emotions in reasonable deliberation about the good.
These elements of our account of civic virtue lead us to challenge certain elements within Catholic social thought and liberal political philosophy. In regards to Catholic social thought, we have noted how the rise of the nation-state led to a tendency to downplay or ignore of the significance of what Aquinas calls legal or general justice, the concept out of which our account of civic virtue is developed. Secondly, we have also noted a lack of development in Catholic social thought (or in Magisterial documents more broadly considered) of the kind of context-specific practical deliberation that requires what Garsten calls “situated judgment” and “deliberative partiality” (drawing upon the passions). Rather, the form of deliberation that we are recommending has remained underdeveloped in favor of a form of moral deliberation that relies upon centralized authority and a search for a universal moral law that if taken as normative would make our account of practical deliberation more difficult, if not impossible, to implement in practice. There is room for further developing this capacity for practical deliberation in the pursuit of justice, especially among the laity, who, according to Benedict XVI in Deus Caritas Est (2005), have a special mandate to pursue justice and the common good in the political realm.70

69 This approach to moral reason comes out most strongly in Pope John Paul II’s encyclical, Veritatis Splendor (1993), which is considered by many to be his comments on the state of moral theology toward the end of the twentieth century. He is especially critical of the school of thought known as “proportionalism” or those who develop a moral theology out of Karl Rahner’s concept of the “Fundamental Option.” There seems to be a tension within the document itself, in that Chapter I seems to provide a beautiful example of the kind of situated judgment and Scriptural meditation that would guide the kind of practical deliberation that we are advocating. In Chapter II, however, John Paul II seems to advocate a kind of practical moral reasoning that upholds a greater role for authority and a universal moral law, especially in the last section (IV) where he discusses the moral act and intrinsic evil (§§ 71-83).

70 Pope Benedict XVI, Deus Caritas Est, Part II, § 28. Here Benedict writes that “[t]he problem [of justice] is one of practical reason; but if reason is to be exercised properly, it must undergo constant purification, since it can never be completely free of the danger of a certain ethical blindness caused by the
The form of practical deliberation contained within our account of civic virtue also has implications for Christian engagement with modern liberal political theories such as the ones offered by Rawls and Nussbaum. Our account upholds the necessity of deliberating about the good not only on an individual level, but on a collective level as well; and this account claims that even as we agree with Rawls on the necessity of upholding the basic contours of justice as equality, it also challenges his assertion that we must bracket discussions of the good in public deliberation. In this regard, our account offers an alternative to his conception of public reason and the proviso. When we turn to the more specific topic of recognizing and acting upon the common good, we noticed that our account challenges the liberal inability or resistance to perceive the common good. Here Galston’s assertion that it is possible to deliberate about the good together, while still affirming the positive contributions that are found in the liberal tradition’s concern to protect individual goods and rights, is a very helpful approach for bringing together our medieval (Thomistic) and classical (Aristotelian) insights with modern political thought. Thus, on a general level our theory upholds the necessity of being able to deliberate publically about the good; and, more specifically, it upholds the necessity of a critical conception of the common good as the foundation of acts of civic virtue. In this sense, our Thomistic account challenges or pushes the tradition of liberal thought into realms where it has traditionally feared to tread. In other words, to use Shklar’s phrase, “fear dazzling effect of power and special interests” (italics added). Benedict is primarily concerned with the “purification” and extension of reason through engaging it with faith that moves beyond a modern emphasis on instrumental or scientific reason alone. Although our goals are somewhat different (though tangentially related, especially in our discussion of the relationship between charity and justice, or between infused and acquired civic virtue) we can certainly agree with him that the question of practical reason in relation to justice and as an expression of natural law is of central importance.
“liberalism” has perhaps inhibited our collective capacity to deliberate about the good, even as it has achieved the necessary good of protecting individuals from coercion by those who rule. The combination of upholding the existence of the common good and deliberating publically together about the good are two major contributions that our account of civic virtue can make to contemporary discourses on civic life.

As our Thomistic conception of civic virtue offers a distinctive set of reasons (logoi) for upholding the existence of the common good as highest form of the temporal human good, it also recognizes that there is a distinctive manner in which we present these arguments in a context of modern plurality. In other words, ethos and pathos matter for the way that Christian theologians either can or cannot convince our fellow citizens and community members about the need for something like our account of civic virtue. Only when Christians speak and do the truth in love (cf. Ephesians 4:15; James 1:22) will the inner logic and reason of our convictions be compelling to those who do not hold the same basic epistemological, metaphysical, and faith commitments. As Garver points out in his interpretation of Aristotle’s Rhetoric, others are led to see the inner reason and logos of one’s position more easily when there is a relationship of trust and civic friendship grounded in ethos and supported by the kind of trust that can only be established on concrete demonstrations of character. Since character is revealed in the

71 In doing so, we are drawing upon certain metaphysical commitments that are derived from faith, but we are also constantly willing “to give an answer to everyone who asks [us] to give the reason for the hope that [we] have” (1 Peter 3:15). In other words, the argument from faith, or deduction from metaphysical principles, does not excuse Christians from providing a logical account of why we hold such intellectual commitments.
ends that one pursues, Christians will only convince others of the existence of the common good when we work for it ourselves in cooperation with others in society.

In demonstrating how this kind of practical deliberation might work, we have also highlighted the distinctive role that passions play in our account of civic virtue, and the account of natural law that it entails. Passions are an essential aspect of the way in which the human person as a body-soul composite experiences the world around him or her. But we have further claimed that on a Thomistic account of practical reason the passions are one aspect of the way in which one perceives the context in which deliberation and choice leading to action must occur. Thus, passions such as anger or compassion can be an essential element of the manner in which the cognitive process of perceiving and reacting to potential objects of human action takes place. When moderated by the rule and measure of reason and the mean the passions can help us to notice certain aspects of a situation that are in need of attention; they can help us to perceive areas in which the common good is threatened, and in turn draw the attention of our will to these area such that we are moved to engage in acts of civic virtue by the affections of the will.

Thus, we can see how reason, will, passions, and the common good must interact in very specific ways in order for an agent to possess and display civic virtue as we are describing it here. Moreover, civic virtue entails the possession of several subjective parts such as anger, compassion, civic friendship and trust, and critical patriotism. When each of these elements is focused on the effort to serve, enhance, and protect the common good as the highest form of the good achievable in human society, civic virtue emerges as the stable and firm orientation of the will to direct all acts of the virtues toward this common good. The need to foster such an orientation of the will is a constant challenge
for the long-term stability and peace of any community, and we have sought to articulate what such an account of civic virtue rooted in the thought of Thomas Aquinas might look like in the context of modern, constitutional democracies. This ongoing task has both theoretical and practical implications for the discourse of Christian ethics and for those Christians who think about and practice engagement in the civic life of modern communities, from the level of the most local and provincial, to the level of the state, and into the realm of the global common good. It is our desire and hope that the research undertaken in this dissertation has made a contribution to such a noble pursuit.
Aristotle. *Nicomachean Ethics.*

----------. *Politics.*

----------. *Rhetoric.*

Augustine. *De Civitate Dei*

----------. *De Trinitate.*

Aquinas, Thomas. *De Veritate.*

-----------------. *Scriptum super Sententiarum.*

-----------------. *Sententia libri Ethicorum.*

-----------------. *Sententia libri Politicorum.*

-----------------. *Summa Theologiae.*

Cicero. *De Inventione.*


