

LEO XIII: TWO CONCEPTS OF GOVERNMENT

II. GOVERNMENT AND THE ORDER OF CULTURE

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IN THE light of later developments Leo XIII's theory of the political function of government in regard to the economy is incomplete. It could not encompass the problem in the fullness of its present-day position. For instance, it does not touch the important question of governmental compensatory fiscal policies in aid of the economy. The Keynesian principle, which is widely applied today, raises moral as well as economic problems; but they were beyond the ken of Leo XIII. His writings in this field, as elsewhere, are "dated." Nonetheless, his doctrine is quite clear, as far as it goes. And, since it clearly distinguishes between broad principles and their concrete applications, it has all the flexibility needed to meet new problems as they arise. Leo XIII strikes the balance between the two principles that are constituent of the economic order, freedom and authority. The inherent necessity and value of both are affirmed; the limitations of each are defined. As much freedom as possible, as much government as necessary. The necessities of social justice impose limits on freedom; the claims of freedom as the vital principle of public prosperity impose limits on authority. For the rest, the problem is left to receive concrete solution in terms of the application of those broad principles to the exigencies of existent situations. In formulating this doctrine Leo XIII adheres firmly to a strictly political concept of government, as limited in its functions, minimal in its aims, respectful of the freedom and autonomy of the non-political economic order.

The present question concerns the role of government with regard to other non-political orders of human life. First, what has government to do with the cultural order—what may be called the sphere of ideas in general? Second, what has it to do with the order of religious life? These questions have vexed the social philosopher since the days of Plato; they are perhaps more vexing today than ever. The present

NOTE.—A previous article dealt with government in its relation to the order of economic life; cf. *THEOLOGICAL STUDIES*, XIV (1953), 551-67.

article will deal only with the first of these two questions; but much that is said will be relevant also to the second.

THE POLEMIC STATE OF THE QUESTION

What Leo XIII has to say on this first question is said in the course of his polemic against the so-called "modern liberties," notably, freedom of speech and of teaching, as these liberties were understood in the context of Continental Liberalism. The context is unfortunate. It obliged the Pope to draw his argument to a sharp point. And a pointed argument is inevitably narrow. It can hardly be maintained that Leo XIII took the question at its full height or treated it in its full amplitude. Notably, he did not consider the manner of its position in the United States of America, where it arose in different circumstances, and was solved in terms of different principles, than those which prevailed in the Continental European nations which lay beneath the Pope's view. The American problem and solution will have to be considered separately.

The immediately relevant documents are *Immortale Dei* and *Libertas*. In both the polemic is directed at a carefully defined adversary. The primary attack hits at a particular philosophical theory of freedom based on the absolute autonomy of the individual reason. It is called the theory of "the outlaw individual conscience" (*exlex uniuscuiusque conscientiae iudicium*),¹ which would pretend to make its own subjective judgments the ultimate arbiter of truth and error, of right and wrong. The attack further moves against the particular kind of polity in which this philosophical theory found political expression. Freedom of speech and of teaching come under fire inasmuch as they found place within this polity, were based on its philosophical premises, and shared its ethos. This is clear from the paragraph in *Immortale Dei* which first sets forth the "cardinal principle" of the new polity and then draws out its consequences; the last consequence mentioned is "a limitless license of thought and of publicizing one's thought."²

The whole theory was appallingly thin. It asserted, first, that the freedom with which a man thinks is sufficient guarantee of the truth of his thought. It asserted, secondly, that a man is therefore free to say what he thinks simply because he thinks it. The traditional maxim

¹ *Immortale Dei*, Desclée, II, 157.

² *Loc. cit.*

is inverted: the truth does not make the mind free; rather the free mind makes the truth. The case against this piece of philosophical naïveté, which was at once a stick of political dynamite, is thus made in *Immortale Dei*:

The faculty of entertaining any kind of opinion and of giving expression to any kind of opinion in various forms of utterance, under rejection of all restraint, is not of its own inherent value a good thing, over which human society may rightly rejoice. Rather it is the source and origin of many evils. Freedom, inasmuch as it is a virtue which perfects man, ought to be concerned with what is true and good. And the true and the good cannot be altered at the pleasure of man. They remain always the same. They are no less immutable than the nature of objective reality itself. When the mind assents to false opinions, when the will takes evil to itself and turns itself to evil, neither mind nor will achieves its own perfection. Rather they both fall from their natural dignity and sink into decadence. Therefore it is not proper to put before the public and under the eyes of men things that are contrary to virtue and truth; much less is it proper to cover such things with the favor and protection of the laws. The only way to heaven, whither all of us tend, is a life well spent. For this reason society (*civitas*)³ departs from the rule and precept of nature if it permits human fancy and perversity to indulge in such a measure of license as might with impunity draw minds away from truth and souls away from virtue.⁴

Primarily, the text asserts the existence of an objective order of truth and morality, and an objective distinction between truth and falsity, good and evil. The individual conscience is not free to create truth or morality. Nor is it free to make its own subjective judgement the constitutive criterion of the true and the good. When man presumes to do this, the result is the decadence which always accompanies a retreat from reality. Secondly, the text enforces the social relevance of these elementary truths of epistemology and ethics. Public dissemination of error, public countenance of evil (especially by law), are not fair (*aequum*) to man himself. They are destructive of the good life in society; hence they constitute a danger to man's eternal salvation. The society which allows that degeneration of freedom into license which is inherent in the theory of "the outlaw individual conscience" is off the track (*aberrat*).

This argument moves on the plane of ethics. Its cogency will not

³ It is quite misleading, especially to English-speaking readers, to translate this word as "state."

⁴ *Immortale Dei*, *ibid.*, p. 159.

be challenged by anyone who holds its initial premise, the existence of an objective order of truth and morals. However, the text does not solve, or even touch, the political problem. Granted that society must be founded on truth and morality, granted too that society must protect true liberty while disallowing license, granted finally that error and immorality are social evils as well as private vices, the political problem still remains: How is society to protect the truths and moral principles which are its foundation, how is it to cope with the evils of errors and sin, how is it to enforce its social disavowal of the abuses of human freedom while retaining the legitimate uses of that indispensable social virtue? These are political questions in the sense that they concern, not the desirability of ends, but the efficacy of means to these ends. This particular text of Leo XIII does not answer these questions. A contingent answer is given in *Libertas*. But before considering this answer, and its contingency, one point of principle ought to be made. These political questions, like all political questions, do not admit of any "ideal" answer. (The answer given in *Libertas* does not present itself as an "ideal": this fact will appear.) Society must adopt some means toward the desired end of truth and morality in its members and in its institutions. But no means, or any ensemble of them, can ever be entirely successful. Error, the abuse of liberty, sin—these are permanent aspects of the human condition. There is not, and never can be, an Ideal Republic of Virtue and Truth. Such an ideal is disallowed on principle, on premises furnished by an inspection of the nature of man.

Leo XIII was certainly not contending for any such impossible ideal. On the contrary, he was at bottom contending against it. The imagination of the Enlightenment, especially as kindled by Rousseau, had been captured by the bright and brittle dream of the Ideal Republic. The dominant myth was captured by Carl Becker in one of his most witty, and more exact, phrases, that "men would cease to do evil if no one tried to compel them to be good."⁵ The complementary

⁵ Carl Becker, *Modern History* (New York: Silver, Burdett & Co., 1931), p. 198. Rousseau's theories form an important part of the intellectual pre-history of Marxist Communism. The Marxist thesis on the "alienation" of man from himself which is the consequence of private property is related to the Rousseauist thesis on the corruption of the naturally good individual which ensues on the systems of privilege and power existent in organized society.

myth was that individual men would somehow infallibly reach the truth provided nobody tried to tell them what the truth is. Therefore—so ran the conclusion—let there be an end to all authority; let freedom be unconfined, except by such free agreements as men might make among themselves. Out of this untrammelled freedom will come order, a perfect order of virtue, happiness, and unceasing progress.

It was against this kind of Utopianism that Leo XIII endlessly argued. It is ethical nonsense, he says over and over again, to maintain that "freedom" is lawless (*exlex*) and limitless (*infinita*); that the individual conscience is only free when it refuses to acknowledge any laws save those of its own creation. Moreover, this false theory, if applied in practice, can only lead to social disaster. A society that pretends to base itself on this theory of lawless, limitless freedom contains within itself no principle of order; for freedom by itself, especially the freedom of the Enlightenment, is not the single principle of order. True order rests on freedom *and* authority. Moreover, order always remains a social necessity. Consequently, even when authority is rejected as an idea, it remains on the scene in the form of a fact—the obstinate fact of power. Power, not authority, then becomes the principle of order. But power of its nature is self-aggrandizing; unlike authority, it knows no inherent limits; it tends to destroy freedom. The result is that society, trapped in the false antithesis of unlimited freedom *vs.* unlimited power, will swing helplessly between the extremes of individualistic anarchy and totalitarian tyranny. This, at bottom, is Leo XIII's position.

Few today would contest it. In our own age the Utopian dreams of the Enlightenment and of Continental Liberalism in both its political and its economic forms have long since evaporated. The thin-spun theories against which Leo XIII brought up such heavy batteries hardly need refutation nowadays. For serious thinkers have done better than refute these theories; they have simply bade them goodbye. Indeed, those who today pursue the seemingly permanent human avocation of constructing Utopias tend to do so, not in terms of unlimited individual freedom, but in terms of totalitarian governmental power. The classical type of Liberalism, nineteenth-century style, which is repeatedly reviewed and refuted in the pages of Leo XIII, is

today no longer much of an issue. The march of events and ideas has left it behind.

But the problem of what is called a "free society" is still with us. Indeed it exists in a more acute form than ever by reason of the appearance on the scene of the totalitarian Enemy in newly naked form. Moreover, serious men today no longer think, as did the nineteenth century, that a "free society" is somehow the inevitable term of unceasing social progress. They still believe, with Acton, that the "establishment of freedom" is "the highest phase of civil society."⁶ But they know that they need a better theory of the freedom to be established than the nineteenth century ever produced. And they are looking with all seriousness and even anxiety for this theory. If they read Leo XIII, they will skip the passages in which he triumphs over Continental Liberalism; for they themselves have already achieved this triumph. They will look rather for his positive doctrine. Has he a politically viable theory of the relation of government to the order of culture? Has he a positive theory of the institution of free speech—its premises, its limitations, its relation to the common good? The ethical principles stated in *Immortale Dei* are more successful in a polemic than in a positive sense. By themselves they do not settle the practical issues. *Libertas* is more concrete. It contains two central texts, one dealing with freedom of speech; the other, with freedom of teaching. Here is the first text:

Some consideration must now be given to freedom of speaking and publishing what one pleases. It is scarcely necessary to say that there can be no right to this freedom, if it is not limited in the proper manner but goes beyond measure and bounds. For right is a moral empowerment; and, as We have said and must continue to say, it is absurd to think that this empowerment has been indiscriminately and commonly given by nature to truth and untruth, to virtue and vice. There is a right freely and prudently to disseminate within society things which are true and virtuous, that these things may be shared by as many as possible. It is fair (*aequum*) that public authority should carefully restrain false opinions, than which there is no more deadly bane for the mind, and also the vices which corrupt the spirit of man and the habits of society, lest these falsehoods and vices should spread abroad unto the ruin of the community. It is proper (*rectum*) that offenses of the unbridled mind, which result in the enslavement of the ignorant multitude, should be re-

⁶ Lord Acton, *Essays on Church and State*, ed. Douglas Woodruff (London: Hollis and Carter, 1952), p. 79.

strained by the authority of the laws, no less than injuries which are violently wrought upon the weak.

This is the more true because by far the greater portion of the citizenry is absolutely unable, or able only with great difficulty, to protect itself against deception and fallacious argument, especially those which flatter their passions. If an unbounded license of speech and publication be granted to everyone, nothing will remain sacred and inviolate. Not even those great and most true judgments of nature which must be considered the common and noble heritage of the human race will be spared. When the truth is thus slowly enveloped in darkness, the ordinary consequence is that error in manifold and pernicious forms will gain the ascendancy. In this situation license will gain advantage to the same degree that liberty suffers damage; for liberty will be greater and more secure in proportion as fuller restraints are set on license.

On the other hand, in matters of opinion which have been left by God for discussion among men, everyone is allowed to think what he pleases and freely to say what he thinks. Nature utters no prohibitions here. For this freedom never leads men to oppress the truth; it often helps towards searching out, and making known, the truth.⁷

This text goes beyond the ethical generalities of *Immortale Dei*. It is concrete, even programmatic. Indeed, the main difficulty that the text offers to the interpreter derives from the fact that it is too concrete, too concerned with a program for a particular historical situation. But to say this is to anticipate.

The text reveals the polemic bias that is even sharper in *Libertas* than in *Immortale Dei*. In contradiction of the adversary, rationalist individualism, it first asserts that freedom is not an absolute, much less the One and Only Absolute. Freedom has limits; it is to be measured, confined within bounds. The rationalist theory of free thought and speech maintained that all ideas and all uses of public speech are free and equal. Everything privately thinkable is publicly speakable. All ideas are equally valid inasmuch as they proceed from equally free minds; all too are equally open to question. All public uses of speech are therefore on an equal footing; everybody has an equal right to speak or publish what he thinks. The root of this right is the absolute freedom of the mind, a freedom which is equal in every individual. The *Libertas* text contradicts this theory by the assertion that there is an objective distinction in value between ideas; some are true, some are false.

⁷ *Libertas*, Desclée, III, ¶110-11.

But this assertion of a familiar distinction is cast in a somewhat strange idiom: "It is absurd to think that this [moral empowerment: *facultas moralis*] has been indiscriminately and commonly given by nature to truth and untruth, to virtue and vice." One does not in ordinary Scholastic language attribute moral empowerments to abstractions—universal ideas or moral concepts. What the text means is, of course, clear enough. It means to deny the equation of truth and error which is inherent in the rationalist theory. It is asserting that truth and error are neither to be equated nor to be distinguished simply in terms of "freedom." The distinction between them, and their inequality in the face of the human mind, derive from "nature," from the objective reality of things as they are. But the idiom, I say, is strange. Doubtless it was dictated by the polemic preoccupations of the passage. The classical Continental Liberal said, "All ideas have equal rights." This rather meaningless idiom fitted the abstractionist character of his thought. The Pope contradicts him on two scores, on his concept of "right," and on his notion of the equality of ideas. And in order to enforce the contradiction the Pope adopts the rationalist idiom itself. Right, he says, is a moral empowerment, rooted in the nature of things, not created by your "freedom." It is therefore absurd to say that all ideas have equal rights, since all ideas are not equally rooted in reality; some are rooted in unreality and are therefore false.

The Pope's meaning is altogether clear, but one may still be permitted to consider the idiom unfortunate, not least because this text seems to have given currency in recent Catholic vocabulary to the formulas, "Error has no rights," or, "Truth and error have not the same rights." Understood in the sense of the Leonine text, these phrases simply mean that error is error and truth is truth. At most, they mean that error, being error, ought not to be. Behind the phrases lies only the Leonine insistence that the rationalist concept of rights, as freedoms engendered by sheer freedom, is a moral absurdity. The difficulty and the danger arise when these formulas, which embody only an elementary piece of epistemology and moral philosophy, are turned into political principles, premises of governmental action: because error ought not to exist, therefore government ought to drive it out of existence. Thus error, formally as error, becomes a legitimate

target of governmental persecution or repression. But this position can claim no support in Leo XIII or in any other Catholic source. What is worse, this pseudo-political principle underlay the Wars of Religion in Europe. It led to the bloody impasse inherent in the reasoning shared by both the conflicting parties: I, when I have the power, will destroy your truth, because I know that you, if you had the power, would destroy my truth.

From the distinction between right and wrong in themselves, Leo XIII concludes to a distinction between right and wrong uses of public speech, oral or written. Some uses are rightful; others are unrightful. Some things are inherently "speakable," since they are true; other things are inherently "unspeakable," since they are false. This conclusion, which still remains in the sphere of ethics, is inexorable; and no sensible man would deny it. But the next step carries one into the field of politics. Here the problem grows more complicated. The first step towards its solution is to ask: What is the criterion which distinguishes right from wrong uses of public speech? (We are not here concerned with private conversations, which raise no political problem.) Leo XIII furnishes the basic criterion in one of his favorite concepts, which is also the first key concept in the text cited—namely, the splendid idea of "the human heritage": "those great and most true judgments of nature which must be considered the common and noble patrimony of mankind." He touches the idea again in the immediately following context: "There are certain natural truths—such as the principles of nature and the further principles which are immediately deduced from them by reason—which constitute, as it were, the common patrimony of the human race. Upon this patrimony, as upon a most firm foundation, rest morals, justice, religion, and indeed the social unity of the human community."⁸ The essential social viciousness of classic Continental Liberalism lay in its destruction of this human heritage in the name of a "thought" which pretended to be so

⁸ *Ibid.*, p. 112. Immediately hereafter the text goes on to speak of the "other kind of truth," known by revelation. From the existence of this "treasury," which is committed to the Church, no conclusion is drawn with regard to any functions of government towards its conservation. On the contrary, the Pope draws only his customary conclusion, that there is in the Church "an inviolable right to freedom of teaching." He further notes that the ancient and perennial struggle of the Church has been to maintain this freedom. Here, as in many other contexts, the freedom of the Church appears as a first principle.

“free” as to leave no manner of truth immune from its corrosive influence. Everything may be denied, said this theory. Its effect was to create a vacuum at the heart of society.

Leo XIII contends for the inviolability of the human heritage. The ideas which make up this patrimony furnish man with his basic understanding of himself as a person and as a social and political being. The heritage contains the essential principles of human sociability, the universal laws which constitute the moral basis of society. These principles and laws exist antecedent to any act of human freedom. They demand the assent of all men. And this common assent to them constitutes the basic consensus upon which society depends for its very existence.

Leo XIII's contention is that man is not morally free to destroy the very spiritual substance of his social life, namely, this inviolable human heritage: “Nothing would be more wicked and more stupidly inhuman than to permit (this patrimony) to be violently attacked and dissipated with impunity.”⁹ In the interests of orderly thinking, it must be noted that the original responsibility for preventing this wickedness and folly devolves upon the community itself, whose existence is at stake. Society is entitled to make this moral demand upon all its members, that they share this human patrimony and the consensus it founds, and that they respect in word and action its inviolability. (The Communist refusal to meet this moral demand, and the positive Communist aggression against the universal laws of human sociability, really make the Communist an outlaw from society, international and national, even when he physically stands within its bounds.)

If the argument were to be continued on the plane of pure principle, reached a priori and per se, one would have to say that society will discharge its responsibility for the human heritage in a variety of ways and through a variety of agencies. A primary responsibility will fall upon the family. But, speaking per se, the major original responsibility will fall upon “education,” meaning by this term the ensemble of institutions organized by society precisely for the transmission and development of its cultural heritage. In medieval terminology, the major original responsibility will fall upon the *studium*, not upon the *imperium*. I shall return later to the principle stated in these medieval

⁹ *Loc. cit.*

terms—a principle which remains permanent even though the terms themselves may have become obsolete. At the moment I would note only that Leo XIII does not here pursue this manner of argument in terms of the serenely a priori. To this extent the cited text fails to give a full theory, a full statement of all the relevant principles. For this full statement one must look beyond *Libertas*, whose scope was narrowed by polemic necessities, to the entire Leonine corpus.

In the cited text Leo XIII hastens immediately to the instant question: what is the role of government, the *imperium*, in the preservation of the human heritage? This question had become instant, and Leo XIII's hastening to it is explained, by reason of historical circumstances. He confronted on the European scene that specifically modern phenomenon, the society-state, wherein the traditional distinction between society and state had practically disappeared. Moreover, this society-state had for long been a *Kulturstaat*, and to some extent a *Polizeistaat*. The *Kultur* might indeed vary, according as the regime changed hands with the various revolutions and restorations; but the *Kulturstaat* itself, in one or other form, remained. After Napoleon, definitively, the traditional autonomy of the *studium* in the face of the *imperium* disappeared. The *studium* no longer bore the primary and original responsibility for the order of culture, which it once had borne, both in fact and in terms of true Christian principle. In Leo XIII's time the *imperium* had assumed supreme charge of the sphere of culture.

When therefore the text of *Libertas* descends to the problem of governmental responsibility for the moral basis of society, it plunges down from the level of ethical and political principle onto the plane of history. It makes this plunge in a twofold sense. First, as already stated, the Pope descends into the political circumstances of the European scene; there he meets the historical reality of the unified society-state. Secondly, he descends into the cultural circumstances of this same scene. The dominant circumstance was that which furnishes the second key concept of the papal argument, namely, the fact of the *imperita multitudo*, the ignorant masses. Obviously, the Pope had to make this descent into the concreteness of history; he was at grips with an Enemy, and the ground of the struggle was not of his own choosing. However, the descent complicates the problem of

theological interpretation. The theologian seeks to construct a theory simply in terms of pure principle. His theory should not be disturbed by the intrusion of historical fact; for such intrusions would stamp his theory with the mark of history, namely, contingency.

At all events, one point of pure principle emerges from the text. It is quite clear that Leo XIII attributes to government a moral function, a positive function, in the perennial struggle which goes on in this world between truth and error, virtue and vice. To deny this positive moral function of government would be to fly in the face of natural law, whence government takes its origin and its purposes. Moreover, this denial would imply a concept of government that is altogether unhistorical; all governments have stood in the service of some truth, some morality, indeed some God, even though the god may have been an idol. Finally, this immoral and unhistorical concept of government would be an impossible bit of unreality; for the political and legal action of government is inevitably in some moral direction. Government is inescapably on the side either of good or of evil. It cannot evade the law of all human action; for it is itself a manner of human action.

It follows therefore that there can be no such thing as governmental neutrality in questions concerning the moral bases of society. Such neutrality would, as I have just said, be as impossible as it would be immoral. The official attitude in such questions must be partisan; government must take a side.¹⁰ Concretely, it must positively favor and protect the human heritage against those who would dissipate it

¹⁰ Cf. Gerhart Niemeyer, "A Reappraisal of the Doctrine of Free Speech," *Thought*, XXV (1950), 251-74. This article was given as a paper to a three-day panel on the problem of free speech held during the meeting of the American Political Science Association, December, 1949. The author, a Protestant, makes a far more searching critique of nineteenth-century theory than does the text of *Libertas*, largely because he follows the lines of what is called immanent critique. His argument is that this theory ("all ideas are free and equal," etc.), as consistently applied in institutional practice, tends to discredit and destroy the three assumptions on which it is supposedly based: the preeminent value of truth, the concept of "the people" as a structured moral entity and not simply an amorphous mass, and the ideal of rationality and reasonableness as the supreme social good. The argument is made with complete success. The author's positive thesis rests on substantially the same basis as the argument in *Libertas*, that there is a heritage of truth and moral principle which constitutes the moral basis of social life. Since he is writing as a political scientist, which Leo XIII was not, he carries the argument farther into the complexities of practical detail.

by the corrosion of doubt, denial, or cynicism. This is its obvious duty to the society of which it is an agent; this, at very least, is a matter of vital political self-interest. Leo XIII repeatedly makes this argument, on these two grounds.

This much is certain, in principle. (I might parenthetically add that American government, in its earliest and still abiding theory, has always recognized this principle.) But the complications begin when one goes on to ask how far, by what means, and with what degree of detail this official patronage of truth and virtue, and this official disapproval of error and vice, are to be translated into specific laws and positive governmental action. In other words, what arises here is the concrete problem of governmental censorship of opinion, of the means of communication in all their present-day variety, and of "education" in the widest sense of the word.

At this point the text of *Libertas* falls short of the full dimensions of the trouble. Leo XIII makes his principle clear enough. Then he ventures into the concreteness of history; but the trouble is that he does not venture far enough. On the face of it the text recommends, as rightful, some program of governmental censorship of opinion.¹¹ But if the question of censorship is to be raised, it has to be argued out in the fullness of its detail—and the detail is highly complicated. In what sense is government a competent judge of truth and error? In what areas of cultural activity does government possess any competence? In religion, philosophy, science, art, journalism, economics? In all these areas, or only in some, and to what extent in each? And where its competence fails, how is it in principle to be supplied for? By the *studium*, the academic community? Or by the Church? And in either case, by what manner of bureaucratic arrangements? Moreover, what canons shall govern the censorship? They are not simply the canons of abstract right and wrong; more importantly they are the canons of

¹¹ The recommendation is even stronger in the text on freedom of teaching. This text reveals the same polemic bias as the prior text on freedom of speech; and in point of theory it adds nothing to what has been said. Hence it need not here be examined in detail. However, the conclusion is sharper: "The public power cannot, without failing in its function, grant to society (*civitatē*) this kind of license." The conclusion reveals its own historical premise, the society-state in which the all-embracing authority of government includes the power of granting or denying currency to ideas. The American departure from this historical premise, through a revalidation of the ancient Christian distinction between society and state, will be treated on another occasion.

political prudence. Censorship laws are subject to all the criteria of Scholastic jurisprudence. They are likewise subject to the lessons of experience—and the experience of history has a lot to teach.

There was once, for instance, a most ambitious program of governmental censorship of thought and utterance. It was the Spanish Inquisition. Some say that this program saved Spain from Protestantism. If it did so, it did so at a high price which Spain and the rest of the Catholic world is still paying. The price in Spain was the loss of the intellectuals, anticlericalism, and the rise of that peculiarly militant type of unbelief which, on the evidence of history, tends to ensue upon governmental efforts to suppress unbelief. The price in the rest of the world has been a shadow, still unerased, upon the Catholic name. Moreover, this manner of censorship can exist only in a special religio-political context. It was, in fact, one aspect of a special type of intimate alliance—one might better say, a confusion—of religion and politics. This carries the argument farther back, and also farther forward—to ultimate consequences. One cannot forget that the intimacy of the alliance of the Church with the throne of Portugal, and more particularly with the throne of Spain, was a direct cause of the ruin of the Christianity, bright with promise, which St. Francis Xavier had planted in Japan.

Finally, there is this question to consider: If the intellectual decadence of a society has progressed to such a degree that the very moral bases of human community are challenged, is it not too late, will it not be useless and even harmful, to call upon law and government to arrest the process? Indeed, are not law and government inept instruments for conserving, much less constructing, the substance of society? This substance is spiritual, because it consists in a free consensus. And is it not beyond the power of government to summon into existence by law this free consensus? If the clerks are treasonable, what can the magistrate do to save the city?

Leo XIII did not follow his own argument to its end. There were two good reasons why he did not do so. They derive from the scope of his theoretical and his practical intentions.

The theoretical intentions of *Libertas* are even narrower than those of *Immortale Dei*; for the latter document, unlike *Libertas*, laid down in a great sonorous passage the essential structure of Christian society.

The theoretical intentions of *Libertas* hardly go beyond the refutation of Continental Liberalism in its classic form and in its other diminished and derivative forms. To this end (in what concerns our present subject, which prescind from the problem of public religion, later to be considered), it was not necessary for the Pope to do more than emphasize two basic principles, one ethical, the other political. The ethical point is that human freedoms, whether individual or social, do not derive from sheer "freedom," in the rationalist sense. The freedom of man is rooted in reason; by the same token all his freedoms must be anchored in that reflection of the Eternal Reason in nature which is the universal moral law. All human freedoms are related to this law, as to the principle of their origin and consequently their limitation.

Secondly, against the Continental Liberalist concept of the public power as completely neutral in the face of truth and error, right and wrong, Leo XIII had to emphasize the essentially moral character of the public power, its responsibility for effective patronage of the true and the good. Actually, the alleged neutrality of the public power was phony (if that word may be received into serious vocabulary?). The power was enlisted in the service of a supposed "truth," the theory of Continental Liberalism. The effort was to construct a *Kulturstaat*, whose cultural order, brought wholly under the dominion of government, would be permeated by the ideas and ethos of this same theory. Consequently, Leo XIII's theoretical intention was both to demonstrate the falsity of the *novum ius* and to summon the public power back to the service of the *vetus ius*, the natural law, which is the true foundation of social and political life.

When these basic ethical and political propositions had been established, Leo XIII's theoretical intentions were satisfied. Hence the theoretical argument stops at this point. And at this point too Leo XIII's practical intentions begin to direct the further course of the argument. These practical intentions were dictated, not so much by theory as by a social and cultural fact—the fact of the *imperita multitudo*, the illiterate masses. With this fact before his ever realistic vision, the Pope relinquishes a priori per se argument, and proposes a practical solution to a practical historical problem. He relinquishes in this context of fact the political concept of government which he had strictly maintained in discussing government's relation to the

economy, and which he partly maintained in discussing government's relation to the order of religion. He swings over to a concept of government as paternal in its functions. This shift of ground was legitimate in the circumstances; but it was the factual circumstances, and not theoretical considerations, which made it legitimate. The Pope himself certainly understood that he was addressing himself to a situation of historical fact; that he was proposing an immediate and practical solution to a contingent emergency; that he was not discoursing, as a political philosopher, on the rights and duties of government considered abstractly and per se. Some of his commentators have not shared this understanding.

To realize the dimensions of the cultural fact which Leo XIII confronted, one has only to look up the statistics of illiteracy in his time. They give appalling reality to the decisive concept in the papal argument for paternal government—the concept of the *imperita multitudo*, the illiterate masses. Rapidly, these are the percentages of illiteracy among men in the so-called Catholic nations of his era (the percentages for women are uniformly higher): Italy (1871), 61.9; France (1872), 28.1; Belgium (1880), 31.4; Spain (1877), 72.0; Portugal (1878), 79.1; Austria (1880), 32.6; Hungary (1869), 53.5; Poland (even in 1921), 32.8. The situation was worst in Italy. In 1861 the percentages ranged from 54.2 in the north (Piedmont), through 80.8 in the *mezzogiorno* (the papal states), to 88.6 in Sicily.¹²

If these statistics indicate the low cultural level of the Catholic masses, they also point to a correspondingly low level of religious knowledge. However, these statistics give only one aspect of the historical situation. The other aspect is the fact to which Leo XIII is constantly returning: in these conditions of popular ignorance, a relatively small group of wilful men (the Pope would accept the Wilsonian phrase) were fanatically engaged in a spiritually nefarious business. These men were agnostic or atheist; their central idea was that the liberty of the individual man ought to be free from all restraints, including those imposed by the law of God. This small group of men were

¹² These figures are taken from the *Enciclopedia Italiana*, s. v., "Analfabetismo." These further figures are also given: Prussia (1883), 3.5; Holland (1877), 7.5; Scotland (1855), 11.4; England (1883), 12.6; United States of America (1870), 10.0 (this allows for the appalling percentage, 78.1, of illiteracy among the colored population).

actively engaged in propagating their ideas among the masses, in fashioning a form of polity that would fit their ideas, and in enlisting the power of government behind their enterprise. A form of intellectual and spiritual aggression was afoot, directed against the Catholic masses, who were helpless to defend themselves because they were ignorant. The end of this aggressive activity, as the Pope saw it, would be social ruin and the dissipation of the human heritage, as well as mass apostasy from an ancestral religious faith. The presiding villain of the piece was government; it was under the paternal patronage of sympathetic governments that this intellectual conspiracy against the moral bases of society was going forward.

In this historical situation, the Pope could not be content quietly to pursue at his academic leisure the construction of a nicely balanced "thesis," compounded only of abstract, a priori principles, all valid per se. As I shall say, he did indeed discern and push with all his might the per se principle in which alone the permanently effective solution of his problem would be found. In principle, the remedy for ignorance is education. Speaking per se, there is no other remedy. But a system of universal education, religious and secular, is not a matter for improvisation. Meantime an emergency existed; hence emergency measures were needed. Leo XIII therefore made a practical programmatic proposal, adapted to the circumstances.

He took the premise of the proposal from the political culture of his time. The premise was the society-state, the *Kulturstaat*, in which government was the supreme agent of culture. He demanded that government should cease to patronize license of opinion, the pseudo-morality known as "civil," and the rationalist political scheme known as the *novum ius*, the new order. This philosophy and this morality were demonstrably false in theory, and ruinous in their social consequences. He likewise demanded that government should assume the patronage of the truth, the tried and tested truths contained in the noble patrimony of the human race. His proposal then went further. He called upon the police power of government to arrest the process which would lead to "the ruin of society" by undermining the body of truth upon which society depends for its existence. It is to be noted that he did not ask government to repress error simply because it is error. Traditional Catholic political doctrine never maintained, and

Leo XIII does not maintain, that the police power of government can touch error formally as error. This power inheres in government only inasmuch as government is charged with responsibility for the public welfare. In Catholic thought there is no such thing as *crimen opinionis*. Ideas, as such, cannot be made criminals in the face of the law; no man can be punished for his opinions. Heresy, as such, is not justiciable by civil law. But conspiracy is justiciable. And Leo XIII clearly considered that a conspiracy was afoot.

No one will deny that government has a police power; it is a necessary attribute of sovereignty (I dislike to use this word, since I am accustomed to write in the American political idiom, in which this word has no place; it is a French word for a specifically Continental thing which is not to be found in the U. S.). Moreover everyone will admit that the police power is the least well defined and circumscribed of all the powers inherent in government. In itself, it is simply the principle of self-preservation and self-perfection transferred to the body politic. In virtue of this principle society, acting through government, is empowered to impose restraints on personal freedom, property rights, etc., for the sake of its own *esse et bene esse*, its own existence and well-being. The police power is elastic in its application; it extends to the requirements of public morals, public health, public safety, order, and comfort. Its exercise is contingent upon circumstances as well as upon moral judgments.¹³ It may be expanded under the pressure of public necessity. It may also be contracted at the dictate of popular agreement. This last notion—the limitation of the police power by the free consensus of the people, expressed in constitutional law—will come up in a later discussion, when it is a question of the American concept of government. Here it is enough to remark that this mode of limitation is both ethically and politically valid; it rests on the principle of the consent of the governed, which is a principle of natural law. It might perhaps be added that government does not arrive on earth, completely assembled like a machine, as it were, f. o. b. from some

¹³ In certain states of the United States, for instance, it is used to prohibit the sale of alcoholic beverages (this would shock a Frenchman); to prohibit gambling (this would astonish even a conventional Swiss); to enforce the observance of Sunday rest (this bothers the Jew and the Seventh-Day Adventist); even for compulsory sterilization of certain types of criminals (this offends the conscience of anyone who understands the natural law).

heavenly Detroit, fully equipped with all parts and accessories. Government as such is a necessity of nature; but the extent of its police powers is subject to limitation by the rational consensus of the community. Within the context of an emergency-situation it may be true to say with Leo XIII, that "liberty will be greater and more secure in proportion as fuller restraints are set on license." But as a matter of a priori principle, it is even more true to say, with Fr. Gilby: "The human legislator rarely appears to better advantage than when passing a self-denying ordinance."¹⁴ The dictum is particularly true in what concerns the exercise of the police power. In principle, forces should always be at work within society, and within government too, tending to make certain police activities unnecessary.

Leo XIII, in the light of the circumstances confronting him, extends the police power very far. One would better say that he invokes the *patria potestas*. This too is an emergency power of government. Government is entitled to use it, when all other non-governmental measures fail, to protect children and those who are *ad instar puerorum*, legally to be reckoned as children by reason of their helplessness. Leo XIII considered that the illiterate Catholic masses were in effect children. Their ignorance made them incapable of self-direction. Worse still, they were being directed—indeed manipulated—from above, by evil men, in a direction which would lead to social ruin. These quasi-children were therefore in danger, and the danger to them was a danger likewise to society. Moreover, they were helpless, "absolutely unable, or able only with the greatest difficulty" to protect themselves. Therefore let government be their salvation; for there was no other salvation on the immediate horizon; their education to religious and civil adulthood could not be speeded up. Let government therefore stand to these quasi-children *in loco parentis*. Let it do by law what they are unable to do by intelligence, namely, repulse and repress "the offenses of the un-

¹⁴ Thomas Gilby, *Between Society and Community* (New York: Longmans, Green, 1953), p. 95. This substantial and brilliantly written book gives a better account of the content, and especially of the climate, of traditional Scholastic social, political, and legal thought than could be derived from the Leonine corpus with its relatively few, and all sharply drawn, propositions. The Leonine encyclicals are, of course, authoritative in the full range of their doctrinal intentions; but since these intentions were so largely commanded by the contrary intentions of a particular adversary, their range is far from being sweeping.

bridled mind, which are resulting in an enslavement of the ignorant masses." Since the masses cannot protect themselves, let government protect them "against deceptions and fallacious arguments, especially such as flatter their passions." This exercise of the police power, or of *patria potestas*, is necessary in the circumstances in order to preserve public morals and public order—indeed to safeguard the very existence and welfare of the community, which cannot endure when its moral bases are undermined.

This, I take it, is what Leo XIII was recommending. His programmatic proposal was not doctrinaire in its premises; and in its practical intentions it was entirely concrete. It was made to fit the exigencies of certain special historical circumstances. It had little, if anything, to do with solemn canonical discourse about rights and duties, existent per se, which are to be attributed to an "essence" known as "the public power." Whether the Pope's proposal was viable is a question. In any event, it was not unreasonable in the circumstances; in fact, the circumstances made it reasonable.

There is nothing in the proposal that need shock the democratic conscience; for the democratic conscience, if it still retains any shreds of common sense and thus stops short of becoming wildly doctrinaire, does not consider its concept of popular, limited government to be applicable in conditions of 30 to 88 percent illiteracy. Moreover, the democratic conscience today is troubled by the same fact which troubled the conscience of Leo XIII. Lately, belatedly, the democratic conscience has discovered the fact of a conspiracy—an organized and total aggression against the moral bases of human community, against the elementary principles of human sociability upon whose observance the public peace depends, both national and international. The democratic conscience has taken a firm position against the Communist conspiracy, in the name of political morality; but it is still unsure about the next steps to be taken—the practical steps to repel and repress this total aggression. The power of making war has already been invoked against it, in Korea and elsewhere. To some extent the police power of government has also been invoked against it; but the practical problem still eludes solution.

In any event, the democratic conscience today, involved in the same problematic that was thrust upon Leo XIII, ought to be able at least

to have some understanding of his position, some sympathy with his trouble of conscience. If one thing is clear from the body of his writings, it is the fact that he considered himself to be facing an organized conspiracy against the moral bases of human society. Only the superficial interpreter or the man of ill will—only those who are by definition not scholars—can maintain that Leo XIII was against democracy, as this term is understood in the Anglo-American tradition. On the contrary, he combated a conspiracy against the moral principles upon which Anglo-American democracy rests. The conspiracy was organized, in the “sects” (Socialist, Communist, Masonic; in Carlton Hayes’s term, the last-named were the “sectarian Liberals”). Leo XIII repeatedly indicts these “sects” as vehicles of organized conspiracy. He described this conspiracy with great exactness, in all detail, with historical accuracy; no true scholar can miss his meaning nor mistake the character of the organized adversary whose theoretical and practical intentions he diagnosed in page after page of cool and deliberate writing.¹⁵ The scholar who stands within the Anglo-American democratic tradition (which I myself, for instance, recognize as politically sound) may have his reserves about the lengths to which Leo XIII would extend the police power of government. My only point, however, is that scholarship today, enlightened by events—especially the event of history’s most ambitious adventure in conspiracy—will have a new understanding of Leo XIII’s problem.¹⁶

Moreover, intelligent queries with regard to the validity of his practical solution can only center on one point: does he sufficiently examine the three conditions which must be verified, in good jurisprudence,

¹⁵ The pages devoted to Leo XIII by James Hastings Nichols in his book, *Democracy and the Churches* (Philadelphia: Westminster Press, 1951), carry the vice of learned misunderstanding to the edge of the comic. At least the effect would be comic, save for the fact that this sort of stuff is solemnly taken by those who are unlearned, and who also misunderstand, to be scholarship.

¹⁶ This is the more true because advanced scholarship is at last beginning to gather some insight into the origins of that strange contemporary phenomenon, the special kind of Communism found in the Latin countries, especially France and Italy. It is now being seen that from Rousseau and Comte to Marx and Lenin is an easy dialectic step. A dialectic both of logic and of history leads from Latin rationalist individualism (with its humanitarian progressivism) to Marxist collectivism and the power-society of Lenin and Stalin. As this manner of research goes forward, and certain Liberalist myths dissolve, the historical importance of Leo XIII’s opposition to the conspiracy abroad in his day may be seen in a new light.

in order that any particular exercise of the police power may be justified—or, to use his own word, that it may be *aequum*, fair and proper. There are three questions to consider: Is there a serious danger to the public good in one or other of its aspects? Will any constitutional rights be violated by the use of the police power? Will this use be reasonable, that is, will the restraints imposed be adapted successfully to achieve the end in view? Of these three conditions Leo XIII considers only one—the danger. In this sense, as I suggested above, he leaves his own argument incomplete. He does not consider the constitutional problem for one good reason: he was, as I said, speaking within the political context of the Continental society-state, the *Kulturstaat* of his own time, in which the problem of constitutionalism and the rational limitation of governmental police power did not arise in the same sense in which it exists within the Anglo-American tradition, which more faithfully continues the medieval tradition. In answer to the third question—concerning the practical possibilities of restraining by law and governmental coercion “the offenses of the unbridled mind”—he would probably say that he was speaking simply as a political moralist, and that this question was therefore beyond his scope. This answer is undoubtedly correct, even though it leaves the serious inquirer somewhat unsatisfied.

The fact that Leo XIII sought the practical solution to the historical problem of his time in an extension of the police power of government, or better, in its *patria potestas*, is further explained by the presence in his thought of a general concept of government as paternal. In *Libertas*, for instance, he counsels rulers “to govern in kindly fashion and with a sort of fatherly love.”¹⁷ Elsewhere he reminds them that “their rule ought to be just, and it ought to imitate the divine governance in that it is tempered with paternal goodness.”¹⁸ As another text has it, “let them govern the people with equity and fidelity, and let them show, in addition to the severity which is necessary, a paternal love.”¹⁹ Conversely, the subject ought to stand to his ruler in a sort of filial relation. If Bavarian Catholics do their duty, the Pope says, “they will excel in reverence and loyalty to their Prince,

¹⁷ *Libertas*, Desclée, II, 110.

¹⁸ Letter, *Caritatis providentiaequae*, ASS, XXVI (1873-74), 525.

¹⁹ *Diuturnum*, Desclée, I, 227.

on the likeness of the relation of children to their father.”²⁰ Subjects ought to “adhere to their rulers not only in reverence but in good will and love.”²¹ They ought “to be obedient to their rulers and show them reverence and loyalty, with a certain species of the *pietas* which children show their parents.”²² This duty of the subject is the correlative of the “just government, not tyrannical, not autocratic, but, as it were, paternal,” which is the duty of the ruler.²³

Finally, the concept of the political relationship as paternal in the ruler and filial in the subject is related to another characteristic aspect of Leo XIII’s thought. It is an aspect which illustrates most strikingly the time-conditioned character of his doctrine and its obedience to the necessities of the polemic in which he was involved. I mean his concept of the citizen simply as subject, or, what comes to the same thing, his concept of civic duty as almost exclusively the duty of docility before the ruler and of obedience to his laws. He was forced to this emphasis by the naturalistic notion of popular sovereignty which was then in the Continental atmosphere. The notion owed much to Rousseau; it was, in fact, in mad pursuit of his favorite political will o’ the wisp, namely, an answer to the question: how shall it be brought about that the individual man in society may obey only himself? The premise of the question was the secularist position that the public power derives from the people as from its ultimate source (a dictum which, understood in the Jacobin sense, identified “the people” with “the party”). The answer to the question, given in the naturalistic notion of popular sovereignty, tended to obliterate all distinction between the ruler and the ruled.²⁴ There would be no government *of* the people; there would be only government *by* the people. This was the theory. The Jacobin practice was something quite different. In practice there would be an immense amount of government of the people, because there was to be really no government by the people but rather by the party.

Leo XIII strongly attacked this notion of government-by-party in the Jacobin sense. But his strongest attack was on the naturalistic theory. In the course of it he was led to emphasize four points: (1)

²⁰ *Officio sanctissimo*, Desclée, III, 35.

²¹ *Diuturnum*, Desclée, I, 231.

²² *Immortale Dei*, Desclée, II, 148.

²³ *Loc. cit.*

²⁴ Cf. *ibid.*, p. 157: “... est respublica nihil aliud nisi magistra et gubernatrix sui multitudo.”

there is such a thing as political authority, and it derives ultimately from God, the author of nature, although the people mediate this authority to the actual ruler; (2) since the political relationship is grounded in nature, there is by nature a distinction between ruler and ruled; (3) therefore the rights of the ruler and the duties of the ruled ultimately rest upon a religious sanction; (4) the ruler ought to imitate the manner of the divine governance, since his authority ultimately comes from God; and the ruled in turn ought to be subject to the authority of the ruler, since this subjection is a duty owed ultimately to God Himself. On the basis of this argument Leo XIII customarily made his appeal to rulers, directed to what he called their "civil prudence." You ought, he said over and over again, to favor religion because religion is the strongest support of your power of rule; it will ensure the obedience of your subjects.

This fourfold argument is triumphant. It is also rather narrow; in the circumstances it had to be narrow, because it was directed to the points at issue. This argument does not present us with a full theory either of government or of citizenship. Leo XIII did indeed say other things both to the ruler and to the ruled; but, when they are all reckoned in, they still do not amount to a full theory of the political relationship.²⁵ He did not intend to present this full theory; he was only making a case against a counter-case.

In particular, his monochrome sketch of the subject, docile to the commands of authority, is not the full polychrome portrait of the citizen, whose duty is also that of intelligent consent to rule and the fullest possible participation in the process of government. These

²⁵ It is one thing to give full measure of reverence to the authority of papal encyclicals; this is a Catholic duty. It is quite another thing to exaggerate beyond measure the content of an encyclical; this must be reckoned a mistake. When, for instance, the distinguished editor (*fel. record.*) of Leo XIII terms the Encyclical, *Diuturnum*, "a Catholic epitome on the subject of political government," "the foundation on which Pope Leo XIII erected the magnificent edifice of his complete doctrine on government," this manner of mistaken exaggeration appears (J. Husslein, *Social Wellsprings* [Milwaukee: Bruce, 1940], p. 47). This Encyclical, like most of the others, makes several effective and authoritative points; it does not pretend to do more. In fact, I doubt if one could assemble from the whole Leonine corpus a "complete doctrine of government"; one finds only a limited number of authoritative ethical and political propositions. The number is limited because the intention of the Pope was to be timely rather than exhaustive. For a complete doctrine one must go to the full tradition itself.

duties, and the great Christian political principles on which they rest, receive no significant positive development at the hands of Leo XIII. He insists that apart from obedience to the rules of morality there cannot be either good government or good citizenship; the insistence was timely. But he is not concerned with the further truth that the ordinary rules of morality do not make the good citizen, any more than they make the good statesman. They make good men; but good men can be awfully bad rulers and no less bad citizens. One thinks, for example, of all the good men who have wrecked or crippled government after government in France and Italy because of their refusal to perform the civic duty of paying taxes. The sense of holding authority from God does not of itself make a good ruler; it may make and often has made only a benevolent despot. The sense of civic obedience as a religious duty does not of itself make a good citizen; it may only make the masses submissive to the despot. Politics is an art, as well as a department of morality; and citizenship as well as statesmanship are aspects of politics.

Leo XIII does not enter into these matters. Why should he? Of what use would it have been to hold high discourse on the full science and art of citizenship, when the audience was the *imperita multitudo*, the illiterate masses? The sheer weight of these masses, as it were, swung Leo XIII to a concept of paternal rule. I am not implying that he formally adopted the paternal theory of the state, but only that his concept of government was to an important degree tinged with paternalism. The theory itself has had a long history and many manifestations; there is no need here to open the whole subject.²⁶ Only two points need be made.

First, Leo XIII's accent is wholly explicable in the light of circumstances, and in the light of his theoretical and practical intentions, as these were dictated by circumstances. One reason has been given, namely, the spiritual and cultural childhood in which he found broad masses of his Catholic people. Another reason might be added, although it does not appear explicitly in his text. I mean a certain natural inclination to consider the so-called Catholic nation as a great family, rather than as a purely political form of association, a state in the legal

²⁶ Cf. Herder *Staatslexikon*, s. v., "Paternale Staatstheorie," for a brief summary of the fortunes of this theory.

sense. For centuries these great families, especially France, had been governed by princes and kings who rejoiced in the title "Père du peuple." Perhaps the inertia which attaches to all great ideas that have made history was still operative. In any event, after frequent reading of Leo XIII one can hardly escape the impression that over important aspects of his thought on government, especially in his earlier writings, there still hangs the lengthy historical shadow of the Throne. The impression is indeed corrected by the emphatic passages which deny unique validity to any particular form of government. The impression reaches one much less forcibly from the documents after 1892, the year of the *ralliement*; but it is never fully dispelled. It does not derive solely from his favoritism for the word "principes"; this may only reflect his fondness for purely classical Latinity. At that, instead of the personal terms he favors, he had at his disposal the majestic word "imperium," the right and power of rule, what we mean by government—political, impersonal, devoid of any connotations of paternity. The term was consecrated by medieval usage; but Leo XIII does not often use it.

In any event, the impression of which I speak derives most importantly from his concept of political rule as touched with paternal goodness, and of the political relationship as requiring a "love" of the ruler. Everyone who stands within the Scholastic tradition of political philosophy adheres to the fourfold proposition of Leo XIII as stated above. But if at the same time one stands within the genuine democratic tradition of politics (a stand which is entirely compatible with all Scholastic and Catholic principles), will one think of government as paternal? By no means. If one thinks of government as popular, parliamentary, limited, an affair of laws and not of men, will one adopt towards it an attitude that is filial? Obviously no. Do I expect the Chief Executive of the United States, or the Congress, to feel towards me or any of my fellow-citizens a sentiment of paternal goodness? The notion is preposterous. An American loves his country; he does not love its administration. He reveres the political traditions of the nation expressed in the Constitution; but he is prepared to be quite irreverent towards the acts of government. He respects the dignity of high office; but he may loudly criticize the high official. He stands over

against government on a footing that is legal; he renders duties and claims rights; he is prepared to obey and also to protest.

The notion of government as paternal is associated both in theory and in history with monarchy alone, with the *regimen regale* in the sense of St. Thomas. Aristotle had noted how royal rule could resemble paternal rule. But the notion itself owed more to Plato; and it had a considerable vogue in the Christian era. One could trace it through the whole literary genre known as the *Fürstenspiegel*, and through the various political testaments which great kings wrote for their sons. But the notion can claim little, if any, support from high Scholasticism. St. Thomas notes that a difference in kind, and not merely in degree, exists between the *civilis multitudo* and the *domestica multitudo*. The specific distinction between *domus* and *polis*, between the family and the state, is classic in high Scholastic theory. If there be a king, he is first magistrate, not father. The pattern of the state is legal, not familial. Political office has a dignity, but not a majesty; at least it has only such majesty as the law can confer upon it. The duly constituted ruler of the community holds a legal office: *lex facit regem*. And the response to his legitimate ordinances is the response that human law evokes, which is not filial submission but intelligent consent, simple obedience with no emotional overtones. The response to civil authority differs in kind from the response to paternal authority. Public spirit is not family spirit. In a word, the political relationship as such is simply a rational relationship. The ruler, whether he wears royal robes or a simple business suit, rules by law, which is reason. And the citizen obeys because it is reasonable to obey just laws. There is no room in Christian theory for a Little Father, much less for a Big Brother.²⁷

Leo XIII would gladly grant all this; for it is good theory, true principle, the necessary thing to say when one speaks per se. He would only go on to explain that the tincture of paternalism in his thought, and his practical recommendations regarding the exercise of a *patria potestas* on the part of government, are to be explained in the light of circumstances. This explanation will be accepted by any man of good sense.

²⁷ Gilby (*op. cit.*, esp. pp. 288-323) is excellent on the range of ideas touched in the foregoing paragraphs.

THE QUESTION IN ITS PURE STATE

If Leo XIII had been free to speak only *per se*, and to discourse on the relation of government to the order of ideas and culture only in terms of pure principle, what would have been the structure of his doctrine? He would have begun by laying down the classic medieval distinction between the *imperium* and *studium*, a distinction that is correlative to the equally classic medieval distinction of society and state. He would have said that the original responsibility for the order of culture rests on the *studium*, not on the *imperium*. The functions of the latter are purely supportive, not controlling. In principle, the order of culture, like the order of economic life (but on a stronger title), possesses its own autonomy and freedom in the face of political authority. To the thirteenth-century University of Paris, for instance, any attempt by the King to exercise surveillance or censorship over its teachers and teaching would have been unthinkable. (Even ecclesiastical authority had trouble enough making itself felt.)

However, it would have been futile and unreal for Leo XIII to recur to the traditional principle which distinguished the responsibilities of *imperium* and *studium*. In the course of the modern Continental development, society had been absorbed into the state. At best, the *studium*, whatever the manner of its organization, had become an appendage of the *imperium*. One may think, for instance, of what the University of Paris had become in the heyday of royal absolutism and religious Gallicanism. At worst, the University, in the Napoleonic sense, had become the vehicle for the propagation of a national ideology; it was an institution run by the state for the state. This was the fact, and Leo XIII was powerless to change it. Continental historical development had overridden principle.

But the principle remains. One can see it at the end of an analogical reasoning from the text of Leo XIII—a reasoning which might better be called an *a fortiori* argument. The Leonine doctrine forbids government to intrude itself into the “internal affairs and order of life” of those economic associations which bear original responsibility for the economic well-being of society. The reason is that “vital activity is set in motion by an interior principle, and it is very easily shattered by interference from outside.”²⁸ This principle would seem to hold good

²⁸ *Two Basic Social Encyclicals* (Washington: Catholic University Press, 1943), *Rerum novarum*, n. 75, p. 72.

a fortiori for the cultural life of the community. This life is an even more delicate, because more spiritual, form of vital activity. Its dynamisms are more interior, more sensitive, more readily damaged by the rough hand of government. Or better, from another point of view, one may doubt whether these dynamisms, resident in the intellectual and spiritual nature of man, can be at all reached by government, whether for good or for ill. Government can indeed abolish a monopoly in restraint of trade. But can government wring the neck of an idea? Justice in economic relations can be enforced by the external agency of law. But can the truths and values which underlie a genuine Christian culture be imposed by law upon the institutions of social life? Can they vitalize society in any other way than by the power of their own evidence as seen and accepted by the free human spirit?

Granted that in a crisis situation, such as Leo XIII considered himself to be facing, the policeman may be invoked where the professor has either failed or betrayed his trust. Nevertheless, does not the policeman thus find himself in a highly artificial, not to say ambiguous, position? Would not the professor say that he was on the scene per se, and that the policeman got there entirely per accidens—through a most unfortunate accident? It does not matter whether the policeman wears a uniform with brass buttons or the morning-clothes of a Minister of Education. In either case he is an agent of the *imperium*, government; and his footing within the *studium*—or more broadly, within the cultural life of the community in the whole range of its institutions—cannot be anything but the consequence of a lamentable accident. In principle, the competence of the policeman, the agent of government, is severely limited. True, the bureaucratic directives of a Minister of Education may seem on the surface to be of another order than the nightstick of the uniformed guardian of the peace. But when these edicts touch the substance of culture, when they reach out to pursue or persecute ideas, their impact is like a club, and it is about as limited in its efficacy. The presence of Napoleon's cultural police in every French village was to be deplored in principle; no less deplorable in principle would be the presence of a cultural police acting in the interests of Catholic truth. Catholic principle provides for priests and professors, not for political commissars masquerading as educators.

The principle, then, or the thesis, or the ideal, asserts the autonomy

of the cultural order in the face of government. When government intervenes in this order, the intervention represents hypothesis, accommodation to factual emergencies, some departure from principle. The intervention may be justified in terms of practical necessity, occasioned by serious dangers to the body politic which cannot otherwise be averted than by governmental action. But the intervention must seek its justification on these practical, hypothetical grounds; it cannot make appeal to pure principle.

If one looks beyond the text of *Libertas*, with its narrow theoretical and practical intentions, one will find numerous, insistent, resounding affirmations of the true principle in this matter. The second dominant theme of Leo XIII's pontificate was the necessity of education. It was related to the first dominant theme, thus announced in *Inscrutabili*: "The doctrine of Christ, if it be heeded, is the great salvation of society." By the doctrine of Christ he meant not simply the order of mystery given in revelation, but also the whole range of natural and acquired truth whose source is reason; for in the present historical order all truth, of whatever order, is related in one or other way to Him who said, "I am the Truth." The proper means whereby the truth in this full sense is to be made the salvation of society are, in principle, the means of education. The mass of literature on this theme is imposing; Leo XIII was tireless, almost monotonous, in his insistence on this principle.

Ever the realist, he rightly reckoned where the ultimate danger to society, as well as to the Church, was to be found. It lay in the tragic fact that the once-proud *populus Christianus* had become the Catholic masses, ignorant, apathetic, inert, a prey to the manipulations of erring and unscrupulous leaders. Even the Catholicism of the masses had become more a matter of belonging to the nation than of belonging to the Church. Here is a sample text:

Always and everywhere the great enemy of the Church of Jesus Christ has been ignorance. It is still the enemy today in France. There is total ignorance, or at least no proper knowledge of the sublime mysteries of the Christian religion, of the incomparable benefits lavished upon humanity by the Redeemer of the world, and of the saving role of that divine society which is called the Church. . . . This ignorance, exploited by calumny, has spread through the masses of the people. They are falling into the sleep of indifference and are leaving the field free for all

those enemies of the Church who are implacably set on banishing her from the slightest participation in the social life of humanity²⁹

The alienation of the masses from the Church, their ignorance and illiteracy—there was the real danger. It was more serious than the apostasy of secular power from its ancient alliance with the Church; for it was only popular ignorance that enabled the apostate power to become the instrument of a mass social apostasy. In the European political culture which Leo XIII knew—characterized, as it was, by the phenomenon of the omnipotent society-state—the support of government was a value, if not a necessity. Therefore the Pope was not shy in wooing governments. Nonetheless, the major weight of his doctrine and action moves in another direction. However persistent he was in striving to knit relationships with government, his more absorbing search was for an alliance between the Church and the people through a reinvigoration of the ancient institution of the *studium* in new forms. Although he endeavored, without much success, to convert governments from the errors of totalitarian democracy, the major aim of his pontificate, becoming ever more clear, was to transform the sleeping masses, easy victims of intellectual aggression and the helpless prey of false shepherds, into genuine Christian peoples, awake, aware, active, capable of spiritual and social self-direction under the inner guidance of personally possessed truth.

This aim inspired the Pope's frequent castigation of Catholic inertness, and his constant encouragement of every movement whose purpose was educative or activist, whether religiously or socially. He blessed congresses and associations of all kinds; he stimulated the press; he urged the intellectual apostolate in every form. In particular, he laid massive emphasis on the necessity of a learned as well as a saintly clergy. And this emphasis was matched by an equal insistence

²⁹ Letter, *Nous ne voulons pas*, ASS, XXVI (1892), 69. The point that wicked men are deceiving the ignorant masses is elsewhere touched; cf. Letter, *Sicut multa* (Desclée, I, 279), where a campaign of calumny in Sicily against the papacy is rejected, first, as "in itself an indignity," and second, as "a danger to masses of inferior culture, who can the more easily be deceived and led into error." The idea of the conspiracy against the masses recurs in the Encyclical, *Depuis le jour* (Bonne Presse, VI, 94): "We cannot pass over the fact that the enemies of the holy faith have not remained inactive; they have succeeded in banishing every principle of religion from a great number of families, who consequently live in a lamentable ignorance of revealed truth and in complete indifference toward what concerns their spiritual interests and the salvation of their souls."²

on the promotion of popular education. The documents here are too numerous for quotation; there is hardly a major utterance in which this principle of social as well as religious salvation is not touched. One comes away from the Leonine corpus with a certain impression that never before in history had the full weight of papal authority and exhortation been thrown so heavily behind the cultural enterprise on the broadest scale and on all its levels.

This fact points to a conclusion. The conclusion is that, in principle and in the order of the ideal, the responsibility for the cultural order of society—for the protection of the moral bases of the community, the conservation and development of the human heritage, the combatting of “the offenses of the unbridled mind”—rests upon society itself, upon the people, and not upon government. This principle can indeed be applied in practice only where the cultural enterprise—call it the *studium*, for the sake of preserving a noble word—has been developed to the point where the people really are a people and not simply masses. The masses are amorphous; their principle of direction is external to themselves. A people is a structured moral community, fashioned by a consciously shared consensus; it is capable—both as a collectivity and in its individual members—of protecting its own moral identity and directing its own social life. A people in this sense does not in principle stand under the cultural tutelage of paternal government; for it has reached adulthood, and such tutelage is for children.

Unfortunately, Leo XIII did not find in the so-called Catholic nations of his time “peoples” in this adult sense; he found only masses, the *imperita multitudo*. In this situation he did the only two things possible. First, he invoked the police power or the *patria potestas* of government to protect those who were helpless in the face of the spiritual conspiracy which was afoot. This was a *per accidens* measure, dictated by the practical necessities of an emergency. Secondly, he put forward the principle; he promoted the process which ought *per se* to be adopted; he pointed the way to the ideal. The principle is that the cultural order of society is to be committed to forces which are cultural, not political. The process is education, religious and secular, whereby alone a genuine people comes into being. The ideal is a self-governing order of culture—or better, a people which governs itself

in the cultural as in the political and economic orders, because the inner principle of cultural self-government is present in it. This principle is the truth, inwardly possessed, not outwardly enforced. Toward such an order of culture, toward a people in this sense, the offices of government are in principle minimal and supportive; they are the offices proper to a force which per se and of its nature stands outside the order of culture, not inside it, much less above it.

Leo XIII's policy of knitting relationships with governments was not greatly, and certainly not permanently, successful; this is true in general, notwithstanding the fact that he won some great diplomatic triumphs, notably in Germany. In Italy the policy was not applicable. In France it failed to avert the cataclysm of 1905, which later turned out to be a blessing, although in a disguise which Pius X could not penetrate. In Spain and Portugal the policy failed for want of a basis which it could not itself create, namely, political stability. (Not to speak of the United States, where such a policy was neither possible nor necessary, and where the Church prospered abundantly in the absence of it.) On the other hand, if there has been any permanent improvement in the Church's relation to the modern world, into which Leo XIII was the first Pope to break a path, it has been owing to its program of transformative alliance with the people through the means of education. Leo XIII insisted on this program as a matter of first principle, in the face of which all other measures of social and religious salvation—especially the use of governmental police power—assume an emergency, per accidens, and hypothetical character.

There can be no doubt that the Church in the United States has been outstandingly faithful to the Leonine principle and program. I also think that the constitutional restrictions imposed on governmental police power by the common consent of the American people can be defended in the combined light of principle and of social circumstances. But this is a matter for future discussion, when the American situation and system come under review.

The next topic for consideration will be the relation of government to the order of religion, especially as institutionally embodied in the Church. More needs to be said on this complicated topic than can be said in this article, which is already sufficiently long.