

Marriage Vows and “Taking Up a New State”

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Introduction

THE TITLE of this paper requires some defense, because, in one sense, it is indefensible. Thomas Aquinas never uses the term “marriage vows” and, indeed, never discusses “marriage” and “vows” together except to explain how one can bring to naught or make impossible the other. A vow, for Thomas, is a promise to God and marriage is not between God and man, but between man and woman. While the term *votum* is used in connection with marriage in post-classical Latin, notably in the Justinian *Codex*¹ and in Gratian,² there is not one such usage to be found among

¹ For example, *Codex* 5.4.24 (www.faculty.cua.edu/Pennington/Canon%20Law/RomanLaw/DigestCode.htm): “Imperator Justinianus: Sancimus, si quis nuptiarum fecerit mentionem in qualicumque pacto, quod ad dandum vel faciendum vel non dandum vel non faciendum concipitur, et sive nuptiarum tempus dixerit sive nuptias nominaverit, non aliter intellegi esse condicionem adimplendam vel extenuandam, nisi ipsa nuptiarum accedat festivitas, et non esse tempus inspiciendum, in quo nuptiarum aetas vel feminis post duodecimum annum accesserit vel maribus post quartum decimum annum completum, sed ex quo vota nuptiarum re ipsa processerint. sic etenim et antiqui iuris contentio dirimetur et immensa librorum volumina ad mediocrem modum tandem pervenient.” * iust. a. ad senatum. * [a 530 d. constantinopoli xi k. aug. lampadio et oreste cons.]

² *Decretum*, II, C. 27, Q. 2: “Sequitur secunda questio, qua queritur, an puellae alteri desponsatae possint renunciare priori condicioni, et transferre sua uota ad alium.” The term *vota*, however, appears only in the statement of the question and not in the subsequent discussion.

the 1761 instances of forms of *voveo* in the *Corpus thomisticum*.³ Even the term *promissio*, which is perhaps the genus of *votum*, is used in conjunction with *matrimonium* only as the definition of *sponsalia*, or betrothal.⁴

Nevertheless, the taking of a vow and consenting to marriage have a significant moral symmetry, which Aquinas recognizes and utilizes. While all moral acts are formative of a *power* or some *aspect of a power*, taking a vow or contracting marriage “front-loads” form into a *life*. While acquiring a virtue through repeated deliberation and choice is like building a structure from the ground up, making a vow or contracting marriage is more like “topping off” the superstructure of a building at its highest point—one is not done, but neither can one undo. These unusual effects are owing to the properties of vows and vow—like contracts, such as marriage. Thomas Aquinas’s treatment of them is primarily contained in distinction 38 of the fourth book of his commentary on the *Sentences* and in the *secunda secundae pars* of the *Summa theologiae*, question 88, although the polemical mendicant tracts *Contra impugnantes*, *De perfectione spiritualis vitae*, and *Contra retrahentium*, as well as *Quodlibets* III, IV, and X, are also important texts for this issue.

Vows

In considering whether it is “more praiseworthy and meritorious to do something as a result of having vowed to do it rather than without a vow,” Thomas Aquinas answers an objection about the alleged redundancy of vows. A vow, on his account, is supposed to “firm up” the flabby human will with respect to the thing vowed. But nothing is better able, runs the objection, “to firm up the will to do something than the act of doing it.”⁵ Adding a vow, then, adds nothing: “Just do it,” as the Nike commercial urges. Thomas replies that the scope of our power to order our acts is far beyond the “it” and the “now.” The “immobile will,” which executes “that single work,” does not remain “wholly fixed” beyond the now and into the future.

³ Interestingly, neither does the term “vow” appear in any article on marriage in the *Catholic Encyclopedia* of 1907–1913, except as an impediment to marriage and in a discussion of vows of continence within the married state.

⁴ *Scriptum super libros Sententiarum*, lib. 4, d. 27, q. 2, a. 1 co. (www.corpus-thomisticum.org/opera.html): “Respondeo dicendum quod, sicut supra dictum est, consensus in conjugalem copulam per verba de futuro non facit matrimonium, sed matrimonii promissionem; et haec promissio dicitur sponsalia a spondendo, ut Isidorus dicit.”

⁵ *Summa theologiae* II–II, q. 88, a. 6, arg. 3 (Ottawa: Insitute of Medieval Studies, 1942): “Praeterea, votum necessarium est ad hoc quod firmetur voluntas hominis ad rem quam vovet, ut supra habitum est. Sed non potest firmari melius voluntas ad aliquid faciendum quam cum actu facit illud. Ergo non melius est facere aliquid cum voto quam sine voto.”

The one making a vow, however, fixes the will on the work to be done even before the moment of its execution, and perhaps on doing it many times.⁶

That "through a vow, the will is fixed immovably on a good"⁷ is only one of the reasons why "it is better and more meritorious to perform the same work with a vow than without." A vow is "an act of religion, which is chief among the moral virtues."⁸ It is a commonplace of Thomistic ethics that the act of an inferior virtue becomes better and more meritorious when it is commanded by a higher virtue or ordered to a higher end: fasting as an act of abstinence and self-control as an act of chastity become acts of religion as well, when we do them as a result of a vow. *Virginitas non est tantum virginitas* when it is dedicated to God. There is, then, a "powering up" of a good act through making it the material of a vow, both because the fixity of the will brings it closer "to the perfection of virtue" and because the act is fundamentally re-ordered to "divine worship."

Following from this re-ordering, however, is something more radical. While all virtues are commanded by God, "the one who vows something and does it, subjects himself to God more than he who simply does it."⁹

⁶ ST II-II, q. 88, a. 6, ad 3: "Dicendum quod ille qui facit aliquid sine voto habet immobilem voluntatem respectu illius operis singularis quod facit, et tunc quando facit; non autem manet voluntas eius omnino firmata in futurum, sicut voventis, qui suam voluntatem obligavit ad aliquid faciendum et antequam faceret illud singulare opus, et fortasse ad pluries faciendum."

⁷ ST II-II, q. 88, a. 6: "Dicendum quod triplici ratione facere idem opus cum voto est melius et magis meritorium quam facere sine voto. Primo quidem quia vovere, sicut dictum est, est actus patriae, quae est praecipua inter virtutes morales. Nobilioris autem virtutis est opus melius et magis meritorium. Unde actus inferioris virtutis est melior et magis meritorius ex hoc quod imperatur a superiori virtute, cuius actus fit per imperium; sicut actus fidei vel spei melior est si imperetur a caritate. Et ideo actus aliarum virtutum moralium, puta ieiunare, quod est actus abstinentiae, et continere, quod est actus castitatis, sunt meliora et magis meritoria si fiant ex voto; quia sic iam pertinent ad divinum cultum, quasi quaedam Dei sacrificia. Unde Augustinus dicit, in libro *De Virginitate*, quod *neque ipsa virginitas quia virginitas est, sed quia Deo dedicata est, honoratur . . . quam fovet et conservat continentia pietatis*. Secundo, quia ille qui vovet aliquid et facit, plus se Deo subiicit quam ille qui solum facit. Subiicit enim se Deo non solum quantum ad actum sed etiam quantum ad potestatem, quia de cetero, non potest aliud facere, sicut plus daret homini qui daret ei arborem cum fructibus quam qui daret ei fructus tantum, ut dicit Anselmus, in libro *De Similitud.* Et inde est quod etiam promittentibus gratiae aguntur, ut dictum est. Tertio, quia per votum immobiliter voluntas firmatur in bonum. Facere autem aliquid ex voluntate firmata in bonum pertinet ad perfectionem virtutis, ut patet per philosophum, in II *Ethic.*, sicut etiam peccare mente obstinata aggravat peccatum, et dicitur peccatum in spiritum sanctum, ut supra dictum est."

⁸ ST II-II, q. 88, a. 6.

⁹ ST II-II, q. 88, a. 6.

This is because he not only performs an act ordered to the good, but relinquishes his power to do otherwise. Aquinas offers this analogy: the one who gives someone the tree along with its fruit gives more than he who gives the fruit alone. This is the “holocaust” aspect of making a vow.¹⁰ The *votum* in Latin is not only the “vow,” but also refers to the “thing vowed,” for example, the “burnt-offerings.” It is this aspect of vowing which gives it its life-altering possibilities.

The material proper to vows is wide and various: not, certainly, something “illicit” or “simply evil” or something “wholly outside one’s power, like vowing not to die; nor even something “indifferent”;¹¹ but any act of virtue, most properly a supererogatory act or “a greater good.”¹² One can vow to give money,¹³ a chalice or house,¹⁴ to fast or perform any act of abstinence; one can vow to go on a pilgrimage, or one can vow to take up the cross¹⁵ to protect the most important place of pilgrimage, the Holy Land, or to defend the Church.¹⁶

“Religion”¹⁷ for Aquinas always presupposes vows, since it requires that “someone bind herself through faith to God and to his proper worship.”

¹⁰ *Contra impugnantes*, c. 1 (in *Opera Omnia* XLI [Romae, Ad Sanctae Sabinae: Editio Leonina, 1970], A14: 117–124): “Nec solum sacrificium per haec tria Deo offertur; sed holocaustum, quod erat in lege acceptissimum. Unde Gregorius in VIII Homil. secundae partis super Ezech.: *cum quis suum aliquid Deo vovet et aliquid non vovet, sacrificium est; cum vero omne quod habet, omne quod vivit, omne quod sapit, omnipotenti Deo voverit, holocaustum est.*”

¹¹ *Super Sent.*, lib. 4, d. 38, q. 1, a. 1, qc. 2, arg. 2.

¹² *Super Sent.*, lib. 4, d. 38, q. 1, a. 1, qc. 2 co.: “[I]deo si votum accipiatur secundum propriam sui rationem, est proprie de bonis illis ad quae non omnes tenentur, quae supererogationis sunt; et ideo dicuntur meliora bona, quia superadduntur illis bonis, sine quibus non est salus; et ideo votum proprie acceptum, dicitur esse de meliori bono.” *Contra retrahentes*, c. 8 co.: “Hoc etiam ostendere nituntur ex voti definitione. Dicitur enim votum esse sponsio melioris boni animi deliberatione firmata. . . .”

¹³ *ST II–II*, q. 88, a. 3, arg. 2: “vir qui vovet pecuniam dare. . . .”

¹⁴ *ST II^a–II*, q. 88, a. 10, ad 1: “aliquis rem quam vovit, iam consecratam, puta calicem vel domum. . . .”

¹⁵ *ST II–II*, q. 189, a. 3, arg. 3: “Praeterea, per votum minus utile non potest derogari voto magis utili. Sed per impletionem voti religionis impediri posset impletio voti crucis in subsidium Terrae Sanctae. . . .”

¹⁶ *ST II–II*, q. 189, a. 3, ad 3: “Ad tertium. Dicendum quod votum religionis, cum sit perpetuum, est maius quam votum peregrinationis terrae sanctae, quod est temporale.” *De perfectione spiritualis vitae*, c. 13 (*Opera Omnia* XLI [Romae, Ad Sanctae Sabinae: Commissio Leonina, 1970], B83: 181–83: “et voventibus ire in subsidium terrae sanctae vel alias in defensionem Ecclesiae. . . .”

¹⁷ *Contra impugnantes*, c. 1 (A53: 46–54): “Ex his ergo patet quod duplex est religionis acceptio. Una secundum sui nominis primam institutionem, secundum quod aliquis

Thus "every Christian participates in baptism, renouncing Satan and all his pomps," "a vow required of everyone"¹⁸ who desires to be saved. Those who, over and above this, "renounce the world," "are called 'religious' antonomastically" giving their whole selves over to divine service, "as if offering a holocaust to God."¹⁹ By taking vows to follow the counsels of poverty, chastity, and obedience, religious give over irrevocably the good and proper use of property, sexual activity, and their own wills.

Solemnity

Vows which have no hint of necessity about them,²⁰ are not temporary,²¹ and not limited to particular acts²² have most fully the character of vows. The profession of these vows is, therefore, properly accompanied by solemnity.²³

se Deo ligat per fidem ad debitum cultum; et sic quilibet Christianae religionis fit particeps in Baptismo, abrenuntians Satanae et omnibus pompis eius. Secunda prout aliquis ad aliqua opera caritatis se obligat, quibus specialiter Deo servitur vitae abrenuntians saeculari. . . .

¹⁸ *Super Sent.*, lib. 4, d. 38, q. 1, a. 2, qc. 1 co: "Cum enim votum sit obligatio ex voluntate facta, necessitas autem voluntarium excludat; illud votum quod nihil habet necessitatis, dicitur per prius votum, quasi habens complete rationem voti; et hoc est votum singulare, quod est de illis ad quae non tenemur. Illud autem votum quod habet aliquid necessitatis, habet incomplete rationem voti, et ideo dicitur per posterius, votum; et hoc est votum commune, quod est de his ad quae omnes tenentur, quorum est necessitas conditionata, non absoluta, ut ex dictis patet."

¹⁹ II^a–IIae, q. 186 a. 1 co. Religio autem, ut supra habitum est, est quaedam virtus per quam aliquis ad Dei servitium et cultum aliquid exhibet. Et ideo antonomastice religiosi dicuntur illi qui se totaliter manciant divino servitio, quasi holocaustum Deo offerentes. Unde Gregorius dicit, *Super Ezech.*, sunt quidam qui nihil sibimetipsi reservant, sed sensum, linguam, vitam atque substantiam quam perceperunt, omnipotenti Deo immolant. In hoc autem perfectio hominis consistit quod totaliter Deo inhaereat, sicut ex supra dictis patet. Et secundum hoc, religio perfectionis statum nominat."

²⁰ *Super Sent.*, lib. 4, d. 38, q. 1, a. 2, qc. 1 co: "Respondeo dicendum ad primam quaestionem, quod divisio illa qua votum dividitur in singulare et commune, est divisio analogi quod praedicatur per prius et posterius de suis dividendibus, sicut ens de substantia et accidente. Cum enim votum sit obligatio ex voluntate facta, necessitas autem voluntarium excludat; illud votum quod nihil habet necessitatis, dicitur per prius votum, quasi habens complete rationem voti; et hoc est votum singulare, quod est de illis ad quae non tenemur. Illud autem votum quod habet aliquid necessitatis, habet incomplete rationem voti, et ideo dicitur per posterius, votum; et hoc est votum commune, quod est de his ad quae omnes tenentur, quorum est necessitas conditionata, non absoluta, ut ex dictis patet."

²¹ *Super Sent.*, lib. 4, d. 38, q. 1, a. 4, qc. 4, ad 1: "Ad primum ergo dicendum, quod votum terrae sanctae obligat hominem ad serviendum Deo temporaliter, et quantum ad determinatum tempus; sed votum religionis quantum ad omnia, et secundum omne tempus."

The manner in which a thing is solemnized depends on its condition: thus when a man takes up arms he solemnizes the fact in one way, namely, with a certain display of horses and arms and a concourse of soldiers, while a marriage is solemnized in another way, namely, the array of the bridegroom and bride and the gathering of their kindred. Now a vow is a promise made to God: wherefore, the solemnization of a vow consists in something spiritual pertaining to God; i.e. in some spiritual blessing or consecration.²⁴

The analogy which Thomas draws among solemnities merits some attention. What is it about knighthood, marriage, religious profession, and holy orders that makes it proper to “add” solemnity to their inception? Elsewhere, Aquinas says that solemnity is added to those obligations “which among men possess perpetual fixity.”²⁵ One is bound to another, it is forever, and something is irrevocably surrendered.

And the reason for this is that solemnities are not customary except when someone is given over totally to some thing: for there is no nuptial solemnity, except in the celebration of matrimony, when each spouse hands over to the other the power of his own body. And, similarly, solemnity is added to taking a vow when someone, through undertaking holy orders, is appointed to divine ministry; and in the

²² *ST II-II*, q. 88, a. 12, ad 1: “Dicendum quod omnia alia vota sunt quorundam particularium operum; sed per religionem homo totam vitam suam Dei obsequio deputat. Particulare autem in universali includitur.”

²³ *ST II-II*, q. 88, a. 7, ad 2: “Dicendum quod particularibus actibus non consuevit solemnitas adhiberi, sed assumptioni novi status, ut dictum est. Et ideo cum quis vovet aliqua particularia opera, sicut aliquam peregrinationem vel aliquod speciale ieiunium, tali voto non congruit solemnitas, sed solum voto quo aliquis totaliter se subiicit divino ministerio seu famulatui; in quo tamen voto, quasi universali, multa particularia opera comprehenduntur.”

²⁴ *ST II-II*, q. 88, a. 7: “Dicendum quod unicuique rei solemnitas adhibetur secundum illius rei conditionem; sicut alia est solemnitas novae militiae, scilicet in quodam apparatu equorum et armorum et concursu militum; et alia solemnitas nuptiarum, quae consistit in apparatu sponsi et sponsae et conventu propinquorum. Votum autem est promissio Deo facta. Unde solemnitas voti attenditur secundum aliquid spirituale, quod ad Deum pertineat, idest secundum aliquam spiritualem benedictionem vel consecrationem, quae ex institutione apostolorum adhibetur in professione certae regulae, secundo gradu post sacri ordinis susceptionem. . . .”

²⁵ *ST II-II*, q. 184, a. 4: “Sed ille proprie est servus qui obligatur ad serviendum, et ille est liber qui a servitute absolvitur. Secundo requiritur quod obligatio praedicta cum aliqua solemnitate fiat, sicut et ceteris quae inter homines obtinent perpetuam firmitatem, quaedam solemnitas adhibetur.”

profession of a given rule, when through renunciation of the world and one's own will, someone assumes the state of perfection.²⁶

Solemnity, according to Aquinas, does not attach to "particular acts," but rather to "the taking up of a new state."²⁷ In addition, "having a state" is said "solemnly and perpetually, as is clear in the 'state of liberty' or the 'state of matrimony' and of similar [states]."²⁸ Knighthood, marriage, religious profession, and holy orders, therefore, are all "states" which one assumes through binding oneself to another perpetually and thereby surrendering the power over something essential, for example, one's body or even one's will.

Change of "state" does not result from all contracts or vows.²⁹ In the *De perfectione spiritualis vitae*, Aquinas provides a *cursus*:

²⁶ ST II-II, q. 88, a. 7: "Et huius ratio est quia solemnitates non consueverunt adhiberi nisi quando aliquis totaliter mancipatur alicui rei; non enim solemnitas nuptialis adhibetur nisi in celebratione matrimonii, quando uterque coniugum sui corporis potestatem alteri tradit. Et similiter voti solemnitas adhibetur quando aliquis per susceptionem sacri ordinis divino ministerio applicatur; et in professione certae regulae, quando per abrenuntiationem saeculi et propriae voluntatis aliquis statum perfectionis assumit." Cf. *De perfectione*, c. 28 (B107, 19-32): "Hi enim qui matrimonio iunguntur, in statu aliquo ponuntur, quia ex tunc vir non habet potestatem sui corporis, similiter neque mulier, ut dicitur I Cor. VII; est enim in matrimonio perpetua obligatio unius ad alterum, ad quam significandam ab Ecclesia sollemnis benedictio nuptiarum exhibetur: non tamen in statu perfectionis ponuntur, sed in statu matrimonii. Unde et his qui in statu perfectionis ponuntur, in signum perpetuae obligationis sollemnis consecratio aut benedictio exhibetur; sicut etiam cum civiliter aliquis statum mutat, sicut cum servus manumittitur, aliqua civilis solemnitas exhibetur."

²⁷ ST II-II, q. 88, a. 7, ad 2: "Dicendum quod particularibus actibus non consuevit solemnitas adhiberi, sed assumptioni novi status. . ."

²⁸ *Quodlibet* I, q. 7, a. 2, ad 2 (*Opera Omnia* XXV, 2 [Roma & Paris: Commissio Leonina, 1996], 197: 98-106): "Quicumque ergo vel voluntariam paupertatem vel castitatem servant, habent quidem preparatorium perfectionis, set non dicuntur habere statum perfectionis, nisi qui se ex solempni professione ad huiusmodi obligant: secundum aliquid enim solempne et perpetuum dicitur aliquis habere statum, sicut patet de statu libertatis vel matrimonii et similibus."

²⁹ *De perfectione*, c. 18 (B 90: 22-44): "[N]on ergo in aliquo mutatur eius conditio, sicut mutatur eius qui vovet. Nam et apud homines, si quis alicui obsequatur, non ex hoc conditionem mutat; sed si se obligat ad serviendum, iam alterius conditionis efficitur. Sed considerandum quod potest aliquis sibi libertatem adimere vel simpliciter, vel secundum quid. Si enim aliquis se Deo vel homini obliget ad aliquid speciale faciendum et pro aliquo tempore, non simpliciter libertatem amisit, sed solum secundum illud ad quod se obligavit; si autem se totaliter in potestate alterius ponat, ita quod nihil sibi libertatis retineat; simpliciter conditionem mutavit factus simpliciter servus. Sic ergo dum aliquis Deo vovet aliquod particulare opus, puta peregrinationem, aut ieiunium aut aliquid huiusmodi, non

For in human relationships, if one performs an act of obedience to another, this does not cause a change of condition; but if one binds oneself to serve, this does produce a change of condition. But it is necessary to take into consideration that one is able to give away one's liberty either absolutely or relatively. For if someone binds himself to God to do some particular thing and for some time period, he does not give up his liberty absolutely, but only with respect to that to which he has bound himself. If, therefore, he places himself totally in the power of another, so that nothing of his liberty is retained, then he has changed his condition absolutely, having become absolutely a servant. Thus, then, when someone makes a vow to God about some particular work, for example a pilgrimage or a fast or something similar, he has not changed his condition or state absolutely, but only relatively; if, on the other hand, he bound over his whole life to God by a vow, that he might serve him in the works of perfection, then he has absolutely assumed the condition or state of perfection.

“State”

Aquinas (for many reasons) frequently compares the religious state and the married state and likens the religious state to “spiritual knight-hood,”³⁰ comparisons which depend upon the rather peculiar concept of *status*, which denotes civil, moral, and even ontological form in human life. The term “state,” for Aquinas, signifies a certain permanent disposition from which one's fundamental activities are oriented. The human body may be “posed” sitting, lying, or curled up, but it is only “disposed” insofar as it is standing, since it is proper to the human body to be erect—only this has “a certain immobility.”³¹

It is, likewise, in human acts, that a matter is said to have a state according to an ordering of its proper disposition, with certain immobility or rest. Consequently, for human beings, matters which easily change and are extrinsic to them do not constitute a state, for instance that someone be rich or poor, of high or low rank, and so forth. . . . But that alone seemingly pertains to a human state, which regards an obligation binding his person, in so far, namely, as someone is subject to himself or subject to another, not indeed from any slight or easily changeable

simpliciter conditionem vel statum mutavit, sed secundum aliquid tantum.; si vero totam vitam suam voto Deo obligavit ut in operibus perfectionis ei deserviat, iam simpliciter conditionem vel statum perfectionis assumpsit.”

³⁰ *Quodlibet* IV, q. 12, a. 1, ad 18 (354: 632–39): “Ad XVIII dicendum quod status religionis, quantum ad eos qui in eo profecerint, est spiritualis militia; quantum vero ad eos qui de novo intrans, est quasi cuiusdam tyrocinii exercitium et oportet ad maiorem profectum quod a puero aliquis huiusmodi exercitium subeat, sicut et de exercitio militiae temporalis Vegetius docet in libro De re militari.”

³¹ *ST* II–II, q. 183, a. 1.

cause, but from a permanent cause; and this is something pertaining to the nature of freedom or servitude. Therefore state properly regards freedom or servitude whether in spiritual or in civil matters.³²

Aquinas's concept of "state" reflects the fundamental "law of persons" in the Justinian *Institutes*:

In the law of persons, then, the first division is into free men and slaves.

(1) Freedom, from which men are called free, is a man's natural power of doing what he pleases, so far as he is not prevented by force or law;

(2) slavery is an institution of the law of nations, against nature subjecting one man to the dominion of another.³³

Applying this framework to spiritual "estate," Aquinas asserts that there are only two basic options: a person can be free from sin and so enslaved to justice or free from justice and so enslaved to sin.

³² Ibid., "Et inde est quod etiam in ipsis humanis actionibus dicitur negotium aliquem statum habere secundum ordinem propriae dispositionis, cum quadam immobilitate seu quiete. Unde et circa homines, ea quae de facili circa eos variantur et extrinseca sunt, non constituunt statum, puta quod aliquis sit dives vel pauper, in dignitate constitutus vel plebeius, vel si quid aliud est huiusmodi; unde et in iure civili dicitur quod ei qui a senatu amovetur, magis dignitas quam status aufertur. Sed solum id videtur ad statum hominis pertinere quod respicit obligationem personae hominis, prout scilicet aliquis est sui iuris vel alieni, et hoc non ex aliqua causa levi vel de facili mutabili, sed ex aliquo permanente. Et hoc est quod pertinet ad rationem libertatis vel servitutis. Unde status pertinet proprie ad libertatem vel servitutem, sive in spiritualibus sive in civilibus."

³³ *Institutiones* I, 3 (www.faculty.cua.edu/Pennington/Canon%20Law/RomanLaw/DigestCode.htm; translated by J. B. Moyle, 5th edition, [Oxford, 1913]): "Summa itaque divisio de iure personarum haec est, quod omnes homines aut liberi sunt aut servi. (1.) Et libertas quidem est, ex qua etiam liberi vocantur, naturalis facultas eius quod cuique facere libet, nisi si quid aut vi aut iure prohibetur. (2.) Servitus autem est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur." The term used here is *conditio*, which Aquinas recognizes as a synonym of *status*, for example, *Quodlibet* III, q. 6, a. 3 (269: 120–270: 125): "[C]um dicimus aliquos esse in statu perfectionis, accipitur status pro conditione, secundum quod libertas vel servitus dicitur status; prout consuevit dici, quod error personae aut conditionis vel status impedit matrimonium." This concept has not disappeared entirely from the law: see J. Budziszewski, *True Tolerance: Liberalism and the Necessity of Judgment* (New Brunswick [USA] and London [UK]: Transaction Publishers, 2000). Budziszewski cites a U.S. Supreme Court decision of 1888, *Maynard v. Hill*, as support for his contention that marriage is a *status* relationship rather than a *contractual* relationship: "A status relationship differs from a contractual relationship in that its terms are arranged by law or custom rather than by the principals. But although individuals cannot contract the terms of a status, sometimes they can contract to enter it" (15).

Nevertheless, since the human being by natural reason is inclined to justice, while sin is contrary to natural reason, it follows that freedom from sin is true liberty, which is united to servitude to justice, since through both a human being inclines to what is appropriate.³⁴

As with civil state, one option is “natural” and the other “against nature.”

Justice constitutes a “state” when the person possessing justice “is situated in the proper order towards God, neighbor and himself, so that in him the lower powers are subordinated to the superior. . . . And thus, every kind of sin is opposed to this sort of justice, because through any kind of sin something of this order would be corrupted.”³⁵ Likewise, there is a “state” of sin, because “the one who through his own volition falls into mortal sin, places himself in a state from which he cannot be pulled out, except with divine aid: for from this, that he wills to sin, he wills as a consequence to remain perpetually in sin.”³⁶

Marriage is conditioned by questions of “state,” both civil and spiritual. “An error of person,³⁷ or of condition or state is an impediment to matrimony, not, however, an error of fortune or rank.”³⁸ Thus, the person behind

³⁴ ST II–II, q. 183, a. 4: “Veruntamen, quia homo secundum naturalem rationem ad iustitiam inclinatur, peccatum autem est contra naturalem rationem, consequens est quod libertas a peccato sit vera libertas, quae coniungitur servituti iustitiae, quia per utrumque tendit homo in id quod est conveniens sibi.”

³⁵ *De veritate*, q. 28, a. 1 (*Opera Omnia* XXII, 3 [Romae ad Sanctae Sabinae: Editio Leonina, 1972], 819: 141–52): “Tertio modo iustitia nominat quemdam statum proprium, secundum quem homo se habet in debito ordine ad Deum, ad proximum et ad seipsum, ut scilicet in eo inferiores vires superiori subdantur, quod appellat philosophus in V Ethicorum iustitiam metaphorice dictam, cum consideretur inter diversas vires eiusdem personae, [iustitia] proprie dicta semper existente inter diversas personas. Et huic iustitiae omne peccatum opponitur, cum per quodlibet peccatum aliquid de praedicto ordine corrumpatur. . . .”

³⁶ *Super Sent.*, lib. 4, d. 46, q. 1, a. 3 co.: “Qui enim in peccatum mortale propria voluntate labitur, se ponit in statu a quo erui non potest, nisi divinitus adjutus; unde ex hoc ipso quod vult peccare, vult consequenter perpetuo in peccato manere.”

³⁷ *Super Sent.*, lib. 4, d. 30, q. 1, a. 2, ad 5: “Sed si error nobilitatis vel dignitatis redundat in errorem personae, tunc impedit matrimonium; unde si consensus mulieris feratur in istam personam directe, error de nobilitate ipsius non impedit matrimonium. Si autem directe intendit consentire in filium regis, quicumque sit ille, tunc si alius praesentetur ei quam filius regis, est error personae, et impediatur matrimonium.”

³⁸ *Quodlibet* III, q. 6, a. 3 co. (269: 120–270: 125): “[C]um dicimus aliquos esse in statu perfectionis accipitur status pro conditione, secundum quod libertas vel servitus dicitur status; prout consuevit dici, quod error personae aut condicionis vel status impedit matrimonium, non autem error fortune aut qualitatis.” *Super Sent.*, lib. 4, d. 30, q. 1, a. 2 co.: “Duo autem includit matrimonium ipsum; scilicet personas quae conjunguntur, et mutuam potestatem in invicem, in qua matrimonium consistit.

the veil must prove upon the unveiling to be the one you intended to marry, and must be free to marry or else have the consent of those he or she is subject to. If, however, he is not as rich as rumor has it or she lacks sixteen quarterings of nobility, such things are subject to Lady Fortune and mutable, and so not matters of "state."

Further, marriage itself constitutes a different disposition depending on the moral and historical state of humankind.³⁹ Aquinas reports favorably the position that marriage should be assessed in accordance with "a three-fold state": first, in the state "before sin," when it was only a function of nature. Secondly, as "under the law," "where, through its sanctification the marital act was rendered excusable"; and thirdly, "under the state of grace," "where, in addition, it confers grace in order to restrain concupiscence."⁴⁰

While Thomas Aquinas compares the marriage contract and religious profession because each produces a change of state, those changes are not identical.

Both states, namely that of religion and that of marriage, have something similar, namely a perpetual obligation, and thus both are states, as it were, of some servitude. The obligation of matrimony, however is not to the work of perfection, but to render the carnal debt; therefore it is a certain state, but not the state of perfection.⁴¹

If contracting marriage effects "a certain state," what are its characteristics as a state? Does it have eschatological implications as its comparison to the "state" of perfection implies? Thomas Aquinas recognizes certain stages in the life of charity, which, while marking the interior journey of the soul to God, are also made manifest in the life of the Church through

Primum autem tollitur per errorem personae; secundum per errorem conditionis, quia servus non potest potestatem sui corporis alteri tradere sine consensu domini sui; et propter hoc hi duo errores matrimonium impediunt, et non alii."

³⁹ *De veritate*, q. 13, a. 1, ad 1 (*Opera Omnia* XXII, 2; 417:188–192): "Et sic, si in statu viae eleveetur ad hoc quod cognoscat Deum secundum statum patriae, hoc erit contra naturam, sicut esset contra naturam quod puer mox natus haberet barbam."

⁴⁰ *Super Sent.*, lib. 4, d. 2, q. 1, a. 1, qc. 2 co: "Et propter hoc alii dicunt, quod matrimonium consideratur in triplici statu. Primo ante peccatum et tunc erat tantum in officium. Secundo sub lege, ubi ex ipsa sanctificatione sua excusabilem reddebat matrimonii actum, qui absque hoc turpis fuisset. Tertio sub statu gratiae, ubi ulterius gratiam confert ad concupiscentiam reprimendam. . . ."

⁴¹ *De perfectione*, c. 29 (B109: 47–56): "Uterque enim status, scilicet religionis et matrimonii, aliquid simile habet, scilicet perpetuam obligationem; et ideo uterque status est quasi alicuius servitutis. Sed obligatio matrimonii non est ad opus perfectionis, sed ad reddendum carnale debitum: et ideo est quidam status, sed non perfectionis. Status autem religionis habet obligationem ad opera perfectionis, quae sunt paupertas, continentia et obedientia; et ideo est status perfectionis."

the “estates” of its members. Does marrying dispose the couple “with a certain immobility or rest” with respect to the end of this journey?

Aquinas compares the three stages of charity as “spiritual growth” to the stages of human bodily growth, which development, although continuous, has a discernible beginning, middle, and end. The three bodily stages are as follows: (1) “the period of infancy, before one has the use of reason”; (2) “afterwards, another human state can be distinguished when now one begins to speak and to employ reason”; (3) “again, a third state is puberty, when the power to reproduce is present, and thus, the human being goes on from there to reach full development.”⁴² Likewise, the growth of charity can be distinguished into three stages, each characterized by “some determinate actions and pursuits.” In the first or beginner’s stage, the person’s occupation is “chiefly avoiding sin and resisting her concupiscences.” Charity here is a weak infant “needing to be fed and fondled” lest it be destroyed. This stage is succeeded by a second, in which the person’s principal intention is that she should become proficient in the good, strengthening it through increase. The work of the third stage is that the person “primarily intends that she may have union with God and take joy therein.”⁴³ The stages are defined through their primary work and intention: none of them is a pure condition. While the persons who are “beginners” will certainly be progressing, their central preoccupation, however, is resistance to those sins with which they are locked in deadly struggle. Those further along in their

⁴² *ST II–II*, q. 24, a. 9: “[S]pirituale augmentum caritatis considerari potest quantum ad aliquid simile corporali hominis augmento. Quod quidem quamvis in pluri-mas partes distingui possit, habet tamen aliquas determinatas distinctiones secundum determinatas actiones vel studia ad quae homo perducitur per augmentum; sicut infantilis aetas dicitur antequam habeat usum rationis; postea autem distinguitur alius status hominis quando iam incipit loqui et ratione uti; iterum tertius status eius est pubertas, cum iam incipit posse generare; et sic deinde quousque perveniatur ad perfectum. Ita etiam et diversi gradus caritatis distinguuntur secundum diversa studia ad quae homo perducitur per caritatis augmentum. Nam primo quidem incumbit homini studium principale ad recedendum a peccato et resistendum concupiscentiis eius, quae in contrarium caritatis movent. Et hoc pertinet ad incipientes, in quibus caritas est nutrienda vel fovenda ne corrumpatur. Secundum autem studium succedit ut homo principaliter intendat ad hoc quod in bono proficiat. Et hoc studium pertinet ad proficientes, qui ad hoc principaliter intendunt ut in eis caritas per augmentum roboretur. Tertium autem studium est ut homo ad hoc principaliter intendat ut Deo inhaereat et eo fruatur. Et hoc pertinet ad perfectos, qui *cupiunt dissolvi et esse cum Christo*. Sicut etiam videmus in motu corporali quod primum est recessus a termino; secundum autem est appropinquatio ad alium terminum; tertium est quies in termino.”

⁴³ *ST II–II*, q. 24, a. 9.

moral development, the "proficient," will be less troubled by such struggles and can safely fix their sights on the goal: building the moral edifice, to be sure, but keeping one hand close to the sword to guard against an outbreak of their besetting sins. The perfect will also make progress in charity, but this will not be their principal concern, which is focused on cleaving to God. This is, of course, what those at all stages of spiritual growth seek, but they are relatively less free to do so.

When Aquinas turns, at the end of the *secunda pars*, to the consideration of the diversity of graces, lives, states, and offices in the Church, the three grades of charity make another appearance, this time as descriptive of the three states of the Christian life. Aquinas argues that, since spiritual liberty, that is, "liberty from sin, is accomplished through charity. . . there is an identical division of charity and of the states pertaining to spiritual liberty."⁴⁴ There are three "states," then, as defined with respect simply to the goal of the spiritual life: the beginners, the proficient, and the perfect.

This spectrum of spiritual liberty and servitude, for Aquinas, exists in two spheres: (1) the first is interior, where a person's spiritual condition or state is established with respect to divine judgment; (2) the second is concerned with one's exterior actions, where spiritual state is defined in relation to the Church.⁴⁵ In the first sphere, a state of perfection is achieved "through interior spiritual growth"; in the second, through exterior actions,⁴⁶ namely through "binding oneself perpetually with some solemnity to [do] those things which pertain to perfection."⁴⁷ Perfection as an interior state is the goal of all Christians; the ecclesiastical "state of perfection," according to Aquinas, is occupied only by religious "because they bind themselves by vow to refrain from worldly affairs, which they might lawfully use, in

⁴⁴ ST II-II, q. 183, a. 4, ad 1: "Ad primum ergo dicendum quod libertas a peccato fit per caritatem, quae diffunditur in cordibus nostris per Spiritum Sanctum qui datus est nobis, ut dicitur *Ad Rom. V*; et inde est quod dicitur II *ad Cor. III*: *Ubi Spiritus Domini, ibi libertas*. Et ideo eadem est divisio caritatis, et statuum pertinentium ad spirituales libertatem."

⁴⁵ ST II-II, q. 184, a. 4: "Et quia, ut dicitur I *Reg. XVI*, *homines vident ea quae parent, sed Deus intuetur cor*, inde est quod secundum interiorem hominis dispositionem accipitur conditio spiritualis status in homine per comparisonem ad iudicium divinum; secundum autem ea quae exterius aguntur, accipitur spiritualis status in homine per comparisonem ad Ecclesiam."

⁴⁶ ST II-II, q. 184, a. 4, ad 1: "Et similiter per augmentum spirituale interius aliquis adipiscitur perfectionis statum quantum ad divinum iudicium. Sed quantum ad distinctiones ecclesiasticorum statuum, non adipiscitur aliquis statum perfectionis nisi per augmentum in his quae exterius aguntur."

⁴⁷ ST II-II, q. 184, a. 4: "Sic igitur et in statu perfectionis proprie dicitur aliquis esse, non ex hoc quod habet actum dilectionis perfectae, sed ex hoc quod obligat se perpetuo cum aliqua solemnitate ad ea quae sunt perfectionis."

order more freely to give themselves to God"; and by bishops because they bind themselves to a pastoral duty "to which it belongs that a shepherd lay down his life for his sheep."⁴⁸ No classes of persons in the Church are specifically assigned to the state of beginners or that of proficients: this is because "initiation and growth are not sought for their own sake, but for the sake of perfection."⁴⁹

Notwithstanding, it is clear that baptismal vows effect a beginning, committing the person to those things that are required for salvation.⁵⁰ Thus the "state of beginners" would seem to be occupied by those who have made these commitments, but no others, and whose form of life will be determined by the daily battle, undertaken lest they lose charity altogether, with those sins with which they are particularly prone.

Further, we can speculate about the members of the class of "proficients," who, because of further commitments, are able to intend the increase of charity and can keep their eyes on the prize despite its distance. We might begin to populate this class by considering, first, those whom Aquinas finds do not meet the criteria for the "state of perfection." This would include (1) those, in sacred orders, who on account of their care of souls or the Western practice of clerical celibacy, give over some part of their lives to God, but not the whole, as do religious and bishops. "And thus a comparison between the state of religion and their duties is like the universal to the particular and like a holocaust to a sacrifice, which is less than a holocaust."⁵¹ (2) There are also those living a form of religious life which makes use of marriage, who "are not the religious simply and absolutely speaking, but in a restricted sense, in so far as they have a certain share in those things that belong to the religious state."⁵² Both groups

⁴⁸ ST II-II, q. 184, a. 5: "Utrumque autem horum competit et religiosis et episcopis. Religiosi enim se voto adstringunt ad hoc quod a rebus saecularibus abstineant quibus licite uti poterant, ad hoc quod liberius Deo vacent, in quo consistit perfectio praesentis vitae. . . . Similiter etiam episcopi obligant se ad ea quae sunt perfectionis, pastorale assumentes officium, ad quod pertinet ut *animam suam ponat pastor pro ovibus suis*, sicut dicitur *Ioan. X.*"

⁴⁹ ST II-II, q. 184, a. 5, ad 1: "Dicendum quod inchoatio et augmentum non quaeritur propter se, sed propter perfectionem. Et ideo ad solum perfectionis statum aliqui homines cum quadam obligatione et solemnitate assumuntur."

⁵⁰ ST II-II, q. 88, a. 2, ad 1: "Dicendum quod sub voto baptizatorum cadit abrenuntiare pompis diaboli et fidem Christi servare, quia voluntarie fit, licet sit de necessitate salutis."

⁵¹ ST II-II, q. 184, a. 8: "Et ideo comparatio status religionis ad eorum officium est sicut universalis ad particulare, et sicut holocausti ad sacrificium, quod est minus holocausto. . . ."

⁵² ST II-II, q. 186, a. 4, ad 3: "Dicendum quod illi modi vivendi secundum quos homines matrimonio utuntur, non sunt simpliciter et absolute loquendo religiones,

seem to be characterized by perpetual commitments which make over some part of their liberty to God, but do not render them "simply servants," like those in the state of perfection.

Since it is the perpetual and irrevocable nature of the *pactio conjugal*is which makes it comparable to vows undertaken in religious profession, it seems reasonable that on Aquinas's terms, it effects a change of eschatological state from beginning to proficient. The relationship in marriage has "inseparability,"⁵³ a term which Aquinas uses only to describe "state," with reference to the state of perfection, matrimony, and the Trinity. Indeed, this characteristic of marriage "is chiefly caused insofar as it is a sign of the indissoluble relationship between Christ and His Church."⁵⁴

Further, Aquinas uses marriage as an example of a change of state, which although celebrated with solemnity, does not place the participants in the state of perfection, but in a state of "striving" for perfection (*statum quemcumque adipiscentibus*).⁵⁵ In another place, Aquinas describes the

sed secundum quid, inquantum scilicet in aliquo participant quaedam quae ad statum religionis pertinent."

⁵³ *Super Sent.*, lib. 4, d. 31, q. 1, a. 3 co: "Si autem dicatur principalius quod est essentialius, sic distinguendum est: quia fides et proles possunt dupliciter considerari. Uno modo in seipsis; et sic pertinent ad usum matrimonii, per quem et proles producit, et pactio conjugalis servatur; sed indivisibilitas, quam sacramentum importat, pertinet ad ipsum matrimonium secundum se; quia ex hoc ipso quod per actionem conjugalem sui potestatem sibi invicem in perpetuum conjuges tradunt, sequitur quod separari non possint; et inde est quod matrimonium nunquam invenitur sine inseparabilitate; invenitur autem sine fide et prole, quia esse rei non dependet ab usu suo; et secundum hoc sacramentum est essentialius matrimonio quam fides et proles. Alio modo possunt considerari fides et proles secundum quod sunt in suis principiis, ut pro prole accipiatur intentio prolis, et pro fide debitum servandi fidem; sine quibus etiam matrimonium esse non potest, quia haec in matrimonio ex ipsa pactione conjugali causantur; ita quod si aliquid contrarium hujusmodi exprimeretur in consensu qui matrimonium facit, non esset verum matrimonium; et sic accipiendo fidem et prolem, proles est essentialissimum in matrimonio, et secundo fides, et tertio sacramentum; sicut etiam homini est essentialius esse naturae quam esse gratiae, quamvis esse gratiae sit dignius."

⁵⁴ *Super Romanos*, c. 7, lect 1. (www.corpusthomicum.org/opera.html): "Alligata est legi, scilicet qua tenetur convivere viro, secundum illud Matthaei XIX, 6: *quos Deus coniunxit, homo non separet*. Et haec quidem inseparabilitas matrimonii praecipue causatur in quantum est sacramentum coniunctionis indissolubilis Christi et Ecclesiae, vel verbi et humanae naturae in persona Christi. Eph. V, 32: *sacramentum hoc magnum est in Christo et Ecclesia*, etc."

⁵⁵ *De perfectione*, c. 28 (B107: 13–27): "Ubi primo considerandum est, quod solemnis consecratio aut benedictio non est causa quod homo sit in statu perfectionis, sed inducitur quasi signum. Non enim adhibetur nisi illis qui in aliquo statu ponuntur; non quidem semper in statu perfectionis existentibus, sed statum quemcumque adipiscentibus. Hi enim qui matrimonio iunguntur, in statu aliquo

second effect of love as *caritas proficiens* “because the primary work in this state is ‘striving’ after goods” (*quia in hoc statu praecipua cura est de adipiscendis bonis*).⁵⁶ If the married state is one of those states structured to strive after perfection, and if the mark of those states is “love proficient,” rather than merely “love beginning,” yet short of “love perfected,” it appears that entering into marriage does effect a change of eschatological state from beginning to proficient.

Conclusion

Aquinas’s preoccupation with what may seem an accident of medieval law and society, namely, a person’s “state,” is, on the contrary, a significant element of his moral theory and one with contemporary lessons. Why he finds it so important emerges explicitly in answering an objection to the requirement of perpetual continence for religious perfection, which argues that Abraham, a married man, was the “first exemplar of perfection shown to us.” What the patriarchs were capable of, Aquinas replies, should not lead the weak to presume that they can reach perfection loaded down with the baggage of money and marriage. “So neither does a man unarmed presume to attack his enemy, just because Samson slew many foes with the jaw-bone of an ass.”⁵⁷

The human condition is dangerous: reason and revelation alike bid us to make provision for our spiritual as well as physical survival. Under the New Law⁵⁸ we can freely put aside some portion or even all of our freedom to face each incipient temptation with a new and undeliberated response. We can put it aside for now or forever. This act of binding ourselves with respect to the means of salvation constitutes a strategy,

ponuntur, quia ex tunc vir non habet potestatem sui corporis, similiter neque mulier, ut dicitur I Cor. VII: est enim in matrimonio perpetua obligatio unius ad alterum, ad quam significandam ab Ecclesia solemnis benedictio nuptiarum exhibetur; non tamen in statu perfectionis ponuntur, sed in statu matrimonii.”

⁵⁶ *Super Sent.*, lib. 3, d. 29, q. 1, a. 8, qc. 1 co: “Secundus effectus est ut jam fiduciam de liberatione peccatorum habens ad bonum adipiscendum se extendat; et quantum ad hunc effectum dicitur caritas proficiens: non quin in aliis statibus proficiat, sed quia in hoc statu praecipua cura est de adipiscendis bonis, dum homo semper ad perfectionem anhelat.”

⁵⁷ *ST II-II*, q. 186, a. 4, ad 2: “[S]icut nec aliquis praesumit hostes inermis invadere quia Samson cum mandibula asini multos hostium peremit.”

⁵⁸ Cf. *Super Sent.*, lib. 4, d. 30, q. 2, a. 1, qc. 1, ad 1 and 2: “Ad primum ergo dicendum, quod beata virgo fuit confinium veteris et novae legis, sicut aurora diei et noctis; et ideo votum ejus sapuit novam legem, inquantum virginitatem vovit; et veterem, inquantum conditionem apposuit. Ad secundum dicendum, quod perfectio consiliorum quantum ad consummationem incipere debuit a Christo; sed quantum ad aliquam inchoationem convenienter a matre ejus incepit.”

either for now or for the long haul. The more we commit and the more irrevocably we commit it, the greater the strength of our disposition towards the final end of human striving. Indeed, any good thing surrendered simply and perpetually establishes a base from which the ordering of one's life—one's possessions, one's body, and even the will—can begin. Thomas Aquinas, the great defender of religious life, nevertheless, recognizes that sacramental marriage is similarly architectonic. **N-V**