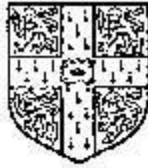


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The nature of dominion in *De Justa Christianae Reipublicae  
Auctoritate* (1590)

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The anonymous author of *De Justa Christianae Reipublicae Autoritate* (DJRCA) was a member of the 'sainte union', or Catholic League as it is better known in Anglophone scholarship. This fact has affected scholars' reading of the text in a number of ways. It is generally viewed as more 'moderate' than its companion text, Jean Boucher's *De Justa Abdicatione Henrici Tertii* (1589), and more scholarly.<sup>1</sup> It is regarded as offering a theory of political resistance comparable to Huguenot texts of the 1570s.<sup>2</sup> This in turn has led to characterisations of proto-democratic ideals, 'constitutionalism' and resulted in interpretations of the text as part of a broader tendency in Leaguer theory to radical, violent, even anarchic politics.<sup>3</sup>

The analysis offered in this paper suggests that some of these ideas need re-thinking, and that Calvinist 'resistance theory' is not the correct intellectual context

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<sup>1</sup> The eighteenth-century French theologian and historian Louis-Pierre Anquetil argued that both these books were 'equally bad in terms of their principles', but that 'one is the work of a man of genius, the other the production of an erudite pedant.' L-P Anquetil, *l'Esprit de la Ligue, ou, Histoire politique des troubles de la France, pendant les XVI & XVII<sup>e</sup> siècles* (3 vols., Paris 1767), vol. 1, pp. xxix-xxx.

<sup>2</sup> 'It was one of the ironies of the time [of the wars of religion] that, in the second half, some French Protestant writers turned to support royal authority while their most bitter enemies among Catholic enthusiasts occupied the vacant ground with Catholic theories of resistance.' Salmon identifies three common strands in Huguenot and Catholic 'resistance theory': resistance against Machiavellian advisors who usurped royal authority; constitutional opposition to a king who overstepped the legal limits of his authority; communal defence against a tyrant in the name of 'popular sovereignty.' J.H.M. Salmon, 'Catholic resistance theory, Ultramontanism, and the royalist response, 1580-1620' in (ed.) J.H. Burns, with the assistance of Mark Goldie, *The Cambridge History of Political Thought, 1450-1700* (Cambridge 1991), pp. 219-153.

<sup>3</sup> Anquetil, *L'Esprit de la ligue*; C. Labitte, *De la démocratie chez les pasteurs de la Ligue* (Paris 1849); G. Weill, *Les théories sur le pouvoir royal en France pendant les guerres des religion* (Paris 1892). A particular emphasis on the zealous violence of the Leaguers characterised twentieth-century French scholarship in the 'eighties and 'nineties. See in particular E. Barnavi and R. Descimon, *La Sainte Ligue, le juge et le potence* (Paris 1985); E. Barnavi, *Le parti de Dieu. Étude sociale et politique des chefs de la Ligue parisienne, 1585-1594* (Louvain 1980); D. Crouzet, *Les guerriers de Dieu: la violence au temps des troubles de religion vers 1552-vers 1610* (2. vols, Paris 1990); R. Descimon, *Qui étaient les Seize? Mythes et réalités de la Ligue parisienne, 1585-1594* (Paris 1983).

in which to read this text. The habit of analysing *De Justa Abdicatione* and *DJRCA* in tandem is one of the reasons why the latter has been treated as resistance theory in the Calvinist vein (Boucher's text being, as William Barclay first suggested, heavily dependent on those Huguenot treatises he labelled *monarchomach*).<sup>4</sup> In this way the 'constitutionalism' of Calvinist resistance theory also becomes that of the League.<sup>5</sup> This paper does not frame its analysis with this constitutional concept, but instead argues that *DJRCA* operates within a framework of Thomist-Aristotelian thought which is more redolent of the work of the second Scholastic than the *Francogallia* (1573), *Vindiciae, Contra Tyrannos* (1579) or *De Jure Magistratuum* (1574).<sup>6</sup>

*DJRCA* first appeared in early 1590.<sup>7</sup> Published in Paris, it was dedicated to the Duc de Mayenne, who had been head of the Catholic League since 1588.<sup>8</sup> Several months

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<sup>4</sup> W. Barclay, *De Regno et Regali Potestate* (Paris 1600). Another contemporary, Palma Cayet, also heard strong echoes of Huguenot rebellion. He compared Leaguer works to François Hotman's *Francogallia* (1573) in their use of faith and the concept of the common good as an excuse to disrupt and manipulate the laws of the French succession. P. Cayet, *Chronologie novenaire, contenant l'histoire de la guerre sous le regne du tres-chrestien roy de France & de Navarre, Henry III: et les choses les plus memorables aduenuës par tout le monde, depuis le commencement de son regne, l'an 1589, iusques à la paix faicte à Veruins en Iuin 1598, entre Sa Majesté Tres-chrestienne, & le roy catholique des Espagnes, Philippes II* (3 vols., Paris 1608) vol. 1, *avant-propos*, no pag.

<sup>5</sup> R. Murray, *The Political Consequences of the Reformation. Studies in sixteenth century political thought* (London 1926), pp. 213-214; Salmon, 'Catholic resistance theory', pp. 219-220; Q. Skinner, *The Foundations of Modern Political Thought, Volume Two, The Age of Reformation* (Cambridge 1978), p.345. On this question of 'constitutionalism' and its difficulties with particular reference to the *Foundations*, see A. Brett, 'Scholastic political thought and the modern concept of the state' in A. Brett and J. Tully (eds.), *Rethinking the Foundations of Modern Political Thought* (Cambridge 2006), pp. 138-140.

<sup>6</sup> The most recent work on Huguenot 'monarchomach' thought is P-A. Mellet, *Les Traités Monarchomaques. Confusion des temps, résistance armée et monarchie parfaite (1560-1600)* (Geneva 2007).

<sup>7</sup> The edition to which I will refer is the following: 'G. Rossaeus', *De Justa Reipublicae Christianae in Reges Impios et Haereticos Autoritate. Justissimaque Catholicorum ad Henricum Navarreum & quemcunque haereticum à regno Galliae repellendum confoederatione* (Paris 1590).

<sup>8</sup> The dedication is no particular indication of partisanship. Mayenne's leadership subsequently became fraught by the increasingly fractured state of the League in the 1590s, particularly after the 'siege' of Paris and the assassination of Brisson. I mentioned above that scholarship treats *DJRCA* as a 'moderate' piece, which I take to imply alignment with the aristocratic, less extreme wing of the League associated with Mayenne. I don't think we can take this argument very far on the basis of the

prior to its publication, in August 1589, the Dominican Jacques Clement had assassinated Henri III, apparently inspired to the act by his contact with members of the League.<sup>9</sup> Scholarship absorbs the text into discussions of legitimate tyrannicide, and has presented *DJRCA* as one of the more sophisticated examples of the genre.<sup>10</sup> In this paper I would like to suggest that the author's discussion of tyrannicide is, as its title indicates, part of a much broader consideration of the status of the French Catholic commonwealth. A Latin tome of over 800 pages, this text was intellectually rich enough both to be read as a part of the circumstantial League polemic on the assassination and as an engagement in European debates over the relationship between temporal and spiritual powers, and the limits of these respective jurisdictions. Frederic Baumgartner and Pierre Mesnard suggested similarities to the work of Robert Bellarmine, and Mesnard also hints towards Francisco Suarez.<sup>11</sup> In asking questions about the original foundations of political communities, the 'end' - in the eschatological sense - of political life for Catholic citizens and the laws

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dedication without knowing the author's identity. Nevertheless, it is of course worth bearing in mind as a possibility.

<sup>9</sup> N. Le Roux, *Un régicide au nom de Dieu. L'assassinat d'Henri III* (Paris 2006) offers an analysis of the assassination and its ramifications.

<sup>10</sup> J.W. Allen, *A History of Political Thought in the Sixteenth Century* (London 1928), pp. 343-366; Baumgartner, *Radical reactionaries*, pp.145-160; J.N. Figgis, *From Gerson to Grotius, 1414-1625* (second ed., Cambridge 1916), pp.180-189; Salmon, 'Catholic resistance theory'; P. Mesnard, *l'Essor de la Philosophie Politique au XVI<sup>e</sup> siècle* (Paris 1936), pp.371-385; Skinner, *Foundations*, vol.2, p.345. Salmon, Skinner, Figgis and Mesnard suggests that Boucher and the author of *DJRCA* took their intellectual prompt from the Calvinist theory of revolution which, as we shall see, is not the case for *DJRCA*. More recently there is M. Penzi and J.J. Ruiz Ibáñez, 'Ius populi supra regem. Concepciones y usos políticos del pueblo en la liga radical católica francesa (1580-1610)' in *Historia contemporánea* (2004), pp. 111-145, which offers an alternative and interesting discussion arguing for the primacy of the city as representative of the people in discussions of 'radical' League political theory.

<sup>11</sup> Baumgartner, *Radical Reactionaries*, p.235; Mesnard, *l'Essor de la Philosophie Politique*, pp. 380-85. The questions of the precise intellectual connections between these thinkers, as well as the question of Bellarmine's involvement in the League polemic as 'Romulus' will be the subject of a future paper.

governing a Christian polity it is clear that the author was doing far more than legitimise the assassination of heretic kings.

## **I. The text and its authorship**

*DJRCA* was published in two editions, the first in Paris in 1590 and the second in Antwerp in 1592, edited by William Gifford (1554-1629). The author was signed G.G.R.A. *Peregrinus Romanus* in the first edition, and 'Guilielmus Rossaeus' in the second. The initials have led scholars to argue that the author was either the Bishop of Senlis, Guillaume Rose (1542-1602), or the English Catholic exile William Rainolds (1544-1594).<sup>12</sup>

Thomas Morton (1564-1659) was the first to identify 'Rossaeus' as William Rainolds in 1605, and Robert Persons (1546-1610) followed his cue in their exchanges of the early seventeenth century, as did several others.<sup>13</sup> Mcllwain takes this to be conclusive evidence for his authorship, and certainly it is more convincing than the case for Rose which – as many scholars have noted, is dubious.<sup>14</sup> However, as Salmon has pointed out, Persons had also claimed that William Gifford wrote the

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<sup>12</sup> Gilbert G  n  brard, William Gifford and Jean Boucher have also been suggested as possible authors, but the strongest cases have been made for Rainolds and Rose. Treatments of this question of authorship are found in Labitte, *De la d  mocratie*, pp. 295-299; C.M. Mcllwain, 'Who was Rossaeus?' in his *Constitutionalism and the Changing world* (Cambridge 1939), pp.178-182; Baumgartner, *Radical Reactionaries*, pp.145-147; T.H. Clancy, *Papist Pamphleteers. The Allen-Persons party and the political thought of the Counter-Reformation in England, 1572-1615* (Chicago 1964), pp.59-60. Georges Weill and more recently, Thierry Amalou have attributed *DJRCA* to Guillaume Rose: Weill, *Les Th  ories sur le Pouvoir Royal*, p.237; T. Amalou, *Le Lys et la Mitre; Loyalisme monarchique et pouvoir   piscopal pendant les guerres de Religion (1580-1610)* (Paris 2007), p. 92. Labitte and Allen considered the evidence on Rose dubious: Labitte, *De la d  mocratie*, pp.296-297; Allen, *A History of Political Thought*, p.351, n.51.

<sup>13</sup> Mcllwain explores this evidence in 'Who was Rossaeus?', pp.179-182.

<sup>14</sup> Labitte, *De la d  mocratie*, pp.296-297; Allen, *A History of Political Thought*, p.351, n.51.

work in his *A Manifestation of the Great Folly of Certayne Secular Priestes* (1602).<sup>15</sup>

Given that Persons was at Douai with both Gifford and Rainolds, it is disconcerting that he was unable to attribute authorship to either one definitively. However, Gifford did take an active role in editing the second edition of the text. It is a possibility we cannot entirely discount that Rainolds and Gifford perhaps collaborated on the work.

All we know for certain about our author's identity was that he had Burgundian blood, for he says so himself.<sup>16</sup> Certainly it seems more likely that the author was French, despite his breadth of knowledge of English and Scottish affairs. Whilst an English author of the work is a possibility, it would be unusual for an exile to be so deeply engaged with France and its future. Given the uncertainty surrounding the authorship of the text, I will continue to refer to the author as Rossaeus.

*DJRCA* is composed of twelve chapters in the 1590 edition and eleven in the 1592 edition. Whether by choice of the author or Gifford's editing, the tenth, and most controversial, chapter justifying legitimate tyrannicide has been removed from the second edition.<sup>17</sup> This indicates that the work need not be read solely in the context of its dramatic analysis of tyrannicide, and directs the reader's attention to Rossaeus' concept of monarchical authority, and the problem of heresy, in a Catholic

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<sup>15</sup> J.H.M. Salmon, *The French Religious Wars in English Political Thought* (Oxford 1959), p.75, n.27. Salmon later leaned more towards Rainolds as the probable author of *DJRCA*: J.H.M. Salmon, 'An alternative theory of popular resistance: Buchanan, Rossaeus and Locke' in his *Renaissance and revolt: essays in the intellectual and social history of early modern France* (Cambridge 1987), p.138, n.9.

<sup>16</sup> *DJRCA*, fol. 475v.

<sup>17</sup> The title of this chapter is as follows: *Contra furiosam Protestantium opinionem de regibus Christianis Evangelio suo adversariis, quos tyrannos vocant, per privatos homines quoscunque iugulandis: & quemadmodum verus tyrannus iure & recte a privato potest interfici.*

commonwealth more generally. The notion of the 'just' Christian commonwealth provides the structure for *DJRCA*. In this sense it gives all the appearance of what might be considered to be a humanistic discussion of the best-ordered commonwealth, and comparable in that stylistic sense to Juan de Mariana's *De Rege et Regis Institutione* (1598).<sup>18</sup> However Rossaeus combines the kind of historical analysis we are used to associating with humanist discussions of civil life with a theoretical understanding of political society which comes from the second Scholastic.<sup>19</sup>

The theme of the preface of *DJRCA* is war, and particularly the idea of the just religious wars in history waged on behalf of the Christian faith. This consideration of the fortunes ruled by Mars dovetails with those of Minerva. Rossaeus shows that the cardinal virtues, combined with a clear sense of the worthiness of the cause are essential attributes of Christian warfare. Thus Rossaeus sets the tone of his work as an intellectual offering to war: an instruction to the faithful in their duties and reasons for fighting against those seeking to destroy the commonwealth.

The first three chapters of *DJRCA* deal with the origins and power of commonwealths, the power of kings and the definition of tyrants. The following two then turn to the problem of the new faith, first defining Calvinists as pagans, then

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<sup>18</sup> Interestingly, Mariana was clearly familiar with *DJRCA* when he wrote his *De Rege*. His work was also compared by contemporaries to that of Boucher. For recent thoughts on Mariana, see H. E. Braun, *Juan de Mariana and early modern Spanish political thought* (Aldershot 2007) and F. Gabriel, 'Réalisme politique et rationalité: Juan de Mariana entre royauté et respublica', in A. Molinié; A. Merle; A. Guillaume-Alonso, (eds.), *Les Jésuites en Espagne et en Amérique: jeux et enjeux du pouvoir (XVIe-XVIIIe siècles)* (Paris 2007), pp. 141-159.

<sup>19</sup> Frédéric Gabriel has also made this point regarding Mariana, alerting us to the importance of the thought of the second Scholastic in *De Rege*. Gabriel, 'Réalisme politique', *passim*.

arguing that the French Huguenots can neither properly be called Christian, nor French. The following three chapters, and the penultimate, focus on Navarre's faults as a ruler, and his heresy in particular, as well as a more general discussion of the evils of heretic kings. They include a chapter on the question of whether or not the pope can legitimately excommunicate a heretic king – a question I have treated elsewhere in the context of the League.<sup>20</sup> The tenth chapter, at the peak of Rossaeus' anti-heretical fervour, is the notorious one on tyrannicide. Finally he concludes with a call to arms and a rallying of the faithful to join the League against Navarre. As the scope of the text is vast, this article focuses in particular on Rossaeus' concepts of community and dominion in the Catholic commonwealth.

## **II. The natural political community**

Very few political thinkers in this period do not start their own analysis with the idea of a natural, rational impulse implanted in man by God to form into a community. Those who don't, such as Machiavelli, stand out for their rejection of the idea that natural law underpins political life. On the other hand, simply because a thinker understands political existence to be natural does not mean they produce similar theories. For example, Jean Bodin argued from natural genesis, but produced a very different theory to that of Rossaeus.<sup>21</sup> The argument of *DJRCA* is distinctive not because it assumes that man is naturally a political animal but because the way

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<sup>20</sup> 'Gallican Liberties and the Council of Trent' in S. Nicholls, *France and the Catholic League, 1576-1594* (Unpublished PhD dissertation, University of Cambridge 2011), pp.97-138.

<sup>21</sup> For a discussion of Bodin's theory of nature and concept of sovereignty see J. Chantier, 'La loi naturelle et la souveraineté chez Jean Bodin' in *Théologie et droit dans la science politique de l'état moderne. Actes de la table ronde organisée par l'école française de Rome avec le concours de CNRS* (Rome 1991), pp.283-294.



in which this assumption is put to work suggests profound engagement with Aristotle's *Politics* and *Nicomachean Ethics*, with Thomas Aquinas' *Summa Theologiae* and with the thinkers associated with the second Scholastic, for whom these texts are foundational. Our author is steeped in theological, legal, classical and historical learning: my argument is not that these sources are important to the exclusion of all else, but that they provide the framework for the text.

The revival of Thomist study in the early sixteenth century had its beginnings with the decision of theologians such as Pierre Crockaert (c.1465-1615), at the University of Paris, to abandon the convention of lecturing on Peter Lombard's *Sentences* and instead comment on the *Summa Theologiae* of Thomas Aquinas.<sup>22</sup> Crockaert's decision had profound repercussions, most clearly demonstrated by the work of his student, Francisco de Vitoria, who was to become one of the central figures of the movement known as the second scholastic.<sup>23</sup> He and his equally influential colleague Domingo de Soto had both studied at Paris before returning to teach in Spain. Similarly, their students travelled to France.

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<sup>22</sup> On the revival of Thomism see Skinner, *Foundations*, vol. 2, pp.135 –173.

<sup>23</sup> Vitoria never published in his lifetime and the *Relectiones* as we have them are the notes taken down by his students. Five thousand students are estimated to have attended his lectures at one point or another, and twenty-four of his pupils held university chairs at Salamanca. Works on the thought of Vitoria and Soto include A. Brett, *Liberty, Right and Nature: Individual rights in later Scholastic thought* (Cambridge 1997); 'Individual & community in the 'second scholastic': subjective rights in Domingo de Soto & Francisco Suarez' in C. Blackwell, S. Kusukawa (eds.), *Philosophy in the sixteenth and seventeenth centuries: conversations with Aristotle* (Aldershot 1999); B. Hamilton, *Political Thought in Sixteenth-Century Spain. A study of the political ideas of Vitoria, De Soto, Suarez, and Molina* (Oxford 1963); Mesnard, *L'Essor sur la Philosophie Politique*, pp.454-472; Skinner, *Foundations*, vol. 2, ch.5 'The Revival of Thomism'; B. Tierney, 'Vitoria and Suarez on *ius gentium*, natural law, and custom' in A. Perreau-Saussine and J Murphy (eds.), *The Nature of Customary Law* (Cambridge 2007).

By the 1570s and 80s, the mode of thinking associated with the second scholastic was firmly established. Figures such as Spanish Jesuit Juan Maldonado (1533-1583), who studied theology at Salamanca under Soto and Francisco de Toledo (1532-1596), and who would become the first Jesuit Cardinal, particularly helped the cross-pollination of Spanish and French thought in this period. In 1563 Maldonado took up a position to teach philosophy at the Jesuit Collège de Clermont. From 1565-1573 he was professor of theology and extremely influential amongst the Parisian intelligentsia, his lectures so popular that places had to be booked in advance.<sup>24</sup> French thinkers such as Thomas Beauxamis (1524-1589), François de Feuardant (1539-1610) and Gilbert Génébrard (c.1537-1597) were also figureheads in France at the time for the revival of Thomism. The latter two were staunch supporters of the League.<sup>25</sup>

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<sup>24</sup> P.J.M. Prat, *Maldonat et l'université de Paris au XVI<sup>e</sup> siècle* (Paris 1856), p.187.

<sup>25</sup> Thomas Beauxamis was a theologian of the Carmelite order, and positioned himself against the more extreme elements of the League. In 1575 he wrote a pamphlet entitled: *Remonstrance au peuple françois, qu'il n'est permis à aucun sujet, sous prétexte que ce soit, de rebeller ni prendre les armes contre son Prince et Roy* (Paris 1575), which was continuously re-printed throughout the League era. Feuardant was a Franciscan preacher, known in particular in the period for his vociferous anti-Calvinist sermons. On his role as a League preacher see M. Armstrong, *The Politics of Piety, Franciscan preachers during the Wars of Religion, 1560-1600* (Woodbridge 2004). Works include *De Sacrorum bibliorum autoritate, veritate, utilitate, obscuritate ac interpretandi ratione* (Paris 1589); *Response chrestienne et modeste aux lettres et questions d'un gentilhomme estant lors de la nouvelle prétendue religion et maintenant bien réuni à l'Église et foy catholique* (Paris 1597); *Dialogi septem, quibus ducenti calvinianorum gravissimi errores perspicue refelluntur et solide confutantur* (Cologne 1594). Génébrard was appointed Professor of Hebrew at the *Collège Royale* in 1563 and counted François de Sales amongst his most famous students. He became a member of the League in 1588 and was made Archbishop of Aix in 1591 by Gregory XIII. Although he submitted to Navarre's monarchy in 1593 this did not prevent him from being banished from Aix by the local parliament in 1596 after he published his *De Sacrarum Electionum Iure et Necessitate ad Ecclesiae Gallicanae redintegrationem* (Paris 1593) which argued that bishops should be elected by the clergy and people, not by the king. Thierry Amalou writes about this episode in his 'Le bannissement d'un chef ligueur: Gilbert Génébrard, archevêque d'Aix devant le parlement de Provence', *Les Ligues catholiques et leurs alliés dans la France des guerres de religion*, colloque international organisé par l'Université Paul Valéry-Montpellier III (4-5 avril 2008), my thanks to Thierry for giving me a copy.

Rossaeus' *DJRCA* ought to be read in the context of this revival of the thought of Thomas Aquinas. As well as being surrounded by French intellectuals who were part of this revival, it is certain that he would have access to the material of Spanish thinkers such as Vitoria and Soto. Vitoria's *Relectiones* were published in Lyon – a League publishing centre – in 1586 and 1587, as was Soto's *De Iustitia et Iure* in 1582.<sup>26</sup> The Spaniards from Salamanca make a particularly interesting case because they were perceived as controversial. Soto's published works found an audience only within certain elite circles.<sup>27</sup> This is a clear indication that Rossaeus was intending to engage with a readership of the intelligentsia which would have both included and reached beyond the immediate circle of the League. The sources he was using suggest that we should be reading *DRJCA* as part of the wider context of these innovative attempts in Catholic European circles to re-think the political community.

Our first indication in *DJRCA* that Rossaeus was indeed thinking in Thomist terms is his discussion of the genesis of the political community. In his opening chapter, Rossaeus acknowledges the fact that there is nothing particularly striking about claiming that civil society is made and ordered by nature.<sup>28</sup> He refers to Plato, Aristotle, Theophrastus and Cicero on this point, but it is striking that shortly after

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<sup>26</sup> D. Pallier, *Recherches sur l'imprimerie à Paris pendant la Ligue (1585-1594)* (Geneva 1975) is an unsurpassed source on the publishing strategy of the League.

<sup>27</sup> H.-J. Martin, *Livre, pouvoirs et société à Paris au xvii<sup>e</sup> siècle (1581-1701)* (2 vols., Geneva 1969), vol. 1, p.16.

<sup>28</sup> *DJRCA*, fol. 1r-v. 'Neminem arbitror aliquando considerasse paulo diligentius hominis originem & conditionem qui non statim adverterit eum a natura ad civilem societatem fuisse factum & ordinatum. Neque hoc viderunt solum excellentes illi Philosophi, Platones, Aristoteles, Theophrasti, Cicerones, qui ingeniorum acumine & altitudine potuerunt in abdita naturae mysteria penetrare, sed alii etiam omnes quicunque; mediocri intelligentia praediti res obvias & communi vitae consuetudine tritas voluerunt attendere.'

he explicitly quotes the first book of the *Politics* and Aristotle's suggestion that 'among all men...there is a natural impulse towards this kind of association.'<sup>29</sup> It is further striking that in this first section of the first chapter Rossaeus establishes that this impulse to unite contractually in one place, equally, into the body of a commonwealth is both rational and universal. Finally, he clarifies that this political body is formed with the intentions of the good (*bonum*) and *salus* of the whole.<sup>30</sup> *Salus* here has a dual sense: referring both to the *salus populi*, the wellbeing of the people but also to the salvation of the soul. I take this is a very clear indication that Rossaeus was working with the medieval heritage of Thomist-Aristotelian thought which was being so heavily discussed across Europe in this period.

Before taking the analysis further, it will be helpful to be clear what Aquinas had to say on this matter of the natural genesis of civil society. Aquinas had influentially taken Aristotle's idea that 'man is by nature a social and political animal who lives in a community' (using William of Moerbeke's Latin edition of *The Politics*, c.1260) and further suggested that Christian grace perfects that natural status. He argued that the political community sprung from natural necessity, tracing the natural impulse of man to form from a dispersed multitude into a society. In the best scenario, Aquinas argued that this natural society should be ruled by a monarchy in harmonious, ordered unity (for which argument he misrepresented Aristotle as an unequivocal monarchist). Putting this notion of political order onto an eschatological scale, Aquinas used Aristotle's notion of the contemplative and the

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<sup>29</sup> Aristotle, *The Politics*, (trans.) T. Sinclair (revised edn., London 1992), p.61; *DJRCA*, fol. 2v.

<sup>30</sup> *DJRCA*, fol. 1r-4r.

active ‘ends’ for mankind from the *Nicomachean Ethics*, and mapped these onto man’s spiritual and temporal functions within the Christian tradition. Aquinas thereby created a space for political life with a temporal value of its own, following Aristotle in suggesting that nature was an end in itself, but further suggesting that such a life was also infused with the possibility of contributing towards man’s spiritual end.<sup>31</sup> In this paper I understand Rossaeus to handle Aristotle’s texts both as a part of, and independently from, this thirteenth-century interpretation – thus indicating his familiarity with the contemporary work of the second scholastics.

To return to the opening chapter of *DJRCA*, if we look closer it appears that Rossaeus is offering his reader a version of *De Regimine Principum*, a work attributed to Aquinas (see n.31) and equally familiar to Vitoria and Soto. The discussion makes it clear that nature propels humans towards civil society but the initial impulse is to form into a community, prior to the establishment of the institutional trappings of a constitution. Rossaeus begins by picking up on a point made strongly in *De Regimine Principum*, that man is naturally inept at providing for his own survival without the support of a community. Unlike other animals, man does not have the

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<sup>31</sup> This is necessarily a very condensed description. Particular passages from the *Summa Theologiae* I have in mind are as follows: Ia 96 art.4; IaIIa 90 art.2; IaIIa 91 art 2; IIaIIa 104 art.1; IaIIa 92 art.1 IIaIIa 58 art. 9 ad.3; IIaIIa 66 art.1; and *De Regimine Principum*, *passim*. *De Regimine Principum* is an unfinished work attributed to Aquinas. It appeared in the first collections of his works circulating towards the end of the 13<sup>th</sup> century. At the beginning of the 14<sup>th</sup> century Ptolomy of Lucca’s completed version appeared as *De Regimine Principum*, but the work is also referred to in modern scholarship as *De Regno*, partly to avoid confusing it with Giles of Rome’s treatise of the same title. For scholarship on the significance of the intellectual heritage of *De Regimine Principum* (and of Giles of Rome’s text) see M. Senellart, *Les Arts de Gouverner. Du regimen médiéval au concept de gouvernement* (Paris 1995), pp.155-205. Senellart takes an interesting view that the innovations of Aquinas in political thought place him alongside the likes of Machiavelli, not in similarity of ideas, but in terms of inventing a new language for discussing the political sphere and for being the first to ‘pose the problem of the state.’

natural ability to provide his own necessities for living.<sup>32</sup> Whereas the bull has its horns, a boar its tusks and a lion its teeth and can rely on strength to survive, man is brought into the world weak, distressed and wholly reliant on others.<sup>33</sup> This is a commentary on Aquinas' idea, borrowed from Aristotle, of natural necessity: the notion that it is necessary for man to live in a community in order to survive. Rossaeus further demonstrates his familiarity with Aquinas by arguing that no-one can be a part of the body (of the community) who does not need the help of another in the preservation of their own self.<sup>34</sup> Aquinas had argued in his *Summa Theologiae* that preservation of self was the most fundamental law of nature (thus suicide is the most unnatural act).<sup>35</sup> In supplying a natural deficit, the political community thereby becomes man's most natural way of life. As we shall see, this idea was also strongly taken up in the works of Vitoria and Soto.

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<sup>32</sup> The particular passage from Aquinas which Rossaeus seems to have had in mind is as follows: 'But man is by nature a social and political animal who lives in a community: more so, indeed, than all other animals; and natural necessity shows why this is so. For other animals are furnished by nature with food, with a covering of hair, and with the means of defence, such as teeth, horns, or at any rate speed in flight. But man is supplied with none of these things by nature. Rather, in place of all of them reason was given him, by which he might be able to provide all things for himself, by the works of his own hands. One man, however, is not able to equip himself with all these things, for one man cannot live a self-sufficient life. It is therefore natural for man to live in fellowship with many others.' Aquinas, 'De regimine principum' in (ed. and trans.) R. Dyson, *Aquinas. Political Writings* (Cambridge 2002), p. 6.

<sup>33</sup> *DJRCA*, fol 1r-v. 'Facile enim fuit animadvertere reliquis animantibus a primo ortu naturam tam provide consuluisse ut ipsis per se suppetaret, quicquid ad vitam tuendam erat necessarium, ut non magnopere aliorum subsidiis indigerent. Alia enim rostris, alia unguibus, alia plumis instruxit. Tauri cornibus, apri dentibus, morsu leones se tuentur, quae robore non valent solertia nituntur; & pleraque; non minus fuga & occultatione se defendunt, quam velocitate & viribus: quorum tanta est & tam admirabilis varietas, ut multi Philosophi in eorum indagatione aetatem suam totam contriverint. Homo autem tanta cum miseria & imbellicitate ex matris visceribus effunditur, ut trunci instar immobilis iaceat, nec sine alterius ope vel labra maternis uberibus possit admovere.'

<sup>34</sup> *Ibid.*, 'Neque enim ulla est corporis pars, quae non alicuius opifici labore et auxilio ad sui conservationem egeat', fol.1v.

<sup>35</sup> T. Aquinas, *Summa Theologiae*, (Blackfriars ed., London 1975), vol. 38, IIaIIae 64. Art. 5, p.33.

Rossaeus goes on to show the varieties of skills needed for basic survival, which can only be achieved within a community of people with those skills. He clinches this argument by pointing out that man's ability for speech and faculty for communicating intimately with others would be useless if he abstained from civil life. The structure of Rossaeus' argument follows *De Regimine Principum* closely, Aquinas also making this point, though with explicit reference to Aristotle's *Politics* and *History of Animals* lacking in *DJRCA*.<sup>36</sup> However it was not solely the need for survival which encourages man to join together into communities, after all – as Aristotle had written – they also did so for the purpose of living but also of living well.<sup>37</sup> Rossaeus shows that friendship and the desire to do good towards others are natural attributes of communal living. This harmonises with Aquinas' sentiment that 'it is fitting... that, beyond that which moves the individual to pursue a good peculiar to himself, there should be something which promoted the common good of the many.'<sup>38</sup> Rossaeus agrees with Aristotle and Aquinas that only beasts or divine beings are capable of living in isolation.<sup>39</sup>

Whilst these opening passages of Rossaeus' follow *De Regimine Principum* closely, we should also be aware of the fact that Rossaeus offers modifications to the Thomist account. He makes more prominent use of the organic metaphor of the commonwealth. Aquinas argues that the political community is *like* the body, and as

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<sup>36</sup> Aquinas, 'De Regimine Principum', p.6.

<sup>37</sup> Aristotle, *The Politics*, p. 59.

<sup>38</sup> Aquinas, 'De Regimine Principum', p.7.

<sup>39</sup> *DJRCA*, fol. 2v: '*...planum est homines natura ad civilem communionem impelli, sine qua omnis amicitiae & aliis benefaciendi usus intercidit, a qua si quis unquam alienum se praebuerit, ut Timon ille Atheniensis, eum & Philosophi & Christiani, vel belluam, vel deum esse dixerunt: belluam quidem, quia hominum communionem auersatur cuius appetitum natura humano generi, vel maxime ingeneravit: deum autem: quia seipso contentus nulla re videtur indigere, quod est divinitatis proprium.*'

the body is ruled by the soul, so the community requires a ruling element. Rossaeus' emphasis is different. He argues that everyone unites equally into the body which we call the commonwealth.<sup>40</sup> In *DJRCA* the commonwealth *is* the body, it is not *like* the body. This is an important distinction to notice, because it is indicative of the more defined and precise political role Rossaeus has in mind for the community than Aquinas had contemplated and a close relationship to the Aristotelian texts. This point is strongly suggestive of the influence of the thinking of the second scholastic on *DJRCA*, where the place of the community in the political sphere was as the source of sovereign power. Aquinas had made this argument, but thinkers such as Vitoria elaborated it in far greater detail.

Looking at the descriptions of the origins of civil power in Vitoria's lectures we find versions of the same account Rossaeus described. Vitoria shows how other animals are provided, by nature, with the necessities for survival and self defence whereas man is left 'frail, weak, helpless and vulnerable, destitute of all defence and lacking in all things.' Having brought man forth 'naked and unarmed like a castaway from a shipwreck', also recalling Aquinas here, nature left man obliged to 'live life in partnerships, each supporting the other.' Aristotle, Vitoria shows, demonstrated that man is a social animal both because of these natural deficiencies, and because of his rational soul which makes him need partnership. Again using Aristotle, Vitoria shows that language was given to man for the purpose of joining in partnership with other men. With reference to *The Politics* and Cicero's *De Amicitia* he shows that

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<sup>40</sup> *DJRCA*, fol. 3r. '...omnes pariter in publicum quoddam corpus (quam Rempublicam vocamus) coalescerent; & mutuis auxiliis in generale corporis illius bonum & salutem intenderent.'



justice and virtue as a whole can only exist in the context of such partnership, and that those men who cut themselves off from others should be counted as beasts. Vitoria concludes that of all the kinds of partnership possible, the civil partnership (*civilis societas*) 'is the one which most aptly fulfils men's needs. It follows that the city (*civitas*) is the most natural community, the one which is most conformable to nature.'<sup>41</sup>

When reading Vitoria's account, the similarities to Rossaeus' are striking. Clearly *De Regimine Principum* would have been a common source for both; however, further common references to less obvious pieces of text suggest that Rossaeus was more familiar with Vitoria's work than his marginalia suggest. Both Vitoria and Rossaeus refer to Cicero's story of Timon of Athens in *De Amicitia* who tried to shun society but proved unable to do so.<sup>42</sup> Vitoria used Job 14.1, Lactantius and Lucretius to describe man's helpless state at birth which also echo strongly in Rossaeus' description.<sup>43</sup>

Comparison to Domingo de Soto's *De Justitia et Jure* provides further evidence of the author's familiarity with the work of the second scholastic. Soto's account of the origins of the natural political community are made in the context of a commentary on Aquinas' *Summa* (1a11ae 92) and the question of whether it is an effect of law to make men good.<sup>44</sup> It therefore has a different, more explicitly juridical emphasis

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<sup>41</sup> Vitoria, 'On Civil Power', pp. 6-9.

<sup>42</sup> Cicero, *De Amicitia*, 23.

<sup>43</sup> Vitoria, 'On Civil Power', p.7. Cf. *DJRCA* fol. 1v '*Homo autem tanta cum miseria & imbellicitate ex matris visceribus effunditur, ut trunci instar immobilis iaceat, nec sine alterius ope vel labra maternis uberibus possit admovere*'

<sup>44</sup> D. de Soto, *De Justitia et Jure* (Lyon 1569), 1.2.art.1, fol. 6r.

than Vitoria's, which comes as part of a more general discussion of civil power. Establishing that the purpose of law is the common good leads Soto to a consideration of why the city (*civitas*) exists. He argues on the basis of Aristotle's *Politics* that it exists for the purpose of living and living well. Thus man progresses naturally from the association of the household to the political community which best provides the basic necessities of life. Taking this Aristotelian comment into Thomist territory, Soto then claims that the political community exists not solely for the benefit of physical life but in fact predominantly for the purposes of spiritual life. Man is not meant to live alone, Soto argues, but in society, otherwise his humanity will be doubly unfulfilled. As Vitoria had also indicated and Rossaeus was later to write, both in agreement with Aristotle, such a solitary life was meant only for beasts or angels.<sup>45</sup>

From these comparisons it is very clear that Rossaeus' natural political community is seen through the lens of the second scholastic. Further evidence of this intellectual engagement can be seen in his treatment of non-Christian dominion, where Rossaeus shows a subtle appreciation for the complexities of his own, Leaguer, position. The fascination of Catholic theologians with the new world and the problem of non-Christian dominion is palpable in one of the better known treatises of the period on the subject: Vitoria's *De Indis*. It was equally present (as Vitoria acknowledges, and indeed engages with) in major medieval works such as Peter Lombard's *Sentences* and Aquinas' *Summa*. However the issue took on immediacy in the sixteenth century, with the question of the colonization of the Americas and

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<sup>45</sup> Ibid., cf. Aristotle, *Politics*, p.59.

enslavement of their peoples coming under academic scrutiny. In 1513, King Ferdinand of Spain's commission to discuss the issue set in process an enduring international debate.<sup>46</sup> Soto and Vitoria had positioned themselves strongly against the enslavement of the American Indians, and the argument for the natural status of the political community was crucial to that position.

Although Rossaeus does not engage directly or explicitly with this particular debate, the issue of non-Christian dominion was clearly of interest to him. The fact that Rossaeus uses the example of extra-European, often newly discovered lands to establish a sphere in which natural political life could exist independently of Christianity and legitimately, suggests an awareness of the kinds of analysis undertaken by Vitoria in *De Indis*, even though Rossaeus was not particularly interested in slavery in the same precise sense. As the Thomists in Salamanca had shown, Rossaeus allows space for legitimate natural civil association which has as its end morality and justice, as a less perfect form of the Christian political community, which has as its end eternal life as well as those virtues.<sup>47</sup> Rossaeus uses his knowledge of the discovery of new lands in the fifteenth and sixteenth centuries to reinforce his case that political life was a natural, universal human phenomenon. His frequent and extensive use of the *Novis Orbis Regionum ac Insularum Veteribus Incognitarum una cum tabula cosmographica* (1532), a compilation of travel literature, as a source is testimony to his fascination with recent geographical

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<sup>46</sup> For a general survey see A.R.D. Pagden, *The fall of natural man: The American Indian and the origins of comparative ethnology* (Cambridge 1982).

<sup>47</sup> *DJRCA*, fol. 82r. cf Aquinas, 'De Regimine Principum', pp.39-45; *Summa Theologiae*, vol. 32, IIaIIae 10, art.8-11, pp.61-75.

discoveries.<sup>48</sup> In the farthest western reaches of America, Rossaeus shows how from living by 'wild and beastly customs', the people there were compelled by rational instinct to join in the life of civil society. He does not explore the connections between this presumably still natural barbaric state and the natural civil state of man, as his emphasis is not so much on what happened before the genesis of the political community, but what happened on and after its establishment. Strikingly, Rossaeus chooses examples of nomadic tribes - the Numidians of Africa, the Tartars of Russia, the Germanic peoples and Sarmates to show that by natural inclination people all over the world form communities. Evidently Rossaeus did not think that a settled defensive and sovereign position is required to define a community. The Tartars wandered the world nomadically without determined boundaries of sovereignty, or under any single authority.<sup>49</sup> However he emphasises that they did so not as scattered individuals, but as a multitude. The gathering together of human beings into a community is therefore not identified with precise geographical boundaries, but by the simple fact of coming together by natural instinct.<sup>50</sup> Rossaeus

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<sup>48</sup> *Novis Orbis Regionum* was first published in Basel in 1532, based originally on Francanzano da Montalboddo's *Paesi novamente ritrovati* (Vicentia 1507) which was republished five times in Italian, six in French and twice in German. Additions were made to the *Novis Orbis Regionum* in the subsequent editions of 1537 and 1555.

<sup>49</sup> *DJRCA*, fol. 3v. *Nostraque tempestate eadem ratio quosdam in extremo occidente Americanos, olim bestiarum fere ritu viventes, in magis civilem vitae societatem compulit. Quin etiam agrestes in ultima Septentrione Tartari qui unius imperio non continentur, neque vero civitatibus includuntur, neque certos habent ditionis terminos, sed sub papilionibus degunt, & tamdiu uno in loco cum uxoribus & gregibus agunt quoad terram circumiacentem depasti fuerint, plurimumque ab aliorum hominum civili humanitate absunt, non tamen singuli disperi, sed tanta multitudine vagantur; quanta opus est & magnam civitatem complendam, & ad mutuam omnium defensionem, & ad iniurias undiquaque depellendas: quo prorsus modo olim vixisse Numidas Africae, & Germanos, & Sarmatas, & alios universos in illo longissimo Europae atque Asiae tractu populos, fidelium historicum monumenta prodiderunt.*

<sup>50</sup> It is interesting to note that, contrary to modern conceptions, for Rossaeus geographical location and place of birth did not necessarily equate to a sense of national identity. This connects to the argument he makes later on in *DJRCA*, that Huguenots cannot be seen as properly French because they are not Catholic. To understand this argument fully we need some comprehension of the significance of the term *patria* in this period which, for our purposes here, I direct you to Robert von

reinforces this point by arguing that it is not the 'eloquence of man', nor the 'authority of kings', nor any 'artificial' cause that men chose to assemble into a community, but an innate natural – and also rational - sense that such a life would fulfil the needs of both body and soul.<sup>51</sup>

Whilst Rossaeus did not cite Vitoria's *De Indis* explicitly, it does seem likely that he would have been familiar with the text. We can see further suggestions of this familiarity when Rossaeus discusses hierarchy and natural order in society (again, also recalling Aquinas). He argues that it is highly unnatural for man to live in the kind of disorder he describes as 'Babylonian' confusion.<sup>52</sup> Here he refers to societies un-touched by Christianity in America, Africa and Asia, and uses them to show that hierarchy, by which he means the establishment of magistrates and princes, is part of this natural genesis and proper order of political society.<sup>53</sup> He specifically

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Friedeburg's definition in his 'In Defense of Patria: Resisting Magistrates and the Duties of Patriots in the Empire from the 1530s to the 1640s', *The Sixteenth Century Journal*, vol.32, no.2 (2001) pp.357-382. 'The medieval reception of patria from Aquinas onward...tended to distinguish both between the duties of patriots and the rights of citizens and between the res publica, the hierarchy of order and subjection that shaped the societas civilis, and patria as the specific place where one was born and brought up. Patria in the latter sense was defined by the specific local or regional laws governing that town or region. At the same time, amor patriae continued to be associated with late medieval and Renaissance thinking on duties and virtues that were held to be indispensable to and nourished by civic life... Amor patriae was therefore meant to be inscribed in the heart to direct men towards the defence of the religion and laws in which they had been reared, for religion and laws alone provided the indispensable bond for the human community that had nourished the individual.' pp.358-9.

<sup>51</sup> DJRCA, fol. 3v: '*Eos autem in hanc vitae communionem contraxit, non hominum eloquentium persuasio, a quibus erant penitus inanes, non regis alicuius autoritas, quae adhuc nulla prorsus extitit; non denique artificiosa aliqua causa, qualem homines ignari quandoque comminiscuntur, sed ipsa naturae communis indoles, a solitudine abhorrens, & ad societatem civilem propendens, ipsa ratio ostendens hoc esse aptissimum vitae & salutis tuendae medium, ipsa mentis humanae solertia & perspicacitas, ipsum dico naturae lumen, quo perceptum est hunc vivendi modum fuisse & corporibus utilem, & animis salutare, & posteritati continuandae necessarium, & tum singulorum commodes tum universorum rationibus maxime convenientem. Natura ergo hominum coetus & communionem induxit, natura civitates fabricavit, natura rempublicam instituit.*'

<sup>52</sup> DJRCA, fol 4v.

<sup>53</sup> It is also possible that Rossaeus was offering an alternative to the Catholic politique Pierre du Belloy, and his argument that even the most barbarous of people recognise the natural obligation they have to their monarch, and therefore do not oppose themselves to his or her authority. P. du

mentions the example of America before the Spanish arrived, showing that they already had civil structures of their own in place. This passage is comparable to one in *De Indis* where Vitoria argues that the 'barbarians' of the new world did have legitimate dominion over their own territory, showing that they had 'order in their affairs' and recognisable political structures already in place.<sup>54</sup> Marginal references in *DJRCA* are to the *Novis Orbis Regionum* and Josephus but we can speculate, particularly when it comes to the use of the American example, that Rossaeus had read *De Indis*.

At this early stage in the treatise Rossaeus does not tackle the question of papal temporal dominion which provides the other half of this political discussion. Nor – for obvious reasons – does he consider the logical possibility that allowing for legitimate non-Christian dominion could also be used to defend the idea of France being under the rule of a non-Catholic. We should distinguish, as Rossaeus does, that particular question from that of heretical rule. For Rossaeus, as with Aquinas, it is one thing to be ignorant of Catholicism entirely, and quite another to reject it explicitly.<sup>55</sup> Rossaeus does not pursue the question of whether or not, once

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Belloy, *Apologie Catholique contre les libelles declarations, advis, et consultations faites, escrites, & publiees par les Liguez perturbateurs du repos du Royaume de France: qui se sont esleuz depuis le decès de seu Monseigneur, frère unique du Roy* (Paris, 1585), 2.21 fol. 92v. Belloy regards this level of inviolable obedience as a dictate of the *ius gentium*.

<sup>54</sup> Vitoria, 'De Indis', p.250: '...they are not in point of fact madmen, but have judgement like other men. This is self-evident, because they have some order (*ordo*) in their affairs: they have properly organized cities, proper marriages, magistrates and overlords (*domini*), laws, industries and commerce, all of which require the use of reason.' Dyson notes that this is based on Aristotle's definition of civil life in the *Politics* at 1328b6-22.

<sup>55</sup> Cf Aquinas, *Summa Theologiae*, vol. 32, IIaIIae 12, art.2 pp. 101-103. '...unbelief in itself is not inconsistent with dominion, since that was brought in by the *Ius Gentium*, which is human law. The distinction between believers and unbelievers, however is of Divine law, and this does not annul human law.'

evangelised, the native inhabitants of non-Christian countries should therefore accept the Catholic faith.

Having considered the way in which Rossaeus constructs his analysis of the genesis of the natural political community, we are now in a position to start opening up his discussion of monarchical power. In order to do this, we shift our attention to the debate of 1511-1512 between Cardinal Cajetan and Jacques Almain. The 'debate' was a swift textual exchange as the university of Paris sought a response to Cajetan's virulently pro-papal stance on the question of reform within the Catholic church. This long-standing issue had been exacerbated by the 'assembly' at Pisa of nine cardinals which had sought to re-affirm the doctrines of two earlier ecumenical councils: Constance and Basel, and had attempted to declare the then Pope, Julius II, deposed.<sup>56</sup> Almain, a doctor of theology at the university, was called upon to respond to Cajetan's assertion of papal authority over the council (representing the universal body of the church). It is this debate over the power of the head over the body which was so useful to Rossaeus.<sup>57</sup>

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<sup>56</sup> The texts in question are J. Almain, *Libellus de auctoritate ecclesiae* (Paris 1512); *Aurea opuscula*, (ed.) V. Doesmier (Paris 1518) and T. de V. Gaetano [Cajetan], *Auctoritas papae et concilii sive ecclesiae comparata* (Rome 1511); *Apologia de comparate auctoritate papae et concilii* (Venice, 1514). All can be found reprinted in collections of the works of Gerson: J. Gerson, *Opera*, (ed.) E. Richer (4 vols., Paris 1606) and J. Gerson, *Opera Omnia*, (ed.) L. Ellie Du Pin (5 vols., Antwerp 1706). They have also been translated, along with an excerpt from John Mair's *In Matthaum ad literam expositio* (Paris, 1518) in (eds.) J.H. Burns and T.M Izbicki, *Conciliarism and Papalism* (Cambridge 1997).

<sup>57</sup> As Brett has pointed out, this was also the case for Vitoria, Soto and Francisco Suárez who used Almain and Cajetan's analogy between the individual and the community in their constructions of political power. Soto is particularly interesting for the way he transformed that analogy into what Brett calls a 'juridical dynamic', where power runs 'up from the individual to the community and on to a governing part, the head.' A. Brett, *Changes of State. Nature and the Limits of the City in Early Modern Natural Law* (Princeton 2011), pp. 124-126. I follow Brett in understanding that the Cajetan-Almain discussion transferred an enduring debate of the medieval period into the sixteenth century.

Despite their differences of opinion over the kind of power the pope had over the church, Cajetan and Almain agreed on the nature of power in the civil community. Whilst Cajetan had denied any analogy between civil and spiritual power, Almain relied on just such an analogy to construct his argument that the source of papal power was in the body of the community of the faithful, represented in council. Almain's principal starting point was that God was the original source of power: 'God, the author of nature, created man with a natural right or power to obtain those things which are necessary for his sustenance, and to repel those which are harmful.' The conclusion he draws from this is that 'any community of people living together in civil association...is like one body and...has a natural power to preserve itself not only in being but in peaceful being.' This reference to Aquinas demonstrates that this power exists in the community, but as Brett has shown, Almain's analysis of *power* here actually comes from the Gersonian tradition – it is not present in the part of the *Summa Theologiae* to which Almain refers (IIaIIae 64, art.2).<sup>58</sup> Almain uses Gerson to construct his analogy between the power of the individual and the power of the community, thus giving the community an inalienable right of self-preservation akin to that of an individual. Almain's conclusion from this central thesis is that 'the whole community has power over a prince constituted by it, by means of which, if the king rules not to the edification but to the destruction of the polity, it can depose him.' Summing up, Almain shows that 'it is easy to see how the power a king uses is the community's power. Hence he

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<sup>58</sup> A. Brett, *Liberty, Right and Nature. Individual rights in later scholastic thought* (Cambridge 1997), p. 118.



is said to act by public authority...'<sup>59</sup> Although Cajetan had denied the possibility of any analogy made between ecclesiastical and civil polity, he did concede this important point that in a civil society 'royal power is in the people first by natural law, and it is devolved to the king from the people.'<sup>60</sup>

This argument that a monarch uses the power originally conferred on the community by God is crucial to Rossaeus' *DJRCA*, a fact we can explore in the context of his discussion of elective kingship. Rossaeus shows that it was by reason and necessity that communities first decided to create rulers to ensure that they lived well and in peace.<sup>61</sup> The source of this principal of election is nature, and the reason underpinning that natural desire is further imparted by God.<sup>62</sup> By Rossaeus' understanding, as in Almain and Cajetan's analysis, power travels from God to the community first, then it is transferred to a ruler. This is an explicit corrective to Pierre du Belloy, one of the most articulate opponents of the League, and his argument in the *Apologie Catholique* that power to command runs straight from God to monarch, bypassing the community entirely.<sup>63</sup> In complete contrast to Belloy, Rossaeus argued (in his second chapter on the limited right of Christian kings: '*De finito regum Christianorum iure*') that in England and France total power is

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<sup>59</sup> Almain, 'Authority of the Church' in (eds) J.H. Burns, T.M. Izbicki, *Conciliarism and Papalism* (Cambridge 1997), pp.135-8.

<sup>60</sup> Cajetan, 'Apology', in *Conciliarism and Papalism*, p.232.

<sup>61</sup> *DJRCA* fol. 4v. '*Communis ergo ratio quae prius illos suasit, hoc etiam necessario adiunxit, ut singulae societates magistratus sibi quosdam crearent, quorum studio & autoritate pacate viverent, & quiete bonis suis fruerentur... Ergo quin eadem ratio quae respublica finxit, ordinum etiam distinctiones, & magistratuum iurisdictiones una invexerit dubitari non potest.*'

<sup>62</sup> *DJRCA* fol. 5r-v. '*Hinc enim est quod etiamsi terrenum principatum omnem humanam creaturam vocet Apostolus quia nimirum in certos homines popularibus hominum suffragiis confertur, tamen quia ea ipsa principum electio fluit a natura quam Deus condidit, & a ratione quam Deus homini infudit.*'

<sup>63</sup> P. du Belloy, *Apologie Catholique contre les libelles declarations, advis, et consultations faictes, escrites et publiees par les liguez perturbateurs de repos du Royaume de France...* (n.p. 1588), 2.8. p.75.

transferred from the commonwealth to the king.<sup>64</sup> The phrase he chooses is an interesting one from the point of view of the argument that Leaguers are supposed to undermine monarchical authority. He describes monarchical power as '*supremam rerum potestatem*': unequivocally a description of full power. At another point (in the first chapter) he describes it as a transfer of '*potestatem & regimen publicum*' which brings out more clearly the sense that the transfer carried with it certain obligations.<sup>65</sup> *Regimen* as Senellart has shown, in the sixteenth century implied a concept of the ruler as a directing and protecting force, and this certainly fits Rossaeus' description of the monarch as bound by the conditions of natural law and *ius gentium*.<sup>66</sup>

The Cajetan-Almain debate is intrinsically bound to its medieval, and from Cajetan's perspective Dominican, heritage: the structural framework for the argument that

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<sup>64</sup> DJRCA, fol. 53v. '*Neque haec in eum finem dico, quasi regnum vel Gallicanum vel Anglicanum, aut aliud quodcunque velim aut censeam esse Aristocraticum, multo minus Democraticum, quando supremam rerum potestatem a republicae ad regem translatam esse non dubito.*'

<sup>65</sup> DJRCA, fol. 17v. '*Verum quidem est potestatem & regimen publicum a populo ad reges esse delatum & penes reges manere, sed ita ut rex regem agat non tyrannum, non carnificem: hoc est iuste, civiliter, politiceque regat non iniuste, immaniter, tyrannice. Ergo si quidem res iuxta, si ordine, si iuxta praescriptas a natura & iure gentium conditiones, si regaliter, hoc est, si in bonum & utilitatem publicam gubernet, etiam si nonnumquam in officio delinquat, & tolerandum fateri & honore afficiendum.*' Cf. fol. 305v. '*Tamen cum Christianus homo commissum sibi a Deo regimen quodcunque accipit, primo loco Christiana fides est attendenda, & diligentissime providendum: ut omnes de pace belloque, de mercatura & quiete civili leges, cum legibus Christianis convenient.*'

<sup>66</sup> Senellart, *Les arts du gouverner*. Rossaeus does not offer a definition of *ius gentium* for his reader, but I think we can supply Vitoria's: The law of nations (*ius gentium*) does not have the force merely of pacts or agreements between men, but has the validity of a positive enactment (*lex*). The whole world, which is in a sense a commonwealth, has the power to enact laws which are just and convenient to all men; and these make up the law of nations. From this it follows that those who break the law of nations, whether in peace or in war, are committing mortal crimes at any rate in the case of the graver transgressions such as violating the immunity of ambassadors. No kingdom may choose to ignore this law of nations, because it has the sanction of the whole world.' Vitoria, 'On Civil Power', p.40. Rossaeus' recognition that *ius gentium* has a role (however undeveloped) to play in this discussion of the limits of monarchical power is further evidence of his familiarity with the arguments of the thinkers of the second scholastic. Brett discusses the 'pathology of the *ius gentium*' as the secondary stage of juridical organization after that of pure natural law, identifying the early modern natural law tradition with this recognition that 'a condition of equal natural liberty governed only by natural law' is unsustainable. Brett, *Changes of State*, p. 115.

power inheres in the body of the community is not an innovation. The analogy of power relations between head and body in the church had long been applied to the political community. Conciliar theory at its most sophisticated could be used against both pope and monarch. What is striking about the discussion is that despite their differences of agreement about the structures of power in the church, they agreed that in civil society, power naturally belonged to the community: more specifically, power to preserve and defend the self in the manner of an individual.<sup>67</sup> It is not the case that this debate suggests anything dramatically new, but that it provides contemporary support for the argument that political power in civil society cannot exist without the body. It brings these old debates into the sixteenth century with renewed vigour, and its repercussions are felt, as Brett shows, in the thinking of the second scholastics.<sup>68</sup>

The discussion in this section has shown that Rossaeus' analysis of the genesis of the natural political community governed by natural law, and of the revocable transfer of power from community to monarch (body to head), was infused with the language of the second scholastic and that this was the intellectual milieu in which he was thinking. Having established that this is the case for the concept of *potestas* in *DJRCA*, we can now take this analysis deeper into the realms of the precise *dominium* held by the head of a political body.

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<sup>67</sup> Brett, *Changes of State*, p.124.

<sup>68</sup> *Ibid.*, pp.122-128.

### III. Rossaeus versus Blackwood on the question of the royal patrimony

The discussion of this section is of *dominium* in its senses of lordship and ownership. When dissecting the notion Rossaeus questions how it can be said (if at all) that a monarch *owns* his or her kingdom, and the ramifications of that decision for the kind of power the ruler has. This complex debate is entwined with its medieval past, particularly the mendicant poverty debates of the thirteenth and fourteenth centuries and Roman legal discussions of property and sovereignty, as the author would have been well aware.<sup>69</sup> Although his discussion does not begin to approach the legal complexities of those debates, it appears he assumes familiarity with them. The significance of the discussion in the context of the argument of *DJRCA* is that if the author could show that the French monarch only owned his or her kingdom in the most limited sense, he could provide legal support for the placing limits on monarchical power. A monarch who claims too much power over corporeal things is shown to break with natural law and the *ius gentium* which is part of that natural law. The discussion of *dominium* in *DJRCA* is embedded in the author's construction of the political community as one predicated on nature.<sup>70</sup>

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<sup>69</sup> For an introduction to some of these discussions see J. Coleman, 'Property and Poverty' in J.H. Burns (ed.), *The Cambridge History of Medieval Political Thought, c.350-1450* (Cambridge 1988), pp. 607-648. For the implications of these medieval debates for the thought of the second scholastic regarding individual rights, see Brett, *Liberty, Right and Nature*, ch. 1, pp. 10-48.

<sup>70</sup> To avoid confusion, it is worth pointing out that our author does not pursue a Scotist line whereby property ownership is introduced as a consequence of the Fall (an argument taken up in the poverty debates). Instead he treats property as a part of the natural origins of political life, and the laws which are instituted after the original genesis as a way of perpetuating a rational order in society. See *DJRCA*, 1.2 on the introduction of laws and 1.3 on the customs of the people providing structure for commonwealths. I read his analysis of *dominium* in this way in the context of Aquinas' arguments in the *Summa*. In particular, I am thinking of discussions at Ia 96 art.1-3; IIaIIae 66 art.1-2.

In making his case, the author of *DJRCA* had two targets in mind whose work appears in his marginalia: Pierre du Belloy and Adam Blackwood. Excavation of these texts shows that in this particular argument, Blackwood was the greater intellectual threat. This section therefore treats this discussion as primarily as a response to Blackwood. Blackwood was a civil lawyer educated at the University of Paris and later in Toulouse. In scholarship Blackwood is best known as one of the most vicious Catholic critics of George Buchanan's *De Jure Regni apud Scotos Dialogus* (1579), along with William Barclay.<sup>71</sup> His *Pro Regibus Apologia* was first published in 1581 and republished in 1588.<sup>72</sup> As well as an attack on Buchanan, the text also functions, as the title declares, as a defence of kingship. It is Blackwood's definition of kingship, and more precisely his understanding of dominion, to which Rossaeus takes exception. At 2.9 Rossaeus quotes Blackwood arguing that everything in a kingdom belongs to the king, for his use and as his property.<sup>73</sup> Rossaeus answers that a ruler can have use of goods without actually owning them, and it is clear that this response is part of a broader conception of a reciprocal

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<sup>71</sup> Blackwood's other works include his *De Coniunctione Religiones et Imperii* (1575) and the *Martyre de la Royne d'Ecosse* (1587), published in response to Mary Stuart's execution. Works on Blackwood include J.H. Burns, 'Politics, Humanism, History: George Buchanan and his critics' in his *The True Law of Kingship: concepts of monarchy in early modern Scotland* (Oxford 1996), pp. 185-221; H. A. Lloyd, 'The Political Thought of Adam Blackwood', *The Historical Journal* 43, 4 (2000), pp.915-935.

<sup>72</sup> The full title is *Adversus Georgii Buchanani Dialogum, De Jure Regni Apud Scotos, Pro Regibus Apologia, qua regii nominis amplitudo & imperii maiestas ab haereticorum famosis libellis, & perduellium iniura vindicatur* (Paris 1588). It is worth noting, though I have not room to explore the point here, that Rossaeus also had a complicated relationship with Buchanan's work. He refers to the *Dialogus* and Buchanan's *Rerum Scoticarum Historia* (1582) at various points in his treatise, demonstrating familiarity with both. Whilst willing to make use of these works when they suit his argument, Rossaeus took a strong stand against the deposition of Mary Stuart and Buchanan's defence of her dethronement in book 16 of his *Historia* at 1.4.fol. 11v-12v. It is clear that in confronting Blackwood's analysis of kingship Rossaeus was not by extension defending Buchanan's.

<sup>73</sup> Blackwood, *Pro Regibus Apologia*, fol 226r. '*Regum enim omnia sunt dominio, singulorum usu. Regum sunt omnia proprietate, singulorum possessione.*'

relationship between monarch and people where both agree to perform certain duties towards one another.<sup>74</sup>

We start with Rossaeus picking up on Blackwood and Belloy's arguments at 1.5 where he addresses the question of individual property ownership versus the power of the monarch. Rossaeus responds generally to these at 1.6, noting in passing the benefit to a commonwealth if the citizens possess their own goods fully, showing that the arguments of Belloy and Blackwood are against divine, natural and human law and that the rulers they describe are tyrants, not kings. In the second chapter of *DJRCA* Rossaeus deepens his analysis of Christian monarchical power and here he engages in more detail with those arguments, with particular emphasis on Blackwood's *Pro Regibus Apologia*.

Whilst he explains how 'perverse and barbarous' he considers Blackwood's argument to be, Rossaeus does accept that it is not unreasonable to expect private goods, at some time and to a limited extent, to be put to the service of the commonwealth or even in devotion to a prince. In this he refers explicitly to the authority of Jean Gerson's *Conclusiones de diversis materiis moralibus*, where Gerson put the case for self-sacrifice on behalf of the common good.<sup>75</sup> However, Rossaeus

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<sup>74</sup> *DJRCA*, fol. 40r.

<sup>75</sup> The reference is to no.24 of his *Conclusiones de diversis materiis moralibus*, also known as *Regulae Mandatorum*. Rossaeus was probably thinking in particular of this passage: '*Multa ex genere mortalia sunt quorum similia possunt effici nova, dum trahuntur extra rationem suam, quemadmodum dolere deliberate de bono alterius est mortale delictum; si vero hoc fiat pro zelo iustitiae et boni communis cui contrarium est tale bonum, ille dolor virtus erit*' in (ed.) P. Glorieux, *Oeuvres Complètes* (10 vols., Paris, 1973), vol. 9, pp.100-101. Gerson was frequently referenced in this kind of debate. Blackwood, for example, refers to Gerson just before he makes the statement quoted above by Rossaeus. In doing so he was responding to Buchanan's interpretation of 1. Samuel 8 in his *Dialogus* when the Israelites ask Samuel to give them a king. Buchanan argues the description Samuel then gives of monarchical power is actually a description of tyranny. In another response to Buchanan, William Barclay's *De*

goes on to argue that the idea that the king is the owner, possessor and lord of these goods is something nobody of sound mind would assert.<sup>76</sup> Rossaeus is not denying, as he could (and as Leaguers were accused) a relationship between monarch and subject where the latter honours the former, only stating that it is too extreme to make the case that a monarch has ownership of *all* property. His is a subtle and complex argument.

Rossaeus sees Blackwood's statement as reducing all citizens of Christian commonwealths to the status of beasts or owned slaves, who are the property of their masters and have nothing but their bodies to nourish them.<sup>77</sup> He further supports this understanding of political freedom by arguing that this notion of property ownership is governed by inalienable natural law. Rossaeus asks, quoting a Roman law: 'who does not know that nature, the parent of all things, or certainly that the law of peoples - derived from this principle of nature - introduced

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*Regno et Regali Potestate*, Barclay's interlocutor in the dialogue – Bouthillier – comments that Buchanan's interpretation of 1. Samuel 8 is in agreement not only with Aquinas, but also Deuteronomy 17 and finally, with Gerson in his *Considerationes*. Barclay takes issue with Gerson's interpretation of 1. Samuel 8 in some detail, engaging in particular his concept of *ius*. It has often been noted that 1. Samuel 8 was a much disputed piece of scripture in treatises on monarchical power in this period, but the role of Gerson in this debate has not been considered and would be worth pursuing.

<sup>76</sup> *DJRCA*, fol. 54v. '*Equidem privatorum bona omnia esse aliquo modo reipub. eiusque usibus debere inservire, ad cuius salutem singulorum hominum vitam, ipsorumque etiam principum par est impendere; hoc a ratione non abhorret. At vero regem esse omnium in suo regno proprietarium, possessorem, & dominum, nescio an quis unquam sanae mentis asseveravit.*' The reference is to J. Gerson, *Conclusiones de diversiis materiis moralibus*.

<sup>77</sup> His reference is to *Politics* 1.3, but it seems more likely to be a combination of passages: 1252b where Aristotle describes the ox as the servant of the poor; 1253b23 where he describes a slave as a piece of property, a 'tool in charge of other tools' and 1254b16 where he writes that the use made of slaves hardly differs at all from that of tame animals (despite the distinction he makes between them that natural slaves participate in reason so far as to recognise it, but not so as to possess it, whereas other animals obey not reason but emotions).

ownership of things?’<sup>78</sup> Blackwood’s suggestion is therefore rendered a corruption of natural law.

Whilst there was a wealth of medieval material on which Rossaeus could have drawn his argument, it is also the case that more contemporary works offered potential sources. In his *De Legibus* (a commentary on parts of Aquinas’ *Summa*), Vitoria discussed the kinds of powers belonging to the commonwealth and the king. He argued, against the notion that the king as *dominus* had government of everything, that the king ‘is not a proprietary master; he cannot make use of public things at his pleasure, in the sense of doing whatever he likes with my horse, as I do.’ Nor, he continues, can a king give away any part of his kingdom unless it is for the benefit of the community he governs. Vitoria concludes ‘this is clear also because the commonwealth has not transferred its direct right of ownership to the king, but only its beneficial right.’<sup>79</sup> Vitoria does not make the connection with natural law as clearly as Rossaeus does, though it is implicit. In fact, his discussion is altogether more complex than that of Rossaeus.<sup>80</sup> Vitoria made this a debate about rights; Rossaeus is interested in power. As such he only needs to take a few things from the case of patrimonial dominion: that it is governed by natural, inalienable law which guarantees the liberty of individuals under monarchical rule; that ownership of the patrimony remains with the body of the community; and that if a monarch breaks this natural law, the community can revoke the power it transferred in the first place. The point here is not that Rossaeus depends on Vitoria for his argument, but

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<sup>78</sup> ‘*Et quis ignorat quod vel prima rerum omnium parens natura, vel certe ius gentium ex ipsis naturae principiis haustum rerum proprietatem induxit?*’ fol. 54v. The reference is explicitly to *Institutes*, I.2.

<sup>79</sup> Vitoria, ‘On Law’, p.202.

<sup>80</sup> See Brett, *Liberty, Right and Nature*, pp.123-137.



that he was thinking within the same intellectual milieu as the thinkers of the second scholastic and thus offers further support for the case made in the first section of this paper. As the royal patrimony was a fundamental question for them, so it was for Rossaeus.

Soto's *De Justitia et Jure* offers another point of comparison to *DJRCA*. Soto's discussion of *dominium* in the fourth book addresses the question of whether any single man can be master, *dominus*, of the whole world. Within this broader question of imperial power he addresses monarchical power, arguing that a king is not the owner of his subjects' property, because 'by natural law, even though the community has handed over to the prince its own power, its own dominion and jurisdiction, it has not however [handed over] its own possessions; and so the prince cannot make use of them, unless it be necessary in the interests of the same community....'<sup>81</sup> Rossaeus makes the point more than once that a monarch is not lord, proprietor or owner of the community's goods, and that his use of them is dictated by the interests of the whole community. The retaining of external possessions is therefore a point Rossaeus has in common with Soto as a basis for an argument about the essential liberty of the political community. The fact that this is not a relationship between slave and master in this proprietorial sense is a common claim in the works of Almain, Vitoria, Soto, Mair and Rossaeus.

Rossaeus made the case, deeply un-original, that a monarch is an administrator of the patrimony: a protector, not a master. He cannot, therefore, alienate his domain

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<sup>81</sup> Soto, *De Justitia et Jure*, IV.iv. 1. Quoted in Hamilton, *Political Thought*, p.31.

in the way the people sell their own goods. He does not have a simple right of ownership over it but only of usufruct.<sup>82</sup> We can say, therefore, that Rossaeus does begin to acknowledge the complexity of the idea of having *dominium* without *ius*, but that it is not elaborated here. Jacques Almain had made a similar point, drawing on ‘Guillelmus Alvernus’, about the ‘ministerial’ power of the king who acts by public authority, using the community’s power: ‘the power a king uses is the community’s power. Hence he is said to act by public authority; and, on account of this, William of Paris says that the dominion of princes is ministerial.’<sup>83</sup> This comparison clarifies the fact that it was possible for Rossaeus to use an argument about *dominium* which had been closely associated with the concept of rights, and use it to make a strong case for the limits of monarchical power.

So far this section has discussed these ideas in a largely Thomist frame of reference. However there was also a contemporary French historical-legal precedent for Rossaeus in the work of François Hotman, who in turn drew heavily on a different medieval language of Roman and feudal law. Jean de Terre Rouge, or Terrevermeille (c.1370-1430) had argued that, because of the nature of the French succession (‘simple’ rather than ‘patrimonial’), the king of France could not alienate any part of his realm. This, he showed, is founded in customary law established by the kingdom

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<sup>82</sup> DJRCA, fol. 55r-v: ‘*Sed vide mihi Christiane lector, quam incredibiliter politici isti in Christianorum politia aberrant, qui Christianas respublicas nec primoribus labris videntur attigisse, quas penitus invertunt, & pro certa veritate perspiciam falsitatem legentibus obtrudunt. Tantum enim abest a vero regem esse rerum omnium proprium dominum, populum autem & procures usufructarios ut contra potius verissimum sit, illos esse rerum suarum dominos, quum rex regaliū opum tantum sit administer & dispensator, ideoque & illi multo liberius sua possunt vendere, distrahere, alienare, quam rex patrimonium & thesaurum regium, eo quod vere istius nihil sit quam oeconomus ad populi totius utilitatem.*’

<sup>83</sup> Almain, ‘Authority of the Church’, p.138.

as a whole, of which kings are only administrators.<sup>84</sup> Hotman made a more complex distinction in *Francogallia* (though he modified the point from earlier editions), distinguishing between the property which belonged fully to the king, the property given by the people for his maintenance, over which he had a right of use; and the 'fisc', which existed for the safety and preservation of the kingdom. The king could not alienate any of these without the permission of the people represented in council.<sup>85</sup> Rossaeus' analysis is not wrought in such strict legal terms, nor with such distinctions, but he uses this feudal analogy in its broadest sense to argue that the king only had an administrative power over the patrimony.<sup>86</sup> This might appear to suggest that Rossaeus was building up to a theory of monarchy which made the people *dominus* and the king vassal. However the point he was making in this particular chapter of *DJRCA* was that the people as a whole were superior to the king, and that the king could never be considered above the whole. This comparison to Hotman flags up the fact that this is also a discussion of civil law in the tradition of the Roman legal heritage. It is clear from the structure of the argument in *DJRCA* that these civil law arguments are embedded into a larger theological framework underpinned by natural law. This is not simply a question of *dominium* in the legal sense; it becomes a question of whether or not a heretic can have *dominium*.

Rossaeus' confrontation with Blackwood's arguments about monarchical succession confirm the point that this is a theological as well as a legal discussion. Blackwood

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<sup>84</sup> J. de Terrevermeille, *Three Tractates*, (ed.) R.E. Giesey, 1.1.13-14; 1.1.24, [http://www.regiesey.com/terrevermeille/terrevermeille\\_home.htm](http://www.regiesey.com/terrevermeille/terrevermeille_home.htm). Consulted May 25th, 2012; cf R.E. Giesey, 'The Juristic Basis of Dynastic Right to the French Throne' in *Transactions of the American Philosophical Society*, Vol. 51, No. 5 (1961), pp. 3-47.

<sup>85</sup> F. Hotman, *Francogallia*, (ed. and trans.) R. Giesey, J.H.M. Salmon (Cambridge, 1972), pp. 254.

<sup>86</sup> *DJRCA*, fol. 55v.

held that the law of primogeniture governed the succession and that when a king inherited, he did so with fullness of power including the power to change and abrogate existing laws.<sup>87</sup> What particularly grated with Rossaeus was the notion that a king is born into a condition of lordship, and that neither the people's nor the clergy's collective will had anything to do with him becoming ruler.<sup>88</sup> Blackwood's analysis of the succession was quite an idiosyncratic one, he argues that the heirs were not heirs to the kings they would succeed, but to the kingdom itself. This, as Burns has shown, reinforced the fullness of power attributed to the monarchy, because it did not bind the king to any of the laws of his predecessors.<sup>89</sup> It also, in terms of this discussion, reinforced Blackwood's case that the monarch was *dominus* both in the sense of lordship and of property ownership. By not allowing space for the discussion of natural law as the foundation of property ownership, Blackwood deliberately threatened the idea that the community had power over its monarch; and that the monarch had duties towards his or her people.

Rossaeus' response to Blackwood on the succession needs to be situated within his argument that monarchy is a natural, but also divinely sanctioned constitution.<sup>90</sup> The fact that any Christian commonwealth is also part of the universal commonwealth of Christ (referring to the *congregatio fidelium*) renders any purely legal discussion of monarchical succession impossible for Rossaeus. Within the context of the League polemic, it was also of essential importance to clarify and

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<sup>87</sup> Blackwood, *Pro Regibus Apologia*, pp. 71-4, 96, 115.

<sup>88</sup> *DJRCA*, fol. 13v.

<sup>89</sup> J.H. Burns, 'George Buchanan and the anti-monarchomachs' in N.T. Phillipson, Q. Skinner (eds.), *Political Discourse in Early Modern Britain* (Cambridge 1993), pp. 14-15.

<sup>90</sup> *DJRCA*, 1.6, esp. fol. 16r.

strengthen the argument for the Catholicity of the French monarchy. Rossaeus claims Blackwood's argument is absurd – that any stupid or insane son of a king could damage the wellbeing of the commonwealth.<sup>91</sup> Blackwood's deformed political body does not, he argues, describe a commonwealth (a *res publica*), but private ownership (*res privata*), not a free consociation of men (*liberam hominum consociationem*) but slavery.<sup>92</sup>

The repeated accusations against Blackwood on the grounds of slavery are indicative of the author's attachment to the idea of the liberty of the French commonwealth. However this liberty, as we see further on in *DJRCA* is not the political liberty we are used to discussing in political tracts in this period, but a concept inextricable from Catholicity. To rule properly, the French monarch must accept the traditions of the people, the nobility, *and* the bishops. He must act according to the values of justice and virtue, but also honour and defend the church as he promises to do in his coronation, presided over by the Archbishop of Rheims.<sup>93</sup> The individual is not king until this ceremony has been completed.<sup>94</sup> The idea of the body-politic is crucial to understanding why heresy in France and a heretic king in particular is a threat to liberty as Rossaeus sees it. As he describes in great detail in his seventh chapter, Calvinism infects the body and thereby damages the rational, natural order underpinning the French monarchy. In this way it actively destroys

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<sup>91</sup> *DJRCA*, fol. 13v-14r.

<sup>92</sup> *DJRCA*, fol. 15v. '*Hoc modo sceleratissime non rempublicam, sed privatam, non liberam hominum consociationem, sed servilem mancipiorum.*'

<sup>93</sup> *DJRCA*, 1.3, fol. 27r-30v; fol. 40v-41r.

<sup>94</sup> *Ibid.*, fol. 30v.

the liberty of France which depends on this perfect union of the Catholic body with its Catholic head - a bond assumed in the coronation oath.

Rossaeus' discussion of *dominium* is, I hope this section has shown, inextricable from his conception of the natural political community governed by natural law. There is a further conclusion to be drawn. Appealing to the rights of private property as a way of preserving the status of a Christian citizen has placed Rossaeus' work in a slightly broader context than this article first suggested: of French legal argument as well as the second scholastic. In *DJRCA* the idea of the natural political community taken from thinkers such as Almain and Vitoria provides the structure for Rossaeus' construction of political life, overlaid with which is a historical-legal apparatus which enables him to refine and elaborate the way in which power functions in that community. A picture is now beginning to emerge of the French Catholic commonwealth in *DJRCA* as a space defined by the body of the community which retains ownership of itself, while it allows the monarch the use of it and its territory.

#### **IV. The heretic tyrant**

We are now in a position to consider the figure of the heretic tyrant in *DJRCA*, epitomised in Rossaeus' eyes by Henri de Navarre. His treatment of tyranny highlights a central theme of *DJRCA*: that a heretic ruler cannot fulfil the role of a monarch who conforms to both natural and divine law. Furthermore, it explores the important question of how and when power, initially transferred from the community, reverts back to that community. In this discussion Rossaeus is explicit

about drawing on Thomist sources, and we shall see that the natural political community and its power is again central to his argument. Particularly in the case of tyrannicide, Rossaeus relies on scholastic commentaries on Aquinas' analysis of homicide in his *Summa Theologiae*.

Much of Rossaeus' argument in his tenth chapter on tyrannicide takes as its basis his arguments in chapter three, where he defined tyranny. Making a classic distinction between usurper tyrants and legitimate rulers turned tyrants, Rossaeus divided the latter category into three types: the tyrant who takes possession of his subjects' goods, which we have discussed above, the tyrant who acts contrary to the laws of the commonwealth and finally the tyrant who acts to the destruction of the Christian faith. This latter type is the one with which Rossaeus was most concerned, and which forms the foundation of his analysis in chapter ten. A few other points are worth clarifying from the third chapter. At 3.10 Rossaeus discusses the heretic tyrant stating quite simply that a heretic king is a tyrant, we assume *de facto*.<sup>95</sup> He later on makes it very clear, with a damning critique of the Edict of Beaulieu, that Henri III's behaviour caused him to fall into this category.<sup>96</sup> Writing more theoretically, Rossaeus repeated arguments made in the first and second chapters concerning the purpose of the Christian commonwealth - which is to serve both temporal and spiritual ends: temporal in the sense of justice and integrity (*honestum*), and spiritual with regards to salvation. A heretic king impedes this dual

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<sup>95</sup> *DJRCA*, fol. 92v.

<sup>96</sup> *Ibid.*, fol. 95v-96v.

function.<sup>97</sup> Without a Catholic ruler, the commonwealth will be riddled with war and injustice, a point which Rossaeus had also made elegantly in his preface. Most of Rossaeus' support for this argument comes from scriptural evidence, however he also cites the meeting of the Estates General at Blois in 1576 as authoritatively declaring Catholicity to be a fundamental law of France.<sup>98</sup>

By the tenth chapter Rossaeus' reader is fully aware of the corruptive and destructive influence he considered the new faith to have had on the French commonwealth. Thus, much of the work in establishing a clear picture of the heretic tyrant has already been done by the time we reach the discussion of tyrannicide. Rossaeus deliberately situates his argument within a long tradition of thought on the assassination of tyrants, and so wraps himself protectively in a wealth of arguments from a variety of sources.<sup>99</sup> Initially Rossaeus is concerned in this chapter to disprove the Calvinist arguments on tyrannicide, though not entirely.<sup>100</sup> He lists Mary Tudor, Mary Stuart and Francis, duc de Guise (murdered by the Huguenot Jean de Poltrot in 1563) amongst those who had been wrongly given the title by Calvinists.<sup>101</sup> Using a syllogistic format (again revealing his scholastic

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<sup>97</sup> *DJRCA*, fol. 91r. Cf. fol. 3r.

<sup>98</sup> *Ibid.*, fol. 99v. On fundamental law see A. Lemaire, *Les lois fondamentales de la monarchie française d'après les théoriciens de l'ancien régime* (Paris 1907).

<sup>99</sup> From sections six to twelve Rossaeus takes his reader through an exhaustive account of ancient Greek and Roman sources: Aristotle, Xenophon, Cicero, Livy, Plutarch and Virgil amongst them. He then moves on to early Hebraic examples, largely dependent on Josephus' *Histories*, and examples from the primitive church.

<sup>100</sup> *DJRCA* fol. 389r-v. Rossaeus contrasts the attitudes of Luther, Beza and Calvin with the actions of Jacques Clément in the assassination of Henri III. He argues that Clément did not act only as a citizen of Paris and France, but as a member of the universal Catholic church, 'armed with the spirit of God' to defend the church against corruption and destruction.

<sup>101</sup> Theodore Beza and the author of the *Reveille-Matin*, an anonymous pamphlet attacking the crown, produced between 1573 and 1575, are the particular targets of this section. Rossaeus accuses Beza of being 'a real Catiline' and charges him with having influenced Jean de Poltrot to murder the Duc. The



training) he agrees, with Calvinists (*Maior Calvinistarum*) that tyrants can be killed.<sup>102</sup> He adds, as the minor premise (*Minor Catholicorum*), that heretics are tyrants. To conclude: heretic kings can be killed.<sup>103</sup>

At 10.13 we arrive at the scholastic reasoning behind Rossaeus' analysis. I emphasise this section in particular, not because Rossaeus gives it more weight over the other sources he cites, but because it provides further evidence for the argument of this article that Thomist sources provide the conceptual framework of *DJRCA*. It is

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text to which Rossaeus refers is the *Apologia Th. Beza Vezelli, ad libellum sorbonici theologastri F. Claudii de Xaintes, cui titulum fecit, Examen Calvinianae et Bezanae doctrinae de Coena Domini ex scriptis authorum eorundem collectum* (Geneva, 1567). The work defended Calvinist doctrine against the attacks of the bishop Claude de Saintes, who later joined the side of the League and was ultimately imprisoned for supporting the assassination of Henri III. The work Rossaeus takes his argument about Beza and Poltrot from is Gabriel de Pr  au's *Elenchus Haereticorum Omnium* (Cologne 1569), a dictionary of heresy which contained a fulsome indictment of Beza, whom he accuses of being one of the main sources of the spread of Calvinism in Europe in the sixteenth century. See de Pr  au, *Elenchus Haereticorum Omnium* (Cologne, 1605), pp.93-101. The accusation of Catilinarian conspiracy against the Protestants appears several times in Rossaeus' work. It is noteworthy because, as Catiline was accused of rebelling against the Roman commonwealth, it appears that Rossaeus, by accusing the reformers of a similar crime, is implicitly exonerating Catholic writers from the same. The Leaguers were frequently characterised in anti-League polemic as rebels bent on destroying France. Describing the reformers as rebels was a deliberate tactic to place the Catholic citizen in the position of supporting and defending the French commonwealth. What is also clear from this section is the association between heresy and political rebellion. Rossaeus charges Luther, Zwingli and Calvin with inculcating this 'nefarious doctrine' of tyrannicide against Catholic rulers, drawing a strong connection between their faith and their infidelity to the Catholic commonwealth as well as the universal faith.

<sup>102</sup> *DJRCA*, fol. 387v. In particular he aligns himself with the thought of George Buchanan. He quotes the passages from *De Jure Regni* where, in the dialogue, Maitland takes the line that those who transgress the boundaries of human society in breaking laws are to be regarded as enemies of God and men and classed as wolves or beasts, not human beings. Rossaeus inserts the term tyrant here, where Maitland (not yet persuaded by his interlocuter Buchanan on the treatment of tyrants) is only discussing robbers, adulterers and bandits. Rossaeus fuses this with a point Buchanan makes further on, responding to an argument Maitland puts forward (based on Jeremiah 27) that all tyrants should be obeyed, that in fact this piece of scripture could be used to suggest that all tyrants should be killed. Rossaeus chooses to manipulate Buchanan's text at these points, even though other arguments of Buchanan's would have suited his purpose more exactly, e.g. pp. 154-163. G. Buchanan, *A Dialogue on the Law of Kingship among the Scots. A Critical Edition and Translation of George Buchanan's De Jure Regni apud Scotos Dialogus* (eds. and trans.) R. A. Mason, M.S. Smith (Aldershot, 2004), pp. 88-9; 116-117. His reference to Buchanan's *History* is: G. Buchanan, *Rerum Scoticarum Historia*, (trans.) J. Aikman (6 vols., Glasgow, 1827), vol.1, p. 325.

<sup>103</sup> *DJRCA*, fol. 398v-390r.

at this point that we can see the conditions and reasoning behind the idea that power can be revoked and restored to the community.

Rossaeus prefaces his discussion with a comment on the necessity of correctly discerning truth from lies, the Catholic faithful from heretics, just kings from unjust, tyrant and apostate. Reminding his reader that all such people are subjected to the commonwealth and the Catholic church, it is either with the tacit or express voice of the commonwealth, and the official decisions of the church, that such judgements are to be decided. Rossaeus is vague about precisely how the commonwealth as a whole is to voice its opinion, and the particular difficulty presented by interpreting a 'tacit' decision of the whole. What follows is a summary of the arguments of several theologians whom Rossaeus describes as 'doctors of the scholastic'. One of the most striking aspects of this passage is how Rossaeus brings together works from quite different genres of theological writing to establish his case.<sup>104</sup> He also introduces works of controversial thinkers such as Soto and Bellarmine, who by no means form a cohesive intellectual force.

We would be as well, before discussing the texts in question, to familiarise ourselves with the authors and works cited. Aquinas and his *De Regimine Principum* we are already familiar with from our discussion above. His *Scripta super libros sententiarum* took the form of a commentary on the *Sentences* of Peter Lombard.

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<sup>104</sup> Rossaeus does not distinguish between the thought of Jesuit, Dominican or any other order of the Catholic church when he uses these texts as sources. He presents them as if a unified whole, particularly with regards to the question of tyrannicide. However, as recent scholarship has shown, scholastic thought in this period was by no means homogenous and contained vastly different ways of thinking about the relations between the temporal and spiritual. See A. Brett, 'Scholastic political thought and the modern concept of the state', in (eds) J. Tully, A. Brett, *Rethinking the Foundations of Modern Political Thought* (Cambridge 2006), pp.130-148.

Soto and his *De Justitia et Jure* we have also met, but it is worth pointing out again how unusual such a reference was in the context of a discussion on tyrannicide, and certainly unique within the context of the League polemic. Rossaeus also refers to three commentaries on Aquinas' analysis of homicide in his *Summa* by Cajetan, Robert Bellarmine (1542-1621) and Francisco Toledo (1532-1596).<sup>105</sup>

Along with the commentaries on the *Summa*, Rossaeus refers to three works of casuistry to support his argument. Toledo's *Summa Casuum Conscientiae sive Instructio Sacerdotum* was an immensely influential work. It ran to forty-six editions and was published in four languages. The two others Rossaeus quotes were both by Italian Dominicans: Bartolommeo Fumo's *Summa casuum conscientiae* and Sylvester Mazzolini da Prierio's *Summa Summarum* (1518). Mazzolini's *Summa* was republished forty times and is one of the last major examples of this genre in its medieval form.<sup>106</sup> Rossaeus' final scholastic references are to Jan Van der Meulen (or Molanus, 1533-1585), a Flemish theologian and professor at the University of Louvain, and to Jean Gerson's *Considerationes*.<sup>107</sup> Molanus' *De Fide Haereticis*

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<sup>105</sup> Baumgartner incorrectly notes that Rossaeus is referring to their commentaries on Lombard's *Sentences*. Rossaeus' marginal references to '2.2.q.64.art.3' leave us in no doubt that it is to the *Summa* commentaries Rossaeus was referring. Also it is not certain that any such commentaries on the *Sentences* were ever written by these authors. Baumgartner, *Radical Reactionaries*, p. 274 n. 49. Bellarmine's Louvain lectures, which he delivered from 1570 and are a commentary on the *Summa*, are only to be found in manuscript form in the Vatican archives. Unfortunately, I have as yet been unable to consult them. They receive some treatment in X-M. le Bachelet, *Bellarmin avant son Cardinalat* (Paris 1911). Toledo's commentary was not published until 1869, but circulated in manuscript. Harro Höpfl estimates it to have been written in the 1560s. F. Toledo, *In Summam Theologiae S. Th. Aquinatis Enarratio, ex autobiographo in Bibl. Coll. Rom.*, 2 vols, (ed.) J. Paria (Rome 1869); H. Höpfl, *Jesuit Political Thought, The Society of Jesus and the State, c.1540-1630* (Cambridge 2004), p.390.

<sup>106</sup> See Brett, *Liberty, Right and Nature*, p.47.

<sup>107</sup> For a discussion on the medieval application of this particular piece of Roman law, see Skinner, *Foundations* II, pp. 125-127. Cf Boucher, *De Justa Abdicatione*, fol. 171r.

*Servanda* was published in Cologne in 1584 as a warning to Catholics against the new faith.

Rossaeus' argument is shaped by the assumption that the assassination of a tyrant is a legitimate form of homicide. The justifying factor in almost all the texts to which Rossaeus refers is the notion of the common good: the overriding benefit of the whole community from the assassination of a heretic tyrant. If we take Mazzolini's reference to Aquinas' *Summa* (IIaIIae 42. art. 2, on sedition) as a sample, we can see the sort of tone Rossaeus is striking on the subject: 'those who resist... in order to defend the common good are not to be called seditious themselves... Tyrannical rule is not just, because it is not directed to the common good... Disruption of such a government does not have the character of sedition...'<sup>108</sup> Rossaeus is quoting a very small entry in Mazzolini's *Summa* on tyrants, which we can expand on by reading into Mazzolini's references to Aquinas. Aquinas defines the people in the Ciceronian terms (via Augustine's *City of God*) as: "'an assembly of those united by agreement as to what is right and by a common interest", so, clearly, sedition is opposed to justice and the common good.'<sup>109</sup> Tyranny, by Aquinas' definition (as ruling for the private good of the ruler) becomes sedition in this sense, 'since he nourishes discord and sedition among his subjects in order to be able to dominate them more securely.' Mazzolini's definition of tyranny is explicitly dependent on Aristotle's *Politics* and *Ethics* (books three and eight respectively), as a ruler ruling for his own private benefit rather than for the common good ('*bonum commune*.')

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<sup>108</sup> Mazzolini, *Summa Summarum*, (Antwerp, 1581), p. 397.

<sup>109</sup> Augustine, *City of God* 2.21; Cicero, *De Republica* 1.25.

The remainder of Mazzolini's passage continues to rely on Aquinas, using chapter seven of *De Regimine Principum* where Aquinas argued that a tyrant could only be killed with public authority, not the private presumption of an individual. Furthermore, he argued that this could only be permitted in a community which had the right to provide itself with a ruler, and in communities where this right rested with a superior, the remedy was to be sought from him. Finally, Aquinas' commentary on Lombard provides Mazzolini with the argument that one who has unjustly acquired dominion (the usurping tyrant) can be killed in order to liberate the country (*patria*).<sup>110</sup>

As with Mazzolini, the reference Rossaeus makes to Fumo is also brief. In his short article on penalties Fumo discusses the cases where punishment by death is applicable, but makes no mention of tyrants in particular. Fumo's point is that so long as the punishment is not meted out vindictively, but according to law and with zeal for justice, then it is legal.<sup>111</sup> The reference to Toledo, in contrast, is to his whole chapter on homicide and the fifth commandment.<sup>112</sup> Toledo singles out Soto as a particular source (not surprisingly, as Soto had been his teacher), and refers several times to the same *quaestio* quoted by Rossaeus (*De Justitia et Jure* V, *quaestio* 1), also on homicide, which we will turn to shortly. As far as tyranny is concerned, Toledo

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<sup>110</sup> For a discussion of Mazzolini on dominion, see Brett, *Liberty, Right and Nature*, pp. 45-7. The reference to Aquinas' commentary is II. Distinct. 44.q.2. For the sake of clarity I am not picking up on every intertextual reference in this section, but the reader should be aware of how interwoven all these texts that Rossaeus was quoting are. Mazzolini's references to Aquinas are quoted in this same chapter by Rossaeus, and by several of the other authors Rossaeus mentions. Toledo also refers to the same works by Mazzolini and Soto quoted in this section of *DJRCA*.

<sup>111</sup> B. Fumo, *Summa Casuum Conscientiae aurea armilla nuncupata* (Venice 1578), p.88.

<sup>112</sup> F. de Toledo, *Summa Casuum Conscientiae sive De Instructione Sacerdotum* (Cologne 1601), pp.536-546. The work was first published in Lyon in 1599.

argues that so long as the killing is performed by public authority, for the common good, it is possible. However, Toledo adds a secondary clause to this, stating that if a tyrant rules and the citizens have been unable to expel him, then a private individual can kill him. Referring once again to Aquinas' *De Regimine Principum* and commentary on the *Sentences*, Toledo follows Aquinas' dual definition of tyranny and states 'it was not a sin for Brutus to kill Caesar', a phrase also echoed by Molanus who similarly takes Aquinas' commentary as his authority.<sup>113</sup> Rossaeus also refers to Toledus' commentary on the *secunda secundae* of the *Summa*: *quaestio* 64, articles 2-3, where Aquinas considered the question of whether it is lawful to kill a sinner and whether this can legally be done either by a private or a public person. Toledo also used this as the basis for the argument in his *Summa Casuum Conscientiae* as the passages are nearly identical.<sup>114</sup>

Soto also takes us through the argument that although ordinarily killing a man is not *per se* a good thing, when it comes to the question of the common good then it can be. Soto argues that it is for the guardian of this common good to decide, in the same way a doctor decides to amputate a limb, what is best for the whole.<sup>115</sup> When he comes to an explicit discussion of tyrants, once again the same references to Aquinas are employed. Echoing Gerson in confronting the problem of the decree of the Council of Constance in its fifteenth session that tyrannicide was against church doctrine, Soto claims that in the case of a usurper tyrant, then 'it is licit to repel force

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<sup>113</sup> J. Molanus, *De Fide Haereticis Servanda* (Cologne 1584), pp.174-5.

<sup>114</sup> Toledo, *In Summam Theologiae Enarratio*, vol. 2, pp.328-332.

<sup>115</sup> Soto, *De Justitia et Jure*, V.1.3 fol. 139r

with force.’<sup>116</sup> A point Rossaeus does not acknowledge, is that the case of a tyrant who (originally) legitimately held the title of ruler is far more complex and less easy to circumvent regarding church doctrine, particularly in the case of an individual assassin working without explicit public authority. This, for Rossaeus, is where Gerson comes in to shore up his argument. After citing his definition of a tyrant as one who rules for his own good (therefore contrary to the law of nature and Christian charity), he quotes Gerson as arguing that it is a natural law (as indeed the Digest states) to repel force with force.<sup>117</sup> This, although Rossaeus does not explore it in any detail, would appear to clinch the matter in his eyes.

The final reference to consider is to Cajetan’s commentary on the *Summa*, which refers to the same *quaestio* as Toledo, but the next article: on whether private individuals can kill sinners. Cajetan cross-references his discussion to Aquinas’ *De Regimine Principum*, where Aquinas had argued that tyrants could not be killed by an individual, but by public authority, and also to Constance which had discussed the question of when it is licit to kill tyrants and drawn the same conclusion.<sup>118</sup> Cajetan followed a classic distinction between two types of tyrant: the usurper and the despot. The latter, Cajetan writes, are tyrants *ipso iure* and they can be killed, but only by public authority. Rossaeus did argue, accepting Buchanan’s point, that tyrants could, in fact, be killed by individuals – but it is not a point he draws attention to in quoting these sources. His argument, whilst it quoted Buchanan,

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<sup>116</sup> For a discussion on the medieval application of this particular piece of Roman law, well-used in this kind of debate, see Skinner, *Foundations* II, pp. 125-127.

<sup>117</sup> *DJRCA*, fol. 423v.

<sup>118</sup> T. Aquinas, *Angelici doctoris Sancti T. Aquinatis Summa Theologica. In quinque tomos distributa. Cum commentariis T. de Vio, Cardinalis Cajetani, et elucidationibus literalibus* (Padua 1698), pp.375-376; Aquinas ‘De Regimine Principum’, pp.19-20.

depended on the decision made by the community and the church that a ruler was in fact, a tyrant. Only then could he be killed.<sup>119</sup> As Jean Boucher had also put it, the 'right of deposition' was a double one, of both church and community.<sup>120</sup>

Rossaeus' references to these scholastic and second scholastic sources give conclusive proof that his own language of political theory was heavily laced with that of Aquinas and the second scholastic. Using casuistical arguments is a particularly clear indication that *DJRCA* needs to be read in a broader intellectual context than has hitherto been the case, and shows that in particular this discussion on tyrannicide belongs more to the context of Catholic doctrine with regards to conscience, than to the Huguenot polemic of the 1570s.

John Salmon once suggested that Rossaeus' text gestures towards the work of John Locke and an individualist premise of political life.<sup>121</sup> Whilst Salmon made an interesting case, I hope we have seen here that Rossaeus' political theory is characterised by a commitment to the concept of the natural political community as the source of a monarch's power. Furthermore, it explores the connections between the natural political life of the community and the spiritual life of its inhabitants in such a manner as to make it an important contributor to contemporary continental debates on the relationships between temporal and spiritual jurisdictions. As we

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<sup>119</sup> *DJRCA*, fol. 387v-390r.

<sup>120</sup> Boucher, *DJA*, fol. 7r: '*Ius porro illud cum duplex sit Ecclesiae unum, quod peculiare est Christianorum, Populis seu Reipublicae alterum, quod est commune omnium gentium, populorum ac religionum (quamquam ea apud Christianos sic concurrunt, ut unum alterum non destruat, & alterum alterius auxilio nitatur ac iuvetur)*...' Boucher did not, however, mean this to equate to an argument that the papacy had a full temporal power, but only a duty to see that the church and faith was protected, fol. 7v-8r.

<sup>121</sup> In this he was arguing that Rossaeus' text offered an 'alternative path' to that of Harold Laski's direct 'road from Constance to 1688.' Salmon, 'An alternative theory', *passim*.



progress into the seventeenth-century the ideas this paper explores were taken up and put to more sophisticated use by, for example, Francisco Suárez and Robert Bellarmine. Nevertheless I think we can see *DJRCA* as a part of this same intellectual fabric and what was to become a highly developed analysis of the centrality of civil society to political life, as an agent capable of preserving itself.