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**THOMAS AQUINAS ON MIXED GOVERNMENT AND THE
GOVERNMENT OF THE DOMINICAN ORDER**

MA Thesis in Comparative History, with a specialization
in Interdisciplinary Medieval Studies.

Central European University

Budapest

May 2014

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Dóra Kis-Jakab

(Hungary)

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Accepted in conformance with the standards of the CEU.

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I, the undersigned, **Dóra Kis-Jakab**, candidate for the MA degree in Comparative History, with a specialization in Interdisciplinary Medieval Studies declare herewith that the present thesis is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Budapest, 21 May 2014

Signature

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Fig. 1. The constitution of Dominican chapters. 43. Created by the author.

LIST OF ABBREVIATIONS

- Pol.** Aristotle. *Politics*. Trans. by H. G. Apostle, and L. P. Gerson, Grinnell: The Peripatetic Press, 1986.
- DCD** Augustin: *Concerning the City of God Against the Pagans*. Trans. by H. Bettenson. Harmondsworth: Penguin Books, 1984.
- LP** Thomas Aquinas. *Commentary on Aristotle's Politics*. Trans. by R. J. Regan, Indianapolis: Hackett Publishing, 2007.
- DR** Thomas Aquinas. *On Kingship. To the King of Cyprus*. Trans. by G. B. Phelan, Revised by I. TH. Eschmann, Toronto: The Pontifical Institute of Medieval Studies, 1982.
- Sent.** Thomas Aquinas. *Scripta Super Libros Sententiarum*, II. 44. 2. 2: Whether Christians Are Bound to Obey the Secular Powers, and Tyrants in Particular. In *St Thomas Aquinas Political Writings*, ed. and trans. R. W. Dyson, 72-75. Cambridge: Cambridge University Press, 2002.
- ST** Thomas Aquinas. "Summa Theologica."
<http://www.newadvent.org/summa/>. Last accessed: May 15, 2014.

INTRODUCTION

Thomas Aquinas, primarily considered to be one of the most eminent theologians of the Middle Ages, also dealt with issues of politics. His interest in this topic was probably inspired by Aristotle, who declares that man is a *zoón politikon*, meaning that the inclination for living together in a political community is an essential constituent of human nature.¹ This notion, however, contradicts Augustine's influential theory of political community. Augustine argues that political life is the result of and punishment for man's fall into his present sinful condition. He, accordingly, proposes that in the state of innocence there was no political government, and political life is not part of man's essential nature.²

Aquinas, however, expresses a view different from both Aristotle and Augustine, while preserving elements of both. He adopts Aristotle's notion of man's essentially political nature, but he still considers that a distinction was implemented by the Fall. As a result, he argues that there are two kinds of government: one, which existed even in the state of innocence, is of a directive kind, and another, which emerged only after the appearance of sin, is of a coercive kind.³ Thomas insists that man is naturally a social and political animal.⁴ That is, he maintains that it is natural for human beings to live together in society under some kind of political governance. Accordingly, Aquinas concerns himself with the following question: What is the best government for human communities? One of his major influences on this issue was Aristotle's political theory.

¹ Pol. 1253A1-11.

² DCD, XIX. 15.

³ ST, I. 96. 4. and DR, I. 1. 8. The issue is described in more detail, for instance, in: D. E. Luscombe, "The State of Nature and the Origin of State," in *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism 1100-1600*, ed. N. Kretzmann and A. Kenny (Cambridge: Cambridge University Press, 1982), 759-761.

⁴ ST, I. 96. 4.

The Western Integration of Aristotle's Political Notions

Aristotle was known in the Western world from quite early on. The first Latin translations of his *Categories* and *De interpretatione* were made by Boethius.⁵ Still, while most of his texts were accessible in Latin at the end of the twelfth century, they were not widely read, and the more extensive study of Aristotle only started in the thirteenth century.⁶ At this time the major translator of the Aristotelian corpus was William of Moerbeke, a Dominican friar. He was the first to render the Latin version of the *Politics*, Aristotle's major work discussing such issues as governmental forms and the best government.⁷

Accordingly, for most Western scholars, the political conceptions of Aristotle, as explained in the *Politics*, became accessible only after Moerbeke's Latin translation was completed in 1260. Jean Dunbabin describes this version as a word-for-word translation, which attempts to be maximally faithful to the original text. Despite its minor errors, Dunbabin asserts that "it is a very accurate rendering. Unfortunately, accuracy is more than counterbalanced by unintelligibility".⁸ Thus, concludes Dunbabin, the earliest Latin commentators on the text, including Aquinas' teacher, Albert the Great and frequently Aquinas himself, mostly focused on unraveling the Aristotelian ideas partially hidden by the translation.⁹ Aquinas commented on the text between 1269 and 1272, and his commentary starts from the first book of *Politics* and ends at Book III, 6. In these paragraphs many issues are covered, including political community, slavery, the family, political unity, political regimes, citizenship, the specific virtues of a citizen, the end of political community, and just and unjust governments.¹⁰

⁵ Bernard G. Dod, "Aristoteles Latinus," in *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism 1100-1600*, ed. N. Kretzmann and A. Kenny (Cambridge: Cambridge University Press, 1982), 45-46.

⁶ Dod, "Aristoteles Latinus," 48-49.

⁷ Dod, *Ibid.*, 49-51.

⁸ J. H. Dunbabin, "The Reception and Interpretation of Aristotle's *Politics*," in *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism 1100-1600*, ed. N. Kretzmann and A. Kenny (Cambridge: Cambridge University Press, 1982), 723.

⁹ Dunbabin, "The Reception and Interpretation of Aristotle's *Politics*," 724.

¹⁰ See Thomas Aquinas, *Commentary on Aristotle's Politics*, trans. R. J. Regan, Indianapolis: Hackett Publishing, 2007.

However, Thomas not only commented on Aristotle's political ideas, he integrated them (sometimes in a modified form) into his own theory. This process resulted in unique solutions, especially when the Aristotelian notions clashed with Christian ideals and Aquinas attempted to bring them together into a harmonious system. Besides, the political contexts of the two authors were quite different. Eric Voegelin emphasizes that the political problems Aristotle encountered in the context of the Hellenic *polis* had no direct meaning for the political issues of Aquinas' time. This is why, argues Voegelin, Aquinas used many different words to incorporate the Greek word *polis* into his Latin text, adjusting the meaning to his immediate context. Thus, *polis* can appear in the Latin version as *civitas*, *gens*, *regnum*, and *provincia*.¹¹

One of the political notions that had practically been forgotten in the West until the rediscovery of Aristotle's *Politics* was that of mixed government. However, after Thomas, commenting on Aristotle's work, became familiar with this idea, he made considerable use of it in his own political theory.

Theories of Mixed Government

The theory of mixed government had a long history, before its thirteenth-century rediscovery in the Western theoretical tradition initiated by the Latin translation of Aristotle's *Politics*.¹² Brian Tierney refers to Aristotle, Polybius and Cicero as the antique supporters of the idea that the most stable constitution consists of a mixture of the elements of monarchy, aristocracy and democracy. Tierney adds that in antique thought the notion was predominantly applied to small-scale city-states, while in medieval thought it was being used for the government of a whole nation or the Church. Aquinas, argues Tierney, was the first to associate the mixed constitution of Aristotle with the Mosaic government as described in the Bible.¹³

¹¹ Eric Voegelin, *History of Political Ideas*. Volume II. *The Middle Ages to Aquinas*, ed. P. von Sivers, (Columbia: University of Missouri Press, 1997), 215.

¹² James M. Blythe, *Ideal Government and the Mixed Constitution in the Middle Ages* (Princeton: Princeton University Press, 1992), 5.

¹³ Brian Tierney, *Religion, Law, and the Growth of Constitutional Thought, 1150-1160* (Cambridge: Cambridge University Press, 1982), 87-88.

James M. Blythe, in his essential book on medieval theories of this governmental form, describes a mixed constitution as one in which power is shared by at least two out of the groups of the many, the few or the one.¹⁴ Aristotle describes it as a mixture of the simple governmental forms, monarchy, aristocracy and polity. He advocates it as the most stable governmental form, since all classes can participate in government. Polybius' notion of mixed government, in contrast, is based on a different notion. Blythe explains that Polybius, who assumes that polities go through a recurrent cyclical transformation from one governmental form to another, finds that mixing governmental forms, resulting in a more stable constitution, could be a possible way to slow down the degeneration of governments. Finally, Cicero believes that mixed government combines the advantages of all the simple governmental forms and results in a moderate constitution which successfully balances power.¹⁵

Blythe maintains that the idea of mixed government was later more and more neglected, and rarely made use of until the rediscovery of Aristotle's *Politics* in the thirteenth century.¹⁶ David E. Luscombe equates the theory of mixed government, as it was developed in the thirteenth century, with the concept of limited monarchy. He argues that mixed government was placed halfway between ruler-sovereignty and people-sovereignty and the emphasis was not on the number of rulers (i.e., the rule of the one, the few or the many), the central issue was the difference between political and despotic governments, conceived in the Aristotelian sense.¹⁷

Thomas was among the first commentators on the *Politics*, and he adapted the notion of mixed government into his own political theory. His concept, argues Tierney, does not focus on the balance of class interests in the state, as Aristotle's does, but primarily attempts to introduce a kind of checks and balances model, in which the elements of mixed government

¹⁴ Blythe, *Ideal Government and the Mixed Constitution*, 12,

¹⁵ Blythe, *Ibid.*, 18-29.

¹⁶ *Ibid.*, 30-31.

¹⁷ Luscombe, "The State of Nature and the Origin of State," 765.

mutually temper each other's power.¹⁸ His theory is not a simple repetition of the Aristotelian ideas, although it is definitely influenced by "the Philosopher". It also offers a remarkable interpretation of the Mosaic government as described in the Bible, which he identifies as an example of mixed government. Although Thomas, as is his general practice, does not refer to any contemporary inspirations for his governmental theory, there is one still barely researched, but quite possible circumstance: the religious order he belonged to. The Dominicans, had a government that manifested many of the elements of mixed government.

The Dominican Order

The government of the Order of Preachers can be interpreted as mixed in the sense that Thomas defines it. The head of the order was the master general, whose power was constitutionally limited, but who was still the most powerful individual in the order and represented the element of monarchy. Aristocracy is also present, since the members of the provincial and general chapters, managing a great part of Order of Preachers' governance, were elected by the friars from among the friars. Finally, the order operated on democratic principles. All members of the order shared in its governance, even if indirectly through elected representatives. These three forms of government were mixed in the Dominican Order in such a way as to prevent grave misuses of authority. This arrangement is quite similar to the one Thomas describes as the best government for actual human communities.

Aquinas lived all his adult life in the context of the Dominican Order. He joined them in 1244, after he becoming acquainted with the teachings of Albert the Great, one of the most remarkable Dominican theologians.¹⁹ The order of the Friars Preachers was established in 1216 by St. Dominic of Guzman, who adopted and modified the Rule of the Augustinian canons according to the needs of his order.²⁰ Their main goal was to combat heresy with preaching and

¹⁸ Tierney, *Religion, Law, and the Growth of Constitutional Thought*, 90.

¹⁹ John Finnis, *Aquinas. Moral, Political and Legal Theory*, (Oxford: Oxford University Press, 1998), 15.

²⁰ G. R. Galbraith, *The Constitution of the Dominican Order: 1216-1360* (Manchester: Manchester University Press, 1925), 33-35.

they emphasized the education of the order's members to enable them to become successful preachers.²¹ Dominic succeeded in building an enduring centralized and unified order which was preserved by its remarkable organization and government.²²

One of the most interesting aspects of Dominican government was the intricate system of representation with a strong focus on the process of election.²³ Although election was not only practiced by the friars in the thirteenth century (for instance, the popes and emperors were elected as well),²⁴ the Dominicans developed a highly sophisticated scheme of representative government.²⁵ Therefore Aquinas lived his whole adult life in an atmosphere where electing and voting were the part of everyday practice, and the idea of representation was fundamentally present. Moreover, he became closely involved in the government of the friars; as a preacher-general he was expected to participate in all the provincial chapters of his own province, Rome,²⁶ and he repeatedly represented his province at general chapters. Thus, he was familiar with the highest levels of Dominican organization.

Since Thomas was familiar with the way his order was governed, and also, as there are striking similarities between the Dominican governmental practice and Thomas' own theory on the best government, it is possible that the government of the Friars Preachers influenced his own theory.

This thesis proposes to examine this possibility. To do this, first it is necessary to present, analyze and interpret Aquinas' theory on the best government. Based predominantly on sections from the *De Regno* and the paragraph of *Summa* on mixed government, I argue that Thomas consistently supported political monarchy, that is, a constitution with one head

²¹ R. W. Southern, *Western Society and the Church in the Middle Ages* (London: Penguin Books, 1990), 280.

²² Galbraith, *The Constitution of the Dominican Order*, 5.

²³ Brian Tierney, "Freedom and the Medieval Church," in *The Origins of Modern Freedom in the West*, ed. R. W. Davis (Stanford: Stanford University Press, 1995), 83.

²⁴ Tierney, *Religion, Law, and the Growth of Constitutional Thought*, 40.

²⁵ Tierney, "Freedom and the Medieval Church," 83.

²⁶ Finnis, *Aquinas*, 7, Galbraith, *The Constitution of the Dominican Order*, 168-70.

of the community, whose power is limited by the admixture of the elements of aristocracy and democracy in the government. Afterwards, I demonstrate that the thirteenth century Dominican Order was, similarly, organized as a mixed government, where the master general was the head of the order, but his power was limited and supervised by the general chapter (the aristocratic element in the order's governance) and that all the friars had some share in the governance of the order through elected representatives. Finally, I will outline some examples of parallels between the Dominican governmental practice and Thomas' theory of the best government, suggesting that the similarities can both point to a possible influence of the order's practice on Thomas' notions and clarify some aspects of Aquinas' theory.

THOMAS AQUINAS ON BEST GOVERNMENT

Thomas Aquinas, although he frequently referred to political issues, left behind only one specifically political piece of writing, namely, the *De Regno*. His political theory can be found scattered throughout his extensive oeuvre. The most important sources of Aquinas' political ideas are the *Commentary* on Peter Lombard's *Sentences*, written between 1252/3-57; the *Summa Theologiae*, written between 1265/6-72/3, with the most important section from this respect, the I-II, probably written between 1269-72; the *De Regno*, written in 1267; the commentary on Aristotle's *Nicomachean Ethics*, written in 1272; and the unfinished commentary on Aristotle's *Politics*, written most likely between 1269-72.²⁷ This means that, with the exception of the *Commentary On the Sentences*, which indeed includes some notions quite different from those developed later, Aquinas' major political ideas were written down in the short period between 1269 and 1272.

One of the central political concerns for Thomas was the issue of political government;

²⁷ Antony Black, *Political Thought in Europe 1250-1450* (Cambridge: Cambridge University Press, 1992), 22, and Finnis, *Aquinas*, 5; 10.

he developed ideas on its origins, on the typology of regimes, and also attempted to identify the most suitable type for political communities. Still, there seems to be a contradiction in his theory, as expressed in different texts. While in the *De Regno* it appears that Thomas favors monarchy, in sections of the *Summa* he states that the best political government is mixed constitution, that is, the compound of monarchy, aristocracy, and democracy.

Literature Overview

Aquinas' apparent inconsistency has intrigued many scholars. There are many possible ways to accommodate the contradictions, and accordingly, theories outlined by scholars are equally divided. The core of the difficulty is that in some of his texts Aquinas argues that a simple form of government, namely, monarchy, is the best regime. In other sections it appears that he supports a kind of mixed government. The issue is even more complicated when the details are examined, since Aquinas does not clearly explicate what kind of "kingship" he proposes or what exactly a "mixed government" is, beyond the facts that one is the rule of one for the common good, while the other is a mixture of the simple forms of government.

In the diverse attempts to make sense of Aquinas' statement, two main trends can be identified. One stance is to state that Aquinas supported a coherent view on the best governmental form throughout his oeuvre. Questions can also be resolved by stating that Thomas eventually changed his views on the issue.

Some scholars maintain that while Thomas supports a kind of limited monarchy in the *De Regno*, in the *Summa* he expresses a somewhat different idea and argues for a mixed constitution. One example is Voegelin, who states that in the *De Regno* Aquinas proposes limited monarchy as a precaution against tyranny, although Voegelin, like most authors, emphasizes that in this unfinished work the concept of limited monarchy is not sufficiently elaborated. It seems that Voegelin does conceive the political government of mixed constitution in the *Summa* as an equivalent of limited monarchy, since he states that for Aquinas monarchy is

only ideally the best, while in actual situations he prefers mixed government. This contrasting approach suggests that for Voegelin the two types of government are not identical.²⁸

Similarly, Paul Sigmund states that in the *De Regno* Aquinas conforms to the previously decisive tradition of support for monarchy and attributes the divergence in Aquinas' thought to the influence of Aristotle. Another factor, argues Sigmund, was Aquinas' awareness of the danger of tyranny. He states that, as a result, in the *Summa* Thomas argues for a popular mixed constitution.²⁹

The other way to make sense of the inconsistencies in Aquinas' notions is to try to demonstrate that Thomas supported the same type of government in all his works. First of all, some argued that Aquinas in all his works permanently maintained ruler sovereignty (that is, regal monarchy). Charles Howard McIlwain,³⁰ for instance, states that Thomas "was the greatest of all contemporary exponents of pure monarchy."³¹ He claims that Aquinas consistently argues that "pure monarchy" (which, for McIlwain is kingship where the king is a sovereign with unlimited authority) is the best governmental form. McIlwain deals with the then perplexing section of the *Summa* I-II.105 only in a footnote, and states that this text "at first sight seems to indicate a decided preference for a mixed form of government instead of the pure monarchy."³²

McIlwain argues that Thomas only finds mixed government acceptable for the people of ancient Israel, but not "for the politics of his own age."³³ He adds that support for popular participation is no more than a manifestation of preference for elective monarchy (as opposed to hereditary monarchy). Thus, McIlwain maintains his conclusion that Aquinas consistently supported a "pure monarchy."³⁴

²⁸ Voegelin, *History of Political Ideas*, 215-22.

²⁹ P. E. Sigmund, "Law and Politics," in *The Cambridge Companion to Aquinas*, ed. N. Kretzmann, and E. Stump, (Cambridge: Cambridge University Press, 1993), 220-21.

³⁰ See: Charles Howard McIlwain, *The Growth of Political Thought In the West. From the Greeks to the End of the Middle Ages* (New York: The Macmillan Company, 1932), 328-333.

³¹ McIlwain, *The Growth of Political Thought In the West*, 333.

³² McIlwain, *Ibid.*, 331.

³³ *Ibid.*, 332

³⁴ *Ibid.*, 331-32.

Now, considering the exact words of Aquinas, McIlwain's theory seems quite problematic. Although Thomas uses the Mosaic government as an example, he also makes the universal statement that a mixed government "is the best form of polity, being partly kingdom ... partly aristocracy ... partly democracy."³⁵ McIlwain's claim that Thomas only means to state that mixed government was the best for the people of Israel, but not for political communities of his own age, seems unfounded. His second claim, that Aquinas' statements only show support for elective monarchy is equally incorrect. It is clear from the text that Aquinas does not equate the popular element of the government to the election of the king, as he makes it clear that the democratic element is present in mixed constitution because "all are eligible to govern, and because the rulers are chosen by all."³⁶ Therefore, McIlwain's claim that Thomas consistently supported a pure monarchy seems unsubstantiated.

John B. Morrall, although he is more aware of the contradictions among Aquinas' ideas, also states that Thomas consistently supported absolute monarchy. He interprets the passages in the *De Regno* as explicitly arguing for absolute monarchy. Morrall's argument is that, in a similar manner, in the *Summa* Aquinas outlines a governmental form in which executive and legislative authority are firmly attributed to the monarch, while the "aristocratic ingredient" of mixed constitution is strongly subordinated to the king, while the democratic one is only expressed by concern with popular election.³⁷ Morrall concludes that the "derivation of monarchy from popular election in the *Summa* need be no more incompatible with support of an absolute monarchy than are the theories of popular sovereignty embodied in the Roman law of the days of the absolute Empire."³⁸

Morrall claims that Aquinas consistently supports absolute monarchy. He does not reflect on Thomas' concern with tempering the kings' power in the *De Regno*; apparently it

³⁵ ST, I-II. 105. 1. *Talis enim est optima politia, bene commixta ex regno ... et aristocratia ... et ex democratia.*

³⁶ *Ibid.*, *tum quia ex omnibus eligi possunt, tum quia etiam ab omnibus eliguntur.*

³⁷ J. B. Morrall, *Political Thought in Medieval Times* (London: Hutchinson, 1971), 77-78.

³⁸ Morrall, *Political Thought in Medieval Times*, 79.

does not occur to him that these passages could easily support a kind of limited monarchy. His statements about the parts in the *Summa* are even more problematic. Morrall plays down the importance of the aristocratic element of government and states that it is only a subordinate and practically powerless element in government.³⁹

He also fails to take the actual text of the paragraph into consideration. In *Summa Theologiae* I-II 105.1, Aquinas notes that aristocracy is manifested in a mixed constitution because there “are others having governing powers ... in so far as a number of persons are set in authority”⁴⁰ It appears that Thomas does not envisage the aristocratic elements as an auxiliary, powerless constituent, but he declares that they actually rule (*principantur*). Even if the exact method of their ruling is not indicated, it is strongly implied that they have actual governing power, contrary to the notion that Morrall holds.

Consequently, I find the idea that Aquinas consistently supports absolute monarchy quite unconvincing. If one would like to argue that Thomas manifests a support for monarchy in all his works, it might be more fruitful to state, like Dunbabin, that it was a kind of limited monarchy. Dunbabin interprets mixed constitution as a limitation on the power of the king, in which the king and a popularly elected council wield legislative and executive power. Dunbabin, contrary to McIlwain, notes that for Thomas the element of popular participation does not equate with the election of the monarch, but with that of the aristocratic council.⁴¹

There is another line of harmonizing Thomas’ theory, namely, by stating that he consistently supports a mixed constitution. Tierney, for instance, argues that Aquinas judged that monarchy, although it was the best government for ideal societies, is not suited for actual communities. For Tierney the important point was to prove the novelty of Thomas’ ideas. He argues at some length that Aquinas’ theory on mixed government, although inspired by the

³⁹ Morrall, *Ibid.*, 78.

⁴⁰ ST, I-II. 105. 1. *Sunt aliqui principantes secundum virtutem ... multi principantur secundum virtutem.*

⁴¹ Jean Dunbabin, “Aristotle in the Schools,” in *Trends in Medieval Political Thought*, ed. Beryl Smalley (Oxford, Blackwell, 1965), 72.

traditional elements of Aristotelian and Biblical notions, “does not really exist in either of his sources.”⁴² Although he does not explain how Aquinas’ theory differs from the one outlined in the Old Testament, he does contrast it with the ideas of Aristotle and concludes that the main differences are that while Aristotle attempts to reach a stable balance between the three classes in mixed government, Thomas endeavors to unite the excellent features of the three simple forms of government into one. Another novel element in Aquinas’ theory, proposes Tierney, is that he focuses on the element of checks and balances, namely, on the mutual tempering of the ruling powers.⁴³

Blythe, whose doctoral work was supervised by Tierney, is also a great supporter of this approach. He convincingly rejects the idea that the contradictions in Thomas’ notions are due to some change of opinion or development of ideas, stating that “these statements all were written near the end of a relatively short writing career.”⁴⁴ In Blythe’s interpretation the passages in *De Regno* strongly suggest the idea of tempering the power of the king in order to avoid the danger of tyranny. Blythe, based on Aquinas’ claims that “government pertains free people”, reasons that Aquinas meant the tempering of the power of the monarch by governmental institutions (i. e., implying a constitutional framework) in a kind of political rule.⁴⁵ Blythe states that in the *Commentary* Aquinas also advocates mixed government since he is convinced that the danger of tyranny can be avoided by establishing governmental institutions that could limit the power of the king. He concludes that for Aquinas these were the practical considerations in favor of mixed government.⁴⁶

Blythe adds that Thomas presents some normative arguments in the *Summa*. He cites two examples; the first is a section of the *Summa* (ST I-II. 95. 4. 3.) where Thomas discusses

⁴² Tierney, *Religion, Law, and the Growth of Constitutional Thought*, 90.

⁴³ Tierney, *Ibid.*, 90. Tierney outline the same idea also in: Tierney, “Freedom and the Medieval Church,” 90-91.

⁴⁴ Blythe, *Ideal Government and the Mixed Constitution*, 41.

⁴⁵ Blythe, *Ibid.*, 49.

⁴⁶ *Ibid.*, 50.

what kind of human law suits which governmental form, concluding that mixed government has the best laws. Second, Blythe refers to ST I-II. 105.2, the section on Mosaic government, stating that Aquinas justified mixed constitution by equating it with the political government given by God to his chosen people. Blythe concludes that in Aquinas' texts "the superiority of the mixed constitution is derived a priori from general principles of what constitutes good government, and the Jews are brought in as an example to demonstrate that what he has deduced by reason is supported by the divine intention."⁴⁷

He attempts to resolve the ideological conflicts by arguing that for Aquinas regal monarchy (that is, a monarchy where the power of the king is not restricted by law) is the best abstractly, but not best "considering the nature of humanity," since a king should be a person of perfect virtue, which is practically impossible.⁴⁸ But what Aquinas suggests as the best political government for actual communities is a mixed constitution, argues Blythe. He equates mixed constitution with political monarchy, that is, a monarchy where the power of the king is legally limited.⁴⁹

John Finnis, similarly to Blythe, emphasizes that the distinction between political and regal government is key for understanding Aquinas' discussion on the best political regime. Finnis describes Thomas' notion of political government as consisting of the idea that the power of the governing person is limited by "certain laws of the state,"⁵⁰ that is, he emphasizes that such rule is constitutional. In contrast, states Finnis, in regal government the ruler has "plenary presidential power,"⁵¹ but, unlike in a despotic government, in a regal one the subjects are free people who still hold some power of resistance. Finnis, just like Blythe, stresses that it

⁴⁷ Ibid., 53-54.

⁴⁸ Ibid., 55.

⁴⁹ Ibid., 55-56. A quite similar, though more compressed, line of argument is explicated by Blythe in his article concerned with the same topic: James M. Blythe, "The Mixed Constitution and the Distinction between Regal and Political Power in the Work of Thomas Aquinas," *Journal of the History of Ideas* 47 (1986): 547-565.

⁵⁰ Finnis, *Aquinas*, 259.

⁵¹ Finnis, *Ibid.*, 259.

is a mistake to equate regal government with monarchy⁵².

Finnis' has a decided opinion on whether Aquinas supported a regal or a political government, since he states that: "Aquinas gives the impression that he preferred the "political" form of state government, limited by laws made for the purpose of regulating and limiting even the supreme rulers, to the regal."⁵³ He argues that in the *De Regno* Thomas emphasizes that the opportunity of the monarch to tyrannize must be removed and his power must be limited. Although he also agrees that Aquinas fails to propose an exact method for these precautions, he concludes that the idea of tempered authority is incompatible with the notion of plenary power.⁵⁴

Finnis proposes two ways to reconcile Aquinas' preferences for mixed government (expressed in the *Summa*) and monarchy (as implied in *De Regno*). One option he outlines is to state that Aquinas preferred monarchy only if it was not corrupt, but as it was quite an unlikely scenario, in most real-life cases Thomas opted for mixed government. As was mentioned above, both Tierney and Blythe propose such a solution to avoid the apparent contradiction. The other option, argues Finnis, is to consider the mixed government as a type of monarchy, namely, a political monarchy,⁵⁵ an idea that has also been proposed by Blythe.

Aquinas' Two Typologies of Political Government

Examining the most representative Thomistic texts on the typology and evaluation of political regimes makes it possible to highlight the problematic character of these passages. Thus, first Aquinas' two governmental typologies (one differentiating on the basis of the number of the rulers, the other on the extent of political power held by the rulers) will be discussed. Afterwards, the confusing and somewhat contradictory passages on the issue of the best government will be examined. Finally, a possible ideological factor, namely, the organization

⁵² Ibid., 259

⁵³ Ibid., 261.

⁵⁴ Ibid.

⁵⁵ Ibid., 262.

of the government of the Dominican Order, will be introduced, which could promote, if not decisive evidence, some clarification of the issue.

Forms of Government: The Rule of One, the Rule of Few, and the Rule of the Many

Aquinas' typology of government was profoundly influenced by the ideas of Aristotle, who distinguishes between two main categories in his *Politics*: just governments and their deviations. What sets the right and perverted forms apart, according to Aristotle, is their aims; in the right forms the rulers seek the common interest of the people, while in corrupt governments the rulers aim for their own private interests.⁵⁶

In the Aristotelian typology there are three sub-categories of both just and unjust governments, differentiated by the number of people holding governmental power. Power could belong to one ruler, to a few rulers, or to the majority of the political community.⁵⁷ Aristotle explains that the rule by one man, if aimed at the common interest, is called monarchy, while deviation from it is tyranny. The rule of the few for the common good is aristocracy, that is, the rule of the best men, and its perverted form is oligarchy, the rule of the wealthy. The rule of the majority, when it is rightly ordained, is called *politeia* or polity (which is sometimes translated as democracy⁵⁸). Its perversion can also be translated as democracy or as the people's rule, and it is aimed only at the interest of the lower classes of society.⁵⁹

Aquinas wrote a commentary on Aristotle's *Politics*, around 1271-1272, which, even though is unfinished, deals with Aristotle's governmental typology. Aquinas explains that Aristotle allocated political regimes into three groups, according to their rulers, noting: "We need to distinguish regimes by their different kind of rulers. For either one, a few, or many persons rule in a political community."⁶⁰ Then Thomas makes a distinction between just and

⁵⁶ Pol. 1279a27-33.

⁵⁷ Pol. 1279a27-29.

⁵⁸ See, for instance: *Aristotle's Politics*, trans. H. G. Apostle and L. P. Gerson, (Grinnell: The Peripatetic Press, 1986), 82. Here the translators translate *politeia* as democracy and *demokratia* as people's rule.

⁵⁹ Pol. 1279a34-1279b10.

⁶⁰ LP, III. 6. 2. *Necesse est quod distinguantur politiae secundum diversitatem dominantium. Aut enim in civitate dominatur unus, aut pauci, aut multi.*

unjust governments in conformity with the aim of the rulers, explaining that according to Aristotle rulers can use their power in two ways: “in one way when rulers rule for the common benefit, and then the regimes will be just ... in a second way when rulers rule for their own benefit, whether there be one, a few, or many rulers, and then the regimes are perversions.”⁶¹

Aquinas employs the same names for the different types of government as Aristotle. Accordingly, he states that the rule of the one has two kinds, it is: “kingship if the ruler is striving for the common benefit,”⁶² while the corruption of the one-man rule is tyranny, which is “a monarchy striving for the benefit of the ruler.”⁶³ Similarly, the rule of the few, that is, “aristocracy is so called either because the best people, namely, the virtuous, rule, or because such a regime is directed to what is best for the political community and all its citizens.”⁶⁴ Its perversion is called oligarchy, a government that “strives for the benefit of the wealthy.”⁶⁵ In connection with the Aristotelian notion of the rule of the many, he declares that “we call the regime in which the multitude rules and strives for the common benefit a polity,”⁶⁶ while its perversion, democracy, is defined as a government aiming “for the benefit of the poor.”⁶⁷

Aquinas concludes that the *differentia specifica* of corrupt governmental forms is that “none of these regimes strives for the common benefit.”⁶⁸ Unfortunately, just after the paragraph about the explanation of the Aristotelian typology of governments, Thomas’ commentary breaks off. Thus, even though his commentary on the types of government is available, there is none on the Aristotelian choice of the best regime, which is explained only later in the *Politics*.

⁶¹ LP, III. 6. 2. *Uno modo quando principantur ad utilitatem communem, et tunc erunt rectae politiae. Alio modo quando principantur ad propriam utilitatem eorum qui dominantur, sive sit unus, sive pauci, sive plures; et tunc sunt transgressiones politiarum*

⁶² Ibid., III. 6. 2. *monarchia, id est principatus unius, vocatur regnum consueto nomine si intendat utilitatem communem*

⁶³ Ibid., III. 6. 3. *tyrannis est monarchia, id est principatus unius intendens utilitatem principantis.*

⁶⁴ Ibid., III. 6. 2. *politia in qua pauci principantur propter bonum commune, plures tamen uno, vocatur aristocratia, id est potestas optimorum vel optima, vel quia optimi principantur, scilicet virtuosius; vel quia ordinatur talis politia ad id quod est optimum civitati et omnium civium.*

⁶⁵ Ibid., III. 6. 3. *Oligarchia vero est tendens ad utilitatem divitum.*

⁶⁶ Ibid., III. 6. 2. *quando multitudo principatur intendens ad utilitatem communem, vocatur politia*

⁶⁷ Ibid., III. 6. 3. *Democratia vero ad utilitatem pauperum*

⁶⁸ Ibid., III. 6. 4. *nulla vero earum intendit ad utilitatem communem.*

However, there are other passages that show that Aquinas not only comments on Aristotle's typology, but he actually incorporates the Aristotelian theory into his own political notions. One example is a passage from the *Summa Theologiae*, where Thomas deals with human laws. To summarize the issue briefly, human laws for him are particular arrangements that direct human affairs and which are derived from the more general tenets of natural law.⁶⁹ In his discussion, he connects the Aristotelian forms of government with the different kinds of human law, explicitly referring to Aristotle, "the Philosopher," as the source of these notions. In this paragraph Aquinas argues that different human laws are suitable for states with different kinds of government. Accordingly, he asserts that in monarchy people are governed by royal ordinances, in aristocracy by authoritative legal opinions and decrees of the Senate, in aristocracy's perversion, that is, in an oligarchy, by praetorian or honorary law, while in democracy by the acts of the plebeian assembly. Tyranny, declares Aquinas, being altogether corrupt, has no proper laws.⁷⁰

Moreover, he makes use of the Aristotelian typology in his treatise titled *De Regno*.⁷¹ In the very beginning of the treatise, enumerating the different kinds of government, Thomas clearly follows the scheme set down by Aristotle. First, he imitates Aristotle in distinguishing between just and unjust governments, maintaining that if "a multitude of free men is ordered by the ruler towards the common good of the multitude, that rulership will be right and just ... if, on the other hand, a rulership aims, not at the common good of the multitude, but at the private good of the ruler, it will be an unjust and perverted rulership."⁷²

⁶⁹ For Aquinas' definition of and relation between natural and human law, see: ST, I-II. 91. 2-3.

⁷⁰ ST, I-II. 95. 4.

⁷¹ An edition: *De Regno ad Regem Cypri. On Kingship. To the King of Cyprus*,. Trans. Gerard B. Phelan, rev. by I. TH. Eschmann (Toronto: The Pontifical Institute of Medieval Studies, 1949). The authorship of this treatise is ambiguous and some argue that, with the exception of Chapter 1, it is not Aquinas' work at all. Still, most scholars accept that the remaining parts are probably written by a pupil of Aquinas (the most likely candidate being Ptolemy of Lucca), who was quite familiar with the political theory of his master. Thus, it can be argued to be a work which, even if not completely written by Aquinas, is able to represent his basic notions. For this, see: Black, *Political Thought in Europe*, 22. Nevertheless, in this thesis I choose to refer only to sections from the first chapter of the treatise.

⁷² DR, I. 10. *Si igitur liberorum multitudo a regente ad bonum commune multitudinis ordinetur, erit regimen rectum et iustum ... Si vero non ad bonum commune multitudinis, sed ad bonum privatum regentis regimen*

In the following section, in a similar manner, he outlines a typology based on the number of people holding governmental power, corresponding to the sixfold classification of Aristotle. Thomas explicates as:

If an unjust government is carried on by one man alone ... such a ruler is called a tyrant. ... If an unjust government is carried on, not by one but by several, and if they be few, it is called an oligarchy. That is, the rule of a few. ... If, finally, the bad government is carried on by the multitude, it is called democracy, i.e. control by the populace ... In like manner we must divide just governments. If the government is administered by many, it is given the name common to all forms of government, i.e. polity ... If it is administered by a few men of virtue, this kind of government is called an aristocracy ... And if a just government is in the hands of one man alone, he is properly called a king.⁷³

Aquinas differentiates the types of government according to two aspects: The number of the ruler(s) and their aims in exercising governmental power for. This kind of classification of governmental forms does not give any information about the way political authority is exercised by those who hold it. Thomas, however, explains this elsewhere, employing another typology inspired by Aristotelian concepts.

Modes of Government: Despotic, Regal, and Political

Aquinas differentiates among the types of government by the way rulers exercise governmental power. Accordingly, he sets apart three main categories: despotic, regal and political governments. Despite what the names of these categories might suggest, the tripartite typology does not refer to the number or person of the rulers, unlike the previously examined classification. Despotic, regal and political governments are rather labels that refer to the “extent” of political power, the governmental authority of the state’s rulers. The main difference is that while the regal and political forms govern free people, the subjects of despotic government are not free. A further differentiation, namely, between regal and political government, is that

ordinetur, erit regimen iniustum atque perversum. On medieval theories of common good see: Matthew Kempshall, *The Common Good in Late Medieval Political Thought*. Oxford: Oxford University Press, 1999.

⁷³ Ibid., I. 11-12. *Si igitur regimen iniustum per unum tantum fiat ... talis rector tyrannus vocatur ... Si vero iniustum regimen non per unum fiat, sed per plures, siquidem per paucos, oligarchia vocatur, id est principatus paucorum ... Si vero iniquum regimen exerceatur per multos, democratia nuncupatur, id est potentatus populi ... Similiter autem et iustum regimen distingui oportet. Si enim administretur per aliquam multitudinem, communi nomine politia vocatur ... Si vero administretur per paucos, virtuosos autem, huiusmodi regimen aristocratia vocatur ... Si vero iustum regimen ad unum tantum pertineat, ille proprie rex vocatur.*

while in the regal government the ruler has full power, in political government his power is constitutionally limited.

Aristotle already outlined this classification, namely, the distinction between political, economic, regal, and despotic rule.⁷⁴ At the very beginning of his *Politics* he states that there are four types of rulers, “a statesman, a king, a ruler of a household, and a master of slaves”, and these differ not in the number of their subjects, but “in kind,”⁷⁵ i.e. in the kind of authority they have over their subjects. Commenting on this section of the *Politics*, Aquinas interprets Aristotle’s words as implying that these types of rule do not differ quantitatively but qualitatively.⁷⁶ Although at this point Thomas does not yet elaborate on the differences between governing free and non-free subjects, he does describe the main distinctions between regal and political government:

And the political community has two kinds of regime, namely, the political and the monarchical. A monarchical regime is one in which the ruler has complete power, and a political regime is one in which the ruler has coercive power in accord with the particular laws of the political community ... For when the ruler rules absolute and regarding everything, we call the regime monarchical. And when the ruler rules according to scientific rulers (i.e., according to laws established by political science), the regime is political. That is to say, the ruler partially rules, namely, regarding things subject to his power, and is partially ruled, insofar as he is subject to the law.⁷⁷

Thus, the main difference between political and regal government is that in the political one the ruler’s authority is constitutionally limited (i.e., the ruler only has coercive power in accordance with the laws of the state), while in regal government the ruler is allocated plenary, unrestrained political power. Later in the same commentary Thomas also explains how political rule differs from despotic rule. He maintains that the difference between the two

⁷⁴ Blythe, “The Mixed Constitution,” 549.

⁷⁵ Pol. 1252a8-11.

⁷⁶ LP, I. 1. 3.

⁷⁷ Ibid., I. 1. 3-4. *Civitas autem duplici regimine regitur: scilicet politico et regali. Regale quidem est regimen, quando ille qui civitati praeest habet plenariam potestatem. Politicum autem regimen est quando ille qui praeest habet potestatem coarctatam secundum aliquas leges civitatis ... Quando enim ipse homo praeest simpliciter et secundum omnia, dicitur regimen regale. Quando autem praeest secundum sermones disciplinales, idest secundum leges positas per disciplinam politicam, est regimen politicum; quasi secundum partem principetur, quantum ad ea scilicet quae eius potestatem subsunt; et secundum partem sit subiectus, quantum ad ea in quibus subiicitur legi.*

modes of government is according to their subjects, since “political rule is rule over persons free by nature, and despotic rule is rule over slaves.”⁷⁸

The differences between despotic and political governments are further examined by Thomas in his *Quaestiones disputatae de virtutibus*. In Q.1. a.4. he attempts to explain the relation between the soul, human reason, and the body by paralleling it with different types of political government, referring to Aristotle’s *Politics*. He states that according to the Philosopher the rule of the soul over the body is despotic, while the rule of reason over the other parts of the soul is political and monarchical rule.⁷⁹

I find this text valuable in two respects. First, because here Aquinas lists two interconnected aspects in which despotic and political governments differ. Namely, in line with his statement in the commentary on the *Politics*, he states that while despotic government is over slaves, political government is over free people. This aspect is further elaborated when he notes that slaves “do not have the means to resist the control of the master,” while the subjects of political government do have this right.⁸⁰

The other significant implication of the text is the clear distinction between political and monarchical governments. A careful examination of this section affirms that Aquinas believes that “political” and “monarchical” are two different aspects of government, one referring to the mode of government, the other to its form. Thomas states the following: “reason rules the inferior parts of the soul by a monarchic and political governance, that is, in the way kings and rulers of states govern free people who have the right and means to somewhat resist the order of the king or ruler.”⁸¹

⁷⁸ Ibid., I. 5. 1. *Politica enim est principatus eorum qui sunt liberi secundum naturam, despotia autem est principatus servorum.*

⁷⁹ See the relevant section here: “Corpus thomisticum: Quaestiones Disputatae de Virtutibus.” Q.1. Art.4. <http://www.corpusthomisticum.org/qdw103.html>. Last accessed April 8, 2014. *Aristoteles dicit in politica sua, quod anima dominatur corpori despotico principatu, sicut dominus servo, qui non habet facultatem resistendi in aliquo imperio domini; ratio vero dominatur inferioribus animae partibus regali et politico principatu, id est sicut reges et principes civitatum dominantur liberis, qui habent ius et facultatem repugnandi quantum ad aliqua praecepta regis vel principis.*

⁸⁰ Ibid., *Non habet facultatem resistendi in aliquo imperio domini.*

⁸¹ Ibid., *Ratio vero dominatur inferioribus animae partibus regali et politico principatu, id est sicut reges et*

In this section Aquinas makes two distinct claims: that reason is the sole ruler of its subjects, according to the form of government (i.e., monarchical rule); and it rules over free subjects according to the mode of its government (i.e., political rule). This distinction is further strengthened by the differentiation between kings (*reges*) and rulers (*principes*) in his example. The former is apparently connected with monarchical rule (which, according to the extent of governmental power, can be despotic, regal or political), while the latter is linked with political rule (which can be monarchy, aristocracy, democracy, or a mixture, according to the number of people holding political power). Consequently, in this section Aquinas describes the rule of reason in two respects, both by its form and mode and identifies it as a political monarchy.⁸²

This argument supports the notion that for Thomas a political monarchy, in which there is one head of the community whose power is constitutionally limited, is a clear possibility⁸³. As a case of political monarchy Aquinas presents a well-known example, although it is not taken from a political context, but from the small-scale community of a household. He asserts that the husband's rule over his wife is a political monarchy. In this case there is only one ruler, the husband (so it is monarchy), but his rule over his wife is not plenary; it is restricted by the established rules of matrimony.⁸⁴

Thus, it is important to note that Thomas finds political monarchy a possible arrangement, since it could shed some light on the apparent inconsistency of his thought on the best form of government. The notion that Thomas consistently supported a political monarchy might solve the issue, if it both accords with the ideas he expressed in the *De Regno* and with the section of

principes civitatum dominantur liberis, qui habent ius et facultatem repugnandi quantum ad aliqua praecepta regis vel principis.

⁸² Aquinas outlines practically the same argument in ST, I-II. 58. 2.

⁸³ Blythe in his works about Aquinas' political thought devotes a good deal of attention to the difference between regal and political governments. While both regal and political governments accommodate some degree of contradiction, and they are over free men, nevertheless, adds Blythe, there is a crucial distinction between them, namely, their relation to law. The essential quality that marks political government is that it is limited by the law, while regal government is plenary. See: Blythe, "The Mixed Constitution," 553.

⁸⁴ LP, I. 10. 1.

the *Summa* on mixed government.⁸⁵

The Best Government

Aquinas in his political writings repeatedly refers to the problem of the best government for human communities. However, his statements at a first glance appear to be inconsistent, since in the *De Regno* he declares that the best government is monarchy, while in the *Summa* he both notes that the best government is monarchy, since it is the way God rules the universe (in this section he does not refer to human governments) and elsewhere, that the best is mixed government, a constitution that mixes the elements of monarchy, aristocracy, and polity.

I think these inconsistencies must be taken seriously, but when examined in greater depth, they appear less controversial. In the *De Regno*, while arguing in favor of monarchy, Thomas qualifies his statements and implies that this should be a limited monarchy. Also, the section of *Summa* on God's government does not refer to human communities, in which the rulers are not completely virtuous beings, but to perfect government by God. That is, even though Thomas finds God's absolute monarchy the best ideally, he might not recommend that this power be given to the rulers of actual human communities. Finally, mixed government can be interpreted as a kind of limited monarchy, in which there is one head of the community whose power is limited by the admixture of the elements of aristocracy and democracy in the government. I think that Thomas consistently supported a kind of political monarchy.

Pure Monarchy and Its Dangers

A strong piece of evidence against the statement that Thomas supported political monarchy is the Christian notion on governing the universe, the absolute monarchy of God, which was evidently supported by Aquinas the theologian. He states that monarchy is the governmental form that corresponds best to the general order of the universe, a strong argument for the excellence of kingship. Thomas outlines this concept in the *De Regno*, declaring that

⁸⁵ Blythe proposed this solution for the problem, see: Blythe, *Ideal Government and the Mixed Constitution*, 51-56.

monarchy, the right government by one ruler, is the form of political governance most in accord with nature, and “whatever is in accord with nature is the best.”⁸⁶

To underline this statement, Aquinas mentions three traditional examples of natural government. He declares that “in the multitude of bodily members there is one which is the principal mover, namely, the heart; and among the powers of the soul one power presides as chief, namely, the reason. Among bees there is one king bee.”⁸⁷ Apart from the examples of human organism and the society of bees (it is noteworthy that the chief animal is not considered to be a female queen but a “king”, a male), the most significant monarchical ideal is the government of the universe.

Aquinas notes that, “in the whole universe there is One God, Maker and Ruler of all things.”⁸⁸ That is, he argues, nature manifests the highest form of monarchy; the whole world is organized into a kingdom with God as king. Thomas never suggests that other persons have some share in God’s government or that this rule is limited by any prior and autonomous laws (the only limitation he mentions elsewhere is God’s voluntary self-limitation),⁸⁹ thus, it is unlikely that he considered God’s monarchy to be constitutionally limited. Thomas concludes that, since artificial things should resemble nature to the greatest possible extent, monarchy is the best type of government.⁹⁰ This statement might imply that monarchy is the best government for human political societies as well.

He also proposes that this maxim is “evident from experience”⁹¹ now making evident references to actual political societies, although he does not mention any particular examples, He states that based on human experience the cities and states which are not ruled by one

⁸⁶ DR, I. 2. 19. *Ea, quae sunt ad naturam, optime se habent.*

⁸⁷ Ibid., I. 2. 19. *In membrorum enim multitudine unum est quod omnia movet, scilicet cor; et in partibus animae una vis principaliter praesidet, scilicet ratio. Est etiam apibus unus rex.*

⁸⁸ Ibid., *In toto universo unus Deus factor omnium et rector.*

⁸⁹ ST, I. 25. 2-3.

⁹⁰ DR, I. 2. 19.

⁹¹ Ibid., I. 3. 20. *Hoc etiam experimentis apparet.*

person are “torn with dissensions and tossed about without peace,”⁹² while provinces and cities under monarchical rule are peaceful and flourishing.⁹³ Consequently, Thomas’ practical reason for kingship is that it is best suited for maintaining order, unity, and peace. However, from this section it is not clear if he supports unlimited monarchical power also be given to human rulers or if their monarchy is to be limited in some way.

Thomas presents quite a similar line of argument in favor of monarchy in the first part of the *Summa*. In this important section he again discusses governing the world and concludes as follows:

Therefore the world is governed by one ... For since the end of the government of the world is ... the greatest good; the government of the world must be the best kind of government. Now the best government is the government by one. The reason of this is that government is nothing but the directing of the things governed to the end; which consists in some good. But unity belongs to the idea of goodness ... Therefore the intention of a ruler over a multitude is unity, or peace. Now the proper cause of unity is one ... Therefore a multitude is better governed by one than by several.⁹⁴

Although in this section Aquinas does not touch upon the notion of the best government from the point of view of actual human communities since he is writing about the governance of the universe, he does conclude that monarchy is the best government (unconditionally). He offers several reasons for this claim. First he maintains, similarly to his theory in the *De Regno*, that this is how the universe is governed. His second reason, similarly discussed in the treatise on kingship, is that monarchy is the most apt to ensure unity. This is because in the case of more rulers there is always the threat of dissension, while with one ruler no such issue could emerge. Thus, concludes Aquinas, a multitude is more effectively governed by one ruler than by many.

⁹² Ibid., *Nam provinciae vel civitates quae non reguntur ab uno, dissensionibus laborant et absque pace fluctuant.*

⁹³ Ibid., *E contrario vero provinciae et civitates quae sub uno rege reguntur, pace gaudent, iustitia florent, et affluentia rerum laetantur.*

⁹⁴ ST, I, 103. 3. *Ergo mundus gubernatur ab uno. ... Cum enim finis gubernationis mundi sit ... quod est optimum, necesse est quod mundi gubernatio sit optima. Optima autem gubernatio est quae fit per unum. Cuius ratio est, quia gubernatio nihil aliud est quam directio gubernatorum ad finem, qui est aliquod bonum. Unitas autem pertinet ad rationem bonitatis. ... Et ideo id ad quod tendit intentio multitudinem gubernantis, est unitas sive pax. Unitatis autem causa per se est unum ... Unde multitudo melius gubernatur per unum quam per plures.*

Considering these texts it seems that Aquinas proposes monarchy – possibly unlimited, absolute monarchy – to be the best political government for human societies. However, when other statements and different texts are taken into account, the issue becomes more complicated.

Regarding the paragraph from the *Summa* (ST I. q.103. a.3.) cited above, although it undoubtedly states that monarchic government is the best, it does not explain if this is absolute or limited government. It explicitly refers to the government of the universe, ruled by God. It is possible that Aquinas, although he believes that God, who is the most perfect being, is capable of instantiating the ideally best government, that is, monarchy in which he is the absolute and sole holder of political authority, does not support the same government for actual human societies, where the rulers are morally imperfect humans.

Apparently, human fallibility was the most important factor that made Aquinas reconsider the effectiveness of an unlimited, purely monarchic government for actual political societies. This is probably the reason why, as Voegelin outlines, in some of his texts he suggests that even though pure monarchy is the best government normatively, it is not necessarily the best government empirically.⁹⁵

Thomas derives his strongest argument for the dangers of unlimited monarchy from the Aristotelian governmental typology. Aristotle distinguishes between the correct and corrupt government of one person, monarchy being the just political government practiced by one ruler. However, monarchy has its deviation, tyranny, the unjust rule by one person, and Aquinas declares that tyranny is the worst political government. In the *De Regno*, after commending monarchy, he devotes a good part of the work to the issue of tyranny, and explains why it is clearly the worst regime:

A force operating for evil is more harmful when it is one than when it is divided. Now, the power of one who rules unjustly works to the detriment of the multitude, in that he diverts the common good of the multitude to his own benefit. Therefore, for the same reason that, in a just government, the government

⁹⁵ Voegelin, *History of Political Ideas*, 222.

is better in proportion as the ruling power is one ... so the contrary will be true of an unjust government, namely, that the ruling power will be more harmful in proportion as it is more unitary.⁹⁶

A tyrannical regime perverts the same quality that makes monarchy the best government: it abuses the power for unification. The tyrant holds all political power and abuses it and there are no limitations, no checks on his authority. This is what, implies Thomas, makes the allocation of all political power to one person dangerous. That is, he is aware of the danger of the misuse of governmental power⁹⁷, and realizes that it is even worse when all the authority is held in one hand, without any counter-balance. It seems that for Thomas the greatest danger of the rule of a single individual is that if no one else shares in the government there is no check on the abuses of the ruler, and such misuse of power would happen sooner or later, since human beings are not wholly virtuous.

Therefore, it seems that for Aquinas the best form of rule for actual human societies would be a government which combines the good qualities of kingship (mainly its force for unification) with measures to ensure avoiding the danger of tyranny. In such a government the power of the monarch would be limited, as it is, counter-balanced, by some measures. This effort is manifested in the idea of mixed government.

Mixed Government as an Alternative

In the *De Regno* Aquinas ends his discussion about monarchical rule with the following note: in order to prevent the development of the worst kind of government, that is, tyranny, “a scheme should be carefully worked out which would prevent the multitude ruled by a king from falling into the hands of a tyrant.”⁹⁸ He briefly proposes three distinct measures to achieve

⁹⁶ DR, I. 3. 23. *Magis est nocivum si virtus operans malum sit una, quam divisa. Virtus autem iniuste praesidentis operatur ad malum multitudinis, dum commune bonum multitudinis in sui ipsius bonum tantum retorquet. Sicut igitur in regimine iusto, quanto regens est magis unum, tanto est utilius regimen, ... ita e converso erit et in iniusto regimine, ut videlicet quanto regens est magis unum, tanto magis sit nocivum.*

⁹⁷ In his early work, *Scriptum Super Libros Sententiarum*, he even argued for the justifiable and praiseworthy nature of individual trannycide, though later he expressed a more cautious opinion. See: Sigmund, “Law and Politics,” 220. For the original text by Aquinas see Sent. II. 44. 2. 2. cf. DR, I. 7.

⁹⁸ DR, I. 6. 41. *Laborandum est diligenti studio ut sic multitudini provideatur de rege, ut non incidant in tyrannum.*

this end. First, he states that the ruler should be carefully chosen and educated. Moreover, he suggests the establishment of such a government in which “the opportunity to tyrannize is removed” and in which the ruler’s “power should be so tempered that he cannot easily fall into tyranny.”⁹⁹ Finally, Thomas also states that there must be provisions for the situation when the king, despite all these efforts, becomes a tyrant.¹⁰⁰

For this discussion the second provision is the most promising, since it concerns the way a state’s government is to be organized. In the *De Regno*, however, the exact method of tempering the ruler’s power is not explicated.¹⁰¹ Nevertheless, Blythe argues quite convincingly that what Aquinas has in mind here is not only the multitude’s power to depose the king, but some limitations on the king’s power by established governmental institutions.¹⁰² That is, despite the sudden dismissal of the topic, it seems that in the *De Regno* Thomas subtly implies that in monarchy the political power of the king should be restricted. This notion might evoke the idea of a political government (as opposed to regal government), in which the ruler’s authority is restrained by certain constitutional measures.

Aquinas again takes up the issue of limiting governmental power in the *Summa*. In the I-II.105.1, he deals with Mosaic law and declares that the government of ancient Israel was well ordered, established directly by God for his chosen people. He describes this well-ordered government as a kind of mixed constitution, that is, a regime that contained elements from all the good simple forms of government, monarchy, aristocracy and democracy. Aquinas identifies mixed government as one in which “one is given the power to preside over all; while under him are others having governing powers: and yet a government of this kind is shared by all, both because all are eligible to govern, and because the rules are chosen by all.”¹⁰³

⁹⁹ Ibid., I. 6. 42. *Ut regi iam instituto tyrannidis subtrahatur occasio. Simul etiam sic eius temperetur potestas, ut in tyrannidem de facili declinare non possit.*

¹⁰⁰ Ibid., I. 6. 43.

¹⁰¹ See: Voegelin, *History of Political Ideas*, 221. and Tierney, “Freedom and the Medieval Church,” 89.

¹⁰² Blythe, “Mixed Constitution,” 556.

¹⁰³ ST, I-II. 105. 1. *Unus praeficitur secundum virtutem qui omnibus praesit; et sub ipso sunt aliqui principantes*

Aquinas, after identifying the core features of mixed government, describes the Mosaic government of ancient Israel as a mixed constitution, observing:

Such was the form of government established by the Divine Law. For Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom. Moreover, seventy-two men were chosen, who were elders in virtue: for it is written in Deuteronomy 1:15: “I took out of your tribes wise and honorable, and appointed them rulers”: so that there was an element of aristocracy. But it was a democratical government in so far as the rulers were chosen from all the people; for it is written in Exodus 18:21: ‘Provide out of all the people wise men,’ etc.; and, again, in so far as they were chosen by the people; wherefore it is written in Deuteronomy 1:13: ‘Let me have from among you wise men,’ etc. Consequently, it is evident that the ordering of the rulers was well provided for by the Law.¹⁰⁴

Thomas identifies all three simple forms of government: a king, namely, Moses, and his successors, ruled over all, representing the element of monarchy, the seventy-two elders chosen for their virtue manifested the element of aristocracy, and election of the elders by and from all is identified as the element of democracy. It is important to emphasize that, according to Thomas, popular election only concerned the aristocratic group of the elders, while in the case of the king “the Lord did not leave the choice of a king to the people; but reserved this to Himself.”¹⁰⁵ Although Thomas is aware of the fact, expressed in other sections, that God only reluctantly gave the people of Israel a king, most likely what he wants to emphasize here is that, after God agreed to do so, he still reserved the right to choose the king for himself because it was an issue of great importance.

In this section of the *Summa*, apparently in a contradiction with his statements in the *De Regno* supporting monarchy, Aquinas makes quite clear his preference for a mixed constitution. Accordingly, he notes that mixed government “is the best form of polity, being partly kingdom

secundum virtutem; et tamen talis principatus ad omnes pertinet, tum quia ex omnibus eligi possunt, tum quia etiam ab omnibus eliguntur.

¹⁰⁴ ST, Ibid., *Et hoc fuit institutum secundum legem divinam. Nam Moyses et eius successores gubernabant populum quasi singulariter omnibus principantes, quod est quaedam species regni. Eligebantur autem septuaginta duo seniores secundum virtutem, dicitur enim Deut. I, tuli de vestris tribubus viros sapientes et nobiles, et constitui eos principes, et hoc erat aristocraticum. Sed democraticum erat quod isti de omni populo eligebantur; dicitur enim Exod. XVIII, provide de omni plebe viros sapientes, etc., et etiam quod populus eos eligebat; unde dicitur Deut. I, date ex vobis viros sapientes, et cetera. Unde patet quod optima fuit ordinatio principum quam lex instituit.*

¹⁰⁵ Ibid., *Et ideo etiam electionem regis non commisit dominus populo, sed sibi reservavit.*

... partly aristocracy ... partly democracy.”¹⁰⁶

Aquinas gives two reasons for preferring a mixed constitution: its stability and its resistance against corruption. He argues that the stability of a political community depends a great deal on popular participation in the government. Here he refers to one of the sections of Aristotle’s *Politics* where Aristotle discusses the ideas outlined in Plato’s *Laws*. Contrary to the Platonic notions, he expresses a preference for mixed government, noting that “those who consider the best form as being a blend of many forms, however, speak better [than Plato]; for a government made up of many forms is better.”¹⁰⁷ Thomas, in his commentary on the *Politics*, interprets this section:

Therefore, he says first that some say that the best regime of a political community is one that is a mixture, as it were, of all the aforementioned regimes. And this is because the admixture of one regime moderates another, and there is less reason for rebellion if all the citizens share in the rule of the political community (i.e. if the people should rule in something, the powerful in another, and the king in another).¹⁰⁸

In this commentary Thomas does not yet explicitly identify with the notion that mixed government is the best. Nevertheless, he does interpret Aristotle’s text in a manner suggesting that if it is the best governmental form, it is the best because it can ensure stability and peace by popular participation. This is similar to the idea that he maintains in the section of the *Summa* examined above. Still, in the *Summa* he takes a further step, and commits to the statement that mixed government is the best, partially due to its ability to secure that “all should take some share in the government: for this form of constitution ensures peace among the people, commends itself to all, and is most enduring.”¹⁰⁹ That is, Aquinas was convinced that the democratic element of mixed government guarantees stability and concurrence.

¹⁰⁶ Ibid., *Talis enim est optima politia, bene commixta ex regno ... et aristocratia ... et ex democratia.*

¹⁰⁷ Pol. 1266a4-5. βέλτιον οὐδὲν λέγουσιν οἱ πλείους μὴ γινώσκοντες: ἡ γὰρ ἐκ πλείονων συγκειμένη πολιτεία βελτίων.

¹⁰⁸ LP, II. 7. 3. *Dicit ergo primo, quod quidam dicunt quod optimum regimen civitatis est quod est quasi commixtum ex omnibus praedictis regiminibus. Et huius ratio est, quia unum regimen temperatur ex admixtione alterius, et minus datur seditionis materia, si omnes habeant partem in principatu civitatis; puta si in aliquo dominetur populus, in aliquo potentes, in aliquo rex.*

¹⁰⁹ ST, I-II. 105. 1. *Omnes aliquam partem habeant in principatu, per hoc enim conservatur pax populi, et omnes talem ordinationem amant et custodiunt.*

Besides the aspect of stability, the other reason for opting for mixed government as the best is its resistance to corruption. His theory is that, even though abstractly pure monarchy would be the best type of government, it is not well suited for actual human societies. This is because the political power granted to a king is too great, and the danger of tyranny is so serious that kings should not be given plenary power. This is the part of the text where Aquinas makes his anthropological realism quite clear, noting:

A kingdom is the best form of government of the people, so long as it is not corrupt. But since the power granted to a king is so great, it easily degenerates into tyranny, unless he to whom this power is given be a very virtuous man ... Now perfect virtue is to be found in few: and especially were the Jews inclined to cruelty and avarice, which vices above all turn men into tyrants. Hence from the very first the Lord did not set up the kingly authority with full power, but gave them judges and governors to rule them. But afterwards when the people asked Him to do so, being indignant with them, so to speak, He granted them a king.¹¹⁰

Even though in this section Thomas mentions the government of Israel as an example, it seems that his conclusions apply more generally. The reason for rejecting unlimited monarchy as the best form of political government is that plenary political power can only be exercised safely by a perfectly virtuous person. Probably this is why the monarchical government of the universe is not at all problematic for him: God, its king, is a perfect and absolutely virtuous ruler. However, in the case of human societies there is a good chance that the ruler would not be wholly virtuous. In this case, observes Aquinas, such government would become the corrupted form of monarchy, namely, tyranny.

In a mixed constitution the beneficial aspects of monarchy (like its power to unify) can be preserved, but by the involvement of the tempering effects of aristocracy and democracy, the power of the king is no longer plenary. Although never explicitly stated in the *De Regno*,

¹¹⁰ ST, Ibid., *Regnum est optimum regimen populi, si non corrumpatur. Sed propter magnam potestatem quae regi conceditur, de facili regnum degenerat in tyrannidem, nisi sit perfecta virtus eius cui talis potestas conceditur ... Perfecta autem virtus in paucis invenitur, et praecipue Iudaei crudeles erant et ad avaritiam proni, per quae vitia maxime homines in tyrannidem decidunt. Et ideo dominus a principio eis regem non instituit cum plena potestate, sed iudicem et gubernatorem in eorum custodiam. Sed postea regem ad petitionem populi, quasi indignatus, concessit.*

maybe Aquinas meant something like that when he somewhat obscurely demanded tempering the power of a monarch. Thus, it is probable that Thomas does not support unlimited plenary monarchy in the *De Regno*, but also argues for a political monarchy, that is, a government by a single head whose power is constrained in some respect.

Still, it is not clear how Aquinas pictured the workings of checks on governmental power, although there is a hint in *De Regno* that one of the provisions against tyranny is that “the government of the kingdom must be so arranged that the opportunity to tyrannize is removed.”¹¹¹ Based on the *Summa*, the admixture of the simple governmental forms can be interpreted as one such governmental arrangement, aimed at tempering the king’s power.

This is how Carlyle interpreted the passage in *Summa*, arguing that this text explains how Thomas, in his unfinished treatise on kingship, understood tempering the king’s power. He concludes that:

St Thomas clearly preferred a mixed or constitutional state ... The best form of government, then, in the judgment of St Thomas, is a constitutional monarchy, and it is by means of the restraints belonging to such constitution that the king may be prevented from becoming a tyrant.”¹¹²

Similarly, Copleston maintains that Thomas supported mixed government in which the element of monarchy ensures unity but is limited by a constitution so that the king cannot become a tyrant. Thus, he also concludes that for Aquinas the best government is a kind of constitutional (that is, political) monarchy where the ruler devotes himself to the common good of the political community.¹¹³

Consequently, it seems that there is evidence in the Thomistic texts that supports the claim that Aquinas consistently supported a kind of political monarchy as the best government for actual human communities. Although he mentions repeatedly that a pure monarchy is

¹¹¹ DR, I. 6. 42. *Ut in tyrannidem de facili declinare non possit.*

¹¹² R.W. Carlyle and A.J. Carlyle, *A History of Medieval Political Theory In the West*. Vol. V. *The Political Theory of the Thirteenth Century* (Edinburgh: Blackwood, 1928), 94-95.

¹¹³ F. C. Copleston, *Aquinas* (London: Penguin Books, 1955), 232-33.

the best ideally, considering the fact that human beings are not completely virtuous, Thomas realizes the danger that is entailed by vesting all political power into a single person. Still, he also considers the main advantage of monarchy: it has a great cohesive force.

His solution is a limited monarchy in which there is one head of the community, but where his power is limited by the admixture of elements of aristocracy and democracy in the government. That is, when Thomas argues that a tempered monarchy is the best in the *De Regno*, and states that a mixed constitution is the best in the *Summa*, he is probably speaking about the same thing: political monarchy, a government in which there is one head, but where the rulers power is limited by the very setup of government.

This claim can be further strengthened when it is paralleled with the governmental organization that served as the context of Thomas' whole adult life: the Dominican order. Below I argue that the Dominican government manifested a quite similar political monarchy, with one head whose power was constitutionally limited. Although the influence of the Dominicans cannot be detected directly in Aquinas' political texts (he rarely refers to any actual circumstances), there are strong parallels between the Dominican practice and Thomas' theory, which could further strengthen the claim that Thomas consistently supported political monarchy as the best government.

THE MIXED GOVERNMENT OF THE DOMINICAN ORDER

The early thirteenth century saw the rise of two mendicant religious orders, the Franciscans and the Dominicans, who exemplified quite different notions of organization. The differences originally stemmed from the differing personalities and attitudes of the founders. Francis, the father of the Franciscans was, on the one hand, an inspiring and intense character,

quite popular among the people. He was believed to be an *alter Christus* and mobilized groups of people by his personal magnetism. He was canonized shortly after his death based on his popularly acclaimed miracles. Dominic, on the other hand, did not gain and keep followers with his magnetic personality or theatrical deeds, but rather by his ingenious way of constructing a strong and well-organized order which met the most acute needs of the Church,¹¹⁴ for instance, by providing a body of educated and trained preachers.¹¹⁵ Moreover, the Dominican Order manifested an effectively centralized and unified, but also adaptable and mobile, body of friars. Cohesion in the order was ensured, most of all, by the order's remarkable governance.¹¹⁶

The first head of the Order was Dominic until his death in 1221.¹¹⁷ His successors were the master generals of the Dominicans. Dominic's immediate successor was Jordan of Saxony (1222-1237), followed by Raymond of Peñafort (1238-1240), who recomposed the Constitution of the Friars Preachers in a more orderly manner. He was followed by John of Wildeshausen (1241-1252). Aquinas joined the Dominican Order under John's mastership. The next master general was Humbert of Romans (1254-1263), who was absolved, by his own request, at the 1263 general chapter, in which Thomas participated. There was only one more master general in Aquinas' lifetime, John of Vercelli (1264-1283).¹¹⁸

From the sources of Dominican governmental ideas I refer to two bodies of text. One of them, the 1241 Constitution was composed under Raymond of Peñafort, a variant of the Dominican constitutions quite close to the time Thomas was working on his political ideas and, moreover, it is easily accessible.¹¹⁹ Besides, I use the available material of the acts of the general

¹¹⁴ For a comparison of the Franciscan and Dominican attitudes see Simon Tugwell, "Introduction," in *Early Dominicans. Selected Writings*, ed. Simon Tugwell (New York: Paulist Press, 1982), 1-37.

¹¹⁵ Tugwell, "Introduction", 10.

¹¹⁶ Galbraith, *The Constitution of the Dominican Order*, 4-7.

¹¹⁷ Galbraith, *Ibid.*, 36.

¹¹⁸ William A. Hinnebusch, "The Growth of the Order, 1221-1303," In *The Dominicans: A Short History*. <http://opcentral.org/blog/the-growth-of-the-order-1221-1303/>. Last accessed 15 May, 2014.

¹¹⁹ Hinnebusch argues that Raymond's version remained close to the primitive constitutions, but it was presented in a more logical and better juridical form. William A. Hinnebusch, *The History of the Dominican Order: Origins and Growth to 1500*, Vol. 1, (New York: Alba House, 1965), 172, 219, 224. When referring to the Constitution of the order, I use this version, published in the *Acta Fratrum Praedicatorum: Constitutiones ordinis fratrum Praedicatorum secundum redactionem sancti Raimundi de Peñafort*, ed. R. Creytens "Les

chapters.¹²⁰ I only refer to acts from chapters between 1244-1274, the period when Aquinas was member of the Order, since he was presumably familiar with those.¹²¹

Elements of Mixed Government in the Dominican Order

The definition scholars attempted to give of the mixed government as conceived in the thirteenth century is quite varied, and the government of the Dominicans is rarely mention in connection with it. Still Finnis, in his book on Aquinas' political philosophy, establishes a link between Aquinas' notion of mixed government and the constitution of the Dominican Order, and as a result, declares that the government of the Friars Preachers was mixed. Finnis understands mixed government as one that merges the benefits of monarchy, aristocracy and democracy.¹²²

Blythe, in his essential book on the topic maintains that, although the balance and restriction of governing powers (a central issue in political rule) is not an essential element of mixed government, it can serve as an effective tool.¹²³ Aquinas' mixed constitution, discussed above, even though it also includes the notion of mixing the three simple forms of government, does emphasize the importance of both the balance of power and constitutional limitations. For him the best actual government is a kind of mixed constitution for two reasons: it is the most stable government, since every member of the political community can participate in governance, furthermore, it is an effective tool for avoiding the danger of tyranny, by limiting the power of the ruler.¹²⁴

To clearly demonstrate that Dominican Order had a mixed government in the Thomistic

constitutions des frères Prêcheurs dans la rédaction de s. Raymond de Peñafort," *Acta Fratrum Praedicatorum* 18 (1948): 5-68.

¹²⁰ The acts of the general chapter has also been published, see: *Acta Capitulum generalium ordinis Praedicatorum*. Vol. 1," ed. B. M. Reichert, *Monumenta ordinis fratrum Praedicatorum historica*, Vol. III. (Rome: Typographia Polyglotta, 1898).

¹²¹ All the English versions of the direct quotes from these two sources are translated by the author from the Latin original.

¹²² Finnis, *Aquinas*, 7-8.

¹²³ Blythe, *Ideal Government and the Mixed Constitution*, 10.

¹²⁴ ST, I-II. 105. 1.

sense, first, it must be shown that the government of the order consisted of a mixture of democratic, aristocratic and monarchic elements. Secondly, the limitations of authority, the constitutional checks and balances on the power of the officials have to be identified.

The statement that the government of the Dominican Order manifested a mixture of democratic, aristocratic and monarchic elements has already been mentioned in relevant scholarship. Besides Finnis, Blythe also states that the Dominican constitution was “in all respects mixed”,¹²⁵ though he does not elaborate this notion any further. Hinnebusch in his history of the Order offers a more detailed examination of the early government of the Order of Preachers as one manifesting both monarchic and democratic elements. Still, aristocracy is not mentioned in his discussion. He argues as follows: “By 1228, therefore the Order could boast a completely developed system of government. It was well integrated and exactly balanced between the monarchical elements of administration and the democratic elements of community control.”¹²⁶

For Hinnebusch “administration” clearly equates with the supreme executive power of the master general of the Order (and possibly, to a lesser degree, with that of the provincial and the conventual priors). Hinnebusch also explains that the chapters constituted the democratic element of the government,¹²⁷ while he still fails to account for the element of aristocracy.

This omission can easily be mended by focusing on the definition that Aquinas gives on the aristocratic element of mixed government. In the *Summa Theologiae* he describes aristocracy both as the form of government where “a number of persons are set in authority”¹²⁸ and as the “government by the best, where the power of government is vested in a few”.¹²⁹ This corresponds to the general description of aristocracy (for instance, as put by Blythe),

¹²⁵ Blythe, *Ideal Government and the Mixed Constitution*, 41-42.

¹²⁶ Hinnebusch, *The History of the Dominican Order*, 171.

¹²⁷ Hinnebusch, *Ibid.*, 176.

¹²⁸ ST, I-II. 105. 1.

¹²⁹ ST, *Ibid.*

where aristocracy is referred to as the rule by the few. However, rule by the few could also be oligarchy (where the ruling elite abuses its political power) according to the Aristotelian typology of governmental forms. To ensure that the rulers would govern in the right way, Aquinas states that the rulers should manifest some virtue which could qualify them as suitable for the post. He states that in the Mosaic government of ancient Israel: “seventy-two elders were chosen, according to virtue.”¹³⁰

Moreover, in the same section Aquinas identifies an additional feature of aristocracy. When talking about the Biblical mixed government, with the seventy-two elders representing aristocratic rule, Aquinas also refers to the method of choosing the ones who constitute the aristocratic element of government. He connects it to the notion of election, that is, to election according to an unspecified virtue. He adds that this group is to be elected “from all the people.”¹³¹

The notions of electing a representative (who manifests some special virtue, i.e., the ability to adequately represent his fellow friars) from the broader body of the community; and electing the representatives by all the community, were definitely present in thirteenth century Dominican government. The groups that were elected in order to fulfill specific governmental purposes were the provincial and the general chapters. In the case of the provincial chapter, the members were indeed elected by and from the whole community, while the members of the general chapter were elected by the provincial chapter that is, from and by friars that represented their own electors. Consequently, the provincial and the general chapters can be considered as constituting the aristocratic elements (in the sense Aquinas understands it) of the Dominican government.

In contrast, the conventual chapter did not display the aristocratic element. Rather, it was the essentially democratic element of the government of the order. That is, the members of

¹³⁰ Ibid. *Eligebantur autem septuaginta duo seniores secundum virtutem.*

¹³¹ Ibid.

the conventual chapter were constituted of all the friars of the convent. The friars had the right to participate in the election of their own representatives (with some restrictions, to be explained later). They had not been elected previously to be members of the conventual chapter; they obtained this right solely by belonging to the specific community, but they were the electors of the aristocratic group of the few who would represent them.

In summary, Dominican government can be seen as a form of mixed government, consisting of several elements. The master general of the Order represented the element of monarchy. The general and the provincial chapters manifested the element of aristocracy. The conventual chapter (that is, the congregation of the friars of the convent) formed the democratic element of mixed government.

The Democratic Element

Showalter in his paper on representation in the thirteenth century Dominican Order gives an interesting description of the ideal Dominican friar. It demonstrates that in the Dominican government the democratic element (in the sense Aquinas understands it) was present from early on. Showalter notes that: “The ideal Dominican as imagined by the founder (...) would be fully competent either to elect the officers of the community or to serve as an officer himself, and the Dominican constitution offered ample opportunity for the exercise of both talents.”¹³²

This description corresponds perfectly to the description that Aquinas offers on the democratic element of mixed government. For him, a government, in this specific example the Mosaic government, contains the element of “democracy, i.e., government by the people, in so far as the rulers can be chosen from the people, and it is up to the people to choose their rulers.”¹³³ Election was a central procedure in the Dominican government, so much so that for example Tunmore argues that one of the great innovations of the Dominican organization was

¹³² Dennis E. Showalter, “The Business of Salvation: Authority and Representation in the Thirteenth-Century Dominican Order,” *The Catholic Historical Review* 58. no. 4 (1973): 561.

¹³³ ST, I-II. 105. 1. *et ex democratia, idest potestate populi, inquantum ex popularibus possunt eligi principes, et ad populum pertinet electio principum.*

that the Order was ruled by elected representatives.¹³⁴

Barker maintains that the organization of the Order resembled a representative democracy with elected and free representatives. His main argument is that the officers elected by the friars were not only delegates, but they were real representatives, since they possessed plenary power.¹³⁵ *Plena potestas* (meaning full power or authority) is a legal term that originated in Roman law; in the thirteenth century it had already been well adopted into canon law. In Roman law (where it formed a part of private law) it meant that an individual appointed an agent to represent him in dealings with a third party, and was obliged by the decisions reached in such negotiations. The element of obligation was preserved in canon law, but there the agent was usually not solely appointed by an individual, but by a corporate group. The group was directly obliged by the unrestricted authority of the representative's decisions, without any further explicit consent necessary.¹³⁶

Showalter describes the Dominican government as one that was characterized by a system of representatives with *plena potestas*, and describes it as: "delegates and assemblies possessing it were not only empowered, but required to make decisions on any subject presented to them without consulting their constituents."¹³⁷ An example of the application of the concept of *plena potestas* can be found in the 1241 version of the Constitution of the Order. This version is attributed to Raymond of Peñafort, an excellent canonist and the third master general of the Order between 1238 and 1240.¹³⁸ In the Constitution it is stated that the *diffinitores* of the general chapter have *plena potestas* to correct, and if need be, remove, the master general.¹³⁹

¹³⁴ Harry P. Tunmore, "The Dominican Order and the Parliament: An Unsolved Problem In the History of Representation," *The Catholic Historical Review* 26. no. 4 (1941): 483.

¹³⁵ Ernest Barker, *The Dominican Order and Convocation. A Study of the Growth of Representation in the Church During the Thirteenth Century* (Oxford: Clarendon Press, 1913), 17-18.

¹³⁶ See, for instance: Tierney, *Religion, Law, and the Growth of Constitutional Thought*, 23-24. and K. Pennington, "Law, Legislative Authority and Theories of Government, 1150-1300," in *The Cambridge History of Medieval Political Thought c. 350-c.1450*, ed. by J. H. Burns (Cambridge: Cambridge University Press, 1988), 433-34.

¹³⁷ Showalter, "The Business of Salvation," 561

¹³⁸ *Constitutiones*, 5-68.

¹³⁹ *Ibid.*, 57. *Isti autem diffinitores habebunt plenariam potestatem super excessum magistri ordinis corrigendo vel de eo penitus removendo.*

Thus, even an issue of such great importance was decided by the representatives of the body of the friars. The system of representation clearly manifests the order's strongly democratic spirit.

Moreover, the element of popular election in the government of the Dominican Order is best expressed in the workings of the conventual chapters. Galbraith, in her still-essential book on the constitution of the Order of Preachers identifies the conventual chapter as any chapter held by the friars living in the same convent. The conventual chapter assembled for varied purposes, but its main end was probably the election of the representatives of the house.¹⁴⁰ She summarizes that the broad aim of the conventual chapter was to discuss and settle matters that involved the relations of the convent as a whole body with the outer world. It also elected the conventual prior, that is, the house's immediate superior.¹⁴¹

In general, as Hinnebusch explains, the election of the Order's superiors followed these principles: It was expected to conform to the provisions of canon law and the result was decided by either the majority vote of the electors present or by acclamation or compromise. The integrity of the election was highly esteemed, and protected by serious measures.¹⁴² For instance, in the *acta* of the 1276 general chapter there is a strong warning to all friars, with a special emphasis on the priors, who could be supposed to have greater influence in such matters, not to try to influence the outcome of the elections. Besides, the *acta* outlines a punishment for those who attempt such a thing: they could not exercise voting rights for a period of three years.¹⁴³ Thus, apparently while there were compromised elections, the general strategy of the Order was to impose deterrent punishments on the offenders.

One of the most important tasks of the conventual chapter was the election of the conventual prior and the *diffinitor* who represented the convent at the provincial chapter.

¹⁴⁰ Galbraith, *The Constitution of the Dominican Order*, 40-41.

¹⁴¹ Galbraith, *Ibid.*, 44-45.

¹⁴² Hinnebusch, *The History of the Dominican Order*, 217.

¹⁴³ *Acta Capitulorum generalium*, 186. *Item. Inhibemus prioribus et fratribus universis. ne faciant inductiones in electionibus faciendis. qui vero contrafecisse deprehensi fuerint. per triennium voce in omni electione priventur.*

During the course of the thirteenth century the order changed its ordinances regarding the members of the elective conventual chapter. Saint Dominic did not elaborate on the matter, he only stated that the conventual prior was to be elected by his convent.¹⁴⁴ However, in the 1236 *generalissimus* chapter it was stated that only friars who had made their profession at least one year prior to the election were eligible to become members of the electoral body.¹⁴⁵ The 1259 general chapter confirmed the decision of the previous two chapters, but modified it and stated that only friars who had taken their professions at least two years earlier were eligible.¹⁴⁶ Finally, the 1271 general chapter changed two years for four years.¹⁴⁷

Although it was never specified, the changes restraining the new members of the order from voting were probably meant to ensure a certain measure of insight for all the electors into the life of the convent. With that, the Dominicans maintained a clearly democratic measure by ensuring that all the professed members of the Order with the necessary insight into the working of the convent had the right to choose the most eligible person who would represent them in the world outside the convent (especially at the provincial chapter).

Besides, it was quite important that the result of the election should conform to the informed wish of the majority, since they would all have to abide by the decisions made by the *diffinitor* with *plena potesta* at the provincial chapter. The Dominicans attempted to ensure this by emphasis on majority vote.¹⁴⁸ The 1259 general chapter decided on a change that meant to ensure that a *diffinitor* could only be legally elected by at least half of the electors in the convent:

About the election of the *diffinitors* of the general and the provincial chapters, where it is said: ‘someone from the more suitable ones may be elected by the

¹⁴⁴ Galbraith, *The Constitution of the Dominican Order*, 45.

¹⁴⁵ *Acta Capitulorum generalium*, 7. *Quilibet prior cum conventu scribat singulis annis priori suo provinciali et diffinitoribus capituli provincialis debita domus. Ponentes nichilominus causas debitorum.*

¹⁴⁶ *Ibid.*, 94. *Confirmamus has constitutiones. In capitulo de electioni prioris conventualis. ubi dicitur. fratres autem post annum a professione sua. deleatur. post annum. et dicatur. post duos annos.*

¹⁴⁷ *Ibid.*, 156. *Confirmamus has constitutiones. In capitulo de electioni prioris conventualis. ubi dicitur. post duos annos. deleatur. post duos annos. et dicatur. -iiii- annos.*

¹⁴⁸ Galbraith, *The Constitution of the Dominican Order*, 62.

chapter'. Let 'may be elected by the chapter' be deleted, and all the things that follow afterwards, his *socius* etc. And let it be said thus: 'someone may be elected, from among the more suitable ones, by the major part of the provincial chapter, who could be the *diffinitor* of the general chapter'.¹⁴⁹

The decision of the 1264 general chapter on the election of the conventual prior also suggests that the result depended on the majority of voters. Here two alternative outcomes of the election are presented: that all could agree (that is, the minority could consent to the decision of the majority), or that the matter was decided by the majority. Depending on the outcome, the election of the prior was to be announced according to two different formulae. In the first case it should be said: "I myself so much on the behalf of myself and on all the electors present, elect this <name> for the prior of that convent or that of province."¹⁵⁰ In the second case, the following formula was to be pronounced: "I myself this and that on behalf of myself and on behalf of those who agree with me, elect this <name> etc."¹⁵¹ Even though it had been made quite clear who consented to the election of that certain person to the office of the prior, after he was elected, he represented all the convent without restrictions.

The democratic measure that all the important officials of the order were elected was an efficient safeguard against the tyranny of the rulers. As Barker puts it, the officers of the order were not its rulers, rather, they were meant to serve the general body of friars.¹⁵² Election in the conventual chapter by all the friars belonging to the convent ensured the element of democratic control of all the friars over the ones that represented them in the higher governmental levels of the order.

The Aristocratic Element

The aristocratic element in the Dominican government was constituted by the chapters

¹⁴⁹ *Acta Capitulorum generalium*, 95. *Approbamus has. In capitulo de electione diffinitorum capituli generalis et provincialis. ubi dicitur. aliquis de magis ydoneis a capitulo eligatur. Deleatur. a capitulo eligatur. et totum quod sequitur usque. eius socius etc. et dicatur sic. aliquis de magis ydoneis a maiori parte provincialis capituli eligatur qui sit generalis capituli diffinitor.*

¹⁵⁰ *Ibid.*, 124. *ego talis vice mea. et omnium electorum presencium. eligo talem. N. in priorem talis conventus.*

¹⁵¹ *Ibid.*, *ego talis pro me. et pro illis mecum consenciant. eligo talem N. etc.*

¹⁵² Barker, *The Dominican Order and Convocation*, 17.

with elected members: the provincial, the general and the *generalissimus* chapters. As was mentioned above, the conventual chapter did not operate on the principle of aristocracy, but on that of democracy, as its members were not elected. The provincial and the general chapters, however, and especially the general chapter, were essential driving forces in the operation of the order, where elected representatives with full power dealt with a variety of issues concerning the whole body of friars.

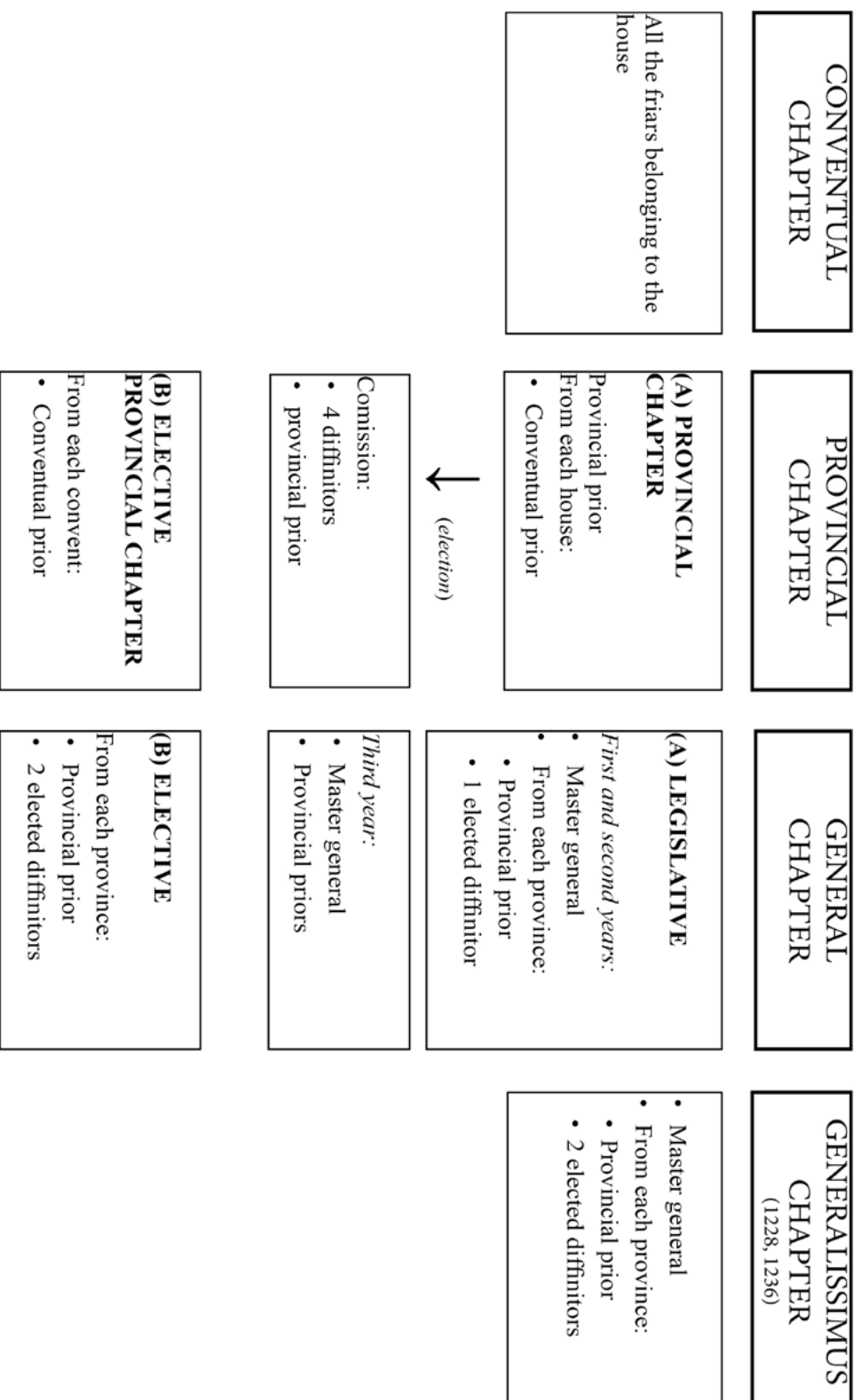


Fig. 1. The constitution of Dominican chapters

The provincial chapter was an intermediary organ of government, situated between the friars (and their congregations in the convents) and the general chapter- It governed the provinces of the order.¹⁵³ Galbraith explicates that the provincial chapter, an intermediary governmental unit with elected representatives, was an innovation of Saint Dominic which was demanded by the rapidly expanding size and spread of the Order of Preachers in the early period.¹⁵⁴

The composition of the provincial chapter was quite constant during the thirteenth century. Each convent delegated its conventual prior and one elected representative of the convent (the *socius*) to the ordinary provincial chapter. Besides, the preacher-generals of the province had the right to participate in the workings of the chapter. This composition of the provincial chapter was enforced in the 1241 Constitution: “And we call to the provincial chapter the conventual priors with a single *socius* <elected by his chapter and> the preacher-generals.”¹⁵⁵

Galbraith claims that this composition ensured that diverse opinions would be heard at the chapter. The conventual prior represented the official view of the house, while the *socius* was to mention the specific issues raised to him by the totality of the convent or by individual friars. He was also to report on the prior of the house. This is why it was so important that he would be elected by the majority of the friars, as was mentioned above.¹⁵⁶

Although it depended on the number of houses in the province, the provincial chapter was so large that for the sake of effective administration the actual work of the chapter was not conducted by the whole body of its members. A committee consisting of four *diffinitors* and the provincial priors was appointed (they most likely were elected at an informal meeting,

¹⁵³ The first provinces were established at the 1221 general chapter. At that point there were twelve provinces, but the number was constantly growing during the thirteenth century. See: Hinnebusch, *The History of the Dominican Order*, 173.

¹⁵⁴ Galbraith, *The Constitution of the Dominican Order*, 61-62.

¹⁵⁵ *Constitutiones*, 55-56. *Capitulum autem provinciale appellamus priores conventuales cum singulis sociis a <capitulo suo electis et> predicatoribus generales.*

¹⁵⁶ Galbraith, *The Constitution of the Dominican Order*, 61-62.

argues Galbraith), who did the substantial work of the chapter. They were the ones who solved the various matters that the chapter had to deal with and they drew up the *acta* of the chapter.¹⁵⁷ Galbraith states that they dealt with a variety of issues, which could be divided into the categories of legislative, administrative, spiritual, judicial and taxational matters.¹⁵⁸ Nevertheless, there were also some tasks that could only be performed by the whole chapter; these were the election of the visitors and the *diffinitors* for the general chapter and the outlining of petitions to be submitted to the general chapter.¹⁵⁹ Thus, these important issues were settled by the totality of representatives that were elected by the friars.

The provincial chapter elected the immediate superior of the province, the provincial prior. The elective provincial chapter had a slightly different composition from that of the ordinary provincial chapter. According to the 1241 Constitution, the electoral college consisted of the conventual priors and two representatives from each convent of the province.¹⁶⁰ The person of the provincial prior was quite important. The power attributed to this office foreshadowed the monarchic element in the organization of the order, which is manifested in a full-blown form in the office of the master general. As is stated in the constitution:

And the provincial prior may have the same power in his province or domain as the master of the Order [has over the Order], and the same reverence and obedience should be shown to the provincials as is shown to the master, unless if the master is there in person.¹⁶¹

The idea that the provincial is to be considered a “smaller-scale master general” gave them a great deal of authority. They were the main representatives of the province. However, the power of the provincial was limited (as will be discussed below) by the provincial chapter

¹⁵⁷ Galbraith, *Ibid.*, 69-71.

¹⁵⁸ *Ibid.*, 76.

¹⁵⁹ *Ibid.*, 71.

¹⁶⁰ *Constitutiones*, 50. *Volumus autem quod electio predicta spectet tantum ad priores conventuales et duos fratres de quolibet conventu ad hoc idem electos*

¹⁶¹ *Ibid.*, 51. *Provincialis autem eandem habeat potestatem in sua provincia vel regno quam et magister ordinis, et eadem sibi reverentia et obedientia a provincialibus ex[h]ibeatur, que magistro ex[h]ibeatur, nisi magister presens extiterit.*

and by the general chapter and the master general.¹⁶²

The general chapter was the most important aristocratic constituent of the Order's government. Still, as Hinnebusch explains, the general chapter was not a Dominican innovation. It had its roots in Cistercian government, and the fourth Lateran Council imposed it on all religious orders. In the Order of Preachers, Saint Dominic himself convoked the first and the second general chapters (in 1220 and 1221).¹⁶³ However, already at the first general chapter it was decided that the chapter must assemble in each and every year, without any further summons required.¹⁶⁴ Thus, quite soon the convocation of the general chapter was subjected to constitutional regulations. After 1244 the place of each general chapter was decided by the previous one, while before that it alternated between Paris and Bologna.¹⁶⁵

The general chapter's great importance originated from the remarkable fact that this chapter held the supreme legislative power in the order. Namely, only the general chapters had the authority to change the constitutions. This restraint is included into the prologue of the 1241 Constitution, which forbade changing anything in the constitution, except according to the following procedure. A change could only be made if:

It could be approved by two successive chapters, and then in the third chapter, that would immediately follow, it could be confirmed or be terminated, either by the provincial priors or by other *diffinitores*, wherever that third chapter may be celebrated. The explanations of the rule or the constitution done by the general chapter may not have the power of the constitution, except if being confirmed through three chapters.¹⁶⁶

Thus, legislation for the order, that is, any changes in the constitution, could only be achieved through the approval of three successive general chapters. Galbraith maintains that this built-in mechanism that allowed the friars to change their constitution in an effective and

¹⁶² Hinnebusch, *The History of the Dominican Order*, 205-07.

¹⁶³ Hinnebusch, *Ibid.*, 80-81.

¹⁶⁴ Galbraith, *The Constitution of the Dominican Order*, 85.

¹⁶⁵ Hinnebusch, *The History of the Dominican Order*, 176-77.

¹⁶⁶ *Constitutiones*, 29. *prohibemus ne de cetero aliquid statuatur, nisi per duo capitula continua fuerit approbatum, et tunc in tertio capitulo immediate sequente, poterit confirmari vel deleri, sive per priores provinciales sive per alios diffinitores, ubicumque illud tertium capitulum celebretur. Interpretationes regule vel constitutionum facte generali capitulo non habeant vim constitutionis, nisi per tria capitula approbentur.*

safe way greatly contributed to the success of the Order. As she puts it:

The general chapters, by introducing, approving, and confirming alternations to the constitutiones, carried out what had been in the mind of the founder, though, owing to human fallibility, he had failed to allow for all contingencies. Likewise as the years went by new needs arose.¹⁶⁷

It is apparent that this system of legislation allowed for a well-balanced and safe way to cope with novel needs and issues. Similarly to the conventual and provincial chapter, issues in the general chapter were decided by voting and the will of the majority prevailed. The decisions were final, and there was no place for appeals.¹⁶⁸

There were two main types of general chapters, according to their functions, legislative and elective general chapters. The legislative general chapter's main concern was to cope with recent needs and developments; the elective general chapter elected the master general. The two types of general chapters were made up of different members. According to the 1241 Constitution, the legislative general chapter consisted of the following members: "And it is declared that the twelve provincial *diffinitors* for two years, and the twelve provincial priors on the third year, with the master of the order, will decide and constitute and manage all things."¹⁶⁹ The *diffinitors*, as was mentioned above, were elected by the provincial chapter (one from each province) to represent the province in the general chapter. The provincial priors were also elected. As a result, the sole legislative power in the order was made up of elected representatives, who formed an ever varying¹⁷⁰ aristocratic body established for the purpose of legislation.

Galbraith adds that the fact that the office of *diffinitors* alternated among friars elected by the provincial chapters and among provincial priors who were present for the sake of their

¹⁶⁷ Galbraith, *The Constitution of the Dominican Order*, 39.

¹⁶⁸ Hinnebusch, *The History of the Dominican Order*, 179. Also see: *Constitutiones*, 57.

¹⁶⁹ *Constitutiones*, 57. *Predicti autem duodecim provinciarum diffinitores duobus annis et duodecim priores provinciales terti anno, cum magistro ordinis omnia diffinient et constituent et tractabunt.*

¹⁷⁰ The same person was not allowed to participate in the work of the general chapter for two successive years. See: *Constitutiones*, 54.

office, ensured that in every third year, when the chapter consisted of the priors, the official point of view of the order was represented.¹⁷¹ This statement is somewhat contrary to the opinion of Hinnebusch, who highlights that in practice there was little difference between the *acta* of the chapters composed of the priors and of that of elected *diffinitors*.¹⁷² Anyhow, the composition of the legislative general chapters varied from year to year. There was only one constant element; the master general presided over the chapters every year. His person was the constant link between the works of successive chapters.¹⁷³

The *generalissimus* chapter (only held twice, in 1228 and 1236) was of a similar constitution, but its decisions were instantly binding, because it was equivalent to three successive general chapters held at the same time.¹⁷⁴ Its composition reflected the idea of merging the work done by three general chapters. First, it contained the master general, who was present at all general chapters. Second, there were two *diffinitors* present from each province. This arrangement corresponded to the scheme of the general chapter with one *diffinitor* from each province, and the number was doubled because normally two such chapters were convoked in two successive years. Third, all the provincial priors were present, who normally constituted the members of the third general chapter in each cycle.¹⁷⁵ Otherwise, the working of the *generalissimus* chapter was similar to that of the general chapter; thus, it will not be presented here in any greater detail.

Besides legislation, the other essential task of the general chapter was the election of the master general, who was the first and most important official of the order. The composition of the elective general chapter was different from the legislative chapter. It consisted of the provincial

¹⁷¹ Galbraith, *The Constitution of the Dominican Order*, 39.

¹⁷² Hinnebusch, *The History of the Dominican Order*, 177-78.

¹⁷³ Galbraith, *The Constitution of the Dominican Order*, 96.

¹⁷⁴ Galbraith, *Ibid.*, 109-110.

¹⁷⁵ *Constitutiones*, 61. *Priores autem provinciales singuli cum duobus sociis a capitulo suo provinciali electis, tale capitulum celebrabunt.*

priors and two elected *diffinitors* from each province.¹⁷⁶ The election of the master general was also settled by a vote of the majority,¹⁷⁷ although Galbraith adds that it was a custom that after a sufficient majority was reached, the rest of the electors agreed to the majority's decision, and in this way the new master general was appointed by "a quasi-unanimous election".¹⁷⁸

The Monarchic Element

The master general, elected by the general chapter, constituted the monarchic element of the government of the Dominican Order. Still, he did not have the power of legislation (which belonged to the aristocratic body of the general chapter), and also, he was elected and supervised by the general chapter. As Tunmore states, although the office of the master general was not a novelty in the history of religious orders, it was a Dominican innovation to make him responsible to the general chapter.¹⁷⁹

Still, the master general maintained a great deal of power, especially executive power, due to his high office. For one thing, all the novices who entered the Dominican Order swore a kind of oath of fealty directly to the master general. The text of the oath taken at the profession by each novice, according to the 1241 Constitution, ran as follows:

The manner of making the profession is such: I, <name> make a profession, and I promise obedience to God, and to the blessed Mary, and to you, <name>, the master of the Order of Preachers, and to your successors, according to the rule of the blessed Augustine and the institutions of the Order of the Friars Preachers, that I will be obeying you and your successors, continuously until my death.¹⁸⁰

According to this oath each and every friar promised obedience, besides to God and the Virgin Mary, to the present master general of the order, and also to his successors. This oath established a strong link between them, and contributed to the unified and centralized character

¹⁷⁶ Hinnebusch, *The History of the Dominican Order*, 178.

¹⁷⁷ See: *Constitutiones*, 57. *Si vero in partes inequales, obtinebit sententia plurium.*

¹⁷⁸ Galbraith, *The Constitution of the Dominican Order*, 103.

¹⁷⁹ Tunmore, "The Dominican Order and the Parliament," 483.

¹⁸⁰ *Constitutiones*, 41. *Modus faciendi professionem talis est: Ego N. facio professionem et promitto obedientiam Deo et beate Marie et tibi N. magistro ordinis predicatorum et successoribus tuis secundum regulam beati Augustini [et] institutiones ordinis fratrum predicatorum, quod ero obediens tibi tuisque successoribus usque ad mortem.*

of the Dominican Order.

Nevertheless, as it is attested by this formula, and as is mentioned by Hinnebusch, the master general's power over the individual friars was not absolute. The friars owed him obedience only according to the Augustinian rule and the institutions of the order. It is noteworthy that the master's control over the individual friars was restricted by these constitutional checks, and he could only order things that did not contradict these previously established limits.¹⁸¹

Still, the fact that he was the superior of all the friars who swore allegiance immediately to him resembles Aquinas' description of the monarchic element of the mixed government. He states that the monarchic element was manifested in the Mosaic government in the following manner: "For Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom."¹⁸² The power of the master general manifested the monarchic element of mixed government. He had a considerable amount of executive power bestowed only on him, which enabled him to centralize and unify the community. Still, it must be noted that his rule did not resemble an absolute monarchy. For instance, the legislative power in the order resided solely in the general chapter. Besides, there were other mechanisms that restricted the master general's power (to be discussed below). Consequently, the master general was not the sole sovereign ruler of the Order of Preachers, but he was the most powerful individual in the government of the order.

Galbraith concurs with the notion that the master general was the most important single individual. She notes that not only did the master have all the authority that the provincials had, but he could also perform functions that no one else in the Order had the power to do. Galbraith mentions a number of examples. Only the master general could appoint a bastard to be prior, only he could confirm the election of the provincial prior (besides, the master general's election

¹⁸¹ Hinnebusch, *The History of the Dominican Order*, 196.

¹⁸² ST, I-II. 105. 1. *Nam Moyses et eius successores gubernabant populum quasi singulariter omnibus principantes, quod est quaedam species regni.*

was not confirmed by anyone, as there was no single higher authority in the order to do so)¹⁸³. Furthermore, as is attested by the 1236 *generalissimus* chapter, only the master could permit the calling of a *generalissimus* chapter.¹⁸⁴

Hinnebusch also emphasizes and explains the amount of the master's authority over the actual government of the order:

[There was] a tremendous moral authority of the master general, an eminence far beyond the actual powers he held. Despite the limits to his authority, he enjoyed a large liberty of action. The chapters met for only a few days each years. At other times all decisions, all administrative responsibilities were his. These executive functions offered a vast range for personal use of discretionary powers. He was constantly active, in touch with the whole Order by visits and letters. He had the power to issue licenses, ordinances and precepts ... When he was weak, the Order was weak; when he was strong, the Order was strong.¹⁸⁵

Consequently, the master general had decisive executive power. He was a true head of the order in all its administrative functions, manifesting a monarchic rule over the order. However, the monarchy of the master general was limited by several factors and could by no means be perceived as an absolute monarchy. It rather resembled a limited monarchy constrained by constitutional checks and balances.

Constitutional Checks in the Dominican Government

Friedrich, in his remarkable book on Christian constitutionalism, maintains that the prime function of any constitutional government is to maintain a kind of safeguard of the individual against the undue interference of his rulers (be it one, few or many), "by the means of a system of regularized restraints imposed upon those who exercise political power." He adds that this aim is frequently ensured by the application of a system of checks and balances, an effective way to maintain the division and separation of political power.¹⁸⁶

¹⁸³ Galbraith, *The Constitution of the Dominican Order*, 133-35.

¹⁸⁴ *Acta Capitulum generalium*, 7. *Generalissimum capitulum non convocetur. nisi quando maior pars provinciarum pecierit. vel magistro visum fuerit expedire.*

¹⁸⁵ Hinnebusch, *The History of the Dominican Order*, 199.

¹⁸⁶ Carl J. Friedrich, *Transcendent Justice. The religious Dimension of Constitutionalism* (Durham: Duke University Press, 1964), 17.

Hinnebusch argues that the government of the Dominican Order manifested such constitutional checks and balances. He states that this intricate system functioned from almost the very beginnings. From early on the order was divided into governmental units (the totality of the order; the provinces; the houses) with a descending order of command by the superiors of each unit (the master general as the supreme head of the Order; the provincial priors; the conventual priors). These superiors were responsible for the administrative functions (also with a descending amount of authority). He adds that the democratic element of elections and representation, and also the supreme legislative power allocated to the general chapter were effective ways to temper and limit the power of the superior officials.¹⁸⁷

Clearly, the conventual and the provincial priors were closely supervised by higher authorities. The provincial prior, even if he was venerated as a “smaller-scale master general”, at the same time had his power limited by various means. He was supervised by the provincial chapter (the chapter that elected him), by the general chapter, and by the master general.¹⁸⁸ One example of the punishment and absolution of a provincial prior by the general chapter is attested in the *acta* of the 1251 general chapter, where it is stated: “We absolve the provincial prior of the Holy Land, and we impose on him three days on bread and water, three psalters, three disciplines and three masses.”¹⁸⁹

The chapters did not always absolve priors of punishment. The term of their offices was not specified, but it was universally believed that they did not hold the office for life. As Hinnebusch mentions, sometimes officials were absolved in order to enable them to accept higher offices.¹⁹⁰ However, there was one limitation to this practice: once removed, the same person could not resume the same office in the same year, as was made explicit by the 1267

¹⁸⁷ Hinnebusch, *The History of the Dominican Order*, 170.

¹⁸⁸ Hinnebusch, *Ibid.*, 205-07.

¹⁸⁹ *Acta Capitulorum generalium*, 59. *Absolvimus priorem provincialem Terre sancte. et iniungimus ei tres dies in pane et aqua -iii- psalteria -iii- disciplinas et -iii- missas.*

¹⁹⁰ Hinnebusch, *The History of the Dominican Order*, 220.

general chapter: “The provincial and conventual priors having been absolved by the general or the provincial chapter may not be resumed to the same office in that year in the same province or convent.”¹⁹¹ In spite of the fact that the Dominicans did absolve officers for several neutral reasons, such as for career advancement, in this case of the provincial prior of Jerusalem the involvement of additional punishment suggests that the chapter absolved the prior as a punishment for some kind of omission or abuse.

Even the highest officer in the order, the master general, was supervised and, if needed, corrected or absolved. Special attention was focused on the limitation of his authority. First and foremost, there was an expectation, which was based solely on custom and not sanctioned by any legal means; he was supposed to restrict his own exercise of power. More precisely, the customary norm to be respected by the master general was that he should not interfere in issues which, although he could solve them, lay within the competence of lesser authorities. In such cases, as Humbert of Romans, the fifth master general of the Order suggested, he should send a petition to the proper authority, asking him to handle the matter.¹⁹²

The example for the master’s voluntary self-restraint was set by Saint Dominic himself. At the beginning, Dominic had supreme authority over all matters of the order (including legislation). However, by establishing the institution of general chapters and voluntarily submitting the master generals to the chapter’s power, Dominic exercised a great amount of self-control over his own power, and that of the master generals to follow. As Hinnebusch explains Dominic’s decision:

The mere act of calling a chapter vested legislative power in it. He might have continued to rule alone, but he did not wish to impose the law. He was willing to step down, limit his own authority as Founder, and subject himself to law and all the other brethren. The chapter would make the laws. His own executive power as general was thereby limited and restricted by the necessity of governing

¹⁹¹ *Acta Capitulorum generalium*, 138. *Priores provinciales et conventuales absoluti per generale. vel provinciale capitulum. non resumantur ad eadem officia illo anno. in eadem provincia vel conventu.*

¹⁹² Galbraith, *The Constitution of the Dominican Order*, 136. and Hinnebusch, *The History of the Dominican Order*, 197.

according to the Constitutions.¹⁹³

Briefly, the master generals' power was limited by constitutional checks; it was limited and restricted by the legal system of the order, and by the decisions of the general chapter, which, ultimately, represented the will of the friars of the order.

The general chapter, the supreme legislative authority of the order, was the master's immediate superior. Although he presided over the general chapter, his vote only counted as one. Moreover, the constitutions bestowed authority on the general chapter to punish and absolve the master general.¹⁹⁴ The 1241 Constitution explicitly authorizes the *diffinitors* of the general chapter to supervise the master general: "And those *diffinitors* will have full power over the digression of the mater general in order to correct him or to completely remove him from that position."¹⁹⁵

As a precaution, the constitution attempted to ensure that the *diffinitors* of the general chapter only absolve the master from his office as an extreme solution. As it is stated in the 1241 Constitution:

And he should not be resigned unless on behalf of a criminal act or on behalf of another criminal sin that could not be endured without a great cause of offense for the order, besides, if he was legally convicted of it or if he confessed it, or if he was so much negligent, useless and remiss, that he might bring dissolution and destruction on the order.¹⁹⁶

As Galbraith outlines, the matter got more complicated for the order when at the 1240 general chapter, Raymond of Peñafort submitted his voluntary resignation from the office of master general to the *diffinitors*, who accordingly accepted it. Galbraith states that the order was unhappy with this development.¹⁹⁷ This is attested by the act of the 1241 general chapter,

¹⁹³ Hinnebusch, *Ibid.*, 81-82.

¹⁹⁴ Galbraith, *The Constitution of the Dominican Order*, 136.

¹⁹⁵ *Constitutiones*, 57. *Isti autem diffinitores habebunt plenariam potestatem super excessum magistri ordinis corrigendo vel de eo penitus removendo.*

¹⁹⁶ *Ibid.*, 58. *Et non deponatur, nisi pro crimine vel pro alio criminali peccato, quod non possit sine magno scandalo ordinis tolerari, de quo etiam si legitime convictus fuerit vel confessus, vel si adeo fuerit negligens; inutilis et remissus, qui ordinis dissolutionem et destructionem inducat.*

¹⁹⁷ Galbraith, *The Constitution of the Dominican Order*, 137-38.

where an *inchoatio* expressly states that the *diffinitors* should not accept the master general's resignation, except as an extreme measure:

We begin with this in addition. That [the master general's] surrendering let not be admitted by the *diffinitors*, unless because of something announced previously or because of a failing or inability that may constantly hinder him in the execution of the office of the master And this we order to shall be firmly observed.¹⁹⁸

Even if Raymond of Peñafort was the first master general to resign willingly, he was not the last to do so in the thirteenth century. The 1263 general chapter accepted the resignation of Humbert of Romans, the master general.¹⁹⁹ It is attested in the *acta* of the chapter as follows: "We accept the resignation of the master of the order. Who humbly begged us. He is being absolved from the office of the master."²⁰⁰

Although the *diffinitors* were warned to apply extreme caution and patience to the digressions of the master general and to remove him only in the most extreme cases (i.e., when his erroneous conduct put the stability, or even the existence, of the order in danger), the general chapter did have the power to remove the master. That power bestowed on the general chapter makes it clear that the power of the master over the order was not absolute. The master general was no sovereign. At the same time, he was the highest official of the Dominican Order, who had to govern with the good of the order constantly in mind.

His rule over the order manifested many of the traits of a constitutional or political monarchy, where the ruler is subjected to the previously established legal order, which efficiently restricts his power. Thus, the Dominican Order manifested a mixed government in the Thomistic sense, in which there is one head of the community unifying it, but whose power is limited by the admixture of the elements of aristocracy and democracy in the government.

¹⁹⁸ *Acta Capitulorum generalium*, 20. *Inchoamus hanc addicionem. quod cessio eius non admittatur a diffinitoribus nisi propter aliquid premissorum aut propter defectum vel impotanciem. que ipsum ab execucione officii magistratus perpetuo impediret. Et hec precipimus firmiter observari.*

¹⁹⁹ Hinnebusch, *The History of the Dominican Order*, 224.

²⁰⁰ *Acta Capitulorum generalium*, 121. *Admittimus cessionem magistri ordinis. quam humiliter a nobis peciit. ipsum ab officio magistratus absolventes.*

DOMINICAN INFLUENCES IN AQUINAS' NOTION OF MIXED GOVERNMENT

Aquinas' Role in the Dominican Government

Thomas joined the Dominican Order in 1244,²⁰¹ against the express wishes of his noble family, who, although they did support his choice of an ecclesiastical career, would have rather seen him become a Benedictine monk. Their intention was, as Finnis explains, that Thomas should climb high in the ecclesiastical hierarchy, so that he would eventually become the abbot of the influential monastery only ten miles from the family's castle, Monte Cassino.²⁰² However, Aquinas, with his decision to join the Order of Preachers, went against the hopes of his family.²⁰³ His decision makes it evident that Aquinas sympathized with the Dominicans; his joining the Order was not simply by chance, but the result of a decision difficult and heavily opposed.

The Order recognized and duly valued the talent of Thomas, and utilized it to the good of the friars. Accordingly, he was appointed for the prestigious Dominican chair at the theology faculty of the University of Paris twice: first between 1256 and 1259 and for a second time between 1268 and 1272.²⁰⁴ In addition, in 1260 he was appointed a preacher-general in the order's Roman province. This office meant the beginning of his deeper involvement in the Dominican government; as a preacher-general he was expected to attend all the provincial chapters of the Roman province and he was also obliged to participate in all the general

²⁰¹ M. Grabmann and V. Michel, *Thomas Aquinas: His Personality and Thought* (London: Longmans, Green and Co., 1928), 2.

²⁰² Finnis, *Aquinas*, 5.

²⁰³ For a description of the reaction of Thomas' family on his entrance into the Order of Preachers, see, for instance, Finnis, *Ibid.*, 5-7.

²⁰⁴ *Ibid.*, 8-9, 15.

chapters held in Rome.²⁰⁵ Consequently, his office ensured that Thomas was more familiar with the order's governance than an ordinary friar, acquainted not only with the governance of a monastery, but also with the grander scale organization of the province.

Moreover, he also participated repeatedly in the workings of the Dominican general chapters, the supreme governmental unit. First, he attended the 1259 general chapter in Valenciennes, where he was part of the commission for studies along with his master, Albert the Great. Their task was, as Placid Conway explains, to outline the *Norma Studiorum*, that is, the fixed curriculum of studies pursued in the Dominican general schools.²⁰⁶ Regarding these schools, Weisheipl explains that although men like Albert the Great and Thomas Aquinas entered the order after proper training in the liberal arts (Thomas studied the liberal arts in Naples between 1239 and 1244²⁰⁷), by 1259 the order had to consider that young men wishing to join them had not received the necessary training. Thus, the task of the commission in which Aquinas participated was to draw up a curriculum which contained the *studia philosophiae*, serving as an alternative for the training received at the arts faculties of universities.²⁰⁸

Interestingly, another topic discussed in the 1259 chapter was the notion that the *diffinitors* of the general and provincial chapters could only be elected by the majority (i.e., by at least half of the electors present). This was a measure to ensure that the decisions of the representatives, holding *plena potesta* authority, be as acceptable to their electors as possible.²⁰⁹ This was a notion with which Aquinas, as he participated in the chapter that approved it, was definitely familiar.

²⁰⁵ Ibid., 7. On the rights and duties of the Dominican preacher-general, see Gailbraith, *The Constitution of the Dominican Order*, 168-70.

²⁰⁶ P. Conway, *Saint Thomas Aquinas of the Order of Preachers (1225-1274). A Bibliographical Study of the Angelic Doctor* (London: Longmans, Green, 1911), 50.

²⁰⁷ Finnis, *Aquinas*, 15.

²⁰⁸ James A. Weisheipl, "The Place of Study In the Ideal of St. Dominic," <http://opcentral.org/blog/the-place-of-study-in-the-ideal-of-st-dominic/>. Last accessed April 19, 2014. The acts of the 1259 general chapter can be found in: *Acta Capitulorum generalium*, 94-101.

²⁰⁹ *Acta Capitulorum generalium*, 95.

Thomas also attended the 1263 general chapter in London, Holborn,²¹⁰ which is noteworthy because it was the one that accepted the resignation of the fifth master general of the order, Humbert of Romans, as is attested by the *acta* of the chapter.²¹¹ The participants were surprised by Humbert's decision, still, they allowed him to resign. The chapter was not elective, so they appointed Albert the Great, who was also present, as the vicar of the master general.²¹²

This is evidence that Thomas had first-hand knowledge of the power the general chapter held in the Dominican government: it was authorized to remove even the highest official. Presumably, he, with the other *diffinitors*, discussed the relevant *inchoatio* of the 1241 general chapter²¹³ while they were evaluating Humbert's appeal. It emphasized the notion already developed in the 1241 Constitution by Raymond of Peñafort,²¹⁴ stressing that the absolution of the master general was a most extreme measure. At the 1241 general chapter, after the resignation of Raymond, the *diffinitors* called for strict observance of this rule. Therefore, Thomas was most likely familiar with the notion that the removal of the head of the community should only be allowed as a solution under extreme circumstances.²¹⁵

Finally, Thomas was also a member of the 1267 general chapter in Bologna. One of the decisions of this chapter was the prohibition against provincial and conventual priors who had been absolved by the general or the provincial chapter (for whatever reason) resuming the same office in the same year.²¹⁶ This suggests that Thomas had actual experience of the notion of rotation of officials holding governmental power.

²¹⁰ Conway, *Saint Thomas Aquinas of the Order of Preachers*, 57-58.

²¹¹ *Acta Capitulorum generalium*, 121.

²¹² Conway, *Saint Thomas Aquinas of the Order of Preachers*, 57-58.

²¹³ *Acta Capitulorum generalium*, 20.

²¹⁴ *Constitutiones*, 58.

²¹⁵ Still, it is a fact that the removal of Humbert did not happen under the extreme circumstances described in the constitution and the *acta*. It was only due to Humbert's request, who, according to Hinnebusch, was most likely alluding to his ill health as a factor that would hinder him in his work. Still, adds Hinnebusch, Humbert lived a good many years quite actively after his resignation, thus, his reasons for the resignation and the motivation of the *diffinitors* to accept it are unclear. See: Hinnebusch, *The History of the Dominican Order*, 224. Similarly, Tugwell suggests that the reason of Humbert's resignation was his failing health, although he likewise details the extensive, predominantly literary, work he did after the years of his absolution, until his death in 1277. See: Tugwell, "Introduction," 33-34.

²¹⁶ *Acta Capitulorum generalium*, 138.

Dominican Practice, Thomistic Notions

These instances suggest that Thomas was strongly involved in the government of his order, up to the highest levels of organization. This would have ensured his familiarity with the basic Dominican governmental ideas and their practical application as well. Still, in his works, just like other historical developments of his time, his experiences with the government of the Friars Preachers are not directly attested.²¹⁷ Nevertheless, it can be argued that these observations influenced his ideas, and are at least indirectly attested in his political and governmental notions. In the following some of these possible influences are examined.

Elections

Election is a central concept in Aquinas' theory and in the Dominican government. Election manifests the democratic element of government. By practicing election, members of the community are enabled to choose their rulers and, in this indirect way, to constitute a part of government. This concept is applied by Thomas in the *Summa*, when he identifies the democratic element of mixed government in which the rulers are chosen by all and from all the people.²¹⁸ In a similar manner, election was a central procedure for the Dominicans, manifesting the democratic element of government. Due to the intricate system of representation each friar had at least indirect influence and control over the way the order was governed.

For both Thomas and the Dominicans the aristocratic and the monarchic elements of government were elected. Election of individuals constituting the aristocratic group of governmental officials is explicitly referred to in Aquinas' description of mixed government. Thomas in the *Summa* states that the aristocratic element in the Mosaic government was constituted by the seventy-two elders, chosen according to virtue by the people.²¹⁹ In the

²¹⁷ Finnis, *Aquinas*, 3, 7-8.

²¹⁸ ST, I-II. 105. 1.

²¹⁹ Although Thomas at this point makes a direct reference to the Bible (Deutonomy 1:13 and 1:15), Aristotle in his *Politics* also briefly mentions the notion that government officials in aristocratic governments are elected, stating that: "in those governments the officials are elected ... according to merit." Pol. 1293b11-12. ὅπου γὰρ μὴ μόνον πλουτίνδην ἀλλὰ καὶ ἀριστίνδην αἰροῦνται τὰς ἀρχάς. This statement is in a part of the *Politics* not included in Thomas' commentary, thus, it is hard to decide if he was familiar with it or not.

Dominican government the rulers were elected by all and from all the people, especially in the case of the provincial chapter's members, who were elected and delegated by their houses, that is, by the "people of the province". Each house sent to the provincial chapter its conventual prior and one elected representative of the house. Both officials were elected by the friars of the house, and they had to be members of the convent that they were representing.²²⁰ This system is an exact parallel of the one described by Aquinas, even though he never directly refers to the Dominican system of election as his inspiration for the notion of choosing the aristocratic element of mixed government.

In the government of the Friars Preachers not only were the *diffinitors*, the conventual and provincial priors, chosen but also the head of the order. The master general, representing the monarchic element in the order's government, was elected by the electoral general chapter.²²¹ In the section of the *Summa* on mixed government Thomas does not make any allusions to the election of the king, who represents the monarchic element in mixed government. Although he notes that rulers are chosen by the people,²²² it is not obvious whether this statement refers to the king as well, or only to the members of the aristocratic group.

In this passage he only mentions the origin of the king's power in connection with the Mosaic government. He establishes that Moses and his successors were chosen directly and appointed by God.²²³ It appears, then, that Thomas maintains that the head of the community, contrary to Dominican practice, is not elected by the people but is appointed by God.

Contrastingly, in the *De Regno* he mentions several possible sources of the king's power other than God's direct appointment of the ruler. This suggests, then, that Thomas does not find the situation outlined in the *Summa*, when God directly assigned the head of mixed government, the only possible way in which a king can be chosen. It is only a particular, and

²²⁰ *Constitutiones*, 55-56.

²²¹ Hinnebusch, *The History of the Dominican Order*, 178.

²²² ST, I-II. 105. 1.

²²³ ST, *Ibid.*

probably not very general, example, relevant in the special case of the government of ancient Israel, when God directly concerned himself with the selection of the head of the community.

The context of his discussion on the sources of the king's power in the *De Regno* is the question of whether subjects have the right to remove the monarch if he becomes a tyrant. Thomas states that the answer to this question depends on the source of the monarch's power. He declares that if the power of the king was bestowed on him by a higher human authority, then only this authority has the right to take the power back.²²⁴ He adds that the tyrant's subjects only have the right to rise against their monarch and remove him if "to provide itself with a king belongs to the right of a given multitude."²²⁵ Thomas in this case pictures the possibility of a contractual relationship between the king and his subjects; if the king were elected by the multitude for a certain purpose (presumably, the attainment of common good), then, if he fails to fulfill his side of the contract, his subjects have the right to take back the governmental power bestowed on him. He puts it as follows:

It must not be thought that such a multitude is acting unfaithfully in deposing the tyrant, even though it has previously subjected itself to him in perpetuity, because he himself has deserved that the covenant with his subjects should not be held, since, in ruling the multitude, he did not act faithfully as the office of a king demands.²²⁶

In this passage Aquinas suggests that it is possible that in some cases the king, just like an officer, is appointed by his subjects to fulfill a specific task, and if he fails to do so this he has to face serious consequences. The monarch is pictured as the highest governmental official, whose authority stems from popular consent and is limited according to the requirements attached to his office.

²²⁴ It is interesting that Thomas apparently only considers political authorities in this respect, while he never refers to the pope as a higher authority who can bestow political power on kings. He only cites one example, that of the Roman emperor, Augustus, who wielded the authority to deprive the tyrannical king of Jerusalem, Archelaus, of his title. DR, I. 6. 50.

²²⁵ DR, I. 6. 49. 27p *Ad ius multitudinis alicuius pertineat sibi providere de rege.*

²²⁶ DR, Ibid. *Nec putanda est talis multitudo infideliter agere tyrannum destituens, etiam si eidem in perpetuo se ante subiecerat: quia hoc ipse meruit, in multitudinis regimine se non fideliter gerens ut exigit regis officium, quod ei pactum a subditis non reservetur.*

This picture of the head of community recalls the master general's position in the Dominican Order. The master was popularly elected by the general chapter, whose members were elected by the provincial chapter, with *diffinitors* delegated by the individual friars of the order. Also, the master general's power was not unlimited; just like the case of Aquinas' tyrant, his authority could be suspended by the community (or its representatives).²²⁷

That is, popular election of the head of the community implies both in Thomas' theory and in the Dominican practice that the subjects retain the right to withdraw this office if need be. Aquinas, in a similar manner to the Dominican practice, seems to assume that the election of rulers assures that the subjects have a kind of safeguard against the tyranny of their superiors. Still, Thomas, just like the friars, is cautious when it comes to deposing the community's ruler.

Removal of Rulers

In his early writing, the commentary on Peter Lombard's *Sentences*, Thomas declares a different stance on the removal of tyrants than the one proposed in his more mature works. In the commentary he discusses whether the tyrant's subjects are bound to obey him and states that they are not obliged to follow the orders of a ruler who abuses his authority. In this section he also mentions a way the tyrant can be justly removed.²²⁸ He uses the example of Julius Caesar (as described by Cicero), and identifies his reign as an example for a government in which the ruler seized power by violence against the wishes of the subjects. In such a case, according to Thomas, the subjects are not bound to obey the ruler. He states that it was also the case with Caesar that there was no higher authority to which the people could have turned for aid. Thus, concludes Thomas, "in such a case he who delivers his country by slaying a tyrant is to be praised and rewarded."²²⁹

That is to say, in this section Aquinas maintains that even individuals have the right

²²⁷ Galbraith, *The Constitution of the Dominican Order*, 136., *Constitutiones*, 57.

²²⁸ Sent. II. 44. 2. 2.

²²⁹ Ibid. *Tunc enim qui ad liberationem patriae tyrannum occidit, laudatur, et praemium accipit*. This view is similar to the one famous one maintained by John of Salisbury. See John of Salisbury, *Policraticus*, ed. by K.S.B. Keats-Rohan, Turnhout: Brepols, 1993.

to kill tyrants, providing that they do not owe obedience to them, and there are no higher authorities who could solve the issue. The tyrant here is simply identified as a ruler who abuses his power, while the quantity or quality of the abuse is not mentioned. Thomas here presents quite a radical stance, noticeably different from the one that he later developed.

Aquinas also discusses at some length the right of the tyrant's subjects in the *De Regno*.

In this work he manifests a more cautious view and declares:

If there be not an excess of tyranny it is more expedient to tolerate milder tyranny for a while then, by acting against the tyrant, to become involved in many perils more grievous than the tyranny itself ... If the excess of tyranny is unbearable, some have been of the opinion that it would be an act of virtue for strong men to slay the tyrant and to expose themselves to the danger of death in order to set the multitude free.²³⁰

Here Thomas notes that in commonsense it is not advisable for subjects to revolt in the case of milder tyranny, since this action might result in a worsen situation. That is, he only suggests taking measures against the tyrant if his rule is absolutely intolerable. Although he does not make clear what the exact difference between a tolerable and intolerable tyranny is, he does emphasize that a criterion which renders the removal of the tyrant acceptable is the excessive misuse of power.

In the second part of this passage he outlines an opinion similar to his own in the commentary on the *Sentences*, namely, that it is a virtuous act if a private person, despite all the risks, slays the tyrant and frees the community. His attitude in the *De Regno*, however, is quite different from this. He declares that it is not right for an individual to commit tyrannicide:

Should private persons attempt on their own private presumption to kill the rulers, even though tyrants, this would be dangerous for the multitude as well as for their rulers ... it seems that to proceed against the cruelty of tyrants is an action to be undertaken, not through the private presumption of a few, but rather by public authority.²³¹

²³⁰ DR, 6. 44-45. *Si non fuerit excessus tyrannidis, utilius est remissam tyrannidem tolerare ad tempus, quam contra tyrannum agendo multis implicari periculis, quae sunt graviora ipsa tyrannide ... Et si sit intolerabilis excessus tyrannidis, quibusdam visum fuit ut ad fortium virorum virtutem pertineat tyrannum interimere, seque pro liberatione multitudinis exponere periculis mortis.*

²³¹ Ibid., 6. 47-48. *Esset autem hoc multitudini periculosum et eius rectoribus, si privata praesumptione aliqui attentarent praesidentium necem, etiam tyrannorum ... Videtur autem magis contra tyrannorum saevitiam non*

That is, in his treatise on kingship Thomas argues that only a public authority can rightfully proceed against a tyrant. Although his opinion expressed here is in clear contrast to his earlier one, it does accord well with the Dominican practice concerning similar matters, especially considering the notions on intolerable misuse of power and the application for public authority.

As described in the relevant section on Dominican government, the master general, the head of the order could be deposed. His absolution belonged in the scope of the general chapter's authority, which could supervise, punish and remove the head of the order,²³² a provision included in the 1241 Constitution.²³³ Still, the Constitution, in a similar manner to that manifested by Thomas in the *De Regno*, attempted to ensure that the removal of the master general was only applied as a most extreme measure. It outlines a list of cases serving as examples for extreme situations in which there is no other remedy than the removal of the master: When the master commits a criminal act or another grave sin, his removal becomes an option. Still, the Constitution qualifies it, further, stating that even in those cases the deposal of the master should only be implemented if his transgression could not be endured any longer without great harm to the order. The Constitution declares that it is better to tolerate the transgressions of the master unless it brings "dissolution and destruction on the order."²³⁴

The 1241 general chapter further emphasized this stance, especially fueled by the acceptance of Raymond of Peñafort's resignation by the previous general chapter. It stressed that the master general's resignation must only be accepted as an extreme measure, applicable solely if the master manifests such a fault that it absolutely excludes him retaining his office.²³⁵ The members of the 1263 general chapter, Thomas Aquinas being one of them, were faced

privata praesumptione aliquorum, sed auctoritate publica procedendum.

²³² Galbraith, *The Constitution of the Dominican Order*, 136.

²³³ *Constitutiones*, 57.

²³⁴ *Ibid.*, 58. *Ordinis dissolutionem et destructionem inducat.*

²³⁵ *Acta Capitulorum generalium*, 20.

with the issue when the master general, Humbert of Romans, handed in his resignation for the chapter. Despite all the warnings in the Constitution and the acts of previous chapters, the chapter accepted Humbert's resignation and allowed him to resign, although there is no evidence that the situation could have been considered in any way extreme or intolerable.²³⁶

Did the stance of the Dominicans influence Aquinas in the formation of the notion of removing a tyrant? Although direct evidence is lacking, several indications may suggest that it could have done so. There is a striking difference between Thomas' stance as outlined in his commentary on the *Sentences* and in *De Regno*. The latter work was written in about 1267, a couple of years after the general chapter that absolved Humbert. It is likely that Thomas, if he had not been familiar with the Dominican notion on the conditions of the master general's absolution before, familiarized himself with them at the 1263 general chapter, which probably debated the admissibility of the master general's resignation. Aquinas' later stance on the conditions under which the removal of the tyrant is permissible lists criteria like those established by the Dominicans.

First, a ruler who misuses his authority can only be removed as an extreme measure. This premise was made explicit in the Dominican Constitution, and is applied by Thomas when he claims that subjects must suffer the rule of tyrants as long as possible and only revolt if the misuse of power is no longer tolerable. Secondly, Thomas states that to deposing a tyrant does not lie within the sphere of authority of individuals, it only concerns public authority. He also adds, as was described above, that if the community grants the power to rule to the monarch, then the community has the right to take it back if necessary. This process is strikingly similar to the Dominican practice, where the right to absolve the master general belonged to the general chapter, a public authority representing the order as a whole. Although the impact of Dominican practice on Thomas' theory cannot be identified directly, there are strong indications for the

²³⁶ Ibid., 121.

possibility of such an influence.

Rotation of Offices

While the forceful removal of rulers is a most extreme measure both in the Dominican government and in Thomas' theory, he considered the constant rotation of the rulers and ruled an important feature of political government. This notion was most likely inspired by one of Aristotle's definitions of political government, where he notes that one difference between rulers of regal and political states is that "the first is the sole authority of the state but the second rules and is ruled in turn according to the truths of political science."²³⁷

Thomas, in his commentary on the *Politics* deals with the idea of rotation, but explains it in a specific way. He states that in a political regime "the ruler partially rules, namely, regarding things subject to his power, and is partially ruled, insofar as he is subject to law."²³⁸ Apparently, his main focus is not what Aristotle suggested (that in different periods different people hold political offices), he rather emphasizes that the ruler in some respect has full authority, but in another respect the ruler is a subject; that is, he is subject to the established laws of political community. More precisely, while in Aristotle's analysis political rule entails that governmental offices are held only for a limited period of time, Aquinas talks not about temporal but qualitative limitations; in his opinion in political government some things are subject to the authority of the ruler, but at the same time he is a subject as well.

Nevertheless, Aquinas was also aware of the rotation of offices as a feature of political rule in the more strictly temporal meaning suggested by Aristotle. This is clear when he comments on the following section of the *Politics*: "So in the political rule, too, whenever the state consists of citizens in virtue of their equality and similarity, the citizens expect to rule, and be ruled, in turn."²³⁹ Aquinas' commentary runs as follows:

²³⁷ Pol. 1252a15-17. δὲ κατὰ τοὺς λόγους τῆς ἐπιστήμης τῆς τοιαύτης κατὰ μέρος ἄρχων καὶ ἀρχόμενος, πολιτικόν.

²³⁸ LP, I. 1. 4. *Quasi secundum partem principetur, quantum ad ea scilicet quae eius potestatem subsunt; et secundum partem sit subiectus, quantum ad ea in quibus subiicitur legi.*

²³⁹ Pol. 1279A10-12. διὸ καὶ τὰς πολιτικὰς ἀρχάς, ὅταν ᾗ κατ' ἰσότητα τῶν πολιτῶν συνεστηκυῖα καὶ καθ'

Since the rule over free persons is chiefly directed to the benefit of subjects, it is deemed right that citizens in turn hold political offices when the latter have been established on the basis of equality and likeness of citizens. For it then seems right that some citizens rule at one time, and others at other times. It would be otherwise if some citizens were far to exceed others in goodness, since then it would be right that the former always rule.²⁴⁰

Following the notion of Aristotle, Thomas claims that rotation of offices (in the actual temporal sense) is only part of political rule if the citizens are equal (especially regarding their virtue). In this case, argues Aquinas, all citizens are equally capable of ruling, and they should do so. However, declares Thomas, if some citizens are, so to speak, naturally elevated by their supreme virtue, they should rule uninterruptedly.

On the other hand, in the *Summa*, when talking about the mixed constitution as the best regime, Aquinas does not explicitly mention the rotation of offices. The governmental offices that he deals with in this passage are those of the elders and the king. He declares that the elders excel in virtue, since this is exactly the criterion by which they are chosen. Thus, in accordance with his notion outlined in *Libri Politicorum*, it is reasonable to assume that the members of this group are fixed, since they are naturally elevated due to their supreme virtue, and should not hand their offices over to less virtuous members of the community.²⁴¹

The office of the king is described in a similar manner in the *De Regno*. In one section of the book Thomas states that the reward of virtue is heavenly happiness, and argues that the king is due a greater degree of happiness because of his greater virtue. His reasoning is as follows: “the more persons he rules the greater his virtue ... Greater virtue is required to rule a household than to rule one’s self, and much greater to rule a city and a kingdom. To discharge well the office of a king is therefore a work of extraordinary virtue.”²⁴² Although at first sight

ὁμοιότητα, κατὰ μέρος ἀξιοῦσιν ἄρχειν

²⁴⁰ LP, III, 6. 5. *Ideo dignum reputatur quod particulariter principentur cives secundum principatus politicos, quando fuerint instituti secundum aequalitatem et similitudinem civium. Tunc enim dignum videtur quod in una parte temporis quidam principentur, in alia vero alii. Secus autem esset, si quidam civium multum excederent alios in bonitate: tunc enim dignum esset, ut illi semper principarentur.*

²⁴¹ ST, I-II. 105. 1.

²⁴² DR, I. 9. 68. *Tanto magis, quanto plurium est regitiva ... Sic igitur maior virtus requiritur ad regendum domesticam familiam, quam ad regendum se ipsum, multoque maior ad regimen civitatis et regni. Est igitur*

it appears that Thomas universally states that all kings naturally have greater virtue than their subjects, he eventually qualifies this statement and declares that it is only true of good kings, the ones who exercise the office of the king in a good way.

Nevertheless, he does argue that a good king holds his office somewhat naturally due to his excellent virtue. This remark again implies that the rotation of the kingly office is rejected as long as the king exercises his office correctly. If he does not do so, as when he turns into a tyrant, he might become disposable and his office be given to another, since tyrants, according to Aquinas, can be removed. Consequently, it seems that the office of the king is fixed as long as the king respects the boundaries of his rule, but can be taken back and given to a more worthy person if the king fails to conduct his office properly.

Thus, it can be assumed that for Thomas the rotation of offices, generally stated to be an integral factor of political government, is not an essential part of the system of mixed constitution. He implies that in an ideal case both the monarchical and the aristocratic elements of government are constituted by exceptionally virtuous individuals who are elevated to these posts naturally. Nevertheless, rotation of offices is retained for the less ideal cases when holders of these offices are not that virtuous.

In the Dominican government, as Showalter maintains, ideally all Dominican friars had the necessary capabilities to elect their representatives or serve as officials themselves.²⁴³ This is what made them all eligible for holding offices in the government of the order. Normatively, they were equally eligible and capable of governing.²⁴⁴ While the Dominicans presumed that all friars are equally capable of ruling, Thomas did not make this assumption regarding a political community. For him the best situation would be one with natural rulers, governing due to their supreme virtue. Rotation of offices is only incorporated in the theory as a solution for deviation

excellentis virtutis bene regium officium exercere.

²⁴³ Showalter, "The Business of Salvation," 561.

²⁴⁴ LP, III. 6. 5

in the system. Thus, apparently, there is a gap between the ideal Dominican situation and Thomas' conception. Still, if we consider the actual situation in the order, the gap might shrink.

For instance, the early master generals of the order were evidently deemed to be exceptional persons. The *Lives of the Brethren*, compiled when Humbert of Romans was the master, includes the legend of Jordan of Saxony, the second master general. Excerpts suggest that the friars considered him to be definitely superior to most of his contemporaries, stating, for instance, that Jordan was "a pattern of every virtue."²⁴⁵ It is also mentioned in his legend that he was an excellent preacher, a capacity most important for the Dominicans, and "the word of God fell from his mouth with such spirit and fervour that his equal could hardly be found."²⁴⁶ But, most importantly, the text emphasizes Jordan's fundamental role in the expansion of the order, declaring that "it is an established fact and worthy of all belief that since the rise of the religious Orders no one ever drew so many men of letters and clerics of note to any Order as he did to the Order of Preachers."²⁴⁷ Based on these statements, it is clear that the Dominicans considered Jordan to be an exceptional man, who, based on Thomas' theory, was naturally suitable for the office of the master general.

This criterion of superiority was not only applied in the case of the master general of the order. For instance, in the *acta* of the 1259 general chapter, on the election of the *diffinitors* of the provincial and general chapters, it is stated that the *diffinitors* must be elected by the majority "from among the more suitable ones."²⁴⁸

Even though nominally all friars were eligible to hold offices, officials were picked from the more talented ones, who were in some way superior to the others, and then the offices rotated among them. Consequently, it appears that the actual practice of the Dominicans and

²⁴⁵ Gerard de Frachet, *Lives of the Brethren*, Part 4. Ch.2.
<http://opcentral.org/blog/lives-of-the-brethren-part-iv/>. Last accessed: May 15, 2014.

²⁴⁶ *Lives of the Brethren*, Part 4. Ch 10

²⁴⁷ *Ibid.*, Part 4. Ch.10.

²⁴⁸ *Acta Capitulorum generalium*, 95. *Aliquis de magis ydoneis*.

Thomas' theory are not that different after all. Both assume that representatives are chosen according to a criterion of eligibility, and offices are limited politically so that equally eligible persons should have some part in the government. The Dominican practice could have served for Thomas as an actual, familiar illustration of Aristotle's theory of political government, showing rotation of governmental officials in practice.

Unity in Monarchy

Thomas' main argument for the excellence of monarchy is that it secures the unity of the political community most efficiently. He declares that "the more efficacious a government is in keeping the unity of peace, the more useful it will be ... what is itself one can more efficaciously bring about unity than several ... Therefore the rule of one man is more useful than the rule of many."²⁴⁹ A similar view is expressed in the *Summa*, where discussing the government of the world, he states the following:

The intention of a ruler over a multitude is unity, or peace. Now the proper cause of unity is one. For it is clear that several cannot be the cause of unity or concord, except so far as they are united. Furthermore, what is one in itself is a more apt and a better cause of unity than several things united. Therefore a multitude is better governed by one than by several.²⁵⁰

Thomas argues that one ruler can ensure the unity of the community better than several. For him the best characteristic of monarchy is that the king, the head of the community, unites his many subjects, governing them towards a common end.

In mixed government, although more than one person shares the governmental power, the element of monarchy is also present. Actually, Aquinas, in his description of mixed constitution in the *Summa*, identifies the monarchic element of government exactly by referring to this aspect of it: in monarchy there is one head of the community who is able to unite his

²⁴⁹ DR, 1. 2. 17. *Quanto igitur regimen efficacius fuerit ad unitatem pacis servandam, tanto erit utilius ... Manifestum est autem quod unitatem magis efficere potest quod est per se unum, quam plures ... Utilius igitur est regimen unius, quam plurimum.*

²⁵⁰ ST, I. 103. 3. *Et ideo id ad quod tendit intentio multitudinem gubernantis, est unitas sive pax. Unitatis autem causa per se est unum. Manifestum est enim quod plures multa unire et concordare non possunt, nisi ipsi aliquo modo uniantur. Illud autem quod est per se unum, potest convenientius et melius esse causa unitatis, quam multi uniti. Unde multitudo melius gubernatur per unum quam per plures.*

subjects. He states that monarchic element is present in mixed government in the peculiarity that “one is given the power to preside over all.” and that the “best form of polity [is] partly kingdom, since there is one at the head of all.” Similarly, he identifies the monarchic element in the Mosaic mixed government in that: “Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom.”²⁵¹

Thus, the monarchic element of mixed government is manifested by the greatest strength of monarchy; there is one head of the community who has authority over each and every individual. Still, it is not clear how Thomas conceived that while in mixed government there is a supreme ruler, there are also other people (i.e., the members of the aristocratic group) who share in the government. Maybe the relations between those sharing in political government can be clarified by a reference to the organization of the Dominican government, which manifested a similar organization.

In the Dominican government, as Galbraith notes, the master general was the most important single individual. As was discussed above, the master was assigned functions that no one else in the order could perform. Moreover, no one had to confirm the initiation of the master, since there was no single individual in the order who had the authority to do so, since no single person wielded more power than the master.²⁵²

The master general was the symbol of the order’s unity, which was well exemplified in the oath of fealty taken by the Dominican novices. The formulation of the oath, as codified in the 1241 Constitution, reveals that each new member of the order swore obedience directly to the master general, thus submitting himself to the master’s authority.²⁵³ That is, just as in Thomas’ notion on the monarchic element of mixed government, each individual member of

²⁵¹ ST, I-II. 105. 1. *Unus praeficitur secundum virtutem qui omnibus praesit ... est optima politia, bene commixta ex regno, inquantum unus praeest ... Moyses et eius successores gubernabant populum quasi singulariter omnibus principantes, quod est quaedam species regni.*

²⁵² Galbraith, *The Constitution of the Dominican Order*, 133-35.

²⁵³ *Constitutiones*, 41.

the Dominican Order was directly subject to the rule of the master general, the supreme head of the community, thus contributing to the centralized and unified nature of the Order of Preachers.

However, even though the Dominican master general was the greatest individual member of the order, his authority was in many ways tempered, the most important limitation being the authority of the general chapter over him. The chapter was the master's superior, although the friars constituting the chapter were subjected to him individually.²⁵⁴ Still, the *diffinitors* of the chapter collectively were given the authority by the 1241 Constitution to supervise the master, and correct, punish or even remove him, if necessary.²⁵⁵

Thus, the Dominican government manifested an intricate system consisting of the rule of one person, who unified and centralized the otherwise diverse order, but who did not wield power single-handedly. All friars shared in the government indirectly, and the ever-changing members of the Dominican "aristocratic group", the general chapter, shared directly in the governing power. Thus, although the Order had one head to unite it, others also had a share in the community's government.

Accordingly, it is possible to interpret Thomas' notion as suggesting that in mixed government the head of the community, ruling all individuals, was fulfilling a similar role to that of the master general: He was the single greatest individual member of the community, but his political power was not absolute. Although Aquinas never specifies it, the role of the members of the aristocratic group sharing in political government can be interpreted with the Dominican general chapter in mind. While its members were individually subjected to the king, together they wielded a power with which they were able to constraint his power, if necessary. This interpretation, while fitting the government of Aquinas' order, is also in accordance with his notion on tempering the ruler's power.

²⁵⁴ Galbraith, *The Constitution of the Dominican Order*, 136.

²⁵⁵ *Constitutiones*, 57.

Legal Limitations

Thomas in the *De Regno* mentions that the king's power must be tempered, so that he would not have the chance to deviate into a tyrant. Still, the exact method of tempering the ruler's power is not explicated there.²⁵⁶ In his commentary on Aristotle's *Politics*, however, he outlines one kind of limitation on the ruler's power in political governments.

Aquinas states in the *Libri Politicorum* that in political, in contrast to regal, government: “the ruler partially rules, namely, regarding things subject to his power, and is partially ruled, insofar as he is subject to law.”²⁵⁷ This section suggests that in political government the ruler only governs regarding specific things, namely, things that are subject to his authority, but there are other areas over which he does not wield authority. That is, according to this arrangement in political government there are two spheres; the sphere of things over which the ruler has authority, and the sphere of things that are not subject to him. This division is not present in regal government, where the ruler has authority over all fields of life, that is, the ruler is sovereign.

The section of the *Summa* on mixed government suggests that Thomas considers this constitution to be a political, not a regal one, stating that originally God “did not set up the kingly authority with full power,” but rather gave the Jews the Mosaic mixed government, and he only set up a king with *plena potestas* when the people of Israel begged him to do so.²⁵⁸ Thus, this section suggests that Aquinas' mixed government is one in which the head of the community does not wield full power, *plena potestas*, and the government is rather political, namely, some things are subject to the ruler's authority, while other things are outside the sphere of his power.

In the *Libri Politicorum* Thomas explains that the division between the things that

²⁵⁶ DR, I. 6. 41-43.

²⁵⁷ LP, I. 1. 4.

²⁵⁸ ST, I-II. 105. 1. *Et ideo dominus a principio eis regem non instituit cum plena potestate, sed iudicem et gubernatorem in eorum custodiam. Sed postea regem ad petitionem populi, quasi indignatus, concessit.*

pertain to the ruler's authority and the things that do not are regulated by "scientific rules, i.e., according to laws established by political science."²⁵⁹ This somewhat obscure statement is further qualified by Thomas, when he declares that in political rule the ruler partially rules, i.e., he rules the things that are subjected to his power, but is also partially ruled, in so far as he is subject to the law.²⁶⁰ Briefly, here Aquinas argues that in political government the head of the community is subject to the laws of the community.

This statement is in apparent contradiction with one of the passages of the *Summa*. In this section Thomas discusses whether the ruler of a community is subject to the community's laws, and argues as follows:

The ruler is said to be "exempt from the law," as to its coercive power; since, properly speaking, no man is coerced by himself, and law has no coercive power save from the authority of the ruler. Thus then is the ruler said to be exempt from the law, because none is competent to pass sentence on him, if he acts against the law ... But as to the directive force of law, the sovereign is subject to the law by his own will ... Again the ruler is above the law, in so far as, when it is expedient, he can change the law, and dispense in it according to time and place.²⁶¹

In this passage he argues that the ruler of the community only has a moral obligation to subject himself to the laws, but he is not subjected to them "legally". That is, he suggests that if the ruler fails to act according to the laws only God can charge him with this, but no one else can pass judgment on him.

This notion of the ruler's moral obligation to subject himself to the community's laws, i.e., to willingly limit his own authority, was present in the Dominican governmental theory as well. Humbert of Romans, for instance, formulated this thesis. The idea, outlined in the chapter on the Dominican government, was that the master general of the order had a customary, but not

²⁵⁹ LP, I. 1. 4. *Secundum sermones disciplinales, idest secundum leges positas per disciplinam politicam.*

²⁶⁰ LP, Ibid.

²⁶¹ ST, I-II. 96. 5. *Princeps dicitur esse solutus a lege, quantum ad vim coactivam legis, nullus enim proprie cogitur a seipso; lex autem non habet vim coactivam nisi ex principis potestate. Sic igitur princeps dicitur esse solutus a lege, quia nullus in ipsum potest iudicium condemnationis ferre, si contra legem agat ... Sed quantum ad vim directivam legis, princeps subditur legi propria voluntate ... Est etiam princeps supra legem, inquantum, si expediens fuerit, potest legem mutare, et in ea dispensare, pro loco et tempore.* Translation slightly modified.

legally binding, obligation to voluntarily restrict the exercise of his authority. The expectation was that the master would not interfere in issues that fell within the scope of authority of other officials in the order, even if he was legally authorized to solve such issues. Thus, for instance, the master could not meddle in the internal affairs of a conventual prior in issues that could be handled correctly and in accordance with the order's laws by the prior himself. Humbert states that if the master becomes aware of an issue of this kind, he should send a petition to the relevant authority who has the right to handle the matter, and refrain from solving it himself.²⁶² The Dominican practice of the master's self-limitation is similar to Thomas' notion that the ruler should subject himself voluntarily to the laws of the community; in neither case is there a legal obligation, but in both the proper conduct is initiated by a moral and customary obligation.

Still, Thomas in that section of the *Summa* states that the ruler is only subjected to law in this moral, non-legal manner. This is definitely in stark contrast with the Dominican practice. First of all, the core of Thomas' argument is that the ruler could not be subjected to the law, since those laws originate from him, and thus, they are not binding on him. Second, he adds that there is no authority higher in the community than the ruler, thus, there is no one who could pass sentence on him.

The Dominican practice was quite dissimilar. As was discussed in detail above, in the Order of Preachers the supreme legislative authority was not the master general (i.e., the head of the community), but the general chapter. Although the master general held a permanent seat in this chapter, his vote, just like that of the chapter's *diffinitors*, counted only as one. In the legislative general chapter the master was one among equals, and the decisions reached there were binding on the whole community; all the friars, the actual *diffinitors* of the chapter and the master general as well.²⁶³ This arrangement is quite different from the one outlined by Thomas

²⁶² Galbraith, *The Constitution of the Dominican Order*, 136. and Hinnebusch, *The History of the Dominican Order*, 197.

²⁶³ *Constitutiones*, 57. and Galbraith, *The Constitution of the Dominican Order*, 96.

in which there is a single ruler who holds the totality of legislative authority and who is not bound by the laws he establishes.

It is remarkable that Aquinas, who was definitely familiar with this structure of the Order of Preachers, in this section of the *Summa* did not reflect on the possibility of a group being the community's legislative authority. It is especially striking since, first, he does state that in political government the ruler is bound by the laws of the community (i.e., he admits there is a way in which there can be a single head of the community who is at the same time limited by the law). Moreover, he evidently had serious reluctance in bestowing too much power on a single ruler, a concern of his that has already been amply discussed. But what could vest more power into a single person than the arrangement that he should hold the totality of legislative authority, combined with his dispensation from the obligation to obey the community's laws?

A possible, and in my opinion, quite probable answer, is that Thomas incorporates two distinct conceptions of monarchy into his theory and these passages refer to separate notions. In this section of the *Summa* Thomas refers to regal monarchy, in which "the ruler rules absolutely and regarding everything."²⁶⁴ This is the rule of a sovereign, in which the ruler has plenary power in his dominion, as in the case of the universe's government by God. It is quite likely that it is this kind of government in which the ruler is the sole legislative authority, and in which the only obligation he has regarding the laws of the community is to subject himself to them voluntarily. If he fails to do so, there is no one who could supervise him, since he holds the totality of political power. But this is not the kind of monarchy that he outlines when he talks about mixed constitution or monarchy in the *De Regno*; both passages suggest that the king does not have full of power.

It is most likely that for Thomas mixed government was a political rather than a regal constitution, and in political government the ruler is indeed subject to the laws of the community.

²⁶⁴ LP, I. 1. 4. *Ipse homo praeest simpliciter et secundum omnia, dicitur regimen regale.*

This is parallel to the Dominican government, which had an intricate organization, where the master was clearly subject to the community's established laws, and the general chapter held the power to supervise, correct, and punish him. Although Thomas does not specify the exact legal arrangements in a mixed government, in one section of the *Summa* he makes references to some of its features.

Here he deals with the types of human law, stating that there is a typical law corresponding to each governmental form. He declares that the law of mixed government is a "law sanctioned by the 'Lords and Commons,' as stated by Isidore,²⁶⁵ referring to Isidor's definition of law in his major work, the *Etymologies*. He identifies law as the constitution of the populace, sanctioned by the higher- and lower-born members of the society alike.²⁶⁶ Interestingly, Thomas applies Isidor's more universal definition to the specific law of mixed government. He suggests that this is a law that has been sanctioned by practically all members of society (most likely meaning that it was sanctioned by the head of the community, the aristocratic group and the populace as well). Still, based on this section it is not clear whether he is speaking about the actual act of legislation, or only about wide popular consent that laws receive in a mixed government. Nevertheless, the text clearly suggests that law-giving in a mixed government is not the work of a sovereign alone.

However, with a look at the Dominican government a more definite interpretation might be reached. The Friar Preachers, in a way, established laws sanctioned by the lords and commons. As was discussed above, the *diffinitors* attending the chapters were elected and they were representing their fellow friars with *plena potestas*. That is, all their decisions were binding for all members of the community and they were carefully chosen so that they indeed represented "the common" members of the order. The legislative activity of the general chapter

²⁶⁵ ST, I-II. 95. 4. *Est etiam aliquod regimen ex istis commixtum, quod est optimum, et secundum hoc sumitur lex, quam maiores natu simul cum plebibus sanxerunt, ut Isidorus dicit.*

²⁶⁶ Isidore of Seville, *Etymologiae*, 5. 10. *Quid sit lex. Lex est constitutio populi, qua maiores natu simul cum plebibus aliquod sanxerunt.*

resulted in laws that ruled all friars up to the master general.

It is quite possible that when speaking of the laws of mixed government, Thomas had something like this in mind. As the aristocratic group of government is supposed to be elected, ideally they represent the interest of their electors. The head of the community shares in the legislative work, but does not wield this right alone. Decisions reached in this way are binding for all members of the community, since laws are not enacted by a single individual, but by a group and with the, at least indirect, approval of all. This interpretation of the legal system of mixed government parallels that of the Dominicans, and offers a good explanation of Aquinas' sometimes confusing observations.

In summary, it appears that Aquinas outlines two distinct types of monarchy: political and regal monarchies. Regal monarchy is described as one in which the king has full power and only has a moral obligation to submit himself to the laws of the community. In political monarchy the ruler's power is limited by the admixture of aristocratic and democratic elements in government. As in regal monarchy there are no checks on the ruler's abuses of his power; it can easily degenerate into tyranny when not practiced by a wholly virtuous individual, while in political monarchy the king's power is tempered. Thus, it seems that political monarchy is more suitable for actual communities.

This stance is also supported by the way Thomas presents the government of ancient Israel. As it was discussed above, he declares that God, after being forced by his people to give them human governance, intended them to have a kind of political monarchy, in which the ruler did not have full power. It was just due to the insistence of the people that he later gave them a king with *plena potestas*, which actually had disastrous results. This interpretation enforces that political monarchy is more suitable for actual human communities than the rule of one with plenary power, where the rulers are prone to abuse their powers, and thus, it is better if their power is constitutionally limited.

Both theories of kingship share some similarities with the government of the Dominican Order, it also resembles political monarchy a great degree. Still, both in the friars' government and in Thomas' theory of regal monarchy, the ruler has a moral obligation to limit the exercise of his power; the difference is that in the case of plenary kingship this is the sole obligation. In both the Dominican government and Thomas' theory of political kingship a constitutional limitation of the power of the community's head is incorporated. This is what makes this governmental form more suitable for actual human communities, where there is an ever present danger that an unchecked ruler would abuse his power. As a consequence, Thomas in the *Summa* maintains that mixed government, that is, political monarchy, is the best constitution for real human communities.

CONCLUSION

Thomas Aquinas' theory of the best government is a puzzling segment of his political theory. There is an apparent contradiction in the passages dealing with the issue of best human government, a difficulty that has challenged scholars and generated diverse interpretations. In my thesis I argue that Thomas consistently supported mixed government as the best political constitution, and I interpreted mixed government as an equal of political monarchy; a government with one head of the community whose power is limited by the very structure of government, in which elements of aristocracy and democracy are mixed.

I also argued that one reason for the confusing aspect of the Thomistic texts is that Aquinas does not make it clear when he is dealing with political monarchy (the best for actual human communities) and regal monarchy, a constitutional form where there is one head of the community who wields unlimited power and where the danger of tyranny is more threatening except if the ruler is a completely virtuous by being like God.

The analysis of Aquinas' relevant passages suggests that when he deals with the best government for human communities he focuses primarily on two things. First, he emphasizes the excellence of monarchy, since it is the government which is best suited for uniting diverse individuals into an actual, peaceful, and strong society. Still, Thomas is aware of the danger that if the ruler's power is unchecked the result can be disastrous, as humans are prone to misuse their authority. Thus, he also emphasizes that the king's power must be tempered and he suggests constitutional limitations on it in both the *De Regno* and the *Summa*. Accordingly, I argue that Aquinas, being aware of the dangers of kingship with full power, proposes political monarchy or mixed government as the best for actual human communities.

This stance is further supported by some suggestive similarities between Thomas' theory and the governmental practice of the Dominican Order, the religious organization Aquinas was a member of all his adult life. The government of the Friars Preachers can be interpreted as a mixed government in the Thomistic sense, manifesting elements of monarchy (the master general), aristocracy (the provincial and the general chapters), and democracy (the intricate representative system and electoral practice of the friars), where the admixture of these elements served as a check on misuses of governmental power.

Aquinas, who was actively participating in the governance of the order up to the highest levels, was definitely familiar with the Dominican governmental ideas, and his political theory includes some elements that suggest a possible influence of the government of his order on his notions. The examination of the similarities between the mixed government of the Dominicans and Aquinas' theory on best government offers a solution of the problematic aspects of Thomas' notions, and indicates that he consistently supported limited monarchy as the best, a government that accords well and was possibly influenced by the government of the Dominicans.

Although in this thesis I have mentioned some theoretical influences on Thomas' theory (the most extensively discussed is the effect of Aristotle's political ideas), the aim of the thesis

was not to explore all possible theoretical or real-life influences on his governmental theory, which would require more extensive research. My main focus was the possible influence of the Dominicans due to the fact that the order's impact on Aquinas' theory briefly mentioned by some scholars, has not yet been expansively discussed. Since the scope of this thesis only allowed for the posing of a limited number of the potential influences, I limited the scope of research to those that underlined that Thomas proposed political monarchy as the best government, although I think further research could identify more instances.

The comparison of the Dominican practice with Aquinas' theory, set against the analysis of Thomas' texts on the best government, indicates that he consistently supported mixed government, defined as a political monarchy in case of actual human communities, where the danger that a monarch with unlimited authority would abuse his power is ever present. The Dominican government could have served as a real-life example of an actual mixed constitution, and its potential influence can be traced in several aspects of the Thomistic notions.

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