

CHURCH AND STATE

(A lecture delivered by the Very Revd. Professor Seraphim M. Zarb,
O.P., S.T.H.M., S.Scr.D. [Vat.])

Although man is known to be the most perfect creature, because he gathers in himself nearly all the perfections of the other beings and so to say unites in himself heaven and earth, being a spiritual and a material creature; at the same time he is not complete and does not suffice for himself, but he is in need of the help both of the other human beings and of the other inferior creatures which serve him to attain the purpose for which he was created. For this reason man cannot live on his own, separated from all contact with other human beings. Left by himself man cannot attain the purpose of his life, he becomes the most lonely and miserable of all creatures: in one world, man must live together with the other human beings in order to help the others and to be helped by them, so that he may attain the purpose for which he is created. Hence Leo XIII in His Encyclical Letter *Diuturnum illud*, of the 29th June 1881, states: "It is man's nature to live in society. God is the author of society."

Moreover, man's needs are so many and so varied, that a single society is not sufficient. This is why we find so many associations, guilds and unions, each one of which has a particular aim and some in order to help man in this or the other sphere of his activity: thus we find professional unions, literary societies, industrial and commercial cooperatives associations, trade unions and the like. Besides and beyond these particular societies there are two which easily surpass all the others and as they claim to be both perfect and in a certain sense universal at first sight they seem to clash against each other, whereas in fact they can and I should say they must, coexist in the most perfect harmony, because, though both perfect in their own sphere, they are both necessary for the well being and the welfare of mankind: I mean the Church and the State.

The great problem concerning these two societies is not exactly about their perfection, but rather about their sphere of action. In fact if the State pervades the sphere of Ecclesiastical matters, of the Church unduly interferes in purely state affairs, the clash is inevitable. But if each one of the two societies keeps to its own sphere of action, then no conflict is possible, because the scope and aim of the Church is entirely different from that of the State. Church and State, therefore, can peacefully live together; nay they should live harmoniously together; because as a people without a State is nothing but an anarchy so a State without religion or Church is a godless society, "an impiety", as Leo XIII puts it, "unknown even to the very Pagans" (Encyclical Letter : *Quod Apostolici muneris*). I think therefore, that it will not be out of place, in a lecture to the Members of the "University Students Law Society", to say a few words about the nature of Society in general, and to deal more particularly with the nature of Society in the Church and in the State.

I must confess that the subject is very vast and cannot be completely treated in one lecture. I feel, therefore, that I must limit myself to a small section of the immensely vast subject which lies before us. The section I would like to choose is to show that the Church of Christ has all the conditions of a perfect, complete and independent society vis-à-vis of the other societies,

even of the State; and that this perfection, completeness and independence of the Church by no means derogates to the perfection, completeness and independence of that other society, which is the State. Having thus limited my subject to this important problem, I hope to prove my thesis without difficulty.

* * * *

Let us in the first place determine carefully the meaning of society. The word “society” has the same meaning of association, gathering, collection: but this etymological meaning does not convey the real meaning of society. Not every collection, gathering or association is in fact a society. A collection of material things, even if arranged in such a form as to constitute a certain unity, such as a quantity of stones in the construction of a house, is not a society: nor is a society a number of sheep united in one herd; but society is said only of men, a gathering of men. Moreover, not every gathering of men is a society. A number of men traveling on the same boat or in the same train does not form a society nor is a number of prisoners living in the same jail a peculiar society; but society is a gathering of men: in as much as they are human beings, that is to say in as much as they are endowed with intelligence and will that they might know and will the attainment of a particular aim and scope by the combined efforts of the members. This particular aim and scope is obviously the common good of the members. According to the various aims and scopes which a society endeavours to realize we have various societies.

Though the scope specifies the nature of society, it does not constitute it. In philosophical terminology one would say that the scope is the *final*, but not the *formal* cause of society, in so far as they are only members, are equal, and among equals no one has any authority over the other. There must be one, endowed with the power or the authority of a leader, in order to give a head to this body; and the authority of this head is necessarily limited to the scope of that society. Without such a head no society is possible: hence we read in the Book of Proverbs, XI 14: **Where there is no governor, the people shall fall**, and St. Thomas Aquinas in his celebrated book *De regime principum*, also compares society with a living body and says that society would dissolve without a certain common ruling force... which guides unto the common good of all the members: *Deflueret nisi esset aliqua vis regitiva comuni... quae ad bonium commune membrorum intenderet* (Chap. I.). thus society is constituted by the head as its *formal* element to which corresponds the *material* element namely the members.

Before going any further, I would like to mention one or two divisions or classifications of the various societies, because such a classification may turn useful in the course of this lecture. We have seen already that the scope or aim of a society gives it a special nature and distinguishes it from other societies, and, as there are various scopes and different aims in the various societies, consequently there are many societies of different nature and importance. Hence they can be classified in groups according to their degree of perfection, to their need etc.

In the first place we have to discern *perfect* and *complete* societies from the *imperfect* and *incomplete* ones. A society is said to be perfect either because it is perfect in its own constitution, or because, though imperfect and incomplete in itself, it is perfect in its management and activity, or, thirdly because its members are perfect or finally, because it is a perfect and complete having all the necessary conditions of a perfect and complete society.

A society may be perfectly constituted, having fit rules for the attainments of the scope, but it cannot exist of itself as perfect and complete society, because the perfection and completeness must not be only in its constitution, but in its scope and purpose ; and if this purpose is limited and subordinate to other more important attainments, that society, though perfect in its own constitution, is necessarily subordinate to other societies which aim at a higher and more important scope in man's life and activity. Similarly, a society, the management and activity of which are simply excellent, may well be called perfect, but its perfection is again limited by its aim and purpose. And, finally, the same is to be said of that society which is called perfect, because its members are perfect, but which in itself is subordinate to other societies. A perfect and complete society, therefore, is that the purpose and scope of which is not subordinate to any other higher scope or purpose in life, but which is really supreme at least in its own order. It is in this sense that we speak of a perfect and complete society, and I deem it necessary to explain a little longer the nature of a complete and perfect society.

I prefer to explain the nature of a perfect and complete society by comparing it with a living organism. There are organisms which are complete in themselves and possess all the necessary means to attain the scope of their own existence; thus, each man is perfect and complete, because he is an independent being, and consequently it depends on the organism of which it is only a part. There are even perfect and complete organisms, but they are not in a state to live independently of another organism, such as the foetus in the womb of the mother. Thus among the various societies there are some which, though they may seem perfect and complete, in fact are only parts of other societies and consequently they are not completely independent of the others : a province or country in a Kingdom or a commonwealth in the British Empire, may be called perfect and complete in a certain sense, but they are only a part of the kingdom or of the Empire, and, therefore, not absolutely independent.

Consequently, for a perfect and complete society it is necessary that the society be perfect and complete in itself and absolutely independent of other societies. I say *independent*, not materially, but in a very formal sense, that is in the sense of society. Man, as we have said, is a perfect organism, in as much as organism, so he is formally independent of other men in his own existence as man, but he may be materially dependent on them as well as on other creatures. He may be a servant and need air and food to live; but this material dependence does not annul that man has in himself a perfect organism, and that, as such, he is a perfect being. So also a society may be perfect and complete formally, though it may materially depend on other societies. Thus a state is a perfect society, but it may depend materially on other societies, and this dependence does not annul its perfection and completeness as an independent and perfect state. This classification of societies is most important in order to put each society in its own place according to its own nature and its own importance and its own importance.

This first classification of societies leads us to another classification no less important : that of *necessary* and *voluntary* associations. There are in fact some associations the purpose of which is not necessary to every man, and consequently do not appeal to him : a farmer would never dream of becoming a member of a medical association. But there are societies to which one must belong. Thus we cannot live without a State, and therefore, the State is a necessary

or compulsory society. But besides the State, there are many other societies, which are not absolutely necessary or compulsory, although they may be very useful, and these are called voluntary associations.

Quite recently, Mr. A. D. Lindsay, Master of Balliol, gave a lecture in the Debating Hall of the Oxford Union Society, which he also published in pamphlet-form, upon *Toleration and Democracy*. In it he classifies the State as a necessary or compulsory society — let us say the only compulsory society — whereas the church is called a voluntary society. In fact he says: “The sphere of compulsory organization — the State — is to be sharply distinguished from that of the voluntary association — the Church. The State cannot do the work of the church, nor the Church that of the State. One of the strongest arguments brought forward in this early discussion about toleration is that compulsion in the religious sphere defeats itself. It can compel outward observance. It can destroy ways of thinking by killing or banishing those who profess certain opinions. But it cannot produce right belief. And again it is equally clear that if the church — the organ of grace — attempts to enforce the law, it perverts its own nature.”⁽¹⁾

Nothing more erroneous could be said with regard to the nature of the Church as a perfect and complete society. To start with the Lecturer confuses the idea of the Church, with that of a seat. One can be Catholic, Protestant or Schismatic; but whatever is his denomination he belongs to the church, and he feels that to belong to a Church is not a free choice, but a necessity. It is God’s right and no man can refuse to obey God’s will since God has been so good as to institute for man’s voluntary but a necessary society: the various denominations would not exist, if one could be sure of the one true Church. This is why we say, that when one knows which is the one true Church, he is bound in conscience to embrace it, and he cannot belong to another Church.

The grouping of societies in *necessary* and *voluntary* leads to another classification of the same, in societies which are a matter of individual and so to say private concern, and societies which are, *public* and to which every man must belong. This classification may coincide with the previous one; but it is not entirely the same. In fact, it aims at stressing the obligation to join a society not only as an individual and private person, but also as a community or a state. To join a religious society, that is the Church, and possibly the only one true church, is a duty which binds not only individual persons, but also the states or nations; because religion is not only an individual and private duty, but it is also a public and social one. Consequently there are two necessary societies, namely the church and the State: every man or woman must be a member of the State, and the entire State and each one of its members must belong to the Church. Besides those two societies there are no others which by nature are necessary, and they must all be classified as voluntary societies. They may be very opportune and useful for the well-being of their members, but nevertheless they are not necessary or compulsory.

We have mentioned the final cause of society, that is the special aim or scope for which a particular society may be founded; we mentioned also its formal cause, namely the power and authority by which a society is led and ruled, and finally we have also mentioned its material cause, namely the members. In order to be complete we have to mention the fourth and last causality, namely the efficient causality, or the author of society.

Any voluntary society, founded for a peculiar scope and purpose, may have for its founder any person: but the same cannot be said of necessary societies, that is of the State and of the Church. The author of the State is God, in as much as He is the author of nature, and from Whom the State derives its authority. But the author of the Church, in the present order

established by God, is Jesus Christ, who instituted the Church, from Whom the Church derives its authority. Consequently, the authority in the Church is of a supernatural origin, whereas

(1) A. D.LINDSAY, *Toleration and Democracy* (The Lucien Wolf Memorial Lecture, 1941) Oxford 1942, p7

that of the State is of a natural origin; beside, though the authority in the State is derived from God, its form is not determined by God, but entirely entrusted to man who may choose that form of government was determined by Our Lord Jesus Christ Who instituted the Church in a form of a perfect monarchy which no human power can ever change.

Here, therefore, we have a neat distinction between a natural and a supernatural society; and though among the natural societies there may be necessary and voluntary societies, as we have seen above, a supernatural society, founded by God Himself, for the salvation of mankind cannot be but a necessary society. Consequently, man must belong to a State by natural law, but he must belong to the Church by a positive order of God.

In fact, in the Old Testament, God elected for Himself the Hebrews, and entrusted to them His revelation. In this revelation was clearly contained the promise of a future Redeemer. When this promise was fulfilled not only the Synagogue had no right to oppose it but by the fact that the Redeemer had come, the Synagogue ceased to exist and was bound to obey God and follow the Messiah by entering into the new Church instituted by Him.

Similarly the Gentiles had a natural duty to receive God's message and God's legates, and no human society or state could oppose the Church which was divinely instituted for men of all times and of all places. Consequently, the Church has a supernatural right of existence which no state can oppose; on the contrary each State's bound to help the church in its foundation and propagation, render by all means its existence possible to live according to its rules. Otherwise the State and its members would become opposers of God or of His Son Jesus Christ Who founded the Church and ordered to His Apostles to establish it in all parts of the world, giving to them the promise that He will be with them until the end of times. Indeed after His resurrection and before His ascension into Heaven Jesus appearing to the apostles said to them : All power is given to me in heaven and in earth : going, therefore, teach the all nations baptizing them in the name of the Father and of the Son and of the Holy Ghost, teaching them to observe all things whatsoever I have commanded you : and behold I am with you all days, even to the consummation of the world (Mt. 28. 18-20). By these words Christ gave to the Apostles and their successors the divine and supernatural right to establish the Church in all countries and at all times and whoever opposes the divine mission of the Church will oppose God, Whose orders he will thus try to evade and render vain.

Notwithstanding this divine will, opposition to the Church was not wanting in the first years of its foundation. Both Jews and Gentiles declared themselves against Christ and His followers, but the Church amidst all kinds of difficulties and bloody persecutions emerged victorious and gradually many a state accepted the Christian Faith. This state of things never failed in the history of the Christian Church and difficulties and persecutions are not wanting even in the present days in various countries. In many countries the State is not only Christian, but also Catholic : it acknowledges the Church as a perfect and complete monarchical society, the head of which is the successor of St. Peter, the Sovereign Pontiff or the Bishop of Rome.

This state of affairs crates a new problem. Although there were times in the history of the Hebrews in which the head of the theocratic government was at the same time the king and the High Priest was the head of the Synagogue . Things were different with the Gentiles who often

acknowledged in the head of the State, the characteristics of the Supreme Pontiff. In such a state, where one and the same person was the head of the State, the head of religion, no conflict was possible between the religious and the civil societies. But in the Christian State the two societies are separated. Christ did not send His Apostles to conquer the Roman Empire or any other earthly kingdom : but He ordered them to preach the Gospel and found the Church in the various countries, and to live in those countries perfectly obedient to the constituted civil authorities. Hence Christ clearly distinguished the Church from the State and allows that the two perfect and complete societies, so different from each other because of their different origin, different scope, different form of government, and different heads could live side by side, not as two opposed societies, but harmoniously helping man to attain the scope of his earthly existence. Hence Christ Himself said to the Pharisees and to the Herodians who consulted among themselves how to ensnare Him in his speech and laid before Him the question : Master is it lawful to give tribute to Caesar or not? "Render to Caesar the things that are Caesar's and to God the things that are God's" (Mt.xxi 15-21) . This doctrine of Christ was preached to mankind by the Apostles : it suffices here to quote the classic tract of the Epistle of St. Paul to the Romans, in which he says: "Let every soul be subject to higher power: for there is no power but from God: and those that are, are ordained of God. Therefore, he that resisted the power, resisted the ordinance of God. And they that resist, purchase to themselves damnation. For princes are not a terror to the good work but to the evil. Wilt thou then not be afraid of the power? Do that which is good: and thou shalt have praise from the same; for he is God's minister to thee, for good. But, if thou do that which is evil, fear : for he beareth not the sword in vain. For he is God's minister ; an avenger to execute wrath upon him that doth evil. Wherefore be subject of necessity, not only for wrath, but also for conscience-sake..." (Rome. Xii, 1-5).

This same doctrine was in all ages taught by the Church to its faithful: but never before has the Church felt it so imperative to lay stress on this doctrine than in recent years. Since the days of the French Revolution new doctrines were forged and propagated about the constitution of civil society which in due time brought forth the idea of the so called "modern state". This new expression is used to distinguish the new from the old states, especially in Europe, where all the states, though perhaps not all Catholics, followed Christian principles and respected in various degrees the Ecclesiastical institutions. "Modern State" means a system of government and view of its functions and of social institutions which were first realized in the French Revolution new doctrines were forged and propagated about the constitution of civil society which in due time brought forth the idea of the so called "modern state". This new expression is used to distinguish the new from the old states, especially in Europe, where all the states, though perhaps not all Catholics followed Christian principles and respected in various degrees the Ecclesiastical institutions . "Modern State" means a system of government and view of its functions and of social institutions which were first realised in the French revolution ,and which may be summed up in the following way. The idea of "Modern state" is based on the "Principles of 1789" and requires that the country be ruled chiefly by some kind of elected parliament, that it is indifferent to religious questions and professes neither to support nor to suppress any particular creed or cult; public education is the business of the state and at its charge, and it is non-religious : the state recognizes as valid only those marriages which are contracted according to its own regulations; it provides means for divorce and the remarriage of those divorced; there is a right of free speech; books and newspapers are uncensored. During the 19th century the doctrine of "Modern State" spread pretty well all over

Western Europe had colonized. The "Principles of 1789" found their classic expression in the famous Declaration of the Rights of Man and of the citizen, voted by the National Assembly of France. 28th August 1789, and prefixed to the French Constitution of 1791.

In all the countries, where the old absolutist monarchies were replaced by new systems based on this practical judgment about the wisdom of the new regimes, and also about their lawfulness. The question was, in fact, not only "would they work," but "were they right?" Could a good Catholic help to work them? Or was he not rather bound to work for their overthrow? ⁽²⁾

(2) PH. HUGHES, *The Popes' New order*, London 1943, p.59-61

The answer was expected from the head of the Catholic Church and many a Pontiff, such as Clement XII, Benedict XIV, Leo XII, and more particularly the recent Popes Leo XIII and Pius XI, gave their instructions about the nature, the aims, and rules of Christian States.

Of the Pontifical documents the most important is the so called trilogy of Pope Leo XIII, namely the Encyclical Lettere *Immortale Dei*, *Liberias praestantissimum* and *Sapientiae Christianeana*.

We cannot enter into details and refute each particular point in this new system of government. We have dealt some time ago in this same hall with the problem of education. Today we are only concerned with the relations which exist between the Church and the State.

We have already proved that there is a very neat distinction between the civil and the ecclesiastical societies, between societies, between the State and the Church. But it is exactly this distinction that constituted the knot of the difficulties which in the course of centuries arose between the Church and the States. Already the first Christian Emperors, beginning with Constantine himself, though acknowledging that the State had no right to interfere in ecclesiastical affairs, led themselves, under the excuse of protecting the Church, to ascribe to themselves many rights with regard to its internal administration. These interventions of the lay states in the ecclesiastical affairs assumed various forms and proportions in various times and various places. If only we recall today the state of the Church in protestant and in Schismatic countries, we can easily see that the church can hardly be called a perfect and complete society, because to a great extent it depends on the State, and can do nothing without the formal approval of the State. This state of affairs does not exist in the Catholic Church, but this does not mean that the Catholic Church did not experience this same difficulty in its own bosom. We have already mentioned the Byzantine Emperors, among whom Constantine II and Justinian pretended that the Church should be subject to their imperial authority. In the middle ages some of the Emperors, though perhaps not theoretically, but in practice, affirmed that the State was the supreme authority, and that the church was subject to the Emperor. Even theologians like Ludwig of Bavaria and Marsians of Paoda maintained that the Emperor had higher and superior authority than the Pope. With the outbreak of the pseudo-Reformation this doctrine emerged victorious, and all Protestants professed that the highest authority in the Church must be subject to the authority of the State. This doctrine had also its echo in Catholic countries: Gallicanism in France, principally under the lead of Richard; Febronianism in Germany, called after the name of Febronius, which corresponds to that of John Nicholas von Honchelm, and Josephism in Austria and Italy, especially after Eybel, the canonist, which systems admit under various pretexts that the civil power has the right to intervene in many and various ecclesiastical matters. More recently in France the same doctrine was again maintained by the Jansists and in the last century Liberalism went so far as to deny to the

Church nearly every right of independence. In our own days many Jurists, following the Hegalian philosophy, do not admit rights independent of the State, and proclaim as indisputable the saying. *Omnis jurisdiction in nomine Caesaris exercetur* : There is no jurisdiction, except in the name of Caesar! Needless to say that all rationalists together with all sorts of anticlericalists reject the doctrine about the independence of the church from all lay and external power.

I need not insist on the Catholic doctrine about the nature of the Church as a perfect and complete society, and consequently independent of all earthly power. The words of Christ, already quoted above, by which He gives to the Apostles and their successors full authority in the foundation and administration of the Church should suffice to all those who admit the divine nature and mission of Jesus Christ. If God willed this state of affairs, no philosopher, jurist or theologian, can destroy or change what Our Lord Himself ordained.

I would like to bring forth in support of the arguments already quoted above and taken from the authority of Jesus Christ, some reasons which perhaps may appear to unbelievers much stronger than the arguments based on authority.

The first reason may be taken from the scope for which the Church was instituted. In fact, Jesus Christ instituted the church for the eternal salvation of mankind: this scope is at the same time universal and supernatural, and, as such it exceeds the Limits of every state, which is forcibly limited to a nation, and has no right on supernatural life. Therefore, the church because of its universal and supernatural scope exceeds the power of any earthly state, and consequently cannot be subject to it.

Another reason may be taken from the constitution of the Church. We have already seen that the Church has a supernatural origin; it derives its authority from its author Jesus Christ, Who founded His Church on Peter, on whom He conferred the supreme authority and subjected to him the other Apostles. The form of the church i.e. monarchical, and each particular bishop receives his power from the head of the Church. But if the authority in the Church is divine and supernatural, it cannot be derived or conferred by any state on earth; and consequently, the Church cannot be dependent on any State.

Finally, another argument can easily be formed, considering the divine institution of the Church. If one admits that the church was instituted immediately by Jesus Christ, -- to which He assigned a supernatural and universal scope, to which He delegated His own authority, which he endowed with the necessary means a salvation—then, it is utterly impossible that such a society could be subject to any earthly and human state.

But let us expound some of the arguments by which the Jurists endeavour to prove that the Church must be subject to the State.

Their first argument states that every perfect and complete society must have a territory, on which it exerts its jurisdiction. But the Church has no territory. Therefore it cannot be said to be a perfect and complete society.

The answer to this argument is not very difficult: in fact, we can say that the church not only has a territory, but the whole world is its territory. Indeed, the supreme owner of the universe, God Himself, in the person of Jesus Christ, said to the Apostles: "All power is given to me in heaven and on Earth" going, therefore, teach ye all nations" (Mt. XXVIII, 18-19). And again: "Go ye into the whole world and preach the Gospel to every creature" (MK.XVI, 15). Jesus, therefore, gave to the Apostles full jurisdiction in the whole world, and the jurisdiction is absolutely necessary, because the Church of Christ unlike the Synagogue, is not

limited to privileged nation, but it is universal and supernatural: the Church embraces all nations in a supreme effort to bring the whole world to Christ.

But our Jurists insist and say “ One and the same territory cannot be possessed by two perfect, complete and independent societies. But in the assumption that the Church is a perfect, complete and independent society, the same territory would be subject both to the State and to the Church. Therefore the Church in front of the State is not independent, but subject to it.

To this we answer that one and the same territory cannot be subject to two perfect and independent societies having the same scope and purpose. But if the purpose of the Church is different from that of the State and not opposed to it, (but on the contrary Church and State can well work together for the welfare of man), then the same territory can well be subject to two perfect and independent societies. In fact, the State occupies the territory as a civil lay power and has full authority on temporal things belonging to the state; but the Church occupies the territory on things belonging to the internal and spiritual life of the citizens, in order to lead them in the right path of eternal salvation.

Our answer to the arguments brought forth by those whose interest it is to defend the integrity of the State and its superiority on the Church seem quite convincing; but we do not ignore, that if in theory two perfect and independent societies can coexist in the same territory, in practice they often meet and it is not always easy to avoid conflict.

In fact we can easily distinguish in the Church a twofold power: first the power of the Sacred Order given by the sacrament of Holy Orders, is limited to the cult of God and is purely and strictly instrumental. The power of Jurisdiction is conferred by the superior, by whom it can be limited or even entirely retired, and is consequently, extra-sacramental. It is exercised by the persons who pass it, not as mere instrumental, but as principal agents, though its origin remains divine and supernatural. The power of Jurisdiction is again twofold: it includes first the power of **teaching**, and secondly, the power of **administration**. We are not concerned here with the power of teaching, which can more easily be recognized to the Church: our difficulty lies rather in the power of administration. In fact, the power of administration or government of the Church includes: firstly, the power of legislation; secondly, the judiciary power, and thirdly the coercive or coactive power. In fact, there is no jurisdiction in the full sense of the word, as applied and exercised by the Church, as a perfect and independent society, without the legislative, the judicial and the coercive powers.

The legislative power implies that the Church has the right of issuing laws for the common welfare of the community which bind the subjects in conscience.

The judicial power means that the Church has the right and the duty to judge and determine of its own authority the genuine sense of laws, the conformity or otherwise of the actions of its subjects, according to the law, which obviously implies that the subjects have a strict obligation to submit themselves to the judgment of the Church.

Finally, the coercive or coactive power means the right of the Church to condemn and punish the subjects for their transgressions against its laws.

Needless to say that all those who deny that the Church is a perfect, complete and independent society, deny to the Church the threefold power and jurisdiction.

We need not lose our time in proving that the Church received of its divine Founder the threefold power of jurisdiction: it suffices to quote here one or two texts which prove with great evidence that Jesus Christ conferred on His Church: first, the power of issuing laws. Indeed, Christ said to the Apostles: “He that heareth you, heareth me: and he that despiseth you

despiseth me. And he that despiseth me, despiseth Him that sent me” (Lk. X, 16). And in order to guarantee that the words and deeds of the Apostles were sanctioned by Himself, He repeatedly promised to them the Holy Ghost : “And I will ask the Father and he shall give you another Paraclete, that, may abide with you forever. The spirit of truth, whom the world cannot receive, because it seeth him not, nor knoweth him ; but you shall know him : because he shall abide with you, and shall be in you... The Paraclete, the Holy Ghost, whom the Father will send in my name, He will teach you all the things and bring all the things to your mind, whatsoever I shall have said to you (John, XIV, 16, 17, 26). THE Apostles were fully aware of the legislative power they had received of Jesus Christ and, when doctrinal difficulties arose among the first Christians, they gathered together and gave definite rules and laws to the first Christians. A famous example of this is the Council of Jerusalem held by the Apostles in order to determine whether the law of Moses was still binding or abrogated. The decision of the Apostles is well expressed in the following words “For it hath seemed good to the Holy Ghost and to us, to lay no further burden upon you than these necessary things...” (Acts, XV, 28).

Other examples of the legislative power exercised by the Apostles can easily be found in their writings, in the Epistles of St. Paul and in the seven Catholic Epistles in which there are many laws which are not found in the Gospels. Similarly the Church, the Oecumenic Councils, and the Roman Pontiffs issued laws binding the whole Church, whereas regional Councils and Bishops gave laws to their own particular congregations.

Secondly, Christ conferred on His Church the judicial power: Christ after His resurrection ; appearing to the Apostles said to them : “Peace be to you. As the Father hath sent me, I also send you. When He had said this, He breathed on them and He said to them : Receive ye the Holy Ghost : whose sins you shall forgive, they are forgiven them: and whose sins you shall retain, they are retained” (John, XX, 21-23). This faculty of forgiving and retaining sins necessarily implies a judgment; since forgiveness or retention of sins was not to be left to the will of the minister, but had to be used according to judgment. The faculty here conferred by Christ on His Apostles had been previously promised to them, and most particularly to Peter (Mt. XVIII, 18; 19) . more explicitly Jesus dealt with the judicial power of the Church, when He said: “If thy brother shall offend against thee, go and rebuke him between thee and him alone. If he shall hear thee, thou shalt gain thy brother. And if he will not hear thee, take with thee one or two more: that in the mouth of two or three witnesses every word may stand. And if he will not hear them: tell the Church. And if he will not hear the Church, let him to be thee as the heathen and publican” (Mt. XVIII, 15-17). The Apostles were conscious of their judicial power and exercised it with the first Christians: thus Peter condemned Ananias and Saphira for they had lied and committed a fraud (Acts V, 1-10). Also Paul condemned the incestuous brother (1 Cor. IV, 18ss), and he gave instructions to Timothy about judgment, when he wrote to him : Against a priest receive not an accusation, but under two or three witnesses” (1 Tim. V, 19).

Of old days each Bishop exerted the judicial power, and if this power, for obvious reasons, it is today limited to purely ecclesiastical things, such as matrimonial cases, ecclesiastical benefices and canonical offences, in olden days it extended also to purely temporal affairs. Scholars of the History of Malta are quite aware of the disputes between the Grand Masters and the Bishops of Malta about jurisdiction. The judicial power is intimately connected with the legislative power, because a legislative power without a judicial power is simply vain.

Finally, Christ conferred on His Church the coercive power. In fact, legislative power as well as judicial power is vain without a coercive power: consequently coercive power is necessarily included as an integral part in the administrative authority. Hence the Angelic Doctor ascribes to the prince the duty of inducing his subjects by punishment and rewards in the observance of his laws and precepts: *ut suis legibus et praeceptis poenis et praemiis homines sibi subiectos ab iniquitate coerceat et ad opera virtuosa inducat* (*De regime principum, 1, 15*). We have already seen that Jesus Christ granted to the Apostles not only the faculty of forgiving sins, but also that of retaining them, which obviously is a great punishment; He also taught the faithful to consider as a heathen and a publican the man who did not obey the Church, that is to consider as excommunicated him who did not submit himself to the correction of the Church. The same did the Apostles by words and deeds. Thus St. Paul to the Corinthians writes: "What will you? Shall I come to you with a rod in charity and in the spirit of meekness?" (1 Cor. IV,21); and again: "I have told before and foretell, as present and now absent, to them that sinned before and to all the rest that, if I come again, I will not spare" (2 Cor. XIII, 2).

Moreover, the Church has not only the power of inflicting spiritual punishments, but also temporal and corporal. Spiritual punishment by which man is deprived of spiritual and supernatural goods, though they may be less sensitive than the corporal, are in themselves much heavier and inflict a more serious penalty than the payment of a fee or any other corporal punishment. If, therefore, the Church has the power of inflicting spiritual punishments, which are considered heavier than the temporal and corporal, it is unreasonable to deny that it has also the lesser power, namely to inflict temporal or corporal punishments. Indeed, the Church, both in old days and at present, though with great prudence, does not abstain from inflicting temporal and corporal punishments for the correction of men.

Many jurists who deny that the Church is a complete and perfect society are inclined to grant to the Church the legislative power, but they reject the judicial and coercive power. Let us examine some of their arguments.

The Church, they say, is a spiritual society, and as such it can only use spiritual means outside the jurisdiction of the Church and consequently, it has no authority nor force of inflicting temporal and corporal punishments. Besides, such punishments are against the spirit of the Church which prefers love and meekness to vengeance and chastisement.

To all these reasons it is easy to answer that, though the Church is a spiritual society in as much as its purpose is spiritual, its members are not angels, but men; and as such it has a material and temporal organization, and must use material and temporal means to help men to attain their supernatural salvation. Consequently corporal and temporal things, in as much as they are necessary to attain its principal scope, are not outside the jurisdiction of the Church: and. If necessary the Church can resort to temporal or corporal punishment: in fact, it prefers to have recourse to the state, whenever corporal violence is required. This easily recalls to the mind of scholars of Church History the Sacred Inquisition: but time does not permit me to deal with this important point very badly known by those, who most strongly disapprove of it.

* * * *

I am afraid I have embraced a very wide subject, and treated very imperfectly of the relations between the two greatest societies on earth, namely the Church and the State. I insisted more on the perfect and complete nature of the Church as a society, and said very little

of that of the State. This I have done because I am perfectly sure, that you all know quite enough about the nature of the State. If, therefore, in my lecture I could only show you that the Church is not an intruder in the State, but that has received from its Author of the State, that full authority which it requires in order to attain its spiritual and supernatural purpose, namely the eternal salvation of mankind. I felt that I have fully accomplished my task. It will be easy for you to see that as man is made of a body and a soul, and both work harmoniously in the unity of the human being, so also the State and the Church each one in its own sphere, may and should work together for the welfare of man, that is to render to him possible the attainment of the purposes for which he is created by God.
