

philippine studies

Ateneo de Manila University • Loyola Heights, Quezon City • 1108 Philippines

Church and State: Iglesia Y Estado

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Philippine Studies vol. 4, no. 3 (1956): 476–478

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Fri June 30 13:30:20 2008

CHURCH AND STATE

IGLESIA Y ESTADO. By Francisco Segarra, S.J. Barcelona: Editorial Balmes, 1956. Pp. 167

Within recent years much interest has centered on problems connected with Church-State relations. Catholic theologians all over Europe and the United States have engaged in disputes over the rather complex question: What precisely is the basic teaching of the Magisterium on Church-State relations? One group—that of George Shea and Joseph C. Fenton of Catholic University in Washington, D.C. and Eustaquio Guerrero of *Razón y Fe* in Spain and others—maintains that the ideal form or the 'thesis' is the confessional Catholic State. The opposing group—as led by John Courtney Murray S.J. of Woodstock College and Jacques Maritain — holds that the fundamental principles that must govern all Church-State relations should be the following: freedom of the Church, supremacy of the spiritual over the temporal and mutual harmony and cooperation. All other elements of Church-State relations are historical and changeable applications of these principles.

The book under review, *Iglesia y Estado*, is a collection of theological essays written along scholastic lines of argumentation in defense of the 'thesis-hypothesis' theory of Church-State relations. The essays were written on different occasions and at different times. Some were published during the Spanish Republic which preceded the last Civil War and others were written as recently as September 1955.

Father Francisco Segarra, the author of *Iglesia y Estado*, is a well-known Spanish theologian, a frequent contributor to the journal *Estudios Ecclesiásticos* and the writer of the renowned book, *De identitate corporis resurgentis*. Formerly professor of dogmatic and fundamental theology at the Jesuit theologate, then located at Sarriá, Barcelona, Father Segarra is at present Instructor of the Jesuit priests undergoing their tertian-ship training in Gandía, Spain.

The book is divided into two parts. Part I, "Union and hierarchy between Church and State" treats of the Church's indirect power of jurisdiction over temporal affairs. To support his proposition, Father Segarra discourses at great length on

the historical situation which accompanied Boniface VIII's *Unam Sanctam*—one of the more prominent papal pronouncements on Church-State relations in the 14th century. His exegesis of the papal text is very clear and convincing. He insists that the Pope's claim of jurisdiction over temporal affairs, if taken in context, implied only an indirect power.

Part II discusses the separation of Church and State in theory and in practice. The writer distinguishes three kinds of separation:

a—One in which the State simply ignores the existence of the Church and refuses to recognize the Church as a juridical body.

b—The second kind consists in a recognition of the Church as a juridical body with corresponding rights and civil obligations. The State in an indirect manner aids the Church by removing all obstacles which might impede the free exercise of worship on the part of all religions.

c—In the third kind of separation the Church and State enter into a formal pact or "concordat." The Catholic Church is recognized as the official Church and Catholicism as the official religion. Mutual obligations arise from such a concordat.

In Father Segarra's opinion separation of Church and State under any of these forms can never be defended as the 'thesis' or ideal form of Church-State relations. He quotes at great length from Pius IV, Leo XIII and Pius XII. From philosophic reasoning he concludes likewise that such separation is against the very nature of the State. At most this separation can be tolerated as an evil which, due to existing historical circumstances, must be borne. However there is, according to the author, the obligation to work for the attainment of the 'thesis' form on the part of Catholics.

This second part likewise serves as a refutation of the theory proposed by Father Courtney Murray and Jacques Maritain. The author's exposition is clear and precise—and at all times he justifies his criticisms or opinions by citing papal pronouncements. His censure of the opposing group may seem harsh at times. Moreover there seems to be an underlying pre-occupation to justify the close union of Church and State as found in present-day Spain as a working application of the

'thesis' theory. At times one wishes that there were a more sympathetic understanding of the concrete historical conditions which surround Church-State relations in democratic countries, principally the United States. However, these in no way lessen the intrinsic value of *Iglesia y Estado* as a presentation of the "thesis-hypothesis" theory in the light of philosophical reasoning and the magisterial pronouncements of the Church.

In the concluding pages of the book the author reproduces in Spanish the discourse of Pius XII to the members of the 10th International Congress of Historical Sciences with an interpretation of the same document. Appendix II contains the complete text of Boniface VIII's *Unam Sanctam*.

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MATRIMONIAL LEGISLATION

EL MATRIMONIO EN EL DERECHO CONÓNICO PARTICULAR POSTERIOR AL CÓDIGO. By Lamberto de Echevarría. Victoria: Editorial del Seminario. 1955. Pp. 419.

The study of comparative law is commonplace in the secular law schools of every nation. In the United States, for example, whose 48 separate states represent so many different jurisdictions, a course in the Conflict of Laws is a necessary part of every lawyer's training. Canonists of the Catholic Church, however, following the promulgation of the new Code of Canon Law in 1918, have been preoccupied with its interpretation and application and hence up to the present have not bestowed much attention on the study of comparative law within the Church itself. Consequently the work of Lamberto de Echevarría opens up a hitherto untouched source of inquiry, namely the particular legislation of Plenary and Provincial Councils and of Diocesan Synods throughout the Catholic world.

Not only is the author to be commended for his choice of subject matter but also for his manner of treating it. Wisely limiting himself to one title, namely the law of marriage, he has succeeded in offering us an interesting picture of the particular lines of development which the provisions of the Code of Canon Law have