RELIGIOUS TOLERATION AND THE PLURALISATION OF PERSONHOOD
CHRISTIAN THOMASIUS' PROGRAM FOR THE DECONFESSATIONALISATION OF SOCIETY

As David Burchell has shown in this issue of the journal, neo-Aristotelian moral philosophy constructs its conception of civic virtue and civil duties using a unified and unifying moral anthropology. The citizen is conceived in terms of "man's" moral nature which, because it is incomplete, requires participation in the state to reach its full perfection. This construction thus establishes a reciprocal relation between the telos of human completion and the exercise of political governance, thereby making civil sovereignty morally conditional on the realisation of this telos. In the hands of Alasdair MacIntyre, this results in a political philosophy that extols an integrated exercise of the virtues and duties, denounces the partitioning of these into distinct spheres of life as a loss of full humanity, and conceives of politics in terms of self-realising participation in a moral community. Burchell also notes that several scholars have questioned the accuracy of MacIntyre's attempt to locate this conception of politics and citizenship in the ancient Polis, and Burchell's essay itself makes an important contribution to this questioning. In this paper I find a more recent and less noble origin for this kind of moral and political communitarianism, and show that the partitioning of duties so vehemently decried by modern moral philosophy played a central role in the emergence of religious toleration in early-modern Germany.

I Moral Community as Confessional Society

MacIntyre's conception of politics as self-realising participation in a moral community derives not from ancient Aristotelianism, but from the Christian neo-scholastic Aristotelianism of the early-modern period. As Horst Dreitzel has shown, there were several distinct and often rivalrous forms of political Aristotelianism in early-modern Germany (Dreitzel, "Aristotelismus"). The doctrines that come closest to those of modern neo-Aristotelians were those developed by the political theologians and metaphysical jurists of the rival Christian confessions. These numbered among their more famous representatives the Catholic political theologian Petrus Tolosanus, his Calvinist colleague Johannes Althusius, the Lutheran ecclesiastical jurist J. B. Carpzov, and the Lutheran natural lawyers Rachel, Mevius and Alberti, whom Hans-Peter Schneider has identified as the source of Leibniz's metaphysics of law (Schneider). In the context of confessional political theology it made sense to conceive of the citizen as a moral being who found

Religious Toleration and the Pluralisation of Personhood

completion in the state, as this allowed the church — the delineator and custodian of man's moral being — to stake a claim to the exercise of civil power. If the state was an institution governed by the telos of man's moral completion then political governance must be carried out in accordance with moral ends which, in early-modern Germany, were religious ends. Hence, despite their theological differences, Tolosanus, Althusius and Carpzov all agreed that if individuals were to find completion in a properly moral community then it was necessary that the state should compel church attendance, theologians should exercise civil censorship, heretics should forfeit civil rights, and that the church and clergy should be immune from direct political supervision. In other words, in early-modern Germany, the doctrine of politics as self-realising participation in a moral community belonged to the intellectual justification of confessional states. These were states in which the spiritual governance of the religious (moral) community and the civil governance of the political community were joined through the use of the church as an instrument of social discipline and through the training of political elites in neo-scholastic political theology (Heckel; Reinhard; Schilling "Territorial State"; Schilling, "Konfessionalisierung"; Zeeden).

For its part, the disarticulation of religious and civil duties — treated by modern moral philosophers as symptomatic of the fracturing of man's integral moral personality — was in fact a central intellectual instrument used by those campaigning for the deconfessionalisation of society in the aftermath of the Thirty Years' War (1612-1648) (Koselleck). The exemplary locus for this disarticulation is the Chapter One of the first book of Samuel Pufendorf's monumental *De jure naturae et gentium in libri octo* (On the Law of Nature and Nations in Eight Books, 1672). Here Pufendorf executes a short but mordant attack on the Christian metaphysics of the person and on the culture of Christian subjectivism more broadly (Pufendorf, *De jure* 1-21). Without attempting to capture the detail of Pufendorf's account, we can say that by drawing on the Roman law concept of legal personality and the Ciceronian doctrine of *officio* (see Burchell this issue) Pufendorf repudiates the notion that man accedes to his duties through a single inner moral capacity — reason, conscience, soul, the *Imago Dei*. Duties and virtues, argues Pufendorf, arise not from man's moral nature, but from the statuses or *persona* that have been imposed on him to govern his liberty (5). Pursuing his desubstantialisation of morality by a daring analogy, Pufendorf comments that if physical things exist through their occupancy of space then moral entities — specifically moral persons (*persona*es *morales*) — exist through their occupancy of a particular state or status, which is the "space" in which moral qualities and actions are possible (6-7). The duties and virtues an individual may be required to cultivate therefore have no single source or point
of judgment — in the individual’s rational or moral nature — and
emerge instead from the variety of ends informing the plurality of
statuses an individual might occupy in civil life (10–11).

That this pluralisation of Christian moral personhood was intended
to combat the unification of religious and civil duties in confessional
society is shown by Pufendorf’s comments on the duties of the priest:

Hence he who gathers the obligations flowing from any one
principle, and omits all others, does by no means immediately
form a state [statum] to which no obligations can or should
adhere, save those which he himself remembers. So he who has
gathered from the Sacred Scriptures alone the parts of the duty
of priests [partes officii sacerdotum], assuredly cannot deny that
those priests are also obligated to perform such duties as are
required by the constitutions of individual governments. And
so we also who are here treating of matters merely by the light
of individual reason, do by no means insist that any such state
of man, which includes such obligations alone, ever did exist,
can exist, or should exist (11).

To further clarify the relations between this pluralisation of
personhood and the program to deconfessionalise politics and society,
we shall now turn to the Staatsrecht or political jurisprudence of
Christian Thomasius; for Thomasius drew on Pufendorf’s de­
theologised natural law doctrine in order to unleash a stunning
onslaught on the intellectual doctrines and cultural institutions of
confessional society.

II. From Moral Philosophy to Staatsrecht

Despite its neglect in histories of liberal society, in early-modern
Germany it was Staatsrecht — or jurisprudence geared to the ends of
the sovereign territorial state — rather than moral philosophy that
played the leading role in constructing rationales for liberal rights,
first and foremost the rights deriving from religious toleration. Modern
ignorance of the statist political jurisprudence goes along with the
widely-held assumption that early-modern absolutism was a hangover
from the Ancien Régime, rather than being, as Dreitzel has shown, a
novel early-modern phenomenon associated with deconfessionalisation
and state-building (Dreitzel, “Ideen”; Dreitzel, Protestantischer
Aristotelismus). It is not our intention to discuss these problems here,
and they are mentioned only to provide a context for Thomasius’
political jurisprudence. For the distinctive characteristic of Thomasius’
Staatsrecht is that it constructs a rationale for religious freedom in the
context of a defence of the civil sovereign’s right to exercise unfettered
political power in all things pertaining to the security of the state —
a combination of liberalism and statism that many modern
Religious Toleration and the Pluralisation of Personhood

commentators find baffling (Cattaneo). The key to understanding this puzzle, as other commentators have argued, is that, for Thomasius, religious toleration was an instrument for expelling the church from the apparatus of political governance, thereby subordinating the clerical estate to the sovereign territorial state (Schlaich; Wiebking). If this is right, then it will be necessary to revise our sense of history, as we learn to treat liberal society as the outcome of social pacification and state-building, rather than moral reason and democracy.

The construction of a statist jurisprudence of religion (Staatskirchenrecht) — in which the church's claim to moral truth was dislocated from and subordinated to the state's objective of preserving social peace — was the central focus of Thomasius' life and work as an academic jurist and judicial privy-councillor of the Brandenburg-Prussian state (Dreitzel; "Christliche Aufklärung"; Wiebking; Haakonsen). Taking the form of detailed commentaries on Pufendorf's De habitu religionis christianae ad vitam civilem (On the Nature of Religion in Relation to Civil Society, 1687), Thomasius' lectures on Staatskirchenrecht were posthumously edited and published in two volumes by one of his students, August Bünemann, appearing under the title Vollständige Erläuterung der Kirchenrechts-Gelahrtheit (Complete Explanation of the Jurisprudence of Church Law) in 1738. This compendium was supported by several fundamental dissertations arguing the Protestant prince's jus circa sacra, or rights in relation to religion. We shall be concerned with two of these dissertations in particular: Vom Recht evangelischer Fürsten in Mitteldingen oder Kirchenzeremonien (Of the Right of Protestant Princes in Middle-Things or Religious Ceremonies, 1695) and Das Recht evangelischer Fürsten in theologischen Streitigkeiten (The Right of Protestant Princes in Theological Conflicts, 1696). Of these two dissertations only the latter is cited as co-authored with Thomasius' student Enno Rudolph Brenneysen, despite the fact that Brenneysen in fact wrote the former, albeit under Thomasius' supervision.

In these works Thomasius addressed the problem of how to construct an effective political-judicial program for de-coupling the religious-moral and the civil governance of society. Moreover, he did so under historical circumstances in which most citizens were still learning their civil duties through religious instruction, and in which most theologians and philosophers were still teaching that individuals acceded to all their duties through religious, moral or rational truths contained in their moral personalities. Neo-scholastic practical philosophy was incapable of constructing a non-religious rationale for civil duties — indeed, was inimical to such a rationale — because it was based in a single moral anthropology, teaching that all duties arose from man's moral nature. Under circumstances though in which the linkage between political governance and moral culture had
dragged the German states through thirty years of religious civil war, all attempts to ground civil duties in moral anthropology or moral philosophy encountered their limits. For, in the sphere of political decision *per se*, what these circumstances required was not a better moral culture for ruler and citizens, but a radical de-coupling of political rule and moral culture — security and sanctity — in order to deconfessionalise the governance of civil society.

This explains why, far more than in his own natural law works, Thomasius' political jurisprudence of the church was dependent on Pufendorf’s natural law and, in particular, Pufendorf’s application of this to the relation between church and state in his *De habitu*. For it was Pufendorf’s desubstantialised and pluralised doctrine of offices that allowed Thomasius to relegate all moral-philosophical foundations for civil governance. We have suggested that in detaching the mode of acceding to civil duties from the practice of moral self-reflection, and in tying it instead to the occupancy of a plurality of civil *personae*, Pufendorf’s officio doctrine grounded the most radical and far-reaching of all the early-modern attacks on Christian metaphysics and on the culture of “Christian subjectivism” more broadly. In his *Staatskirchenrecht* Thomasius used this doctrine to separate the offices of moral truth-seeking and civil peace-making. And he did so in order to construct a political jurisprudence capable of meeting the contingency in which all religious and moral doctrine — true or false — was capable of threatening social peace, and therefore had to be regulated independently of its veracity.

Thomasius’ *Staatskirchenrecht* though did not require the absorption of religion and theology into an all-encompassing political philosophy capable of functioning as a state ideology, in the manner of a precocious totalitarianism. On the contrary, Thomasius regarded that kind of solution as a continuation of the confessional state, and sought instead to separate the religious and political domains more radically than ever before. Following Pufendorf’s lead, he did so by elaborating two distinct but inter-related doctrines. First, drawing on Gottfried Arnold’s *Unparteysche Kirchen- und Ketzerhistorie* (Impartial History of Religion and Heresy), he developed a “spiritualist” theology and ecclesiology. This viewed moral renewal as the result of a wholly private opening of the individual to God’s grace, hence as something lying beyond the reach of all doctrinal formalisation, sacerdotal mediation and social compulsion. Second, drawing on Pufendorf’s doctrine of civil sovereignty, Thomasius elaborated a statist conception of political governance. According to this conception the prince exercised his rights solely to maintain external social peace, regardless of all concerns with his subjects’ moral condition, except where this manifested itself as turbulent conduct. The result of this dual formulation was a *Staatskirchenrecht* in which the “visible” church and the clerical estate
were to be excluded from all exercise of civil power, and in which the state would exercise civil power — even over the church — without concerning itself with the “private” domains of moral truth and moral renovation. Given this remarkable outcome we should discuss its two doctrinal sources in a little more detail.

Thomasius’ conception of religion is dominated by a pietistic and inwardist — typically Protestant — understanding of moral renewal and salvation. Moral renewal can only occur when individuals, eschewing all sacerdotal and ceremonial assistance, acknowledge their misery and freely open themselves to the gratuitous grace of a loving but inscrutable God. None of the rites and ceremonies of the “visible church”, and none of the metaphysical doctrines and articles of faith — which have only served to promote religious discord and heresy-hunting — can affect an individual’s moral condition, which is determined solely by the inner relation of their will to God: “The only precept that Christ has given us is the precept of love. All the rest is unnecessary and lacks the character of a true church” (Thomasius, *Kirchenrecht* I 16-17). Pufendorf and Thomasius regarded this form of religion, epitomised in the simple and loving relation between Christ and his disciples, as the original or primitive form of Christianity. They also called it natural religion, as it could be acceded to through a few simple propositions, requiring no theological formulation or special revelation, and open to all men through natural knowledge (Pufendorf, *Religion* 5-7; Thomasius, *Kirchenrecht* I, 26-30).

According to Thomasius’ religious history, this primitive or natural religion was later traduced through the historical assimilation of two forces. Through the adoption of Jewish ceremonial and political law — regarding such matters as baptism and sabbath observance — Christianity developed into a religion claiming the capacity to save through sacramental rituals and the right to a share in the political governance of a Christian state (Mitteldingen 87-93; *Kirchenrecht* I, 85-118). And through the absorption of Greek philosophy into its theology — specifically the metaphysical doctrine that man was a being who might be renewed through the cultivation of his intellect — Christianity gave birth to a speculative religiosity or, religiose speculation. This in turn gave rise to the view that individual salvation depended on knowledge of specific intellectual doctrines and articles of faith (*Kirchenrecht* II, 20). Thomasius leaves us in no doubt that Jewish ceremonial law and Greek philosophy are in fact stalking-horses for the ecclesiology and metaphysical theology of Lutheran orthodoxy, whose representatives he calls “our papists”. Indeed, the whole point of Thomasius’ Arnoldian ecclesiastical history is to demonstrate the illegitimacy of confessional religion: that is, religion claiming the power to govern a community on the basis of its possession of saving
ceremonies and true doctrines. Similarly, the point of Pufendorf’s and Thomasius’ spiritualist theology is to deny that moral renewal is in any way dependent on the sacramental ceremonies of the Lutheran church or the metaphysical doctrines of its theology faculties — that this is wholly a matter of the private opening of the spirit to a God who sees into hearts:

Whether we consider God or man, we will find nothing from which reason could conclude that God demands such external forms of worship from us. For he has an exact knowledge of the heart and needs no external ceremonies for us to declare our will to him. And as for that which most pleases him in his service, this too is best known by him. From this our reason must conclude that there is nothing in the nature of God that commands us to an external worship of him (Mitteldingen 82).

Consequently, orthodoxy’s claims of sacerdotal mediation and theological truth must be treated as priestcraft, and the church’s claims to a share in the governance of a Christian state must be seen as betraying its true role in opening souls to God and as usurping coercive powers properly belonging to the civil sovereign (Kirchenrecht II, 20-23).

For its part, the conception of the state and political governance used in Thomasius’ Staatskirchenrecht is taken directly from Pufendorf’s construction of civil sovereignty. No matter how repugnant it might be to the teachings of modern moral philosophy, this conception holds that the sovereign’s rights and powers are not delegated to him on the condition that he realise man’s moral being, but only so that he might preserve external security, which is thus the only legitimate end of the state:

Because they concern the fundamental laws of particular republics, through which the exercise of sovereign territorial government is observed and limited, the rights to which a prince is entitled in religious matters, in accordance with the law of nature and the properties of sovereign government, can best be discussed in relation to the ultimate end of republics and the causes from which they arise. The ultimate end of the republic in this ruined condition is that the subjects need it for protection against the evil and cunning attacks of other people, to which they were prey in the state of nature from their more powerful neighbours. For apart from God there is no more powerful means to curb human evil and to attain security than this wise invention: that many men by means of a pact subordinate their will and their power to the will of another, for the common benefit of the whole community of subjects. Without doubt then a prince must be entitled to as much power as is required for attaining the
ultimate end of the republic; that is, for [attaining] its internal and external calm and peace (Mitleldingen 109-110).

To the extent that it now finds its end solely in preserving the security of a territorial population, all coercive power — all right to make law and war — belongs to the civil sovereign alone. Moreover, to the extent that it disturbs the republic, the prince is justified in using this power against all kinds of conduct, religious as well as worldly, because, as recent events have shown, religious conduct can also cause great harm to the commonwealth:

Is it not shown in Germany and all the kingdoms of Europe what kind of disaster and injury comes from religious conflict and rebellion? Were the power to suppress such disturbance as arises from religion now to be removed from the prince, so the whole republic would certainly be ruined. Therefore, to my way of thinking, they reason correctly and prudently who say: That in so far as it stands in their free will, all conduct of subjects — both natural and moral — is subject to the power of the prince. ... Because damage to the republic can arise from all such conduct of subjects...(Mitleldingen 110-111).

III Deconfessionalisation and Toleration

By developing his Staatskirchenrecht through the concerted use of a spiritualist theology and a statist sovereignty doctrine, Thomasius was able to elaborate far-reaching proposals for the deconfessionalisation of church and state. On the one hand, by construing all religious ceremonies as “middle-things” or adiaphora — that is, things neither commanded nor forbidden by divine or natural law — he was able to bring the entirety of church law and liturgy within the supervision of the civil sovereign. In Chapter Seven of the second volume of the Vollständige Erläuterung Thomasius applies this category to all the central sacraments of the church, treating baptism, catechisation, the Eucharist, confession, exorcism, marriage and ordination as ceremonies inessential to man’s moral renewal, hence as open to the sovereign’s supervision, should they give rise to uncivil conduct (Kirchenrecht II 141-198). As for the competing theological doctrines of the three major confessions and the various sects, the prince should endorse none of them, as their intellectual and compulsory nature make them all equally distant from true spirituality. The only religion suited to both true piety and the deconfessionalised state is natural religion. This is a religion whose few simple propositions — that there is a God, that we should love God and our neighbour — both agree with Christianity and are accessible to natural reason, yet do not give rise to any religious-civil rights that might subtract from secular sovereignty. The spiritualisation of religion was thus reciprocally related to the secularisation of the church.
On the other hand, the prince may not exercise his supervision of religion on the basis of his own insight into moral truth or in order to make his subjects holy. Instead, the prince's *jus in circa sacra* is to be exercised solely in accordance with the end of civil security against conduct threatening social peace. On this basis, Thomasius was able to develop the most far-reaching of all the early-modern doctrines of religious toleration. For, by using injury to civil peace as his sole criterion, he was able to extend the threshold of toleration beyond the Protestant churches and sects to include Socinians and Arrians, attacking J. B. Carpzov's demand that these be treated as criminal heretics in this way:

Disagreement as such does not disturb the tranquillity of the republic — even though the Socinians say that Christ is not truly God, or the Arrians that Christ is not co-eternal with the Father .... Of course it cannot be denied that here they err gravely, especially because they fail to recognise their own misery. But why should the prince force them into exile? Such people can still also be good and honourable citizens. They give the prince their taxes and obey his commands, make good soldiers, and so on. It is not they who disturb the republic but the intemperate geniuses [ie, metaphysical theologians like Carpzov], who moan and complain about each other....(*Kirchenrecht* I 346).

Further, on the same basis, Thomasius was able move beyond both Locke's refusal to extend toleration to atheists, and Locke's and Pufendorf's unwillingness to offer it to Catholics — Locke having claimed that atheists could not be trusted to honour oaths, and both writers arguing that Catholics, in owing allegiance to a foreign monarch, could not be good citizens of the territorial state. Recording his own change of mind on these questions, Thomasius comments:

Religions as such do not disturb external peace, and where their teachings are so disposed [to tranquillity], then the prince can well tolerate them. For when someone denies the trinity they do not immediately disturb the state. Where though such people do disturb the state then the prince's office (*Officium Principis*) demands that he expel them from the republic. In fact, in the past I maintained that nothing could be more injurious to the republic than atheism. Now though I recognise this to be false. Who then may not be tolerated in the republic? Our author [Pufendorf] responds: the papists — because they say that a prince belonging to another religion may be killed in good conscience, and that heretics may not defend the faith. [According to Pufendorf] these principles are against the law and disturb the republic — as one has seen in France — which means that they should not be tolerated. For my part, I will not
here inquire into the facts of the case, which are no doubt deserving of respect. Nonetheless, we must not impute the principles of the Jesuits to everyone. And if a prince were to act on the basis that disturbance could arise from a doctrine as a matter of probable consequence, he would tolerate no religion; for the Lutheran religion can also give occasion to turbulence as a matter of consequence. Those who say that true religion is contrary to state utility delude themselves, and we therefore maintain that no-one should be exiled on the grounds of [religious] disagreement (Kirchenrecht I, 349-350).

In this way Thomasius was able to establish a threshold for the state’s supervision of religion that varied with religion’s capacity to damage civil society. This marked an important advance on the threshold used in the De Habitu, for here Pufendorf had attempted to draw a firm line between the internal order of the church that should be left to the clergy (liturgy, sacraments), and the external order open to control by the prince (appointment of priests, funding and administration of church property) (Pufendorf, Religion 120-23). The problem with this solution, Thomasius argued, was that it led to unresolvable argument over whether a certain matter should be regarded as internal or external, thereby paralysing the sovereign’s capacity for political action.

The two cases that Thomasius uses to exemplify this argument in the Vom Recht evangelischer Fürsten in Mitteldingen indicate both the kind of problem his floating threshold was intended to address and its success in doing so. Consider the case, says Thomasius, of a Catholic prince ruling over a territory inside whose Lutheran churches the congregations are singing hymns demanding the killing of the Pope. The question of whether the prince has the right to suppress this conduct cannot be solved via the distinction between the internal and external governance of the church, as the case can be argued passionately on both sides, depending on how hymn-singing is classified. Using Thomasius’ threshold though the prince can readily be assigned this right — regardless of whether hymns are normally seen as belonging to the internal liturgical order of the church — for this is conduct that foments hatred and thereby threatens civil peace (Mitteldingen 121-124).

At the same time though, the sovereign must not attempt to exercise this right on the basis of his religious persona or in a manner that coerces the consciences of his citizens. This is the point of the second example, which concerns the question — disputed by the "doctors" — of whether Protestant princes had the right to compel their Jewish subjects to attend Christian worship. Again, this case had proved irresolvable using the internal-external division, due to the lack of agreement over how to classify church services. And again, Thomasius’
floating threshold provides an unambiguous resolution, this time denying the right:

The rule we have provided above decides the matter quite clearly. Because to attend the churches and participate in the worship of the Christians appears unjust and aggravating to the Jews. It is thus no assistance to the peace and calm of the country and so one should not compel their conscience. No matter how erroneous their conscience is, it will not be helped from error through compulsion, but only if one associates with them in a friendly manner, providing them with a good example so that they might better agree with reason and the teachings of Christ (Mitteleinden 112-113).

In the *Das Recht evangelischer Fürsten in theologischen Streitigkeiten*, Thomasius provided a general Pufendorfian formulation of this solution:

Now it follows ... that the duty of a prince goes no further than external peace; and if he preserves this among the subjects then he has fulfilled his duty. If therefore he wishes to go further, then he manifests himself in the person of a man or a Christian, in which capacities though a prince may use no coercive force, but only the sound reason and Christianity that each man and Christian may use in relation to those he seeks to lead to the right path (Streitigkeiten 61-62).

In short, given their indifference to salvation, all religious ceremonies are potential objects of political supervision, and the degree to which they meet with toleration or suppression depends solely on their level of civil toxicity.

Considering that it was not based on a modern “philosophical liberal” conception of the individual’s “inalienable” moral rights — being governed instead by a political calculation of the potential danger of such rights to civil harmony — it is not surprising that the mix of coercion and toleration in Pufendorf’s and Thomasius’ *Staatsrecht* has proved troubling to modern commentators. In her study of his conception of natural religion, Simone Zurbuchen thus concludes that in defending the sovereign’s right to political supervision of the church, Pufendorf “deviates from the natural-law principle of tolerance” (Zurbuchen 57). But this is because Zurbuchen treats the relation between moral rights and political governance in a manner quite unlike Pufendorf’s. Drawing on modern neo-Aristotelian interpretations of the sovereignty pact as a means to the social perfection of man’s moral nature, Zurbuchen argues that natural religion is the foundation of Pufendorf’s natural law construction of sovereignty and the state. This argument is based on the assumption that Pufendorf sought an internal moral obligation for natural law, as opposed to one arising from a
coercive capacity (34–37); and it makes the claim that he used natural religion to supply this, for natural religion makes it man's duty to believe that God imposed natural laws as divine norms (11–20).

If Zurbuchen is right then it is not the sovereign's political superiority and the end of security that makes natural law obligatory, hence the state possible, but something else: natural-religious piety oriented to the end of man's perfection (23–24). But this means that natural religion must be the ground of both the natural law governing man's moral nature, and the civil laws governing the perfection of his nature in the political state (28, 32). Zurbuchen thus views Pufendorf's doctrine of natural religion — more specifically his conception of toleration — as an attempt to harmonise the subject's natural rights of moral self-realisation and the sovereign's right to rule the society in which this is to take place: "One find both currents of thought in Pufendorf, when he understands the state as necessary for the perfection of human nature while simultaneously explaining it in terms of the social contract" (48). And this is the basis on which she can declare the attempt flawed, for, on the assumption that the principle of toleration is grounded in natural-religious rights not ceded during the sovereignty pact, Pufendorf's defence of the sovereign's right to the political control of religion breaches the principle (51–57). Arguing to a similar purpose — albeit from more explicitly theological premises — Klaus Schlaich has declared it a contradiction for Thomasius to defend religious freedom in his spiritualist theology while also advocating the political supervision of the church in his theory of sovereignty (Schlaich 328–331).

The problem with this kind of interpretation is that it assumes that the relation between moral personality and civil governance — religion and politics — is grounded in moral philosophy or anthropology, specifically in the doctrine of the state's role in completing man's imperfect moral nature: "As the most perfect human society (perfectissima societas), the state is natural in the sense that it is necessary for the completion of man" (Zurbuchen 50). But we have already argued that in Pufendorf's natural law and Thomasius' Staatsrecht this is not the case. Here the role of the political pact is not to perfect man's moral nature but to impose the new personae of subject and sovereign, solely to preserve man's security, which thereby becomes the ultimate end of the republic. As a result, toleration in Pufendorf and Thomasius, rather than being an attempt to balance the rights of moral personality and the interests of state security, is in fact an instrument of social pacification.

For Pufendorf and Thomasius religious and moral rights may be freely exercised not because they inhere in man's moral nature, but only because — and to the extent that — their exercise has no negative
impact on civil peace. Similarly, the political supervision of such rights is not limited by the state’s supposed role in completing man’s moral nature — which would only reanimate the unresolvable disputes over how much power is required for this end — but solely by the end of preserving civil peace, for which the sovereign may deploy as much force as necessary. Far from contradicting Pufendorf’s and Thomasius’ conception of toleration, therefore, the political supervision of the church and the suppression of uncivil religious conduct flows from the same set of Staatsrechtlich premises. In relation to toleration, political-judicial coercion simply represents an alternative means of achieving social pacification, to be brought into play once the threshold of civil disturbance has been crossed. The disarticulation and pluralisation of duties figured forth in Pufendorf’s political pact thus cannot be understood as a flawed attempt to harmonise the individual’s moral rights and the state’s security interests. Rather, in requiring subjects to cease pursuing their moral ideals through political means, and sovereigns to exercise political governance regardless of their own moral ideals, the figure of the pact was in fact a script for purging religion from the state.

IV Conclusion

The reason that such modern commentaries as Zurbuchen’s and Schlaich’s have difficulty in comprehending Pufendorf and Thomasius’ Staatsrecht is that they emerge from a moral and political culture quite unlike that underpinning early-modern political jurisprudence. Moreover, in teaching that moral cultivation and political governance are grounded in a single moral anthropology — and thereby that the moral subject should be active in politics and that government should be limited by morality — such commentary presumes a social and political landscape that has little in common with the one inhabited by Pufendorf and Thomasius. For such teaching presumes the existence of a community of morally self-governing individuals whose conduct only requires political control at the margins, to deal with the failure of moral self-governance. But Pufendorf’s and Thomasius’ political jurisprudence was designed to pacify communities prone to slaughtering each other on moral grounds. So for them the political problem was not too little moral governance but too much.

Once the relational dependency of liberal rights on social pacification had been reversed by Kant, moral philosophy became incapable of recognising the conditions that had given rise to the secular liberal state. Looking down the wrong end of the historical telescope, post-Kantian commentators began to imagine that this state had emerged as a means of limiting the political control of moral rights rather than as a means of controlling the incendiary exercise of such
Religious Toleration and the Pluralisation of Personhood

rights. But the central intellectual reason for this truly baffling confusion lies in the moral anthropology that modern moral philosophy uses to understand the early-modern religious and political landscape. This moral anthropology, focused in the doctrine of the state's role in the completion of man's moral nature, is actually inimical to the central doctrine informing Thomasius' political jurisprudence: Pufendorf's *officio* doctrine. For the whole point of the post-Kantian moral anthropology of the state is to harmonise the pursuit of moral truth and the exercise of political governance in order to provide a moral foundation for politics and law—an agenda that bears a striking resemblance to the political theologies that Pufendorf and Thomasius were attacking. Whereas the central objective of the *officio* doctrine was to treat truth-seeking and social pacification as mutually exclusive offices or kinds of duty, in order to purge fractious religious and moral comportments from the political arena.

Recalling Pufendorf's striking conception of status—as a configuration of moral space through whose occupancy an individual's conduct acquires its moral character—we can say that the full force of his natural law lies in the fact that it assigns the pursuit of moral truth and the exercise of civil governance to discrete regions of moral space. The "kingdom of truth" and the political state thus represent separate and incommensurate moral worlds for Pufendorf and Thomasius, signalling the end of Christian political eschatology and the acceptance of the state as an agency for the permanent exercise of coercive force, disregarding all visions of a future moral state or rule of reason. The consequences of this transformation for Christian moral subjectivism—and for the claims of moral philosophy in the political domain—are reflected in Pufendorf's rejection of the idea that conscience might be something higher than judgments formed in accordance with the ends of particular statuses or *officio*; that is, in his repudiation of the idea that conscience might transcend all such "official" judgments by acceding to moral ideas through an integral intellectual "substance"—the *Imago Dei*, pure reason (Pufendorf, *De jure* 41). In the *De jure* Pufendorf identifies this conception of conscience with the religious subversion of civil order, and Thomasius follows suit in his comments on conscience in the *Recht in Mitteldingen* (Mitteldingen 94-95).

From now on all virtues are virtues of an office and all sins are sins against an office, and the pursuit of truth and the exercise of government belong to different offices. The most flagrant of ethical breaches thus occur when individuals acting in one capacity attempt to perform duties belonging to another: religious intellectuals who attempt to claim power and privilege in the civil sphere where they are mere subjects; politicians who purport to exercise civil power in
the church or academy where they are mere auditors. This is an historical lesson that has not been learned in all societies, and we should not underestimate its value in ours; for it was through it — and not through reason and democracy — that we learned how to stop killing each other in the name of moral truth.

Griffith University

This article draws on a larger study — Rival Enlightenments: Civil and Metaphysical Philosophy in Early-Modern Germany — for which I was awarded an ARC Research Fellowship. My thanks go to the ARC for making this research possible and to the School of Humanities at Griffith University for its support. All translations from German texts are my own.

WORKS CITED


Thomasius, Christian, and Enno Rudolph Brenneysen. Das Recht evangelischer Fürsten in theologischen Streitigkeiten. Halle: Christoph Salfeld Verlag, 1696.

