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'The Ways of Judgment': Part 2—The Act of Judgment (with Susannah Black)

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Susannah Black (Plough, Breaking Ground) joins me for the second part of our discussion through Oliver O'Donovan's 'The Ways of Judgment'. If you are interested in following along, I highly recommend that you purchase a copy of the book here: <https://amzn.to/2ZeXFXW>.

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Transcript

Hello, and welcome back to our discussion of The Ways of Judgment by Oliver O'Donovan. Susannah Black is back with me again to discuss the first chapter of the book. We gave an introductory discussion and then we explored some of the themes of the book more generally.

And now we're going to get into the real heart of the question, which is the act of judgment itself. That is the title of the book. And it begins with the statement, the authority of secular government resides in the practice of judgment.

This is a statement that is the thesis of the argument of the book, and it sets up the whole course of what will follow. How are we supposed to understand this statement? I think it will, it's one that asks a question, at least it seems to ask a question to me. And

that question is sort of as opposed to what, what else might the authority of secular government, and we can maybe talk about what work the word secular is doing here later on, but what else might the authority of government be thought to reside in? So obviously, you have something like Max Weber's monopoly on violence, which is a little bit of a, I, he wouldn't call it a cynical take, but a kind of realist take.

But that is, I don't think really what O'Donovan, he is to a certain degree, setting himself up against a kind of the very end understanding of government. But I think the contrast that he's really intending to make is with, as he says, with something like legislation, or something like being the embodiment of the people. So Moses and David are the two alternative symbols to the judges, that he throws out there as potential hearts of what it means to govern.

And he says that, you know, according to scripture, at least, and according to the nature of things, which is what he's always trying to get at, the heart of government, the authority of secular government resides not in legislation, that is not in making law, and not in embodying the people as a king might, but in the act of judgment. And then figuring out what that is, is sort of step two, I think. Is that how you would understand the decision that he's trying to make? Yes, I think so.

I think it might get at what some people mean when they say that the task of government is not messianic, and the government isn't trying to, or shouldn't be trying to perform the task that the Davidic king or the Messiah performs, nor the function of Moses, who's founding a people, who's delivering them and then establishing them through this process of law giving. And the actual process of judgment within society is a lot more modest than that. But that place is almost a place that is cleared by the removal of those functions that might otherwise be assumed by government.

And those functions have been precisely removed by Christ, who has performed those tasks himself. So the government can't assume this messianic purpose because the Messiah has come. And were it to try to do that, it would be in rivalry with him.

And I think you mentioned it earlier on, the importance of the word secular, that secular might be doing some important work within that statement. And I think that's one of the sorts of work that it is doing. When we talk about secular, it's the distinction that we have within the Old Testament between holy and common, but something expressed in terms of ages.

So the present age is the secular age, it's to do with this age. Whereas the age to come is the age of Christ. And in many ways, it's because Christ is the King of Kings, the one who receives all authority and power, all authority will be rendered to him.

Earthly governments are then placed in the position of stewards. And that role of stewardship restricts from them many of the functions that they might previously have

performed or assumed to themselves. And so that the presence of Christ denies governments the right otherwise enjoyed of arrogating all these privileges and purposes to themselves.

And he presents Romans chapter 13, verse four, as this iconoclastic statement of this more limited vision of what the government is supposed to be. Yeah, I think he's very much implying, or at least I'm reading him to be implying that we should read this, we should read Romans 13 as something that's pushing back against the pride, essentially, of the Roman emperors, and sort of implicitly could say the pride of Pharaoh and as well, and that sort of thing. In the sense that the government is not *sui generis*, it's not, it doesn't define justice.

It's not, it's not, its job is not to embody the ultimate community. So in that case, in that sense, it's also potentially pushing back against even Aristotelian, sort of more limited Aristotelian understanding of what, you know, what the polis might be for. Although I'm not sure about that, I think he's probably a little bit more open to that.

But it seems very much, it was just really striking to me this time reading it, to note his focus on the act of judgment, as opposed to the act of making law, because if you look at sort of Aquinas's treatise on law, or Aquinas's sort of basic political understanding, you start with the treatise on law. And the sort of very common phrase that you sort of get at the beginning of studying political theology often is, you know, what, you can remember what it is, a law is an ordinance of reason oriented towards the common good, made by someone who has the care of the community and promulgated. Those are like the four, if I'm remembering that right, those are the four sort of notes of what a law is.

And making law is central to what Aquinas understands politics to be, in a way. And he's very much, again, as we talked about in the last podcast, he's just very much, he has this great sense of being in *medias res*, like you're, he's always sort of seeing us picking up in the middle of things. And we're not founding a nation here, we're not founding a people, we're not, you know, legislating *per se*, we're, we are finding what justice is, using our practical reason, and pronouncing on that.

And that is a momentous thing, but it's not a kind of, it's very much not a revolutionary thing. And it's not a sort of founding moment. That modesty of his vision, I think, is very important.

It's not that he, he argues that the purpose of government is limited. And what he's saying by that is not what a libertarian might be saying. Rather, he's saying we need to conceive of all the tasks that government performs, whether that's making law, or engaging in warfare, or whatever it might be, we need to think of that under the rubric of judgment, that judgment is the category that explains what government is there to perform.

Right. And so I think he has a place for the making of law, but that making of law will not be the sort of creation of a society in the way that places the mantle of human destiny upon the government, as that which will achieve the purpose of mankind, which has often been a great temptation, I think, particularly within the messianic visions of government presented by various systems within the 20th century, particularly, and you see that, that urge for a government to actually give us the meaning that only Christ can get. Yeah.

So to actually have this account of government, you almost need to have, it's almost a negative image of the positive fact of the gospel. It's in the light of the positive fact of Christ's rule in the gospel, that we're able to have this sort of limited vision of government, because the functions that might otherwise be assumed by governments have been denied them now. And so he talks about governments as able to function as a sort of secondary theatre of witness.

So one of the statements that he makes on page five, which I think is quite a striking one, thinking about the way that a government can present itself as a sort of witness. Did you have any thoughts on that particular point? Yeah, I mean, so there are a bunch of different things that I think is him once again, approaching political theology as a kind of apologetic. And it's, it's also just sort of interesting to think about witness as, you know, the actual meaning of the term martyr.

But yeah, he does directly address this, he basically says, am I saying that this is a kind of thin libertarianism where all where the only thing that the government is legitimately allowed to do is to sort of pronounce according to pre existing laws? And he's saying, No, that's, that's not the point. But the point is, I think the main point that he's trying to make is that all of what government does is now moralized in a good way, which means that it's subject to the discipline of enacting right against wrong, I think is the way he puts it. And there are a couple of things that that implies.

And one is that he says, for the hero warriors of Troy, the ultimate test is the survival of the city. And then he says, but that is ground we can never reoccupy. So again, he's, he's sort of saying that the Homeric virtue, the sort of survival, the thing that the might that is enacted to ensure the survival of the community can never again be enough, if it ever was enough, we certainly can't go back to the survival of the community being the measure of good, or the measure of right.

And this is explicit, almost explicitly anti Nietzschean. And it actually reminded me very much of George VI speech on the Declaration of War, whatever it was, 39 or whatever, which I looked up. Okay, so he said, we have been forced into a conflict, for we are called with our allies to meet the challenge of a principle which if it were to prevail, would be fatal to any civilized order in the world.

It is the principle that which permits a state in the selfish pursuit of power to disregard

its treaties and its solemn pledges, which sanctions the use of force or threat of force against the sovereignty and independence of other states. Such a principle stripped of all disguise is surely the most primitive, the mere primitive doctrine that might is right. And if this principle were established throughout throughout the world, the freedom of our own country and of the whole of the British Commonwealth of Nations would be in danger.

But far more than this, the peoples of the world would be kept in the bondage of fear and all hopes of settled peace, and of the security of justice and liberty among nations would be ended. The task will be hard, there may be dark days ahead and war can no longer be confined to the battlefield, but we can only do the right as we see the right and reverently commit our cause to God. So it seems to me that George VI is saying in that speech, something like what O'Donovan is saying in his anti Homeric virtue, anti he even sort of mentions Beowulf, I think that might be slightly misreading Beowulf, which is I think more Christianized.

But he's basically saying that all acts of government, including going to war, including preserving, even acting to preserve the community, even acting to ensure the survival of their own existence as a polity, has to be measured against something outside of that government. It's no longer if it ever was good enough to say the survival of the city is what we're doing. It's no longer, that's no longer good enough because Christ has come and he's established a horizon of goodness and a horizon of justice that is, that's hooked into morality in a way that I think he would say possibly earlier forms of government weren't necessarily.

That opening statement, the authority of secular government resides in the practice of judgment, is one that can only fully be made in a Christian voice. It's something that requires the appreciation of what Christ has done. And the account that he's presenting here will be very much a sort of political ethics, but one that is possible and makes sense only in the light of the gospel, truly.

And that I think helps to work out the apologetic purpose that he's been talking about all the time, the way that we have these systems and these visions of government that have been bequeathed to us by societies that appreciated the force of what Christ had done and what that means for us and for our governments. And yet, once we've moved beyond the gospel or rejected it, those systems no longer make sense and we're tempted back to the old pagan visions of what government could be. And yet we feel the humanizing force of the actual forms of government that have been bequeathed to us by the Christian faith.

And it's in appreciating that gospel background that we can once again understand the rationale and the reasonable character of these systems that we have, that this vision of government is one that Christ has made possible, although we may never have formally

thought about it that way. It does make a lot of sense when you think about it. Yeah, I mean, I'm trying to sort of think of the ways in which we are currently tempted into a post-Christian, which would in fact be something more like a pre-Christian understanding of what law is, what the job of government is.

And there are a couple of different things that I think you could say. And the sort of different accounts of what lawyers are doing, you know, what jurisprudence is, that you sort of get in law schools, I think are kind of, and the kind of incommensurability of these different accounts really, I think, speaks to this massive confusion of what to do with the institutions, moral assumptions, legal assumptions, embedded legal principles that we've received from Christianized situations, Christianized civilizations that are the legal orders that were profoundly influenced by the gospel. And we've received them as a people, many of whom, possibly especially in law schools, are not particularly, where the metaphysics of that, you know, isn't the metaphysics that they hold.

And so the conflict between a kind of legal positivism where essentially law is just what people say it is, where there is no horizon against which to measure law, which is usually, you know, that's usually contrasted with a kind of natural law account of what it is that law is doing. You know, you're in law is, an unjust law is no law at all, as Martin Luther King would say, which is an anti-positivist account. Those two different visions of law are both very much, you know, positivism is more common, but certainly there are plenty of people in law schools and practicing lawyers now who are not legal positivists.

And the conflict between those two ways of understanding what law is, I think, is just really interesting to watch, because it means that there's not a common understanding of what it is that we're doing when we go to court. Yeah, so I think that the conflict over positivism is one area where you can see that kind of incoherence and where O'Donovan would say there's an opening to, a sort of apologetic opening where you can show that the metaphysics and the ethics of Christianity kind of explain our legal tradition in a way that the metaphysics and ethics of positivism don't. I think that's kind of one really strong way that you can, place that you can notice that.

And another would be something like, which is not that different, something like the, a kind of a libertarian, even a left libertarian understanding of the purpose of law, which it's sort of most, I guess, most famously put forth in Anthony Kennedy's sweet mystery of life passage in Planned Parenthood versus Casey, which if I can find the quote is, at the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe and of the mystery of human life. And this was a, this was Anthony Kennedy's decision in Planned Parenthood versus Casey, which was the case that reaffirmed Roe versus Wade in 1992. And it's very much a, it's not exactly legal positivism.

It is a sort of carving out of an individualist voluntarism in terms, it's saying that the job of the legal order is to allow everyone to decide for him or herself, what the, essentially

what justice is. There is no justice that can be publicly decided other than the justice that says, I'm not allowed to tell you what the meaning of your life is. And that is very appealing in a lot of ways, especially in a pluralist society where we don't agree on these things, but it's also massively and very easy to see that it's in conflict with any kind of an actual stable legal order.

Because if it is the heart of liberty for me to decide what the meaning of life is, and I decide that the meaning of my life is, you know, cannibalism or something, who are you to say that that is not legitimate? And so those kinds of puzzles, those kinds of like weird aporia that you run into without a strong metaphysical account of the legal order that we're in, those are the kinds of things that O'Donovan is going to say that, you know, Christian Christianity, the gospel solves. And he's kind of, again, he's kind of introducing us to, he's helping us to remember what we once knew. And what we once knew makes sense of our current moral intuitions very often and our current legal structures.

He settles particularly upon the term judgment. And he looks back to the Old Testament, for instance, and the importance of the figure of the judge, and the way in which the judgment of God, as the bringing of righteousness, for instance, is played out within the prophets. And the way that that particular function within the polity of Israel and Judah is foregrounded.

So even in the case of the king, who does have some sort of a messianic purpose, representing the destiny of the people, the king is particularly and cheaply charged with the task of judgment. And he brings judgment through the exercise of moral discrimination and wisdom. It's a task that we see, for instance, Solomon performing, and through the wisdom that God gives him to distinguish between the two prostitutes, for instance, and the child.

And we see it also in the case of the judges in the book of judges. And that particular term is one that he tries to clarify over against the term justice, which is a term that has a number of different connotations, which he lays out in terms of justice as right, justice as virtue, justice as judgment. And so we might talk about justice as a sort of state of affairs or justice as something that is characteristic of someone that they have the virtue of justice that they act in a just way towards other people, and then justice as the actual act of judgment.

And it's the latter that is, first of all, something that he argues is the only one of these that is an originally political reality, the other ones can pre exist the political state. So justice as a state of affairs could refer, for instance, to the state in Eden, for instance, or justice as virtue might refer to the state of the individual soul and the way in which things are well ordered within our lives. But justice as judgment, that act of judgment is an originally political reality.

And it's something that is at the very heart of his account of the task of government, as

we saw from the very opening sentence, he gives a definition of judgment. And is this that I wanted to give some time to unpacking of it. The definition is judgment is an act of moral discrimination that pronounces upon a preceding act or existing state of affairs to establish a new public context.

First of all, why do you think that? Do you think he's right to single out judgment in this particular way? And how do you see him? His definition of judgment over against justice as serving some greater purpose? I'm not entirely convinced that it's useful to pull them apart into completely, especially it seems to me, the idea of justice as a virtue, you know, having justice in your soul. I think that the real strength of his definition is that it focuses on action, even a speech act, but speech act is still an act. And it's an act with power behind it with, you know, with coercive force behind it if necessary.

And it's something that is particular, it bites into a particular circumstance. And it applies, you know, it applies that justice in your soul or that wisdom that you might have received to a particular situation. But I don't, because it's a human act or the act of a person, not necessarily human, but because it's the act of a person, I don't think, I think it's, I wouldn't want to pull it too far apart from justice as a virtue, as a quality of heart or a quality of mind.

But I do think that like, what he's trying to do is very important. And so it is also, it's one, it's something that I was trying to figure out whether, to what degree this is necessarily a, like what it means that it establishes a new public context, because we use judgment in private ways as well. So I'm thinking of the Box Hill scene in Emma, when Knightley judges Emma, he says that she's done wrong, badly done.

Is that judgment in O'Donovan's sense? Or is that, or does that sort of not quite have all the ingredients? What do you think? Well, I think the, I would say that there is importance to his distinction of, it is the originally political reality, the other ones can exist apart from that political context. Now, when he's talking about secular, the authority of secular government residing in the practice of judgment, he's not saying that the only thing that secular government does is judgment. And there are many things that are ancillary to, or preconditions for judgment.

I mean, you have to build government buildings, you have to, I don't know, mint coins and make stamps, and you have to have all these other sorts of acts that are associated with an effective government. And maybe they are, in some penumbral sense, they are acts of judgment. It doesn't really seem that they are primarily acts of judgment, rather, they are things that make that primary purpose of government possible.

And it's that the purpose of government that he's focusing upon. So there are many other things that may be preconditions. If you don't have people who have the virtue of justice, then you won't have good government.

But that is not actually the task and the practice that is at the heart of government. Rather, that is judgment itself. One of the things that that made me wonder is whether he would say that there can be such a thing as government in an unfallen world, because generally, one would think that there well, generally, I think I would think that there would be in the sense that, you know, you could say the government is coordinating the actions of many people.

And if Adam and Eve hadn't fallen and had had a bunch of children, eventually, you'd have to sort of organize that it's about rule, it's about authority. Those things are all things that can exist in an unfallen world. But I wonder whether judgment in his sense can exist in an unfallen world, because you're, I mean, I guess it could, if you sort of thought of it as one potential judgment is this is well done.

I'm like establishing the public context of approbation. But that is a bit of a step beyond what he talks about here. And so it was it was one of the things that I was thinking about as I was reading, can his version of government focused as it is on the act of judgment be something that exists in an unfallen world? Well, if he's using Romans chapter 13, it might seem that is possible, that the government is the one who wields the sword is designed to give approval, and not just someone who executes punishment.

Yeah, I think I think that might be I just sort of thought of that bit as a way of getting around the the sort of implication that it might not be possible to have this form of government in an unfallen world. And I do think I think it's a bit important that at least I ideally I'm not quite sure why, but it seems to me important that it is something that isn't just the result of the fall. Because if something is, if something has integrity of its own, you can aim at doing it really, really well in a way that expresses humanity, your humanity at its fullest.

Whereas if something is just the result of the fall, it seems like it's always going to be a patch up job, or a second best. And I think that maybe this, this public approbation, or public honouring, as a form of judgment is potentially a key to how his version, his his understanding of government and judgment could work outside of the context of sin. I would argue that you can go further than that.

We do have acts of judgment in a narrower sense, prior to sin in the way that God declares upon his creation. Not all of those judgments are positive. And so in the case of the man who's alone, it's not good that he's alone.

And so in the case of human acts that create things, there is this process of pronouncing upon a proceeding act, in order to establish a new context. So when we make new things in the world, we will have to declare judgment upon them. And those new things won't just be objects like bridges or buildings, and railroads, ships, all those sorts of things.

And it will also be forms of society, and relations and contracts and agreements,

whatever it is. And those sorts of things, I think, could pre-exist the fall in principle. And so I see no reason why you couldn't have some form of government.

I think that's right. But we're also getting a bit far away. So he focuses on the connection between judgment and wisdom.

And he talks about Solomon receiving wisdom, which you recently, I forget which, I think it might have just been one of your reflections recently, you talked about Solomon receiving wisdom, which is essentially the knowledge of good and evil. I think this might have been in the passage about building the king's house. He received the ability essentially to judge in this sense, from God legitimately in the re-founding of creation almost, which is the making of the king's house.

And that's the ability that Adam and Eve had essentially grasped after illegitimately. Do you think that that's the sort of accurate description of Solomon receiving this ability to judge in an O'Donovan sense? Yes, I think so. The knowledge of good and evil is something that he requests and is given.

And there is a sort of Edenic situation that he's establishing from the temple to his own house, to the relationship with his people. The whole order established around Solomon is a sort of Edenic one. And so man wanted to be like God, like one of the gods, knowing good and evil.

I don't think that's a desire to be like God himself with the capital gene. It's like one of the gods, one of the angelic rulers of the creation. And so Solomon is like one of the angels of God ruling over the people, like the angels rule over the nations.

And in that respect, I think we see the importance of the knowledge of good and evil as attached to this act of rule and judgment and authority. And the way it's described as the knowledge of good and evil, it does present it as an act of moral discrimination. It's being able to discern and divide right from wrong.

And there is this intellectual character to it, not necessarily in the narrow sense of intellectual, but in the sense of wisdom more broadly. And you see that, I think, also within the wisdom literature, which is associated with the kings. The kings are those who are able to, if they are the true ruler, they are able to perceive things in a way that is, they are able to judge and perceive acts and situations in ways that others can't.

And they're able to make statements about those. And those statements bring light and direction to situations that did not formerly have those. And there, I think you do see a connection between the Edenic, an Edenic vision, something that Eden was striving towards, but didn't yet obtain.

And there, I think we do see a difference between the pre-fall state, which is not so much on account of its moral innocence, but as a result of its immaturity and its infancy. It

hasn't yet matured to that state where there is that moral discrimination. And the process of making things in the world, constructing an order of mankind's own that it can declare is either good or not good.

Yeah. I mean, if nothing else, Solomon is ruling over a complex society. It's an international society.

There's a great deal of building, there's beauty. And he is essentially pronouncing it in his ability to judge. He's pronouncing the society that he is in the, that you literally see him making, you see his workmen making.

He's given the ability to pronounce it good. O'Donovan also talks very much about, or focuses a lot on this idea, which struck me very much again, as this is a very English book. His vision of justice is an extremely English common law based vision of justice.

It's based on precedent, whether or not that precedent is overturned. It's something that's sort of built up over history and all cases at law are going to need to involve an injury or a wrong party, or at least that's the way it seems to me, or at least it's going to be a response to something that happened. So you don't go to law, you don't seek a judgment if nothing causes you to.

It's not a creative act in that sense. It's a responsive act. Is that right? That seems to be one of the focuses that he's trying to share.

I'm not sure I'm persuaded it's that narrow a commitment to a common law approach. I think his concern is more that we don't think of judgment as something that is primarily prospective. Now it does have a prospective character to it, which he gets into in a moment, but his concern is to see it as responding to something that is a proceeding act or state of affairs.

Now that can be a number of different things. What his concern is, is that we don't see it as the sort of thing that is striking a blow or founding a city, one of these prospective acts that is without some responsive regard to something that has proceeded it. And there I think there is a conservative sense to his approach that his concern is almost to hold judgment subject to something beyond itself.

That's part of what he's trying to do. And I think also to avoid the idea of judgment as a sort of creative, primarily creative force, something by which we might engineer a society. And that's not what judgment is.

Yeah, it seems to me he's very much sort of thinking about bad social engineering projects or like overly ambitious, you know, messianic, let's make a new world from the ashes of the old kinds of social engineering projects in talking about this. But that also seems to me to be slightly underplaying the aspect of judgment or law making, I guess, as well, which is the education of a people. You know, if law is a teacher, and if both law

and political leadership can either make people better or worse, which I think it can, they can.

I mean, I don't want to, I'm trying to remember what he says about this kind of thing in future chapters, and I guess we'll get to them. But if you don't have some sense, there is also that prospective sense, which he does get into. He says, you know, judgment does lead to a new public moral context, which is a kind of, it's a new vision of the good, or it's a refined vision of the good, or it's a return to peace or something like that.

But he just, he seems to be to be very cautious about being too aggressive in that. He sets the work of judgment over against something like a work of art. And that I think can be helpful as a window into what he's trying to say here.

The work of art is something that is radically creative. It's trying to create something new in the world, whereas judgment for him is necessarily something that is pronouncing upon the old. So there can be something educative about judgment and about the purpose of, so society can perform those purposes, but judgment itself just has a narrower end.

And here I think it's worth bearing in mind, first of all, that government does some things beyond judgment. It's not that government only does judgment, Rob, that's its only real purpose. And so all the other things are subordinate to that.

They can help it to perform that primary purpose. But then also we can recognize there are other parts of society that can perform these tasks that cannot be assumed by government. So there are things, for instance, that the church can do because of its association with Christ that the government can't do.

The church is not secular in the same sense as the government is, even though there are ways in which the church is a rule of this, a polity of this age. There are also ways in which it is, it represents the gospel in ways that government can't. And so I think there is that aspect of it that I'll be wary of saying just because government can't perform a certain sort of educative function, that no such function can be performed appropriately within society.

Mm-hmm. I mean, it's also the case that artists exist in the current age. Artists are secular in that sense, and they do their job, which is a much more creative and sort of founding, in a way, job than government is in his vision.

My question, there are so many parts that he later gets to that seem to me to almost contradict what he says here. And I think it's just a question of emphasis. I don't think that he's necessarily forbidding a kind of Kantorowicz understanding of kingship where the ruler embodies the people in some good sense.

He's just saying that that needs to be, that that's not an absolute good, that embodiment

of the people, that sort of rulership needs to be measured against this kind of bringing of real justice, which is related to real goodness. It's not a thing in itself. I mean, he does say later on in this chapter, to put our finger on this narrowly political role, we must single out its representative function.

A political act with political authority occurs where not only the interests of the community are in play, but the agency of the community as well. And there, I think, what he would say is that the agency of the community in its representative is incredibly important. Now, the king is not someone who maintains the destiny of the community in the way that David might, for instance.

But the king is one who does represent the agency and the selfhood of the community in other ways. And that connection with the selfhood of the community is a far more modest one than one that you would find within a pagan society or even in ancient Israel, that its identity leading towards an identity, the mantle of which is taken up by Christ. Right.

I mean, the other sort of question that I felt like was implied by this, that I wasn't quite sure how he would answer it, is that it seems to me that judgment, in his sense, implies activity. So it implies being able to carry out that judgment. So I guess I'm thinking in terms, I'm thinking in sort of Montesquieu terms, in terms of, you know, division of powers.

Is he saying that like Amy Comey Barrett's appointment is more important than the election of the president? So is he saying that like, judging in that sense is more important or is separate than the executive power? Or are those just bound up with each other and looking at it in like trying to pull those things apart is not what he's getting at. I think you see those more as different species of judgment. He's not trying to have a minimalist, he's actually doing something very different than a minimalistic vision of judgment.

And so he's not talking, he makes very clear, he's not talking about limited government in a libertarian sense. Rather, he's seeing all of the activities of government, even things like welfare and the waging war, things that people wouldn't necessarily think of. In terms of judgment, right.

Yeah, they have to occur under that rubric of judgment. Right. And so I think he would see both the president, the executive and the judicial powers as exercise of judgment in some form or other.

But what he does, that discussion of effectiveness, I think is important. It's supposed to establish a public context to clear space for new actions. And there are two criteria that judgment is subject to, because it is both a statement and a deed.

When you're making a particular, casting a sentence, for instance, you're making a judgment, which is a statement upon the prior state of affairs, is this person guilty or not? And then you're also making a deed, and you're actually sentencing them. That if it's supposed to be an effective judgment, and a judgment to be a good judgment must be an effective one, you must be able to carry out that sentence. And so that condition of effectiveness is one that shows that a judgment is more than just the sort of private judgments that we might have, which maybe can contribute to acts, actual acts of judgment.

It actually has to be something that puts itself into effect. And that I think is why it's the act of judgment that's particularly emphasized. It's not just mental judgments.

It actually has to have that power to enact and sentence and to affect itself. I think that's right. He says, we're not free to take such a judgment or leave it as we are with judgments expressed in debate.

We are not bound hypothetically. It binds us as the phrase goes, *semper ad prosemper*, we are subject to it. It does something to us if we fall under it.

And that kind of starts to point, I think, towards the way in which all of government can fall into this category of judgment. He compares at the end or contrast the judgment of God with the judgments of human communities. What were your thoughts on that? I think that he, I think that I felt as though I wanted to know more about what he was getting at.

He seems to be saying that he's trying to relate God's judgment to the fact of the covenant. And he also seems to be sort of saying that judgments other than God's judgment run into sort of snags or limitations that God's judgment doesn't. But I felt as though that part was a bit cut short and I'd like to know more what the relationship of those two things is.

What do you think he's getting at? I think one of the things he's thinking about is the sovereignty of God. So we can talk about the sovereignty of human governments and authorities. And the sovereignty of God is very different.

Human sovereignties can be a sovereignty exercised on behalf of a community in its name, whereas God's sovereignty is always prior to. And it may be exercised in a way that benefits his people, but it is not subject to his people or merely on behalf of his people in the way that human authorities and sovereigns are. That makes sense.

He's not limited in what he does by representing us. Although the idea that he might be, the idea that covenant is something that God gives us, I'm sort of groping around to find the words for this. There is a way in which by giving us the covenant, both the old covenant and the new covenant, God does limit himself because he binds himself to his

own word.

Which is a self commitment to freedom. Yeah, it's a self commitment in freedom and out of his own nature. So it's not limiting himself.

I'm trying to not catch myself on one of the horns of the youth of Ferdinand here. He's not limiting himself in a way that is outside of his nature, but it must mean that it's in his nature to bind himself by his own word to our good in a commitment to our good, which is quite something. So concluding this particular discussion, why do you think that this is the foot that he chooses to start off on? Because I think he's establishing the major contrast that I think he's establishing is between his approach and just other ways that you might start thinking about politics.

So Aquinas starts out thinking about a prince who's going out to maybe found a new city or a new kingdom. And let's look at a piece of land. What do you want in a piece of land that's going to become a kingdom? And what's the nature of making law? These are very sort of founding ideas.

And then someone like Hunterowitz would talk about a sort of organic connection between the king and the people. And he's establishing a kind of, he's establishing a more modest project or a more modest vision of what politics is. I'm not sure you would disagree with either Aquinas or Hunterowitz, but he's saying that the nature of politics is something that is because of the gospel more limited than we might otherwise think it is.

Or at least that because of the coming of Christ, everything that we do politically is in response to that and has that as its context. And it doesn't really make sense outside of that. And I think again, that that has to do with his conception of political theology as an essentially apologetic project.

This is something that helps us make sense of what we understand government to be. And all of the puzzles that we can run into when we're thinking about politics or about law, find their solution in this vision of what we're doing that's both modest and kind of, if we understand ourselves to be, you know, if we're judges to be judging according to real wisdom. It's modest, but it's also really momentous.

And I think he starts out because this is a really exciting way to start out. It's presenting the project of judgment as very solemn indeed. Thank you very much.

If you've found this helpful, I highly recommend you're buying the book, *The Ways of Judgment* by Oliver O'Donovan. We have just done the first chapter, so there's plenty of time left to get into the discussion. We'll be going through all of the chapters of the book this way.

If you would like to hear more, if you would like to ask us any questions, please do so in the comments. And there will be details of where you can get this material in the show

notes. God bless and thank you for listening.