

much greater achievement than the battle of Tunis.<sup>12</sup> At this moment there is no favour I would rather ask of God, than that He should make these two princes as truly brothers in spirit as they are in blood.<sup>13</sup> If this could happen, there would be no more heretics in the Church, no more Moors than they wanted, and the Church would be reformed whether or no the pope wanted it. Until I see that day I shall not give twopence for all the councils, remedies, and projects ever thought of.<sup>14</sup>

The fault cannot lie with the king of France, much less with the emperor; it must be the collective sins of all which are to blame. Wars were not invented for the good of princes, but peoples. If this is true, as it is, then tell me, good men all: are our wars for the good of Spain, or France, or Italy, or Germany? Or are they for their universal destruction, and the increase of Moordom and heresy? Let them protest our innocence as much as they like. God forgive our princes and all who put them up to this – but He will *not* forgive.

But why do I write as if this was news to Your Lordship, who must have seen all this better than anybody? The trouble is that everyone can see it except the princes themselves.

Don Juan is making good progress. He is diligent and dutiful, a sure sign of a good heart. He has been a little ill with a cold; but is free of it now because I took pains to free him from the clutches of his doctors. Our Lord always guard Your Lordship's life, and prosper your illustrious estate in His service.

Your illustrious Lordship's chaplain and humble servant,

Fray Francisco de Vitoria  
Salamanca, 19 November

12. Charles V's expedition in defence of the Spanish empire in North Africa against the Barbary pirates led by the Turkish corsair Barbarossa, which culminated in the recapture of Tunis on 20 June 1535, was hailed as one of the greatest feats of his reign, although the victory was soon proved ineffective (Elliott 1970: 54-5).
13. By the Treaty of Cambrai (1529), François I of France had married Charles V's elder sister Leonor of Austria.
14. In April 1536 Charles V had agreed with Pope Paul III to call a General Council, to be held in Mantua the following year. It did not take place.

## APPENDIX B

### LECTURE ON THE EVANGELIZATION OF UNBELIEVERS

(*Lectio reportata in ST II-II. 10. 8*)

*This extract from Vitoria's lectiones of 1534–5 on ST II-II. 10 'On unbelief in general' shows the development of Vitoria's political ideas in connexion with the problem of evangelization in the two years leading up to the composition of the relections on the 'barbarians'. His lectures on this quaestio make it clear that Vitoria was led to consider the topic as much by the problem of the moriscos and conversos (Moslem and Jewish converts in Spain) as by the American conquests. On the American Indians began as a re-reading of Article 12 'Whether it is lawful to baptize the children of non-Christians against the wishes of their parents'. The lectio translated here is on the more interesting Article 8. For convenience it has been divided into five sections (§§).*

*Reportata of the 1534–5 course survive in a number of MSS.<sup>1</sup> As if to prove the connexion with the Indian question, the anonymous Madrid Biblioteca de Palacio MS from which the following extract is taken includes, between Vitoria's lectures on II-II. 10. 8 and 9 (fols. 65<sup>v</sup>–75<sup>v</sup>), a copy of a relection On the Caribbean Indians (De insulanis) by Father Domingo de las Cuevas, OP, Minor Professor of Thomist Theology in the university of Alcalá. In it, Cuevas quotes Vitoria's ideas on the 'affair of the Indies' as ammunition against a relection De Indis of another Alcalá professor, Father Domingo de Santa Cruz, OP.<sup>2</sup>*

1. The most complete are Francisco Trigo's, preserved in the 696 folios of Salamanca, Biblioteca Universitaria MS 43 (edited in Vitoria 1932–52). A further six MSS of *reportata* are described in Beltrán de Heredia 1928: 72–97, §13–19, where the present extract is also edited, Apéndice 11, pp. 196–202.
2. Beltrán dates Las Cuevas' *De insulanis* to 1544–8, and Santa Cruz's *De Indis* to 1536–9; the texts (edited in Vitoria 1967: 196–218) demonstrate the interest which the 'affair of the Indies' attracted at this time, particularly among Dominicans.

**Summa Theologica II-II. 10. 8**  
**Should unbelievers be forcibly converted?**

§1 AQUINAS REPLIES by establishing a preliminary distinction, namely that the unbelievers in question are *those who have never taken the faith*. These *should not be forcibly converted*; but a second conclusion is that they may be *forcibly restrained from hindering the missionaries of the faith*, and from insulting Christ and Christians; this is clear, because everyone has the right to defend himself and his temporal interests, and therefore also his spiritual interests. And his third conclusion is that those who have received the faith may be forced back to the faith; see the explicit testimonies he adduces.

The first conclusion is the determination of the decretal *Maiores* (X. 3. 42. 3) and the canon *De Iudaeis* (*Decretum* D.45. 5), on the Jews; and of the decretal *Sicut ait* (X. 5. 7. 8) and the canon *Qui sincera* (*Decretum* D.45. 3), on heretics. And this is the common opinion of the doctors on Lombard's *Sentences* IV. 4, of Durandus of St-Pourçain, *ad loc.* §6, and Richard of Middleton, in IV. 6. 3.

A DOUBT ARISES by what law it is prohibited to forcibly convert unbelievers? To harm another is prohibited by natural law; but to force these people to believe is not to harm them, but to help them; *ergo*. The reply is that it is prohibited in many passages of human law; therefore this is no objection, because positive law cannot forbid anything unless it is prohibited in divine law. I conclude that it is prohibited in divine law.

A DOUBT THEN ARISES as to where this prohibition is to be found? Not in Scripture, because if it was there St Thomas would have cited it among his authorities, being always a most careful researcher in this respect. I reply that there are no unequivocal authorities to this effect, but that there are some passages from which it may be inferred, though not clearly, at least by deduction. This is as much as to say, it comes not from positive divine law but from natural law; and the arguments for proving it depend on natural reason. But whereas Duns Scotus holds that a convincing argument from reason can be made against the conclusion (in *Sentences* IV. 4. 9), Durandus of St-Pourçain, in the passage cited above, constructs a rational argument for the conclusion. I do not know whether it is valid; judge for yourselves, since it is clear enough. Thomist theologians also advance the following proof for the conclusion:

evil means are not justified even by good ends. But to apply coercion to anyone is evil; therefore unbelievers cannot lawfully be compelled to believe. This argument, however, perhaps involves a *petitio principii*.

ON THIS BASIS, one could construct an *a posteriori* proof of St Thomas' conclusion: namely, that *more harm than good follows from forcible conversion, which is therefore unlawful*:

1. In the first place, forcible conversion would cause great provocation and unrest (*scandalum*) amongst the heathen. If, for example, all the Saracens in Spain were to be forcibly converted,<sup>3</sup> this would cause unrest in Africa, because the Africans would think that Christianity had always been preached and imposed by force throughout the world; whereas, on the contrary, our strongest argument against them is that they have never conquered any land with their faith, as we have with ours. *Ergo*.

2. The second bad effect is that, instead of the benevolent and proper affection required for belief, forcible conversion would generate immense hate in them, and that in turn would give rise to pretence and hypocrisy. We could never be sure whether or not they truly believed in their hearts; there would be nothing to move them to have faith, only intimidation and threats. Their conversion would be empty and ineffective. Again, as Richard of Middleton says, no one can believe unless he wills; but the will cannot be compelled, *ergo*. Besides, licence to compel men in this way would be harmful, because if anyone could forcibly convert men to their own religion, the more powerful would drag many more into following their own evil heresies.

§2 NEVERTHELESS, Duns Scotus, in the passage cited above, holds that the opposing argument is, if not true, at least more probable; that is, that *if precautions are taken to ensure that these evil and undesirable consequences are avoided, a prince may forcibly convert pagans who live in his own kingdom*:

1. His proof begins with the canon *De Iudaeis* (*Decretum* D.45. 5), which praises Sisebut, king of the Visigoths in Spain, for his decree ordering the conversion of all Jews. This edict was later revoked by the

3. Vitoria's use of the conditional tense is interesting. In 1502 the Spanish crown had issued a pragmatic ordering the expulsion of all unconverted Muslims from the kingdom (see the Glossary, *s.v.* moriscos). At the time when Vitoria was writing, therefore, the crown could insist that technically 'the conversions had not been achieved by force, since the Moors had been allowed the option of emigration', though 'even the most zealous Spaniards had to admit that the conversions left a good deal to be desired' (Elliott 1970: 52). Vitoria returns to the question of expulsion as an alternative to conversion below (§4).

Council of Toledo (*Concilium IV Toletanum* canon 57), but the words of the canon call Sisebut 'most pious prince', and remark that the edict 'would not have been revoked were it not for the undesirable consequences'. *Ergo*, such a decree is lawful.

2. Consequently, assuming for the sake of the argument that such an enactment is properly promulgated and published, all are obliged to believe in Christ, and they commit a sin if they refuse to accept the Christian religion.

3. The prince is empowered to punish and coerce those who commit this sin, just as he is for any other sin; further, by thus coercing them the prince does not harm them, but benefits them; therefore he can coerce them.

4. 'Ignorance makes an act involuntary', as is clear from Aristotle's *Nicomachean Ethics* 1110<sup>b</sup>17-24;<sup>4</sup> hence there is no injury (*iniuria*) to our Saracen because he *would* accept Christianity if he knew it was better, but in fact he is ignorant of the faith. Hence his conversion is not involuntary; formally it may be so, but effectively it is voluntary. In the same way, in giving a medicine to a patient who does not know that it is good for him the doctor does no injury (*iniuria*) to the sick man; the latter takes the medicine without formally wishing to do so, to be sure, but in effect he does so willingly.

5. Again, if someone wished to commit suicide, I should be obliged to prevent him from doing so if I could by confiscating his weapons; I am therefore all the more obliged to prevent him from committing spiritual suicide.

6. Furthermore, the commonwealth has the authority to enact laws not only in civil matters, but also in matters of religion; this is part of natural law. Hence every Christian commonwealth has this power to use forcible conversion; *ergo*, any Christian king or commonwealth may lawfully compel their subjects to accept the Christian faith.

7. Their own priests have the power by natural law to instruct them and enact laws in religious matters, and their subjects are bound to obey them under pain of mortal sin, if the law is good. Hence a Christian prince may also compel his own subjects to accept his faith.

4. Vitoria's following distinction between *effectively* and *formally* involuntary acts is a scholastic way of expressing Aristotle's distinction between *ouk hekousion* and *akousion*: 'Everything that is done by reason of ignorance is non-voluntary; it is only what produces pain and regret that is involuntary. For the man who has done something owing to ignorance, and feels not the least vexation at his action, has not acted voluntarily, since he did not know what he was doing, nor yet involuntarily, since he is not pained. Of people, then, who act by reason of ignorance he who regrets is thought an involuntary agent, and the man who does not regret may be called a non-voluntary agent' (*loc. cit.*).

From all this Gabriel Biel accepts Scotus' opinion as probable, and goes no further than that (in *Sentences* IV. 6).

BUT ON THE OTHER HAND we must reply to this question by going back to our distinction. Some unbelievers are subjects of Christian princes, such as the Saracens who have settled in Spain; but *others are not subjects*.

I REPLY by asserting, first, that to compel those who are subjects is not intrinsically evil, like perjuring an oath; that is, it is not so evil that it cannot sometimes be a good deed. 'It is evil,' as St Thomas says, 'but not so evil that it can never be good'; the proof being that it is not by definition so evil as to involve an inevitable breach of charity towards God or one's neighbour. It is not contrary to God's interest; indeed, it is clearly a great advancement of the Christian religion. Nor is it against our neighbour's interest, since it is to his benefit. The confirmation is that when we say something is 'lawful', we are not obliged to prove the assertion until contrary proof is offered that it is harmful, according to the decretals *Sicut noxius* (X. 2. 23. 1, and X. 1. 12. 1). In the question under consideration, forcible conversion is in itself lawful, or at least not unlawful, and I am therefore not bound to prove that it is lawful.

Second, I assert that Christian princes have the authority to compel their subjects to believe; that is, if it be lawful to compel unbelievers. Christian princes may compel their own subjects not only in civil matters but also in religious ones; the commonwealth holds both civil and religious authority over its own subjects by natural law, and the prince has the same authority as the commonwealth over his subjects, be they pagans or not. Therefore, that the prince may not so compel them must be due not to a lack of power, but to the expediency or otherwise of the policy.

Third, I agree with St Thomas that forcible conversion is evil. This is clear from the proof of the reply to the second argument, in the canon *De Iudaeis* (*Decretum* D.45. 5).

Fourth, I assert that even if it is not evil *per se*, it is evil because of the evil consequences which it entrains. The proof that it is evil *per se* is that if faith must be received voluntarily, no one can receive it by coercion. And the undesirable consequences mentioned above need no further comment. They are confirmed by experience; we see that Saracens never become Christians; no indeed, *tan moros son agora como antes*.<sup>5</sup>

5. That is, 'they are as much Moors as ever they were'. Vitoria occasionally broke into Spanish in this way (in contravention of the university statutes which he himself had helped to draft) when he wished to make a humorous or emotional point.

Fifth, if all the evils and undesirable consequences are tolerable, Scotus' opinion is tenable. And this is what Scotus means when he says 'if precautions are taken to ensure that evil and undesirable consequences are avoided'. To do so, however, is difficult. Nevertheless, if the consequences can be avoided, it will be lawful to use forcible conversion, as Scotus says. The confirmation is to be found in St Thomas, *ST* I-II. 92. 1, where he enquires what is the purpose of civil, that is royal, power, and replies that it is not only to preserve peace and good neighbourliness, but also to make the citizens good and happy.<sup>6</sup> But no one can be good unless he is a Christian and accepts our faith; *ergo*. This is further confirmed by the fact that, from the standpoint of natural law, a prince or commonwealth is empowered to use coercion on them; hence a Christian prince to whom they are subject [may use coercion to convert them].

Sixth, I affirm that St Thomas' reply is more convincing than Scotus', because he addresses the general question and the most usual circumstances, even though a different consequence may sometimes come about by particular circumstances (*per accidens*). The rule which Scotus sets up against St Thomas is, if you like, the exception to St Thomas' rule. This is confirmed by the traditional custom of the Church; the primitive Church in the times of Augustine and Jerome not only did not use coercion, but even refused to grant immediate acceptance to those catechumens who came to the faith of their own accord, making them wait so that they would later be constant in the faith. This is how it should be done.

TO THE FIRST, concerning Duns Scotus argument concerning King Sisebut, I reply that the king is praised for his zeal and piety, but not for the deed itself, which indeed earned him a rebuke for breaking the strict prohibition against any forcible baptism of unbelievers. And the text of the canon also adduces the argument that God 'hath mercy on whom he will have mercy, and whom he will he hardeneth' (Rom. 9: 18), for faith is a gift from God. All the same, Sisebut was a most pious king; and was perhaps counselled by his bishops to use force in that way.

TO THE SECOND, even granting that they are obliged to receive the faith, this argument implies only that forcible baptism is lawful, and hence that if there are no undesirable consequences they may be coerced. But this does not contradict St Thomas.

TO THE THIRD we may reply in the same way. In addition, I assert that an injustice (*iniuria*) is done them, because their liberty is taken away. If

6. Compare *On Law* §122 bis.

a king were to force someone to take a rich and beautiful woman to wife, even a princess, although he might be obliged to marry her and might even find it hard to make a better match, he would nevertheless be wronged if he was coerced.

TO THE FOURTH, that those who are unwilling through ignorance are not in effect being coerced at all, the reply is that this argument proves only that forcible baptism would be lawful if there were no undesirable consequences; but that is all. In addition, I assert that a wrong *is* done to them, and that they are indeed acting under compulsion 'formally speaking' – just like the man who is compelled to marry a wife who is good, but of whom he himself is invincibly ignorant.

TO THE FIFTH I reply that it remains dangerous to coerce anyone in matters of religion, however advisable it may be in other cases. Therefore the analogy is invalid.

TO THE SIXTH I concede the premiss entirely; but only so long as no undesirable consequences or other evils ensue.

TO THE SEVENTH I reply that Saracen priests have their authority to coerce their subjects because the Saracens themselves have given them the power to teach them in matters of religion. Hence they would commit a sin not merely by refusing to listen to their teaching, but even by not obeying it. In the same way, if the majority of their commonwealth were to accept the Christian faith, the minority who refused to accept it could be compelled to do so by the majority, so long as the faith was sufficiently preached.

THIS CONCLUDES WHAT I HAVE TO SAY ABOUT UNBELIEVERS WHO ARE SUBJECTS.

§3 IT MAY BE ASKED, HOWEVER, regarding the other kind who are not subjects, *whether Christian princes can convert them by violence and the sword, if no scandal or undesirable consequences ensue?* The reply is that they cannot, because the king of Spain has no greater power over them than I do over my fellow citizens; but I cannot compel a fellow citizen to hear mass; *ergo*.<sup>7</sup>

A DOUBT ARISES whether, given that these unbelievers cannot be compelled to keep the Christian law in this way, *whether they can be compelled to keep the law of nature, which is common to all?* Some reply that they can; that our king can compel these barbarians to keep the law of nature just as I can compel someone not to commit suicide. They prove this by saying that all men profess the law of nature; and, as St

7. It is immediately clear from the reference to the king of Spain that, though he does not say so, Vitoria is thinking specifically of the American Indians. This is confirmed by his use of the terms *barbari* and *insulani* in the following paragraphs.

Thomas puts it, 'whoever accepts the law of Christ can be compelled to keep it'.

The reply to this is that there are some sins against nature which are harmful to our neighbours, such as cannibalism or euthanasia of the old and senile, which is practised in Terra Firma;<sup>8</sup> and since the defence of our neighbours is the rightful concern of each of us, even for private persons and even if it involves shedding blood, it is beyond doubt that any Christian prince can compel them not to do these things. By this title alone the emperor is empowered to coerce the Caribbean Indians (*insulani*).

Second, I assert that princes can compel unbelievers who are their temporal subjects to abandon their sins against the commonwealth, because they are subject in temporal matters to their kings. And since the emperor is empowered to make laws for the utility of the commonwealth, if there are any sins against the temporal and human good of the commonwealth he can compel them to abandon them.

Third, I assert that the faithful cannot compel unbelievers to keep an obvious law of nature, unless it is necessary for the good and peace of the Christian commonwealth, or unless its breach harms a neighbour in the way I have explained. This I think is most certain. Nor do they have any right to act against the infidels solely on the grounds that the latter do not observe the law of nature. If they did have such a right, a Christian king could also compel them to abandon their idols, and that would mean leaving them without any law. That is false; *ergo*.

A DOUBT ARISES whether it is lawful to smash down the idols of these barbarians, once the faith has been preached to them and they have refused to accept it? It seems that it is lawful, because it does them no harm or wrong. The reply is that it is not evil *per se* to do so, being against neither the honour of God nor the good of a neighbour, since it does not harm them. But I say that this ought not to be done on every occasion, primarily because it may provoke their fierce indignation, and destroy any kind feelings towards us which they may happen to have. Among peoples where the majority have been converted, however, or where it is to be hoped they may be converted by such actions, it will be quite lawful. I say the same of their temples; they should not be thrown down, because this is an injury (*iniuria*) to their rights, and because even after they are thrown down, they will rebuild them.

8. Vitoria's phrase *in terra continenti* evidently refers to the South American mainland as opposed to the Caribbean islands (see the Glossary, s.v. *Terra firma*).

§4

A FURTHER DOUBT ARISES whether unbelievers may at least be indirectly coerced, for instance by taxes and levies by which they may be encouraged to become converts to the faith? The compiler of the *Decretales Gregorii IX*, Raymond of Peñafort, wrote elsewhere (*Summa de poenitentia*) that this would be laudable if it were customary, but that it ought not to be introduced as a novelty because of the provocation it would cause, which we ought always to avoid for fear of giving 'occasion of stumbling', as Paul makes clear in 1 Cor. 10: 23–33 and 2 Cor. 6: 3. Therefore it would be a good thing only if laws were passed on this matter; and he cites the canon *Non debet* (*Decretum* C.11. 3. 64). From this I deduce that Raymond's decision was that it ought not to be done.<sup>9</sup>

IN THIS REGARD, it should be noted that 'taxes (*tributum*) and levies (*exactio*)' are of two kinds. One kind may justly be imposed on unbelievers even without their being converted to the faith, such as tributes appropriate to the time and place raised at the outbreak of war, which even unbelievers can understand to be just; the proof is that such tributes could be imposed on them even if they were Christians, and may therefore be imposed on them while they are still unbelievers (I am talking, of course, of unbelievers who live in Christian lands and are subjects of Christian princes). Indeed, they may be required to pay tributes from which Christians are exempted, so long as their fiscal burden is moderate and not increased by the fact that Christians are exempted.

Second, I assert that if the tribute is unjust and immoderate, it cannot be demanded of them. From this it follows that the king can justly order the expulsion of the Saracens from our country if they pose a probable threat of subverting the faithful or overturning the homeland.<sup>10</sup> He may legitimately do this because, even if he knows that it may cause them to be converted to the faith, they are not thereby forced to convert. He could not do it, perhaps, with the actual intention of using the fear of exile, which affects even the most strong-minded of men, to effect their conversion; but, as long as that intention is absent, he is empowered to use his rights, whatever the consequences. If he cannot exercise direct compulsion over them, he can make a law ordering the exile from his kingdom of anyone who refuses to become a Christian. That this is

9. Financial incentives to conversion had in fact been practised in Spain since King Egica's decree of 693 (*Concilium XVI Toletanum* canon 1), by which converts were freed from the royal taxes payable by Jews, while the fiscal obligations of the latter were increased by the amount formerly paid by the converts. The canon *Non debet*, however, states that no man should be penalized who has not previously been properly convicted of breaking a law.

10. Compare §1, footnote 3 above, and see the Glossary, s.v. moriscos.

lawful is proved by the fact that in other matters where compulsion is unlawful, he may employ the same device. For instance, the law states that any Saracen who sleeps with a Christian woman is punishable by death. If one were caught doing so, the king is empowered to put him to death, whether he sticks to his perfidious creed or whether he becomes a Christian; but he also has the power to pardon him from the death penalty if he is willing to become a Christian, even though his conversion would have come about under fear of death. This would be perfectly fair, because the king would be using his rights.

But as for tributes which cannot also be demanded of the faithful, I assert that they cannot be demanded of unbelievers with the intention of making them convert. Unbelievers cannot be deprived of their goods on the grounds of their unbelief, any more than other Christians, because they possess true right of ownership (*dominium rerum*) over their own property. By the same token, it is clear that they cannot be burdened with greater fiscal obligations than are lawful in the case of the faithful. In saying this, I mean that such impositions are unlawful *per se*, that is in the absence of any additional cause, such as a crime perpetrated by the unbelievers, or some previous pact; because if Saracens, Jews, or other unbelievers who, either through some criminal action of their own or by the law of war, were in a position to be killed or despoiled of their goods, were to be burdened by heavier taxes than the Christian part of the population, this would not be unjust. For example, if the Saracens were to petition for the right to live among us Christians on the agreement that they pay double tribute, no wrong would be done them if we were then to demand such tribute. Therefore, such exactions could justly be levied upon them by our princes for that purpose.

For that purpose, yes; but could they impose heavier taxes on them to force them to convert? This is still in doubt, since we agree that it is not lawful to use fear and violence to convert them. For myself, I have little doubt that more of them could be converted by greater leniency; and they would be likely to remain firmer in the faith. See St Thomas' *Opusculum XXI ad ducissam Brabantiae*, where he explains all this; how the prince may impose heavier taxes on them than on Christians, but not excessive ones, and many other useful remarks on the subject.

§5

IT IS ARGUED, nevertheless, that they can be directly compelled, because St Thomas says that they can be compelled *for blasphemy*. But all unbelievers blaspheme continually; therefore it is always lawful to compel them, because they hinder our faith with their blasphemies.

The reply is that unbelievers may blaspheme in two ways. The first is if their blasphemies are an injury (*iniuria*) or impediment to Christians,

for instance if they were to send us a letter full of blasphemies. In this case we may set aside any question of faith; we may go to war against them solely on the grounds that they have done us injury (*iniuria*). But if they keep their blasphemies to themselves, we cannot use this alone as grounds for declaring war against them. We are well aware that both Jews and heathens blaspheme the name of Christ among themselves, but we cannot for this reason alone go to war with them.

A DOUBT ARISES whether princes may lawfully coerce them with threats and intimidation? It seems that they can, because Christ forced Paul to believe by casting him to the ground and blinding him (Acts 9: 3-9); therefore the same can be done to unbelievers. The reply is that it is not lawful for all of us to do everything which God is permitted to do, because we are not the masters of mankind as Christ is. Hence Christ could coerce not only Paul, but the whole world, and He could have left this power to the Church; but He did not. Second, I reply that if it were in our power to move hearts, as Christ could, then it would be lawful for us to behave in this way; but He made Paul believe, not by intimidation, but by divine inspiration. It is clear from this that masters, contrary to their own belief, do not have the power to put their infidel servants to death, nor to inflict unjust punishments on them. It is lawful, on the other hand, to give preferential treatment to those of their slaves who are Christians, as opposed to those who are not, as Nicolaus de Tudeschis says of the Jews in his commentary on the decretal *Nouit* (X. 2. 1. 13), where he also holds that unbelievers can be compelled to observe the whole of natural law, because they can be restrained from committing homicide, and also from usury, as stated in the decretal *Usurarum* (Sext 5. 5. 1). But it will not always be lawful to compel them in every matter to do with natural law; they cannot be forcibly compelled to abandon polygamy, for example, or other such practices. In fact, Nicolaus de Tudeschis' examples only serve to prove what I have already said, namely that they can be forced not to upset the commonwealth, and not to harm their Christians neighbours.

A FINAL DOUBT ARISES whether unbelievers who have not themselves received the faith, but whose parents were converts who have since apostatized, can be forcibly baptized?<sup>11</sup> In other words, can someone who is not baptized but whose father was baptized be compelled to accept baptism? The question is raised by Pierre de la Palu in his commentary on Lombard's *Sentences* IV. 4. 4. He comes to no firm decision, but

11. Once again, Vitoria probably has a specific contemporary problem in mind, that of the *conversos* (see the Glossary, s.v.), whose supposed backslidings were to provide the Spanish Inquisition with its *raison d'être* for centuries to come. It has been suggested that Vitoria himself was descended from *conversos*.

seems to be saying that they can be compelled because the Church has the right to enforce baptism on the children of Christians even against their own or their parents' will, and there is no apparent reason why it should have lost this right in the present case; therefore the Church can use compulsion. I believe that in this case they should indeed be compelled. But against this, it would follow that the Christians can compel Saracens any of whose forefathers were baptized. For example, let us suppose for the argument that the present day Saracens are separated from these forefathers by ten generations; the argument then runs that the Church had the right to baptize the children of their forefather nine generations back, and hence the children of their forefather eight generations back, and so on down to the present generation; *ergo*. In reply, one may say that if it could be established beyond doubt that these Saracens were the distant descendants of Christians, and if they could be forcibly converted without provocation, then it ought to be done. But the Church does not do so, because it cannot be established, and also because of the inevitable unrest which would ensue.