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978-0-521-88055-8 - The Secularisation of the Confessional State: The Political Thought of Christian Thomasius

Ian Hunter

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## THE SECULARISATION OF THE CONFESSIONAL STATE

Christian Thomasius (1655–1728) was a tireless campaigner against the political enforcement of religion in the early modern confessional state. In a whole series of combative disputations – against heresy and witchcraft prosecutions, and in favour of religious toleration – Thomasius battled to lay the intellectual groundwork for the separation of church and state and the juridical basis for pluralistic societies. In this first book-length study in English of Thomasius’s political thought, Ian Hunter departs from the usual view of Thomasius as a natural law moral philosopher. In addition to investigating his anti-scholastic cultural politics, Hunter discusses Thomasius’s work in public and church law, particularly his disputations arguing for the toleration of heretics, providing a revealing comparison with Locke’s arguments on the same topic. If Locke sought to base toleration in the subjective rights protecting Christian citizens against an intolerant state, Thomasius grounded it in the state’s duty to impose toleration as an obligation on intolerant citizens.

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IAN HUNTER

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## *Preface*

As one of the few books in English on Christian Thomasius (1655–1728) – at the time of writing there is only one other – the present work carries significant responsibilities on behalf of its readers. It must render accessible a life and mind shaped by circumstances now quite unfamiliar – those of an academic juriconsult to a princely state of the Holy Roman German Empire – while simultaneously doing justice to the most recent scholarship on Thomasius, most of which is in German. Above all, though, it must show what it is about Thomasius’s writings that makes them historically significant, and why they should claim the interest of Anglophone readers today, three hundred years after his life and times.

The historical significance of Thomasius’s writings has been much contested, fluctuating, sometimes radically, with shifts in the cultural and political circumstances of their reception, and with the forms of historiography and philosophy dominant in these circumstances. During his life he was attacked as a heterodox innovator by those whom he attacked for their authoritarian scholasticism and ‘political papalism’: the juristic and theological defenders of the Lutheran confessional state. Yet, among his students and in ‘enlightened’ circles in Protestant Germany and Scandinavia, he was widely admired in terms that Thomasius himself had helped to popularise. Here he was eulogised as a heroic campaigner against the confessional intolerance displayed in heresy and witchcraft laws, and as the harbinger of a new and enlightened epoch in the history of morality and nations that would be characterised by religious toleration, intellectual innovation and social peace. This view of him lasted well into the eighteenth century, carried not least in an academic genre that Thomasius himself had championed, the history of philosophy. He was thus given an esteemed place in Jacob Brucker’s massive *Historica critica philosophiae* (1742–44) as a torchbearer of a pluralistic eclectic philosophy against the sectarianism of the scholastics, a historiographic typology that Thomasius had introduced in his campaign against Protestant scholasticism. The resurgence of German university

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metaphysics during the eighteenth century, however, witnessed his progressive marginalisation, and in the Kantian philosophical histories that were written to secure the return of metaphysics his thought and actions were dissolved in a philosophical dialectic quite foreign to them. Disregarding the juridical, political and religious concerns that lie at the heart of Thomasius's writings, and forgetting the fraught political and religious context that impelled them, these histories reduced him to the role of a worthy but minor philosopher. He thus began to appear as a failed Kantian whose 'empiricism' and 'pietism' left him incapable of penetrating the transcendental conditions of experience and morality – as if he had actually cared about such things.

So deep was the shade into which Thomasius was cast by nineteenth-century Kantianism and idealism that until the middle of the twentieth century he was the subject of only a few isolated works, typically juristic studies dealing with his place in the history of private and public law, or else works of *Germanistik* placing him among the champions of the national language and culture. We can see from Frank Grunert's serial Thomasius bibliography that things began to change after World War II, with an increasing number of studies being dedicated to Thomasius, driven perhaps by a desire to reach back beyond the recent national catastrophe to an epoch where the promise of enlightenment remained unsullied. Many of the 1950s studies were also juristic, but the emphasis was shifting away from Thomasius's works on private, public and church law and towards his natural law writings, which permitted commentators to pursue their driving concern with the moral-philosophical foundations of political and juridical orders. This shift was the harbinger of a major change in the academic reception of Thomasius who increasingly appeared not as a campaigning political jurist but as a philosopher attempting to order the relations between morality and law in a manner compatible with the liberal *Rechtsstaat*. The pathbreaking work in this regard was the doctoral research carried out by Werner Schneiders during the 1960s and published in book form, as *Naturrecht und Liebesethik: Zur Geschichte der praktischen Philosophie im Hinblick auf Christian Thomasius*, in 1971. Important studies of Thomasius as political jurist continued to appear during the last third of the twentieth century, but these were now in an uncertain and uneasy relation to the dominant approach that viewed him as a moral philosopher concerned to provide a rational normative basis for law and politics. The most influential Anglophone discussion of Thomasius from this period, given in Lewis White Beck's *Early German Philosophy* (1969), treats him as one of Kant's philosophical 'predecessors', still struggling with the pietism and empiricism that Kant's historical

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apologists had hung around his neck during the first decades of the nineteenth century.

Everyone working on Thomasius today owes a great debt to the scholars who renewed interest in him during the latter part of the twentieth century, without whose work the current flourishing of Thomasius studies would not have taken place. Nonetheless, this resurgence has come at a cost. It has largely taken place under a philosophical-historical classification – the *Aufklärung* – that makes it look as if Thomasius was an early participant in a single philosophically based cultural-political movement, one reaching its culmination in Kant's critical metaphysics, moral republicanism and philosophical theology. I have already written about how damaging this approach is to our understanding of Thomasius and his fellow 'civil philosophers' – in *Rival Enlightenments* (2001) – and will not rehearse those arguments here, only their outcome: Thomasius was not an early participant in (what would become) the Kantian *Aufklärung*, sharing neither its philosophical interests nor its religious and political outlook. In fact, Thomasius was not a philosopher in the modern academic sense of the term, a sense powerfully shaped by the historical appearance of Kantian philosophy itself. For him, the whole business of providing 'pure' or universal philosophical foundations for juridical and political doctrines was at best a self-indulgent distraction; at worst it was a betrayal of the secularising tasks of jurisprudence and politics by a theosophical clerisy.

By comparison with the enlightenment philosopher caught up in a world-historical cultural movement, the Thomasius that readers will encounter in the following pages is a far more specific kind of intellectual operating in a regional historical context. This Thomasius was a Protestant academic political jurist who drew on a highly distinctive array of disciplines circulating in the cultural realm of Protestant northern Europe: the critical public-law reconstruction of imperial Romano-canon law; the secularising natural law and political philosophy of Samuel Pufendorf; an anti-rationalist historiography of philosophy and theology derived largely from his father Jacob Thomasius; and an ethics whose Christian-Epicurean scepticism regarding knowledge of transcendent essences and norms issued in an aggressive focus on this-worldly happiness in civil society. Thomasius drew on this array in order to address a problem that was to some degree common across the entire geo-political realm of Protestant northern Europe – the political secularisation of the confessional state – but which in his case found its distinctive configuration in the *Religionspolitik* of post-Westphalian Brandenburg-Prussia.

The course of Thomasius's life and work in this regard was symbolically set – as he never tired of saying – by his effective banishment from his



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Saxon fatherland in 1690. This was as a result of his attacks on the religious and juridical culture of the Saxon confessional state, launched provocatively in one of the academic bulwarks of Lutheran confessionality, Saxony's University of Leipzig. In fleeing to neighbouring Brandenburg, where he played a founding role in the new University of Halle, Thomasius became a law professor and jurisconsult to a Calvinist dynasty, the Hohenzollerns, at that time represented on the throne by Elector Friedrich III of Brandenburg (1688–1713), who would soon be crowned as King Friedrich I of Brandenburg-Prussia (1701–13). In the struggle to impose their centralising religious and political reforms on Brandenburg-Prussia's Lutheran estates and clergy, the Hohenzollern prince-electors – particularly Friedrich Wilhelm the 'Great Elector' (1640–88) – unintentionally provided Thomasius with the context for his lifelong intellectual campaign: to destroy the religious, juridical and political culture of the Protestant confessional state, whose exemplar was the Saxony from which he had been so unceremoniously expelled.

Shaped in this context, Thomasius's most characteristic writings bear little resemblance to those of a modern academic philosopher seeking rational grounds for truth and morality. They are overwhelmingly *Streitschriften* – combat texts – some of them engaged in a campaign to displace Lutheran *Schulphilosophie* (scholasticism), others intervening in the areas of public law (*Staatsrecht*) and constitutional church law (*Staatskirchenrecht*). These latter works were usually produced at short order in the genre of academic disputations, often via Thomasius's doctoral students, as interventions in particular religious and political controversies. Typically, they aimed to criticise specific features of confessional politics and the confessional state – heresy and witchcraft prosecutions, Lutheran scholasticism and confessional jurisprudence, the clergy's denial of the prince's control over the public church – and to defend Thomasius and his allies from the attacks of the Lutheran jurists, theologians and philosophers who justified this kind of state. It is true that Thomasius's writings cover a much wider spread of academic disciplines than this – including moral philosophy, logic, natural law, and the history of philosophy, theology and the church – yet it will be argued that his interventions in these disciplines are governed by his overarching political and juridical campaign, many of them in fact intended to transform the scholastic arts curriculum into a shape more suited to the education of secularising 'gallant jurists'.

It is also true of course that Thomasius himself was an academic, for many years dean of the Halle law faculty, and differing in this significant regard from such English (near) contemporaries as Hobbes and Locke. Like other

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early modern universities, however, those in the Holy Roman German Empire were not founded to promote free-floating philosophical speculation but to train the orthodox clergy and expert officials required by confessionalising churches and state-building princes. This functional integration of the German universities into church, state and estate accounts for their religious and political importance but also for their extraordinarily fractious character. Owing to fracturing of the old universal church and empire, academics became protagonists in the most vehement of disputes over religion, politics and their proper relation within the splintering framework of the imperial order. These disputes often led to the official confiscation of offending texts, sometimes resulting in their ceremonial burning by the public hangman, and occasionally ending with the arrest or exiling of their authors. Yet it was these *Streitschriften*, especially those written in the areas of public church law and *Reichspublizistik*, that would make the decisive contribution to the period's most pressing concern: the achievement of religious toleration via the secularisation of politics and law. To this remarkable achievement, the highroad of metaphysical philosophy leading to Kant contributed little, and may even have been a dead-end in this regard.

In discussing Thomasius, I have thus focused on his political-jurisprudential writings, treating these as combat texts forged in the heat of his unremitting struggle with the intellectual defenders of the Protestant confessional state, while treating his philosophical writings as supporting interventions in the culture of Protestant scholasticism. Emerging in this context, his arguments for toleration and the state's rights of religious supervision look quite unlike modern arguments grounded in a philosophy of subjective rights and freedoms. In interpreting Thomasius's arguments by contextualising them in this way, I have attempted to clarify both the gulf that separates his circumstances from ours, as academic citizens of modern pacified liberal states, yet also what it is about Thomasius's thought that offers unexpected insights into our own situation. I have also attempted to do justice to both the vivid and pugnacious character of his writings and the intellectual firepower that they bring to bear on their targets. In support of this aim and considering the paucity of English translations of Thomasius – the first English anthology of his writings appeared only in 2007 – I have appended to the book my translation of one of Thomasius's notorious and celebrated disputations on heresy, 'The Right of Protestant Princes Regarding Heretics'. Here readers will gain a sense of the verve and immediacy with which this indelible figure engaged a problem that was critical for him and has, unexpectedly, returned to confront us: the political governance of religion.

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