

Michigan Law Review

Volume 69 | Issue 2

1970

Bucci: Chiesa e Stato: Church-State Relations in Italy Within the Contemporary Constitutional Framework

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Recommended Citation

Jonathan Weiss, *Bucci: Chiesa e Stato: Church-State Relations in Italy Within the Contemporary Constitutional Framework*, 69 MICH. L. REV. 385 (1970).

Available at: <https://repository.law.umich.edu/mlr/vol69/iss2/9>

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BOOK REVIEWS

CHIESA E STATO: CHURCH-STATE RELATIONS IN ITALY WITHIN THE CONTEMPORARY CONSTITUTIONAL FRAMEWORK. By *P. Vincent Bucci*. The Hague: Martinus Nijhoff. 1969. Pp. xiv, 132. \$5.50.*

This book purports to be a study of the relationship between church and state in Italy, focusing primarily on the period after World War II. A very slim volume about a historically involuted series of concepts, it makes, at best, a minor contribution to the scholarship in the field. The work is divided into six chapters: an introduction; a recitation of the various debates surrounding the incorporation of the Lateran Pacts (the theological-political peace treaty between Rome and the Vatican) into the Italian Constitution; a detailed account, taken mainly from newspapers, of a trial in which a bishop was unsuccessfully prosecuted for accusing a man of living in concubinage because he was married outside the Church; an account of the development of judicial machinery to adjudicate disputes about religious freedom; and, finally, a description of the minor freedoms of private assembly for non-Catholic religions and a brief plea for more religious freedom for non-Catholics.

For someone who is interested in the actual functioning of the Italian political state, not only in the field of church and state, but also in general with the field of church-state as an example, this book falls far short of the standards set by Joseph La Palombrà's *Interest Groups in Italian Politics* (1964). For someone wanting to know details about the history and tensions in Italian church-state relationships, this book does not provide any real added insight beyond that which can be obtained by reading Arturo Jemolo's *Chiesa e Stato in Italia Negli Ullima Cente Anni* (1948). Instead, what this book offers is a compendium of contemporary journalistic accounts of political events involving Italian church-state relations since World War II.

But the issues of church and state in Italy run much more deeply. On the one hand, the Italian Constitution (articles 8, 19, and 20, in particular) seems to guarantee freedom of religious expression, while on the other hand the incorporation of the Lateran Pacts into the Constitution—and the special recognition therein of the Catholic Church as an independent, sovereign, juridical entity—in effect establishes a church. Thus, the question arises what is the result, in fact, of the interplay of these two apparently incompatible constitutional concepts?

* Price is approximate, based on the current exchange rate. The price in Dutch guilders is 19.80.—Ed.

The result is that religious expression in Italy is a freedom to adhere publicly only to those positions and concepts considered religiously acceptable by Catholic politicians. There are numerous examples of this phenomenon. As all moviegoers know, divorces were almost impossible to obtain in Italy, and recent changes in the divorce laws mark only a minor step toward making available the type of divorce realizable in the United States. Anyone who makes a public utterance deprecatory of the Pope or Church, regardless of the existence or nonexistence of a religious motive, can be punished by six months imprisonment for "insulting" the Church. Religious oaths are always required of anyone testifying in court. Non-Catholic religions are expected to register with the state; but none have complied because they fear that the Articles of Registration will be utilized to restrict their religious freedom. Italian doctors and lawyers do not hesitate to force blood transfusions on people against their scruples. These issues—illustrative of the myriad church-state issues which exist in Italy—are not discussed in Bucci's work.

On the other hand, the Italian treatment of the acts of individual Catholics is a peculiar phenomenon because of state involvement in that religion. Conscientious objection practiced by Catholics (or anyone) is not allowed in Italy, and the penalties for draft resistance are quite extreme. What is considered appropriate religious activity is based on traditional historical notions of Catholicism. Bucci, however, does not deal with the history of Catholicism and its internal disagreements, nor does he discuss the vexatious issue of Catholic conscientious objectors.

It should be noted that Bucci is also careless in his scholarship. For example, he quotes one of the lawyers in *The Case of the Bishop of Prato*, mentioned above,¹ as using the authority of *Farnsworth and Wife v. Storrs*² for the proposition that the Supreme Judicial Court of Massachusetts "exculpated a Congregationalist minister, who had publicly condemned Mrs. Miranda Farnsworth—a coplaintiff in the case—of adultery, and who had expelled her from the church of which the minister was pastor and Mrs. Farnsworth a member" (pp. 60-61). That case, however, did not so hold. It held, rather, that the words used in church did not accuse Mrs. Farnsworth of adultery, but of a more generalized religious failing. This erroneous citation, either on the lawyer's or Bucci's part, is crucial. At stake in the *Bishop of Prato* case was whether or not a bishop could distribute a public pronouncement accusing people wedded outside the Church of adultery, and, by invoking the bishop's robes, escape any criminal and civil liability that would normally ensue. Since there was no

1. *The Case of the Bishop of Prato* is the subject of chapter 3. The tribunal in that case specified that no judicial record would be made of its decision (p. 63).

2. 59 Mass. (5 Cush.) 412 (1850).

question in the *Bishop of Prato* case that adultery was charged, the American precedent becomes distinguishable and irrelevant, and should not be used as persuasive authority before an Italian constitutional court.

This book then, at most, offers some interesting journalistic sidelights for those interested in the contemporary political ramifications of the ancient dilemma of the interplay between church and state in Italy. On the other hand, it appears to avoid some of the less dramatic and more crucial realities and does not deal with the fundamental political, historical, or philosophical problems in this area. Easy to read, quick to finish, the book cannot introduce people to the problems of Italian church-state relations, but it may fill in some details for those who already have some knowledge of the dimensions and difficulties of this multifaceted jurisprudential question.

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