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**Upon the Earth There Is Not Its Like...?
Thomas Hobbes's Natural Law Theory of Morality and Politics**

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by

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Dedication

I dedicate this dissertation to my loving family—particularly my wife, children and parents—whose unfailing support was essential to its completion. My especial thanks goes to my wife, whose constant love and sacrifice for my children and me was nothing short of heroic.

Upon the Earth There Is Not Its Like...?
Thomas Hobbes's Natural Law Theory of Morality and Politics

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The University of Texas at Austin, 2014

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Thomas Hobbes insisted that he had set forth the “true and only moral philosophy” and that he was the founder of civil science. Yet, the character of Hobbes’s moral and political theory and its role in his civil doctrines has been the subject of much controversy. In this dissertation I defend an interpretation as a properly natural law theorist in his accounts of the foundations of moral philosophy and civil science, morality, commonwealth, and positive law. I juxtapose Hobbes’s thought to the Aristotelian-Thomistic natural law tradition and argue that Hobbes’s novelty flows chiefly from his doctrine of the human good.

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Introduction

Thomas Hobbes famously referred to his doctrine of the laws of nature as “the true and only moral philosophy.”¹ Most readers of Hobbes agree that Hobbes intended them to be understood as the firmest basis on which to secure peace. Moreover, they agree that they are at the heart of Hobbes’s moral and political theory. And yet, beyond these points of agreement, Hobbes’s natural law doctrine has been the most controversial and debated feature of Hobbes’s thought. Besides its intrinsic interest, the outcome of the debate over Hobbes’s natural law theory has important implications for a few reasons. First, Hobbes is widely thought to play some sort of foundational role in formulating principles and arguments of enduring interest for moral and political theory, including basic liberty and equality, the right and the good, natural and positive law, sovereignty and the state, and the like. Second, inasmuch as Hobbes formulated principles that influenced the order of contemporary Western liberal democracy, Hobbes’s importance is manifest in properly understanding ourselves. Assuming Hobbes did play an important role in founding the modern world, we would fail to understand ourselves properly if we failed to understand the true character of his natural law theory. Third, most readers of Hobbes agree that Hobbes holds forth his theory as *true* for all time. As Hobbes put it, “the true doctrine of the laws of nature, is the true moral philosophy” and they are “immutable and eternal.” Hence, they are apparently held forth as a challenge to any rival account of true moral and political philosophy. Yet, the debate over Hobbes’s natural law teaching suggests that their immutable and eternal truth is not immediately

¹ Thomas Hobbes, *Leviathan with selected variants from the Latin edition of 1688*, ed. Edwin Curley (Hackett: 1994), 15.40, 100. Citations to *Leviathan* (hereinafter, *L*) are to chapter, paragraph, and page number in this edition unless otherwise noted.

transparent. This dissertation is a defense of an interpretation of Hobbes as a properly *natural law theorist* in his account of morality, commonwealth, and positive law.

Hobbes's theory counts as a natural law theory because he retains two key notions that classical natural law theory considered requirements for a properly *natural law theory*: first, the human good, which is grounded in human nature, provides basic *reason(s)* for action and, second, the norms or precepts that correspond to the human good have a *legal character*. I argue that Hobbes's various breaks from the apex of the classical natural law tradition—including his natural law account of morality, his common good account of commonwealth, and his natural law account of civil law—flows from his *thin theory of the good*. Let us consider classical natural law theory's thick theory of the good and the legal character of natural law precepts.

The core notion of classical natural law theory lies in those standards—principles, rules, or norms which give or purport to give direction in deliberation about what to do—of right judgment in matters of practice (conduct or action). We can speak of these standards as *natural* inasmuch as they are not the product of individual or collective choice and not subject to repeal—“however much they may be violated, defied, or ignored”—because mere individual or collective choice cannot change the kind of thing man *is*.² And, we can speak of these standards as *lawful* inasmuch as they bind or ought to bind in one's deliberations about what to do. These rules, norms, or laws are rooted in the first principles of practical reason, which are fittingly described as those most *basic reasons for action* that direct us to the range of human goods. Consider Thomas Aquinas's *thick theory of the good* in his presentation of classical natural law theory.

² John Finnis, “Natural Law: The Classical Tradition,” *The Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford University Press, 2002), ed. Coleman and Shapiro, 1-2.

As John Finnis correctly points out, Aquinas’s presentation of the thick theory of the human good proceeds according to a “metaphysical stratification” of human nature: (1) what we have in common with all substances, (2) what, more specifically, we have in common with other animals, and (3) what is peculiar to us as human beings.³ Hence, in Aquinas’s formulation, the human goods include: preservation of one’s substantial being, marriage and childrearing, friendship with others in society, and knowledge of the truth, including the truth about God. Finnis’s own presentation of the human goods or the most basic reasons for action looks similar: bodily life and health, friendship, marriage, knowledge, skillful performance in work and play, harmony between one’s inner and outer life, and harmony with the ultimate source of reality.⁴ These goods make up the objective content of happiness because they are required by human nature and objectively knowable by all rightly reasoning persons. Corresponding to these goods is the order of precepts of the natural law, i.e., the norms regarding preservation of human

³ Finnis, *Aquinas* (Oxford University Press, 1998), 81.

⁴ Finnis, “Natural Law Theory and Limited Government?” in *Natural Law, Liberalism, and Morality* (Oxford: Clarendon Press, 1996), ed. Robert P. George, 4. Notably, Finnis has sought to present the goods and moral norms of classical natural law theory while accepting the fact/value dichotomy—that is, Finnis is concerned not to infer an “ought” from “is.” Finnis has been criticized by more traditional natural law theorists for this move. See Russell Hittinger, *A Critique of New Natural Law Theory* (Notre Dame: University of Notre Dame Press, 1987); Henry Veatch, “Natural Law and the ‘Is’-‘Ought’ Question,” *Catholic Lawyer*, 26 (1981); Ralph McInerny, *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas* (Washington, D.C.: Catholic University Press, 1982); Anthony Lisska, *Aquinas’s Theory of Natural Law: An Analytic Reconstruction* (Oxford University Press, 1998); J. Budziszewski, *Written on the Heart: The Case for Natural Law* (IVP Academic, Downers Grove, 1997); cf. Mark Murphy, *Natural Law and Practical Rationality* (Cambridge University Press, 2001).

I believe that Robert George has demonstrated that Finnis is *not* asserting the proposition that “basic human good or moral norms have no connection to, or grounding in, human nature” (George, *In Defence of Natural Law* [Oxford: Clarendon Press, 1999], 85). On the contrary, as George points out, for Finnis, Grisez, and their collaborators, the basic human goods and moral norms “*are* what they are because human nature *is* what it is” (*In Defence of Natural Law*, 85). George maintains that this concession is consistent with denying that one can infer moral truths from metaphysical anthropology. This claim seems more questionable from the perspective of the older tradition. Notably, George himself deploys the concepts of act, potency, and teleology in the course of making a number of moral arguments—each of those notions are aspects of metaphysical anthropology. See George and Lee, *Body-Self Dualism in Contemporary Ethics and Politics* (Cambridge University Press, 2008), 176-217.

life, sex and education of children, shunning ignorance, and living peaceably with one's fellows. This is, in very short outline, classical natural law's *thick theory of the good*, which makes up the objective content of authentic human well-being, fulfillment, or happiness.

It is also a sketch of classical natural law theory's grounds for judging the moral validity of human positive law, since the flourishing of individuals and communities in their pursuits of basic forms of the human good is the standard guiding those who are charged with care of the whole community, when they deliberate about what to enact, decide, require, promote, etc. Since that which authorities have care over is a *communitas communitatum*, a community of communities, the authority's charge will be twofold. First, he must foster and protect the unity and well-being of the range of communities that enjoy non-instrumental common goods, including the *communiones* of friendships, families, and religious believers. Second, he must foster and protect unity and well-being of the community at large. In other words, classical natural law theory held legislators are or ought to be guided by the *common good*.

Regarding the second requirement of something qualifying as a natural law theory, Finnis points out that, for Aquinas, the ultimate source of reality enhances "both the content and the normativity" of the first principles.⁵ The norms of natural law have a *legal character*. How is that?

For Aquinas, the basic norms of natural law have the character of *law* because they meet the four necessary conditions for something to *be* law: (a) an ordinance of reason (b) for the common good (c) made by a proper authority and (d) promulgated.⁶

⁵ Finnis, *Aquinas* (Oxford University Press, 1998), 128; 308.

⁶ It is said that natural law "maximally has the character of law"—*lex naturalis maxime habet rationem legis*. This is the premise of an objection that Aquinas does not deny (*Summa Theologiae* I-II 90, 4, obj. 1. Citations to Aquinas's *Summa Theologiae* (hereinafter *ST*) will be to part, question, article. English

Aquinas believes natural law is *law* because he holds a vision of the universe—all of “nature,” including human nature—as *created* and *ordered* by a providential and loving God (doctrines that Aquinas believed were demonstrable by unaided reason in the science that we would today call philosophical theology).⁷ Human beings in particular are ordered toward a form of flourishing available only to rational creatures. The flourishing available to man by his unaided powers is an end that specifies good and bad action. Good acts are those acts ordered to happiness and bad acts are those acts not ordered to happiness or flourishing. As we have seen, those goods that are basic or the basic reasons for action specify precepts that, while not sufficient to secure one’s full-fledged flourishing, keep one from falling off the cliff in one’s moral life. For Aquinas, the precepts take on the character of *law* prior to human positive law, inasmuch as God—the being who has care of the common good of the whole universe—promulgates them or makes them known, in the very act of creating and ordering man with reason and will.

translations are generally from the Dominican Fathers edition (Christian Classics, 1981)). The focal case of law for Aquinas is, of course, the eternal law—yet, since natural law is not diverse from the eternal law, but rather a mode of the eternal law’s promulgation, Aquinas could affirm the premise, properly understood. For discussions of the legal character of natural law in Aquinas’s thought, see Russell Hittinger, *The First Grace* (ISI Books, 2007); Stephen Brock, “The Legal Character of Natural Law According to Thomas Aquinas” Dissertation Thesis, University of Toronto (1988).

⁷ Aquinas refers to metaphysics as the “highest” of the philosophical sciences as studying the principles of being as being (in distinction from particular sciences that study particular classes of being) and is willing to follow Aristotle in calling this science “theology” (Aristotle, *Metaphysics*, Book Eta 1026a20. Cf. Aquinas *In Meta.* Book VI, Lect. 1 #1167. Aquinas’s Latin texts are available online at www.corpusthomicum.org). When explaining the science of *sacra doctrina*, Thomas draws a further distinction concerning theology. There is the “theology included in sacred doctrine,” which “differs in kind from that theology which is part of philosophy” (*ST I*, 1.1 ad. 2). While, in principle, by reason man could know truths about God (e.g., *that* God exists), it was necessary that these truths in principle discoverable by reason should be revealed because they would be known scientifically only by a few, and even then with errors (*ST I*, 1.1). Accordingly, Aquinas holds that there are two kinds of sciences. There is the kind from principles known by the natural light of reason, among which he includes arithmetic and geometry. The second is the science that proceeds from principles from the light of a “higher science.” Music, for example, will proceed from principles established by arithmetic. *Sacra doctrina* is like the second because it proceeds from the *scientia Dei et beatorum*, which is to say God’s self-knowledge and the knowledge the blessed have of God in the *visio beatifica*. The knowledge flowing from this science derives from the light of faith, surpassing what philosophical reason can know in its own right (*ST I* 1.2).

Moreover, since Aquinas holds that law is properly the *imperium* or command of an authority, the natural law is commanded in God's act of creating nature.⁸

Suppose we take Aquinas's theory to be the apex of classical natural law theory. On this understanding, *modern* natural law theory breaks from classical natural law theory in at least two ways: in its treatment of practical reasoning as essentially in the service of sub-rational passions and in its secular foundations. Hume stated the modern view most sharply when he claimed reason is and only can be a slave of the passions and in his skepticism of natural theology. But, on Finnis's reading, the modern understanding of practical reason as enslaved to the passions is traceable to Thomas Hobbes.⁹ I call this understanding of practical reason the *impotent thesis*, because it claims that practical reason does not have the power to set its own goals or to tame the passions in accord with objects determined by reason. Indeed, the impotent thesis is the standard interpretation of Hobbes's theory of practical reason among Hobbes scholars. Hence, standard interpretations of Hobbes's natural law theory tend to posit a universal desire, to which reason is instrumental. The universal desire typically posited is the desire for self-preservation, given its strong textual basis in Hobbes's corpus. This desire is supposed to secure the normativity of the laws of nature.

Moreover, the standard interpretation of Hobbes's natural law theory includes what we can broadly call the secularist thesis, the claim that God plays no substantive

⁸ *Summa Theologiae*, 95.3.

⁹ As Finnis puts it, Hobbes treats "our practical reasoning as all in the service of sub-rational passions such as fear of death, and desire to surpass others—motivations of the very kind identified by the classical natural tradition as in need of direction by our reasons' grasp of more ultimate and better ends, of true and intrinsic goods, of really intelligent reasons for action. Hobbes proclaims his contempt for the classical search for ultimate ends or intrinsic reasons for action. Accordingly there can be for him no question of finding the source of obligation and law in the kind of necessity which we identify when we notice that some specific means is required by and for the sake of some end which it would be unreasonable not to judge desirable and pursuit-worthy." ("Natural Law: The Classical Tradition," 5). See also Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1993), 12, n. 12.

role in Hobbes's moral and political thought. This claim is defended on the basis of three sub-theses: the historical thesis, the concealment thesis, and the practical severability thesis. God plays no substantive role either because Hobbes is an atheist as attested to by the reactions of his contemporaries (the historical thesis)¹⁰, by the ironic hints hidden in his texts suggesting his religious and theistic statements are so many genuflections to the religious authorities of his day (the concealment thesis),¹¹ or because even supposing Hobbes is a theist, he renders God irrelevant to his political philosophy (the practical severability thesis)¹². On the secularist view, Hobbes's laws of nature are mere "qualities" or "theorems" and do not attain the status of law until the erection of an absolute sovereign. While these features of the standard interpretation—the pure instrumentality of practical reason and secularism—have not gone unchallenged, they probably remain the conventional wisdom.

But these two features of the standard interpretation of Hobbes's natural law theory —the impotent thesis and the secularist thesis—do not gel well with two principles Hobbes holds: first, the diverse psychology of persons and second, the eternal, immutable, and universal bindingness of the laws of nature, *in foro interno*.¹³ Call these the *psychological diversity principle* and the *bindingness principle*. Regarding the first, Hobbes observes a number of cases in which persons fail to desire self-preservation. Hobbes believed that people may be and often are willing to lay down their lives for the

¹⁰ See Samuel Mintz, *The Hunting of Leviathan* [Cambridge University Press 1962], 45; Quentin Skinner, "Hobbes's 'Leviathan,'" *The Historical Journal* 7 (2) (1964): 332

¹¹ See Leo Strauss, *The Political Philosophy of Hobbes*, trans. Elsa M. Sinclair (Chicago: University of Chicago Press, 1952); Edwin Curley "I Durst Not Write So Boldly,' or How to Read Hobbes' Theological-Political Treatise" in *Hobbes e Spinoza: Scienza e Politica*, ed. Daniela Bostrenghi (Naples: Bibliopolis, 1992).

¹² See Gregory S. Kavka, *Hobbesian Moral and Political Theory* (Princeton University Press, 1986), 362.

¹³ L 15.18, 99; 26.40, 186. On the complex psychology of Hobbesian persons, see S.A. Lloyd, *Morality in the Philosophy of Thomas Hobbes: Cases in the Law of Nature* (Cambridge University Press, 2009), 56-94.

sake of personal honor or what Sharon Lloyd has called “transcendent interests.” Recognizing the force of this point, one might water down the putatively necessary desire for self-preservation to be a *predominant* desire in order to make it more psychologically fitting. But, this option is ruled out if we take seriously Hobbes’s second principle regarding the eternal, immutable, and *universal* bindingness of the laws of nature, because then the laws of nature would only bind usually or for the most part. They would not bind universally, since not everyone actually has the putatively universal desire. In short, “if [the laws of nature] are always to bind everyone *in foro interno*, their claim on us must either depend on no desires, or on a desire that no human can fail at any time to have.”¹⁴

Now, this may be another example in which Hobbes is simply irreconcilable with himself, as Bramhall alleged was evident in a whole range of Hobbes’s doctrines. Or they may be instances in which Hobbes was, in his own words, “a forgetful blockhead.” But, Hobbes’s texts actually suggest another possibility, namely, that practical reason identifies bodily life and health as a—indeed, *the*—basic *reason for action*. Hobbes indicates as much when he lays down reason and cupidity as the two postulates of human nature. Hobbes lays down two postulates of human nature in the Dedicatory Epistle to *De Cive*: first, the postulate *cupiditatis naturalis*, whereby man demands private use of common things and second, the postulate *rationis naturalis*, which teaches man to avoid violent death or “fly contra-natural dissolution” as the greatest natural evil.¹⁵

¹⁴ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 200. Recognizing this difficulty, Lloyd offers her own derivation of the laws of nature from the Reciprocity Theorem. I offer a critique of this derivation in Chapter 2.

¹⁵ *De Cive: The Latin Version*, ed. Howard Warrender (Oxford University Press, 1983), Dedicatory Epistle, 75. Tuck and Silverthorne translate the passage as follows: “Thus I obtained two certain postulates of human nature, on, the postulate of human greed, by which each man insists upon his own private use of common property; the other, the postulate of natural reason, by which each man strives to avoid violent death as the supreme evil in nature” (*On the Citizen*, ed. and trans. Richard Tuck and Michael Silverthorne [Cambridge University Press, 1998], 6). The translation in Molesworth runs thus: “Having therefore thus

While cupidity is the principle of covetousness in man—which, unchecked, leads to the widespread destruction and misery in the state of nature—the rational principle “teaches every man to fly a contre-naturall Dissolution, as the greatest mischief that can arrive to Nature.” It has appeared to some that Hobbes here identifies reason with the passion of fear.¹⁶ Yet, the tenor of the passage is to *distinguish* between reason and desire sufficiently to indicate they are at cross-purpose in man—and this suggests that reason is not or need not be a slave to the passions. On this reading, the goal of practical reason, to fly contra-natural dissolution is independent of the contingent desires of natural cupidity.¹⁷ In other words, *life*, which Hobbes refers to as the *bonum maximum*, is the basic reason for action.¹⁸ I suggest that Hobbes’s contrast with the classical natural law tradition lies not in the sheer instrumentality of practical reason, but in his *thin theory of the good*. Neither does the thinness of Hobbes’s notion of the good disqualify his theory from being a *natural law theory*—but it does mark it off as novel in relation to the older tradition.¹⁹

arrived at two maxims of humane Nature, the one arising from the concupiscible part, which desires to appropriate to it selfe the use of those things in which all others have a joynt interest, the other proceeding from the rationally, which teaches every man to fly a contre-naturall Dissolution, as the greatest mischief that can arrive to Nature” (*Philosophical Rudiments concerning Government and Society*, Epistle Dedicatory in *English Works* [hereinafter *EW*], ed. Molesworth, Vol. II, viii.

¹⁶ I take up this interpretation in detail in Chapter 1.

¹⁷ Bernard Gert has developed a powerful argument along these lines for a *complex* view of Hobbesian reason that is more than a merely reckoning or computing power. The power of Hobbesian practical reason includes the power to set its own goals. See Bernard Gert, “Hobbes on Reason,” *Pacific Philosophical Quarterly* 82 (2001), 243-257; Bernard Gert, *Hobbes: Prince of Peace* (Cambridge: Polity Press, 2010) 73.

¹⁸ *De Homine* (hereinafter, *DH*) 11.6 in *Opera philosophica quae latine scripsit omnia: in unum corpus nunc primum collecta studio et labore* (hereinafter *OL*), ed. Molesworth (Londini: Joannem Bohn, 1839-1845), Vol. II, 98.

¹⁹ On this point I agree with Mark Murphy. See Murphy, “Was Hobbes a Legal Positivist,” *Ethics* 105 (4): 846-73. However, I differ from Murphy in that I defend Hobbes’s theory of the good as ‘reason-dependent’ (to use Joseph Raz’s phrase) and I show how Hobbes understands the laws of nature to be truly *laws*, a point that Murphy says Hobbes does not explain.

Such a reading saves both the psychological diversity principle and the bindingness principle because, while all persons may not actually take the good of life as basic in their practical reasoning, *they rationally ought to*. The laws of nature can then be understood as so many practical necessities that conduce to the basic good of life. Moreover, Hobbes's texts indicate how he understands his claim that these practical necessities are eternally, immutably, and universally binding *in foro interno* with the force of law *to be warranted on his own terms*—because God commands them. Hence, I argue that God does play an essential role in Hobbes's natural law theory, because God's command secures the legal character of the laws of nature.²⁰ Upon these grounds, I offer a rereading of Hobbes's theory of commonwealth and positive law. At the outset, it is necessary to set forth the reasons why I think I am warranted in taking Hobbes's theology as sincerely proffered and relevant to his moral and political theory.

Fifty years ago, Hobbes scholars were reconsidering the traditional secular interpretations following the work of A.E. Taylor, Howard Warrender, and F.C. Hood, all of whom had built cases for the view that Hobbes was a theist and that God played an essential role in his political theory.²¹ The 'Taylor-Warrender' thesis, as it came to be called, engendered a lot of discussion. While, as late as 1968, Brian Barry was able to write that a decade of criticism engendered by Warrender's thesis "has found critics united in rejecting many of Warrender's conclusions, but it has not produced a generally accepted alternative,"²² by 1990 Edwin Curley was recounting that the attack on the Taylor-Warrender thesis had been "vigorous":

²⁰ It is an open question precisely how and to what extent Hobbes's more voluntarist notion of God's command breaks from Aquinas's more intellectualist notion.

²¹ A.E. Taylor, "The Ethical Doctrine of Hobbes," *Philosophy*, Vol. 13, No. 52 (Oct., 1938), 406-424. Howard Warrender, *The Political Philosophy of Hobbes* (Oxford: Clarendon Press, 1957). F.C. Hood, *The Divine Politics of Thomas Hobbes* (Oxford: Clarendon Press, 1964).

²² Brian Barry, "Warrender and His Critics," *Philosophy* Vol. 43, No. 164 (Apr., 1968), 117-137.

it came from many sides; and while there may not have been any consensus among the critics about the best way to account for Hobbes' talk of obligation, a consensus does seem to have emerged that the Taylor-Warrender account is hopeless.²³

But since Curley's judgment, the work of A.P. Martinich has mounted a serious challenge to whatever consensus had developed and built an impressive case for the proposition that not only was Hobbes a theist and not only did his theism matter for his moral and political thought, but he was an English Calvinist orthodox by the criterion of the Nicene and Apostle's Creed.²⁴ Accordingly, his work has challenged each of the secular theses.²⁵ First, the historical thesis does not seem to be decisive when one considers that the epithet "atheist" was a term of opprobrium used to label any generally objectionable religious views.²⁶ Hence, Hobbes's contemporaries' use of that term wouldn't be paradoxical but expected if he espoused teachings that purported to be orthodox by the language of the creeds, but were novel as theories or explanations of them; for example, Hobbes's application of his theory of personation to the Trinity. As for the concealment thesis—which, in my judgment is a more challenging and interesting interpretation—Martinich has raised a number of potential difficulties for reading Hobbes's religious statements as ironic.²⁷ In making the case that Hobbes was a theist

²³ Edwin Curley, "Reflections on Hobbes: Recent Work on His Moral and Political Philosophy," *Journal of Philosophical Research* Vol. XV, 1989-90, 190.

²⁴ Of course, Hobbes sets forth a number of nonstandard interpretations of the creeds. See generally, Martinich, *The Two Gods of Leviathan: Thomas Hobbes on Religion and Politics* (Cambridge University Press, 1992).

²⁵ Curley himself later admitted that Martinich's work was "arguably the best available book of its kind." "Calvin and Hobbes, or, Hobbes as an Orthodox Christian," *Journal of the History of Philosophy*, 34, No. 2 (April 1996), 257.

²⁶ A.P. Martinich, *The Two Gods of Leviathan*, 18-30; *A Hobbes Dictionary*, 36

²⁷ A.P. Martinich, "On the Proper Interpretation of Hobbes's Philosophy" *Journal of the History of Philosophy*, Volume 34, Number 2 (April 1996), 273-283. For Martinich's argument that his interpretation is true to various canons of interpretation, including conservatism, frugality, palpability, generality, consistency, completeness, connectedness and defensibility, see "Interpretation and Hobbes's Political Philosophy," *Pacific Philosophical Quarterly* 82 (2001), 309-331.

and a Christian, Martinich does not facilely assume Hobbes's complete sincerity in his theological and religious statements. Rather, as he explains, his project begins by taking the concealment thesis seriously and going on to show that "given the cultural context of early and mid-seventeenth-century England, Hobbes's own upbringing, his actual religious practice, and his writings, the more plausible interpretation is that he was sincere."²⁸ While his case may not ultimately persuade those convinced by the concealment thesis, it seems that it must be admitted at least that Martinich has made no mean argument.²⁹ At a minimum, it seems that Martinich has opened the door to scholarship focused on his philosophical writings that builds on the assumption that "for the most part, Hobbes meant what he said."³⁰ If such an assumption at the outset is warranted, we can take seriously Hobbes's natural and revealed theology *ex hypothesi* in

²⁸ Martinich, "Interpreting the Religion of Thomas Hobbes: An Exchange," *Journal of the History of Ideas*, Volume 70, Number 1 (January 2009), 143-163.

²⁹ The point here is not to rehash this argument, the secularist responses, the counter-arguments, etc. However, I mention one piece of evidence Martinich adduces that seems to me important for raising doubts about the concealment thesis. The concealment thesis builds on the claim that Hobbes feared to be completely sincere about his religious views for fear of persecution. Hobbes's cowardice seems to also be self-attested when Hobbes wrote in his autobiography that the impending invasion of the Spanish Armada hastened his mother's pregnancy such that he was born the twin of fear. Moreover, he quickly fled to France at the outbreak of the Civil War. Martinich has made the point that Hobbes's cowardice seems to be diminished by Hobbes's tenacity and intellectual courage in his disputes with the likes of Bramhall and Wallis (*The Two Gods of Leviathan*, 31). Another important biographical point seems to weaken the concealment thesis. When Hobbes returned from exile in 1652 he could not find satisfactory worship services because following the church reforms of the Long Parliament and the Rump Parliament churches had reformed liturgy along Independent or Presbyterian lines, which Hobbes indicates he thought were riddled with sedition and blasphemy. Hobbes preferred episcopacy to these other religious forms: "For my own part, all that know me, know also my opinion, that the best government in religion is episcopacy..." (*EW IV*, 365). There is strong evidence based on his own testimony in his 'Prose Life' that Hobbes attended St. Clement of East Cheap where services were conducted by John Pearson, a high churchman who conducted the liturgy according to the more traditional Anglican rite and liturgy (Martinich, "Thomas Hobbes's Interregnum Place of Worship," *Notes and Queries* December 2007, 433-436). But if true, it seems inconsonant with the portrait of a priest-fearing, insincere Hobbes considering that episcopacy had been outlawed and that compulsory church attendance had been abolished. In short, if Hobbes were a scared secret atheist feigning faith, it would have been safer to attend a reformed congregation or no church at all. Jeffrey Collins' rival interpretation of this evidence misses this point ("Interpreting Hobbes in Competing Contexts," *Journal of the History of Ideas*, Volume 70, Number 1 [January 2009], 170).

³⁰ Martinich, *Two Gods*, 16. Such an assumption, as even Martinich admits, need not deny that Hobbes sometimes writes ironically.

our interpretation.³¹ A theme of this dissertation is that the theistic interpretation of Hobbes's moral and political theory makes better sense of Hobbes's texts as an integral whole than rival interpretations.³²

Let me now set forth in brief the outline of the argument I seek to develop. In Chapter 1, I seek to lay the groundwork for my interpretation of Hobbes's natural law account of morality by reexamining Hobbes's two postulates of human nature. I defend an interpretation of Hobbes's political theory as *foundationalist* in that its truth depends on the truth of a particular conception of man that is grounded in a philosophical theology and, ultimately, Christian revelation. On the basis of Hobbes's understanding of human evil, I develop anticipatory arguments for *life* as the *basic good* and for the *legal character* of the laws of nature. In Chapter 2, I assess and critique some of the leading interpretations of Hobbes's natural law theory. In Chapter 3, I defend an interpretation of Hobbes's *natural law* theory as at once an *objectivist* theory of the good, since self-preservation is desirable for all rational persons and *theistic*, since the pursuit of the good of life and the necessary means thereto attain the force of *law* by their divine pedigree. If correct, then the directive of Hobbes's fundamental law of nature to seek peace binds practically reasonable persons as the means to secure the good of life. To secure the good of life, it is necessary to make that good common through incorporation into commonwealth. In Chapter 4, I argue that Hobbes's theory of commonwealth is properly a *common good account*. I show how the distinctiveness and novelty of Hobbes's theory of the common good as the *security* of peace is illuminated in comparison to the

³¹ There are likely some proponents of the concealment thesis who would insist that after carefully weighing the theistic interpretations of Martinich and others, such an assumption still turns out not to be warranted because such an assumption will misunderstand Hobbes's rhetoric. But even if the concealment thesis turned out in the end to be true, it seems that this project would still be of interest inasmuch as it reassesses the ways in which Hobbes framed his rhetoric using classical natural law terminology.

³² While I agree with Martinich that God plays an essential role in Hobbes's natural law theory, my interpretation differs in a number of ways, chief of which is my reading of Hobbesian practical reason.

Aristotelian-Thomistic tradition. In Chapter 5, I argue that the *common good account* helps clarify that the person of the commonwealth is a *truly representative artificial person*, born by the sovereign. In Chapter 6, I argue that Hobbes's account of the common good provides sovereignty with its end or purpose and, as such, imports a content-based limitation on what the sovereign can effectively command into civil law. Hobbes thus has a properly *natural law account of civil law* because the moral validity of civil law turns on its order to the common good. I conclude by reflecting on how we should understand Hobbes in the tradition of natural law theory and the role Hobbes played in founding modern liberalism.

It is necessary to say a word about the method deployed in this dissertation and the scope of my argument. This dissertation is not a rational reconstruction of Hobbes. I do not seek to "update" Hobbes to align him with some contemporary school of philosophy or to enlist some or all of his principles in service of my own views of the moral and political truth. This dissertation is held forth as an *interpretive* endeavor. Hence, the point of this dissertation is to defend a theistic natural law interpretation as the most accurate and plausible, i.e., the interpretation that is warranted by a close reading of Hobbes's texts. So, while I argue that Hobbes's moral and political philosophy is best understood as a (peculiar) *natural law theory*, my goal is not to provide an independent defense of that theory. But, as already indicated, a proper understanding of Hobbes's moral and political theory is of enduring interest because he offers an undeniably rich and challenging account of morality and politics. Moreover, inasmuch as his thought played a foundational role in modernity, understanding what Hobbes has to say can help us to better understand ourselves, because we cannot understand ourselves unless we understand where we have come from. And, finally, an accurate interpretation of

Hobbes's natural law theory is a prerequisite to assessing whether it is the "true moral philosophy."

Chapter 1: Reason, Desire, and the Foundations of Hobbes's Moral and Political Philosophy

Hobbes claimed to have discovered two most certain (*certissima*) postulates of human nature: first, the postulate *cupiditatis naturalis*, whereby man demands private use of common things and, second, the postulate *rationis naturalis*, which teaches man to avoid violent death or “fly contra-natural dissolution” as the greatest natural evil.³³ From these two postulates, Hobbes claims to demonstrate “by most evident connection” his moral and civil doctrines. But the character of Hobbes's two postulates and their role in grounding his political philosophy has been a flashpoint of contention. This is not surprising given what is at stake: our reading of these postulates will implicate our understanding of Hobbes's natural law theory and his most celebrated moral and political doctrines.

In this chapter, I lay the groundwork for my interpretation of Hobbes's theories of natural law, commonwealth, and positive law. On my reading, the two postulates of human nature indicate that Hobbes distinguishes between reason and desire in a way that indicates that practical reason is not a mere slave to the passions. Practical reason is not impotent (the *impotent thesis*), but capable of setting its own goal of self-preservation such that *life* is the basic human good. Moreover, God's command makes the rational necessity to pursue life and the practical necessities that conduce thereto *bind with legal force*.

Hobbes distinguishes two broad categories into which statements can fall into: *abuses of speech* or *not abuses of speech*. Hence, the two postulates of human nature are

³³ DC, Dedicatory Epistle, in *De Cive: The Latin Version*, 75 and EW II, viii.

either abuses of speech or not abuses of speech. For felicity of expression, this can be restated thus: the two postulates are either abusive or nonabusive. Hobbes identifies “wrong definitions” as the “first abuse” of speech.³⁴ The criterion for a correct definition is whether it is warranted by the real. That is, abusive speech is *absurd* or *insignificant*, because it does not signify anything that actually exists. For example, according to Hobbes, there is no rational warrant for speaking of “immaterial substance.” Hence, the locution *immaterial substance* is an abuse of speech, because to *be* a substance is to be material or a body.³⁵

I contend that Hobbes understands his two postulates of human nature to be *nonabusive* speech. Hobbes understands the two postulates to have a rational warrant in the powers of reason and desire in actually existing individual human beings. According to Hobbes, the human powers distinguish man from other things as a rational animal:

Man's nature is the sum of his natural faculties and powers, as the faculties of nutrition, motion, generation, sense, reason, &c. For these powers we do unanimously call natural, and are contained in the definition of man, under these words, animal and rational.³⁶

Here, Hobbes is making a claim about human nature. That is, he is making a claim about the powers of reason and desire in any individual substance that is picked out by the universal word *man*. The word *man* picks out individual things with an assortment of powers that distinguish them from other things. Hobbes will build his civil philosophy on his particular conception of rational animals, on his particular conception of the nature and condition of the powers of reason and desire in human beings.

At first blush, such a rereading suggests that Hobbes’s civil philosophy is not autonomous in the way some scholars have suggested. According to the autonomy

³⁴ *L*, 4.13, 19.

³⁵ *L*, 5.5, 24.

³⁶ *EW IV*, 2.

thesis, Hobbes holds forth his political theory such that it is essentially severable, even from his philosophical-theological anthropology. The chapter begins in 1.1 by introducing Hobbes's foundationalism and contrasting Hobbes's civil philosophy with the Rawlsian notion of justice as a free-standing doctrine. I argue that Hobbes grounds his moral and political philosophy in (1) a particular conception of human nature as existing and knowable and (2) a particular conception of God's existence and causal relation to the world that is also knowable. In 1.2, I build support for this interpretation through a rereading of the key texts in which Hobbes indicates the severability of civil science. I argue that these texts actually support my foundationalist interpretation. I then take up Hobbes's doctrine of *nosce teipsum* and show that mere passion-descriptions are insufficient to ground Hobbes's civil doctrines. On my reading, the basic judgment of practical reason that *life is good* provides the normative object capable of universally moving appetites. In 1.3, I consider Leo Strauss's influential, rival secularist interpretation of the two postulates and argue that his interpretation fails as a plausible interpretation of Hobbes's notion of human evil. I advance three arguments against Strauss's view and contend that Hobbes's doctrine of human evil cannot be explained within an atheistic framework. I develop what we may call the *argument from evil* for understanding the laws of nature as truly *laws*. While Hobbes's particular conception of human nature and God's causal relation to the world are available to unaided reason, Hobbes also offers an *ultimate* foundation for his human nature teaching in biblical revelation—knowledge that comes by faith. In 1.4, I contend that Hobbes's ultimate ground for his anthropology is biblical and show how Hobbes believes the condition of reason and desire in man derives from his understanding of the historical Fall of Man. I conclude that Hobbes's understanding of human nature would lose all its character without his theistic and biblical framework.

1.1 THE FOUNDATIONS OF HOBBSIAN MORAL AND CIVIL SCIENCE

Hobbes's natural law theory, the "true and only moral philosophy," prescribes those rules directing reasonable persons seek peace, erect a commonwealth, and to act with justice, gratitude, humility, and the like. Clearly, there will be a close connection between Hobbes's moral and civil philosophy, since the laws of nature themselves not only direct persons to enter commonwealth, but also direct the person of the sovereign when he (it) makes positive law, since the laws of nature conduce to peace.

Still, Hobbes makes a number of comments that suggest that his moral and civil philosophy are not only severable, but essentially autonomous sciences—the knowledge they each yield is essentially attainable independent from knowledge yielded in other sciences. We shall analyze these statements shortly. But it is noteworthy that, on the basis of these statements, various scholars have advanced the autonomy thesis. The heart of this thesis is that Hobbes's holds forth his political doctrines in such a way that they *need not* rest on any of the other sciences. I agree with the autonomy thesis inasmuch as I agree that Hobbes holds forth his moral and political thought as severable from the new mechanistic science.³⁷ However, I contend that Hobbes's two postulates of human nature—and, hence, his moral and political doctrines—are *not* severable from a proximate ground in a particular conception of human nature (as existing and knowable) and a particular conception of God's causal relation to the world. I want to begin the argument of this chapter by contrasting Hobbes's foundationalism with Rawlsian political liberalism's idea of justice as a free-standing doctrine.³⁸ The comparison of Hobbes and

³⁷ For discussions of the connections between Hobbes's metaphysical and political doctrines, see J.W.N. Watkins, *Hobbes's System of Ideas* (London: Hutchinson, 1965); M.M. Goldsmith, *Hobbes's Science of Politics* (New York: Columbia University Press, 1966).

³⁸ My purpose is not to critique Rawls but to throw light on Hobbes's own doctrine.

Rawls is not gratuitous. Rawls himself suspected that Hobbes was the “first political liberal” and S.A. Lloyd has recently offered a defense of an interpretation of Hobbes as a prototypical political liberal.

The First Political Liberal?

In Rawls’s later work, he famously came to formulate justice as fairness as a “freestanding” conception. Whereas, the earlier Rawls had defended a comprehensive liberalism, the later Rawls formulated political liberalism as a freestanding doctrine.³⁹ The aim was to be maximally inclusive, to secure an overlapping consensus amongst persons with rival metaphysical worldviews or “comprehensive doctrines.” Hence, Rawls explicitly rejected any universal doctrine of human nature as the foundation of political liberalism. When Rawls asked how political philosophy could find a shared basis for his political conception of justice, he said we must look “to the public political culture itself.” Justice as fairness thus “tries to draw *solely* upon basic intuitive ideas that are embedded in the political institutions of a constitutional democratic regime and the public traditions of their interpretation.”⁴⁰ In fact, “it *starts* from within a certain political tradition.”⁴¹ Later he remarked that the conception is “worked up” from the public political culture.⁴² Rawls rejects comprehensive metaphysical doctrines and liberalisms and turns to a history and a culture where liberal ideals had become institutionally embedded. There are no universalist pretensions in political liberalism.

³⁹ Cf., John Rawls, *A Theory of Justice* (Belknap Press of Harvard University Press, 1971).

⁴⁰ Rawls, “Justice as Fairness: Political, Not Metaphysical” *Philosophy and Public Affairs*, Vol. 14, No. 3. (Summer, 1985), 225 (emphasis mine).

⁴¹ Rawls, “Justice as Fairness: Political Not Metaphysical,” 225 (emphasis mine).

⁴² Rawls, *Justice as Fairness: A Restatement* ((Belknap Press of Harvard University Press, 2001), 5.

Somewhat paradoxically, political liberalism thus looks more like eighteenth century reactionary conservatism. Burke's complaint against the *philosophes* was precisely its attempt to ground a constitutional order in abstract metaphysical speculation about human nature:

These metaphysic rights entering into common life, like rays of light which pierce into a dense medium, are by the laws of nature refracted from their straight line. Indeed, in the gross and complicated mass of human passions and concerns the primitive rights of men undergo such a variety of refractions and reflections that it becomes absurd to talk of them as if they continued in the simplicity of their original direction... The pretended rights of these theorists are all extremes; and in proportion as they are metaphysically true, *they are morally and politically false*.⁴³

For Burke, that which is morally and politically true is not proportioned to the putative speculative truths of metaphysics, because man's nature is inextricably bound up with the artifice of government and society. It is striking how similar Rawls's "political not metaphysical" thesis sounds. We can even imagine Rawls agreeing with Burke's continental counterpart and French papalist, Joseph de Maistre, whose polemic against the French Revolution took to task the philosophes:

The 1795 constitution, like its predecessors, was made for man. But there is no such thing as man in the world. During my life, I have seen Frenchmen, Italians, Russians, and so on; thanks to Montesquieu, I even know that one can be a Persian; but I must say, as for man, I have never come across him anywhere; if he exists, he is completely unknown to me...Is not a constitution a solution to the following problem: Given the population, customs, religion, geographical situation, political relations, wealth, good and bad qualities of a particular nation, to find the laws which suit it?"⁴⁴

Burke and de Maistre are considered conservatives for their defense of hierarchy and privilege— notions that Rawls clearly rejects. But Rawls is *structurally* a

⁴³ Edmund Burke, *Reflections on the Revolution in France*, ed. J.C.D. Clark (Stanford University Press, 2001), 220-1.

⁴⁴ Joseph de Maistre. "Considerations on France" in *The Works of Joseph de Maistre* trans. Jack Lively (Macmillan Company: 1965), 80.

conservative in the Burkean sense. Rawls's political liberalism is conservative inasmuch as it seeks to preserve the principles of liberty and equality by appeal to a political culture and history in which those principles have won out and become embedded in the institutions of liberal democracy. The appeal to political culture and history, moreover, is made in lieu of appeal to the philosophy of human nature or metaphysics or a comprehensive religious doctrine. It is not surprising that Burke, de Maistre, and Rawls have each endured criticisms of cultural relativism and historicism.

If this reading of Rawls's freestanding doctrine has merit, then there are *prima facie* good reasons to doubt Hobbes is a political liberal in the Rawlsian sense. Hobbes does not turn to history or the common opinions of the day for the elements to compose his political theory. Rather, Hobbes follows Descartes's methodological break from Plato and Aristotle inasmuch as he begins by doubting received wisdom and common opinion. Doctrines of the laws of nature have before Hobbes been "built on air." Hence, the Aristotelian doctrines prevalent in the schools of Hobbes's day are the frequent object of Hobbes's frontal assault. Besides being duped by "erroneous doctrines," man's heart is confounded with "with dissembling, lying, [and] counterfeiting."⁴⁵ Inasmuch as common opinions are tainted by lies, counterfeits, and parroted erroneous doctrines, they would be unstable elements whence to work up a civil philosophy. Hence, insofar as the political culture of Hobbes's day was animated thus, it seems doubtful that he worked up an autonomous political theory from merely historical-cultural elements.

On the contrary, Hobbes maintains throughout his works that knowledge of human nature is required to know the nature of the commonwealth. But he takes

⁴⁵ L, Introduction.3, 4.

different tacks as his work matures, as we shall see. In his early *Elements of Law Natural and Politic*, Hobbes put the point this way:

The true and perspicuous explication of the Elements of Laws, Natural and Politic, which is my present scope, dependeth upon the knowledge of what is human nature, what is a body politic, and what it is we call a law.⁴⁶

Hobbes then states his view that man's nature "is the sum of his natural faculties and powers, as the faculties of nutrition, motion, generation, sense, reason, &c. For these powers we do unanimously call natural, and are contained in the definition of man, under these words, animal and rational."⁴⁷ Hobbes goes on to analyze human nature into its fundamental powers before formulating his theories of the laws of nature and commonwealth. We have already seen that Hobbes indicates the foundational role the two postulates play in deducing his moral and civil doctrines by "most evident connection."

These reflections raise initial doubts about reading Hobbes as the first political liberal. But let us consider the grounds Lloyd offers for her interpretation of Hobbes's civil science as "free-standing." Lloyd offers three textual supports for reading Hobbes's civil science as a free-standing doctrine. I shall first recount them and then critique each support in turn.

Lloyd's Interpretation of Hobbesian Civil Science as Freestanding

In Lloyd's view, "Hobbes steadfastly operates to show the independence, not only of moral theory from metaphysics and epistemology, but also of political theory from moral theory."⁴⁸ Hobbes saw no problem in offering an independent political philosophy,

⁴⁶ EW IV, 2

⁴⁷ EW IV, 2.

⁴⁸ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 375.

“or as we would now say after Rawls, as a ‘free-standing’ doctrine.”⁴⁹ Lloyd contends that Hobbes sharpens the free-standing character of civil science in at least three ways. First, “his insistence that we have no scientific knowledge of human nature (nor the nature of the “smallest creature living”)” means we “cannot found a civil philosophy on that.”⁵⁰ If we can’t even know the nature of a fly, how could we know (and ground a civil philosophy upon) the nature of man? Second, Hobbes purports to settle political rights and duties “solely out of the *definition of a commonwealth*.”⁵¹ Third, Hobbes’s chart of the sciences appears to corroborate this in making civil science independent of the other sciences.⁵² In that chart, “civil philosophy” is defined as the consequences from the accidents of political bodies, in distinction from “natural philosophy,” the consequences from the accidents of natural bodies. Lloyd concludes that “indubitable introspection” suffices to do whatever work a science of human nature would do and approvingly quotes Kavka’s claim that Hobbesian political theory is not committed to materialism, mechanism, and determinism: “it can remain neutral with respect to these ontological and metaphysical positions.”⁵³

I contend that each of these three supports for reading Hobbes’s civil science as free-standing buckles upon closer examination. Let us consider them in turn. Lloyd’s first support for her argument regards Hobbes’s view our ability to know the nature of a fly. My argument against this support will introduce us to Hobbes’s foundational doctrines of natural theology. To recall Lloyd’s contention in full:

Hobbes insists that ‘in this naturall Kingdome of God, there is no other way to know any thing, but by naturall Reason; that is, from the Principles of naturall

⁴⁹ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 376.

⁵⁰ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 376.

⁵¹ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 376.

⁵² *L*, 9, 48.

⁵³ Kavka, *Hobbesian Moral and Political Theory*, 11.

Science; which are so farre from teaching us any thing of Gods nature, as they cannot teach us our own nature, nor the nature of the smallest creature living.’ [EW III, 354]...Hobbes’s natural science...cannot in practice ground *any* conception of human nature, nor through it a political philosophy.⁵⁴

Importantly, Lloyd wants to reject the secularist thesis, the claim that God plays no essential role in Hobbes’s political philosophy. In fact, she has spent a fair amount of her scholarship defending an interpretation that takes Hobbes’s theology seriously. Let us grant her that assumption, since there is a strong textual warrant for it. Hence, on Lloyd’s terms, we ought to take seriously Hobbes’s claim that God exists. Hobbes offers a number of arguments for God’s existence and the various arguments he gives have similarities to Aquinas’s five ways.⁵⁵ And, as Martinich has pointed out, there is no indication that Hobbes offered these arguments ironically. Still, isn’t it the case that Hobbes denies there can be a *science* of theology or, as we might say today, a philosophical theology?⁵⁶

Hobbes holds that philosophy is reasoning about causes and effects—and, accordingly, the drawing out of consequences of affirmations and negations—and the subject or province of philosophy is “every body of which we can conceive any generation, and which we may, by any consideration thereof, compare with other bodies, or which is capable of composition and resolution; that is to say, every body of whose generation or properties we can have any knowledge.”⁵⁷ Hobbes’s division of the

⁵⁴ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 391.

⁵⁵ See Robert Arp, “The ‘Quinque Viae’ of Thomas Hobbes,” *History of Philosophy Quarterly*, Vol. 16, No. 4 (Oct., 1999), 367-394.

⁵⁶ See Hobbes, *Thomas White’s De Mundo Examined*, trans. Harold Whitmore Jones (London: Bradford University Press, 1976), 26.1-7, 304-308, where Hobbes argues that demonstrations of God’s existence are unphilosophical and contrary to the Christian religion. But, as Martinich points out, Hobbes’s point is against a priori *demonstrations*, whereas *proofs* of existence of things require empirical premises (Martinich, *The Two Gods of Leviathan*, 348). Moreover, Hobbes seems to be primarily concerned with demonstrations of the existence of the *Christian* God and how this would undermine gratuity of faith (26.5).

⁵⁷ EW I, 10.

sciences springs from this definition. So where there is no generation or property, there cannot be *philosophy*. Hence *theology* is excluded: “the doctrine of God, eternal, ingenerable, incomprehensible, nothing to divide or compound, nor any generation to be conceived.”⁵⁸

But Hobbes is not saying that we cannot know by natural reason that God exists. As he says later in the same work, he is willing to accept the argument of the first way for God’s existence “...from this, that nothing can move itself, it may be rightly inferred that there was some first eternal movent.”⁵⁹ So the statement is not a denial of the possibility of a natural theology. For Hobbes, it is God’s *incomprehensibility* that cordons off the *divine nature* from philosophical investigation. In other words, “we understand nothing of *what he is*, but only *that he is*.”⁶⁰ So stated, the teaching is identical to that held throughout the Christian tradition and in Aquinas.⁶¹ Because we have finite minds, we can have only finite conceptions or ideas. “When we say any thing is infinite, we signify only, that we are not able to conceive the ends, and bounds of the thing named; having no conception of the thing, but of our own inability.”⁶² Thus the name “God” does not imply a conception of God in our mind, but is a name of honor. So Hobbes says, “We ought not dispute about God’s nature; he is no fit subject of our philosophy.” He goes on to suggest that true religion “consisteth in obedience to Christ’s lieutenants, and in giving

⁵⁸ For Hobbes, this is not to deny that God is material, but only that God’s materiality is not the sort that is finite, generable, or comprehensible. Hobbes says that God is “a most pure, and most simple corporeal spirit” and by spirit, Hobbes means a “thin, fluid, transparent, invisible body” (*EW IV*, 306, 309).

⁵⁹ *EW I*, 412.

⁶⁰ *L*, 34.4, 263.

⁶¹ Hobbes and Aquinas agree that man cannot know God’s essence. However, Aquinas thinks reason can go much further than Hobbes thinks in apophatic and analogical reasoning to affirm what God *is not*.

⁶² *L*, 3.12, 15.

God such honour, both in attributes and actions, as they in their several lieutenancies shall ordain.”⁶³

Thus, Hobbes’s affirmation that the world is created—a claim Hobbes repeatedly makes in the first two parts of *Leviathan*—is warranted by his philosophical theology.⁶⁴ By the “light of Nature” we can know that the first attribute of God is *existence*.⁶⁵ This is a view similar to Aquinas’s view that existence is the first perfection.⁶⁶ *Existence* is the first of the divine attributes, because something cannot *be* a subject of an attribute, except insofar as it exists. But, if God exists, then there is no perfection that can be denied of him—indeed, all perfections are *maximally* so in God.⁶⁷ Therefore, the judgment that God exists entails that God is maximally or, as Hobbes prefers to put it, *irresistibly* powerful, because power is a perfection.⁶⁸ God is omnipotent. And if God is omnipotent he has complete power over all of nature. But God could not have maximal power over nature unless he *created* it, because if he didn’t create it, then its existence would not depend on God’s power, and then he would not have complete power over nature. Hence, if God exists, God created the world.

Once we take Hobbes’s point seriously, Lloyd’s first support crumbles. It becomes clear that the passage may only be expressing a point that older moderate

⁶³ *EW* V, 436.

⁶⁴ See e.g., *L* 31.15-16, 239.

⁶⁵ *L*, 31.14, 239.

⁶⁶ *ST* I, 4.1, ad. 3.

⁶⁷ The worship we do God “proceeds from our duty, and is directed according to our capacity, by those rules of Honour” and honoring “consisteth in the inward thought, and opinion of the Power, and Goodnesse of another: and therefore to Honour God, is to think as Highly of his Power and Goodnesse, as is possible” (*L* 31). “Moreover in attributes which signify greatness or power, those which signify some finite or limited thing are not signs at all of an honouring mind” (*EW* II, 214). “He therefore who would not ascribe any other titles to God than what reason commands, must use such as are either *negative*, as *infinite*, *eternal*, *incomprehensible*, etc; or *superlative* as *most good*, *most great*, *most powerful*, etc.” (*EW* II, 216). Compare Aquinas’s “fourth way,” the argument from the gradation of things *ST* I, 2.3.

⁶⁸ See *L*, 10.2, 50.

realists like Aquinas took to be axiomatic: the weakness of the human intellect is manifest in that no one has yet been able to know the nature of a single fly.

For how is it consistent to say, on the one hand, that we cannot know the nature of even a single fly and, on the other hand, that reason can assert true propositions concerning the natures of things? The point is not to deny the power of reason to penetrate and reveal truths about real things, but to deny that our knowledge can be final or exhaustive. Hobbes may only be affirming an epistemic humility due to his belief in the *createdness* of natural things. The essences of *creatures* are based on—and hence likenesses of—the design-plan in the mind of the divine artificer. For Hobbes, nature is “the art whereby God hath made and governs the world.”⁶⁹ Hobbes sees an analogy between man-made artifacts that are based on a plan in a human mind and *man*, that “most excellent work” of God, who is based on a plan in the divine mind: “For what is the heart, but a spring; and the nerves, but so many strings; and the joints, but so many wheels, giving motion to the whole body, such as was intended by the Artificer?.”⁷⁰ For Hobbes, the order we observe in man is evidence that it was fashioned by an artifacting mind: “[I]t is very hard to believe that to produce male and female, and all that belongs thereto, as also the several and curious organs of sense and memory, could be the work of anything that had not understanding.”⁷¹ But the divine mind itself is radically unfathomable. Hobbes maintained with Aquinas that “we understand nothing of what [God] is, but only that he is.”⁷² The infinite can never be comprehended by a finite mind. Hence, men “cannot have any idea of him in their mind, answerable to his nature.”⁷³ The

⁶⁹ *L*, Introduction.1, 3.

⁷⁰ *L*, Introduction.1, 3.

⁷¹ *EW* VII, 176

⁷² *EW* III, 383. Cf. *Summa Theologiae* I, 2.Proemium.

⁷³ *EW* III, 92

suggestion seems to be that our ideas of finite things *are* answerable to their natures—but they will be answerable only in a limited way since we cannot know them *as likenesses* to the plan in the infinite mind of the divine artificer.

It is true that Hobbes calls “childish” the view that “names have been imposed on single things according to the nature of those things.”⁷⁴ But the reason for his denial is pregnant: it is because languages everywhere different “*while the nature of things everywhere is the same.*”⁷⁵ Hobbes is not denying that names track the natures of finite things but simply asserting that the “first names” to be used as “marks or notes of remembrance” were arbitrary from place to place (that is, it was arbitrary in the first instance whether one imposed the name “pencil” instead of “lápiz” to signify a writing stick). But it does not follow from this that when we talk about a pencil we are merely manipulating vibrations in our heads—the word marks off a real object in the world. As Hobbes puts it, “names cannot be considered without supposing there is some real thing to which they are attributed.”⁷⁶ And, as Philip Pettit points out, for Hobbes, the common name enables us to “address ourselves to an object, not in its particularity, but under its general aspect...”⁷⁷

It seems then that once we carefully consider Hobbes’s natural theology, Lloyd’s first support for reading Hobbes’s civil philosophy as free-standing crumbles. Now let us consider Lloyd’s second support. Lloyd finds a second support in Hobbes’s definition of commonwealth. Hobbes seems to derive his civil teachings just from the definition of a

⁷⁴ *DH*, 10.2, 39. References to *De Homine* in English are to chapter, paragraph, and page number in Gert’s translation in *Man and Citizen* (Indianapolis: Hackett, 1991).

⁷⁵ *DH*, 10.2, 39, emphasis added.

⁷⁶ *EW IV*, 394

⁷⁷ Philip Pettit, *Made with Words* (Princeton: Princeton University Press, 2008), 31.

commonwealth, as if this were offered independently of any conception of human nature.

To recall, Hobbes defines the commonwealth in this way:

*One person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defence.*⁷⁸

Notice that Hobbes deploys the concepts of person, multitude, covenant, and authorship. These only make sense in light of the previous section of *Leviathan* “Of Man,” because a group of men constitute the multitude that incorporates itself into the person of the commonwealth through peculiarly human covenantal and authorial acts. As Hobbes puts it, man is the “matter” and the “artificer” of the commonwealth. Hence, the definition on its face relies on a conception of *man* or human nature because, at the very least, it supposes man can be a material part of a whole, namely the commonwealth. We shall explore this point further when we take up Hobbes’s theory of commonwealth in detail in Chapter 4. It is sufficient for the moment to point out that Hobbes’s complex definition synthesizes a range of conceptions of human nature and personhood (not to mention authorship, covenant, and peace).

Finally, Lloyd’s third support is based on Hobbes’s chart of the sciences. Hobbes’s chart of the sciences does not seem decisive as to whether his civil philosophy is free-standing or not, because Hobbes was apparently not wed to it. Hobbes’s schema of the sciences significantly changes in the Latin *Leviathan*.⁷⁹ In the Latin version, Hobbes claims that “from the study of man and his faculties arise the sciences of *ethics*, *logic*, *rhetoric*, and at last *politics* or *civil philosophy*.”⁸⁰ Here, Hobbes claims that civil

⁷⁸ *L*, 17.13, 109.

⁷⁹ The Latin *Leviathan* was published in 1688. Cf. Tricaud’s argument for the priority of the Latin *Leviathan*.

⁸⁰ *OL*, Ch. IX, in *Leviathan with selected variants from the Latin edition of 1688* (Hackett: 1994), 50 (trans., Curley).

philosophy depends on the study of man and his faculties. We need not decide whether the English or Latin *Leviathan* should be considered more authoritative. It is enough to say that the Latin version of *Leviathan*, Chapter 9, seems to vitiate the force of Lloyd's third argument.

In this section I have contrasted Hobbes's foundationalist notion of political philosophy with Rawls's free-standing notion. We have seen that, according to Hobbes, human reason is powerful enough, *unaided by revelation*, to assert true propositions concerning God's existence and causal relation to the world and concerning human nature. And, whereas Rawls artificially limits the power of human reason of contractors in the original position, Hobbes maintains that the knowledge of God's causal relation to the world and human nature is available to play a role in grounding Hobbes's moral and civil sciences. Let us now turn to consider Hobbes's various statements regarding the foundations of moral and civil science and their connections with the other sciences.

1.2 HUMAN NATURE AS EXISTING AND KNOWABLE

Rereading Hobbes on Severability

In this section, I reconsider some of the passages in which Hobbes appears to advocate some version of the autonomy thesis. I argue that a close rereading of the relevant passages from *De Cive*, *De Corpore*, and *Leviathan* suggests the dependence of civil philosophy on the ontological truth that there *is* a definite human nature and that we can know it. In effect, this section seeks to reinforce the conclusions of the last section by presenting a foundationalist interpretation of the texts where Hobbes indicates that civil philosophy is in some sense severable.

Let us consider first the dedicatory epistle to *De Cive*. There, Hobbes makes his well-known claim that he had planned three sequential treatises on, first, body and its general properties, second, man and his special faculties, and third, civil government and the duties of subjects. These three sections are supposed to correspond to physics, moral philosophy, and civil philosophy. Yet, Hobbes tells us that the boiling controversy and approaching war in England “plucked from me this third part.”⁸¹ Hence, “what was last in order, is yet come forth first in time, and the rather, because I saw that grounded on its own principles sufficiently known by experience it would not stand in need of the former sections.” Hobbes seems to confirm this point in *De Corpore*. There, “moral philosophy” is said to consider “the motions of the mind, namely, appetite, aversion, love, benevolence, hope, fear, anger, emulation, envy, etc.; and what causes they have, and of what they be the causes.”⁸² (Hobbes says this comes after physics since the cause of the passions is in sense and imagination, which are objects of physics.) But, “*civil and moral philosophy* do not so adhere to one another, but that they may be severed.”⁸³ How is this so, if “the principles of the politics consist in knowledge of the motions of the mind”?

Hobbes’s answer is that the causes of appetite, aversion, and the passions are not only known by “ratiocination” but also by “the experience of every man that takes the pains to observe those motions within himself.”⁸⁴ But, Hobbes seems to think that *he* is the first one to have set forth the scientific fruit of taking such pains, since he thought civil philosophy is no older than *De Cive*.⁸⁵ These points would seem to be confirmed in

⁸¹ *Philosophical Rudiments*, Preface to the Reader, *EW* II, xx.

⁸² *EW* I, 72

⁸³ *EW* I, 73.

⁸⁴ *EW* I, 73

⁸⁵ *EW* I, ix

the Introduction to *Leviathan*. By *nosce teipsum*—that is, by rigorous self-reflection on one's experience—one can affirm the teachings of Hobbes's civil science. Hobbes invites the readers to affirm the fruits of Hobbes's own rigorous self-reflection.

But a careful reconsideration of the *De Cive* and *Leviathan* passages suggests the dependence of civil philosophy on the ontological truth that there *is* a definite human nature and that we can know it. Hobbes suggests as much in the same breath that he lays down the principle of experience:

In the first place I set down for a principle by experience known to all men, and denied by none, to wit, that *the dispositions of men are naturally such*, that except they be restrained through feare of some coercive power, every man will distrust and dread each other, and as by naturall right he may, so by necessity he will be forced to make use of the strength hee hath, toward the preservation of himself.⁸⁶

This passage is the sequel to Hobbes's profession of resolute-compositive method:

Concerning my Method, I thought it not sufficient to use a plain and evident style in what I had to deliver, except I took my beginning from the very matter of civill government, and thence proceeded to its generation, and form, and the first beginning of justice; for every thing is best understood by its constitutive causes; for as in a watch, or some such small engine, the matter, figure, and motion of the wheeles, cannot well be known, except it be taken in sunder, and viewed in parts; so to make a more curious search into the rights of States, and duties of Subjects, it is necessary, (I say not to take them in sunder, but yet that) they be so considered, as if they were dissolved, (i.e.) that wee rightly understand *what the quality of humane nature is*, in what matters it is, in what not fit to make up a civill government, and how men must be agreed among themselves, that intend to grow up into a well-grounded State.⁸⁷

The passage indicates the importance of attaining knowledge of human nature and its fitness for civil government. How can that knowledge be attained? To see the rights of the state and the duties of subjects requires dissolving the state into its constituent

⁸⁶ *EW* II, xiv-xv.

⁸⁷ *EW* II, xiv.

elements and recomposing it. Hobbes suggests that this is not an actual sundering in reality, but a mental consideration “as if they were dissolved.” Is the state of nature intended as a merely mental construct, then? Rawls, for his part, populated the room behind the veil of ignorance with fictional persons who would act as our representatives. Hobbes sometimes suggests that his covenanters in the state of nature are merely fictional, as when he says “Let us return again to the state of nature, and consider men as if but even now sprung out of the earth, and suddenly, like mushrooms, come to full maturity without all kind of engagement to each other.”⁸⁸ The consideration of human beings as mushroom men suggests that the contractors in the state of nature are not real.

Yet, Hobbes more often maintains that the state of nature obtains in reality. In *Leviathan*, the state of nature is said to obtain *in rerum natura*: among the American savages, in civil war, and in international relations.⁸⁹ Crucially, each of these conditions are *social* states of affairs in which there has been engagement between actual persons. Returning to *De Cive*, Hobbes relies on the third state of affairs in reply to those who would deny that that which he had just said was “denied by none,” namely that without fear of a coercive power, men will distrust and dread one another. Those who deny Hobbes’s claim with their lips confirm the same with their actions:

We see all countries though they be at peace with their neighbours, yet guarding their Frontiers with armed men, their Townes with Walls and ports, and keeping constant watches. To what purpose is all this, if there be no feare of the neighbouring power? Wee see even in well-governed States, where there are lawes and punishments appointed for offenders, yet particular men travell not without their Sword by their sides, for their defences, neither sleep they without shutting not only their doores against their fellow Subjects, but also their Trunks and Coffers for feare of domestiques. Can men give a clearer testimony of the distrust they have each of other, and all, of all? How since they doe thus, and even

⁸⁸ *EW* II, 108-9.

⁸⁹ *L*, 13.11-12, 77-8.

Countreyes as well as men, they publiquely professe their mutuall feare and diffidence.⁹⁰

The defensive posture amongst nations is evidence of the sort of mutual fear and mistrust that is characteristic of a state of affairs *void of law and authority*. Moreover, fear and mistrust is evident “even in well-governed States” that are constituted by the rule of law when men carry weapons and lock their doors. The suggestion is that the inchoate fear and mistrust evident in civil society would be exacerbated if or when the rule of law is dissolved and states cease to be well governed (as in, e.g., a civil war). I maintain that we should understand Hobbes’s term the “state of nature” thus: *a condition of actual persons that is void of human positive law and authority*.

So, Hobbes appeals to our experience of how men really act in our day-to-day experiences living in a world of more-or-less well-governed States in order to fix our imagination on how men in all likelihood *would* act if that actual state of affairs devolved into a lawless condition. As Aristotle said, we know potency through act, and if men are actually fearful and mistrusting of others in a *lawful* state of affairs, then man’s potentiality for fear and mistrust in a *lawless* condition is manifest. Such a state of affairs is a “state of men without civil society, which state we may properly call the state of nature.”⁹¹ Hobbes’s contention is that by considering men in this condition, we rightly

⁹⁰ Cf. *L*, 13.7; 13.12: “Let him therefore consider with himself, when taking a journey, he arms himself, and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house he locks his chests; and this when he knows there be laws, and public officers, armed, to revenge all injuries shall bee done him; what opinion he has of his fellow subjects, when he rides armed; of his fellow citizens, when he locks his doors; and of his children, and servants, when he locks his chests. Does he not there as much accuse mankind by his actions, as I do by my words?...But though there had never been any time, wherein particular men were in a condition of war one against another; yet in all times, kings, and persons of sovereign authority, because of their independency, are in continual jealousies, and in the state and posture of gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their forts, garrisons, and guns upon the frontiers of their kingdoms; and continual spies upon their neighbors; which is a posture of war.”

The claims about how men act in a condition of peace *intra*-civil society are in tension with Hobbes’s definition of war not as actual fighting but in the time where “the will to battle is sufficiently well known” or during the time there is a “known disposition thereto” (*L*, 13.8, 76).

⁹¹ *De Cive* in *EW* II, xvii.

understand *what the quality of human nature is* and its fitness to incorporate into a commonwealth. Hobbes seems to think that we can observe “particular men” acting defensively from external and internal threats—guarding the borders of their country, carrying weapons, locking their doors, etc.—and that, on the basis of this observation, we can arrive at a *universal* feature of human nature by induction: “Can men give a clearer testimony of the distrust they have each of other, *and all, of all?*”⁹² As Hobbes has already pointed out in the Epistle Dedicatory, the whole point and promise of philosophy is to move “from observation of individual things to universal precepts.”⁹³ The possibility of the truth of the claim depends on the prior ontological truth that “particular men” have sufficiently similar constitutions such that the induction is valid.⁹⁴ Moreover, it presupposes that we can have such knowledge. Hobbes’s *nosce teipsum* tack in *Leviathan* buttresses the point.

Hobbes contends in his Introduction to *Leviathan* that by rigorous self-reflection—by *nosce teipsum*—we can “read” other men. One can carefully reflect on the character of one’s desires when, for example, one hopes or fears. Such a clear-headed reflection on one’s own passions is, in turn, the cipher that teaches one the passions of other men in similar circumstances. As Hobbes puts it *nosce teipsum* teaches us

that for the similitude of the thoughts, and passions of one man, to the thoughts, and passions of another, whosoever looketh into himself, and considereth what he doth, when he does think, opine, reason, hope, fear, &c, and upon what grounds;

⁹² *De Cive* in *EW II*, xv (emphasis added).

⁹³ *On the Citizen*, 4.

⁹⁴ Thus Hobbes is a “term empiricist,” because terms denote bodies in the world that have operated on the senses. And universal terms denote several similar bodies: “One universal name is imposed on many things, for their similitude in some quality, or other accident” (*L*, 4.7, 17). This seems to sit uneasily with the “propositional rationalist” side of Hobbes, his view of “science” as definitional-geometrical definitions and their consequences which Hobbes sometimes suggests is *a priori* (as opposed to “opinion” which is belief formed on other modes of discourse). See Martinich’s discussion of possible contradictions in *Hobbes* (New York: Routledge, 2005). Also see Noel Malcolm, *Aspects of Hobbes* (Oxford University Press, 2003), 178-80.

he shall thereby read and know, what are the thoughts, and passions of all other men, upon the like occasions.⁹⁵

Notably, self-reflection on the movements of one's appetite includes reflection upon *what grounds* one's appetite is moved. Presumably, one will have the key to knowing the passions of other men when the grounds are similar. Already, Hobbes's claim that one individual's introspection on one's own passions can shed light on another individual's inner life suggests that individual men share a common human nature. How else could we explain the fact that distinct individual substances are moved in identical or similar ways on like occasions? The validity of the claim depends on the prior ontological truth that they have sufficiently similar constitutions. But that is another way of saying that they share a nature that is picked out by the word *mankind*. The suggestion becomes explicit when Hobbes continues to point out that "He that is to govern a whole nation must read in himself, not this or that particular man, but mankind..."⁹⁶ The principle of *nosce teipsum* is thus an invitation to the reader to affirm Hobbes's teaching about human nature and, on that basis, what must follow for the formation of a well-ordered commonwealth.

To sum up, the introductory passages of *De Cive* and *Leviathan* indicate that the truth of Hobbes's civil science teachings requires, first, that there *be* a peculiarly *human* nature, prior to our thinking about it and, second, that it play a role in grounding the notions of the good and the just. The second condition requires that knowledge of human nature be available—but it need not require the citizen or the statesman to be a metaphysician. In other words, the warrant for Hobbes's two postulates of human nature is that the powers of reason and desire *are* in every individual substance picked out by the

⁹⁵ *L*, Introduction.3, 4.

⁹⁶ *L*, Introduction.4, 5.

word “man”—and we can *know* this, by observation of others, introspection, and induction.

Tom Sorell is correct to insist “Everyman” can affirm these teachings through his own experience.⁹⁷ The statesman may not be trained in metaphysics—but Hobbes indicates that knowing in that way is not a necessary condition for one to “read” mankind. So, I suggest that Hobbes’s moral and political philosophy are “severable” from his metaphysics inasmuch as they have an independence in the *epistemic* order. One can know things about human beings and the things about morality and politics that flow therefrom without having scientific knowledge of metaphysics—particularly, Hobbes’s own materialistic-mechanistic metaphysics. But this does not imply that the doctrines are *freestanding*. Hobbes is making a distinction between the order of knowing and the order of being. This is compatible with maintaining that Hobbes’s civil and metaphysical doctrines are connected in a way that the full demonstration of the truth of his civil doctrines depends on the connection.

In this section, we have contended that Hobbes actually does seek to ground his civil science on the foundation of a shared human nature. But what is the positive content of Hobbes’s human nature teaching? What is it that *nosce teipsum* is supposed to unlock?

Introspecting on the Passions

In this section, we make an initial attempt to unlock Hobbes’s human nature teaching by considering his doctrine of *nosce teipsum*. *Nosce teipsum* can yield knowledge of passion descriptions. However, I argue that this knowledge is insufficient

⁹⁷ See Tom Sorell, *Hobbes* (Routledge and Kegan Paul, 1986).

to ground Hobbes's civil science because mere passion descriptions do not yield knowledge of an object that is capable of universally moving appetites. Such an object is required by the key teachings of Hobbes's civil philosophy, including his theory of the commonwealth and natural law.

We have just seen the passage where Hobbes's suggestion that individual members of a natural kind are moved in identical or similar ways on like grounds and occasions. That suggestion is immediately complicated in the following passage:

I say the similitude of passions, which are the same in all men, desire, fear, hope, &c; not the similitude of the objects of the passions, which are the things desired, feared, hoped, &c: for these the constitution individual, and particular education do so vary, and they are so easy to be kept from our knowledge, that the characters of mans heart, blotted and confounded as they are, with dissembling, lying, counterfeiting, and erroneous doctrines, are legible only to him that searcheth hearts.⁹⁸

As Clarendon observes, here Hobbes seems to completely reverse what he had just said. Hobbes makes

a judgment of the Passions, and Nature of all other Men by his own observations of Himself, and believes, that by looking into himself, and considering what he doth when he do's think, opine, reason, hope, fear, &c. and upon what grounds, he shall thereby read, and know what are the thoughts and passions of all other men upon the like occasions. And indeed by his distinction in the very subsequent words between the similitude of passions, and the similitude of the object of the passions, and his confession, that the constitution individual and particular education, do make so great a difference and disparity, he reduces that general Proposition to signify so very little, that he leaves very little to be observed, and very few Persons competent to observe.⁹⁹

Indeed, if individual constitutions are radically disparate from individual to individual, then that which moves his or her appetite—that which he or she calls

⁹⁸ *L*, Introduction.3, 4.

⁹⁹ Edward Earl of Clarendon, *A Brief View and Survey of the Dangerous and Pernicious Errors to Church and State, In Mr. Hobbes's Book, Entitled Leviathan* (Printed at the Theatre, 1676), 11.

“good”—would be radically relative. In that case, how could the grounds of one’s passions ever be the grounds of another’s passions? What can serve as the “like occasion” so that the inner lives of others can be unlocked by *nosce teipsum*?

As suggested by the Introduction to *Leviathan*, Hobbes’s initial move is to elude common *objects* by opting for an abstract description of *appetite + opinion* as a common principle of the passions. Call this a passion description. This move implies that the external object is necessarily refracted through the prism of the individual’s reckoning. There is something commonsensical about this move because the principle of the same passion in disparate persons need not be the same external object. For example, a person might have an appetite with an opinion of attaining the presidency as, say, Michael Dukakis did in 1987. Meanwhile, another person might have an appetite with the opinion of attaining an appointment to the Supreme Court as, say, Robert Bork did in 1987. While the presidency and a Supreme Court justiceship are different objects that are refracted through the prisms of disparate individuals, each individual’s judgment can be picked out by an identical passion-description: appetite for some good with an opinion of attaining it or “hope.” Moreover, since the respective experiences of Dukakis and Bork that this passion-description picks out are not solipsistic dreams but are experiences common to (and verifiable by) both men, it must be the case that each individual *does have* similar or identical powers of appetite and reason. Hobbes seems to think that, by *nosce teipsum*, Dukakis could know that there is a similitude between the emotion he feels when he desires some good that he reckons possible to attain and the emotion that Bork or any man feels on like occasions. And so both Dukakis and Bork are truly said to experience hope, according to Hobbes.

Crucially, as we have seen, what makes this judgment possible is the prior ontological truth (to which, in the order of knowledge, we may infer *based* on our

experience) that each individual is made up of sufficiently similar powers of appetite and reason. Indeed, Hobbes will hold forth this truth as a crucial premise in his account of the state of nature.¹⁰⁰

Hobbes does not deny that the occasion or remote principle of the same passion in disparate persons might be the *same* object. Indeed, conflict in the state of nature arises from competition over the same good.¹⁰¹ In the state of nature, Steve and Adams might both have an appetite with an opinion of obtaining the same apple grove. Hence, they would both hope for the apple grove. In this case, the object is not a good *necessarily* drawing persons to it because Steve and Adams might or might not have liked the taste of apples (setting aside the larger sense of necessity held by Hobbes that all events are necessitated by God's decree). The nature of the apple grove does not determine the character of the passion for another reason. If the apple grove is in fact attainable by Adams but, for whatever reason, Adams misjudges that he is unable to get it (by, e.g., misjudging his own or Steve's strength, perhaps because of Steve's "wiles"), then Adams might have the opinion of not attaining, in which case he would experience despair. Persons receive their experiences "from the natural objects of sense, which work upon [them] without passion or interest of their own."¹⁰² Yet, because of human fallibility, the

¹⁰⁰ "Nature hath made men so equal in the faculties of body and mind as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet when all is reckoned together the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit tow which another may not pretend as well as he" (*L*, 13.1, 74).

¹⁰¹ "And I found the reason was, that from a Community of Goods, there must needs arise Contention whose enjoyment should be greatest, and from that Contention all kind of Calamities must unavoidably ensue, which by the instinct of Nature, every man is taught to shun" (*De Cive*, D&P); "But the most frequent reason why men desire to hurt each other, ariseth hence, that many men at the same time have an Appetite to the same thing; which yet very often they can neither enjoy in common, nor yet divide it; whence it follows that the strongest must have it, and who is strongest must be decided by the Sword" (*De Cive*, 1.6); "And therefore if any two men desire the same thing, which neverthesse they cannot both enjoy, they become enemies" (*L*, 13.3).

¹⁰² *L*, 25.11, 169.

actually obtaining state of affairs is refracted through the fallible prism of individual opinion.

But, even if similar or identical *appetite-opinion* combinations can serve as “like occasions,” independent of any common object, does it follow that this is a sufficient foundation for Hobbes to build his civil science? It would seem not because, in Hobbes’s view—as indicated by his definition of the commonwealth—what distinguishes the condition of men in the commonwealth from the condition of men in the state of nature is not merely the having of sufficiently similar constitutions of appetite and reason. Rather, it is the collective pursuit of a common object, i.e., the common good of peace and security. For the good to be truly common, it must be an object capable of universally moving human appetites. The challenge is to find an object that can draw all men in spite of their diverse individual passions.

Similar appetite-opinion combinations, considered independently of the object moving the passion, cannot sufficiently ground Hobbes’s civil science for another reason. If our knowledge of human nature extended only to objectless passion descriptions and to no *normative* object of the appetite, then we would not be able to distinguish between rational and irrational passions. But Hobbes does think we can make such a distinction because he maintains that there is a distinction between correct and absurd opinions. For example, Hobbes discusses the “absurd opinion of the Gentilisme” in which there has been

almost nothing that has a name, that has not been esteemed amongst the Gentiles, in one place or another, a god or devil, or by their poets feigned to be inanimated, inhabited, or possessed by some spirit or other...Men, women, a bird, a crocodile, a calf, a dog, a snake, an onion, a leek, deified.¹⁰³

¹⁰³ *L*, 12.13-16, 67.

Fear, to recall, is a complex negative passion: aversion with the opinion of hurt. So Hobbes would be able to call irrational any person who feared a Leek deity more than he feared violent death. Inasmuch as the state of nature invites us to imagine a massive worst-case scenario in which all positive law and human authority are dissolved, it seems intended to uncover a normative, universal end upon which to reconstruct authority and law. In such a condition, says Hobbes, the end of persons, for all their diverse individual constitutions and education, would be “principally their own conservation.”¹⁰⁴ Why is that?

One possibility suggested by Hobbes is that this is would be due to a certain impulsion of nature “no less than that whereby a Stone moves downward.” But, if that were true in the state of nature, then wouldn’t experience in civil society confirm it, as our experience of civil society confirms the fear and mistrust of the state of nature? The quick answer is to compare the number of cases we have heard of rocks flying to the number of cases we have heard of folks committing suicide. Hobbes indeed recognized cases of men desiring death. For example, Hobbes tells us the story of ancient Ethiopian society that was a sort of ecclesiocracy in which priests had the power to anoint kings as chosen by the god.¹⁰⁵ Strikingly, priests would command kings to put themselves to death, and the kings would obey. This is just one example in which Hobbes admits that real persons have what Lloyd has called “transcendent interests”—interests for which they may be willing to lay down their lives.

One might object that the Ethiopian king example is atypical. Moreover, one might point out that the Ethiopian kings were “mastered by superstition” and so are not

¹⁰⁴ *L*, 13.3, 75.

¹⁰⁵ Hobbes, *Behemoth: Or, the Long Parliament*, ed. Ferdinand Tonnies (London: Simpkin, Marshall, and Co., 1889), 93-94.

fitting examples for confirming what man's principal end in the state of nature would be. Granting the force of this objection, it would be more fitting to find an example of Hobbes recognizing more common cases in which men are willing to lay down their lives and which might obtain in the state of nature. Indeed, we do find such an example regarding slander: "Most men would rather lose their lives (that I say not, their peace) than suffer slander;" "All signs of hatred, or contempt, provoke to fight; insomuch as most men choose rather to hazard their life, than not to be revenged;" "life itself, with the condition of enduring scorn, is not esteemed worth the enjoying, much less peace."¹⁰⁶ Indeed, honor plays a key role in generating conflict in the state of nature. Hence, Hobbes seems to recognize that whatever empirical necessity of desiring life obtains must be compatible with uncertain outcomes for any particular individual.

Another possibility may be that it will be *predominantly the case* that men will desire life in such a condition. Gregory Kavka has offered an interpretation of Hobbesian agents along these lines.¹⁰⁷ The trouble is that Hobbes's civil science requires an object capable of moving desire not predominantly, but universally. Hobbes's natural law teaching suggests as much. Since Hobbes's laws of nature are so many precepts directing human actions toward the good (the good that can be made common through commonwealth), and since the common good is an object capable of moving universally, then the natural law must bind universally. Hence, Hobbes holds that that the laws of nature are not only immutable and eternal, but also *universal*.¹⁰⁸ They are binding on all rational persons as such. Therefore, the laws of nature cannot depend on contingent, albeit predominant, desires for their universal validity.

¹⁰⁶ *De Cive*, 3.12; *L*, 15.20, 96; *EW IV*, 10 (*Elements of Law, Natural and Politic*, 16.11).

¹⁰⁷ See Kavka, *Hobbesian Moral and Political Theory*.

¹⁰⁸ *L*, 26.40, 186.

What is needed is an object that is objectively good, independent of contingent desires. Not only could such an object meet the universality criterion indicated by the laws of nature and the end of the commonwealth, but it can also function as the principle distinguishing rational and irrational passions.¹⁰⁹ That is, it can function as the criterion by which Hobbes can distinguish between normal and abnormal passions.

In this section, we have briefly sketched how Hobbes thinks *nosce teipsum* can yield knowledge of passion descriptions. Hobbes contends that we can introspect on our own passions and describe with a passion description what another is feeling when he says he *hopes*, *fears*, etc. But, we saw that this sort of knowledge is not in and of itself sufficient to ground his civil science. We have suggested that his definition of commonwealth and his understanding of the laws of nature require an object that is objectively good, independent of contingently felt passions.

For Hobbes, this object is identified by the basic judgment of right reason that *life is good*. Hobbes suggests as much when he identifies his two postulates of human nature, which are the deep, basic principles of the passions. The two postulates pick out the bare bones positive content of Hobbes's conception of human nature: the powers of reason and desire. It is necessary to turn to consider directly Hobbes's two postulates of human nature, which, because more fundamental than complex passions, are deeper foundational principles of Hobbes's moral and political philosophy.

I want to argue that Hobbes's two postulates of human nature and their function in the state of nature indicates that the two postulates are not absolute beginning points but must be understood within Hobbes's theistic and Christian framework. To build my argument, I first consider Leo Strauss's influential secularist interpretation.

¹⁰⁹ In a sense the end of commonwealth (barring a world state) is always "particular" in its less-than-universal membership. But the end of commonwealth, the common good of peace, is universal in the sense that it is always the end of anything that counts as a "commonwealth."

1.3 THE TWO POSTULATES OF HUMAN NATURE

Having defended Hobbes's foundationalism, we can now turn to consider directly the two postulates of human nature, the bare bones positive content of Hobbes's philosophical anthropology. To recall, Hobbes says that he obtained first, the postulate *cupiditatis naturalis*, whereby man demands private use of common things and second, the postulate *rationis naturalis*, which teaches man to avoid violent death or "fly contra-natural dissolution" [*mortem violentam*] as the greatest natural evil.¹¹⁰ I have argued that the warrant for these two postulates is the actually obtaining condition of reason and desire in all individual substances picked out by the word "man."

In this section, I shall first recount Strauss's secularist interpretation of the two postulates. I then argue that Strauss fails to make sense of the two postulates for a number of reasons that turn on a misinterpretation of Hobbes's teachings on human evil. I develop the *argument from evil* for the legal character of the natural laws and suggest that Hobbes's belief that there are evil people in the state of nature is better explained by the theistic interpretation. The character and role of the two postulates in the state of nature depends on a theistic framework. These considerations open the door to reconsidering the two postulates in light of Christian revelation, which I will argue provides Hobbes's ultimate foundation for the two postulates.

¹¹⁰ Tuck and Silverthorne translate the passage as follows: "Thus I obtained two certain postulates of human nature, on, the postulate of human greed, by which each man insists upon his own private use of common property; the other, the postulate of natural reason, by which each man strives to avoid violent death as the supreme evil in nature" (*On the Citizen*, 6). The translation in Molesworth runs thus: "Having therefore thus arrived at two maximes of humane Nature, the one arising from the concupiscible part, which desires to appropriate to it selfe the use of those things in which all others have a joynt interest, the other proceeding from the rationall, which teaches every man to fly a contre-naturall Dissolution, as the greatest mischiefe that can arrive to Nature" (*EW II*, vii).

Strauss's Interpretation of the Two Postulates

Hobbes's two postulates of human nature take center stage in Leo Strauss's well-known interpretation of Hobbes in his early *The Political Philosophy of Hobbes*, which sought to show the "moral basis" of Hobbes's political philosophy.¹¹¹ The heart of Strauss's argument is that Hobbes's political philosophy should not be taken to be simply a deduction from the materialistic and mechanistic doctrines of modern science.¹¹² Hence, Strauss sought to show how Hobbes's teachings about the nature of man stand on their own feet. The true basis of Hobbes's political philosophy was not modern science but his "fundamental view of human life." Animated by a particular "moral attitude" throughout his corpus, Hobbes formed his view of human life by reflection on his "actual experience of how men behave and in 'public conversation'" and his "first-hand experience of human life."¹¹³ Strauss identified some strong textual bases for this conception of Hobbes's moral and political thought as independent from modern science

¹¹¹ Leo Strauss, *The Political Philosophy of Hobbes*, trans. Elsa M. Sinclair (Chicago: University of Chicago Press, 1952), Chapter 2.

¹¹² Strauss, *The Political Philosophy of Hobbes*, ix. I focus here primarily on Strauss's interpretation of the two postulates in *The Political Philosophy of Hobbes*. I have not found evidence that Strauss fundamentally altered his understanding of the two postulates in later work, but I leave it as an open question as to how Strauss's other views on Hobbes evolved in his late work. For a discussion, see Thomas G. West "The Primacy of the Good in Hobbes's Political Philosophy: A Reconsideration of the Straussian View," Paper presented at the annual American Political Science Association, September 2005, revised September 2005-2011 (Personal Document Format). For clear statements of Strauss's intellectual development and his mature political thought on the whole, see, respectively, Daniel Tanguay, *Leo Strauss: An Intellectual Biography*, trans. Christopher Nadon (Yale University Press: 2007) and Thomas Pangle, *Leo Strauss: An Introduction to his Thought and Intellectual Legacy* (Baltimore: Johns Hopkins University Press, 2006). For a helpful discussion of Strauss's work on Hobbes within the context of his larger project, see Devin Stauffer, "Reopening the Quarrel between the Ancients and the Moderns: Leo Strauss's Critique of Hobbes's 'New Political Science'" *American Political Science Review* Vol. 101, No. 2 (May 2007), 223-233.

¹¹³ Strauss, *The Political Philosophy of Hobbes*, x; 29. In his Letter to Hans-Georg Gadamer and Gerhard Krüger, in which Strauss describes the theses of his book, Strauss puts the point this way: "in order to assess Hobbes's significance, it is essential to figure out what is for him the decisive *outlook* [*Gesinnung*]..." See Strauss, *Hobbes's Critique of Religion and Related Writings*, translated and edited by Gabriel Bartlett & Svetozar Minkov (Chicago: University of Chicago Press, 2011), 160.

(or their explanation in terms of modern science), particularly Hobbes's repeated appeals to the reader's own experience to confirm his teachings.¹¹⁴

According to Strauss, the first postulate of human nature should not be understood as a faculty simply jerked this way and that by external sensory stimuli. Natural desire cannot be explained by the mechanisms of matter in motion successively operating on sense perception. Whereas animals can only desire finite particulars, human appetite is *spontaneously infinite* in itself.¹¹⁵ As such, human appetite cannot be identified with bestial animal appetite since the latter can only desire finite particulars while man spontaneously desires infinitely. In making this interpretive claim, Strauss leans on the following passage from Hobbes's *Decameron Physiologicum*:

But know you not that men from their very birth, and naturally, scramble for every thing they covet, and would have all the world, if they could, to fear and obey them?¹¹⁶

Whereas a child's desire for this toy or that cup of juice can be explained by the child's sense impressions of those objects, the impressions of finite particulars cannot explain a desire to rule the world because beasts also perceive and desire particular objects and do not desire this dominion. Hence, Strauss concludes that this desire is fundamental and *sui generis*—it “arises from the depths of man himself.”¹¹⁷ Moreover, this irrational desire for power after power is based not on successive sense impressions but “in the pleasure which man takes on the consideration of his own power, i.e. in vanity. The original of man's natural appetite is, therefore, not perception, but vanity.”¹¹⁸

¹¹⁴ See *De Corpore* I.6.6-7 in *English Works* (hereinafter *EW*), ed. Molesworth, I, 72-3; *De Cive* Preface to the Reader, ed. and tr. Richard Tuck and Michael Silverthorne (Cambridge: Cambridge University Press, 1998), 13; *Leviathan*, 2. Cf. Strauss, *Political Philosophy of Hobbes*, 6-7.

¹¹⁵ Strauss, *The Political Philosophy of Hobbes*, 9.

¹¹⁶ *EW* VII, 73.

¹¹⁷ Strauss, *The Political Philosophy of Hobbes*, 11.

¹¹⁸ Strauss, *The Political Philosophy of Hobbes*, 11.

Vanity is the true “root of natural appetite.”¹¹⁹ For Strauss’s Hobbes, then, vanity is a basic feature of human nature, independent of man’s contingent sense experiences. Unchecked, vain or prideful man is apt to get caught up in the struggle to be first in the race of life and forget about his basic bodily fragility. Man manifests his vanity particularly in his own dream-world:

Living in the world of his imagination, he need do nothing, in order to convince himself of his superiority to others, but simply think out his deeds for himself; in this world, in which indeed ‘the whole world obeys him’, everything is accomplished according to his wishes.¹²⁰

In other words, “man by nature lives in the dream of the happiness of triumph.”¹²¹ Man needs a jolt to shake him out of this dream.

The second postulate of man’s reason provides the needed jolt. By this postulate, reason sees life as the primary and most urgent good. But, for Strauss’s Hobbes, reason is itself impotent and must serve at the altar of the passions. I have called this the *impotent thesis*. On this reading, reason could not even see the goodness of life “if the passion of fear of death did not compel him to do so.”¹²² More precisely, it is the present, powerful fear of *violent* death—a mutual fear of all men of each other as their potential murderers. Men come to feel the powerful pull of this passion once the *bellum omnia contra omnes* has obtained in the state of nature which, on Strauss’s retelling, is generated by a series of events following from the vain man’s stepping outside of his own imagination to demand recognition of his superiority in reality. As a passion, the fear of violent death is nonrational in origin but is rational in effect inasmuch as it tempers or quashes the desire to dominate and serves as the first premise whence Hobbes deduces all

¹¹⁹ Strauss, *The Political Philosophy of Hobbes*, 18.

¹²⁰ Strauss, *The Political Philosophy of Hobbes*, 19.

¹²¹ Strauss, *The Political Philosophy of Hobbes*, 19.

¹²² Strauss, *The Political Philosophy of Hobbes*, 15. Cf. Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 201.

of morality and constructs a rational state. The upshot is that fear of violent death is the postulate of natural reason—Hobbes “identifies reason with fear.”¹²³

In sum, Strauss understands the two postulates that ground Hobbes’s political philosophy as the antithesis of irrational vanity and rational fear, Strauss’s Hobbes intends this polarity of basic features of human nature as a moral judgment such that his political philosophy flows from the antithesis between fundamentally unjust vanity and fundamentally just fear.¹²⁴ These antithetical postulates characterize Hobbes’s fundamental moral outlook.¹²⁵ As mentioned, the postulates ultimately depend on self-knowledge and self-reflection for their corroboration.

Notably, Strauss maintains that Hobbes “could not make up his mind explicitly to take as his point of departure the reduction of man’s natural appetite to vanity.”¹²⁶ Hobbes’s indecision is supposedly due to the fact that the proposition that “man by nature finds his pleasure in triumphing over all others” entails “man is by nature evil”—and Hobbes “did not dare to uphold this consequence or assumption of his theory.”¹²⁷ Yet, Hobbes in fact held, by the first postulate, that man is by nature evil—without this postulate Hobbes’s political philosophy “would lose all its character.”¹²⁸ So, it was only rhetorically that Hobbes sought to obscure the implications or true character of his premises. Man’s natural vanity and hence natural evil is put “more and more in the

¹²³ Strauss, *The Political Philosophy of Hobbes*, 150.

¹²⁴ Strauss, *The Political Philosophy of Hobbes*, 27. Similar statements in later works include: *Natural Right and History* (University of Chicago Press, 1953): “Natural law must be deduced from the most powerful of all the passions...the fear of violent death at the hands of others” (180); “Vice for all practical purposes becomes identical with pride or vanity” (188); *What is Political Philosophy?* (Illinois: The Free Press, 1959): “Fear and glory are both equally natural, yet fear is the natural root of justice and glory is the natural root of injustice” (192); *An Introduction to Political Philosophy*: “Hobbes conceives of man in terms of a fundamental polarity of evil pride and salutary fear of violent death” (83).

¹²⁵ See also Strauss, *Hobbes’s Critique of Religion and Related Writings*, 160.

¹²⁶ Strauss, *The Political Philosophy of Hobbes*, 12.

¹²⁷ Strauss, *The Political Philosophy of Hobbes*, 13.

¹²⁸ Strauss, *The Political Philosophy of Hobbes*, 3.

background in favor of innocent competition, innocent striving after power, innocent animal appetite” but Hobbes finally is unable to “make us forget that man does not happen to be an innocent animal.”¹²⁹ In the *De Cive* passage where Hobbes defends against the charge that his teaching would imply man is by nature evil, he says that such a claim “cannot be conceded without impiety.”¹³⁰ Strauss’s suggestion is that, in the context of religious scrutiny, Hobbes exercised caution by gilding the poison ivy. While Strauss’s view of Hobbes’s theological views seemed to evolve over time,¹³¹ he was convicted in his early work of Hobbes’s unbelief and the political reasons for which Hobbes “hid his true opinions and was mindful of the maintenance of theological convention.”¹³² The suggestion is that Hobbes’s professions of Christian theism were not offered as genuine constituents of his political philosophy but as a genuflection to the religious authorities of his time. This is a clear statement of the concealment thesis.

The point is significant for understanding Hobbes’s two postulates inasmuch as they are laid bare in man’s natural condition, i.e., the state of nature. In Strauss’s view, Hobbes’s unbelief “is the necessary premise of his teaching about the state of nature.”¹³³ Strauss tells us that everyone knows that the antithesis between vanity and fear is the secularized version of the antithesis between spiritual pride and fear of the Lord. But, so far from being the mere residue of the Christian tradition, the state of nature and its sister human nature teachings are intended to overthrow the biblical teaching of God’s creation of man in a state of perfection because Hobbes drops the division between a state of

¹²⁹ Strauss, *The Political Philosophy of Hobbes*, 14.

¹³⁰ *De Cive*, Preface, 11.

¹³¹ As Daniel Tanguay points out, “in the course of his works Strauss asserts Hobbes’ atheism with increasing clarity, by the end holding him to be a ‘blasphemer.’” See *Leo Strauss: An Intellectual Biography*, 109-110. Still, it should be noted that it is disputed among interpreters of Strauss whether or not Strauss really did evolve on this point. I thank Devin Stauffer for pointing this out to me.

¹³² Strauss, *The Political Philosophy of Hobbes*, 75.

¹³³ Strauss, *What is Political Philosophy*, 189-90.

nature in the condition of grace and a state of fallen nature. Hence, whether or not Hobbes denies it in fact, he denies the importance of the Fall of Man.¹³⁴

Let us now turn and consider the problems with Strauss's interpretation.

A Critique of Strauss

In this section, I make three arguments in critique of Strauss's reading of Hobbesian man as naturally evil. First, man is not *by nature* evil, in Hobbes's notion of the natural as the infantile, because the desire for absolute dominion is not even minimally in act from birth. Second, vainglory is not a universal feature of people in the state of nature. I then argue that Hobbes's belief that there are evil persons in the state of nature actually requires a theistic framework because evil presupposes breach of law, and God secures the legal character of the laws of nature, *in foro interno*.

We are initially struck by Strauss's claim that Hobbesian man is vain *by nature* when the natural is understood as the innate or infantile (Hobbes uses "by nature" in the sense of the infantile in his Preface to *De Cive*). Besides Hobbes's own *denial* that his teaching entails this proposition (we shall examine Hobbes's denial momentarily), the initial trouble with the claim is that the desire for the kind of preeminence and recognition suggested in the notion of having the "whole world" fear and obey one cannot be *in act* from birth. Such a desire depends on the active capacity to reason. Let us see why.

On Hobbes's terms, the notion of absolute command over the whole world logically presupposes a peculiarly human understanding of effects and causes. That is,

¹³⁴ Strauss, *The Political Philosophy of Hobbes*, 28; Strauss, *An Introduction to Political Philosophy: Ten Essays by Leo Strauss* (Detroit: Wayne State University Press, 1989), 83; *Natural Right and History*, 184.

when imagining absolute dominion, humans would “seek all the possible effects, that can by it be produced; that is to say, we [would] imagine what we can do with it, when we have it.”¹³⁵ This sort of quality distinguishes the nature of man from “the nature of any living creature that has no other passion but sensual, such as are hunger, thirst, lust, and anger.”¹³⁶ Hobbes’s suggestion is that such imagining presupposes the active capacity to reason about effects. The distinctive nature of man is also manifest in his inquisitiveness or “desire of knowing causes”—a “peculiar quality” that is “not to be found in other living creatures.”¹³⁷ Knowledge of causes, Hobbes indicates, would be sought by the dominion-seeker inasmuch as he seeks to order affairs to his advantage.¹³⁸ But, since for Hobbes knowledge of causes comes by the distinctively rational power of ratiocination—in distinction with the knowledge available through “sense and memory of things, which are common to man and all living creatures,”—the fulfillment of the desire to know causes presupposes active reasoning capacity.¹³⁹ Moreover, the desire to know causes presupposes that the agent reckons such knowledge good.¹⁴⁰ There is a hint of this in Hobbes’s comment that it is “anxiety of future time” that “disposeth men to enquire into the causes of things: because the knowledge of them, maketh men better able to order the present to their best advantage.”¹⁴¹

¹³⁵ The full sentence is: “The other is, when imagining any thing whatsoever, we seek all the possible effects, that can by it be produced; that is to say, we imagine what we can do with it, when we have it” (*L*, 3.5, 13). Absolute dominion is obviously something that is included in the set of “any thing whatsoever.”

¹³⁶ *L*, 3.5, 13.

¹³⁷ *L*, 12.1, 63.

¹³⁸ *L*, 11.24, 62.

¹³⁹ *De Corpore* I.1.2 in *EW I*, 3.

¹⁴⁰ *L*, 6.7, 28.

¹⁴¹ *L*, 11.24, 62. The passage could be accurately re-described thus: it is the desire of a distant future apparent good (and/or corresponding aversion from a distant apparent evil) that disposes men to inquire into causes.

By connecting anxiety with ordering one's affairs, Hobbes indicates that the active desire to know causes depends on the ability to reason since infants and madmen are not able to order their own affairs.¹⁴² Therefore, Hobbes's view is that the peculiarly human desire to know causes and effects cannot occur until the age of reason or the age in which one can be provident for oneself and others. In short, the desire for absolute rule over the whole world could only be actual in one who can imagine all the possible effects of dominion and inquire into the causes of things in order to better order things toward one's dominion. The desire for absolute dominion could only be actual in those who can actively reason.

But if this is the case, then the cupidity innate to man from birth cannot be equated with an actual desire for absolute rule over the world.¹⁴³ It cannot even be inchoate since that would be a desire of the same kind minimally in act. And, if it depends on being able to actively reason, then inasmuch as one rightly reasons, one will not have this vain desire. Thus, I contend that there is an interpretation of the desire for dominion passage that is more fitting. To recall:

¹⁴² It also suggests that man's peculiar foresight comes with reason—and Hobbes counts “foresight of the time to come” as a feature that distinguish human from animal nature (*L*, 12.4, 63).

¹⁴³ It might be replied: why can't the situation be like that of the bird whose wings take time to grow? Just because birds can't fly from birth, so the argument goes, no one would deny that their capacity for flight is innate. This argument fails because the capacity for flight in a bird is disanalogous to the capacity in man to act evil. The former is a power of the bird that is oriented toward its flourishing and, when properly functioning, is constitutive of its flourishing. The latter is not a power ordered toward the flourishing of the person but the capacity of the person to misuse his or her powers, for appetites to be indulged outside the bounds of reason. In other words, the bird is properly functioning, it is living a happy bird life, when its power of flight becomes an active potentiality. But, evil acts are not the products of properly functioning powers, but are products of the dysfunction of reason and appetite. The corollary of dysfunctional powers is that the evil person is not flourishing. For Hobbes, evil acts are unreasonable (as I go on to outline), and hence entail a malfunction of reason and/or appetite. A dysfunctional person is one whose appetites are unruly, untamed by practical reason.

But know you not that men from their very birth, and naturally, scramble for every thing they covet, and would have all the world, if they could, to fear and obey them.¹⁴⁴

By the spark of cupidity men have from birth, they scramble for *every thing* they covet. Because one cannot actively reason from birth, one's desires are going to be similar to those of irrational animals. Actual desires will always be for basic human needs and take immediate goods and from immediate evils for their objects. They will be very much like the beasts' desires for "quotidian" objects like food and ease.¹⁴⁵ This is not a whitewashing of cupidity but simply recognition that the very young lack the habits of virtue (as picked out by the laws of nature) necessary to check cupidity inasmuch as they lack the active capacity to reason. Hence, the first part of the sentence expresses a coherent thought in itself, and is compatible with what Hobbes thought must be true of creatures without the active capacity to reason. The "and" in the passage above signifies the beginning of a conjoined but distinct thought regarding men with the active capacity to reason—and hence able to form the desire to dominate the world—but who are childish. Those whose spark of cupidity is not tamed and educated by right reason will, in Hobbes's words, be "rather like a sturdy boy, or a man of childish mind."¹⁴⁶ One who has the vain and tyrannical desire to rule the world is, in other words, a childish person whose reason is dominated by his cupidity or unruly passions.¹⁴⁷ According to Hobbes, such a person is "an evil man."¹⁴⁸

Neither does Hobbes claim that men are evil by nature, when "by nature" is taken in the sense of men in the state of nature, i.e., without the rule of law. If Hobbes thought

¹⁴⁴ *EW VII*, 73.

¹⁴⁵ *L*, 12.4, 63.

¹⁴⁶ *De Cive*, Preface, 11.

¹⁴⁷ This is compatible with the idea that the dominion-seeker's cupidity is caught up in and transformed by reason to become "infinite" or transcend mere immediate external sensory stimuli.

¹⁴⁸ *De Cive*, Preface, 11.

men were by nature evil because by nature vainglorious, we would expect vainglory to be a *universal* feature of men in the state of nature. But Hobbes's presentations of the state of nature never make this claim. Recall that Hobbes says: "there be *some*, that taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires... (emphasis mine)."¹⁴⁹ Hobbes always distinguishes between the "temperate" or "moderate" man and the vainglorious in the state of nature.¹⁵⁰ (If, as we shall argue, reason is not the mere calculating slave of the passions, then this distinction tracks the reasonable and unreasonable residents in the state of nature.)

Moreover, if all men were living in a vainglorious dreamworld in the state of nature, conflict would never be generated. To take pleasure *imagining* one's own power and ability is glorying. If this imagining is "grounded upon the experience of his own former actions it is the same as confidence."¹⁵¹ When it is "only supposed by himself, for delight in the consequences of it" is it *then* called vainglory. Hobbes distinguishes between confidence and vainglory because "confidence begetteth attempt; whereas the supposing of power does not, and is therefore rightly called *vain*."¹⁵² Taken in conjunction with Hobbes's account of the state of nature, it would seem that it is not *vainglory*, but confidence that begets further acts of conquest.¹⁵³ A condition entirely made up of merely vainglorious men would never become a war of all against all.

Let us now recall the passage where Hobbes denies that men are by nature evil: Still less does it follow that those who are evil were made so by nature. For although they have from nature, i.e. from their birth itself, from the fact that they are born animals [*animalia*], this characteristic, that they immediately want what pleases them and do whatever they can, in fear or anger, either flee or to ward off

¹⁴⁹ *Leviathan*, 61.

¹⁵⁰ Cf. *De Cive* 1.4; *Elements of Law: Natural and politic* 14.3.

¹⁵¹ *L*, 6.39, 31.

¹⁵² *L*, 6.39, 31.

¹⁵³ This does not deny that the confident man in the state of nature has a deeper desire for absolute dominion.

the evil that threaten them, they are not normally thought to be evil on that account. For the passions [*affectus animi*] which arise from animal nature [*animalia*] are not themselves evil, though the actions that proceed from them sometimes are, namely when they are harmful and contrary to duty.¹⁵⁴

As we have seen, Strauss maintains that Hobbes conflates man's natural vanity with innocent animal appetite. But Strauss's interpretation does not account for the immediate sequel to the passage in which Hobbes indicates the conditions in which the notions of blame and innocence are applicable.

Infants, Hobbes tells us, are apt to cry, get angry, and even strike their parents unless they get whatever they want. But they are free from *culpa* because they are not subject to duty. They are not subject to duty because they have not reached the age of *reason*. Hence, they are not naturally evil. Blameworthiness and evil are concepts inapplicable to infants. Therefore, it makes no sense to say that man *by nature* in the sense of *infantile* is evil. *Blame and evil presuppose breach of the law*. And before the age of reason, neither positive law nor natural law binds man: "Over natural fools, children, or mad-men there is no law, no more than over brute beasts."¹⁵⁵ Hence, "The desires, and other passions of man, are in themselves no sin. No more are the actions, that proceed from those passions, till they know a law that forbids them."¹⁵⁶ Man becomes evil when passion is not well educated or subject to the dictates of right reason or the natural law. Such a person's reason is dominated by unruly passion: "Thus an evil man is rather like a sturdy boy, or a man of childish mind, and evil is simply want of reason at an age when it normally accrues to men by nature governed by discipline and experience of harm."¹⁵⁷ Hobbes concludes that unless we are willing to say that "men

¹⁵⁴ *De Cive*, Preface, 11; cf. *Elementorum Philosophiae Sectio Tertia De Cive*, Prefatio ad Lectores in *OL*, ed. Molesworth, II, 147.

¹⁵⁵ *L*, 26.12, 77.

¹⁵⁶ *L*, 13.10, 77.

¹⁵⁷ *De Cive*, Preface, 11.

were made evil by nature simply because they do not have discipline and the use of reason from nature, it must be admitted that they can have greed, fear, anger, and all the other animal passions from nature, but still not be made evil by nature.”¹⁵⁸

Now, Strauss denies that the laws of nature are really laws prior to civil law and so would deny that passion need come under the guidance of law with the age of reason.¹⁵⁹ But such a view *cannot explain the existence of evil persons in the state of nature*. The existence of such persons is supposed in Hobbes’s presentation of the state of nature in the *Preface to De Cive*:

For we cannot tell the good and the bad apart, hence even if there were fewer evil men than good men, good, decent people would still be saddled with the constant need to watch, distrust, anticipate, and get the better of others, and to protect themselves by all possible means.¹⁶⁰

I suggest that the only way we can make sense of Hobbes’s claim that there are evil people in the state of nature is that the laws of nature—the dictates of *right reason*—are truly *laws*. Since there are good reasons to think Hobbes held forth his theological views sincerely, then we ought to take seriously Hobbes’s repeated assertions that the laws of nature are immutable and eternal and that God’s command secures their legal character.¹⁶¹ They bind immutably and eternally *in foro interno*, “that is to a desire that

¹⁵⁸ *De Cive*, Preface, 11.

¹⁵⁹ Strauss, *The Political Philosophy of Hobbes*, 24; *Natural Right and History*, 180-2.

¹⁶⁰ Cf. *L*, 13.10 and 13.13, 77-78. Some would take these passages to reject the view of the *De Cive* passage. But I believe that nothing in these passages denies the existence of evil persons in the state of nature. When Hobbes refers to justice and injustice here, he is referring to the technical definition of justice created by *positive* law—he is not denying the existence of prior standards of natural law and equity, and therefore countenances the possibility of their breach. See also, Chapters 2 and 6, below.

¹⁶¹ *Leviathan* (ed. 1651), 79, 144, 148, 150, 152, 318; cf. 80 with 187. Of course there have been scores of works by non-Straussian scholars who have denied the ultimate legal character of the laws of nature but *not* on the basis of the claim that Hobbes is really an atheist. Scholars who argue along these lines typically admit, if only for the sake of argument, that Hobbes probably was a theist, but contend that God plays no substantive role in Hobbes’s moral and political philosophy and hence that God is practically severable from Hobbesian natural law theory. Examples include David Gauthier, *The Logic of Leviathan* (Oxford: Clarendon Press, 1969), 70; J.W.N. Watkins, *Hobbes’s System of Ideas*, 55-68; Gregory Kavka, *Hobbesian Moral and Political Theory*; 362-3; Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge:

they should take place.” And since the fundamental law of nature is *to seek peace*, man is always bound to desire peace, *in foro interno*. When peace cannot be had, the natural law permits defensive measures that would include a measure of aggression on the best-defense-is-a-good-offense principle. But, one is always bound to seek peace when it can be had, and warlike measures must be instrumental to establishing security. Those who desire war to sate their rapacious appetites or their lust for glory are in breach of this basic duty to will peace when it can be had—they are *evil*. We shall build the case for the legal character of the laws of nature in Chapter 2 and explain further how Hobbes understands God’s command to secure the legal character of the dictates of right reason.

For the moment, the point is that when people are of the age of reason, they are subject to the natural law in a way such that they can be *evil* and subject to *blame*. Hence, Hobbes includes among the sources of crime a “sudden force of passion” and goes on to speak of passions being a cause of crime.¹⁶² The suggestion is that man is only evil when passion is untamed by right reason.

Our explanation of why man is not naturally evil has suggested that Hobbes gives reason a greater dignity in human nature than Strauss allows. Indeed, the immediate sense of the two postulates passage is that the untutored spark of concupiscence generates war, while the direction of reason leads to peace. Is not Hobbes distinguishing between reason and desire in a way that indicates reason is not or need not be a slave to the passions? As Bernard Gert has argued, the passage may just as faithfully be taken to express the judgment of practical reason as to the goodness of human life, that *bonum*

Cambridge University Press, 1986), 96. In my view, A.P. Martinich has effectively identified the manifold textual and historical problems facing the practical severability thesis and they need not be recounted in detail here. See generally A.P. Martinich, *The Two Gods of Leviathan*.

¹⁶² *L*, 27.4, 191; 27.13, 194. Hobbes seems to contradict himself when he speaks of vain glory in this passage differently than he did before.

maximum.¹⁶³ On this reading, the goal of practical reason, to “fly contra-natural dissolution,” is independent of the contingent desires of natural cupidity.¹⁶⁴ Fear—a complex negative desire (aversion with the opinion of hurt)—in the form of fear of violent death would then be parasitic on the (reasonable) desire to preserve one’s life. The role of the passion of fear can be understood as derivative of right reason’s judgment. Moreover, that which right reason judges to be good is pursued with right.¹⁶⁵ Since right reason in the lawless condition judges the good of life to be basic, it is “not therefore absurd, nor reprehensible, nor contrary to right reason, if one makes every effort to defend his body and limbs from death and to preserve them,” as long as one desires peace when it might be had.¹⁶⁶ Hence, the right of nature is defined as “the liberty each man hath to use his own power, as he will himself, for the preservation of his own nature, that is to say, his own life.”¹⁶⁷ Hobbes’s moral and political doctrines can be deduced from the fundamental judgment of reason as to the primary goodness of life. We shall defend further an objectivist reading of Hobbes’s doctrine of the good in Chapters 2 and 3.

For the moment, notice that Hobbes’s *moral view* of human nature is intended to pass a moral judgment on vanity or pride. If the postulates of human nature were taken to be beginning points *full stop*, then nothing would warrant such a moral judgment. As Strauss recognizes, Hobbes intends to pass moral judgment on vanity or pride. Hobbes condemns the prideful man in the state of nature, who supposes himself superior to all

¹⁶³ Bernard Gert, “Hobbes on Reason”; *Hobbes: Prince of Peace* (Polity, 2010). *De Homine* 11.6 in *OL*, ed. Molesworth, II, 98.

¹⁶⁴ As translated in *Philosophical Rudiments concerning Government and Society*, Epistle Dedicatory in *EW* II, vii. Bernard Gert has developed a powerful argument along these lines for a *complex* view of Hobbesian reason that is more than a merely reckoning or computing power. The power of Hobbesian practical reason includes the power to set its own goals. See generally Bernard Gert, *Hobbes: Prince of Peace* (Cambridge: Polity Press, 2010) and at 73.

¹⁶⁵ *De Cive* 1.7, 27.

¹⁶⁶ *De Cive* 1.7, 27.

¹⁶⁷ *L*, 14.1, 79.

others and seeks dominion with the intention of glory; in contrast, the temperate man's willingness to commit acts of violence is not condemned because it derives from an intention to defend himself, his family, and his goods.¹⁶⁸ In contrast with the temperate man, the prideful man is *evil* because he intends war in breach of natural law.

It should be apparent now why Strauss's secularist reading fails as a sound interpretation of Hobbes's two postulates and their role in the state of nature. Strauss's interpretation cannot explain why the condemnation of the prideful man *as evil* is warranted on atheistic grounds. On the atheistic interpretation, morality does not bind with the force of law (*in foro interno*) in the state of nature, i.e., the condition in which human law has been dissolved. Indeed the dictates of reason that bind one *in foro interno* to seek peace (and forbid pride) could never be more than recommendatory prior to or independent of human positive law. Such a view cannot explain Hobbes's moral condemnation of vanity in and out of the state of nature. Neither could it explain Hobbes's condemnation of the Foole, whose denial of any immutable and eternal standard of justice entails his willingness to commit acts of injustice if it he calculates the consequences are to his advantage. The force of this point is not diminished by the fact that Hobbes condescends to argue with the Foole on his own terms.

In contrast, the interpretation of Hobbes as sincere in his profession of Christian theism can explain Hobbes's moral convictions. The legal character of the dictates of right reason, prior to civil law, has a rational warrant, on Hobbes's own terms, in the notion of God's "rational word," to which corresponds the hearing of right reason. Meanwhile, Hobbes's theory of God's "prophetic word," to which corresponds the hearing of faith, offers a supra-rational warrant or ultimate ground for the two postulates

¹⁶⁸ *De Cive*, 1.4.

of human nature. Hobbes insists that, while God’s prophetic word is above reason, it is not contrary to reason.¹⁶⁹ Since God’s prophetic and rational word are harmonious—God is not double-tongued—it follows faith does not contradict or annul reason. For the Jews, God’s prophetic word consists in the words of the Old Law and the Prophets and for Christians it also includes (and terminates) in the words of Christ and his apostles as recorded in Holy Scripture. Hence, the only way that Scripture and reason can conflict is by “erroneous ratiocination.”¹⁷⁰ On the Judeo-Christian view, the basic postulates of human nature are not mere fact-judgments or the ineradicable features of human essence in a godless universe. Rather, I shall argue in the next section that Hobbes holds a biblical anthropology that indicates the principles in man were created in harmony under God’s law and became disharmonious after man’s rebellion.

1.4 REASON AND DESIRE AFTER THE FALL OF MAN: THE BIBLICAL GROUND FOR THE TWO POSTULATES

If Hobbesian practical reason is not a mere slave to the passions but capable of taming cupidity in line with its own goals and if Hobbes is sincere in his theology (natural and revealed)—if, in other words, the interpretive work of scholars like Gert and Martinich has been successful—then, for all of his vociferous criticism of scholasticism, Hobbes’s teaching has striking similarities with the view held in the older Christian tradition. In this section, I offer a brief sketch of how a rereading of Hobbes’s two postulates in light of the Christian tradition would look. I suggest that, in limning the unruly spark of appetite when it is not subject to reason, Hobbes is in his own way making an essentially Pauline point that was fruitfully developed by Thomas Aquinas.

¹⁶⁹ *L*, 32.2, 245-6.

¹⁷⁰ *L*, 31.4, 235; 32.9, 249.

Paul famously remarked, “I see another law in my members, fighting against the law of my mind and captivating me in the law of sin that is in my members.”¹⁷¹ Aquinas was concerned to make sense of the Apostle’s claim that he found a *law* in the movements of sensuality or the *fomes* (kindling) of sin. How could there be a “law of sin” if law is essentially *aliquid rationis* or something of reason?¹⁷² Aquinas’s solution was that the “law of sin” was a punishment for man’s disobedience. To understand Aquinas’s answer, recall that, while both Aquinas and Hobbes affirm God providence over all things, they both distinguish the character of God’s rule over man from God’s rule over irrational things. For Aquinas, man’s subjection to God’s reign is the focal case of rule by law since to be properly subject to law requires knowledge of the precept.¹⁷³ Aquinas and Hobbes are in full agreement that promulgation is a necessary condition for something to be law—“law made, if not also known, is no law.”¹⁷⁴ Aquinas points out that one of the effects of knowledge of the precept will be fear of punishment, “which the law makes use of in order to ensure obedience.”¹⁷⁵ But the notions of precept, obedience, and punishment cannot be addressed to irrational animals or any nonrational being. Hence, irrational animals are subject to the eternal law only *per similitudinem*.¹⁷⁶ Hobbes makes the same point this way:

But to call this power of God, which extendeth it self not only to man, but also to beasts, and plants, and bodies inanimate, by the name of kingdom, is but a metaphorical use of the word. For he only is properly said to reign, that governs his subjects, by his word, and by promise of rewards to those that obey it, and by threatening them with punishment that obey it not. Subjects therefore in the

¹⁷¹ Romans 7:23.

¹⁷² Thomas Aquinas, *Summa Theologiae* (hereinafter *ST*) I-II, 90.1.

¹⁷³ *ST* I-II, 91.2; *Quaestiones Disputate De Veritate* 17.3.

¹⁷⁴ *Leviathan*, 140 (marginal note).

¹⁷⁵ *ST* I-II, 92.2.

¹⁷⁶ *ST* I-II, 91.2 ad. 3.

kingdom of God, are not bodies inanimate, nor creatures irrational; because they understand no precepts as his.¹⁷⁷

So it is only by way of similitude or metaphorically that there is said to be a “law” of the beasts because God governs or moves these creatures, but not by way of commanding precepts.¹⁷⁸ Aquinas points out that we observe variegated orders of human positive law that may have conflicting demands. For example, the demands and permissions of local criminal law differ from the demands and permissions of diplomatic law. Similarly as we observe variegated and even rival behavior in the animal kingdom, we can speak of, say, fierceness as the “law” of the wolf or meekness as the “law” of the sheep. But, inasmuch as irrational beasts are *generally* under the impulse of sensual appetite, animal appetite has the character of law in the way described.

Now, in distinction from all the beasts, it is the law of man, in his *proper condition* (which for Aquinas is also his primordial condition), to order his actions in accord with reason.¹⁷⁹ It had been held in the Christian tradition that man’s proper condition was a state of original justice, a condition in which man was perfectly subject to God and the lower powers of the soul were perfectly subject to reason.¹⁸⁰ When man turned away from God,

he fell under the influence of his sensual impulses: in fact this happens to each one individually, the more he deviates from the path of reason, so that, after a fashion, he is likened to the beasts that are led by the impulse of sensuality, according to Psalm 48:21: ‘Man, when he was in honor, did not understand: he hath been compared to senseless beasts, and made like to them.’¹⁸¹

Man comes to be compared to the beasts inasmuch as he acts on his sensuality unreasonably. But where the impulse of animal appetite has the *rationem legis* directly

¹⁷⁷ *L*, 31.2, 234.

¹⁷⁸ Cf. *EW* V, 105.

¹⁷⁹ *ST* I-II, 91.6.

¹⁸⁰ *ST* I, 95.1.

¹⁸¹ *ST* I, 91.6.

from God's movement of irrational animals, it has the character of law in man indirectly as a deviation from the law of reason. This is because the sovereign can deprive one from the dignity of some higher order of law and thereby place him under a lower order of law. For example, a sovereign could strip his diplomat of his status and hence the protection of diplomatic immunity. Analogously, by God's just sentence, man is punished for his disobedience by being deprived of his proper dignity such that the spark of cupidity now has in man the *rationem legis*, by way of penalty.

After the Fall, man is in a wounded condition. For Aquinas, revelation illuminates the insights into human nature available to unaided reason. Without the aid of revelation, Aristotle had observed that reason has a royal and politic rule of the passions in distinction with a despotic rule.¹⁸² Aquinas explains Aristotle's insight as follows. Despotic rule is that sort of rule exercised over slaves "who have not the right to resist in any way the orders of the one that commands them, since they have nothing of their own."¹⁸³ But subjects in a royal or politic order are free. They are subject to the command of the sovereign but they retain something of their own by which they can resist his commands. Analogously, appetite can resist the dictates of reason inasmuch as we sense or imagine something pleasant which reason forbids or something unpleasant which reason demands. By expounding Aristotle's insight in the context of commenting of Paul's *fomes dictum*, Aquinas suggests that, by grace, reason ruled the passions despotically in Eden and that it was the Fall that liberated sensuality.¹⁸⁴ Aquinas captures

¹⁸² Aristotle, *Politics*, trans. Peter L. Simpson (University of North Carolina Press: 1997), 1254b2-4.

¹⁸³ ST I, 81.3 ad. 2.

¹⁸⁴ But, it might be objected on the basis of Genesis 3:6: wasn't it Eve's imagination of the taste of the forbidden fruit and, hence, animal passion that inclined her to sin against God's decree? Not according to St. Thomas. The deception of Eve and her subsequent eating of the fruit followed upon a first act of disobedience which was an interior act of pride, of inordinate self-love. It was sheer turning of the will away from God to self. As Augustine put it: "the woman could not have believed the words of the serpent, had she not already acquiesced in the love of her own power, and in a presumption of self-conceit" (ST I 94.4).

the idea of liberated sensuality with various terms: concupiscence, the *fomes* of sin, or *cupiditas*.¹⁸⁵ The consequence of original sin is the inordinate spark of desire.

Now, Hobbes also took on faith the creation of man in a condition of happiness and the subsequent Fall of Adam and Eve:

From the very creation, God not only reigned over all men naturally by his might; but also had *peculiar* subjects, whom he commanded by a voice, as one man speaketh to another. In which manner he reigned over Adam, and gave him commandment to abstain from the tree of cognizance of good and evil; which when he obeyed not, but tasting thereof, took upon him to be as God, judging between good and evil, not by his Creator's commandment, but by his own sense, his punishment was a privation of the estate of eternal life, wherein God had at first created him.¹⁸⁶

Hobbes describes in more detail what the original condition was like:

man was created in a condition immortal, not subject to corruption, and consequently to nothing that tendeth to the dissolution of his nature; and fell from that happiness by the sin of Adam.¹⁸⁷

Hobbes gives us here a strikingly different picture of man's original condition than the picture conveyed by his various presentations of the state of nature.¹⁸⁸ Read in light of the Christian tradition, the passage takes on a significance that has been overlooked. Crucially, Hobbes points out that nothing in that condition *tended to the dissolution of his nature*. Man in the primordial condition stands in stark contrast to man in the state of nature where natural cupidity seeks "to appropriate to it self the use of those things in which all others have a joint interest"—a desire that, untamed by reason and the rule of law, generates war—while reason is the faculty that teaches every man to

¹⁸⁵ *ST* I-II, 30.3; II-II, 24.8 obj. 2; I-II 95.1, ad. 2; cf. I-II 40.1.

¹⁸⁶ *L*, 35.3, 272.

¹⁸⁷ *L*, 38.15, 310.

¹⁸⁸ Yet the picture is not incompatible with his presentations of the state of nature. Rather, it provides the explanation of why man's condition can degenerate into a state of nature. It is not surprising that readers of Hobbes have missed this point, given widespread propensity to read Parts I and II of *Leviathan* while ignoring Parts III and IV.

fly contra-natural dissolution. That is, the state of nature is a condition in which the powers of reason and desire of human nature are at cross-purpose and so tend to man's destruction.

Why are the powers at cross-purpose? Hobbes's Christian faith taught him that it was due to our parents' "first sin."¹⁸⁹ Original sin doomed the entire human race to forfeit eternal life, paradise, and incorruptibility. In Adam, we are all originally "guilty of disobedience to God's Law."¹⁹⁰ The punishments for original sin are manifold evils and calamities, including "death and misery."¹⁹¹ Only after our first parents' sin are reason and desire in a condition that can lead to death and misery, to man's dissolution.

Hobbes is indicating that the state of nature—a potential condition of actual persons when positive law is dissolved—is a potential condition of *fallen* persons. Hobbes is suggesting that in paradise, where nothing tended to the dissolution of human nature, reason perfectly governed desire. On this reading, the state of nature does not replace the biblical account of the Edenic state, but is a potential condition of actual, *fallen* persons when human positive law and authority—the institutions necessary to enforce the demands of reason against those dominated by unruly passions—break down or fail to obtain.¹⁹² For Hobbes, revelation provides insight into *why* the state of nature is a potential condition of real human beings. Aristotle and Aquinas also recognized that man's potentiality to act like an irrational animal is exacerbated without human authority and positive law.¹⁹³ Hobbes's anthropology may not be so far from Aquinas's after all.

¹⁸⁹ *L*, 38.2, 301.

¹⁹⁰ *L*, 43.3, 398.

¹⁹¹ *L*, 38.15, 310.

¹⁹² While Hobbes at times suggests the state of nature is merely a mental consideration (*De Cive* 8.1), he also emphasizes its threefold obtainment in reality: savage patriarchal rule, international relations, and civil war (*L*, 13.11-12, 77-8).

¹⁹³ Aristotle, *Politics*, 1253a28; Aquinas, *Sententia Libri Politicorum*, lib. 1, n. 31, 27. Cf. *ST* I-II, 2.6 ad. 2; I-II, 95.1; I-II, 96.2.

Where they differ is in their rival accounts of the objective good(s) discoverable by human reason.

Our reading of the state of nature as a condition of fallen men is buttressed by Hobbes's brief discussion of the Fall. To understand Hobbes's interpretation, recall that, in Hobbes's view, sovereign authority—divine and human—entails the right to the legislative and adjudicative powers. The sovereign's right to legislate and judge means that the sovereign "prescribes the rules of discerning good and evil [and] which rules are laws." The sovereign is, moreover, the *sole* judge of cases and controversies. Hence, Hobbes marks off the following as a most poisonous doctrine: *That every man is judge of good and evil actions*. Hobbes immediately points out that this is true of the condition of mere nature, having already argued: "And therefore so long a man is in the condition of meer Nature, (which is a condition of War,) as private Appetite is the measure of Good, and Evil." Lloyd helpfully points out:

Note carefully that this passage does *not* say (as the standard interpretation would have it) that *so long as* people are in the condition of mere nature, their private appetites *are* the measure of good and evil; what it says is that so long as private appetite is *the measure* of good and evil, people will remain in the condition of meer nature, which is a state of war.¹⁹⁴

The upshot is that the state of nature is a *reductio* of the widespread practice of the right of private judgment. Hobbes thus traces the English Civil War to the pernicious influence of preachers who taught the doctrine of private judgment to the prejudice of obedience to their rightful sovereign. This is the height of prideful arrogance because it reserves to oneself a right which one would not be content for everyone else to actually have. When each individual effectively usurps the right of judgment proper to the sovereign, it effectively inaugurates a state of affairs in which everyone is his own

¹⁹⁴ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 394.

absolute sovereign with a right to all things. But that just would *be* a nasty, poor, brutish, and short state of affairs.

Hobbes argues that Adam and Eve's sin in Eden was actually the first usurpation of the right of private judgment:

'Ye shall be as gods, knowing good and evil.' (Genesis 3:5) And verse 11. 'Who told thee that thou wast naked? hast thou eaten of the tree, of which I commanded thee thou shouldest not eat?'¹⁹⁵

In Hobbes's view, God's forbiddance of eating of the tree of knowledge was his proscription of "Cognisance or Judicature of Good and Evil." God was essentially proscribing the right of private judgment. Hence, Satan's temptation—which "enflamed the ambition of the woman, to whom that fruit seemed beautiful"—holds forth the prospect of becoming gods through taking on the right to judge good and evil. Hence, Adam's and Eve's sin was to usurp what was properly God's office as sovereign. The punishment for our disobedience is a disharmony in our nature that tends toward our dissolution. Whereas, reason and desire before the Fall were in harmony, desire now has a spark of its own, seeking to make its own that which is common. The unleashed spark of *cupiditas* goes hand in glove with the assertion of the right of private judgment of good and evil—and man's condition is now such that man is all too likely to be dominated by cupidity and assert a right to private judgment.

It follows that, for Hobbes, the state of nature is all-too-likely a potential condition for us today *because of* our first parents' sin. Moreover, whereas Adam and Eve lived in a natural condition of peace, we can only achieve peace by erecting a terrifying Leviathan powerful enough to check the potentiality for evil in "all the children of pride."

¹⁹⁵ *L*, 20.17, 134.

As we have seen, none of the foregoing entails the proposition that man is *by nature* evil because the spark of cupidity in the very young is not sufficient to make them lawbreakers, since they lack the use of reason. On this point, Hobbes is in full agreement with Aquinas, for, “If the ignorance be such as to exclude the use of reason entirely, it excuses from sin altogether.”¹⁹⁶ Hence, “before a man comes to the age of discretion, the lack of years hinders the use of reason and excuses him from mortal sin, wherefore, much more does it excuse him from venial sin, if he does anything which is such generically.”¹⁹⁷ Now, Hobbes is willing to say that all men who have come of age are evil since that proposition is “clearly said in Holy Scripture.”¹⁹⁸ But Hobbes is not saying that all men are actually vainglorious. He is affirming an axiom of Scripture, that no man of reason is without any actual sin or any breaking of the law: “For all have sinned and fallen short of the glory of God,”¹⁹⁹ and “If we say we have no sin, we are deceiving ourselves and the truth is not in us.”²⁰⁰

CONCLUSION

I have argued that Hobbes’s two postulates of human nature are illuminated when read in light of the older Christian tradition, as expressed in the thought of Aquinas. But, even if it be admitted that the foregoing shows the plausibility of reading Hobbes’s human nature teaching as rooted in the Christian tradition, it can reasonably be asked: what relevance do any of these putative truths of revelation really have for the foundations of Hobbes’s political philosophy? After all, doesn’t Hobbes hold forth his

¹⁹⁶ *ST I-II*, 76.3, ad. 3

¹⁹⁷ *ST I-II*, 89.6. For Hobbes’s distinction between sins according to gravity see *Leviathan*, 350.

¹⁹⁸ *De Cive*, Preface, 11.

¹⁹⁹ Romans 3:23.

²⁰⁰ 1 John 1:8.

theory of human nature to be affirmed by all persons inasmuch as they are rational? And doesn't that mean that Hobbes's teaching is affirmable by introspection and geometrically modeled deduction, regardless of one's faith tradition or lack thereof?

It is true that one, by unaided reason, might accept the two postulates and even the conclusions Hobbes derives from them (i.e., that due to their capacity to do bad things, human beings will be in a miserable condition without the guidance of reason embedded in positive law and some authority with the power to enforce its demands). But, what is it that would warrant Hobbes's supposition that the potentiality in man to bring on death and misery is an *immutable* feature of human nature? One might think with Rousseau that this potentiality in man is a mere historical accident that followed upon metallurgy. One might, in other words, affirm these postulates as only characteristic of man at a definite point in history beyond which he might progress. One might hold that through the proper sorts of institutions and/or the progress of history, the potentiality in man for evil could be eradicated.

But, for Hobbes, Christian revelation grounds the claim that human potentiality for evil is immutable in this world because man fell from God's grace. Man will not be finally healed except by God's grace through Christ at the Resurrection—what Hobbes calls “salvation absolute.”²⁰¹ Hobbes's Christian understanding of the Fall forestalls all attempts to immanentize the eschaton—by both secular and religious fanatics.²⁰²

One might object that by unaided reason we can affirm the immutable character of man's potency for evil as the ancients did, without revelation. One might point in particular to that ancient who preoccupied Hobbes, namely, Thucydides. Notably, Thucydides had keen insight into the potentialities embedded in human nature for

²⁰¹ L 38.15, 310.

²⁰² See Eric Voegelin, *The New Science of Politics An Introduction* (University of Chicago Press, 1987).

unchecked passions to generate death and misery on a massive scale, particularly under conditions of civil war.²⁰³

But recall, first, that Hobbes does not think that a human act can be called *evil* unless it is *culpable*—and culpability comes only through breach of *law*. This means, minimally, that calling human acts *evil* is unwarranted outside of a theistic framework of a providential lawgiver, whose authority secures the legal force of the dictates of reason.²⁰⁴ We have seen the lineaments of Hobbes’s *philosophical* theology, which could to do this work.²⁰⁵ But, the rather thin character of Hobbes’s philosophical theology suggests that Hobbes intends it to be understood as an integral aspect of a comprehensive doctrine of reason and faith in partnership. Biblical revelation provides the ultimate explanation (and enhances the case for) the moral culpability of pride or the vain desire to make oneself god. First hand experience and corroboration by introspection have their place. But it is Hobbes’s Christian faith that is the ultimate basis for his moral view of fallen human nature. If this is correct, then Hobbes offers us a single comprehensive doctrine of faith and reason that underpins his political teaching.

This point brings us full circle to our contrast of Hobbes’s foundationalism with Rawlsian political liberalism. Earlier, we treated Lloyd’s three arguments for reading Hobbes’s civil science as free-standing. We are now in a position to consider Lloyd’s

²⁰³ See Thucydides’ famous account of the Corcyrean civil war in *History of the Peloponnesian War* 3.81-84 (*EW* VIII, 346-353).

²⁰⁴ It is not in our scope to speculate about Thucydides’s theology—although, notably, Hobbes denies that Thucydides was an atheist: “For in philosophy, he was the scholar (as also was Pericles and Socrates) of Anaxagoras; whose opinions being of a strain above the apprehension of the vulgar, procured him the estimation of an atheist: which name they bestowed upon all men that thought not as they did of their ridiculous religion, and in the end cost him his life...For though he were none, yet it is not improbable, but by the light of natural reason he might see enough in the religion of these heathen, to make him think it vain and superstitious; which was enough to make him an atheist in the opinion of the people...in his writings our author appeareth to be, on the one side not superstitious, on the other side not an atheist” (*EW* VIII, xiv-xv).

²⁰⁵ See also 3.2, below.

offering of what she takes to be the “best case” that can be made for reading Hobbes as the “first political liberal.” Lloyd identifies the following similarity between Hobbes and Rawls that she thinks may have been what prompted Rawls to wonder whether Hobbes was the first political liberal. According to Lloyd, Hobbes offers a *convergence* of arguments for the affirmation of his principle of political obligation. These include arguments from narrow self-interest, morality, special prudence for salvation, and religious duty. That is, the narrowly self-interested egoists, nonreligious moralists, egoistic religionists, and the dutiful religious can each affirm Hobbes’s principle of political obligation from within their respective comprehensive doctrines. Lloyd explains:

After all, to show one’s principles justified without dependence on *any* comprehensive doctrine, and to show them justifiable from within *many* comprehensive doctrines, are different ways of showing one’s principles to be not dependent upon affirmation of some *privileged* comprehensive doctrine...the justification for [Hobbes’s] principle of political obligation will not depend on privileging any particular comprehensive doctrine—just as the justification for Rawls’s principles of justice does not—and this is a very big plus under conditions of pluralism.²⁰⁶

We have already seen that Hobbes does privilege a comprehensive doctrine in which (a) there *is* a human nature and we can know it and (b) God exists and created all of nature, including human nature. That is enough to sharply distinguish his doctrine from Rawlsian political liberalism. Now, set aside for the moment the unclear distinction between the egoistic and dutiful religious.²⁰⁷ Upon what grounds can the narrow egoist or the nonreligious moralist be *bound* to accept Hobbes’s principle of political obligation? If one denies God exists, one will not take oneself to be bound with the force

²⁰⁶ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 405-6.

²⁰⁷ Lloyd does not explain this distinction, but if it implies that the dutiful religious are somehow not willing their eternal happiness (because that would be egoistic), then it appears to be applying a Kantian framework to explain a reality that does not admit of a Kantian explanation.

of law to enter the sovereign-making covenant, according to Hobbes.²⁰⁸ Keeping one's promises is the most pressing judgment of reason in maintaining the social contract. But because non-theists don't accept the *legal* character of the natural law, they cannot be trusted to keep their word. Hence Hobbes contends that it is the atheist in the state of nature who cannot be trusted to keep his word in the sovereign-making covenant since "there is no living in a commonwealth with men, to whose oaths we cannot reasonably give credit."²⁰⁹

It is possible that *non-Christian theists* could take themselves to be so bound. It could thus be said that a "partially comprehensive" doctrine of God's causal relation to the world is the necessary foundation for any Hobbesian pluralism.²¹⁰ Hobbes labors, moreover, to show how his doctrine of natural law does not contradict, but is buttressed by, biblical revelation. We have seen how Hobbes's interpretation of the Fall of Man enriches the character of the two postulates. The next chapter takes up Hobbes's theistic natural law theory in detail and shows how Hobbes labors to harmonize his natural law teaching with biblical revelation.

²⁰⁸ *De Cive* 14.19 and n. 2.

²⁰⁹ *EW* IV, 294.

²¹⁰ A Hobbesian pluralism could include, minimally, all those of Abrahamic faith. Orthodox Jews, Muslims, and Christians all affirm this basic foundation within their comprehensive faith tradition. (Notably, these three groups would also converge in their vision of the historical fall of man.)

Chapter 2: Rival Interpretations of the Laws of Nature: An Assessment and Critique

In the last chapter, I laid the groundwork for our interpretation of Hobbes's moral philosophy as a *natural law theory*. Hobbes's two postulates of human nature are warranted by the two powers that man finds at cross-purpose within himself: reason and desire or cupidity. The two postulates are held forth as a ground for his moral and political teachings, in contrast with latter day "free-standing" doctrines. Hobbes makes a number of claims that presuppose the individual substances picked out by the word "man" *be* a certain way, and that knowledge of man's nature and condition is available. I suggested Hobbes distinguishes between reason and desire in a way that indicates reason is not a mere slave of the passions, but that practical reason identifies *life* as *the* basic good or reason for action. Moreover, I suggested that Hobbes's claim that there are evil persons in the state of nature would be warranted only if the laws of nature were *truly laws*—and the legal character of the natural law is warranted only within the framework of Hobbes's philosophical theology. In this chapter, I critique a number of schools of thought on the derivation of the laws of nature.

I have identified two requirements for a properly *natural law theory*: the human good, which is grounded in human nature, provides basic *reason(s)* for action and the norms or precepts that correspond to the human good have a *legal character*. Hobbes's moral and political philosophy counts as a natural law theory because Hobbes's theory includes both of these features. Hence, I shall assess the various schools on the following criterion:

The Goodness Principle: Life is the Basic Good. On the ground of a particular conception of human nature—which exists and is knowable inasmuch as individual human beings exist and we can address individual beings under their “general aspect”—Hobbes identifies two principles in man: reason and desire. Hobbes *distinguishes* between reason and desire in a way such that the power of reason is not or need not be a mere slave of the passions. The power of reason identifies *life* as the basic good or reason for action. This principle entails the falsity of the *impotent thesis* (that practical reason is not capable of setting its own goals). It also entails that the laws of nature do not depend for their validity on a contingently felt desire, which may or may not be compatible with the good of life.

The Bindingness Principle: Natural Law Binds Eternally, Immutably, and Universally In Foro Interno with Legal Force. On the ground of a particular (philosophical) conception of God’s causal relation to the world—God as *existing* and (according to the doctrine that no perfection can be denied of Him) as *creator* of nature—Hobbes maintains that the dictates of right reason are truly *laws*. We saw in the last chapter that this is the only warrant available for Hobbes’s claim that there are *evil* people in the state of nature.

The Psychological Diversity Principle: Hobbesian agents can and do have a range of goals which may be incompatible with the basic good of life. As Sharon Lloyd has demonstrated, Hobbes identifies a large range of goals and interests that actual human beings have—many of which are or can be incompatible with the requirement of practical reasonableness to take the good of life as basic.

With these criteria in hand, we can assess some of the leading schools of interpretation. First, we shall assess some varieties of *non-legal* interpretations. Second, we shall assess *legal* interpretations. Finally, we assess S.A. Lloyd’s *reciprocity theorem*

interpretation, which she claims is compatible with both legal and non-legal interpretations.

2.1 NON-LEGAL INTERPRETATIONS

Non-legal interpretations deny that the laws of nature are truly *laws*. These interpretations tend to rely on a number of statements Hobbes makes that seem to indicate the non-legal character of the laws of nature. Consider the following passages:

These dictates of reason, men use to call by the name of laws; but improperly: for they are but conclusions, or theorems concerning what conduceth to the conservation and defence of themselves; whereas Law, properly is the word of him, that by right hath command over others. But yet if we consider the same theorems, as delivered in the word of God, that by right commandeth all things; then are they properly called laws.²¹¹

For the laws of nature, which consist in equity, justice, gratitude, and other moral virtues on these depending, in the condition of mere nature (as I have said before in the end of the 15th chapter) are not properly laws, but qualities that dispose men to peace, and to obedience. When a commonwealth is once settled, then are they actually laws, and not before; as being then the commands of the commonwealth; and therefore also civil laws: For it is the sovereign power that obliges men to obey them.²¹²

Gregory Kavka, Jean Hampton, and David Gauthier have advanced influential versions of the *non-legal interpretation*. Let us consider them in turn.

Kavka's Rule Egoist Interpretation

On Gregory Kavka's interpretation, Hobbes's laws of nature make up a moral theory of rule egoism. On this view, the ought principles outlined by the laws of nature are so many necessary means to one's self-interest: they "may be considered rules of

²¹¹ L, 15.41, 100.

²¹² L, 26.8, 174.

rational prudence.”²¹³ On Kavka’s interpretation, Hobbes holds forth a theory of human nature that we are “predominant egoists,” as opposed to the purely self-interested view that we are by nature, “purely self-interested creatures.” So Hobbes’s natural law theory is engaged in the “age-old task” of reconciling the requirements of morality with rational prudence.

These general rules are discoverable by reason and are so many prescriptions conducing to self-preservation and happiness. But, by Kavka’s lights, we are *not* obligated to follow them because Hobbes restricted obligation to consent.²¹⁴ They are not obligations but “moral ought-principles” or “general moral prescriptions” that are “created neither by command nor by consent.”²¹⁵ In what sense then are they “required?” Kavka answers that they conduce to preservation and the well-being of oneself and others. So their bindingness is supposed to be grounded in a particular version of consequentialism.

The initial trouble with Kavka’s view regards the principle of bindingness. It is unclear how on the guiding principle of Kavka’s rule egoism, that an agent should follow the moral rules that would produce the best expected outcomes for him, can yield precepts that *bind in conscience* in Hobbes’s sense. According to Hobbes, the focal case of being *bound in conscience* is being under the rule of *law*. As Hobbes says, it is *law* that “determineth and bindeth.”²¹⁶ Only when the theorems deduced in Chapters 14 and 15 are considered as delivered in the word of God, who “by right commandeth all things,” are they called laws. God’s command is necessary to secure the legal character of the laws of nature.

²¹³ Kavka, *Hobbesian Moral and Political Theory*, 309; 360.

²¹⁴ Kavka, *Hobbesian Moral and Political Theory*, 341.

²¹⁵ Kavka, *Hobbesian Moral and Political Theory*, 341.

²¹⁶ *L* 14.3, 79.

Kavka initially rejects the divine-command interpretation for two reasons. First, it can be explained as Hobbes's tub to the religious whale: it "shows how religious people who make certain background assumptions may regard the laws of nature as laws." Second, "God plays no role in the derivation of the actual contents of the laws of nature"—the claim on which Kavka grounds his famous declaration that God *plays no substantive role* in Hobbes's moral and political philosophy. Importantly, Kavka does not assert Hobbes's atheism or insincerity, but accepts, if only for the sake of argument, that Hobbes was sincere in his theology. But, once we accept Hobbes's sincerity, these arguments fall.

To the first, nothing in Hobbes's passage about the theorems being delivered in the word of God implicates "religious" people, if that is taken to be the community of faith. God governs the community of faith by his "prophetic word."²¹⁷ God governs the natural commonwealth—a larger set of persons that includes the community of faith—by his "rational word" to which corresponds the hearing of "right reason."²¹⁸

Second, how should we understand the claim that God plays no role in the derivation of the actual contents of the laws of nature? Kavka seems to mean that in the deductions of the laws of nature, by the geometrical or computational use of reason, God plays no role. The acting agent, not God, performs these deductions. This is true, but it does not warrant the judgment that God "plays no substantive role in Hobbes's moral and political philosophy." God is the *author* of human nature, including reason.

Kavka's claim is like saying that Shakespeare plays no substantive role in Romeo and Juliet's romance and tragedy. It is true that Shakespeare does not author an acting role for himself into *Romeo and Juliet*. Analogously, in God's natural kingdom, God is

²¹⁷ L 31.4, 235.

²¹⁸ L 31.3-4, 235.

not represented by a prophet or incarnated. But the divine-command interpretation I defend does not understand God's role in securing the legal character of the laws of nature in this way. God is the *author* of reason and speech—he *creates* and *orders* man. This means that God is the author *all* the powers of reason, including the computational function:

And therefore in geometry, (which is the only science that it hath pleased God hitherto to bestow on mankind,) men begin at settling the significations of their words; which settling of significations, they call *definitions*; and place them in the beginning of their reckoning.²¹⁹

God authored man with reason, thereby bestowing upon him the computational power deployed in deducing the laws of nature. What more substantive role could there be? Contrary to Kavka's suggestion, God's role in securing the legal character of the laws of nature is not vitiated by our lack of quidditative knowledge of God or in the dictate of reason to honor God in the superlative fashion.²²⁰ On the contrary, I will show later that the latter is one way in which Hobbes reasons that God is omnipotent, which is a key premise in showing how God secures the legal character of the laws of nature.

Hampton's Hypothetical Imperatives

Jean Hampton interprets Hobbes's laws of nature as "hypothetical imperatives" and contends that Hobbes "is very hazy about the nature of [their] validity."²²¹ Hampton suggests that Hobbes wants to "caution his readers from thinking that these laws provide a full remedy for warfare."²²² These hypothetical imperatives are based on the self-

²¹⁹ *L*, 4.12, 19.

²²⁰ Kavka, *Hobbesian Moral and Political Theory*, 362.

²²¹ Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986), 89.

²²² Hampton, *Hobbes and the Social Contract Tradition*, 90.

interested desire for self-preservation. The desire for self-preservation does all the work in Hobbes's theory.

Hence, Hampton argues that when Hobbes labels the laws divine commands, he *does not* thereby introduce "moral motivation for obeying the laws of nature" because self-interest turns out to do all the work in our obedience to God. Clearly, then, Hobbes emphasizes the "secular understanding of the laws' warrant...[and] he did so because he believed it would provide a more powerful and more universal argument for their *in foro interno* validity."²²³ In short, "whether or not one believes in God...Hobbes argues that there is a tremendously powerful earthly motivation to follow these laws..."²²⁴

The trouble is that Hampton does not formulate a secular understanding of the laws' warrant that actually would secure the universal validity of the laws of nature. Hampton denies that life is objectively good for all rational persons. For Hampton, contingent desires set ends. But some people fail to desire self-preservation. For the laws of nature to be *universally* valid, they cannot depend for their validity on the contingent desires of agents. So, Hampton's own account does not even secure a secular foundation for the laws' universal validity.

While Hampton accepts the impotent thesis, she wants to maintain that the desire for life has some normative punch over and above desire for death. But how can she do so? On the impotent thesis, *desires* set the ends, and the *rational* or *right reason* is the correct calculation of the best means to that goal. Hence, on this picture of reason, someone who desires death is rational, as long as he calculates fitting means to achieve his end. But, according to Hampton, a death-desiring person is "diseased" and "little or nothing" can be called rational in diseased people. But, why not? If reason is a slave to

²²³ Hampton, *Hobbes and the Social Contract Tradition*, 96.

²²⁴ Hampton, *Hobbes and the Social Contract Tradition*, 96.

the passions, then a person's rationality will turn on whether he can connect a universal premise with a particular premise in a practical syllogism. We can take Hampton's own example. Suppose a human being tries to drown himself because he desires death. And he does not have any "higher-order desire" to be alive. He reasons thus:

Death is good.
This maelstrom is death-causing.
I will enter the maelstrom.

Such a person is completely rational on the impotent thesis. Hampton tries to escape the entailment by arguing that death-seekers are diseased, the subjects of some biological error or misfiring. She argues that such people have a damaged "desire-formation mechanism"—a "completely noncognitive biological 'error' in the process of forming a desire."²²⁵ The desires in such a person are "wrong." Calling them "wrong," Hampton suggests, is a criticism of the desire but not a moral evaluation. This is confused.

If the desire is not *morally* wrong, then the "diseased" formulation has absolutely no normative punch at all, since the normative is morally charged. In that case, my argument holds that the death-desirer is completely rational. If, on the other hand, the "diseased" formulation *is* supposed to have normative punch, then the problem of normativity remains: what is the criterion for distinguishing what counts as normative (biologically healthy and well-functioning) and non-normative (biologically diseased and malfunctioning)? *It cannot be contingently felt desires.* Mere desires cannot tell us *which* desires the body ought to produce, on the impotent thesis. My interpretation can answer the normative question just where Hampton's cannot. The judgment of reason

²²⁵ Hampton, *Hobbes and the Social Contract Tradition*, 40.

that the good of life is basic and objectively good can tell us which body conditions are healthy and which are diseased.

While the good of life does present a powerful motivation, the practical necessities to secure it could not have the force of *law* apart from God's command. In that case, the laws of nature would have a *measure* of "moral status" inasmuch as counsel can have moral force. But, for Hobbes, belief in God really does transform what before were merely theorems into *laws*. This is the difference between one being exceptionlessly bound to seek peace, when it can be had, *in foro interno*, and one being *not* so bound. The mere dictates of reason cannot bind with the force of law, for Hobbes. And Hobbes stands in the older tradition in his view that *law* is the principle of morality.

Hampton identifies a couple of "costs" that would be incurred by a theistic interpretation. First, she contends that Hobbes's political argument would no longer be a geometrical demonstration, thus rejecting Hobbes's own definition of moral philosophy as a science. But this objection seems to depend on the claim that reason is merely calculative. If, as we argued in the last chapter, Hobbes has a broader notion of reason such that it would include the power to uncover first principles, like the basic goodness of life and God's existence, then the geometrical method of demonstration must be understood within this framework of principles.

A second cost would be that the nonnatural and nonmaterial quality of 'rightness' is supposed to attach to certain actions (presumably in virtue of God's command them) and is not reducible to any material object. But nothing in the theistic account requires any such attribution to Hobbes. God himself is a material being. Hobbes believes it is consistent to believe God created and ordered man and to believe in the fundamental materiality of all being. Moreover, Hobbes is content to use words to pick out our ideas of relationships between material substances.

Gauthier's Prescriptions

David Gauthier argues that the laws of nature are the necessary means for self-preservation—they are “prescriptions”—something more than mere counsel yet shy of the force of commands.²²⁶ Gauthier’s earlier work argued along similar lines we have already seen: “A man who seeks to preserve himself, and who agrees that the laws of nature are necessary to preservation, needs no such appeal to convince him.”²²⁷ Hobbes’s originality is manifest in his exposition of practical reason as *discoverer of the means of self-preservation* “and not discern[er] of the rationally unknowable will of God.”²²⁸ It follows that “the dictates of reason and the laws of God are no longer necessarily connected.”²²⁹ Hence, Hobbes’s theistic language is just evidence that he “has not fully emancipated himself from the medieval conception of natural law.”²³⁰ Gauthier too accepts the impotent thesis.

Again, belief in God will be necessary to convince the agent that he is bound *by law*. If it be admitted that Hobbes was sincere in his view that God’s existence is knowable and demonstrable by unaided reason—and that Hobbes was sincere in his view that atheists fails to reason properly—then this is not a mere residuum of a bygone era. If God exists, it makes a dramatic difference. The judgment that God exists—a judgment that Hobbes contends is available by the “light of nature,” and which is warranted by at least five different kinds of argument—entails that the universe we live in is *created* and *ordered*. The order of the dictates of reason would then be an order *willed* by a being

²²⁶ David Gauthier, *The Logic of Leviathan*, 69.

²²⁷ Gauthier, *The Logic of Leviathan*, 68.

²²⁸ Gauthier, *The Logic of Leviathan*, 70.

²²⁹ Gauthier, *The Logic of Leviathan*, 70.

²³⁰ Gauthier, *The Logic of Leviathan*, 70.

with the right to so will it. Since this knowledge of “right reason” corresponds to God’s “rational word,” there is no worry about moral knowledge probing into what is rationally unknowable about God. Similarly, the judgment *that God is* does not entail *quidditative* knowledge of God or *what God is*. If true, the judgment that God exists makes the difference between the dictates of reason being *merely* theorems or qualities, whose normative status would be uncertain, and their binding with legal force.²³¹ At best, the dictates of reason in a godless universe could only have the *recommendatory* force of counsel.

It cannot be the case that their normativity depends on their conducing to a contingently felt desire: whether for self-preservation or for a more open-ended desire. On the *bindingness* criterion, the laws of nature bind *universally*. Hence, if they depended on a desire, it would have to be a desire that can never fail to obtain. But there is no such desire, according to the psychological diversity principle. Hobbes teaches that the actual persons have a broad range of goals and interests. These may be what Lloyd has called “transcendent interests”—interests for which Hobbesian persons are willing to lay down their lives. If the desire is characterized as “open-ended,” it will still face the same difficulty—except now the under-specification of the desire will leave it even more unclear who is and is not bound by the laws of nature. And, even if Hobbes did identify a universal desire that is necessarily present in all actual persons, it will still be insufficient to establish the *bindingness* of the dictates of reason, because the dictates of mere practical reason cannot bind with the force of law.

²³¹ It might be objected that this only follows if something is known about what God is, namely that he is a lawgiver. But, to affirm God as absolutely prior in the order of being is sufficient to justify the judgment that God is a lawgiver, if it turns out that created beings are ordered toward ends. This judgment does not violate the axiom that quidditative knowledge of God’s being cannot be had in this world. See also 3.2.

But still, as Gauthier has pointed out more recently, Hobbes does make various remarks that the laws of nature are theorems or qualities. What is to be made of these passages? The question compels us to return to Hobbes's own answer to Bramhall's criticism of Hobbes for saying that the laws of nature are mere theorems or qualities.

Bramhall's Non-Legal Interpretation and Hobbes's Reply

Our considerations suggest a need to return to Bramhall's critique of Hobbes for referring to the laws of nature as non-laws, as *theorems* or *qualities*. Notably, Gauthier has made much of Hobbes's reply to Bramhall. Gauthier argues that Hobbes reinforces the interpretation of the laws of nature as non-laws and the non-essential role of God in Hobbes's natural law theory.²³²

Bramhall begins his critique of *Leviathan* by pointing out the *imago Dei* has not been utterly defaced by the fall of man. Hence, there remains in man some "practical notions of God and goodness" in man's reason and will when man is not dominated by violent passions. Bramhall points out that Hobbes himself, "in his lucid intervals" acknowledges the power of human reason not only to know that God exists, but to know duties are owed to God:

*That we may know what worship of God natural reason doth assign, let us begin with his attributes, where it is manifest in the first place, that existency is to be attributed to him...Concerning external actions, wherewith God is to be worshipped, the most general precept of reason is that they be signs of honour; under which are contained prayers, thanksgivings, oblations, and sacrifices.*²³³

Bramhall then continues to argue that Hobbes's inconsistency and irreconcilability with himself is manifest in that his catalogue of laws of nature does not

²³² David Gauthier, "Hobbes: The Law of Nature," *Pacific Philosophical Quarterly* 82 (2001), 258-284.

²³³ *EW IV*, 283-4.

make any mention religion or “the least relation in the world to God.” Hence, Bramhall alleges “this great clerk forgetteth the God of nature, and the main and principal laws of nature, which contain a man’s duty to his God, and the principal end of his creation.”²³⁴

Hobbes replies:

After I had ended the discourse he mentions of the laws of nature, I thought it fittest in the last place, once for all, to say that they were the laws of God, then when they were delivered in the word of God; but before, being not known by men for any thing but their own natural reason, they were but theorems, tending to peace, and those uncertain, as being but conclusions of particular men, and therefore not properly laws.²³⁵

This passage has been taken by Gauthier to weigh conclusively against the theistic interpretation of Hobbes’s natural law theory.²³⁶

But that seems rather too quick, given the good reasons we have for supposing Hobbes’s theological sincerity. The first point that leaps out of the controversy is this: Hobbes was inconsistent with himself in the very act of defending his consistency. Bramhall quoted from Chapter 31 of *Leviathan*, where Hobbes points out that natural reason judges God to exist and assigns duties of honoring God. In Hobbes’s reply, as Gauthier notes, he appears to contrast man’s natural reason with the “word of God.” But, *in the same chapter Bramhall quotes from*, Hobbes had said “God’s word” is threefold: rational, sensible, and prophetic—and that “right reason” corresponds to the rational word of God.

Why didn’t Hobbes cite this passage as evidence of his consistency? Hobbes’s answer to Bramhall indicates that Hobbes is not thinking about God’s rational word but his “prophetic word.” Hobbes goes on to say: “Besides, I had formerly in my book *De*

²³⁴ *EW IV*, 284.

²³⁵ *EW IV*, 284-5.

²³⁶ Gauthier, “Hobbes: The Laws of Nature,” 284, n. 6.

Cive, cap. iv, proved them severally, one by one, out of the Scriptures, which his Lordship had read and knew.”²³⁷ But God’s prophetic word seems irrelevant to the Bishop’s allegation that Hobbes had forgotten the God of *nature*.

One possible explanation of the passage is that it is further evidence of the insincerity of Hobbes’s natural theology, since he says that the laws of nature as known by natural reason are not really laws. But such an interpretation would not make much sense out of Hobbes’s controversy with Bramhall as a whole. The entire concern of Hobbes’s *Answer* for the first several pages is to *defend* himself from Bramhall’s charge of atheism. It is, of course, a real possibility that Hobbes’s concern to publish a response to Bramhall stemmed from his fear of persecution by Parliament.²³⁸ But, if Hobbes were intent to prove his consistent theism—specifically, to defend his claims in Chapter 31 that we *can* know by natural reason that God exists and is due honor—then, surely it would have been a *better* strategy for Hobbes to recall the passages in the same chapter, where he asserted that the laws of nature corresponded to the rational word of God. Alas, he did not. But Hobbes’s failure to have recourse to his own argument hardly seems “conclusive” evidence that Hobbes disbelieved that God’s existence is known by right reason or that God’s rational word made the laws of nature lawful. It *need* only prove that, in this instance at least, that either Bramhall was right—Hobbes was inconsistent—or Hobbes was right in his claim that he is sometimes a “forgetful blockhead.”²³⁹

Still, Hobbes also says in *Leviathan* that in the condition of “mere nature” the laws of nature are “not properly laws, but qualities that dispose men to peace, and to obedience.” Recall the similar language of Hobbes’s reply to Bramhall: “being not

²³⁷ *EW* IV, 285

²³⁸ As suggested by Curley in “‘I Durst Not Write So Boldly,’ or How to Read Hobbes’ Theological-Political Treatise” in *Hobbes e Spinoza: Scienza e Politica*.

²³⁹ *EW* IV, 287.

known by men for any thing but their own natural reason, [the laws of nature] were but theorems, tending to peace, and those uncertain as being but conclusions of particular men, and therefore not properly laws.” In his reply to Bramhall, Hobbes is echoing the language he used in Chapter 26 in his discussion of civil law.

A different interpretation of these passages is available, which takes into account Hobbes’s distinction between public and private conscience. When Hobbes makes this point in *Leviathan*, it comes in his discussion of *civil* law, which is promulgated and enforced by the person of the commonwealth. Hence, in *Leviathan*, Hobbes is speaking of the natural laws’ *civil* legal character. For the laws of nature to attain legal status at civil law, they must be commanded by the sovereign. When the sovereign commands, he effectively sets the contours of *public conscience*. The right of public conscience is contradistinguished to the putative right of private conscience to disobey the law—hence, Hobbes identifies the right of private conscience as a doctrine repugnant to civil society. Indeed, as we have seen, the state of nature is a *reductio* of the widespread practice of the private rights of conscience because that entails the arrogation of the individual of the right to judge good and evil.

These points may shed light on what is on Hobbes’s mind in the reply to Bramhall. When referring to the laws of nature as known by one’s own natural reason and as the uncertain conclusion of a *particular* men, Hobbes indicates he is thinking about *private* judgments. When the right of private judgment obtains on a large scale it generates a state of nature or condition void of civil law (void of public conscience). When seen in this light, the conclusion that they are not properly laws would primarily mean they are not binding with the force of *civil* law, because there is not yet a sovereign erected to command and enforce them as the doctrines of public conscience. Hobbes buttresses this point in his *in foro interno-in foro externo* discussion. The laws of nature

always bind *in foro interno* (with legal force, by God's legislation), but *not* always *in foro externo*, because sufficient security does not always obtain. The laws of nature are not immutably and eternally laws *in foro externo*, because bindingness *in foro externo* requires sufficient security—one would otherwise make oneself prey to others, which is inconsistent with the basic rational necessity to pursue the good of life—and only the sovereign can provide sufficient security. When seen in this light, the catalogue of the laws of nature are not properly laws prior to civil law inasmuch as they do not bind *in foro externo*.

It is not immediately clear what Hobbes means by “quality” and hence, how we should understand the claim that the laws of nature are “qualities that dispose men to peace.” Sometimes, he scorns scholastic uses of the term “quality” as absurdities. At other times, Hobbes himself appears to use the term in a way similar to Aristotle, to signify an accidental feature of a substance. It may be that, by “qualities that dispose men to peace” Hobbes refers to judgments of “natural reason” in a man—particular judgments are “accidental” features of individual rational animals because judgments differ from person to person—that are coupled with desires to act according to “natural reason,” *in foro externo*.

Quality seems also to have the connotation of a habit of character that the law of nature picks out. For example, the fifth law of nature is *complaisance*, or the precept requiring that every person strive to accommodate himself to other persons. This law of nature picks out a general character trait that fits persons for life in civil society. The person who lacks complaisance, says Hobbes, is like a hard and irregularly sized stone that is too awkward to fit, taking up more space from other stones than it fills itself. Such a person reserves to himself things superfluous to himself but necessary to others. But, unlike stones in an edifice, which are set in one place, persons are continually moving

and interacting with a whole variety of others in civil society. Presumably, then, complaisance must be something like a habit of character—a *quality* held by the person—that disposes the person to properly “fit” himself with others according to the circumstances. Hobbes points out that one who lacks this quality is like the stone in another way: the irregular stone, due to hardness and brittleness, cannot be reshaped and so it is tossed out. Similarly, the non-complaisant person, because of the “stubbornness of his passions,” is cast out of society as cumbersome.

Notice that Hobbes’s claim that judgments of reason dispose men to peace—and, in the case of complaisance, the corresponding habit of character—is not at all suggestive of the *impotent thesis*. Rather, it suggests Hobbesian practical reason as capable of taming the passions in line with its own goals. Now, consider Hobbes’s reply to Bramhall in light of Hobbes’s remark in Chapter 15:

These dictates of reason, men use to call by the name of laws; but improperly: for they are but conclusions, or theorems concerning what conduceth to the conservation and defence of themselves; whereas law, properly is the word of him, that by right hath command over others.

I suggest that the conclusions of the natural reason of particular men do not have legal force because *mere practical reason* cannot bind with the force of law. In other words, the mere qualities of particular persons do not bind with legal force. Hobbes is clear that autonomous practical reason cannot *self-impose* a duty: “Nor is it possible for any person to be bound to himself; because he that can bind, can release; and therefore he that is bound to himself only, is not bound.”²⁴⁰ When Hobbes speaks of the laws of nature as qualities it is simply to reinforce his *relational* view of obligation. This is a key point in assessing the next school of thought: Bernard Gert’s rationally required end interpretation.

²⁴⁰ L 26.6, 174.

Gert's Rationally Required End Interpretation

Gert's rationally required end derivation contrasts with standard non-legal interpretations in that he denies the laws of nature depend on contingently felt desires. Gert argues that *reason* is an *originative* faculty that does not operate merely in the service of desire. Reason is a faculty not only of prudence or reasoning from experience, nor merely a calculative faculty of composing and dividing words, but also a power capable of setting its own goals, primarily the rationally required goal to pursue the good of self-preservation. Reason dictates that self-preservation is the goal that is to be pursued. Agents can fail to desire self-preservation, and when they do, they are acting irrationally. The laws of nature derive from the foundational judgment that self-preservation is rationally required. Gert is willing, moreover, to speak of this reason-set goal as dutiful or obligatory, without adverting to the divine command.

Gert thus rejects impotent thesis and affirms the basic goodness of life. Gert can retain the *universality* feature of bindingness, since the *good of self-preservation* is identified by reason as objective or independent of any particular agent's contingent desires. In Gert's view, Hobbes was not a proto-Humean but a sort of Aristotelian. Even if all men do not in fact desire self-preservation, they rationally ought to. Gert maintains that reason in itself can dictate this end as obligatory or dutiful.

In this way, Gert runs into a problem we already identified for the non-legal interpretation. How can the operation of mere practical reason impose a duty, on Hobbes's terms?

In Hobbes's view, obligation is an essentially relational notion. For example, in a covenant, when A gives up his right to φ to B for some determinate time in exchange for

something from B now, A forms a promissory obligation that he fulfills by not φ -ing or by B releasing him from his promise.²⁴¹ How, then—apart from any covenant (or a contract)—does one have a natural or rational obligation? As we saw above, Hobbes is clear that autonomous practical reason cannot *self-impose* a duty, because one who is bound to oneself only is not really bound, since he can release himself. In other words, a person cannot legislate a law for himself by the mere activity of his autonomous practical reason. While A might say he is legislating a law for himself, such an act would not generate an obligation because A would be both promisor and promisee—and whatever he decides to do would satisfy the “obligation.”²⁴²

But the horizontal relationship between human agents is not the only relation Hobbes recognizes. On the contrary, Hobbes explicitly avers that the right to rule and hence the power to bind springs “either from nature or from contract.”²⁴³ Hence, Hobbes holds that natural obligation binds by the vertical relation that “is not by nature taken away.”²⁴⁴ The relation that is not by nature taken away is that which God has to men by his irresistible power, by which God has dominion over all things.²⁴⁵ Now, Gert agrees with the practical severability thesis: God plays no substantive role in Hobbes’s moral philosophy.²⁴⁶ But the foregoing suggests that without the divine ground, Hobbes’s dictates of reason can only be recommendatory and not moral *laws*, as Gert maintains.²⁴⁷ For, Hobbes’s claim that reason *teaches* us to fly death sounds more akin to the

²⁴¹ *L*, 14.18-14.26, 84-86.

²⁴² Matthew O’Brien makes a similar point about the relational character of obligation in his illuminating discussion of legislation vs. self-legislation. See *Practical Necessity: A Study in Ethics, Law, and Human Action*, dissertation (The University of Texas at Austin, 2011).

²⁴³ *EW* II, 206.

²⁴⁴ *EW* II, 206.

²⁴⁵ *EW* II, 207.

²⁴⁶ Gert, *Hobbes*, 70.

²⁴⁷ Gert, *Hobbes*, 78, 82.

recommendation of counsel than the demand of command.²⁴⁸ But the recommendatory force of counsel falls somewhat short of the exceptionlessly binding force of *law, in foro interno*.²⁴⁹ Considered stripped of a commander, the dictates of reason are not properly called laws.²⁵⁰ And we have seen that for Hobbes, law cannot be generated through self-legislation. What is needed to secure the *legal* character that Hobbes attributes to reason's dictate is an account of Hobbes's natural law theory in which God's command plays an essential role—and Martinich's theistic account provides just that. Let us consider Martinich's divine command derivation.

2.2 LEGAL INTERPRETATIONS

The Taylor/Warrender Thesis and Martinich's Divine Command Interpretation

Initially, Martinich's theistic account should be distinguished from the older divine command derivation that came to be known as "Taylor-Warrender" thesis.

To recall, A.E. Taylor and Howard Warrender had sought to build the case that God plays an essential role in Hobbes's moral and political thought and their work engendered scores of criticisms along the lines of what we have called the three theses of the secularist interpretation: the historical thesis, the concealment thesis, and the practical severability thesis. While Edwin Curley was right that a consensus had arisen in Hobbes scholarship that the "Taylor-Warrender" thesis was "hopeless," Martinich presents a view that avoids the main objections to that thesis.²⁵¹ We have already seen

²⁴⁸ Cf. Hobbes's argument against Cardinal Bellarmine where he links teaching and counsel. The ecclesiastical prerogative is to *teach* not to *command* such that their teachings are "not laws, but wholesome counsels" (*L* 42.5, 336).

²⁴⁹ *L*, 15.36-38, 99.

²⁵⁰ *L*, 15.41, 100.

²⁵¹ Edwin Curley, "Reflections on Hobbes: Recent Work on His Moral and Political Philosophy," *Journal of Philosophical Research* Vol. XV (1989-90), 190. Cf. A.E. Taylor "The Ethical Doctrine of Hobbes,"

the problems Martinich has raised for non-theistic readings more generally.²⁵² Regarding Hobbes's natural law theory, Martinich's theistic interpretation seeks to filter what actually survives criticisms of the Taylor-Warrender thesis. While Taylor and Warrender had correctly identified God's essential role in securing the legal character of the laws of nature, they misstepped when separating "the moral character of the laws of nature from Hobbes's psychology of human motivation."²⁵³ The latter claim must be discarded because God "commands that people act in their genuine self-interest."²⁵⁴

In my view, Martinich's filtration is sound, but only in part. Notably, Martinich retains Warrender's claims that reason is a mere slave of the passions and that the objects of desire will be an empirical, contingent matter.²⁵⁵ In his words:

Reason sets no goals, neither preservation of life nor destruction of life. Goals are determined by desires; reason is used to figure out the means to satisfy those desires.²⁵⁶

Martinich accepts the impotent thesis. But, this will fail the *goodness principle*: life is the basic good identified by *reason*, to which contingent desires may or may not

Philosophy, XIII (1938) and Howard Warrender, *The Political Philosophy of Hobbes: His Theory of Obligation* (Oxford: Clarendon Press 1957).

²⁵² Broadly speaking the secularist interpretation—i.e., the interpretation that claim God plays no substantive role in Hobbes's moral and political thought—can be divided into three sub-theses: the historical thesis, the concealment thesis, and the practical severability thesis. God plays no substantive role either because Hobbes is an atheist as attested to by the reactions of his contemporaries (the historical thesis—see Samuel Mintz, *The Hunting of Leviathan*, 45, and Quentin Skinner, "Hobbes's 'Leviathan'"; by the ironic hints hidden in his texts suggesting his religious and theistic statements are so many genuflections to the religious authorities of his day (the concealment thesis—see Strauss, *The Political Philosophy of Hobbes*, and Curley, "'I Durst Not Write So Boldly,' or How to Read Hobbes' Theological-Political Treatise"; or because even supposing Hobbes is a theist, he renders God irrelevant to his political philosophy (the practical severability thesis—see Kavka, *Hobbesian Moral and Political Theory*, 362. As we have seen, Martinich has effectively identified the manifold textual and historical problems facing the various secularist theses (see, generally, Martinich, *The Two Gods of Leviathan* and "Interpretation and Hobbes's Political Philosophy."

²⁵³ Martinich, *The Two Gods of Leviathan*, 72.

²⁵⁴ Martinich, *The Two Gods of Leviathan*, 135.

²⁵⁵ Cf. Warrender, *The Political Philosophy of Hobbes*, 208; 93

²⁵⁶ Martinich, *Hobbes*, 82.

conform. Indeed, an objective account of the good seems to be required to make sense of a *genuine* self-interest, since contingent desires can fail to align with one's genuine good. It will also risk undermining the universality aspect of *bindingness*, since the bindingness of the laws of nature would turn on contingently felt desires.

However, Martinich's view correctly recognizes the essential role God must play to secure the legal character of the laws of nature. The operation of reason derives the *propositional content* of the laws of nature. But every law consists of two parts: its form and its content, and the proper form of a law for Hobbes is "I command...". Hence, the laws of nature are only properly *laws* when agents take them to be God's commands.

So far, we have shown the problems that face a few prominent non-legal interpretations and legal interpretations. We can now turn to consider Sharon Lloyd's recent, sophisticated derivation from the reciprocity theorem (RT). We shall devote more attention to her argument, since she denies that the laws of nature depend on contingent desires; she is keenly aware of the psychological diversity of Hobbesian persons; and her derivation is concerned to secure the normativity or *bindingness* of the laws of nature without adverting to the divine command (but which may be compatible with such an account).

2.3 S.A. LLOYD'S RECIPROCITY THEOREM INTERPRETATION

Lloyd's argument for her own derivation of the laws of nature is extended and nuanced and I can only briefly summarize it here. Lloyd's definitional derivation begins with the definition "man is rational" and proceeds mostly analytically to unpack the notions of right, reason, good, etc. From the premises that man acts according to reason insofar as he is rational, and that acting according to reason is to act according to right

(and acting against reason is to act without right), Lloyd proceeds to derive RT: *If one judges another's doing of an action to be without right, and yet does that action oneself, one acts contrary to reason.* That is, *to do what one condemns in another is contrary to reason.*²⁵⁷ Lloyd contends that Hobbes's entire moral and political philosophy flows largely from this theorem.

It would have been truer to Hobbes's texts to begin with the definition "man is a rational animal." As Hobbes puts it, "man's nature is the sum of his natural faculties and powers...contained in the definition of man under these words, *animal* and *rational*."²⁵⁸ This is an important point because Lloyd's analytical-definitional approach obscures Hobbes's insistence that essential definitions pick out the real things in the world that have acted on our senses to provide us with the data to formulate the definition—and we perceive that real men are emphatically not bodiless rational agents floating around. That is, the term *man* picks out actual, subsisting *rational animals*. The rub of Lloyd's reconstruction of Hobbes is that when one fails to apply to oneself the standards of judgment one applies to others, then one fails to be a rational agent—and this would entail that one thereby ceases to be the sort of thing picked out by the definition of man. The agent is no longer a member of mankind. But this is a strange outcome.

Consider the intemperate married fellow, Jones, who has an ongoing affair with another woman and discovers that his wife is cheating on him with another man. Suppose further that he condemns her acts of adultery as blameworthy while persisting in his own secret infidelity. Jones has failed to be consistent according to RT. The upshot on Lloyd's view is not merely that Jones acts unreasonably, but that Jones has *ceased to be* a rational animal. But then, what is he? If the nature of Jones is no longer "contained

²⁵⁷ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 219-220.

²⁵⁸ EW IV, 2

under the nature of mankind,” then under what nature is he contained?²⁵⁹ One might be tempted to say, along the lines of David Enoch’s critique of constitutivism, that Jones is now a member of “schmankind”—a non-rational animal who is very similar to rational animals, but who does not care to be consistent in justifying his actions to others.²⁶⁰

But, for his part, Hobbes doesn’t seem to have countenanced the idea that those who fail to justify their actions according to RT are no longer human—even if they are acting unreasonably or contrary to the law of nature. On the contrary, Hobbes maintains that self-same individual is called a *man* for the entire duration of his vital motion, regardless of whether he acts contrary to natural law.

Hobbes addresses the question of whether Socrates is the self-same man he was several years before. Indeed, Socrates’ matter as an old man is evidently completely different from his matter as a child, adolescent, or adult. And, given Hobbes’s materialism, on what grounds could Hobbes maintain Socrates’ identity over time? Hobbes points out that the claim that Socrates is not the self-same being over time because of the complete change of his matter is open to a devastating objection. The Socrates who committed the crime of corrupting the youth several years before would not be the same the man who was later executed for the crime.²⁶¹ So, Hobbes’s answer is that, while Socrates’ matter has changed because his bodily dimensions have changed, he is the same *man* because that name is given for the form. And “if the name be given for such as is the beginning of motion, then, as long as that motion remains, it will be the same *individual* thing; as that man will always be the same, whose actions and thoughts proceed all from the same beginning of motion, namely, that which was in his

²⁵⁹ *EW* IV, 87

²⁶⁰ David Enoch, “Agency, Schmagency: Why Normativity Won’t Come from What is Constitutive of Action.” *The Philosophical Review* 115, No. 2 (2006), 179.

²⁶¹ The example is mine, based on what Hobbes says (*EW* I, 136).

generation.”²⁶² In short, Hobbes’s view is that the proper name Socrates picks out the self-same being by the form or principle of his vital motion just as the common noun *man* picks out every individual who shares the relevantly similar features.

Hobbes makes this point in the context of making metaphysical sense out of the human practice of punishment (and, implicitly, blame). Hobbes can claim that Jones is a blameworthy *man*. Hobbes can also claim that men are characteristically “hoodwinked with carnal desires” and only a smaller subset of men will “walk through this world according to the Precepts.”²⁶³ Lloyd’s reconstruction of Hobbes requires us to deny both claims.

We already saw in Chapter 1 how Lloyd might respond. She might insist that the definitions offered are true just in virtue of our public agreement as to their meaning. She might contend, moreover, that it was *because* we can’t really know the natures of things that we can only know words and the consequences of composing and dividing. As Lloyd puts it:

Hobbes insists that ‘in this naturall Kingdome of God, there is no other way to know any thing, but by naturall Reason; that is, from the Principles of naturall Science; which are so farre from teaching us any thing of Gods nature, as they cannot teach us our own nature, nor the nature of the smallest creature living.’ [L 31.33, 241]...Hobbes’s natural science...cannot in practice ground *any* conception of human nature, nor through it a political philosophy.²⁶⁴

But, as we saw in Chapter 1.1, Hobbes need not be taken to be claiming in this passage that we only know the motions buzzing around in our heads. On the contrary, the passage may only be expressing a point that older moderate realists like Aquinas took to be axiomatic: the weakness of the human intellect is manifest in that no one has yet

²⁶² *EWI*, 137.

²⁶³ *L* 14.17, 84.

²⁶⁴ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 391.

been able to know the nature of a single fly.²⁶⁵ Hobbes's denial that we can know the nature of a single fly is better understood as an epistemic humility. We can't have the kind of knowledge of the natures of things that only God can have—we can't know things *as likenesses* to the ideas in the mind of the Artificer. In short, Lloyd's possible reply does not succeed.

Finally, I am not convinced that Lloyd ultimately overcomes the problem she identified in her critique of desire-based derivations because, as she admits, the power of RT to do any work in the real world will depend on agents desiring to justify their actions. So even if the derivation does not depend on contingent desires, the question will remain for the agent: why should anyone care about the results of Lloyd's neat 35-step deduction? Lloyd seems to require a stronger claim, namely, that such self-consistency in justifying one's reasons for action is objectively *desirable*, independent of any agent's desires. Lloyd doesn't want to take this step, however, because she wants to derive the laws of nature independently of the good. This seems intended to countenance the reasonability of a maximally wide range of life plans and the concomitant "myriad things men value."²⁶⁶ But if we suppose that Lloyd posited self-consistency as objectively good, I don't think RT can successfully condemn as unreasonable a character that Hobbes would have thought was unreasonable.

Consider the peculiar character who just wants to watch the world burn. Call him Joker. Joker blames others for being duped by the claims of conventional morality (the laws of nature) and considers himself an *agent of chaos*.²⁶⁷ Joker, moreover, values the

²⁶⁵ See Aquinas, *Expositio in Symbolum Apostolorum*, Proemium.

²⁶⁶ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 246.

²⁶⁷ For the formulation, I am indebted to Christopher Nolan's film *The Dark Knight* (2008). See also Matthew Noah Smith, Review of *Morality in the Philosophy of Thomas Hobbes*. *Notre Dame Philosophical Reviews*, 2010. <http://ndpr.nd.edu/news/24597-morality-in-the-philosophy-of-thomas-hobbes-cases-in-the-law-of-nature/> (Accessed 09/27/2011).

self-consistency in action demanded by RT. When he offers his love of chaos as a reason not to seek peace he simultaneously blames others for not joining him in stoking the conflagration. He is happy to accept the love of chaos as a reason for action from others because it conduces to more chaos. Why can't the love of chaos be offered as a reason for action on Lloyd's terms?

Lloyd can respond along the lines suggested by Matthew Noah Smith, namely, that a necessary condition of agency is minimal power to advance one's ends. Thus, necessarily, all men necessarily desire the cessation of *bellum omnia contra omnes* and hence all men desire the Right of All to All be laid down. But notice, again, that this reply only shows that Joker does not count as a man on Lloyd's definition. And we have already seen how Hobbes maintains that even vicious individuals like Joker continue to be men for the duration of their vital motion. Moreover, Joker's conception of his effective agency *just does obtain* when it terminates in the sort of chaos that would in all likelihood entail his own destruction. In short, we cannot judge his chaotic ends to be unreasonable by appeal to RT alone or even by appeal to the objective goodness of acting according to RT.

Now, Hobbes himself never considers a character type like Joker.²⁶⁸ But, if Hobbes maintained that we are bound to pursue the (objective) good of life—and if Lloyd is right (as I think she is) that Hobbes did not make the sharp latter-day distinction between the reasonable and the rational—then Hobbes can maintain that Joker is acting unreasonably inasmuch as he acts in a way that damages the good of life, which he is bound to pursue.

²⁶⁸ But cf. *EW* II, 12.

CONCLUSION

In the end, while Lloyd has offered a lot of insight into Hobbes's moral philosophy, she does not secure the bindingness or the universality of the laws of nature. In this, she joins the ranks of the leading non-legal interpreters, Gert's rationally required end derivation, and the leading divine command derivation. There is a need for an account that can secure the bindingness, goodness, and psychological diversity principles. In the next chapter, I build the case for reading Hobbes as a properly *natural law theorist* whose theory satisfies all of these principles.

Chapter 3: Hobbes's Natural Law Theory of Morality

In this chapter, I turn to defend my interpretation of Hobbes as a properly *natural law theorist*. Hobbes's theory counts as a natural law theory because he retains two key notions that classical natural law theory considered desiderata for a properly *natural law theory*: the human good, which is grounded in human nature, provides basic *reason(s)* for action and the norms or precepts that correspond to the human good have a *legal character*.

To the first requirement, we have argued that, in his identification of the two postulates of human nature, Hobbes distinguishes between reason and desire in a way that indicates reason is not or need not be a mere slave to the passions. The basic judgment of Hobbesian practical reason is that *life is good and is to be pursued*. Bodily life and health as a—indeed, *the*—basic *reason for action*. To the second requirement, Hobbes maintains that the laws of nature are eternal, immutable, and universal binding, *in foro interno*.²⁶⁹ Their bindingness *as law* depends on their legislative pedigree in God's rational word.

In the 3.1, I explore Hobbes's thin theory of the good. I argue that Hobbes's teaching should be understood as sifting out what he took to be the grains from the chaff of the Aristotelian-Thomistic tradition, which held a thick theory of the good. As already suggested, most interpreters—by, respectively, rejecting God's essential role and/or adopting the proto-Humean reading of Hobbesian practical reason—have missed how Hobbes's thought may be illuminated when read in this light.²⁷⁰ In 3.2, I discuss how the

²⁶⁹ L 15.18, 99; 26.40, 186.

²⁷⁰ Taylor and Warrender never mention Aquinas and Gert's sole mention of Aquinas is negligible. Martinich does read Hobbes in light of Aquinas and provides some insights into the similarities between

divine legislative pedigree secures the legal character of the laws of nature, according to Hobbes. In 3.3, I show how my interpretation can account for three potential challenges regarding transcendent interests, the twentieth law of nature (which requires defense of one's country and potentially sacrifice of one's life), and the putative reasonability of suicide.

3.1 THE GOOD OF LIFE

In this section, I argue that, for Hobbes, the objective, basic good identified by Hobbesian practical reason is life. As such, Hobbes's doctrine is best understood a thin theory of the good in comparison to Aristotle and Aquinas. Such an interpretation faces a number of objections, based on familiar passages in Hobbes, that seem to indicate (a) Hobbes is a value subjectivist and (b) Hobbesian practical reason is a mere slave to the passions. Contrary to these claims, I will argue for an interpretation of these passages that buttresses the thesis that Hobbesian practical reason judges life to be the basic good.

Hobbes carries forward the Aristotelian-Thomistic tradition when he takes it as axiomatic that one act under the aspect of the good. In formulating his first principle of practical reason—that good is to be done and pursued, and evil is to be avoided—Aquinas made a fundamental axiom of Aristotle's his own. The principle “is founded on the notion of good, viz. that ‘good is that which all things seek after’.”²⁷¹ Thomas's explanation of Aristotle's axiom is the occasion for him to enunciate the famous *sub*

their theories of law. But he misreads the role of command in Aquinas's natural law theory and misses the interesting structural similarities in their accounts of practical reason. For contrasting readings of Hobbes's vis-à-vis Aquinas on the relationship between natural and positive law, cf. Mark Murphy “Was Hobbes a Legal Positivist?” *Ethics* 105 (4): 846-73 and Perez Zagorin, *Hobbes and the Law of Nature* (Princeton University Press 2009), 49-54.

²⁷¹ *ST* I-II, 94.2

ratione boni thesis.²⁷² He explains that the appetite of the agent and the good are mutually implicating concepts because the good provides the term of the appetite as that in which the agent finds rest. Hence it is a natural necessity that the appetite desire, whatsoever it desires, *sub ratione boni*.²⁷³ The necessity of desiring the good is intrinsic to the nature of the will just as it is intrinsic to the nature of a triangle that its three angles be equal to two right angles.²⁷⁴ Aquinas maintains, moreover, that this natural necessity is not repugnant to the will since the good is as a principle moving or drawing the appetite. Hobbes formulates the principle this way: “[a] necessity of nature maketh men to will and desire *bonum sibi*, that which is good for themselves, and to avoid that which is harmful.”²⁷⁵ Hobbes also calls this necessity of desiring good to oneself an “impulsion of nature, no lesse than that whereby a Stone moves downward.”²⁷⁶ For Hobbes, this necessity is neither repugnant to the will nor incompatible with uncertain outcomes for any particular agent.

If the *sub ratione boni* thesis is true, it follows that objects both beneficial and harmful are desired under the aspect of the good. It is not surprising, then, that Hobbes also retains the Aristotelian-Thomistic distinction between the merely apparent good and the genuine or real good. It is only by right judgment or the correct exercise of practical reason that one identifies beneficial or real goods and aligns one’s desires accordingly. As Aquinas puts it:

Not only is the good desirable, but even the apparent good [is desirable]. Since every enjoyment from the fact that it is an enjoyment, is a good. However much it is rendered bad by something added to it, an enjoyment is and is able to appear

²⁷² *Summa Contra Gentiles* III, 3.7, 4.5. Citations to Aquinas’s *Summa Contra Gentiles* (hereinafter *SCG*) will be to book, chapter, and paragraph number.

²⁷³ That is, the *person*, by the power of the appetite, desires under the aspect of the good.

²⁷⁴ *ST I*, 82.1

²⁷⁵ *EW IV*, 83

²⁷⁶ *EW II*, 8

good, as a consequence is able to be desired. But it is thus desirable to one not having right judgment; but to one having right judgments some enjoyments are not desirable. Accordingly, the prudent and temperate man does not desire intemperate enjoyments.”²⁷⁷

Hobbes concurs that good is “divided into *real* and *apparent*.”²⁷⁸ The distinguishing feature of actual goods are those objects that are on the whole good in the long run, while the merely apparently good are those that have evil annexed to them in the long run. “Whence it happens that inexperienced men that do not look closely enough at the long-term consequences of things, accept what appears to be good, not seeing the evil annexed to it; afterwards they experience damage.”²⁷⁹

Yet, in the immediate sequel to the passage, Hobbes’s own winnowing fork threshes with vigor: “Moreover, the greatest of goods [bonum maximum] for each is his own preservation.”²⁸⁰ It is this good, what we might call the basic good of life, that Gert has identified as the primary goal of practical reason. In our discussion of the two postulates of human nature in Chapter 1, we saw that, in the Epistle Dedicatory to *De Cive*, Hobbes indicates he is distinguishing between reason and cupidity in a way that reason is not, or need not, be a mere slave to the passions.

The basic goodness of life does not entail that the rational agent’s goal is *merely* to stay alive—but it does mean that the criterion of distinguishing between real and apparent goods is whether the object or course of action would conduce to one’s destruction, “that greatest of evils.”²⁸¹ Aquinas too had identified life as basic. But, developing Aristotle’s political animal anthropology, Aquinas formulated a hierarchical account of objective goods knowable by unaided reason ascending from self-

²⁷⁷ Quoted in Denis J.M. Bradley, *Aquinas on the Twofold Human Good: Reason and Happiness in Aquinas’s Moral Science* (Washington: Catholic University Press 1997), 281

²⁷⁸ *DH* 11.5, 48

²⁷⁹ *DH* 11.5, 48.

²⁸⁰ *DH* 11.6, 48

²⁸¹ *DH* 11.6, 48

preservation, to marriage and childrearing, to life in society and the pursuit of truth, to which corresponded the precepts of natural law.²⁸² Hobbes lops off the latter goods *qua* objective.

At least two factors were important in Hobbes's rejection of Aquinas's thicker account of the goods and the common good. First, Hobbes experienced first hand the breakdown of consensus about the good life: "[D]iverse men differ in their judgment...of what is comformable, or disagreeable to reason, in the actions of common life."²⁸³ Second, Hobbes was skeptical of any claims that perfect beatitude could be had in this life: "[F]elicity of this life, consisteth not in the repose of a mind satisfied. For there is no such *finis ultimus*, utmost aim, nor *summum bonum*, greatest good, as is spoken of in the books of the old moral philosophers."²⁸⁴

Hobbes is famous for his denial of a *summum bonum*. Interpreters have taken this to be a denial of any objective ends *simpliciter*. But a closer reading indicates that nothing in this passage requires such an interpretation. Hobbes clearly qualifies his claims to be about felicity *in this life* and the *summum bonum as is spoken of the books of old moral philosophers*. When he discusses this in *De Homine*, Hobbes again denies that a *summum bonum* is attainable "*in the present life*."²⁸⁵ These are important qualifications.

Supposing Hobbes were a sincere Christian, he may only be saying perfect beatitude is not available in this life—and Aquinas explicitly affirms this as well.²⁸⁶ Hobbes leaves it open as to whether ultimate fulfillment or satiation of desire can come in

²⁸² *ST* I-II, 94.2

²⁸³ *L* 15.40, 100.

²⁸⁴ *L* 11.1, 57.

²⁸⁵ *DH* 11.15

²⁸⁶ *ST* I-II, 2.8

the next life. Hobbes seems to have left open the possibility of eternal life as revealed in Christianity or the order of grace. Hobbes forestalls considering the claims of Christian revelation until Parts III and IV of *Leviathan* because in the first two parts he is mostly concerned with reasoning on the basis of unaided reason.

The point here Hobbes is making in these passages is more limited: Hobbes is denying that unaided reason discovers Aristotelian *eudaimonia*, or Aquinas's *beatitudo imperfecta*, or any form of the contemplative life as the objective content of happiness.

The necessity of Hobbesian men to will *bonum sibi* means that, necessarily, men seek happiness. We have just seen that the *objective* content of happiness discoverable by reason is not Thomistic imperfect beatitude. But, whatever felicity consists in, *not being dead* is the *sine qua non* of living a felicitous life. Therefore, reason judges *life* to be the primary good. It might be asked: why is life the basic good? Does its goodness lie only in its instrumentality to getting other things one wants? The good of life seems to answer to goodness in three modes that Hobbes identifies: *pulchrum* (good in the promise), *jucundum* (delightful), and *utile* (profitable, useful).²⁸⁷ Life is good in its promise and usefulness, as being necessary precondition of felicity. But it is also delightful in itself—and I think the delight attached to the good of life is the experience itself of having desires.²⁸⁸ Hobbes seems to posit the view that the very *having of desires*, the substantial reality of being a desiring self, is itself a central aspect of the basic good of life.

This provides the grounds of what I shall call Hobbes's *felicity pluralism*.²⁸⁹ Hobbes's felicity pluralism is widely inclusive of many diverse life plans, so long as they

²⁸⁷ *L*, 6.8, 29.

²⁸⁸ Cf., *L*, 11.2, 58.

²⁸⁹ I agree with Lloyd that the good for Hobbes is not simply synonymous with "desired by the agent" (2009, 83).

are reasonable—and the basic requirement of practical reasonableness in the pursuit of felicity is to take the good of life as basic. Only peaceful life-plans will count as exercising the “harmless liberty” that the sovereign is bound to protect. Another way to put the point is: when an agent takes on some (reasonable) end or conception of happiness, a number of practical necessities (the laws of nature) ensue that forbid him from doing that which is destructive of his life or which takes away the means of preserving his life, because being alive is a necessary constituent of pursuing felicity. Hobbes agrees with Aquinas, moreover, that these practical necessities will only have the force of counsel unless they are commanded by God—only then are do they bind as *laws of nature*.²⁹⁰

But how is such an interpretation of Hobbes’s doctrine of the good compatible with Hobbes’s texts that suggest the radical subjectivity of the good? Consider Hobbes’s claims in his well-known passage accompanied by the side note “Good. Evil.”:

But whatsoever is the object of any mans appetite or desire; that is it, which he for his part calleth *good*: and the object of his hate, and aversion, *evil*; and of his contempt, *vile* and *inconsiderable*. For these words of good, evil, and contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common rule of good and evil, to be taken from the nature of the objects themselves; but from the person of the man (where there is no commonwealth;) or, (in a commonwealth,) from the Person that representeth it; or from an arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the rule thereof.²⁹¹

A common interpretation of this and like passages is that Hobbes is a value subjectivist. That is, the valuable or the good is nothing other than what one personally

²⁹⁰ Martinich misreads Aquinas on this point (*The Two Gods of Leviathan*, 133). Cf. *ST I-II* 90.4, ad. 1; 93.5; *De Veritate* 17.3. Hobbes and Aquinas differ on the theological knowledge requisite to know the natural law *as law*.

²⁹¹ *L* 6.7, 28-9.

or subjectively desires. For example, commenting on this passage, David Gauthier writes:

Where the contemporary value subjectivist says that utility is the measure of individual preference, Hobbes says rather that “private Appetite is the measure of Good, and Evill” (L 15), thus exchanging measure and measured. But it is evident that both treat value as dependent on choice or appetite.²⁹²

For Gauthier’s Hobbes, good is synonymous with “desired by me” or “desired by the agent.”²⁹³ But, a closer reading suggests that Gauthier’s interpretation is too quick and ultimately incorrect. The object of some individual’s appetite is that which *for his part* he calleth good. Hobbes is claiming nothing more than that the common way folks speak is to “calleth good” what they in fact desire. So far, Hobbes has not denied there are objects that are *actually* good. Still, doesn’t Hobbes deny there are any objects that are actually good in the immediate sequel when he claims the word good is “ever used in relation to the person that useth them: there being nothing simply and absolutely so” and that there is no “common rule” of the good in the object itself?²⁹⁴ Not necessarily.

Hobbes’s claim that nothing is simply or absolutely good need only imply that there is no actually good object that is not *in fact* being desired. I suggest that Hobbes is trying to express a point that Peter Geach later made along these lines that “there is no such thing as being just good or bad, there is only being a good or bad so and so.”²⁹⁵ Geach also made the point by reflecting on how we talk about the good as well. In the

²⁹² David Gauthier, “Thomas Hobbes: Moral Theorist,” *Journal of Philosophy*, Vol. 76, No. 10 (1979), 548.

²⁹³ See also Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge, 1986) and Kavka, *Hobbesian Moral and Political Theory*; For recent discussions, see Stephen Darwall, “The Right and the Good in Hobbes’s Moral Philosophy” (manuscript) and S.A. Lloyd, *Morality in the Philosophy of Thomas Hobbes: Cases in the Laws of Nature*, 78 ff.

²⁹⁴ L, 6.7, 28-29.

²⁹⁵ Peter Geach, “Good and Evil” Reprinted in *Theories of Ethics*, ed., Phillipa Foot, (United States: Oxford University Press, 1976) pp. 64–73. Lloyd makes a similar argument. See *Morality in the Philosophy of Thomas Hobbes*, 83.

common way we speak about objects, good is an attributive adjective—it “sticks” to the noun that it modifies as in a “x is a good car.” In contrast with the proposition “x is a red car,” the former proposition does not split up into “x is good” and “x is a car.” Whereas, I could see that the distant object is red and my color blind friend can see that it is a car, “there is no such possibility of ascertaining that a thing is a good car by pooling independent information that it is good and that it is a car.” Similarly, Hobbes is saying that to claim that some object or state of affairs is *good* cannot be said simply independent of the object’s relation to human desire. So when an agent says, “that car is good,” the agent is typically saying something relative to his or her purposes (e.g.) it is good *for* transporting me to work or good *for* impressing the 4H babes, or good *for* off-roading, etc. Lloyd seems correct that Hobbes’s peculiar way of speaking does not undermine the objectivity of the good, but makes it rather opaque.²⁹⁶ In short, Hobbes does not maintain that “good” is just synonymous with “desired by the agent.” The objectivity of the good of life seems still available.²⁹⁷

Neither does the diversity of tastes in the agent negate the objectivity of the good of life. In *Leviathan*, Hobbes first broaches the good in Chapter 6, in the context of his differentiation between vital and animal motion (a full eight chapters before Hobbes formulates the laws of nature). The smallest beginnings of animal motion or “voluntary motion, as to go, to speak, to move any of our limbs” is endeavour. Endeavour considered as stretching out towards “something which causes it,” is called appetite.²⁹⁸ In Latin, *appetitus* is a compound of *ad* (towards) and *petere* (to aim at or desire). The

²⁹⁶ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 83.

²⁹⁷ Stephen Darwall argues against subjectivist interpretations of Hobbes. See Darwall, “Normativity and Projection in Hobbes,” *The Philosophical Review* Vol. 109, No. 3 (2000), 313-347. However, if my argument is correct, Darwall’s “projectivist” solution mistakenly reads Hume back into Hobbes.

²⁹⁸ *L* 6.2, 28.

“something which causes” appetite thus has a sort of magnetic pull on the Hobbesian agent. Of those objects that draw the appetite, only “some are born with men” as appetites for food, excretion, exoneration, “and some other[s], not many.”²⁹⁹ But, notice that the natural appetites common to all men—for food, excretion, and exoneration—logically presuppose the natural desire *to live*.

Besides these, the objects that draw the appetite are widely diverse. Hobbes offers a several reasons why this is the case. The first reason Hobbes suggests is the diversity of experience. Different folks will have different experiences of various objects and “trial of their effects upon themselves, or other men [that they observe].” The second reason is due to our ever-changing material constitution: “because the constitution of a mans body, is in continual mutation; it is impossible that all the same things should always cause in him the same appetites, and aversions.”³⁰⁰ Lastly, Hobbes’s mentions “different tempers, customs, and doctrines of men” as causes of variegation in appetite and aversion.³⁰¹ The reasons can be divided into two different types: biological and cultural. Under the first, Hobbes notes both the material flux of the body and various temperaments. Under the second, Hobbes includes the effects of custom and doctrine—presumably including civil and religious law. Which objects will draw one’s appetite at any given time will depend on the variables of one’s bodily makeup, the civil and religious customs in which one was reared, and the experiences of tasting and trying.

But nothing here has undermined right reason’s judgment as to the intrinsic desirability of life. Being alive is intrinsically desirable, in the three modes of the good, as the necessary precondition of having any desires at all, and the delightful condition of

²⁹⁹ L 6.4, 28.

³⁰⁰ L, 6.6, 28.

³⁰¹ L, 15.40, 100.

experiencing desire. Hence, Hobbes can maintain that conservation of one's life is identified by reason as the *bonum maximum*, to which the desires of any particular agent may or may not conform.³⁰² The natural necessity or impulsion of nature is compatible with uncertain outcomes in the case of any particular agent. Hence, Hobbes also distinguishes between the apparent and the actual good. That is, the merely apparently good is that which, while perhaps conducing to some immediate benefit, is annexed to evil in the long run, while the really good is that which is on the whole good.

It could be objected: fine, the good of life is basic in the three modes of the good—but that need not imply that *reason* sets the goal of self-preservation. It might just be the case that, inasmuch as contingent desires seek different objects, desire always sets life as a necessary proximate end, since life is a necessary precondition of attaining the object. The following passage might be cited in support:

For the thoughts, are to the desires, as scouts, and spies, to range abroad, and find the way to the things desired: all steadiness of the mind's motion, and all quickness of the same, proceeding from thence. For as to have no desire, is to be dead.³⁰³

The first point to be noted about this passage is that it doesn't seem concerned primarily with claiming reason is and only can be a slave to the passions. Rather, it comes in the context of Hobbes arguing that a man who does not have great passions for riches, knowledge, or honor cannot have "great fancy, or much judgment," since Hobbes had defined "good fancy" as insight into the likenesses of things and "good judgment" as distinguishing, discerning, and judging of things well.³⁰⁴ The immediate context of the

³⁰² Hence, this claim would be compatible with an empirical observation that most or all people have this desire and/or that it is the strongest desire most or all people have.

³⁰³ *L*, 8.16, 41.

³⁰⁴ *L*, 8.2-3, 38.

passage suggests Hobbes is primarily thinking of objects like riches, honor, or knowledge—objects of desire for which reason judges of the means.

Moreover, Hobbes’s use of the image of a spy does not necessarily support the impotent thesis. Hobbes understands a spy to be someone who carries out the will of a sovereign in secretly collecting information on his behalf.³⁰⁵ But, a spy is not a *mere slave* of his sovereign’s will. The spy *concur*s with the will of his sovereign. Hobbes suggests that a spy’s concurrence is not slave-like, but is intentional, since a spy who gets caught can be justly put to death, and culpable crimes are intentional.³⁰⁶ So, while this image suggests that the desire has a sort of sovereignty regarding riches, honor, or knowledge—suggesting diversity of desire regarding such objects necessitates a felicity pluralism—it does not entail reason’s impotence to concur or not in the end sought. Nor need it imply desire’s sovereignty over the end of life. Therefore, the spy image need not indicate that reason is the mere calculating slave of passion. Reason and desire (when it is rational) concur on the goodness of life.

This interpretation would help make sense of Hobbes’s remarks in the Review and Conclusion. There, he considers afresh whether human nature is fit for civil duty. Hobbes wonders whether the “severity of judgment” is compatible with the “celerity of fancy” because the former makes men censorious and the latter makes men unable to distinguish right from wrong. Hobbes connects judgment to the “faculty of reasoning,” without which sentences would be unjust and he connects fancy with eloquence, without which “the effect of reason will be little.”³⁰⁷ Hobbes then strengthens the connection

³⁰⁵ *L*, 13.12, 78.

³⁰⁶ *L*, R&C.7, 491; See also *EW* VI, 133-4, where Hobbes argues that killing another by mere misfortune (as when a man picking apples in his apple tree accidentally falls atop a passerby below) is not a felony because it was not intentional.

³⁰⁷ *L*, R&C.1, 489.

between judgment and reason when he aligns judgment with truth while aligning fancy with the opinions and passions of men, which are contingent and potentially false:

But these are contrary faculties; the former being grounded upon principles of truth; the other upon opinions already received, true, or false; and upon the passions and interests of men, which are different, and mutable.³⁰⁸

Hobbes then points out that judgment and fancy “may have place in the same man; but by turns.”³⁰⁹ The claim seems to presuppose that the faculty of reason is of a sufficient dignity that it can have pride of place in man, and tame passion in accord with its dictates. Hobbes here sheds light on how he understands his whole project in *Leviathan*: it is a piece of right reasoning about the true grounds and character of civil duty, stated so eloquently that it can’t fail to capture the hearts and imaginations—the passions—of his countrymen. Reason cloaked in eloquence has the power to educate passion:

For all men are by nature provided of notable multiplying glasses, (that is their passions and self-love,) through which, every little payment appeareth a great grievance; but are destitute of those prospective glasses, (namely moral and civil science,) to see a far off the miseries that hang over them, and cannot without such payments be avoided.³¹⁰

We saw in Chapter 1 that the two postulates of human nature are at cross-purpose such that the passions can all too easily overcome reason and drive men into chaos. But Hobbes indicates his optimism in this passage that reason can tame the passions and self-love through education. It follows that reason need not be a slave to the passions. Therefore, my view that Hobbesian practical reason judges life to be the basic good, independent of contingent desires, may be the best interpretation of Hobbes’s natural law theory if, as I argue in §3.3, it can explain transcendent interests, the twentieth law of

³⁰⁸ *L*, R&C.1, 489.

³⁰⁹ *L*, R&C.4, 489.

³¹⁰ *L* 18.20, 118.

nature, and suicide. Before coming to that, let us consider how God secures the *legal character* of reason's judgment that life is good and the dictates of reason necessary to secure this good.

3.2 THE LEGAL CHARACTER OF THE LAWS OF NATURE

While some scholars would emphasize an evolution in Hobbes's theory of natural law, I suggest that Hobbes's fully formed teaching in *Leviathan* is not of a different kind, but was in embryonic form in his early work. In the *Elements of Law Natural and Politic*, Hobbes had identified the law of nature with reason.³¹¹ Hobbes added that "forasmuch as law (to speak properly) is a command, and these dictates, as they proceed from nature, are not commands; they are not therefore called laws in respect of nature, but in respect of the author of nature, God Almighty."³¹² Later in *De Cive*, Hobbes defined the law of nature as a "dictate of right reason."³¹³ These dictates of right reason were the content of the natural, moral, and divine law, which citizens and sovereigns have a duty to obey.³¹⁴ Hobbes went on to suggest that knowledge of the laws "depends on knowledge of the kingdom" and that God rules the natural kingdom "by the tacit dictates of right reason."³¹⁵ In *Leviathan* Hobbes brought together these threads to express his view in mature form. A law of nature became "a precept, or general rule, found out by reason, by which man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same, and to omit, that, by which he

³¹¹ *Elements of Law Natural and Politic*, 15.1 in *EW IV*, 87.

³¹² *Elements*, 17.12 in *EW IV*, 109.

³¹³ *De Cive* 2.1 in *EW II*, 16.

³¹⁴ *DC*, 13.2 in *EW II*, 166.

³¹⁵ *DC*, 15.1; 15.3 in *EW II*, 204, 205.

thinketh it may be best preserved.”³¹⁶ From this definition Hobbes deduces a catalogue of nineteen natural laws and claimed their legal character was secured by God’s command.

On my interpretation, life is judged by reason to be the basic good and the goodness of life underpins all the laws of nature. Since the dictates of reason attain the force of law by God’s command, it follows that the most basic duty in Hobbes’s system is to preserve one’s life. This seems evident in Hobbes’s definitions of the right of nature and the law of nature.

While Hobbes’s right of nature has been frequently taken by scholars as prior to and conditioning all law and duty, Hobbes’s definition seems to suggest otherwise: “the right of nature...is the liberty each man hath, to use his own power, as he will himself, *for the preservation of his own nature*; that is to say, of *his own life*...”³¹⁷ If Hobbesian natural right connoted an *absolute* liberty, then why is there any object specified at all? I suggest that the curiously telic feature of Hobbesian natural right becomes clearer when considering that the essence of a law of nature is a discovery by reason of precepts forbidding man from doing that “which is destructive of his life, or taketh away the means of preserving the same.”³¹⁸ Hobbes is indicating what we have already seen regarding reason’s judgment as to the primary goodness of life—there is a foundational rational obligation to preserve one’s life that underpins the laws of nature. If there is a basic duty to preserve one’s life, then we would expect that the duty would come coupled with a right to the means necessary to fulfill the duty, since Hobbes strongly believed in

³¹⁶ L, 14.3, 79.

³¹⁷ L 14.1, 79. For an interpretation that natural right is prior to and conditions law, see Strauss, *Natural Right and History*, 181-2.

³¹⁸ L 14.3, 79.

the principle that a duty comes with the means to fulfill it.³¹⁹ But the right of nature just seems to be means necessary to preserve one's life. The fundamental law of nature and the catalogue of natural laws can be derived from the foundational duty to pursue the good of life.

Martinich has denied that the "law of self-preservation" is a law in Hobbes's scheme.³²⁰ The reason he gives is: the definition of a law of nature is not a law of nature, just as the definition of a horse is not a horse, therefore there is no law of preservation. Martinich's argument is tantamount to denying that the human agent is bound to preserve his life, for Hobbes. But, in light of our discussion, a different argument seems available to prove that the human agent is bound to preserve his life, according to Hobbes. I offer the following arguments, first, to establish the laws of nature bind all human agents to preserve the necessary means to preserve the objective good of life. (For the moment, I abstract from the *force* with which they bind—they bind universally, but, for Hobbes, the *force* will differ between theists and atheists—for theists they have the force of law, for atheists they have the force of recommendation or counsel.) The second argument is to prove that every human agent is bound to preserve his life.

To prove: The laws of nature bind all human agents to pursue the necessary means to preserve the objective good of life.

1. The laws of nature specify the necessary means to obtain an object of desire for all human agents. (From the definition of a law of nature).
2. If the laws of nature bind *universally*, then either they depend on a desire that does not fail to obtain in all human agents or they depend on no contingent desires at all.
3. The laws of nature are universally binding. (*L* 26.40, 186.)
4. Therefore, the universal bindingness of the laws of nature is either dependent on a desire that human agents cannot fail to obtain or it is dependent on no desire at all. (From 3 and 2 by *modus ponens*).

³¹⁹ *L* 18.8, 113; 30.1-3, 219-20.

³²⁰ Martinich, A.P., Vaughan, Sharon, & Williams, David Lay, "Hobbes's Religion and Political Philosophy: A Reply to Greg Forster." *History of Political Thought*. Vol XXIX, No. 1 (2008), 60-1.

5. But there is no such desire that cannot fail to obtain, since human agents are psychologically diverse. (From Hobbes's own empirical and historical observation and verifiable by introspection.)
6. Therefore, the universal bindingness of the laws of nature does not depend on a contingent desire. (From 5 and 4 by *modus tollendo ponens*.)
7. But, the laws of nature specify *preservation of life* as the object of desire for all human agents. (From the definition of a law of nature.)
8. An object of desire that is good independent of any particular contingent desire is objectively good.
9. Therefore, the laws of nature bind all human agents to pursue the necessary means to preserve the objective good of life. **QED**

To prove: Every human agent is bound to preserve his life.

- 1*. Suppose the laws of nature bind agents to pursue *only the necessary means* to the good of life. (Supposition for *reductio*.)
- 2*. An agent is bound to *always* perform promises made. (From the Third Law of Nature, one of the necessary means.)
- 3*. An agent that always performs promises made is tractable. (L 15.36, 99.)
- 4*. An agent is bound to be tractable. (From 3 and 2.)
- 5*. An agent is bound to make himself prey to others. (From the meaning of "tractable" [L 15.36, 99].)
- 6*. An agent is bound to pursue the means of his own certain ruin. (From the meaning of making oneself prey to others [L 15.36, 99].)
- 7*. The laws of nature bind agents to pursue the means to the good of life and an agent is bound to pursue the means of his ruin. (From 6* and 9 by conjunction.)
- 8*. Therefore every human agent is bound to preserve his life. **QED**

It might be said that this argument actually shows that Hobbes contradicts himself, since, by the conjunction of (9) and (6*), one seems to be bound and not to be bound to pursue the means to the good of life. (My argument for the *reductio* accepts the truth of premises (2*)-(5*), from which (6*) is validly derived.) A further distinction is needed to save the argument. Hobbes's distinction between *in foro interno* and *in foro externo* validity saves the conclusion of the first argument (9) while qualifying (6*) in a way that is compatible with (9) but incompatible with the supposition for the *reductio* argument, hence rendering (8*) sound.

The agent is always bound by the laws of nature *in foro interno*, but not always *in foro externo*, because one would make oneself prey to others if one always put the laws of nature into act *in foro externo*. This is because, *in foro externo*, there may or may not be sufficient security to sanction noncompliance with the laws of nature. Moreover, while the catalog of laws of nature always bind *in foro interno*, “that is to say, they bind to a desire they should take place,” they can fail to bind *in foro externo* when they would conduce to one’s destruction which is “contrary to the ground of all laws of nature” (L 15). Hence, the conclusions of both arguments (9) and (8*) should be understood with the *in foro interno-in foro externo* proviso. The *in foro interno-in foro externo* distinction also indicates how conclusion (6*) of the second argument could only be true *in foro interno*—and this distinction is not available to the interlocutor who claims only the necessary means to life are binding. This is because, if we suppose that only the laws of nature bind the agent, and not the object at which they aim (the supposition for *reductio*), then it would effectively make the *in foro interno-in foro externo* distinction pointless. The whole point of that distinction is lost if one denies that the ground of all the laws of nature is the objective good of life, which one is always rationally bound to pursue. Without that referent, one would be unable to distinguish between acting rationally and irrationally, on Hobbes’s terms. (This is why the *in foro interno-in foro externo* distinction is implicitly deployed as true in the *reductio*.)

So the laws of nature bind one to preserve one’s life, and the necessary means thereto. But we have already seen that the *mere* judgment of practical reason that life is good and that the catalogue of dictates are the necessary means to preserve life, is not sufficient to bind with the force of law. As we saw above, for Hobbes, obligation is an essentially relational notion—*pace* Kant, Hobbes denies that one can bind oneself with the force of law. Hobbes’s *relational* theory of obligation is evident horizontally, in

covenants, and vertically, by God's command of the laws of nature. After Hobbes has deduced the catalogue of laws in Chapter 15, he notes the following:

These dictates of reason, men use to call by the name of laws; but improperly: for they are but conclusions, or theorems concerning what conduceth to the conservation and defence of themselves; whereas law, properly is the word of him, that by right hath command over others. But yet if we consider the same theorems, as delivered in the word of God, that by right commandeth all things; then are they properly called laws.³²¹

Hobbes maintains that the dictates of reason considered in themselves do not have the force of law because law is “properly the word of him, that by right hath command over others.” But, if we consider the dictates of reason “as delivered in the word of God, that by right commandeth all things; then are they properly called laws.”

This passage is frequently cited as evidence that Hobbes thought the laws of nature are not really laws.³²² But, such an interpretation really doesn't make sense of what Hobbes says. As Martinich points out, Hobbes's remark that “men use to call by the name of Lawes; but improperly” *presupposes* that *he* is using the word “law” correctly, i.e., that law *is* properly the say-so of he who “by right commandeth all things.” Otherwise Hobbes would have said something like “These dictates I (like men before me) call ‘laws’ but improperly...”³²³

By “word of God,” Hobbes does not mean the Bible. Hobbes means God's “rational word” to which corresponds the “hearing” of “right reason.”³²⁴ Clearly, the hearing of “right reason” is not a form of “prophetic knowledge.” As Hobbes explains:

³²¹ L 15.41, 100.

³²² For one recent example see, e.g., Zagorin, *Hobbes and the Law of Nature*, 51.

³²³ Martinich, *Hobbes*, 84.

³²⁴ L 31.3, 235. Hence, the oft-repeated claim that Hobbes does not secure the legal character of the laws of nature prior to biblical positive law—God's “prophetic word”—must be rejected (cf. Hood, *The Divine Politics of Thomas Hobbes*, viii; 4).

God declareth his laws three ways; by the dictates of natural reason, by revelation, and by the voice of some man, to whom by the operation of miracles, he procureth credit with the rest. From hence there ariseth a triple word of God, rational, sensible, and prophetic: to which correspondeth a triple hearing; right reason, sense supernatural, and faith.

Hobbes clearly distinguishes knowledge gained by unaided reason from prophetic knowledge. Prophetic knowledge corresponds to faith, which comes from God, coupled with the instrumental cause of “some man.” Therefore, objections to Martinich’s divine command derivation regarding the “epistemological problem” of prophetic knowledge are of no force.³²⁵

Moreover, *pace* Lloyd and Gert, Hobbes does not make these claims merely to “multiply men’s motives for following them” or merely to show they are “compatible with Christianity” in order to persuade his Christian audience.³²⁶ Rather, God’s legislative activity is *essential* to the dictates of reason being *laws*. To hold otherwise would be to attribute to Hobbes systematic distortion because he would only have been warranted in deducing twenty “counsels of nature” when in fact he purports to deduce twenty *laws* of nature.³²⁷

For Hobbes’s part, *that there is a providential God* whom one takes oneself to be honoring in acting for one’s proper good is the difference between reason’s dictates being exhortative theorems of prudence and legally binding. In other words, to say that God commands the laws of nature is to say that what *mere* practical reason teaches as recommendatory are laws for the theist. Hence, Hobbes does not think that the necessity to pursue the end of life or the means thereto has the force of law, because he denies God has any being. So even if the atheist seeks preservation, and seeks peace as the means

³²⁵ See, e.g., Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 184.

³²⁶ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 104; Gert, *Hobbes*, 70; 82.

³²⁷ Some secularist interpreters seem willing to bite this bullet. See, e.g., Gauthier, “Hobbes: The Law of Nature,” 263.

thereto, seeking peace can only be recommendatory. Thus the atheist for Hobbes is punished by God “not as a subject is punished by a king, because he keeps not the laws, but as one enemy by another, because he would not accept of the laws.”³²⁸ Here is a difference between Hobbes and Aquinas. Hobbes conflates the epistemic and metaphysical orders in a way that Aquinas kept distinct. For Aquinas, even atheists are bound by natural law because the condition of promulgation is met just in virtue of God creating man with the power of reason. But, for Hobbes, one must affirm belief in God’s existence in order for the laws of nature to count as divinely promulgated.³²⁹

Whether or not contractors take themselves to be bound by the dictates of reason with the force of law seems to be of central importance for Hobbes in the generation of commonwealth—hence, Hobbes suggests that atheists in the state of nature cannot be trusted to keep their word in the sovereign-making covenant because “there is no living in a commonwealth with men, to whose oaths we cannot reasonably give credit.”³³⁰

Why does belief in a providential God transform the dictates of reason into laws, properly speaking? It is because the judgment that God exists and providentially governs the world would make a difference, if true. If we find ourselves in a godless universe, then any “order” we discover in the world or in ourselves toward the good, and the necessary means to the good, would not be willed by a being with the right to will it. That order, then, would not have the character of law. Now, for Hobbes, the right to order things according to one’s will derives from *power*. We already saw in Chapter 1 how Hobbes does not deny the possibility of natural theology, but offers various arguments for God’s existence along the lines of Aquinas’s five ways. Moreover, we saw

³²⁸ *EW* II, 199

³²⁹ I discuss this further, and the possible influence of Suarez on Hobbes’s view in my “Mortal Gods and Eternal Laws: Thomas Hobbes and the Natural Law Tradition” Masters Report (2010).

³³⁰ *EW* IV, 294

that, to affirm that God exists is to affirm God's absolute priority in the order of being. God's existence thus entails that there is no perfection that can be denied of him—indeed, all perfections are *maximally* so in God.³³¹ Therefore, the judgment that God exists entails that God is maximally or, as Hobbes prefers to put it, *irresistibly* powerful, because power is a perfection. God is omnipotent. And if God is omnipotent he has complete power over all of nature. But God could not have maximal power over nature unless he *created* it, because if he didn't create it, then its existence would not depend on God's power, and then he would not have complete power over nature. Hence, if God exists, God created and ordered the world. But man is a part of the world. Therefore, the order evident in man toward the good of life, and the order of the dictates of right reason to secure this good, has the character of law *for the theist*.

What sort of evidence is there for the claim that man is *ordered* to the good of life? Consider that we can understand fairly easily that the various parts of an engine serve a function, and that without one of the parts, the whole would fail to operate properly. We have seen that Hobbes thinks there is a likeness between the operation of an engine's parts for the motion of the whole and the operation we observe in the human organs: "For what is the Heart, but a Spring; and the Nerves, but so many Strings; and the Joynts, but so many Wheelles, giving motion to the whole Body, such as was intended by the Artificer?" Is that last phrase about an artificer's intent warranted?

Consider a common scenario. When Smith starts up his brand new Chevy for the first time, and while it is purring, he opens up the hood to gaze upon that V-8, 345

³³¹ The worship we do God "proceeds from our duty, and is directed according to our capacity, by those rules of Honour" and honoring "consisteth in the inward thought, and opinion of the Power, and Goodnesse of another: and therefore to Honour God, is to think as Highly of his Power and Goodnesse, as is possible" (L, 31). "Moreover in attributes which signify greatness or power, those which signify some finit or limited thing are not signs at all of an honouring mind" (EW II, 214). "He therefore who would not ascribe any other titles to God than what reason commands, must use such as are either *negative*, as *infinite*, *eternal*, *incomprehensible*, etc; or *superlative* as *most good*, *most great*, *most powerful*, etc." (EW II, 216).

horsepower engine, is Smith warranted in judging that it is functioning according to the intention of an artificer? The judgment seems pretty obviously warranted. But Hobbes thinks it is just as obvious that the order we observe in the operation of the organs in the human body is the intention of an Artificer because, “it is very hard to believe that to produce male and female, and all that belongs thereto, as also the several and curious organs of sense and memory, could be the work of anything that had not understanding.”³³² The order in the human body is a particular instance of the “admirable order” we observe in the “visible things of the world,” from which it is a valid inference that there is a cause of that order, which men call God.³³³ Hobbes even goes so far to say that anyone who denies that the process of human generation is directed by a mind is himself mindless.³³⁴ Notably, Hobbes may have come to appreciate the apparent order of the bodily parts to the good of the whole during his exile in France when he spent time observing dissections performed by William Petty.³³⁵

If the order of our bodily parts to the good of life is manifest, and if God so orders them, then the order of the human body would seem to be a manifestation of God’s goodness, since God’s goodness “is his goodness to us.” But God’s goodness to us in ordering us toward the good of life is does not only evident in the operation of our subrational parts.³³⁶ As “the first author of speech” God’s goodness to us is manifest in artifacting us with the power speech and reason, by which we are empowered to deduce

³³² *EW VII*, p. 176.

³³³ *L*, 11.25, 62.

³³⁴ *De Homine I.4* in *OL*, Vol. 2, 6.

³³⁵ For a discussion Hobbes’s activities during this period see Martinich, *Hobbes: A Biography* (Cambridge: Cambridge University Press), 194 ff.

³³⁶ And we have already seen in Chapter 1 that even in a massive worst-case scenario like the state of nature—a condition of real persons that is void of positive law with a power to enforce it—the experience of fear in all rational persons is indicative of a rational order to the good of life.

the necessary means to our preservation, i.e., the laws of nature.³³⁷ Now, as we saw in Chapter 1, in Parts III and IV of *Leviathan*, Hobbes offers a biblical anthropology, affirming the Genesis account of God's gift of speech for man.³³⁸ But, even within his proximate foundation in unaided reason, by his *philosophical* theology, Hobbes can affirm that God is the "first author" of speech. Since we cannot deny a perfection to God, we must affirm that God is maximally rational. And speech is the mark of rationality. But since God is the first cause of all of nature, including man, and man is a rational animal, God must be the author of speech. Hence, Hobbes's philosophical theology warrants his claim that God's "rational word" corresponds to right reason. It is by the rational faculty that we judge life to be good and that we rightly reason about the necessary means to preservation.

So then, if God exists, then the order of man's body and reason toward the good of life is an order *willed* by one with the right to order things by his command (and the order itself is evidence of such an Ordering Artificer). That is the explanation of why dictates of reason have the character of law for the theist. It also shows why the practical severability thesis—the claim that God plays no substantive role in Hobbes's political thought—fails since it downplays or misunderstands how transformative the judgment that God exists *is* for the Hobbesian practical reasoner and, hence, Hobbes's vision of morality and politics.

This interpretation of Hobbes is not without a potential difficulty, however. The difficulty arises from Hobbes's discussion of the problem of evil. In that discussion, Hobbes offers a solution based on the claim that God's omnipotence has a kind of primacy among the divine attributes. But, if God's nature were such that God's

³³⁷ *L* 4.2, 16; cf. *DH* 10.3.

³³⁸ See also *DH* 10.2, 38-9.

omnipotence could be exercised independently of God's goodness, then Hobbes's assumption that God commands the necessary means to preservation would be jeopardized.

God's Power and Goodness: The Problem of Evil

When Hobbes avers the right of God over men, he insists that this is to be derived from God's omnipotence and "not from his Creating them, as if he required obedience as of Gratitude for his benefits."³³⁹ The suggestion is that God's power has a sort of priority to God's beneficence or goodness. Why does Hobbes say this? Hobbes apparently finds it useful to explain the suffering and evil experienced by good men in the world. We see that even men who are innocent of sin suffer. But since God is omnipotent, then he must ultimately be the cause of that suffering, according to Hobbes. Hobbes does not have recourse to the traditional solutions to the problem of evil that invoked free will, since Hobbes rejects broadly scholastic doctrines of free will. So Hobbes says that God's right of afflicting the guilty (punishment) and the innocent (non-penal affliction) derives from his omnipotence, and contends this is most evident in the story of Job, who was afflicted with a number of evils even though he was innocent of sin.

But this solution to the problem of evil seems to undermine Hobbes's assumption that "what is deducible as the means to self-preservation must be the command of God."³⁴⁰ The solution appears to undermine that assumption inasmuch as it suggests that God rightly harms his creatures. What would warrant the assumption that God commands us to seek our good and the means thereto if God in fact is a "Sky-Bully"?

³³⁹ L 31.5, 235.

³⁴⁰ Martinich, *The Two Gods of Leviathan*, 335.

I don't think we need to take Hobbes's claim that God by right afflicts his creatures, sinful and innocent, to entail that God rightfully *harms* his creatures. Hobbes does not really spell out the notion of "affliction" for the innocent. But, presumably, God acts in accord with His nature and so any affliction God doles out must be in accord with His nature. And Hobbes speaks in the same breath of God's "Power and Goodness." Moreover, Hobbes denies that anything can be said of God that would "breach [the] unity in God that reigneth."³⁴¹ Hence, if God is properly called "most good" and "most powerful," then these attributes cannot introduce any real distinctions or divisions in his being, because that would "breach [the] unity in God that reigneth."³⁴² So when Hobbes speaks in the same breath of God's "Power and Goodness," he cannot be introducing rival attributes into God's nature, if he is consistent.³⁴³ It follows that, if God does not act contrary to his nature, then God cannot act contrary to his goodness. But, says Hobbes, God's goodness "is his goodness to us."³⁴⁴ So, it seems that consistency would require Hobbes to say that when God afflicts us, it is for our good. If correct, then it would be as true to say that God's right to afflict derives from his omnipotence, as it would be to say that God's right to afflict derives from his goodness. This picture would accord with Hobbes's claim that God is the "Father of Mercies."³⁴⁵

Even Hobbes's biblical interpretation—which at first gloss seems clearly intended to support the explanation of evil befalling good people from God's omnipotence to the de-emphasis or exclusion of God's goodness—need not rule out the above solution. As Hobbes reads it, God justifies his acts by his power:

³⁴¹ *L*, 29.16, 217.

³⁴² *EW* II, 216; III, 318; cf. IV, 286.

³⁴³ *L*, 31.8, 237.

³⁴⁴ *EW* IV, 32

³⁴⁵ *L*, 44.26, 426.

God himself taketh up the matter, and having justified the affliction by arguments drawn from his power, such as this, *Where wast thou when I laid the foundations of the earth* [Job 38:4].³⁴⁶

Notice how Hobbes mentions God's creation as an exercise of his power. But, as we saw above, just a few lines earlier Hobbes had hinted that God's creative act was an act of goodness (beneficence), as distinct from an act of his power. So, even when Hobbes purports to have found a proof text, he actually finds support for what he could have consistently said, namely that power and goodness are simply united in God. Hence, on his own terms, Hobbes is justified in saying that God exercises omnipotence when he afflicts persons, but affliction is always, in God's providence, for their good. The book Hobbes relies on would support this too, since Job's story ends with God restoring Job's prosperity and happiness manifold.

The upshot of this discussion is that Hobbes's theological doctrines—the interpretation of those doctrines *as an integral whole*—actually does warrant his assumption that God commands us to pursue our genuine interests. Persons are bound to pursue the good of life, and the means deducible by right reason for self-preservation *because* God orders man to life and well-being by his power and goodness.

The dictates of reason bind the theist with the force of law because the theist judges that—even though the two postulates of human nature are, at root, at cross purpose in man—the order discernible in the directedness of his body and right reasoning toward the good of life is an order *willed* by One with the right to so order.

3.3 RECONSIDERING TRANSCENDENT INTERESTS, THE TWENTIETH LAW OF NATURE, AND SUICIDE

³⁴⁶ L 31.6, 236-7.

We are now in a position to consider three potential objections that my account faces. Inasmuch as my account suggests life is the basic good, and that taking life as good is a requirement of practical reasonableness, it must explain a range of Hobbes's doctrines. In particular, I shall consider three doctrines that, according to Lloyd, my interpretation would be unable to account for: (a) transcendent interests, (b) the twentieth law of nature, and (c) suicide.³⁴⁷

Lloyd advances a couple of Hobbes's texts where he seems to declare the "rationality of our concern for our eternal over our merely temporal prospects."³⁴⁸

If the command be such as cannot be obeyed, without being damned to eternal death; then it were madness to obey it [L 43.2, 398].
Eternal life is a greater reward than the life present; and eternal torment a greater punishment than the death of nature [L 38.1, 301].

Lloyd contends that an interpretation of Hobbesian practical reason as judging the good of life to be basic cannot account for *transcendent* interests, for which Hobbesian agents might be willing to lay down their lives.

But, notice that both of these texts come in Part III of *Leviathan*, in which Hobbes begins consideration of the claims of Christian revelation. Unaided natural reason knows nothing of eternal beatitude: "there is no natural knowledge of mans estate after death."³⁴⁹ These passages, then, would only seem to support Lloyd's argument supposing the truth of Christian revelation.

But Hobbes declares that the claims of Christian revelation do not conflict with or annul the dictates of natural reason. Hobbes explains that Part I and Part II has "derived the rights of sovereign power, and the duty of subjects hitherto, from the principles of

³⁴⁷ Lloyd advances these against Gert's interpretation of the good of life as a rationally required end. Hence, they are effectively objections against my reading, which agrees with Gert on this point.

³⁴⁸ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 189.

³⁴⁹ L 15.8, 92.

nature only” while Parts III and IV will handle “the nature and rights of a Christian commonwealth, whereof there dependeth much upon supernatural revelations of the will of God.”³⁵⁰ Hobbes then proclaims that reason and faith are harmonious:

Nevertheless, we are not to renounce our senses, and experience; nor (that which is the undoubted Word of God) our natural reason. For they are the talents which he hath put into our hands to negotiate, till the coming again of our blessed Saviour; and therefore not to be folded up in the napkin of an implicit faith, but employed in the purchase of justice, peace, and true religion. For though there be many things in God’s word above reason; that is to say, which cannot by natural reason be either demonstrated, or confuted; yet there is nothing contrary to it; but when it seemeth so, the fault is either in our unskillful interpretation, or erroneous ratiocination.³⁵¹

Hobbes indicates that revelation does not contradict reason—and this claim would seem to entail the principle that the order of grace does not destroy nature. Hence, if our interpretation is correct—that in the order of nature, the basic goodness of conservation of one’s life is discovered by Hobbesian practical reason—then we would expect that the claims of Christian revelation would not contradict this claim. In fact, we find that Hobbes’s interpretations of Christianity’s promise of eternal life and Christianity’s requirements to witness to Christ do not annul the fundamental good of life.

Grace builds on nature in the Hobbesian theory of eternal life. For Hobbes, the eternal life made possible by faith in the mystery of Christ’s passion comes through God’s grace alone—it is a free gift that cannot be earned.³⁵² Grace thus makes available a good men naturally desire—that is, the good of everlasting vital motion—though they could not have known it was possible by unaided reason. But the possibility of eternal life turns on its compatibility with unaided reason’s judgment—and unaided reason

³⁵⁰ *L*, 32.1, 245.

³⁵¹ *L*, 32.2, 245-6.

³⁵² *L*, 38.3, 302-3; 42.11, 338.

judges that “life itself is but motion.”³⁵³ Hence, Hobbes rejects Aquinas’s doctrine of eternity as a *nunc stans*.³⁵⁴ Since corporeity is the touchstone of all being and instantaneous motion of body is impossible—and since eternal *life* is a state of activity—eternity must be an everlasting succession of moments. Seen in this light, the passages Lloyd advances do not annul the basic good of life; the knowledge made available by grace *enlarges* the agent’s notion of that good to countenance an eternal possibility.

Furthermore, Hobbes pursues a number of strategies to minimize the occasions Christianity would actually require giving up one’s life, including interpreting the story of Naaman to permit a Christian to bow to idols whilst believing in the true God in their hearts when “he is desirous to save himself from death, or from a miserable life.”³⁵⁵ However, the promise of eternal life for those who die for Christ’s sake would make martyrdom reasonable. “For an unlearned man, that is in the power of an idolatrous king, or state, if commanded on pain of death to worship before an idol, he detesteth the idol in his heart, he doth well; though if he had the fortitude to suffer death, rather than worship it, he should do better.”³⁵⁶ Notice these will be cases of Christians witnessing under non-Christian governments.

Still, Hobbes is concerned to undercut contemporary Catholic claims to martyrdom since they threaten the security of the realm: “for he that can allure foreign subjects with so great a reward, may bring those who are greedy of such glory, to dare and do anything.”³⁵⁷ Hobbes undercuts Catholic claims by attributing only to direct witnesses of Christ the status of martyr in the first degree while attributing second degree

³⁵³ *L*, 6.58, 34.

³⁵⁴ *EW* IV, 271

³⁵⁵ *L*, 45.22, 446. See 2 Kings 5.

³⁵⁶ *L*, 45.27, 448.

³⁵⁷ *EW* II, 318

martyrdom only to those who die bearing witness to the article that *Jesus is the Christ*. Hobbes maintains that to die for any further Christian tenet is to die for some opinion that most likely serves the profit or ambition of clergymen. Hence, such are not authentic transcendent interests because not required by faith in Christ. The suggestion seems to be that the Catholics put to death by the Tudors and the Stuarts—Thomas More, John Fisher, and Edmund Campion being the most famous—were not martyrs because they were not being asked to deny that Jesus was the Christ.

According to Hobbes, only the transcendent interests of Christianity so understood can rationally motivate because Christianity is unique in introducing authentic transcendent interests. For Hobbes, Jesus alone spoke truly in his claim to be Christ.³⁵⁸ Whatever interests introduced by the founders of pagan religions were only putatively transcendent. In reality pagans deployed “pretended revelation” and “innumerable other superstitious ways of divination” to secure temporal order:

And therefore the first founders, and legislators of commonwealths amongst the Gentiles, whose ends were only to keep the people in obedience, and peace, have in all places taken care; first, to imprint in their minds a belief, that those precepts which they gave concerning religion, might not be thought to proceed from their own device, but from the dictates of some god, or other spirit; or else that they themselves were of a higher nature than mere mortals, that their laws might the more easily be received.³⁵⁹

So, when Hobbes tells us in *Behemoth* that some Ethiopian kings used to obey when priests pretending to have divine authority commanded them to commit suicide, the explanation he gives of their obedience is that the kings’ reason was “mastered by superstition.”³⁶⁰ By Hobbes’s lights, their suicides were irrational and unreasonable.

³⁵⁸ *EW* III, 364; 386; 553; 590-602. For a discussion of this article as the *unum necessarium* for salvation in Hobbes’s thought, see Michael P. Krom, *The Limits of Reason in Hobbes’s Commonwealth* (Continuum, 2011), 148-153.

³⁵⁹ *L*, 12.20, 69.

³⁶⁰ *EW* VI, 281.

Hence this and other pagan examples of “transcendent” interests that Lloyd advances do not count as evidence against the primary goodness of life in Hobbes’s thought. This includes the pagan interest in posthumous glory.

Hobbes mentions the Decii as an example of dying for glory: “For what was it but an honourable name with posterity which the Decii and other Romans sought after, and a thousand others who cast themselves upon incredible perils?”³⁶¹ As Hobbes puts it elsewhere, the “good to themselves” was a “good fame after death.”³⁶² But the case of the Decii is an instance of vainglory on Hobbes’s terms. For Hobbes, the exultation of the mind called glorying is properly confidence when “based upon the experience of his *former* actions.”³⁶³ But when it is “only supposed by himself, for delight in the *consequences of it*, it is called Vain-Glory.”³⁶⁴ While the Decii may have enjoyed a measure of confidence whilst alive, Hobbes is suggesting that their acts of casting themselves upon incredible perils were due to their vainglorious delight in the thought of the fame which their name did not yet have, but which they imagined would accrue to their name as a consequence of their deaths.

Neither can we say on Hobbes’s terms that the Decii had a transcendent interest in the afterlife. We have seen that in the order of nature, there is no knowledge of the afterlife. Hobbes sharpens the point when he maintains against Aquinas on the authority of the Bible that neither is there knowledge of an immortal soul: “That the soul of man is in its own nature eternal, and a living creature independent on the body; or that any mere man is immortal, otherwise than by the resurrection in the last day, except Enoch and

³⁶¹ *EW* II, 318.

³⁶² *EW* IV, 378

³⁶³ *L*, 6.39, 31, emphasis mine.

³⁶⁴ *L*, 6.39, 31, emphasis mine.

Elias, is a doctrine not apparent in Scripture.”³⁶⁵ To hold such a view, says Hobbes, is to be deceived by Aristotle.³⁶⁶ Hobbes goes on to argue that eternal life begins only after the Resurrection as promised by Christian revelation. The upshot seems to be that dying on the battlefield for one’s commonwealth is ultimately rational only for a Christian who has an authentic promise of resurrection.

Hence Lloyd’s objection (b) that my view would be unable to account for the twentieth law of nature, which potentially requires sacrifice. Hobbes formulates this law as follows: “That every man is bound by nature, as much as in him lieth, to protect in war, the authority, by which he is himself protected in time of peace.”³⁶⁷ But, Hobbes conspicuously omits the deduction of this law in Chapter 15, which is situated in the first half of *Leviathan*, the half concerned with the dictates of unaided reason. This law comes only after Hobbes has considered the order of Christian grace in Parts III and IV—and then in the Review and Conclusion when he is directly addressing his fellow Christian countrymen. So I suggest that Hobbes’s *placement* of this law is consistent with Hobbes’s denial that personal immortality is demonstrable philosophically. The order of Christian grace makes reasonable a demand that would have left unaided reason in *aporia* since personal immortality is not knowable by unaided reason. Only supposing the truth of Christianity’s promise of resurrection can Hobbes make good on his earlier claim that “gaining the secure and perpetual felicity” is only had by “keeping of covenant”—even to the point of death in defense of the realm.³⁶⁸

To sum up our replies to objections from (a) transcendent interests and (b) the twentieth law of nature: neither pagan glory nor pagan religion introduces transcendent

³⁶⁵ *L*, 38.4, 304.

³⁶⁶ *EW IV*, 303

³⁶⁷ *L*, R&C.5, 90.

³⁶⁸ *L*, 15.6, 92.

interests that are reasonable on Hobbes's terms. According to Hobbes's interpretation of Scripture, the primacy of the good of life in Hobbesian practical reason is not annulled but confirmed and enlarged by Christianity. The Christian promise of resurrection to eternal life underwrites the twentieth law of nature because it makes sacrifice for the realm reasonable.

It is notable, that, if Hobbes sincerely took the Christian promise of resurrection to eternal life as confirming and enlarging the primacy of the good of life, and if the sovereign's *raison d'être* is to secure the good of life, then we might expect that the sovereign takes cognizance of the final end, at least in Christian commonwealths. Indeed, Hobbes expends much effort defending the headship of the English sovereign of the Anglican Church, whose ultimate aim is to lead its flock to eternal life. What is distinctive about Hobbes's approach is that the sovereign's cognizance and leadership toward this end is *exclusive*. In other words, Hobbes defends an Erastian ecclesiology in which the church body is united, quickened, and made lawful by the head of the Christian civil sovereign, and him or her (it) alone.³⁶⁹ Hobbes thus constantly seeks to fend off two ecclesiological enemies: Protestant dissenters and nonconformists to the Anglican church (Brownists, Puritans, Presbyterians), on the one hand, and Roman Catholics, on the other.³⁷⁰ Hobbes's solution is a sort of civil authoritarianism in matters of religion.³⁷¹

As already suggested, I would thus take the general thrust of Parts III and IV of *Leviathan* to be seeking to show how the Bible compliments, confirms, and enlarges the

³⁶⁹ I define a church to be, *A company of men professing Christian religion, united in the person of one sovereign; at whose command they ought to assemble, and without whose authority they ought not to assemble*. And because in all commonwealths, that assembly, which is without warrant from the civil sovereign, is unlawful (*L*, 39.4, 315-316).

³⁷⁰ Chapter 42 of *Leviathan*, "Of Power Ecclesiastical" is actually the longest chapter in the book. In it, Hobbes engages in an extended discourse and critique with the great Roman Catholic apologist, Jesuit, and contemporary of Hobbes's, St. Robert Bellarmine.

³⁷¹ For more discussion of this Hobbesian doctrine, see 5.2, below.

philosophical doctrines of Parts I and II, rather than ironically critiquing Christianity as unreasonable.

Lastly, is it true that (c) suicide is justifiable in Hobbes's view, as Lloyd's final objection alleges? The foregoing interpretation suggests suicide is unreasonable because of the foundational judgment of practical reason that life is objectively good and the legal force with which God's command binds the theist to act in accord with reason's judgment. It is true that Hobbes says, "the pains of life can be so great that, unless their quick end is foreseen, they may lead men to number death among the goods."³⁷² Yet, Hobbes's observation of the possibility that men will count death as a good need not count as an endorsement of such a view. The fact that this passage follows immediately after Hobbes distinguished between apparent and actual goods, and after enumerating conservation of life as the *bonum maximum* suggests that death for the suicidal is only apparently good. Moreover, when Hobbes directly addresses suicide in his dialogue on the common law, he denies that suicide is good for the agent and says that it is to be presumed that the suicidal agent is "not compos mentis."³⁷³

Finally, it seems unlikely that Hobbes would countenance the blamelessness of suicide in the commonwealth because Hobbes is concerned to forbid acts that would weaken the sovereign. Since the strength of the sovereign consists in the strength of the sovereign's subjects, sovereigns can expect neither delight nor profit but only damage in the weakening of their subjects.³⁷⁴ *Prima facie*, suicide seems to be dismembering oneself from—and hence, a weakening of—the body politic. Actions that weaken the sovereign violate the law of nature: "it is a dictate of natural reason, and consequently an

³⁷² *DH* 11.6, 49

³⁷³ *EW* VI, 88

³⁷⁴ *L*, 18.20, 117-118.

evident law of nature, that no man ought to weaken that power, the protection whereof he hath himself demanded, or wittingly received against others.”³⁷⁵ This law of nature alone provides sufficient grounds for the sovereign justly to deny subjects the right of suicide.

CONCLUSION

I have argued that Hobbes presents us with an account of morality that is properly a *natural law theory*, because it meets the two requirements for a doctrine to count as a natural law theory. First, the human good of life provides the most basic reason for action and the norms that it grounds have a legal character. According to Hobbes, the foundational judgment of right reason is that *life* is good—indeed, it is the *bonum maximum*. The need to desire the good of life has the character of rational necessity. This necessity is universal inasmuch as all human beings have the power of rationality. But the *force* of the necessity will be variable according to one’s beliefs, according to Hobbes. If one is a theist, one takes oneself to be created and governed by God, who by his irresistible power (and maximal goodness) rightly orders the world—including human beings by his rational word—then one takes the dictates of reason to bind with legal force. Because the order of reason directs man to pursue life and the necessary means to life, these rational necessities take on the character of *law* for the theist. This interpretation is supple enough to account for the psychological diversity and manifold goals Hobbes attributes to human beings, the twentieth law of nature, and the putative reasonability of suicide, once we suppose that Hobbes was serious in his claims that the Bible alone introduce authentic transcendent interests and that revelation does not destroy reason. If the argument is successful, an account of Hobbesian practical reason as

³⁷⁵ *L*, 26.16, 179.

capable of setting its own goal of self-preservation and deducing the necessary means thereto—dictates which, for the theist, bind with *legal* force—would seem to be the best interpretation of Hobbes’s ‘true and only moral philosophy’.

Chapter 4: The Essence of Leviathan: Hobbes's Common Good Theory of Commonwealth

In this chapter, I examine the implications of Hobbes's natural law theory for his theory of commonwealth. I argue that Hobbes constructs a *common good theory* of commonwealth upon his notion of natural law. Accordingly, Hobbes's common good account of commonwealth is grounded on his understanding of goodness. To recall, in the last chapter I argued that, for Hobbes, the foundational judgment of right reason is that *life* is good. While Hobbes famously denied there was a *summum bonum*, he qualified this remark: *as is spoken of in the books of the old moral philosophers and in this world*. Hence, Hobbes can consistently say that life is the *bonum maximum*. Hobbes's axiology is best understood as a thin theory of the good. The need to desire the good of life has the character of rational necessity. This necessity is universal inasmuch as all human beings have the power of rationality. But the force of the necessity will be variable according to one's beliefs, according to Hobbes. If one is a theist, one takes oneself to be created and governed by God, who by his irresistible power (and maximal goodness) rightly orders the world—including human beings by his rational word—then one takes the dictates of reason to bind with legal force. Because the order of reason directs man to pursue life and the necessary means to life, these rational necessities take on the character of law for the theist. It follows that Hobbes's fundamental law of nature, to seek peace when it can be had, and the second law of nature, to lay down one's right to all things and incorporate into commonwealth through the sovereign-making covenant,

are both *laws* for theists.³⁷⁶ Because Hobbes's common good account of commonwealth is grounded in the claim that God, by his rational word, binds human beings to seek peace, we can also say that Hobbes's theory qualifies as a natural law account of commonwealth. The establishment of peace through the sovereign-making covenant transforms the basic good of life into the common good of security.

I shall frame the argument of this chapter around Hobbes's definition of commonwealth. According to Hobbes, a commonwealth is:

One person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and common defence.³⁷⁷

We can break this definition down to its parts:

[a] One Person, [b] of whose acts [c] a great multitude, [d] by mutual covenants one with another, have made themselves every one the author, [e] to the end he may use the strength and means of them all, as he shall think expedient, [f] for their Peace and Common Defence.

Given Hobbes's willingness to deploy the terminology of the Aristotelian four causes, I suggest that we can make sense of his definition in those terms. Part [a] indicates the formal cause or "form" of the commonwealth—and it is initially unclear whether it refers to the person of the *commonwealth* or the person of the *sovereign* or both. Part [b] refers to ordinances and judgments or simply the commands of the One Person (civil law), which are authoritative. Part [c] indicates the material cause or "matter" of the commonwealth, which is man. Part [d] indicates the efficient cause of commonwealth—the acts by which the "matter" makes or artifacts the commonwealth.

³⁷⁶ They still have the status of rational necessity for non-theists who otherwise reason rightly—but they are not, properly speaking, *laws*. The *force* of the fundamental law of nature and the second law of nature is then only recommendatory for non-theists.

³⁷⁷ *L*, 17.13, 109.

Part [e] refers to the essential rights of the sovereign, which are for the sake of part [f] the final cause of the commonwealth, that for which it is made.

The claim I want to defend is this: the “peace and common defence” referred to in part [f] is *the common good* and that *this is evident when we analyze each part of the definition*. Hence, the common good provides the end of action for [c] the great multitude (the “material” parts) when they [d] *covenant* and *make* the commonwealth. The [e] means and strength of those incorporated is used by the sovereign for the common good as he (it) thinks expedient. In this chapter, I analyze the heart of the definition in parts [c]-[e]. This will lay the groundwork for my object in Chapter 5: to show how the common good marks off [a] the person of the commonwealth and the sovereign (the “form”) from other forms of association. Chapter 6 considers Hobbes’s natural law account of civil law and confirms that the common good is the end of [b] the acts of the sovereign or the civil laws and judgments.³⁷⁸

Throughout the analysis of each part of the definition, I suggest that Hobbes’s common good account is illuminated in juxtaposition with the traditional Aristotelian-Thomistic account of the common good. I shall argue that the Hobbes’s break from the older tradition consists not, as some scholars have suggested, in the rejection of the political animal anthropology, as Aristotle and Aquinas understood it, nor in reason’s incapacity to discover a common good, nor in Hobbesian political art supplanting nature, nor in fictionalizing society. Hobbes holds forth a theory of commonwealth as a real unity that is characterized by common pursuit of a common aim—a truly common good. Hobbes’s novelty is in thinning out the common good to security. For Hobbes, the unity attained in society is best understood as a thinned out version of peace. Peace is still an

³⁷⁸ I postpone consideration of part [b] of the definition, the acts of the One Person or the civil laws, until Chapter 4, which deals with Hobbes’s natural law account of the civil law.

essentially *shared* and *good* state of affairs. Still, since the only unity available is through security, the Hobbesian theory of peace entails a *unitarist* conception of commonwealth—and herein lies a significant break with the Aristotelian-Thomistic account of the common good. Hobbes, moreover, takes over concepts from the tradition and enlists them in service of his theory of the common good. This is manifest in Hobbes’s theory of man *as maker* of the commonwealth as Hobbes takes over the Aristotelian-Thomistic principle of mimesis. Still, Hobbes agrees with the older tradition inasmuch as the pursuit of what Hobbes takes to be *the* common good marks off the commonwealth from other forms of association. We shall see in the next chapter how this reading of Hobbes’s theory of the common good can shed light on what kind of person the commonwealth is.

The argument proceeds as follows. In 4.1, I analyze the fitness of the [c] “great multitude” to incorporate into commonwealth. I argue that Hobbes holds something like Aristotle’s and Aquinas’s political animal anthropology. In 4.2 I analyze the sovereign-making covenant indicated in parts [d]-[e] of the definition of commonwealth, and build the argument in three subsections. In the first subsection, I argue that Hobbesian agents covenant *for the sake of peace*. I then show how Hobbes’s theory is best understood as a thin conception of peace, in relation to the Aristotelian-Thomistic tradition—but that, on Hobbes’s terms, it can still be a truly common good. In the second subsection, I consider how the thin view of peace, when combined with the sovereign’s absolute right over the means (part [e]: “the strength and means of them all, as he shall think expedient”) entails Hobbes’s *unitarist* conception of commonwealth, in stark contrast with Thomistic social pluralism. In the third subsection, I consider the second clause of part [d] and show how Hobbes understands man *as maker* of the commonwealth. I contend that Hobbes takes

over the Aristotelian mimetic principle and the four causes, in service of his new vision of commonwealth and the common good.

When we turn in 4.1 to analyze the great multitude in itself, we shall face an immediate difficulty for the common good interpretation. If Hobbes does in fact hold a *common good account of commonwealth*, we might expect him to affirm an openness or fitness in men or a multitude of men—the “matter” indicated in part [c]—to incorporate. But, Hobbes seems to deny the latter when he takes a detour in Chapter 17—before giving the formula for the sovereign-making covenant—to reject the Aristotelian thesis of man’s natural sociality. Does Hobbes really reject the older teaching? I argue that he does not reject it, as Aquinas understood it, and that, therefore, the common good interpretation of Hobbes’s theory of commonwealth is available. Let me elaborate on the argument.

4.1 THE FITNESS OF THE “GREAT MULTITUDE” TO INCORPORATE: IS MAN A SOCIAL AND POLITICAL ANIMAL “BY NATURE”?

In the Aristotelian-Thomistic tradition, the claim that society is a not a mere aggregate or fiction, but is a group marked off by the common pursuit of a common aim (a *good* shared by all the members of the group), was grounded on the claim that man is by nature a social and political animal. The claim was that, since man is by nature a social and political animal, man’s natural good or happiness is attained as a share of the common good, through membership in commonwealth. The standard interpretation of Hobbes is that, since man is not by nature a social and political animal, man’s happiness is not “by nature” attained as a share of the common good. To the contrary, says the standard interpreter, since what “nature” gives us leads to a war of all against all, we need a purely *artificial* contrivance, the Leviathan, to keep our radically asocial impulses in

check. But, I will contend that, since Hobbes actually *does* affirm something like the *zoon politikon* anthropology, as Aquinas understood it, the common good account holds.

In both *De Cive* and *Leviathan*, Hobbes takes particular concern to show how human beings differ from irrational animals like bees “which are therefore by Aristotle numbered amongst the political creatures.”³⁷⁹ Why don’t bees require a fear-inducing sovereign power to compel order? While we observe queens in every hive, the queens don’t seem to have the character of little leviathans. But if the distinction between rational animals and irrational animals was but one of a small degree, we might expect to find unruly bees brought into order by so many fearsome apiarian Abaddons. Their natural sociality seems to be enough to order them in the common life of a hive. Hobbes writes:

It is very true that in those creatures, living only by sense and appetite, their consent of minds is so durable, as there is no need of any thing more to secure it, and (by consequence) to preserve peace among them, than barely their natural inclination. But among men the case is otherwise.³⁸⁰

So Hobbes emphasizes six differences between men and bees, each of which are grounded on man’s distinct capacity for reason and language. First, because men have speech they are able to contend over the honor due to themselves whence follows envy, hatred, and finally war. Second, the private good is identical with the common good for bees whereas it is not so for men because men desire eminence in the possession of goods to the exclusion of others—“positional advantage,” to use Philip Pettit’s helpful phrase.³⁸¹ Third, bees neither find fault with nor question their government thus instigating others into faction. Fourth through want of language, bees cannot signify to others their desires and aversions and hence cannot dress up good in the robes of evil and

³⁷⁹ *L*, 17.6, 108.

³⁸⁰ *DC*, 5.5.

³⁸¹ Pettit, *Made With Words*, 97

vice versa. Fifth, there is no distinction between injury and damage or harm amongst bees but amongst men this distinction disturbs the peace. And finally, agreement amongst bees is natural while agreement among men is by covenant, which is artificial.

At first blush the difference from the Aristotelian principle seems striking. Aristotle, followed by Aquinas, argued that man was the focal case of political and social animality *because of* man's distinctive capacity for reason and speech. (Hobbes obscures the point that for Aristotle and Aquinas, bees were political to a lesser degree and hence only by analogy.³⁸²) The faculty of reason and hence speech enabled man to signify the just and the good—and it is association in terms of the just and the good that constitutes the essence of familial and political society.³⁸³ Hobbes flips this argument upside down, making reason and speech the cause of the asocial parade of horrors: self-seeking, discord, faction, dissembling, and war.

Hobbes's inference of the parade of horrors from human reason seems to be a stark contrast with the Aristotelian inference of natural sociality from human reason. What then are we to make of Hobbes's six differences between men and bees? Do these points constitute breaking points from the tradition?

We need a bit more context for Hobbes's discussion of men and bees. The flow of the chapter is to first identify the final cause of the commonwealth, peace—which is sought by persons due to “the foresight of their own preservation, and of a more contented life thereby”—and then to show why peace requires an unassailable sovereign with the coercive power of positive law. Hobbes denies that peace can be had by (a) the mere direction of the laws of nature, (b) the conjunction of a few families, or (c) by an unincorporated *great multitude*.

³⁸² *Politics* 1253a7; Aquinas, *De Regno*, Ch. 1 Par. 7.

³⁸³ *Politics* 1253a7-a18.

Regarding (a), recall our discussion of Hobbes's understanding of the human nature, the good, and natural law. Secured by God's legislative activity, the dictates of right reason bind eternally, immutably, and universally *in foro interno*. But their bindingness in conscience is insufficient to secure peace for a number of reasons. First, man is a fallen creature. Reason no longer perfectly governs desire as it did in the Edenic state. The two postulates of reason and desire are now at cross-purpose. From the untutored spark of cupidity flows the passions that "carry us to partiality, pride, revenge, and the like."³⁸⁴ In a condition void of positive law, men will be more apt to be dominated by the passions because in that condition there would be no positive legal sanctions against partial, prideful, and vengeful acts. Now, Hobbes acknowledges there may be many who would live according to reason even without the sanctions of positive law—many who would "be glad to be at ease within modest bounds"—but there will be some who, by their unruly passions, will seek to increase their profit, power, glory, and dominion. Since the primary good is life, those whose passions are governed by reason act well when they seek to defend themselves, even to the point of augmenting their territory (the best-defense-is-a-good-offense principle).³⁸⁵ So even if a few virtuous families banded together without inaugurating an order of positive law, it would not be sufficient to secure the peace. Option (b) is ruled out. Neither can (c) an unincorporated great multitude live in peace because, lacking corporation, they will be divided by rival particular judgments and have no common rule of action, rendering internal and external security impossible. In other words, as we would expect, part [c] of Hobbes's definition of commonwealth is not sufficient to secure the peace. Hobbes hints that if such a multitude is not already at war with itself then it soon will be, since the war of all

³⁸⁴ *L*, 17.2, 106.

³⁸⁵ *L*, 13.4, 75.

against all, as we saw in Chapter 1, is a *reductio* of the practice of the right to private judgment on a massive scale.

In short, the laws of nature in and of themselves are insufficient to ensure peace. Positive law with a sovereign powerful enough to enforce it is needed. *But what about bees?* After all, they are all directed by their “particular judgments and appetites” and yet live in peace—why can’t mankind do the same? In other words, why can’t man live peacefully without positive law? We have already seen the root principle of Hobbes’s reasons: the spark of cupidity in man leads him to use his power of reason in self-seeking (which spawns hatred and envy), to overvalue his own opinion and judgment (spawning discord and disobedience), and to dissimulate and lie—all of which generate civil war. An order of positive law can enforce the demands of reason (and it can do so *credibly* when the sovereign has sufficient power to do so).

Strikingly, Aquinas also insists on the need for positive law to enforce the demands of the natural law:

Laws were made that in fear thereof human audacity might be held in check, that innocence might be safeguarded in the midst of wickedness, and that the dread of punishment might prevent the wicked from doing harm." But these things are most necessary to mankind. Therefore it was necessary that human laws should be made.³⁸⁶

In Aquinas’s reply, he makes two points that are noteworthy. First, he claims that man has, by nature, a certain aptitude (*aptitudo*) for virtue. Second, he claims that man is especially inclined (*proni*) to undue pleasures, particularly the young. How are these points consistent? We have seen that in Aquinas’s view, fallen man finds himself under the law of sin and consequently the rebellion of his passions against right reason. But, man still has the faculties of intellect and will which retain a natural aptitude (an essential

³⁸⁶ *ST* I-II, 95.1.

orientation, inclination, or proneness³⁸⁷) toward the true and the good—they are the powers by which man knows and responds to the good.³⁸⁸ Learning to distinguish actual from apparent goods requires training and instruction. And since moral education of the (inchoately rational) youth begins principally in training the passions to love and hate as they ought, and since the young tend to be inclined to undue pleasures, they must be educated by others, who are fully reasonable. Now some of the young are more inclined to virtue—whether by bodily disposition, or custom, or the grace of God—and for these *paternal* instruction is sufficient. But not all the young are so lucky:

But since some are found to be depraved, and prone to vice, and not easily amenable to words, it was necessary for such to be restrained from evil by force and fear, in order that, at least, they might desist from evil-doing, and leave others in peace...³⁸⁹

When force and fear become embodied in a legal order—and for Aquinas and Hobbes, this is when the dictates of reason become embodied in the law, since reason is the soul of the law³⁹⁰—backed up by a credible threat for noncompliance, the discipline of the laws has come to be. Aquinas agrees with Aristotle’s remark that, without the discipline of the laws, man is apt to become a beast. The reason he gives is key:

³⁸⁷ Deferrari has for *aptitudo*: *suitability, fitness, inclination, proneness towards* (Roy J. Deferrari, *A Lexicon of St. Thomas Aquinas based on The Summa Theologica and selected passages of his other works*, Volume A, p. 78).

³⁸⁸ *ST I* 93.4: man possesses a natural aptitude for understanding and loving God (*homo habet aptitudinem naturalem ad intelligendum et amandum Deum*).

³⁸⁹ *ST I-II*, 95.1.

³⁹⁰ *EW VI*, 4: “I agree with Sir Edward Coke, who upon that text farther says, that reason is the soul of the law; and upon section 138, *nihil, quod est contra rationem, est licitum*; that is to say, nothing is law that is against reason; and that reason is the life of the law...It is also a dictate of the law of reason, that statute laws are a necessary means of the safety and well-being of man in the present world, and are to be obeyed by all subjects, as the law of reason ought to be obeyed, both by King and subjects, because it is the law of God.” *ST I-II*, 93.3: “Human law has the nature of law in so far as it partakes of right reason; and it is clear that, in this respect, it is derived from the eternal law.”

“because man can use his reason to devise means of satisfying his *concupiscentias et saevitias* (concupiscence and savagery), which other animals are unable to do.”³⁹¹

In other words, Hobbes and Aquinas both recognize that men are not bees. For Aquinas, the political animal anthropological claim does not entail that man is simply or irresistibly driven toward righteousness or social unity. Aquinas acknowledges that reason is all too easily enlisted in the service of concupiscence and savagery. For Aquinas, failing to act according to right reason entails the whole range of sins Hobbes mentions, including the inordinate desire for glory (vainglory)³⁹², sorrow for another’s good which can be provoked by neighbors who desire vainglory (envy)³⁹³, hatred of one’s neighbor³⁹⁴, telling falsehoods in order to deceive (lying)³⁹⁵ and the dressing up good in the robes of evil and vice versa (dissimulation)³⁹⁶, as well as reliance on one’s own judgment with an unwillingness to accept sounder judgment (obstinacy) and refusing to concur with the will of better men (discord).³⁹⁷

So, has Hobbes not actually rejected the *zoon politikon* anthropology, then? In *De Cive*, Hobbes identifies the political animal dictum with the claim that man is *aptum natum*, born apt or fit, for society. Hobbes says this axiom is false and is based on a superficial view of human nature. In a footnote, Hobbes explains that he is not denying that men are by nature compelled (*cogere*) to come together, since infants need the care of others to survive. And adults need society to live well, since life in solitude would be hard to bear. Hobbes distinguishes between *congressus*, a meeting or gathering or

³⁹¹ *ST* I-II, 95.1.

³⁹² *ST* II-II, 132.1.

³⁹³ *ST* II-II, 36

³⁹⁴ *ST* II-II, 34.3

³⁹⁵ *ST* II-II, 110.1

³⁹⁶ *ST* II-II, 111.1

³⁹⁷ Obstinacy and discord are the daughters of vainglory *De Malo* Q. 9, Art. 3.

intercourse and *foedus*, a league or compact. It is the latter that Hobbes denies men are born fit for because it requires faith and agreement. The idea seems to be that they aren't born fit because they can't perform the acts of right reason and will to enter a covenant. Hobbes then lumps in with infants *the uninstructed* and says that neither knows the power of society or its usefulness. Hobbes concludes that it is impossible for infants to enter into society and that the uninstructed do not care to. Hobbes even says it is possible the majority of adults are unfit for society, either by mental disorder or lack of discipline. But infants and undisciplined adults share a common human nature. Therefore, concludes Hobbes, man's aptitude for society is not by nature but by training.³⁹⁸

Notice how Hobbes trades on an understanding of the natural *as the infantile*, in which the activity of right reason must be lacking. Then, notice how he connects the natural as the *infantile* to adults who are not well instructed or educated. The idea is that infants and undisciplined adults are ungoverned by right reason and ruled by their passions. Hobbes's conclusion is that human aptitude for society must be through discipline and instruction by right reason. *But this just is the Thomistic position.* Aquinas's whole point is that the discipline of the laws, as embodying the dictates of reason in positive law backed up by a coercive power, is necessary to make life in society possible. True, Thomas allows that some of the young will be more inclined toward virtue, by bodily disposition, custom, *or more likely by God's grace*, so that paternal discipline will suffice. In this way, Aquinas may be more optimistic than Hobbes—but just how much more optimistic is not so clear, since Aquinas maintains in another place that “sensible pleasures are desired by the majority.” The reason Aquinas gives is man's material constitution and hence material way of coming to know: “vehemence of desire

³⁹⁸ *Ad societatem ergo homo aptus, non natura sed disciplina factus est.*

for sensible delight arises from the fact that operations of the senses, though being the principles of our knowledge, are more perceptible.”³⁹⁹ At any rate, Aquinas indicates that, in his view, the proposition that at least some youth will be depraved is sufficient to justify the utility of a coercive order of law. The argument has some similarities with Hobbes’s argument in the Epistle Dedicatory of *De Cive*, which Martinich has aptly termed “The Great Fear and Ignorance Argument.”⁴⁰⁰ It goes like this:

- (1) Some people in the state of nature are dangerous.
- (2) It is very difficult to know who these people are.
- Therefore, (3) It is necessary to be afraid of everyone.

From these premises, Hobbes continues to show how incorporation into society under law is necessary: “And so it happens that through fear of each other we think it fit to rid our selves of this condition...”⁴⁰¹ While Aquinas does not use the term “state of nature” in this sense, he is considering a functional equivalent, what we might call a “lawless condition.” I will call this argument of Aquinas’s “The Great Hooligan Argument”:

- (1) Some youth in a lawless condition are dangerous.
- (2) Parental admonition is insufficient to keep them in check.
- Therefore, (3) The force and fear of the law is required for peace.

Since Aquinas, in one of his Replies in the same article, is willing to speak of the evil disposition in some *homines*—and hence acknowledges evil dispositions in both young and adult persons—Premise 1 could be modified to include adults (even adults have parents and elders).⁴⁰² The chief similarity between “The Great Fear and Ignorance Argument” and “The Great Hooligan Argument” is the first premise. After that, the

³⁹⁹ *ST I-II*, 2.6, ad. 2.

⁴⁰⁰ *Philosophical Writing: An Introduction*, 3rd Edition (Blackwell, 2005), 62.

⁴⁰¹ *DC I*.13.

⁴⁰² *ST I-II*, 95.1, ad. 1.

arguments take different tacks by focusing on different aspects of human beings. Hobbes relies on the fear that would obtain in that condition and the unfittingness of mass fear and war with human well-being; Aquinas relies on the inability of the parents or elders to check the younger by themselves.⁴⁰³ They arrive at the same conclusion: the necessity of society and law for human life and happiness.

Let's return to the question of whether man is "by nature" a social and political animal. Hobbes's difference now appears to be chiefly a terminological one: in the *De Cive* passage, Hobbes uses the term natural in the sense *infantile* while Aquinas uses the term natural in the sense of the *reasonable* and the *teleological*. So Hobbes is implying

⁴⁰³ Given Aquinas's view that law is necessary to secure a peaceful state of affairs, Aquinas would have agreed that a lawless condition is potentially one in which the passion of fear would obtain on a mass scale, since fear is a shunning movement of the sensitive appetite when one apprehends some object to be a future evil, difficult and hard to resist. Presumably, a condition in which we could not discern those who are evilly disposed from the good would be one that would strike fear into persons. What would Aquinas make of Hobbes's argument that, even if the good outnumber the evil, our inability to distinguish between them requires us to suspect, guard, and anticipate against others? It is difficult to say because Aquinas considers this question in the context of a normal case, i.e., one in which persons are under positive law living in peace. Aquinas points out that if judgment of suspicion is to be lawful, it must not be formed on slight indications, it must not affirm with certainty that another is evil, and it must not condemn the other on mere suspicion. The former two are in the realm of mere opinion and are still considered injurious to various degrees. The rightness of such a judgment must follow upon "evident indications of a person's wickedness." I think that for Aquinas this principle would hold even in abnormal conditions of anarchy. So, Aquinas would not countenance the rightness of Jones, in the lawless condition and without evident indication, asserting as true of any particular person A that "A is evil," and fearing A on that basis. But, I think Aquinas's anthropology permits him also to say this: Jones is able to judge of the set of all persons in a state-of-nature condition, S1 [=A, B, C...], that "Possibly, any particular member of S1 is evil" (call this judgment, J1). I take Hobbes's Fear and Ignorance Principle to be similar to J1 in that neither entails asserting with certainty the evil of all individuals or any particular person, with a slight or no indication of their evil. (This seems necessary for Hobbes, given his optimism that this condition can be exited through covenant, which presupposes some minimal threshold of trust to even get off the ground.) What J1 does seem to require is acting prudently, for the sake of the good. For Aquinas, this good would include Jones's preservation and the protection of Jones's family. The virtue of prudence includes parts that would contribute to judgments of how Jones ought to act/order our external affairs, for the preservation of his life and lives of his family, as if J1 were true: memory, understanding, docility, shrewdness, reason, foresight, circumspection, and caution (*ST II-II*, 49). Inasmuch as Jones's (virtuous) end in such a condition would include protection of his self and his family, it would seem to require taking certain defensive measures. Though, I am dubious that Aquinas would endorse Hobbes claim that prudence requires us to *subjugate* others (suggestive of Hobbes's best-offense-is-a-good-defense principle) because of Aquinas's thicker account of the good and an according denial of any possible individual right to all things.

that the unnatural is the non-infantile, while Aquinas is implying the non-infantile is natural.

But Hobbes is not consistent in holding to this meaning of the natural because Hobbes does not restrict the *natural* to the *infantile* throughout his writings. To the contrary, in many other places, Hobbes repeatedly affirms that what distinguishes human *nature* from other animal natures is reason. As Hobbes puts it, “man’s nature is the sum of his natural faculties and powers...contained in the definition of man under these words, *animal* and *rational*.”⁴⁰⁴ Recall our discussion from Chapter 1 of Hobbes’s *two* postulates of human nature: *cupidity and reason*. We saw Hobbes’s view is that human nature is not constituted merely by the subrational desires that we have from infancy onward. The definition of man as a *rational* animal suggests that the postulate of reason is what marks of human nature *as human*. Moreover, the dictates of reason are so many laws of *nature*: “A law of nature (*lex naturalis*) is a precept, or general rule, found out by reason...”⁴⁰⁵ Hence, Hobbes is willing, when it suits him, to use the term natural in the sense of the *reasonable* and that to which the dictates of reason direct us (peace), i.e., the *teleological*.

In other words, we can conclude the argument of this section with the following inference. On his own terms, Hobbes can say that (a) inasmuch as man is directed by the dictates of right reason to live in society under a rule of positive law, man is “by nature” a social and political animal, since reason is the distinguishing feature of human beings from irrational creatures and (b) inasmuch as the young and the foolish lack the personal guidance of right reason, they require the discipline and instruction, including the discipline of the laws. So stated, Hobbes is a Thomist.

⁴⁰⁴ EW IV, 2

⁴⁰⁵ L, 14.3, 79.

Do not mistake this claim to be more than it is. This is primarily a *structural* point. It would be better to say that, on the question of man's "natural" sociality, Hobbes is structurally Thomistic, when Hobbes uses the term "natural" in the sense of the reasonable. *But*, we do not yet know what the *substantive content* of the common good is for Hobbes and how this contrasts with Aquinas. As we shall see below, Hobbes's break from Aquinas lies in his new conception of peace.

So far, we have sought to secure the grounds for an interpretation of Hobbes's theory of commonwealth as a *common good account*. In this section, we have considered the fitness of the great multitude to incorporate in light of Hobbes's professed rejection of the *zoon politikon* anthropology. It had been suggested one could argue that, since Hobbes rejects the political animal anthropology, he could not really have a common good account of commonwealth, since the common good is conceived a state of affairs in which social animals attain their natural good or happiness. But we have seen that, inasmuch as Hobbes thinks we identify peace as constitutive of our good by *reason*, and inasmuch the reasonable is the natural, Hobbes does have a sort of political animal anthropology and so the common good account is still an available interpretation of Hobbes's theory of commonwealth. Aquinas and Hobbes are in agreement that peace through commonwealth is reasonable and necessary for human happiness or flourishing.

4.2 COVENANTING AND ARTIFACTING THE COMMONWEALTH FOR THE COMMON GOOD

To open this section, recall again our partition of Hobbes's definition of commonwealth:

[a] One Person, [b] of whose acts [c] a great multitude, [d] by mutual covenants one with another, have made themselves every one the author, [e] to the end he

may use the strength and means of them all, as he shall think expedient, [f] for their peace and common defence.⁴⁰⁶

In this section, I argue that Hobbes's common good account of commonwealth is evident in his account of parts [d]-[e]: the sovereign-making covenant and the absolutist nature of the sovereign. In the first subsection, I analyze the first clause of part [d] and consider Hobbes's theory of covenant. In the second subsection, I analyze part [e] and consider the unitarist feature of Hobbes theory of commonwealth. In the third subsection I analyze the second clause of part [d], and consider how man is maker of the commonwealth.

The End of Covenant as The Common Good of Peace

In this subsection I analyze the first clause of [d] the "mutual covenants one with another" and its aim of peace. I argue that, within the natural law tradition, Hobbes's view is best understood as a thin version of peace. But, this does not annul the truly *common* character of the goodness of peace.

The fundamental law of nature binds rational agents to pursue peace. As Hobbes defines it:

That every man, ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of war.⁴⁰⁷

From which, Hobbes derives the second law of nature:

*That a man be willing, when others are so too, as far-forth, as for peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.*⁴⁰⁸

⁴⁰⁶ L, 17.13, 109.

⁴⁰⁷ L, 14.4, 80.

⁴⁰⁸ L, 14.5, 80.

To “lay down” a right is to divest oneself of one’s liberty of hindering another from the benefit and use of that right. This happens either by renouncing it, in which case the person cares not to whose benefit it redounds, or by transferring it, in which case, the person transferring intends the benefit to a certain person or persons. The sovereign-making covenant is in the mode of the latter because covenanting persons intend to transfer their rights to one man or assembly of men to bear their person. As Hobbes puts it, this is a

Covenant of every man with every man, in such manner, as if every man should say to every man, *I authorise and give up my right of governing my self, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorise all his actions in like manner.*⁴⁰⁹

In this way, covenanters form a promissory obligation to one another not to hinder the commonwealth, on the pain of injustice. The person to whom the rights are conferred is not a party to the covenant. From the perspective of the person empowered, the rights received are as “free gift.” This is one of the ways in which Hobbes can deny that the sovereign can ever do *injustice* because, on his technical definition of justice, injustice is violation of contract or covenant. Another way Hobbes can shield the sovereign from injustice is by leaning on authorization. Since covenanters have authorized all acts of the sovereign, they cannot ever accuse him of injustice.

Why do covenanters do this? Hobbes tells us in the opening lines of Chapter 17, in which he gives us the above-quoted sovereign-making formula:

The final cause, end, or design of men, (who naturally love liberty, and dominion over others) in the introduction of that restraint upon themselves, (in which we see them live in commonwealths) is the foresight of their own preservation, and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of war, which is necessarily consequent (as hath been shown) to the natural passions of men, when there is no visible power to keep them in

⁴⁰⁹ *L*, 17.13, 109.

awe, and tie them by fear of punishment to the performance of their covenants, and observation of those laws of nature set down in the fourteenth and fifteenth chapters.⁴¹⁰

God binds man through the laws of nature to pursue their genuine self-interest, which lies principally in the good of life. This entails that practically reasonable persons are bound to quit the condition of war through the erection of a such a Common Power “as may be able to defend them from the invasion of foreigners, and the injuries of one another.”⁴¹¹ Authorization of the sovereign thus is *for the sake of* securing one’s person through securing the peace, understood principally as public safety. Hence, Hobbes provides a rider to his authorization formula just a couple lines before:

and every one to own, and acknowledge himself to be author of whatsoever he that so beareth their person, shall act, or cause to be acted, *in those things which concern the common peace and safety*;⁴¹²

Hobbes continues:

and therein to submit their wills, every one to his will, and their judgments, to his judgment. This is more than consent, or concord; it is a real unity of them all, in one and the same Person.

In other words, it is the unity of peace that marks off the commonwealth from the bellicose condition of the disunited multitude. Accordingly, Hobbes considers peace as the set end of the ruler:

The office of the sovereign, (be it a monarch, or an assembly,) consisteth in the end, for which he was trusted with the sovereign power, namely the procuration of the safety of the people; to which he is obliged by the law of nature, and to render an account thereof to God, the author of that law, and to none but him.⁴¹³

In the marginal note to this paragraph, Hobbes has “The procuration of the good of the people.” In another place, Hobbes points out: “There can be a common good, and

⁴¹⁰ L, 17.1, 106.

⁴¹¹ L, 17.13, 109.

⁴¹² L, 17.13, 109 (emphasis mine).

⁴¹³ L, 30.1, 219.

it can rightly be said of something, *it is commonly a good*, that is, useful to many, or good for the state.”⁴¹⁴ Hence I suggest Hobbes’s point can be formulated as follows: the office of the sovereign consists in procuring the common good. When covenanters erect the commonwealth, they authorize the sovereign to procure the common good. We can now turn to uncover the novelty of Hobbes’s notion of the common good within the natural law tradition.

Like Hobbes, Aquinas teaches that the benchmark of a society’s wellbeing “lies in the preservation of its unity, which is peace.”⁴¹⁵ Such is a set end for the ruler. As the end of the doctor is the health of the body, which consists in the harmony of its material parts, the end set for the ruler of the commonwealth is peace, which is harmony of wills.⁴¹⁶

Aristotle calls such a harmony *homonoia* or concord—and this denotes a kind of unity. For Aristotle and Thomas there are four senses of concord, social unity, or peace: (i) the mere absence of civil strife (ii) agreement of citizens on important matters (iii) civic friendship (iv) complete harmony of persons, of their affections within and choices without.⁴¹⁷ As Michael Pakaluk points out, (i)-(iv) constitutes a gradated scale and hence a political society may find itself more or less perfectly united at any one time. Senses (i)-(iv) denote degrees of unity of peace as a desirable state of affairs. As such it is an object of united action, and its goodness is essentially shared or participated. It is proper, then, to speak of the pursuit of the common good as the distinguishing mark of society. The common good so conceived has the feature of drawing or attracting. In other words

⁴¹⁴ *DH*, 11.4 in *Man and Citizen*, 47.

⁴¹⁵ *De Regno* (trans. Gerald B. Phelan), Ch. 3 Par. 17.

⁴¹⁶ *In Ethic.*, bk. 3, lesson 8, n. 474.

⁴¹⁷ Here I follow Michael Pakaluk, “Is the Common Good Limited and Instrumental?” *The Review of Metaphysics* Vol. 55, No. 1 (Sep. 2001): 57-94.

it has the note of a final cause. Aristotle and Aquinas offer another formulation of the foregoing when they say that society is a *unity of order*—and further consideration of this notion of unity introduces the distinction between the intrinsic and extrinsic good of society.

Aristotle and Aquinas teach that the common good of a society or unity of order is twofold: the intrinsic order amongst its parts and the order of the whole to an extrinsic end. Consider the example of an army. There is in the order of the members of the army to one another an intrinsic common good. The well-being of the fighting group shared in by each member is conditioned on the order necessary for the life-together of the whole. Moreover, the whole army is directed toward the goal of victory. Victory is the extrinsic common good that the army aims at and there is a special sense in which the common good of victory is found in the commander as the directive principle toward that end. So according to this principle, society-at-large or the *civitas* would also seem to have a twofold common good: its intrinsic order and that-to-which the whole is directed. What then is the twofold common good of the *civitas*?

We have already seen that the answer must lie in the notion of peace. An extraordinarily high degree of civic friendship may approach (iv), and, as such, can function in the way Aristotle's best regime: as a regulative ideal.⁴¹⁸ In this way it is an extrinsic common good to which the political community is always striving.⁴¹⁹ But, any

⁴¹⁸ As the physical trainer's science of fitness employs the absolutely best regimen of dieting and exercising as an ideal standard of excellence to adapt to the bodily health of his patient according to their fitness, equipment, and circumstances, so Aristotle's rational political science employs the best regime as its standard of excellence for assessing the health of the body politic (*Politics*, 1288b10-b35).

⁴¹⁹ But, as I read Aquinas, the *complete* harmony between persons is nothing other than perfect *tranquillitas ordinis*, which is impossible to achieve in this world because such unity of persons can only be had in the vision of God, the extrinsic common good of the whole universe. Because such an end exceeds man's natural powers in and of themselves, a person or society can only be ordered to such an end in its acts and operations with the help of grace. But, Aquinas thinks there is a certain integrity in human nature, and so we can speak of a (proximate) extrinsic common good of a society available to man unaided by

degree of peace enjoyed along the scale (i)-(iv) within the political order would seem to be the intrinsic common good of the whole as accidental perfections inhering in the members of the whole. It should now be apparent how Hobbes's notion of the common good is novel.

Hobbes's break is in the thinning of the *common* good to mere security. Aristotle and Aquinas had been willing to affirm somewhat higher *common* ends for man—including the intrinsically social goods of community and friendship. But for Hobbes, concord sets its sights lower. On the scale, Hobbesian artificial unity aims low: somewhere between (i) and (ii). There ought to be absence of civil strife inasmuch as all are agreed about *one* important matter: security. For Hobbes, civic friendship is not sought for its own sake as perfective of man's rational faculties but as conducive to the good of preservation.⁴²⁰

Does this thinning out of the traditional notion of the common good really mean that Hobbes is *denying* there is any such thing as the common good discovered by reason? John Rawls argues as much. On Rawls's reading of Hobbes, our difference from naturally political animals like bees—for whom the private good differs not from the common good—is not only regrettable, but it suggests that human reason cannot discover any common good. “We are not that fortunate, and there is no common good that we recognize by reason.”⁴²¹ But, *pace* Rawls, Hobbes's discussion of the differences between men and bees actually indicates that Hobbes is affirming that reasonable persons understand the security of peace as truly a common good. Recall Hobbes's second distinction between men and bees: man's private good differs from the

grace, and this will look something like the ideal of Aristotelian eudemonia somewhere between (iii) and (iv). Hence we can draw a comparison within the order of nature.

⁴²⁰ Cf. *DC* 1.2.

⁴²¹ Rawls, *Lectures on the History of Political Philosophy*, 84.

common good. This distinction would be pointless unless there were some real common good.⁴²² Therefore, that discussion actually supports the common good interpretation.

Still, it can be asked whether Hobbes's account really counts as a common good account, from the perspective of the older tradition. In the Aristotelian-Thomistic tradition, the social and political animal anthropology entailed that human happiness lies in the social unity denoted by sense (iv): complete harmony of persons, of their affections within and choices without. On this conception of the common good, social unity is not merely a means to some extrinsic end or good. In other words, the common good is not *merely* a useful good. Hobbes does emphasize the usefulness of the common good. But, I suggest that the Hobbesian common good also has an intrinsic goodness inasmuch as living virtuously is or can (ought to) be pleasurable. It is pleasurable for those who live reasonably, and can be pleasurable for anyone who is properly educated and habituated to live by the laws of nature. Let me elaborate the argument.

For Hobbes, the common good consists in a state of affairs where the practice of the moral virtues outlined by the laws of nature is backed up by the command of sovereign. It is good because all men agree peace is good—"and therefore also *the way or means* of peace" (emphasis added).⁴²³ The virtues are the means to peace because they enjoin cessation of the kinds of acts that incite violence and war. The goodness of a state of affairs where the mutual practice of the virtues is ensured by the threat of punishment for their breach is evident. Such a state of affairs is undoubtedly "the good of the state"—it is a good shared by all the members of the commonwealth. On Hobbes's criterion, its goodness is real (and not merely apparent) because its long-term

⁴²² Cf. also *L*, 19.4, 120.

⁴²³ *L*, 15.40, 100.

consequences do not have evil annexed to it for the good reason that it is most likely to conduce to the preservation of all.⁴²⁴

The common good constituted by this state of affairs is not properly anyone's *private* good (as is, say, the balance in one's checking account), but it is each *individual's* good in the manner of participation inasmuch as everyone has an equal share in the protection of the laws. But its intrinsic goodness is no thicker than security—and for Hobbes a good desired *propter se* (for its own sake) is nothing other than the *bonum jucundum*⁴²⁵ (the delightful good). Hobbes's criterion for something to qualify as a delightful good, sought for its own sake, is its “corroboration of vital motion, and a help thereto.”⁴²⁶ But the whole point of Hobbes's argument is to show that the practice of the virtues outlined by the laws of nature *in foro externo* is the ultimate corroboration and help to continued vital motion, since that is constitutive of peace. Presumably, those who are disciplined by good education—an education that should be based on *Leviathan* itself—will understand this and the practice of the civic virtues will be pleasurable. Hence, I see no grounds, on Hobbes's terms, for denying intrinsic goodness to the common good. Hobbes's novelty *vis-à-vis* Aquinas on this point seems to lie chiefly in identifying the *per se* good with the pleasurable.⁴²⁷

Of course, Hobbes also says that peace is good in the mode of the *bonum utile* (the useful good) as well. The extrinsic aim of membership in society is not any higher

⁴²⁴ *DH*, 11.6.

⁴²⁵ *DH*, 11.5; *L*, 6.8, 29.

⁴²⁶ *L* 6.

⁴²⁷ Aquinas divides the good into the *honestum*, *utile*, and *delectabile*, and identifies the *honestum* as that which is intrinsically good or *per se* desired (*ST* I.5.6). The *bonum honestum* is in itself a perfective or fulfilling activity to which pleasure is a fitting accompaniment. It is not *necessarily* pleasurable, but it will be for a virtuous person, whose emotions are attuned to right reason. We already saw that Hobbes famously rejects a *summum bonum*. But he always qualifies his rejection: “*as is spoken of in the books of moral philosophers*” (*L* 11.1) or “*in the present life*” (*DH* 11.15). It is at least possible that Hobbes is only rejecting the possibility of final beatitude in this life—and if so, Hobbes and Aquinas are on the same page in that respect (*ST* I-II.3.8).

degree of unity, but the individual pursuit of felicity. So while not *merely* instrumental, the common good is also a good in the mode of the *bonum utile* as conducive to a wide sphere for the individual pursuit of “felicity” or living “well” where these pursuits do not involve breaching the peace—in other words, “harmless liberty.”⁴²⁸ Felicity is the continual success in attaining whatever we happen to desire in accord with the harmless liberty the sovereign is bound to secure. And the boundaries of this liberty cannot be set according to any thicker vision of the common good because “diverse men differ in their judgment...of what is comformable, or disagreeable to reason, in the actions of common life.”⁴²⁹

Hence, Hobbes’s common good account of commonwealth goes hand in glove with his doctrine of *felicity pluralism*, which we discussed in the last chapter. Here we see a key contribution by Hobbes to the liberal tradition inasmuch as liberalism seeks to be maximally inclusive of diverse pursuits of happiness. Hobbes’s felicity pluralism is widely inclusive of many diverse life plans, so long as they are reasonable—and the basic requirement of reasonableness in the pursuit of felicity is to accord one’s will with the common good. This means that the sorts of acts destructive of life or conducive of violence and war are ruled out as unreasonable pursuits of felicity.

To sum up this section, Hobbes’s properly common good account of commonwealth is evident in his theory of the sovereign-making covenant, because covenanters seek peace. The Hobbesian theory of the common good is best understood as a thin conception of peace. Its intrinsic and useful goodness is *common* because all members of the commonwealth enjoy security in their pursuits of a contented life. But, as we shall see in the next stage, the security conception of peace, in conjunction with the

⁴²⁸ *L*, 6.8, 29; 15.22, 97.

⁴²⁹ *L*, 15.40, 100.

doctrine of absolute sovereignty, entails a major break from the Thomistic notion of the common good in its rejection of social pluralism. Let us consider how part [e] of Hobbes's definition is indicative of the *unitarist* conception of commonwealth and the common good.

**That 'he may use the strength and means of them all, as he shall think expedient':
Hobbes's Unitarist Conception of Commonwealth**

Taken together, parts [d] and [e] of Hobbes's definition are indicative of his absolutist notion of absolute sovereignty-for-the-sake-of-peace. Hobbes's theory of commonwealth shows how the thin conception of the common good, in combination with an absolute right of the sovereign to the means to pursue that end, entails a *unitarist* conception of commonwealth. In this subsection, I show how this constitutes a significant break from the Aristotelian-Thomistic notion of social pluralism. But, I then suggest that the *scope* of Hobbes's account of the common good should be restricted to *the nation-state*. This may turn out to be normatively useful if we suppose the Thomistic account of social ontology is true.

Hobbes addresses the dignity of sub-political societies or group persons through the prism of his thin doctrine of peace. Hence, the recognition of small groups and societies by the sovereign will turn on their harmlessness. As we saw, the end of sovereign office is peace. Because the sovereign is the judge of what is necessary for "the peace and defence of his subjects" and because "whosoever has right to the end, has right to the means" it follows that the recognition of sub-political group entities must be by permission of the sovereign inasmuch as he judges that they conduce to or do not hinder the security of the realm.⁴³⁰ As Hobbes puts it, "the sovereign, in every

⁴³⁰ *L*, 18.8, 113.

commonwealth, is the absolute representative of all the subjects; and therefore no other, can be representative of any part of them, but so far forth, as he shall give leave.”⁴³¹ Sub-political societies—be they universities, labor unions, towns, churches, families, etc.—can only attain the legal recognition or the dignity of group-personhood by the permission of the sovereign.

True, the sovereign is bound to protect the “harmless liberty” of citizens, which would include the liberty to associate in the pursuit of goods relegated to the private realm. But all non-governmental associations attain protection of the law only by the sovereign’s *permission*—and, hence, it would not be false to say that this tends towards atomization inasmuch as sub-political group-persons lack the dignity of group personhood prior to the State’s say-so. Inasmuch as this is the correct picture of Hobbes, he could be said to be a forefather of the “familiar individual-state-market grid” of social ontology that endures today.⁴³² On this conception, social reality is constituted by the following triad: atomistic individuals, their transitory associations, and the state (which decides which transitory associations are permitted and which are not). This triad is presaged when Hobbes labeled unrecognized sub-political group persons as diseases or worms infesting the body politic. It was on this score that the English pluralists—the early twentieth century proponents of a sort of neo-Aristotelian social ontology—singled out Hobbes for special condemnation.⁴³³

⁴³¹ *L*, 22.5, 146.

⁴³² Mary Ann Glendon, *Rights Talk: the impoverishment of political discourse* (New York: The Free Press, 1991), 143.

⁴³³ See, e.g., J.N. Figgis, “The Great Leviathan”; H.J. Laski, “The Personality of Associations” and “The Pluralist State”; each reprinted in *The Pluralist theory of the State*, ed. Paul Q. Hirst (London: Routledge, 1989), 121; 179; 184. See also F.W. Maitland, “Moral Personality and Legal Personality”; reprinted in David Nichols, *The Pluralist State*, 2nd ed. (London: Macmillan Press, 1994), 175. Nicholls traces the influence of the work of Otto von Gierke on the English Pluralists, *Id.*, 43-8. See also generally David Runciman, *Pluralism and the Personality of the State* (Cambridge: Cambridge University Press, 1997). Gierke’s work sought to hone in on Hobbes’s novelties vis-à-vis older scholastic theories of group personality. See his *Natural law and the theory of society : 1500 to 1800* with a lecture on the ideas of

From the Aristotelian perspective, the criticism was not without warrant. The Aristotelian-Thomistic position was that group personhood was a reality *wherever a unity of order obtained*.⁴³⁴ Since sub-political societies like families, churches, and other *communions* are true societies and hence bear a dignity prior to the State's say so, a State that fails to protect the dignity of sub-political societies does so on the pain of injustice. Hence the common good as the unity of peace is a unity of unities of order—a *communitas communitatum*. Because there is a dignity intrinsic to any true society in its own common activity and ends, the ruler's charge over the political common good includes not only directing persons toward more perfect unity, but also protecting the dignity of sub-political unities because they enjoy intrinsic common goods and aims not only not reducible to self-preservation and which need not threaten the security of the realm.⁴³⁵

Consider Hobbes's treatment of the sub-political society of the family, which is a society allowed to exist by the sovereign.⁴³⁶ Here again, we see Hobbes's break with the older tradition playing out in terms of his conception of the common good. Notably, in Aristotelian political science the family has a special place as a society that is a sort of cell of political society. For Hobbes, sub-political societies like the family can and did

natural law and humanity by Ernst Troeltsch, translated with an introd. by Ernest Barker (The Lawbook Exchange, 2010).

⁴³⁴ *Metaphysics* 1075a13-16; Aquinas, *In Metaphysica*, Lect. 12, n. 2629-2637. *Sententia in libros Ethicorum*, Lect. 1, n. 5.

⁴³⁵ As I read Aristotle and Thomas, these doctrines are present in their writings, but in seminal form. For a discussion of how the principles take shape in Aquinas's defense of the mendicant orders, see Russell Hittinger, *The First Grace*, 293-312. See also "The Coherence of the Four Principles of Catholic Social Doctrine: An Interpretation" *Pursuing the Common Good: How Solidarity and Subsidiarity Can Work Together*, The Proceedings of the 14th Plenary Session of the Pontifical Academy of the Social Sciences, 75-123; Kenneth L. Grasso, "The Rights of Monads or of Intrinsically Social Beings? Social Ontology and Rights Talk," *Ave Maria Law Review*, 3 (2005) 233-258.

⁴³⁶ *L*, 22.26, 152-3.

exist in the state of nature as sovereignties “by acquisition.”⁴³⁷ Hobbes was even willing to call the family in the state of nature a “little city.”⁴³⁸ But small families or even unions of families in the state of nature are not sufficient to secure the chief human good of self-preservation. Again, while Hobbes thinks there is a natural inclination of the sexes to one another and to children—and, presumably, there is an intrinsic pleasurable good that attaches to such a union—Hobbes instrumentalizes the unity of the family to preservation. Whatever order and unity obtains in the family—including that between parent and child—is due principally to the end of preservation:

For it [the child] ought to obey him by whom it is preserved; because preservation of life being the end, for which one man becomes subject to another, every man is supposed to promise obedience, to him, in whose power it is to save, or destroy him.⁴³⁹

Given Hobbes’s conviction that life is the basic good, it only follows that the dignity of a society will be conditioned on its instrumental value to the end of preservation. Now, it is true that Hobbes identifies the traditional family as a society allowed by the sovereign. But his principles appear to indicate that this permission is subject to change, if the sovereign deems it necessary for security.

In contrast, the Thomistic vision of the common good as the unity of peace is a unity of unities of order. Because there is a dignity intrinsic to any true society in its own common activity and ends, the ruler’s charge over the political common good includes not only directing persons toward more perfect unity, but also protecting the dignity of sub-political unities because the common goods they enjoy are real ones. The members of sub-political societies enjoy a real solidarity in their order to one another *qua* members

⁴³⁷ Sovereignty of parent(s) over their children is through “natural force” as “being able to destroy them if they refuse.” *L*, 17.15, 109-110.

⁴³⁸ DC, 15 n. 4; Cf. the discussion of “small families” in *L*, 17.2, 107.

⁴³⁹ *L*, 20.5, 130.

of that society. Accordingly, Aquinas's account of the goods objectively knowable by reason includes the (common) goods of marriage and childrearing, which are not reducible to mere preservation. It follows that, on the Thomistic picture, the protection of the family is necessary for common good of society as a whole.

Suppose for a moment that the Thomistic account is true. If so, it would seem Hobbes's thin view of peace is an emaciated vision of human flourishing and his unitarism is potentially inimical to authentic human well-being, inasmuch as the dignity and legality of non-governmental social orders turns on the sovereign's permission. Accordingly, the Thomist would likely insist that the Hobbesian theory of social ontology is useful as nothing more than a foil for contemporary normative social ontology.

But consider the possibility that Hobbes's skepticism about diverse men agreeing on any object of common life beyond security flows from the *size* of the commonwealth Hobbes believes is necessary to secure the peace. Recall how commonwealth a "great multitude" to agree on the end to guide their common life. For, "it is not the joining together of a small number of men that gives them this security" because the commonwealth must be large enough to withstand external attack.⁴⁴⁰ Inasmuch as the absolute representation of the sovereign is *confined* to the aim of security—the authorization of the sovereign is for the sake of this end—why shouldn't Hobbes allow for the possibility that, through the exercise of their "harmless liberty," *smaller* communities could arrive at (agree to a common life constituted by) richer notions of the common good? The *scope* of Hobbes's account of the common good as *security* need not go beyond the nation-state. Even on Hobbes's own terms, smaller communities need not

⁴⁴⁰ *L*, 17.3, 107. Cf. *L*, 25.16, 172: "And as for very little commonwealths, be they popular or monarchical, there is no human wisdom can uphold them longer than the jealousy lasteth of their potent neighbours."

be “worms” infesting the body politic because Hobbes explicitly connects the “excessive greatness of a town” with a threat to security, i.e., its ability to furnish “a great army.”⁴⁴¹

The Hobbesian conception of the common good as security would seem to countenance a federalist constitutional order in which the highest order pursued a minimalist conception of the common good, while leaving maximal freedom to pursue felicity to lower orders, *including the freedom to pursue thicker conceptions of the common good*—provided that the higher level had exclusive powers to furnish an army.

In an age when nation-states have become so large as to preclude arriving at a common mind through common deliberation by norms of rational enquiry, Hobbes’s theory of the common good actually provides us with the tools to unmask any nation-state that, in Alasdair Macintyre’s words, “masquerades as the guardian” of any thicker notion of a national common good than public security.⁴⁴² Hobbes’s theory shows how the very large sized commonwealth’s principal aim is public security and safety. But the masqueraders would have us believe in a welfare state that will usher us toward an egalitarian social order and enforce a vision of permissive individual liberty against local communities which would otherwise order their communities according to richer notions of the common good.

It seems to me that unmasking the masqueraders must be part of the social ontologist’s goal of reviving networks of giving and receiving embodied in local communities that are characterized by the virtues of acknowledged dependence.⁴⁴³ And it is in this way that the Hobbesian theory of commonwealth might be useful for

⁴⁴¹ *L*, 29.21, 218.

⁴⁴² Alasdair Macintyre, *Dependent Rational Animals* (Chicago: Carus Publishing Company, 1999), 132.

⁴⁴³ The best case for this vision is in Macintyre, *Dependent Rational Animals*.

contemporary normative social ontology, especially since Hobbes is widely acknowledged as the forefather of the modern state.

So far, we have analyzed the fitness of *matter* (“the great multitude” of people) to incorporate into commonwealth and the covenantal act by which they so incorporate. Inasmuch as the natural is the reasonable, it is natural for the multitude to incorporate through the sovereign-making covenant for the sake of peace, understood as security. Covenanters authorize the sovereign to take all means necessary to secure the peace—and this entails Hobbes’s unitarism.

Let us now turn and consider in more detail the second clause of part [d]. Hobbes says that the multitude, by the sovereign-making covenant, *have made* themselves author of the sovereign’s acts. I want to focus on how man is the *maker* of commonwealth. I shall argue that when man makes the commonwealth he imitates nature. The discernible order in nature towards life is the basis for the common good of security.

Man as Maker: How Political Art Imitates Nature

According to Hobbes, artificiality corresponds to the *man-made*. But how should we understand man as *maker*? In this subsection, I want to argue that man makes or artifacts the commonwealth in pursuit of peace understood as the common good of security—and that, *in doing so, man imitates an order in nature: Hobbesian political art imitates nature*. In the Aristotelian-Thomistic tradition, this meant that political art makes use of material, efficient, formal, and final causality, since these causes are in natural things. Some interpreters have argued that Hobbesian artifice, as the *man-made*, is doctrine formulated *in spite* of nature—in radical rejection of the traditional principle

that art imitates nature.⁴⁴⁴ The implication is that no final cause is apparent in nature; hence, we construct society for the purposes we make up. But, supposing we have good reasons to think Hobbes held forth his theology of a providential, creating God seriously, then a rereading of Hobbesian political art is fitting. Such a rereading reveals that Hobbes's political art makes use of matter, form, efficient cause, and telos because, as in the Thomistic tradition, God created and ordered man toward his good. Where Hobbes differs is his thin theory of the good. Hobbes's new political art co-opts the Aristotelian mimetic principle and the four causes in service of his new conception of the common good. Hobbes then makes powerful use of the mimetic principle to support his unitarist vision of the common good.

The surface impression of Hobbes's theory of artifice as the *man-made* is that it is *radically* breaking from the older tradition. That is, Hobbes shows us how commonwealth is *artificial* because *man-made* and not *natural* as it is for bees, as those benighted by naïveté would have us believe. But we have already seen how Hobbes is in agreement with Aristotle and Aquinas that men are not bees. Aristotle and Aquinas do not understand the “natural” as the *irresistibly impelled toward* but as the *reasonable*. (For Aristotle and Aquinas, bees are a peripheral case of political animality.) We saw in 4.1 how Hobbes's criticism of the *zoon politikon* anthropology ended up turning on Hobbes's use of natural in the sense of infantile. But, inasmuch as Hobbes connects the natural with the reasonable, and inasmuch as he agrees with Aristotle and Aquinas that life in society under law is much more reasonable than living as beasts, Hobbes isn't so far from the tradition after all. As one might have guessed, Hobbes's notion of political art as *man-made* is also not so different from the Aristotelian tradition—and this turns out

⁴⁴⁴ See, e.g., Pierre Manent, *An Intellectual History of Liberalism* (Princeton University Press, 1996).

to be a subtle point of agreement regarding the dignity of human agents. Recall the last point of difference between men and bees:

Lastly, the agreement of these creatures is natural; that of men, is by covenant only, which is artificial: and therefore it is no wonder if there be somewhat else required (besides covenant) to make their agreement constant and lasting; which is a common power, to keep them in awe, and to direct their actions to the common benefit.⁴⁴⁵

It turns out to be very important for Hobbes in his criticism of Aristotelianism to sufficiently differentiate nonrational and rational animals to warrant the apparent rejection of the Aristotelian dictum that man as a *zoon politikon*. But in order for the argument to work Hobbes must maintain that rational agents enjoy somewhat more dignity in causation than appears in his discussion of liberty and necessity. We see here another continuity with the Aristotelian-Thomistic tradition regarding the dignity of the individual. Human individuals are not driven into concord but must make the commonwealth after reflection and choice. Whether wittingly or not, Hobbes is in agreement with Aristotle and Aquinas that in the order of time, the city is not “natural” as the primitive, which we might expect if natural means irresistibly impelled thereto. The city is, rather, the product of reflection and choice. As Aristotle puts it, “By nature, then, the drive for such a community exists in everyone, but the first to set one up is responsible for things of very great goodness.”⁴⁴⁶ In short, the city in the Aristotelian tradition is “man-made.” In Hobbes’s terminology this means the city is the product of human art—human beings are “makers and orderers” of the commonwealth. Aquinas is also willing to use the term “art” in distinguishing the operation of practical reason that orders the polity.⁴⁴⁷

⁴⁴⁵ *L*, 17.12, 109.

⁴⁴⁶ *Politics* 1253a30. Cf. Aquinas, *ST I-II*, Proemium.

⁴⁴⁷ *Commentary on the Politics*, Proemium.

Hobbes indicates from the start his intent to co-opt Aristotelian language to describe the product of his political art, the commonwealth. In the subtitle to *Leviathan*, “or the matter, form, and power of the commonwealth,” Hobbes signals his intent to take over Aristotelian ideas of efficient, material, and formal causality and enlist them in service of his account of commonwealth. So Hobbes lays out his project “to describe the Nature of this Artificial Man.” The First Part is concerned with “the matter thereof and the artificer; both of which is Man.” As we already have seen in our initial partition of Hobbes’s definition of commonwealth, men (or the “natural persons”) that make up the great (unincorporated) multitude appear as material and efficient causes.⁴⁴⁸ When Part I of *Leviathan* culminates in Chapter 16 “Of Persons, Authors, and Things Personated” material, efficient, and formal cause come together as Hobbes’s propaedeutic to his doctrine of final causation. The final cause of the commonwealth is the common good. Hence, the first chapter of Part II is entitled “Of the Causes, Generation, and Definition of a Commonwealth,” recalling the subtitle of *Leviathan*, and opening with a reflection on the “final cause” of the commonwealth. Hobbes has rounded out the quartet of Aristotelian causes by the time he offers the covenantal formula and definition of commonwealth.⁴⁴⁹

These points are important because Hobbes’s claims that *art*—including political art—imitates nature. Therefore, *if* political art deploys material, formal, efficient, and final causality, and *if* Hobbes seriously holds the mimetic principle, *then these causes must be found in nature*. Hobbes indicates as much in his opening comments about artifice in *Leviathan*.

⁴⁴⁸ *L*, Introduction.2, 4.

⁴⁴⁹ *L*, 17.1, 106.

Hobbes's Introduction to the *Leviathan* is the proper place to begin to see what one recent study calls "the often overlooked significance of the concept of artifice in *Leviathan*."⁴⁵⁰ We are immediately told that Nature is the artifice of *God*. It is "the art whereby God hath made and governs the world."⁴⁵¹ And Hobbes says that we perceive by our senses and judge by reason that God has made a mechanical world. By God's artistic design, natural life is an organic-mechanic motion of the various parts within wholes "giving motion to the whole body, such as was intended by the artificer."⁴⁵² Amongst natural bodies, one stands out. The most excellent work of nature was God's greatest work of art: man. So if man is to be a great artist, he must imitate man in his greatest production. The creation of the artificial person of the State is the ultimate imitation of God's creation of man. In Hobbes's words,

The pacts and covenants, by which the parts of this body politic were at first made, set together, and united, resemble that fiat, or the let us make man, pronounced by God in the creation.⁴⁵³

Within the Aristotelian tradition, the principle that art imitates nature traces back to Aristotle's *Physics* and later is taken to be axiomatic by Aquinas in his commentary on Aristotle's *Politics*.⁴⁵⁴ In the *Physics* passage, Aristotle argues that since art imitates nature, then in knowing how an art relates to artificial things we will know how natural science relates to natural things. But in the medical art, the doctor knows health as a form and the humors as the matter in which health consists because health is the harmony of the bodily humors. So also, the builder knows the both the form of the house and the bricks and mortar as its matter.⁴⁵⁵ Hence, Aristotle concludes, it belongs to the natural

⁴⁵⁰ Raia Prokhovnik, "Hobbes's Artifice as Social Construction," *Hobbes Studies* Vol. XVIII, 2005, 74.

⁴⁵¹ *L*, The Introduction.1, 3.

⁴⁵² *L*, The Introduction.1, 3.

⁴⁵³ *L*, The Introduction.1, 3-4.

⁴⁵⁴ *Physics* 2.2 194a22-27; Thomas Aquinas, *Sententia libri Politicorum*, Proemium.

⁴⁵⁵ Cf. Aquinas *In Lib. Phys.* 2 lect. 4, no. 170.

scientist to know matter and form. But why should the axiom that art imitates nature be admitted in the first place?

Aquinas explains that knowledge is the principle of art. But all of our knowledge comes by the senses, through sensible things in nature. Therefore, artificial things are produced in likeness to natural things. But our senses reveal there is an order in natural things whence can be inferred that there is an intellectual principle ordering them toward their ends.⁴⁵⁶ Art imitates nature then by ordering its product toward its end. On the older view, then, the order in natural things pointed to an ordering intellectual principle: and this ordering is imitated in making artificial things.

Hobbes often speaks as if he agrees with the Thomistic tradition on this point. We have seen that Hobbes affirms: “by the visible things of this world, and their admirable order, a man may conceive there is a cause of them, which men call God.”⁴⁵⁷ Again, Hobbes adds in another place: “Besides, it is very hard to believe that to produce male and female, and all that belongs thereto, as also the several and curious organs of sense and memory, could be the work of anything that had not understanding.”⁴⁵⁸ Hobbes also indicates his view that God is at work in human generation. In a brief speculation on the mechanics of generation, Hobbes argues along Aristotelian-like lines that the maternal blood is the material of the fetus, to which the generative fluid of the father is the form, moving and forming the matter into a human being. He then suggests that those who would deny that the operations of generation are guided by some mind are themselves mindless.⁴⁵⁹

⁴⁵⁶ Cf. Aquinas’s “fifth way” *ST I* 2.3.

⁴⁵⁷ *L*, 11.25, 62.

⁴⁵⁸ *EW VII*, p. 176.

⁴⁵⁹ *DH* 1.4 in *OL*, vol. 2, 6.

Whereas, Hobbes's Introduction invoked his ultimate foundation in revelation by reference to the Genesis account of God's *Fiat* in Creation, here we are in the (compatible) realm of Hobbes's proximate foundation for his civil science—the knowledge of human nature by unaided reason (see Chapter 1). Our knowledge of man reveals an *order* and hence must be the product of something with understanding. Another way to put the point is that reason discovers the *design plan* of an Irresistibly Powerful being. While Hobbes himself does not use this term, I suggest that it is useful to flesh out his meaning. Alvin Plantinga describes a design plan as

the way the thing in question is 'supposed' to work, the way in which it works when it is functioning as it ought to, when there is nothing wrong with it, when it is not damaged or broken or nonfunctional. Both human artifacts and natural organisms and their parts have design plans.⁴⁶⁰

Plantinga goes on to suggest that “we need not take the notions of design plan and way in which a thing is supposed to work to entail conscious design or purpose...it is perhaps possible that evolution (undirected by God or anyone else) has somehow furnished us with our design plans.”⁴⁶¹ Without denying this possibility, it appears that Hobbes himself did not countenance it. Hobbes's own theory falls under what Plantinga calls “the central and paradigm cases” that “do indeed involve the thing's having been designed by one or more conscious designers who are aiming at an end of some sort, and design the thing in question to achieve or accomplish that end.”⁴⁶²

Hence Hobbes's claim that men are “makers and orderers” of the commonwealth should be understood as ordering man on the basis of the order in the most excellent work of God: man.⁴⁶³ As we saw in Chapter Two, the order in man of his subrational parts

⁴⁶⁰ Alvin Plantinga, *Warrant and Proper Function* (Oxford University Press, 1993), 21

⁴⁶¹ Plantinga, *Warrant and Proper Function*, 21.

⁴⁶² Plantinga, *Warrant and Proper Function*, 21.

⁴⁶³ *L*, 29.1, 210.

and of his reason toward the good of life is an order *willed* by one with the right to so will it—hence the rational necessity to pursue the good of life and the necessary means thereto have the character of law, for the theist. We now see that the order in man is the natural thing that man imitates in making the commonwealth—and this turns out to be an imitation of God’s creative act. In the account in Genesis 1, God says, “Let us make man in our image and likeness.” So Hobbes says that, in making the commonwealth, man imitates God by creating the state in his own image and likeness.⁴⁶⁴

Hobbes borrows from the Aristotelian tradition inasmuch as, like the doctor or builder, the political artist knows both matter and form. As the manufacturer can resolve the watch into its material parts and compose it again, so the civil scientist can apply the resolute-compositive method to the body politic to understand how the material parts are in potency to incorporation through a political form.⁴⁶⁵ As I shall argue in 4.3, the acts of will that inform this “matter” bring into being something distinct in dignity and not merely an aggregate of its material parts: a truly representative group-person. A

⁴⁶⁴ None of this means that a person who is going to order the commonwealth well must be a metaphysician. In Chapter 1, we considered the “autonomy thesis.” My account denies that Hobbes’s civil science is autonomous in the Rawlsian sense of “political not metaphysical”; it denies it is an idealistic construction of pure reason. But, my account does not deny Sorell’s point that political knowledge “can be acquired by anyone with ordinary intellectual capacities, and it presupposes no special training” (Sorell, *Hobbes*, 7). The principle that art imitates nature does not imply the political artist must be a metaphysician. It need only mean that human practical reasoning is informed by often messy, unorganized apprehension of natural things common to all persons. And if nature appears as something ordered or at least minimally ordered, then nature has an informing relation to civil science inasmuch as it orders toward ends, the chief of which for Hobbes is self-preservation. You can also know what you would think and feel if a massive worst-case scenario like the state of nature ensued and, by *nosce teipsum*, read what others would think and feel too—and that condition, as we saw, appears to us as something in which reasonable persons pursue the good of life.

⁴⁶⁵ Cf. Aristotle, *Politics*, 1252a20-24. The watch analogy reinforces the point that the resolute-compositive method can be applied to bodies both natural and man-made (and, hence, can drive the theorems and conclusions of two real sciences). As the resolution of the watch reveals springs and wheels as its basic parts in motion and contact performing operations integral to the whole, so the method reveals that the members of the commonwealth are natural persons and groupings thereof moving and functioning as the integral parts of the political body while retaining the freedom of their own operations where the law permits.

man-made form constitutes or organizes the “matter” of natural substances (natural persons) into a new (social) entity. Once authorized, the sovereign takes on the character of the form or *arche*, giving life and motion to the body politic.⁴⁶⁶

On the ground of his mimetic principle, Hobbes compares the body politic to the human body. The parts function well when they operate for the good of the whole. The parts are dysfunctional when they dissolve the whole.

Hobbes will compare the various parts of the commonwealth to bodily parts: private and political systems resemble muscles; public ministers of general administration resemble “Nerves, and tendons that move the several limbs of a body natural”; public ministers in capacities of teaching and judicature “may fitly be compared to the organs of voice in a body natural”; ministers who execute the law are “answerable to that of the hands, in a body natural.” For its nourishment, the commonwealth needs “plenty of matter,” which consists in commodities from land and sea; the circulation of money is as the blood or “sanguification of the commonwealth,” for “natural blood is in like manner made of the fruits of the Earth; and circulating, nourisheth by the way, every member of the body of man”; colonies and plantations are “children” of the commonwealth.

Accordingly the principles of destruction and dissolution in commonwealth are compared to diseases of the body that threaten natural death: unlawful systems are compared to “Wens, Biles, and Apostemes⁴⁶⁷”; want of absolute power is like a “defectuous procreation”⁴⁶⁸; seditious doctrines are so many diseases, including private judgment of good and evil, rights of conscience, pretence of inspiration, subjecting power to the civil laws, absolute property rights, and dividing the sovereign power. When

⁴⁶⁶ Cf., “The Matter, Forme, and Power of the Commonwealth’: Thomas Hobbes and Late Renaissance Commentary on Aristotle’s Politics” *Hobbes Studies* Vol. 23 (2010), 25.

⁴⁶⁷ *L*, 22.34, 155.

⁴⁶⁸ *L*, 29.2, 210.

young men read Greek and Roman writers, and are thereby encouraged to become democrats, the commonwealth becomes infected with *tyrannophobia*, which is like when a person gets bit by a mad dog (the Greek and Roman writers) and gets *hydrophobia*. The doctrine of two cities and two jurisdictions, temporal and spiritual, leads to faction and civil war and is like the disease of epilepsy because it produces violent convulsions. The doctrine of mixed government—in which the powers to levy money, conduct and command, and to make laws are divided among three persons or assemblies respectively—is to divide the commonwealth into three:

To what disease in the natural Body of man I may exactly compare this irregularity of a commonwealth, I know not. But I have seen a man, that had another man growing out of his side, with an head, arms, breast, and stomach, of his own: If he had had another man growing out of his other side, the comparison might then have been exact.⁴⁶⁹

Each of the diseases of the commonwealth is like a disease of the body in that it impedes the good of the whole. Just as the health of the bodily parts consists in their proper functioning for the life of the individual, so health of the commonwealth consists in the members thinking and willing the unity of peace.

Notice that Hobbes is comfortable using the language of health and disease to discuss the condition of commonwealth. As I argued in 2.1 against Jean Hampton's interpretation, my interpretation of Hobbes's axiology (that the good of life is objective) is essential to making sense of a distinction between normally functioning and abnormal, between healthy or "right" desires and unhealthy or "wrong" desires. I argued that, if reason were an impotent calculating slave of the passions, then we could not know *which* desires are "right" or "wrong", and that the death-seeker is fully rational as long as he calculates correctly about means. Here we see how for Hobbes, just as the good of life is

⁴⁶⁹ *L*, 29.17, 217. Hobbes goes on to identify a few more diseases that are "not so great; which nevertheless are not unfit to be observed" (*L*, 29.18, 217).

the criterion for what counts as a disease for an individual, so the common good of security provides the objective criterion for what sorts of political doctrines and opinions are diseases for commonwealth. In the case of the individual and the commonwealth, that which is diseased is morally “wrong” because it conduces to the death or dissolution of the whole. In other words, Hobbes’s thin notion of the common good, when combined with the notion of absolute sovereignty-for-the-sake-of-peace, entails a *unitarist* conception of healthy commonwealth. The point is that Hobbes’s identification of various diseases tracks those doctrines that Hobbes believes would destroy this unity. In this way, Hobbes makes powerful use of his mimetic principle: those doctrines that cause civil war destroy commonwealth and the common good imitate natural diseases that destroy the unity of an individual substance in its enjoyment of the good of life.

CONCLUSION

The argument of this chapter has been that Hobbes’s definition of commonwealth is unified by the *telos* of the commonwealth, the common good. I have shown this through analysis of parts [c]-[e] of Hobbes’s definition. We have seen that Hobbes is in agreement with the Aristotelian-Thomistic tradition in his view that it is reasonable for a multitude to incorporate into commonwealth. It is reasonable—indeed, *legally* binding by God’s order—for persons to seek peace. The multitude establishes peace through incorporation, by the sovereign-making covenant. Since *the* basic good or reason for action is life, the common good of peace consists in security; and since the sovereign’s power to secure that end must be absolute, the commonwealth has a unitarist character. Natural persons *make* the commonwealth by imitating the natural order in man and so we can speak of it as *artificial*, man-made. Indeed, the commonwealth is a truly

representative artificial person, or so I shall argue in the next chapter, which analyzes the nature of the One Person referred to in part [a] of Hobbes's definition of commonwealth.

Chapter 5: The Person of the Commonwealth: One Truly Representative Artificial Person

In this chapter, I build on my argument that *the common good* is the unifying principle of Hobbes's definition of commonwealth. Let us recall Hobbes's definition of commonwealth:

[a] One person, [b] of whose acts [c] a great multitude, [d] by mutual covenants one with another, have made themselves every one the author, [e] to the end he may use the strength and means of them all, as he shall think expedient, [f] for their peace and common defence.⁴⁷⁰

We have seen how Hobbes thinks it is reasonable for a great multitude to incorporate into commonwealth by the sovereign-making covenant. In doing so, they seek to make the basic good of life into the common good of peace, understood primarily as security. Covenanters confer all of their power to the sovereign so that he may use the strength and means of them all to procure the common good. The thin view of peace, when combined with the sovereign's right to all the means to procure it, entails a *unitarist* conception of commonwealth. Sub-political societies obtain by the sovereign's *permission*. We also saw how man seeks the common good as *maker* of the commonwealth.

Having fleshed out Hobbes's theory of the common good, I turn in this chapter to analyze part [a], and consider the nature of the "one person", and this proceeds in two stages. In the first stage, I seek to clarify the nature of natural, feigned, and artificial persons. In the second stage, I argue that the person of the commonwealth is a truly representative artificial person and show how the common good marks off this group-

⁴⁷⁰ *L*, 17.13, 109.

person from all other forms of association. I also suggest a solution to the problem of the relationship of the person of the commonwealth to the person of the sovereign representative. In the end, the burden of the chapter is to show how *the common good* illuminates what kind of person the commonwealth is. This buttresses my claim that the common good is the unifying principle of Hobbes's definition of commonwealth.

5.1 DISTINGUISHING BETWEEN PERSONS NATURAL, FEIGNED, AND ARTIFICIAL

In order to clarify the meaning of the "One Person" referred to in the definition of commonwealth, we must turn back to Hobbes's discussion of personhood in Chapter 16 of *Leviathan*. Hobbes's definition of a person has been a somewhat vexing object of debate amongst scholars. The outcome is important because, as David Runciman notes, "what the state is has to be inferred from the text of *Leviathan*" since Hobbes "never states explicitly what kind of person it is."⁴⁷¹ I will argue in this section that a straightforward reading of the text of *Leviathan*,⁴⁷² anchored in Hobbes's own examples will clear up the confusion and indicate what kind of person the commonwealth is. Hobbes defines person in the following way.

A Person, is he, *whose words or actions are considered either as his own, or as representing the words or actions of an other man, or of any other thing to whom they are attributed, whether truly or by fiction.* When they are considered as his own, then is he called a *natural person*: And when they are considered as

⁴⁷¹ Runciman, "What Kind of Person is Hobbes's State? A Reply to Skinner," *The Journal of Political Philosophy*, Vol. 8, No. 2 (2000), 274.

⁴⁷² Here I confine myself to *Leviathan*. It is true that Hobbes offers differing definitions of a person in *De Homine* and the Latin *Leviathan*, both later works. But, I do not see any discernible development of the definition of personhood over and above Hobbes's supple account in *Leviathan*. If anything, Runciman seems right that "later accounts...are less complete, and do not improve on [the earlier account]..." ("What Kind of Person is Hobbes's State? A Reply to Skinner," 278).

representing the words and actions of an other, then is he a *feigned* or *artificial person*.⁴⁷³

The first thing to notice is that “person” is evidently a genus further divided into the species of natural persons, feigned persons, and artificial persons. The features common to all persons include the capacity for words and actions. Each kind of person is specified according to ownership or representation. Natural persons are those whose words and actions are their own. Feigned and artificial persons are those whose words and actions are representative of an other thing or an other man, whether truly or by fiction. At this point questions naturally arise. Does “or” indicate that “feigned” and “artificial” are synonyms such that feigned persons are identical to artificial persons? Or are “feigned persons” essentially distinct from “artificial persons”? Moreover, does “truly representative” and “fictitiously representative” further specify feigned and artificial personhood?⁴⁷⁴

Prima facie, “feigned” and “artificial” do not seem synonymous in meaning. “Feigned” carries the note of imaginary while “artificial” need not imply this. If Jones loses his leg in combat, he will find walking around with a feigned leg much more difficult than walking around with an artificial leg. Moreover, the next time *feigned* is mentioned in the discussion is to suggest the difference between an artificial person and a feigned person.⁴⁷⁵ For the moment then, let us assume feigned and artificial persons are not identical. What then is the meaning of truly representative and fictitiously representative in relation to feigned and artificial persons? One option would be that these introduce further specific differences. Call this the specification thesis.

⁴⁷³ *L*, 16.1, 101.

⁴⁷⁴ Here I use “fictitiously representative” as shorthand for “representing the words or actions of an other man, or of any other thing to whom they are attributed by fiction” and “truly representative” as shorthand for “representing the words or actions of an other man, or of any other thing to whom they are attributed truly”

⁴⁷⁵ *L*, 16.8, 102.

If we adopt the specification thesis we would now have in addition to natural persons the following: truly representative feigned Persons, fictitiously representative feigned persons and truly representative artificial Persons and fictitiously representative artificial Persons. In order to pursue this line of inquiry, “truly representative” and “fictitiously representative” would have to really add something to “feigned person” and “artificial person.” Let us first consider the case of feigned persons.

What would a ‘truly representative feigned person’ or a ‘fictitiously representative feigned person’ be? One possibility would be to take Hobbes’s discussion of personation as acting on stage or in conversation in representing oneself or another as shedding light on the meaning of *feigned* in its stage-literary sense—a sense not uncommon in 17th century England. In this sense, an example of a feigned person would be a character in a dialogue. We could then take “truly” and “by fiction” to mean authentic in authorization or act-ownership and not authorized or counterfeit, respectively.⁴⁷⁶ Consider that person “A” in the *Behemoth* could thus be an example of a ‘truly representative feigned person’. To recall, “A” and “B” are two characters who have a dialogue about the origins of the English Civil War. Person A is certainly a feigned person in the literary-stage sense, and he could be said to be truly or authentically representative of another in his words, namely, the real Thomas Hobbes because Hobbes *authored* the dialogue himself. Sticking with the literary-stage sense of feigned, an example of a fictitiously representative feigned person would be a feigned person who does not truly represent the person it purports to but is a counterfeit representation. Such would be an unauthorized representation and Hobbes might say that Thomas Tenison’s “Hobbes” in his dialogue is

⁴⁷⁶ For the use of fiction to mean counterfeit, see *Oxford English Dictionary* (Second edition, 1989), fiction, n. For the use of counterfeit in the false representation of persons, see *Oxford English Dictionary* (Second edition, 1989), counterfeit, adj. and n.

such an example.⁴⁷⁷ So on this interpretation an example of a feigned person truly representing is a literary-stage character truly representative because authorized like A's representation of Thomas Hobbes in *Behemoth*. An example of a feigned person fictitiously representing is a literary-stage character representing by counterfeit, that is, without authorization of the real person it represents—for example, Tenison's "Hobbes" representing the real Thomas Hobbes.

But there are interpretive problems with the first option just described. When Hobbes discusses the covenanting powers of artificial persons, he recognizes the possibility that some actors will pretend to authority they do not have when entering into a covenant. In such cases, Hobbes says that the actors' authority is *feigned*. So here, feigned means unauthorized. Acts of a feigned authority "obligeth the Actor only; there being no Author but himself."⁴⁷⁸ So, even if feigned could have a stage-literary note, it must also include the notion of unauthorized. Now consider again the specification thesis. If we substitute instead 'unauthorized' for feigned, we would have: fictitiously representative unauthorized persons and truly representative unauthorized persons. But given this meaning of feigned, the specification thesis evidently results in absurdity.

Another problem for the specification thesis as applied to feigned persons is how Hobbes later describes representation by fiction. "There are few things, that are uncapable of being represented by Fiction."⁴⁷⁹ Hobbes mentions bridges, churches, hospitals, idols, and generally "inanimate" things. Due to their inanimation, such things cannot authorize words or actions. But they can find fictional personation by

⁴⁷⁷ Thomas Tenison, *The Creed of Mr Hobbes examined in a feigned conference between him and a student of divinity* (London, 1670).

⁴⁷⁸ *L*, 16.8, 102. Hence, feigned persons turn out to be simply natural persons, albeit natural persons dissembling.

⁴⁷⁹ *L*, 16.9, 102.

authorization of the owners or governors of those things. Similarly, although animate, children, fools, and madmen lack the use of reason and so can't authorize by words and actions. But they can find fictional personation by authorization of he who governs them by right. Here, fiction does not mean counterfeit in the sense of being unauthorized but is fiction in the sense of imaginatively invented because the represented *cannot self-authorize*. The attribution of words and actions to a bridge or a madmen is a fiction in the sense of imaginatively invented for the purposes of the bridge's or the madman's representation at civil law. Given that a "feigned person" must at least include as one of its meanings "unauthorized person," the specification thesis would lead to "fictitiously representative feigned persons" meaning "self-unauthorizable unauthorized persons," which in the case of a madman would mean nothing more than the madman himself and for a bridge an absurdity.

So, given Hobbes's own examples of feigned persons and personation by fiction, it does not seem that the specification thesis is true for feigned persons. But perhaps feigned persons are best considered in their own category as pretending unauthorized persons. This definition captures Hobbes's own example of an unauthorized mediator. It also seems to capture the common literary-stage sense of feigned persons as well. For example, the person of Julius Caesar in Shakespeare's tragedy is pretending to represent the words and actions of the real Julius Caesar, but his "authorization" flows from the words and actions—the pen—of the Bard, not Caesar himself.⁴⁸⁰

We can now consider the specification thesis as applied to artificial persons. Perhaps 'truly' and 'by fiction' modifies only artificial persons. Truly representative

⁴⁸⁰ If correct then Copp's rejection of the Leviathan definition of personhood is unwarranted. Copp springs for Hobbes's definition of the person in *De Homine* because the inclusion of "whether truly or by fiction" would include stage actors as artificial persons, a usage that would "blur an important distinction." See David Copp, "Hobbes on Artificial Persons and Collective Actions," *The Philosophical Review* (1980) 89:579-606, at 583, n. 6.

artificial persons would then be those actually or evidently authorized to speak for or act on behalf of some other(s). Artificial persons representative by fiction would be those actually authorized to speak or act on behalf of some other that cannot authorize itself or himself. Here, the specification thesis does not lead to an absurdity, and it accounts for Hobbes's own examples. Moreover, because "truly" and "by fiction" add something over and above "artificial"—that is, they specify the character of the authorization—the common equation of "artificial" with "fictional" in Hobbes scholarship must be rejected.⁴⁸¹

In sum, the genus person is divided into the species of natural persons, feigned persons, artificial persons truly representing, and artificial persons representing by fiction. This interpretation, moreover, is not elaborate but follows from a straightforward reading of the text.⁴⁸² If, then the commonwealth is "a multitude united into one person," then what kind of person is it united into?

5.2 ONE TRULY REPRESENTATIVE ARTIFICIAL PERSON

In this section, I argue that the person of the commonwealth should be understood as a truly representative artificial person. I argue moreover that this kind of group-person is essentially distinct from other associations by its aim, *in its pursuit of the common good*. We have been told that the society generated by Hobbesian construction is

⁴⁸¹ To Copp it appears that Hobbes includes truly representative artificial persons under the heading "fictional" in *Leviathan*, and he struggles with this. *Id.*, p. 584 and n. 9. Hanna Pitkin offers a much more penetrating analysis of Hobbes's definition of personhood and the meaning of representation by fiction. See "Hobbes Concept of Representation," *The American Political Science Review*, Vol. 58, No. 2 (Jun., 1964), pp. 328-40. However, even Pitkin at times equates fictional with artificial: "In Hobbes's terminology the fiction or artifice about an artificial person is that the actions he is performing are not (considered) his own but those of someone else." *Id.*, at 329.

⁴⁸² Cf. Skinner's decidedly elaborate interpretation in "Hobbes and the Purely Artificial Person of the State," *The Journal of Political Philosophy* Vol. 7, No. 1 (1999), 1-29.

“nothing more than a person ‘by fiction’” and that it is composed of a mere “aggregate of individuals.”⁴⁸³ But, I contend that Hobbes is closer to the Aristotelian-Thomistic notion of society as true group-person or society that is neither a mere fiction nor a mere aggregate of its parts.⁴⁸⁴ Whereas, for Aristotle and Aquinas, the commonwealth is a *unity of order*, for Hobbes, the commonwealth is an *artificial unity*—but they are both real unities in pursuit of a truly common good. Hence, for Hobbes, the commonwealth is a social reality that is essentially distinct from other forms of association. I suggest that this account can shed light on the controversy over the relationship between the person of the sovereign and the person of the commonwealth.

In Chapter 17 of *Leviathan*, Hobbes describes the generation of the civil person or the person of the commonwealth in this way:

The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another, and thereby to secure them in such sort, as that by their own industry, and by the fruits of the earth, they may nourish themselves and live contentedly; is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and every one to own, and acknowledge himself to be author of whatsoever he that so beareth their person, shall act, or cause to be acted, in those things which concern the common peace

⁴⁸³ See Quentin Skinner, *Hobbes and Republican Liberty*, p. 188-9; cf. Sheldon Wolin’s claim that in Hobbes’s commonwealth, each person “remains a discrete individual and each retains his identify in an absolute way” (*Politics and Vision: Continuity and Innovation in Western Political Thought*, exp. ed., [Princeton: Princeton University Press, 2004], 238). Cf. Skinner “Hobbes and the Purely Artificial Person of the State” *The Journal of Political Philosophy* 7 (1999), 1-29; David Runciman “What Kind of Person is Hobbes’s State? A Reply to Skinner,” *The Journal of Political Philosophy* 8 (2000), 268-78. While Skinner had argued in the earlier article cited above that the civil person is in the special category of a “purely artificial person,” he later suggested that he had been convinced by Runciman that Hobbes’s State is a person ‘by fiction’. See his “Hobbes on Representation,” *European Journal of Philosophy* Vol. 13, No. 2 (2005), 183 n. 139.

⁴⁸⁴ For an excellent account of Aristotelian-Thomistic social ontology to which I am indebted, see Russell Hittinger, “The Coherence of the Four Principles of Catholic Social Doctrine: An Interpretation” *Pursuing the Common Good: How Solidarity and Subsidiarity Can Work Together*, The Proceedings of the 14th Plenary Session of the Pontifical Academy of the Social Sciences, 75-123. See also John Finnis, *Aquinas* (Oxford University Press: 1998), pp. 23-29.

and safety; and therein to submit their wills, every one to his will, and their judgments, to his judgment. This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner, as if every man should say to every man, *I authorise and give up my right of Governing my self, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorise all his actions in like manner.* This done, the multitude so united in one person, is called a commonwealth, in Latin *Civitas*. This is the generation of that great Leviathan, or rather (to speak more reverently) of that *mortal God*, to which we owe under the *immortal God*, our peace and defence.⁴⁸⁵

Commenting on this passage, Quentin Skinner is intent upon clarifying what Hobbes is saying:

This is not of course to say that the Person engendered out of the union of the multitude is a real or substantial one. Rather, it amounts, in Hobbes's words, to nothing more than a Person 'by Fiction.' As he emphasizes 'it is the *Unity* of the Representer, not the *Unity* of the Represented, that maketh the Person *One*', and '*Unity*, cannot be otherwise understood in Multitude.'⁴⁸⁶

Skinner thus makes the artificial person to have only fictional being. This fiction permits us to speak of a distinct person having one will, but the fictional person is composed by a "mere aggregate of individuals."⁴⁸⁷ Skinner sharpens the fictional character of Hobbes's sovereign in an earlier piece: "To quote Hobbes again, the state has no capacity 'to doe any thing'; it is 'but a word, without substance, and cannot stand'."⁴⁸⁸

Let us set aside the obvious difficulty of how such an ontologically impotent entity could keep men in awe and bind them in conscience. Upon close examination, one finds that Skinner misleadingly quotes the text. What Hobbes actually says is that, "the Common-wealth is no Person, nor has capacity to doe any thing, *but by the Representative...*" (emphasis added). And in the second quote, "That a Common-wealth,

⁴⁸⁵ *L*, 17.13, 109.

⁴⁸⁶ Skinner, *Hobbes and Republican Liberty*, p. 188

⁴⁸⁷ Skinner, *Hobbes and Republican Liberty*, 189.

⁴⁸⁸ Skinner, "Hobbes and the Purely Artificial Person of the State," 2.

without Sovereign Power, is but a word, without substance, and cannot stand” (emphasis added). When quoted in context, nothing in these texts need suggest Skinner’s imputation of ontological impotence to Hobbes’s state. On the contrary, the claim that artificial personhood comes into being “by fiction” is in direct conflict with Hobbes’s discussion of personhood in Chapter 16. As we have seen, ‘by fiction’ adds a specific difference to “artificial person” to signify artificial persons representing those (like bridges, madmen, and idols) that cannot self-authorize their representation in contrast with truly representative artificial persons. The commonwealth cannot be a person ‘by fiction’ because it is truly representative.

Is it not clear that Hobbes marks off the truly representative character of the commonwealth in the quoted passage? Hobbes’s sovereign-making formula begins *I authorize...* But we saw above that the function of fictional personhood is to personate persons and things that *cannot self-authorize*. Therefore, by the very form of Hobbes’s sovereign-making formula, the commonwealth is not a person by fiction.⁴⁸⁹

Hence, Hobbes’s statement that unity cannot be otherwise understood in multitude than in the unity of the representer does not mean that the unity of the multitude is a mere fiction. Here Hobbes is reinforcing two points. First, against various parliamentary writers of the day, Hobbes wants to deny that the people retain corporation apart from their representation by the sovereign because this would be a pretext for rebellion.⁴⁹⁰ This is a key contrast between Hobbes’s political theory and that of John Locke.⁴⁹¹ (We shall return to this point below.) Second, he is simply reinforcing

⁴⁸⁹ It is also noteworthy that when Hobbes gives examples of what he means by a “FICTION of the mind,” he mentions a golden mountain and castles in the air, but not the commonwealth. (Hobbes, *Human Nature and De Corpore Politico* [Oxford: Oxford University Press, 1994], 3.4, 28).

⁴⁹⁰ *Human Nature and De Corpore Politico*, 21.11.

⁴⁹¹ See John Locke, *Second Treatise of Civil Government*, §89, §211.

the point that a concord of wills of numerically distinct natural persons does not dissolve the unity of each natural person.⁴⁹²

Would it follow, as Skinner suggests, that the union of the multitude for Hobbes is a “real or substantial one”? While Skinner’s equation of “real” and “substantial” is not explained, he seems to be equating “real” with individual substances. It is true enough that we can safely say that for Hobbes, the unity of the multitude is not a *substantial* unity. Indeed, Hobbes never says that societies enjoy the unity individual substances enjoy. For Hobbes, the individual substances constituting an artificial person make up the “matter” of that person.⁴⁹³ Because its formal unity flows from authorization, it is an artificial or man-made—but real—unity. So contrary to Skinner’s suggestion, Hobbes does not think that because some entity does not enjoy the unity of an individual substance it is thereby not real. Therefore, if its true that Hobbes’s artificial person is composed of a mere aggregate of individuals considered one person by a mere fiction, it is not for any of the reasons Skinner has given.

Hobbes himself never uses the phrase “mere aggregate of individuals.” Strikingly, Hobbes reserves the label “aggregate” for the multitude prior to the sovereign-making covenant or after their sovereign has been dissolved. The point of Hobbes’s claim that the commonwealth “is no person, nor has the capacity to do anything, but by the sovereign power” is to *contrast* the truly representative artificial person of the commonwealth from an aggregate. Hence, on Hobbes’s terms, it is nonsense to speak of the people *either* as incorporated apart from the sovereign *or* as an aggregate once truly

⁴⁹² Cf. *De Corpore* 11.2 in EW I, 133.

⁴⁹³ *L*, The Introduction.2, 4.

represented by the sovereign. Otherwise, Hobbes's closest concept to a "mere aggregate" is a concourse or a conflux.⁴⁹⁴

When discussing concourses, Hobbes gives the example of a marketplace. The example is telling. When we speak of a queue waiting to purchase bread at the marketplace we are indeed speaking of a single thing. But it's difficult to see how a queue could have any unity transcending the aggregate of its parts. What about the marketplace as a whole? Whatever unity it has seems to be nonintentional. Buyers, sellers, and goods flow in and out according to a mass of individual designs. The order that ensues seems to be more along the lines of what Friedrich Hayek calls catallaxy.⁴⁹⁵ At any one moment, a marketplace enjoys only an aggregative unity because it is merely a grouping of buyers and sellers with overlapping private aims.

Hence, Hobbes distinguishes the marketplace as "having no representative" because representation goes hand in hand with deliberate common action for a common aim.⁴⁹⁶ *Representation by an authorized sovereign marks off the commonwealth as a form of association essentially distinct from all others.* The unity-in-plurality characteristic of commonwealth requires real representation, the criterion of which is the reduction of the wills of the multitude into a single will. (Hence, for Hobbes, for an assembly to be truly representative it must be governed by the norm of majority rule.) In the sovereign-making covenant, the covenanters authorize a man or an assembly to represent them. The man or the assembly now has "the *right to present* the person of them all, (that is to say, to be their *representative*)."⁴⁹⁶ We have already seen the rider that attaches to covenanters appointing one man or assembly of men to bear their person:

⁴⁹⁴ *L*, 22.4, 146.

⁴⁹⁵ Friedrich Hayek, *Law Legislation and Liberty* Vol. II: *The Mirage of Social Justice* (Chicago: University of Chicago Press, 1976), 108-9.

⁴⁹⁶ *L*, 22.4, 146; *DC*, 5.4.

“every one to own, and acknowledge himself to be Author of whatsoever he that so beareth their person, shall act, or cause to be acted, *in those things which concern the common peace and safety.*” A commonwealth is distinct from aggregative associations because it reduces a plurality of wills to a single will for the common good of the group: it is a truly representative artificial person.

And whereas, like a conflux, entrance into and exit from the marketplace has the aspect of ephemerality, the authorization and common action characteristic of commonwealth has the aspect of permanence. In Hobbes’s lingo, the feature of permanence is the “artificial eternity” of the artificial person.⁴⁹⁷ Here, one might think of the example of Lincoln’s interpretation of the American constitutional order, where perpetuity is a distinguishing feature of American political society and, in Lincoln’s view, of any healthy political order.⁴⁹⁸ Hobbes agrees: the death of the sovereign does not entail the decapitation and hence dissolution of the commonwealth.

The artificiality of the artificial person of the commonwealth lies not in its ‘fictional’ status but in its construction by man. It is real in the way *automata* are real. Its life is an artificial life. Like an engine or a watch, the artificial person is in mechanical motion and hence has artificial life. The life of the artificial person is like that of the natural person in that it consists in continual vital motion. The artificial person dissolves (or “dies”) apart from the sovereign—and this is because, as the “artificial soul” the sovereign is as a form that “gives life and motion to the whole body.”⁴⁹⁹ The way the

⁴⁹⁷ *L*, 19.14, 124.

⁴⁹⁸ In Lincoln’s words: “I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our National Constitution, and the Union will endure forever, it being impossible to destroy it except by some action not provided for in the instrument itself.” (“First Inaugural Address—Final Text” in *Collected Works of Abraham Lincoln*, ed. Roy P. Basler (New Brunswick, New Jersey: Rutgers University Press, 1953), Vol. 4, 264-5).

⁴⁹⁹ *L*, The Introduction.1, 3.

human form constitutes matter into a new natural persons in Hobbes's notion of human generation is analogous to the way the political form incorporates natural persons into a new social entity in Hobbes's civil science.⁵⁰⁰ Hence, the sovereign representative, once authorized, is the *formal principle* of the commonwealth and the political form includes the right of succession.⁵⁰¹

So form takes on a metaphysical importance in explaining the feature of permanence essential to the commonwealth. Since in each of the three types of government "the matter [is] mortal", the form identifies the city over time.⁵⁰² In other words, the city is not named according to its mere matter but according to its form such that the city persists over time even when its material parts change—when sovereigns (and citizens) die or are born. Recalling that the city only comes into being with the institution of the sovereign—the artificial soul giving life and motion to the whole body—Hobbes can say that the city is identical over time inasmuch as the form giving motion to the whole perdures: "for such form as is the beginning of motion, then, as long as that motion remains, it will be the same *individual* thing as [for example]...the same

⁵⁰⁰ In the older Aristotelian ontology, substantial forms radically constituted prime matter to bring into being an individual substance of some natural kind. Aristotle describes the identity of the regime over time by an analogy to matter-form composite in natural substances (the focal case) and human artifacts. The people are as matter and the regime as the form as the notes are as the matter to the form of the musical mode (*Politics*, 1276b8-9). The change of regime is analogous to substantial change in natural substances (*Politics*, 1303a1). Hobbes famously and vociferously rejects Aristotelian substantial forms as "jargon" that frights men "from obeying the laws of their country, with empty names; as men fright birds from the corn with an empty doublet, a hat, and a crooked stick" (*L*, 46.18, 460). In Hobbes's ontology substance is identical to body and the form that constitutes body in generation and destruction is an accident, which Hobbes innovatively identifies with essence (*De Corpore* in *EW I*, 116-7). The upshot is that in Hobbes's thought accidental form becomes the functional equivalent of substantial form.

⁵⁰¹ Since to *be* represented in pursuit of the common good of security is to *be* in a commonwealth, it follows that there can only be three types of commonwealth. This is the reason why Hobbes rejects Aristotle's sixfold classification of regimes. The form of the commonwealth varies according as the number of natural person(s) truly representing (bearing) varies, and there are "but three" forms (*L* 19.1, 118). In a monarchy the bearer is one man, in a democracy, an assembly of all, and in aristocracy, an assembly of part.

⁵⁰² *L*, 19.14, 124

city, whose acts proceed continually from the same institution, whether the men be the same or no.”⁵⁰³

Hobbes makes powerful polemical use of this point against the parliamentarians. That the English monarchy was already the erected truly representative person “is so manifest a truth” that Hobbes wonders how it should be missed. For, “in a monarchy, he that had the sovereignty from a descent of 600 years, was alone called sovereign, had the title of majesty from every one of his subjects, and was unquestionably taken by them for their king.”⁵⁰⁴

Hobbes also builds his ecclesiology upon his theory of civil personhood, which he deploys polemically against Protestant dissenters and Roman Catholics. Hobbes defines the church as:

A company of men professing Christian religion, united in the person of one sovereign; at whose command they ought to assemble, and without whose authority they ought not to assemble. And because in all commonwealths, that assembly, which is without warrant from the civil sovereign, is unlawful.⁵⁰⁵

Hobbes wields this definition of the church to defend not only the authority of the king over as the highest civil power, but also the highest religious authority for the realm. Hobbes could thus offer his doctrine as supportive of the Anglican settlement, which held the English sovereign to be head of the English Church. The body politic, as it were, encompasses the body of Christ. Hobbes’s theory of sovereign personhood is intended to stave off threats to civil peace from religious disagreement via a civil authoritarianism in matters of religion.

⁵⁰³ *De Corpore* 11.7 in *EW I*, 138.

⁵⁰⁴ *L*, 19.3, 119.

⁵⁰⁵ *L*, 39.4, 315-316.

That is not to say that Hobbes has absolutely no concern for the scruples of conscience or that he does not worry about an overbearing state authority in matters of religious conscience. Hobbes contends that one of the doctrines of darkness is to extend the power of law “to the very thoughts, and consciences of men, by examination, and inquisition of what they hold, notwithstanding the conformity of their speech and actions.” By this practice, “men are either punished for answering the truth of their thoughts, or constrained to answer an untruth for fear of punishment.”⁵⁰⁶ Still, it would be erroneous to find in this passage a scrupulous side of Hobbes all of a sudden intent on protecting a broad conception of religious freedom. In the same passage, Hobbes countenances the power of the law to extend to *actions*, thus inaugurating the belief-action dichotomy. As the United States Supreme Court later formulated it, developing a Hobbesian-like view of religious liberty, Congress was said to be “deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order.”⁵⁰⁷ For Hobbes, such a doctrine would follow neatly from his natural law theory, which places a premium on securing public order and the goods of life and security, subordinating the values of religious liberty and conscientious objection to these ends.

Hobbes was not a theorist of toleration, and therefore, not a theorist of a freedom-protective jural order of religious pluralism and strong rights of free exercise of religion (which, according to later U.S. Supreme Court doctrine, includes a right to religious

⁵⁰⁶ *L*, 46.37, 466.

⁵⁰⁷ *Reynolds v. United States* 98 U.S. 145 (1878).

exemptions from generally applicable laws).⁵⁰⁸ While there have been some interesting attempts in recent years to argue for a more tolerant Leviathan, such interpretations seem to be straining against the belief-action dichotomy, Hobbes's clear warnings against strong rights of conscience, and Hobbes's statist solution to civil war.⁵⁰⁹ It is true that Hobbes at one point muses about the possibility of Independency and a civil order of a more robust religious liberty and religious pluralism, saying that it would be "perhaps the best."⁵¹⁰ But even here, anticipating Locke after him, the text indicates that Hobbes is only imagining toleration of some rival Christian sects—excluding, at least, Catholics (the following paragraph, a précis of Hobbes's anti-Catholicism, compares the papacy with the kingdom of fairies).⁵¹¹ At any rate, I contend that this passage is more of an imaginative speculation than the laying down of a fundamentally new principle that would erode Hobbes's edifice of statist ecclesiology, which is essential to Hobbes's solution to the problem of religious civil warfare.

So then, Hobbes distinguishes the commonwealth from aggregates and concourses or confluxes according to a few identifiable features. First, the

⁵⁰⁸ See, e.g., *Sherbert v. Verner* 374 U.S. 398 (1963) and *Wisconsin v. Yoder* 406 U.S. 205 (1972).

⁵⁰⁹ See, e.g., J. Judd Owen, "The Tolerant Leviathan: Hobbes and the Paradox of Liberalism," *Polity* Vol. 37, No. 1 (January 2005), 130-148.

⁵¹⁰ And so we are reduced to the independency of the primitive Christians to follow Paul, or Cephas, or Apollos, every man as he liketh best: which, if it be without contention, and without measuring the Doctrine of Christ, by our affection to the person of his minister, (the fault which the apostle reprehended in the Corinthians,) is perhaps the best: first, because there ought to be no power over the consciences of men, but of the word it self, working faith in every one, not always according to the purpose of them that plant and water, but of God himself, that giveth the increase: and secondly, because it is unreasonable in them, who teach there is such danger in every little error, to require of a man endued with Reason of his own, to follow the Reason of any other man, or of the most voices of many other men (*L*, 42.20, 482).

⁵¹¹ Cf. John Locke, *Letter on Toleration* (Hackett, 1983).

commonwealth is truly representative.⁵¹² As such, it is characterized by common action for a common aim. This suggests that the common good characterizes the life of the person of the commonwealth rather than a mere overlap of private aims or goods. Second, the real unity of a society has the aspect of permanence. This sets society apart from groups characterized by temporariness like business partnerships. In the concourse of a marketplace, the agents are pooling their private goods to increase private profits. Membership in the commonwealth entitles each member to enjoy what is common, namely, peace. Such are the features of Hobbesian artificial (made by natural persons) unity—the *artificial man*.

Notably, the Hobbesian artificial unity of natural persons is structurally similar to the Thomistic notion of the unity of order of natural persons. Aquinas, like Hobbes, was well aware of the etymology of the word *persona*: “The word person seems to be taken from those persons who represented men in comedies and tragedies.”⁵¹³ Person had originally signified the mask worn to represent some character on stage and now came to signify those who are high in dignity. But since individual substances of a rational nature were dignified, they were properly called persons, which Hobbes came to call “natural persons.” For Aquinas, we can consider human beings in two ways: first as individual

⁵¹² Hobbes apparently believes this holds even for commonwealths that arise “by acquisition,” i.e., “where the sovereign power is acquired by force.” This is so because even in these kinds of commonwealth, the conquered “do authorize all the actions of that man, or assembly, that hath their lives and liberty in his power” (*L*, 20.1, 127). One might wonder whether this kind of authorization is not really freely entered into, or whether it is done from fear. Hobbes’s reply is that fear and liberty are consistent—one freely throws his goods overboard when his ship is sinking, because he is free to refuse to do so (and free to perish, if he will) (*L*, 21.3, 136).

⁵¹³ ST I.29.3 obj. 2; cf. *L*, 16.3, 101.

persons and second as members of a community.⁵¹⁴ Thomas calls the latter consideration a *collegium*. The *collegium* known as the political community is considered *quasi uno homo*—a social reality reckoned as one human being or person.⁵¹⁵ Indeed, any group of natural persons united in common action for a goal can be considered as one agent. Aquinas gives the example of persons united in rowing a boat.⁵¹⁶ The individual persons *qua* members of the crew team enjoy a unity of action and participate in an entity irreducible to its singular parts. The example of the crew team indicates that when any number of natural persons come together for an enduring common purpose through common action, a society has come to be that, as in Hobbesian artificial unity, is a unity transcending a mere aggregation.

We have already seen that their difference lies in their doctrines of the good. Since, for Hobbes, the basic good is life, the only common good available is security. But, Aquinas believed there was a broader range of intrinsic common goods that were not merely instrumental to preservation: the unity of the *communiones* of families, religious believers, and other friendships. Accordingly, Thomas holds there is a range of societies that enjoy a dignity prior to the State's say-so and which the sovereign must care for inasmuch as he cares for the common good. The Thomistic commonwealth is a unity of unities of order because of the thick theory of the good. The Hobbesian commonwealth is a monolithic artificial unity because of the thin theory of the good.

⁵¹⁴ Aquinas, *De Malo*, Question IV, Article 1.

⁵¹⁵ See also *ST I-II* 90.3 for Aquinas's use of the term *personam publicam* for the representer of the multitude.

⁵¹⁶ *Summa Contra Gentiles* II.30.12.

We are now in a position to consider how the common good account can help us make sense of the relationship between the person of the commonwealth and the person of the sovereign. While Hobbes says that the sovereign “representeth two persons”—“one natural and another politic”—for example, the monarch “hath the person not only of the commonwealth, but of also of a man”⁵¹⁷—it has been said that Hobbes “notoriously” does not always clearly distinguish the person of the commonwealth and the person of the sovereign bearing it.⁵¹⁸ Hobbes does sometimes suggest that, inasmuch as the sovereign man (or group) truly represents the people, he is identical with the artificial person of the commonwealth.⁵¹⁹

I believe that the best way to make sense of Hobbes is to make a distinction. When we are talking about a truly representative artificial person, we can, on Hobbesian grounds, make a logical distinction between the person of the people incorporated—the represented—and the person of the bearer *as bearer*—the representer. But this can only be a logical distinction because in reality there is one commonwealth (“One Person”), that is, one incorporated people by and through the sovereign. As the frontispiece of *Leviathan* suggests, to speak of a truly representative artificial person or commonwealth without the sovereign is like speaking about a man with his head cut off. That would be to take away the power of the sovereign, which is “destructive of the very essence of

⁵¹⁷ *L*, 23.2, 156.

⁵¹⁸ Annabel Brett, “The Matter, Forme, and Power of the Commonwealth’: Thomas Hobbes and Late Renaissance Commentary on Aristotle’s Politics” *Hobbes Studies* Vol. 23 (2010), 72–102.

⁵¹⁹ See, e.g., *L* 26.10, 175.

Government.”⁵²⁰ On the other hand, the sovereign-less people are a disunited multitude or aggregate. So whenever Hobbes seems to identify the person of the commonwealth with the sovereign representative (or the represented), it should be understood simply as synecdoche.

Consider Figure 1, below.

⁵²⁰ *L*, 21.17, 143.

Figure 1: “The Sovereign Representeth Two Persons”



As depicted in Figure 1, the sovereign can speak either as a natural person or as a truly representative artificial person. In the former way, the sovereign's words represent only himself. In the latter way, the words spoken by the sovereign represent those of the multitude who have authorized him. The words of the single commonwealth—a truly representative artificial person—are spoken by the sovereign. The words spoken *as sovereign representative* are those “acts” referred to in part [b] of the definition of commonwealth.

CONCLUSION

In conclusion, the One Person referred to in the definition of commonwealth is not a person ‘by fiction’ but a truly representative artificial person. Hobbes does not fictionalize society, but marks it off from other forms of association as a *man-made* but *real* unity. Its distinguishing features are the pursuit of the common good and the aspect of permanence. I argued that this account could help make some headway in the controversy over the relationship between the person of the commonwealth and the person of the sovereign. The person of the sovereign bears the persons of those he represents: and it is in this capacity that he speaks. In this capacity, he speaks *as a truly representative artificial person: he acts for the common good*. The principal “acts” of the One Person are the civil laws. In the next chapter, I turn to examine Hobbes's natural law account of civil law.

Chapter 6: Hobbes's Natural Law Account of Civil Law

In this chapter I complete my interpretation of Hobbes's natural law account of morality and the commonwealth and seek to defend a reading of Hobbes's account of civil law as properly a natural law account. On the natural law account, for some ordinance to fully bind one with the force of civil law, it must be both systemically and morally valid. Hobbes's account of civil law qualifies as a natural law account because for him, a datum is systemically valid if the sovereign commands it and it is morally valid if it does not contravene natural law. If the command or judgment is morally invalid, it does not attain the status of civil law for the addressee. Non-addressees who rightly reason can see commands in contravention of natural law as systemically valid but morally invalid. Morally invalid laws and judgments will tend to weaken actual allegiance and obedience to the sovereign.

If the argument of the foregoing chapters has been successful, then we have solid grounds to take the fundamental judgment that life is good to bind rational agents to pursue peaceful plans of life. For the theist—who is a rational actor, according to Hobbes—the judgment that life is to be preserved, and so too the necessary means thereto, binds with the force of law. Because the basic duty to preserve one's life is considered as prior, the catalogue of laws of nature, while always binding *in foro interno*, can fail to bind *in foro externo*. They can fail when the sufficient security condition fails. That is, the laws of nature can fail to bind *in foro externo* because there can fail to be an entity with sufficient power to sanction noncompliance with the laws of nature, in which case obedience *in foro externo* would make one prey to others and contravene the more basic rational necessity to pursue life. The sovereign-making covenant is enacted *for the*

sake of peace—in contrast with war, in which the good of life is severely threatened—which is another way of saying that the sovereign is created in order to meet the sufficient security condition of the laws of nature obtaining *in foro externo* force. If this account is true, then the moral validity of civil law must turn on whether its demands and permissions are congruent with one's basic duty to preserve one's life. The basic good of life, and the force with which it binds rational actors, amounts to a content-based criterion for the moral validity of civil law. Because right reason judges this order of goodness is willed by God—who by his Irresistible Power rightly orders all things—and because this is an order governing man as a rational animal, it has the character of law prior to civil law. Commands of sovereigns must conform to the natural law to achieve the status of law. In other words, commands of sovereigns must be genuinely ordered to peace or the common good of security.

But how can such a claim be accorded with what Hobbes says about the civil law? When Hobbes discusses civil law in relation to natural law, he makes a number of remarks that suggest the ultimate source of law is the will of the commonwealth or sovereign. The suggestion is apparent in Hobbes's definition of civil law:

Civil law, is to every subject, those rules, which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, for the distinction of right, and wrong; that is to say, of what is contrary, and what is not contrary to the rule.

Hobbes's theory of civil law has been taken to be an expression of legal positivism when legal positivism is understood principally to mean this: the existence of a law depends on its pedigree, irrespective of its merits or content.⁵²¹ As indicated in the

⁵²¹ For interpretations of Hobbes as a legal positivist, see: J.W.N. Watkins, *Hobbes's System of Ideas*, 2d ed. (London: Gower, 1973), 114; Gregory S. Kavka, *Hobbesian Moral and Political Theory* (Princeton, NJ.: Princeton University Press, 1986), 248-50; Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986), 107- 10; M.M. Goldsmith, "Hobbes on Law," in *The Cambridge Companion to Hobbes* (Cambridge University Press, 1996), 275, ff; John Gardner, "Legal

quoted passage, the necessary pedigree lies in *having been commanded*. This has appeared to some to be an early version of what latter-day positivist theory refers to as the “sources thesis.” According to the sources thesis, the truth of the statement “Legally, Jones ought to Ø” or “It is the law that Jones ought to Ø” depends on “an appropriate social fact specifiable without resort to moral argument.”⁵²² Hence to know whether some action is legally demanded or permitted requires one to advert to a relevant social fact—in Hobbes’s case the relevant social fact would consist in the will of the sovereign commander, as expressed in word, writing, or some sufficient declaration of will. The sources thesis entails some version of the “separability thesis.”⁵²³ That is, since the legal status of any datum depends solely on its pedigree, its status as a law does not turn on its moral content, because, like its pedigree, the content of the law is a matter of social fact.

In order to assess the positivist interpretation, we need a bit more clarity on the latter-day legal philosopher’s distinction between systemic and moral validity, which, strictly speaking, is a distinction that is anachronistic to attribute to Hobbes. But I suggest that the distinction is helpful in making sense of what Hobbes is trying to do. The detour will also help us to compare Hobbes to the positivist tradition of jurisprudence.

Positivism: 5 ½ Myths” *American Journal of Jurisprudence* 46 (2001), 200. For a recent assessment, see Zagorin, *Hobbes and the Law of Nature*, 2-3, 49-54. For a critique of positivist readings of Hobbes, see Mark Murphy, “Was Hobbes a Legal Positivist,” *Ethics*, Vol. 105, No. 4 (1995), 846-73

⁵²² Joseph Raz, *Authority of Law*, 65.

⁵²³ Sometimes this is formulated as “there is no necessary connection between law and morality” and alongside the the sources thesis constitutes the “core commitments of positivism” (Jules L. Coleman and Brian Leiter, “Legal Positivism,” *A Companion to Philosophy of Law and Legal Theory* [Blackwell, 1996], ed. Dennis Patterson, 241). But compare John Gardner’s claim that the “no necessary connection thesis” is one of the myths of legal positivism: “this thesis is absurd and no legal philosopher of note has ever endorsed it as it stands.” According to Gardner, contrary to impressions, Hart did not really endorse this thesis (John Gardner, “Legal Positivism: 5 ½ Myths” *American Journal of Jurisprudence* 46 [2001], 223; cf. cf. H.L.A. Hart’s 1958 essay, “Positivism and the Separation of Law and Morals,” in *Essays in Jurisprudence and Philosophy* [Oxford: Clarendon Press, 1983]).

6.1 THE POSITIVIST TRADITION

Legal positivists today largely would not defend Hobbes's (supposed) version of legal positivism. A consideration of the positivist tradition since John Austin, Hans Kelsen, Oliver Wendell Holmes, and H.L.A. Hart will illuminate the point. The detour will also yield the grounds for the latter-day distinction legal philosophers make between "systemic validity" and "moral validity" of law—a distinction that we will suggest can illuminate Hobbes's account of civil law.

Twentieth century legal positivism has built on the work of Hart, who sought to salvage the core ideas of legal positivism from the tradition of Austin, Kelsen, and Holmes. Austin had claimed in unabashed terms that law in its essence is a command to do or forbear an act that is backed up by the threat of sanction for noncompliance—and that the study of law is properly speaking the study of human positive law.⁵²⁴ Austin took this to be the "key" to the science of jurisprudence and morals. Kelsen retained the centrality of source and sanction when formulating law as the "primary norm which stipulates the sanction" such that there is no law prohibiting (say) murder, but only a law directing officials to apply sanctions to those who do murder.⁵²⁵ Holmes formulated the *prediction* theory of the law—law is nothing more pretentious than what the courts will in fact do. Hart sought to defend the idea of law as a source-based matter of social fact, but rejected Austin's, Kelsen's, and Holmes's theories as oversimplifications of our experience of law.

While Austin's theory arguably provided a good explanation of criminal law, Hart argued it oversimplified things. Hart likened Austin's account to a gunman scenario, where a gunman orders his victim to give up her purse and backs up the order with a

⁵²⁴ Austin, *The Province of Jurisprudence Determined* (London: John Murray, 1832), 6.

⁵²⁵ Hans Kelsen, *General Theory of Law and State*, trans Anders Wedberg (The Lawbook Exchange, 2007), 63; Hart, *The Concept of Law*, 2nd edition (Oxford University Press, 1997), 35-6.

threat of violence for noncompliance.⁵²⁶ Hart points out that the experience of being ordered to give up one's purse and to obey the law are very different experiences—the former is done primarily from fear while the latter may be done primarily from respect for authority.⁵²⁷ Moreover, the simple command account ultimately fails to explain the following: the *content of laws* since some rules confer public and private powers (i.e., rules that condition the validity of wills on the presence of two witnesses don't fit the threats-backed-by-punishments paradigm because 'nullity' is not a 'breach' or 'violation'), the *range of application of laws* since unlike the gunman, the legislator *binds himself* as well as others, and the *modes of origin of the laws* since not all rules arise through the visible performative act of a legislative command, but often through custom. Similarly, Kelsen's theory, by attempting to reduce the essence of law to a single form "If anything of a kind X is done or omitted or happens, then apply sanction of a kind Y", purchased simplicity at the price of distortion of the social functions legal rules perform.⁵²⁸ The laws function not merely to specify sanctions in the case of noncompliance, but *to guide action*. The law provides reasons for action to citizens. Hence, Holmes's understanding of the law from the "bad man's" perspective also fails to identify the essence of law. It fails to account for the perspective of the "puzzled man" or the "man who seeks to arrange his affairs." Both are willing to do what is required, but need guidance. The predictive theory of law, moreover, mischaracterized legislative and judicial *self-understanding*: a legislator or judge doesn't see a rule as merely a prediction of his behavior but a reason for action. Thus, Hart clears the way for his own view of the "essence of law"—the conjunction of primary and secondary rules.

⁵²⁶ Hart, *The Concept of Law*, 6.

⁵²⁷ Hart, *The Concept of Law*, 20.

⁵²⁸ Hart, *The Concept of Law*, 36-40.

Hart distinguished between rules as follows. There are *primary* rules that require persons to do or abstain from certain actions, laws that create rights and obligations and *secondary* rules parasitic on the first: provisions for persons to say and do certain things in order to produce, eliminate, or modify primary rules. The secondary rules make up the “rule of recognition” by which the validity of primary rules is adjudged—a rule that is in turn constituted by the social practices of officials, legislators, and judges in a legal system. Because the observable social practices or factual behavior of officials constituting the rule of recognition provides the ultimate criteria for valid laws, the rule of recognition is the beating heart of Hart’s version of the sources thesis.⁵²⁹ In short, the conjunction of primary and secondary rules becomes the “essence of law”—it is Hart’s own vision of the “key to the science of jurisprudence.”

With this account in hand, the latter-day legal positivist can distinguish between a law’s “systemic validity”—the fact that it has a proper legislative pedigree according to the rule of recognition—and a law’s “direct” or “moral validity”—whether one should actually take the law to bind one in conscience.⁵³⁰

So, while Hart rejects Austin’s gunman account, Kelsen’s *grundnorm* account, and Holmes’s predictive account of law as over-simplified, he retains the core thesis of legal positivism, namely, that the *existence* and *content* of law is matter of social fact, or proper pedigree. Hart himself identified Hobbes as a member of the positivist pedigree in

⁵²⁹ Hart, *The Concept of Law*, 101.

⁵³⁰ See Joseph Raz, *The Authority of Law*, 2nd edition (Oxford University Press, 2009), 149-153. Cf. Hart, *The Concept of Law*, 103. “For the word ‘valid’ is most frequently, though not always, used, in just such internal statements, applying to a particular rule of a legal system, an unstated but accepted rule of recognition. To say that a given rule is valid is to recognize it as passing all the tests provide by the rule of recognition and so as a rule of the system. We can indeed simply say that the statement that particular rule is valid means that it satisfies all the criteria provided by the rule of recognition” (Hart, *The Concept of Law*, 103). According to Leslie Green, “no legal positivist argues that the systemic validity of law establishes its moral validity.” “Legal Positivism,” Stanford Encyclopedia of Philosophy <http://plato.stanford.edu/entries/legal-positivism/#Bib> (Accessed February 20, 2012).

the history of legal philosophy.⁵³¹ But is it true that the existence and content of law are merely a matter of pedigree, independently of its moral content, according to Hobbes?

6.2 MORALLY VALID CIVIL LAW

Hobbes declares that *law*, in its proper acceptance, *binds*. Law, says Hobbes, “determineth, and bindeth.”⁵³² It is not that law merely *claims* to obligate but that, as indicated by Hobbes’s definition of law in general, it is of the very nature of law to obligate. So Hobbes also says that “law in general, is not counsel, but command; nor a command of any man to any man; but only of him, whose command is addressed to one formerly obliged to obey him.”⁵³³ Hence, for something to *be* positive law is for it to *obligate*: it binds one, in conscience, to act or forbear. In Hobbes’s lingo, it binds both *in foro interno* (in conscience) and *in foro externo* (putting it into outward act).

So then, since, by definition, the sovereign’s command to his subjects is civil law, and since law of its very nature binds, it might appear that Hobbes is a legal positivist—the existence and content of the law are known by reference to the sovereign’s will, and the law binds. That would mean that any command of the sovereign would attain the status of *civil law*—and hence, bind one to act or forbear—regardless of its content. But the plot thickens when one considers that Hobbes also indicates that part of the reason *law* binds, properly speaking, is because it provides one with a sufficient reason for action:

COMMANDING, which is that speech by which we signify to another our appetite or desire to have any thing done, or left undone, for reason contained in the will itself: for it is not properly said, *Sic volo, sic jubeo*, without that other

⁵³¹ Hart, *The Concept of Law*, 187-195

⁵³² *L*, 14.3, 79.

⁵³³ *L*, 26.2, 173.

clause, *Stet pro ratione voluntas*: and when the command is a sufficient reason to move us to the action, then is that command called a LAW.⁵³⁴

In this passage, Hobbes seems to indicate that a command is only properly called law when it provides one with a sufficient reason for action. In other words, the fact of some edict's *having been commanded* is not sufficient for it to attain the status of civil law (which, of its very nature, binds in conscience).

As we saw in Chapter 2, *the* basic good (or, we might say, the basic reason for action) in Hobbes's scheme is life or self-preservation.⁵³⁵ Because God, who rightfully governs nature by his irresistible power, orders man toward life—as is evident in the order of our bodily parts, passions, and right reason—the duty to preserve one's life binds with the force of law, for rational (reasonable) actors. It follows that any command that would require one to destroy one's life could not provide a sufficient reason for one to act. I suggest this is how we ought to understand Hobbes's claim that there are certain actions that a man can never be bound by the sovereign's command to do: “not to defend a [his] own body,” “to kill, wound, or maim himself,” “not to resist those that assault him,” “to abstain from the use of food, air, medicine, or any other thing, without which he cannot live,” to accuse himself or self-incriminate without the assurance of pardon, or to serve as a soldier.⁵³⁶

Hobbes's catalogue of inalienable rights is explicable in terms of the basic duty to preserve one's life, because one always acts blamelessly when does that which is necessary to perform one's duty. Sometimes this has been put as the “ought implies can”

⁵³⁴ *EL*, 13.6.

⁵³⁵ Deploying Razian terminology to explain Hobbes's view, Susanne Sreedhar refers to the basic good of self-preservation as a “non-excludable first-order reason for action” (*Hobbes on Resistance* [Cambridge University Press, 2010], 108-31). While I would not go so far as Sreedhar in deploying Raz's sophisticated account of law to Hobbes, I do think Sreedhar's discussion illuminates what Hobbes was trying to do—and my interpretation is in many ways compatible with her account.

⁵³⁶ *L*, 21.11-13, 141-2.

principle. Disobeying a command not to defend or nourish oneself is always done with right, because such acts would likely cause one's death. But, any command of the sovereign that attains the status of civil law is not disobeyed with right. It follows that the good of life is a content-based limitation that bounds the set of the sovereign's commands that attain the status of civil *law*. A command to do or forbear acts that would destroy one's life would lack moral validity for the addressee. In the older natural law tradition, such commands were called "perversions of law."

Aquinas deploys this locution, *perversitas legis*, when considering the nature of a tyrannical command and is willing to use phrases like "unjust law" and "corruption of law" for edicts that contravene natural law.⁵³⁷ In locutions like "unjust law" "corrupt law" and "perverse law," the adjectives "unjust", "corrupt", and "perverse" modify *law*. Aquinas's way of speaking suggests he would agree that some iniquitous enactment could have systemic validity. Attempts to summarize Aquinas's position by merely quoting the "unjust law is not a law" dictum, without this nuance, would be parody. Aquinas can thus accept a partial truth in the legal positivist's sources and separability theses.⁵³⁸ Any legislative enactment with systemic validity by that very fact has in some measure the character of law.⁵³⁹ However, inasmuch as it contravenes natural law, it lacks moral validity and hence fails to be law, in the focal sense of law—it will, in other

⁵³⁷ *ST I-II*, 92.1, ad. 4; cf. *ST I-II*, 93.3, ad. 2 where Aquinas uses the locution *lex iniqua*; *ST I-II*, 95.2, where he uses the locution *legis corruptio*; *ST I-II*, 94.6, ad. 3, legislation against the natural law is called *statuta* (Deferrari has for *statutum*, "statute, law, decision, determination," Roy J. Deferrari, *A Lexicon of St. Thomas Aquinas* [John D. Lucas Printing Co., 1949], 1051).

⁵³⁸ For discussions, see John Finnis, "The Truth of Legal Positivism" in *The Autonomy of Law*, ed. Robert P. George (Oxford University Press, 1999), 195-214; "Natural Law: The Classical Tradition" in *The Oxford Handbook of Jurisprudence and Philosophy of Law*, eds. Coleman and Shapiro, 8-15; Robert P. George, "Natural Law," *The Oxford Handbook of Law and Politics*, eds. Whittington, Kelemen, & Caldeira, 409-11.

⁵³⁹ Aquinas also notes that even unjust laws derive from the eternal law (and hence, have something of the character of law) because they are framed by those in power, and all power is derived from God, according to Romans 13:1 (*ST I-II*, 93.3, ad. 2).

words, lack the full character of law. The natural law theorist thus can accept the distinction between systemic and moral validity and still insist that mere systemic validity does not suffice to tell us whether some edict is the peripheral or focal case of *law*—i.e., whether it binds in conscience *as law*.

Admittedly, Hobbes himself does not use the locution “perversion of law.” But, the point is that, like Aquinas, Hobbes seems to recognize that commands of a sovereign can lack moral validity. Moreover, since both Aquinas and Hobbes hold that the natural law has legal force by God’s will, the claim that civil law must be morally valid to have the binding character of law ultimately means that it must be congruent with God’s will.

These initial reflections have moved too quickly, however, because we have so far abstracted from passages in which Hobbes obfuscates the distinction between moral and systemic validity. The success of our interpretation will require an account of these obfuscations. The distinction between systemic and moral validity in Hobbes is obscured for at least two reasons. The first reason is due to Hobbes’s collapsing of a law’s pedigree and its justice under the will of the sovereign, a collapse that he grounds in his theory of authorization. The second is his claim that the law of nature and the civil law are of “equal extent”—the claim that Kavka has aptly termed the “mutual containment thesis.” Let us consider these two reasons for the obscurity.

6.3 AUTHORIZATION, MUTUAL CONTAINMENT, AND THE SOVEREIGN COMMAND

While Hobbes requires that law provide one with a sufficient reason for action—a claim that we have suggested introduces an inchoate distinction between systemic and moral validity in Hobbes’s account of civil law—Hobbes obscures this distinction in his account of the justice of the sovereign’s command.

The obscurity is evident if we look at Hobbes's answer to the following two questions, that can be asked of any putative law: (i) *Is this enactment systemically valid?* and (ii) *Is this enactment just?* Hobbes says that both questions can be answered by knowing the answer to just one question: (iii) *Was the datum commanded by the sovereign?* Hence, Hobbes collapses the answers to questions (i) and (ii) into the facticity of the sovereign's command. Hobbes does this because, in his view, the sovereign's command is always the source of positive law and is always just.

Hobbes offers a few different arguments as to why the sovereign's command is never "unjust." The arguments revolve around Hobbes's understanding of the sovereign-making covenant.⁵⁴⁰ His principal ground in *Leviathan* is his theory of authorization in the sovereign-making covenant. In the covenantal formula, a person says, "I authorize and give up my right of governing myself and authorize all the sovereign's actions."⁵⁴¹ Since a covenanter authorizes the sovereign to do whatever he (it) will do to him as a subject, the sovereign cannot be accused of injustice.⁵⁴² It follows that the sovereign's command cannot be *unjust*—"no law can be unjust."⁵⁴³ Since Hobbes suggests that the answer to questions (i) and (ii) depends solely on the sovereign will, the distinction between systemic and moral validity is obscured—but it remains to be seen whether it is destroyed. Consider the second and related way that Hobbes obfuscates the distinction.

⁵⁴⁰ One example of such an argument is based on Hobbes's technical definition of justice as non-violation of covenant. Because the sovereign is not party to the sovereign-making covenant—subjects covenant *between themselves* to grant their rights to a sovereign—the sovereign is not party to the covenant, and so cannot be accused of injustice.

⁵⁴¹ *L*, 17.13, 109.

⁵⁴² "Because every subject is by this institution author of all the actions, and judgments of the sovereign instituted; it follows, that whatsoever he doth, it can be no injury to any of his subjects; nor ought he to be by any of them accused of Injustice. For he that doth any thing by authority from another, doth therein no injury to him by whose authority he acteth (*L*, 18.6, 112-113).

⁵⁴³ *L*, 30.20, 229.

The second reason that the distinction between moral and systemic validity is obscured is Hobbes's "mutual containment thesis." Hobbes puts it this way: "The law of nature, and the civil law, contain each other, and are of equal extent."⁵⁴⁴ This claim apparently has two parts. The first part, the containment of the civil law in the natural law, seems straightforward. The laws of nature direct men to lay down their right to all things, erect a sovereign power, and perform their covenant made. The second part of the thesis is more difficult. How is the natural law contained in the civil law? Clearly, the civil law is supposed to enforce the dictates of reason with a power sufficient to sanction noncompliance. But, does it mean something more than that? An available interpretation—and, apparently, an influential one—is that of S.A. Lloyd.⁵⁴⁵ According to Lloyd, the mutual containment thesis is indicative of what she calls Hobbes's "self-effacing" natural law theory. The natural law *itself* directs agents to authorize an unassailable judge to determine what the law—including both civil and natural law—*is*. Such an interpretation of Hobbes as a "practical legal positivist," for Lloyd, means that there is no legitimate perspective from which to criticize the sovereign. In other words, an interpretation of the natural law is morally valid just in virtue of its having been interpreted by the sovereign.

In short, we have identified two different ways in which Hobbes obscures the distinction between systemic and moral validity: the reduction of the justice of law to the sovereign's command by the theory of authorization and the mutual containment thesis, which might just be Hobbes's way of saying that natural law itself requires the erection of a sovereign with absolute authority to judge the meaning of natural law.

⁵⁴⁴ *L*, 26.8, 174.

⁵⁴⁵ See, e.g., Zagorin, *Hobbes and the Law of Nature*, 54.

The first obscurity is nothing new. Hobbes's earliest critics, including Robert Filmer, George Lawson, and Bishop Bramhall, pointed out the apparent contradiction between his sovereign-making formula and the right to resist the sovereign in self-defense.⁵⁴⁶ The apparent contradiction is manifest in our foregoing considerations. By the sovereign-making act, a person says "I authorize and give up my right of governing myself and authorize all the sovereign's actions."⁵⁴⁷ From this formula, Hobbes infers that the sovereign can never do his (its) subjects injustice, since the subject authorized all his actions. But we also saw how Hobbes maintains that the right to preserve one's life is inalienable. Accordingly, Hobbes lists a number of acts that the sovereign can never bind a subject to do: "not to defend a [his] own body," "to kill, wound, or maim himself," "not to resist those that assault him," "to abstain from the use of food, air, medicine, or any other thing, without which he cannot live," to accuse himself or self-incriminate without the assurance of pardon, or to serve as a soldier.⁵⁴⁸ And that which one cannot be bound by law to do is done with right, just as one cannot be taken to authorize an absolutely unlimited sovereign, if that entails the transfer of an inalienable right.⁵⁴⁹ So apparently, the subject does and does not authorize an absolute sovereign; the subject does and does not act justly when he or she disobeys the sovereign's command to act (or forbear) in a way that would destroy one's life.

⁵⁴⁶ See *Leviathan Parts I and II, Revised Edition*, eds., A.P. Martinich and Brian Battiste (Broadview Press, 2010), Appendices A, B, and D.

⁵⁴⁷ Martinich correctly points out that this formula as it stands is self-contradictory. See *The Two Gods of Leviathan*, 167-169.

⁵⁴⁸ *L*, 21.11-13, 141-2.

⁵⁴⁹ "There be some rights, which no man can be understood by any words, or other signs, to have abandoned, or transferred. As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life; because he cannot be understood to aim thereby...The same may be said of wounds, and chains, and imprisonment..." (*L*, 14.8, 82).

These obscurities may be instances in which Hobbes is simply irreconcilable with himself, as Bramhall alleged. Or they may be instances in which Hobbes was, in his own words, “a forgetful blockhead.”⁵⁵⁰ But, there may be solutions available on Hobbes’s own terms.

Hobbes’s apparently contradictory theory of authorization and inalienable rights seems to obscure the distinction between systemic and moral validity of law. But if it can be shown that the absolute justice of the sovereign’s commands is compatible with an inalienable right to self-defense, then, upon that ground, the morally-systemically valid distinction would be vindicated. And, on that ground, our thesis that Hobbes’s account of civil law is properly a natural law account can be vindicated. Regarding the mutual containment thesis, the challenge would be to show how this thesis is compatible with the claim that civil law can fail to be morally valid and how the thesis does not entail a practical legal positivism. Let us first turn to see how Hobbes’s theory of authorization and inalienable rights might be clarified.

Inalienable Rights and Unlimited Sovereignty

How can we reconcile Hobbes’s claim that the sovereign-making covenant authorizes an unlimited sovereign with his claims that one always retains those inalienable rights necessary to preserve one’s life? I argue that the sovereign acts unlimitedly *inasmuch as he (or it) is sovereign*. That is to say, when the sovereign acts *as sovereign*, his (its) command is sufficient to make something into civil law. But that *inasmuch as* qualification turns out to import the content-based limitation we have

⁵⁵⁰ EW IV, 287

suggested natural law places on what can achieve the status of law for the addressee of a command.

When Hobbes is discussing those rights that are inalienable, he remarks that, when a person makes a covenant, he must always be understood to act under the aspect of the good: “the object is some *good to himself*.”⁵⁵¹ But this claim is compatible with Hobbes’s distinction between apparent and actual goods—and we have argued at length in Chapter 3 that the basic, actual good for Hobbes is life. (Hobbes’s axiology is best understood as a *thin theory of the good objectively knowable by unaided reason*—and this is the principal contrast with Aquinas’s natural law account of the civil law, because Aquinas had a thicker account of the good.) Hobbes appears to be saying that someone who enters into a covenant can be presumed to meet the minimum condition of practical reasonableness, that they take the good of life as basic.⁵⁵² Hence, anyone who enters the sovereign-making covenant is presumed to take life as good. So Hobbes says in the same passage: “the motive, and end for which this renouncing, and transferring of Right is introduced, is nothing else but the security of a mans person, in his life, and in the means of so preserving life, as not to be weary of it.”⁵⁵³ From these points, Hobbes concludes that someone who performs a covenantal act should never be taken to forfeit the *end for which* the covenant was made:

And therefore if a man by words, or other signs, seem to despoil himself of the End, for which those signs were intended; he is not to be understood as if he meant it, or that it was his will.⁵⁵⁴

⁵⁵¹ *L*, 14.8, 82.

⁵⁵² The presumption seems warranted, since those who do not take it as basic will typically be the sorts of folks who cannot or will not enter the covenant.

⁵⁵³ *L*, 14.8, 82.

⁵⁵⁴ *L*, 14.8, 82.

Earlier we saw Hobbes's covenantal formula included a person's authorization of all the *sovereign's* acts. If we take Hobbes at his word, then such an authorization cannot be a sign that would despoil the covenanter of the end for which he covenants, namely the security of his person and the means to preserve his life. I suggest that the covenantal formula authorizes a person to command a set of ordinances, O1, *inasmuch as they act as sovereign*. The set O1, is distinct from the set of *all possible ordinances*, O2. My claim is that if, and only if, the command is of the set O1 can it achieve the status of civil law for the addressee. How can a sovereign fail to act *as a sovereign*?

Hobbes clearly recognizes that the person or persons with sovereignty act in ways that cannot be considered actions *as sovereign*. The sovereign (whether a man or an assembly) bears "two persons"—his own natural person, and the person of the commonwealth. Hence, the monarch "hath the person not only of the commonwealth, but of also of a man."⁵⁵⁵ When a sovereign acts "as a man" or in his "natural capacity" his (its) acts are not understood as representative of his subjects. Hence, Hobbes distinguishes between public ministers that are empowered by the sovereign to administer the realm and servants of a monarch who serve him in his "natural capacity." When a sovereign orders his ministers, his act is essentially different from when he orders his private servants. In the latter case, he does not act *as bearer* of the commonwealth and hence does not act with the authority of the sovereign. When the sovereign does not speak *as the sovereign representative*, his words do not attain the status of civil law.

Still, the example of a sovereign giving orders to servants, stewards, chamberlains, and the like does not get to the heart of the difficulty we are interested in. The controversy lies precisely in potential scenarios in which the sovereign, in his public

⁵⁵⁵ L, 23.2, 156.

capacity, commands one do perform acts destructive of one's life. I want to claim that such commands fail to achieve the status of civil law for the addressee of the command because when the commander so acts, he (it) is not acting *as sovereign*.

Consider Hobbes's claim that when public ministers act in the name of the sovereign,

Every subject is so far obliged to obedience, as the ordinances he shall make, and the commands he shall give be in the king's name, and *not inconsistent with his sovereign power*.⁵⁵⁶

The passage indicates that there are potential ordinances that would be inconsistent with the sovereign power—ordinances that if commanded would not oblige subjects. But what is the criterion for inconsistency? There are of course a number of rights that inhere in the sovereign power.⁵⁵⁷ But the office of the sovereign includes not *only* rights and powers needed to duly execute the office—it also includes the end for which those powers are ordained, i.e., the end for which the office was created:

The office of the sovereign, (be it a monarch, or an assembly,) consisteth in the end, for which he was trusted with the sovereign power, namely the procuration of the safety of the people; to which he is obliged by the law of nature, and to render an account thereof to God, the author of that law, and to none but him.⁵⁵⁸

Indeed, Hobbes indicated the telic nature of the sovereign power before either the covenantal formula or any of the essential rights of sovereignty:

The final cause, end, or design of men, (who naturally love liberty, and dominion over others) in the introduction of that restraint upon themselves, (in which we see them live in commonwealths,) is the foresight of their own preservation, and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of war, which is necessarily consequent (as hath been shown) to the natural passions of men, when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants,

⁵⁵⁶ *L*, 22.3, 156.

⁵⁵⁷ See generally, *L* 17.

⁵⁵⁸ *L* 30.1, 219.

and observation of those laws of nature set down in the fourteenth and fifteenth chapters.⁵⁵⁹

The criterion of inconsistency is nothing other than *that for which* the covenant was formed. Importantly, this statement of the end of the sovereign-making covenant comes in the same chapter that Hobbes gives us the covenantal formula. I suggest that Hobbes does not include the *telos* in the actual formula because he has already stated it, and, as before, we can presume that covenanters are practically reasonable. Just as any covenanter is presumed to be taking the good of life as basic, any person who participates in the authorization of the sovereign by the covenantal formula is presumed to be quitting the condition of war, *for the sake of security*. That is, covenanters authorize the sovereign to *secure the peace*, or, as we saw in the last chapter, to procure *the common good*.

We saw in Chapter 3 that Hobbes's view of peace, in contrast with the Thomistic natural law tradition, is thin: it aims somewhere between (i) the mere absence of civil strife and (ii) agreement of citizens on important matters. Hobbesian covenanters do not aim at a thicker notion of peace higher on the scale of the unity of peace. They do not aspire to (iii) civic friendship or (iv) complete harmony of persons, of their affections within and choices without. But they do aim at peace understood principally as security. It follows that the sovereign's authorization extends only to acts that secure and maintain peace understood in contrast to acts that destroy security. Therefore, by the terms of the sovereign-making covenant, a man or an assembly acts consistently with the sovereign power—acts *as a sovereign*—when he (it) acts for the sake of peace.

On this reading, the sovereign's power remains absolute. But absolute sovereignty does not entail the authority to command any member O2. Within the notion

⁵⁵⁹ L 17.1, 106.

of absolute *sovereignty* is built the limitation of what gets to count as an *act of sovereignty*—and acts of sovereignty are always acts for the security of subjects.

It should now be apparent how we can clarify Hobbes's account of absolute sovereignty to fit with the inalienable right to self-defense. When a sovereign orders one to perform acts destructive of one's life, the ordinance fails to be a binding command because the performance of such acts can never conduce to one's security. Such ordinances are *inconsistent with sovereignty*—call these IWS ordinances.

We can now assess the upshot of this account of sovereignty for Hobbes's understanding of civil law. If and when a sovereign dictates an IWS ordinance, it fails to have moral validity because the subject has not actually authorized it. The reason the subject has not authorized it is because covenanters are taken to be practically reasonable in that they take good of life as basic and erect a sovereign for the sake of security. Commands to perform acts that would likely entail the destruction of one's life are just the sorts of ordinances that manifestly do not secure one's person. Since the sovereign is authorized only insofar as his acts secure one's person, it follows that such ordinances are not members of the set O1—those ordinances that the sovereign is able to command *as sovereign*. In this light, consider the following passage:

The obligation of subjects to the sovereign, is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them. For the right men have by nature to protect themselves, when none else can protect them, can by no covenant be relinquished. The sovereignty is the soul of the commonwealth; which once departed from the body, the members do no more receive their motion from it.⁵⁶⁰

This passage can easily be read to indicate the notion of sovereignty as the mere fact that a state has sufficient guns and police and military forces. But on the foregoing

⁵⁶⁰ *L*, 21.21, 144.

interpretation, those members of commonwealth who are addressees of a command in contravention to the basic precept of natural law to preserve one's life are addressees of commands inconsistent with sovereignty. Hence they are effectively not moved by the sovereign's command, as members of a body are not moved by the soul departed.

It is an interesting question as to the membership status in the commonwealth of the addressee of a morally invalid law. Is the addressee still a member of the commonwealth, retaining a right to *resist* the sovereign? Or is the addressee of an IWS ordinance thrown back into the state of nature, in which case one's former sovereign is now a very powerful enemy? Those who defend the latter contend that, in commanding what I have called an IWS ordinance, the sovereign thereby violates the covenant—and the very *being* of the commonwealth presupposes the covenant. So, commanding such an ordinance, the entity that was the commonwealth is no longer—at least for the addressee. At best it is an entity claiming to be a commonwealth. The strength of this solution is that it retains the absolutism of the commonwealth or state—*so long as it qualifies as a state*.⁵⁶¹ It would retain Hobbes's apparent commitment to forestalling all rebellion. Moreover, it takes seriously Hobbesian reckoning of the meaning of words. Also, the just quoted passage about the duration of obedience might be cited in its favor.

Still, those who defend the former solution maintain that the right to self-defense is properly a right of resistance *against the state*. On this reading, addressees of IWS ordinances remain members of the commonwealth, but are justified in disobeying such commands. In favor of this solution is, chiefly, that Hobbes refers to self-defense rights as liberties *of subjects*. So someone commanded to incriminate himself remains a member of the commonwealth—but has a right to disobey it. This may be taken to imply

⁵⁶¹ See Peter J. Steinberger, "Hobbesian Resistance," *American Journal of Political Science* Vol. 46, No. 4 (October 2002), 856-865. See also Lloyd, *Ideals as Interests*, 75;

that addressees of commands IWS remain subjects.⁵⁶² The defender of this view could also enlist the above-cited passage about the duration of obedience in his or her favor.⁵⁶³

My argument is compatible with either solution. Under the first solution, an addressee of an IWS command rightly views it as not only morally invalid, but systemically invalid as well, since the addressee would thereby no longer have a rule of recognition. Non-addressees of the command, inasmuch as they rightly reason, will recognize the command as systemically valid but morally invalid. Under the second solution, both addressees and non-addressees of an IWS command view it as morally invalid, but recognize its systemic validity. If one remains a subject, one can recognize the systemic and moral validity of other laws of the sovereign.

What is the *status* of a morally invalid command, then? Is it a *law*? Given Hobbes's claim that it is of the *nature* of law to bind—*pace* latter-day positivists, Hobbes denies that law merely “claims” to bind—then we must deny it status of civil law for the addressee, because such commands do not bind one to act. Civil laws, properly speaking, must proceed from acts of the sovereign *as sovereign*—and morally invalid commands do not proceed from the commander *as sovereign*. But, as we have suggested, this may be compatible with the addressee recognizing that some such edict has a measure of the character of law, inasmuch as it is systemically valid, if we take the addressee to still be a member of the commonwealth.

To sum up my solution to obscurity of systemic and moral validity apparent in Hobbes's theory of authorization: persons covenant to authorize a sovereign for the sake

⁵⁶² Hence, on this interpretation, the notion of a rebel subject is not oxymoronic. See Sreedhar, *Hobbes on Resistance*, 156-7.

⁵⁶³ Notably, Bramhall cited the above passage as evidence that *Leviathan* was a *rebel's catechism*. For an argument that subjects retain not only a right to self-defense but also rebellion, see generally Sreedhar, *Hobbes on Resistance*.

of security. By its very nature, the covenantal act authorizes only those acts consistent with sovereignty—and I have argued that Hobbes builds into the notion of sovereignty not only the rights essential to execute its end, but also *the end itself* for which the covenant was made. This is how Hobbes can have an absolute sovereignty that is compatible with inalienable rights to self-defense. Accordingly, this is how Hobbes can at once have an absolutist understanding of civil law while being able to retain content-based limitations on which ordinances can achieve the status of civil *law* (i.e., commands that of their nature bind in conscience). Indeed, this interpretation is supported by the so-called mutual containment thesis—the point of this thesis is to secure the practical congruence between civil law and natural law. Let us turn now to consider it in detail.

The Mutual Containment Thesis and the Sovereign Right of Judgment

A second way that Hobbes appears to obscure his properly natural law account of civil law is in his claim that “law of nature, and the civil law, contain each other, and are of equal extent.”⁵⁶⁴ We have already suggested that this means at least that the sovereign is erected in order to provide the security condition for *in foro externo* validity of the laws of nature. The laws of nature will only bind *in foro interno* until a sovereign is erected to sanction noncompliance; if they bound *in foro externo* prior to the sovereign-making covenant, they would make one prey to others, contrary to the more basic rational necessity to preserve one’s life. I shall argue that the mutual containment thesis actually supports my interpretation that there are content-based limitations on what can be

⁵⁶⁴ For an interesting account of the mutual containment thesis, which seems compatible in many ways with my own account, see Timothy Fuller, “Compatibilities on the Idea of Law in Thomas Aquinas and Thomas Hobbes,” *Hobbes Studies* III (1990), 112-134.

effected into civil law, i.e., that moral validity is a necessary condition for commands and judgments to bind subjects.

I alluded earlier to a possible interpretation that could present a challenge to my argument that Hobbes's account of civil law is properly speaking a theistic natural law account. I have in mind the recent work of Lloyd, who has argued that, while the laws of nature have a normative status prior to civil law, natural law is "self-effacing" and Hobbes is a practical legal positivist. This interpretation, Lloyd claims, is the key to understanding the mutual containment thesis. Notably, Lloyd's positivist interpretation of Hobbes is different from the standard positivist interpretations. The standard interpretations tend to trade on one of the secularist theses regarding God's nonessential role in Hobbes's legal philosophy: the historical, concealment, and practical severability theses. Lloyd's explicitly avers that her interpretation is compatible with theistic interpretations of the laws of nature as really laws. I shall argue, on the basis of Hobbes's theories of equity and right judgment, that Hobbes is not a practical legal positivist. If successful, my argument will show how a theistic natural law reading of Hobbes is incompatible with a positivist reading of his theory of civil law.

Lloyd reads Hobbes's state of nature as a state of affairs in which there obtains "universal, unbridled private judgment" about what the natural law requires.⁵⁶⁵ Because such a state of affairs devolves into war, we would want others to submit to a political authority, and so we ought to as well—this is an outworking of what Hobbes calls the "easy sum" of the laws of nature. Lloyd calls it the "summary formulation" (SF) of the laws of nature and she reformulates it as the Reciprocity Theorem (RT), *to do what one*

⁵⁶⁵ Lloyd, "Hobbes's Self-Effacing Natural Law Theory," *Pacific Philosophical Quarterly* Vol. 82 (2001), 305 n. 20.

condemns in another is contrary to reason, which we discussed in Chapter 2.⁵⁶⁶ But SF (or RT) requires each to give up his private right of judgment over what the natural law requires. In other words, the most basic requirement of SF is for contractors to set up an objective supreme judge or arbiter—and for Lloyd this is the essential feature of the sovereign. This means that the sovereign is the authoritative interpreter of all disputes and hence “it may legitimately settle disputes as to *what the law—including natural law—is*.”⁵⁶⁷ Thus, Lloyd concludes that Hobbesian natural law is self-effacing because the natural law itself commits us to regard the sovereign’s judgment in all disputes as decisive—even in disputes over what the natural law requires—and so no one can pretend to disobey sovereign positive law on the basis that it conflicts with the natural law. And it is in this way that the civil law contains the natural law—hence, Lloyd’s contention that her interpretation is the meaning of the mutual containment thesis.

From these grounds, Lloyd infers that, “there is no legitimate position or perspective from which we can criticize or resist the sovereign’s decisions.”⁵⁶⁸ The sovereign’s judgment is “like that of the Supreme Court”: it is authoritative even if or when it is “cosmically incorrect.”⁵⁶⁹ The laws of nature “direct us to subordinate our judgment to that of the sovereign, even when his judgment is erroneous” because otherwise we would be reasserting a right of private judgment against SF, which would risk civil war and a return to the state of anarchy.⁵⁷⁰ Whereas my foregoing argument suggested that the natural law provides a content-based criterion for what counts as acts

⁵⁶⁶ RT = *If one judges another’s doing of an action to be without right, and yet does that action oneself, one acts contrary to reason. That is, to do what one condemns in another is contrary to reason* (Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 219-220).

⁵⁶⁷ Lloyd, “Hobbes’s Self-Effacing Natural Law Theory,” 295. Cf. Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 280.

⁵⁶⁸ Lloyd, “Hobbes’s Self-Effacing Natural Law Theory,” 295.

⁵⁶⁹ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 342.

⁵⁷⁰ Lloyd, *Morality in the Philosophy of Thomas Hobbes*, 342.

of sovereignty, Lloyd claims that the natural law directs agents to completely subordinate private judgment to an unlimited sovereign judge—even when it is “cosmically” incorrect, which on Hobbes’s terms would mean nothing other than contravention of God’s will manifest in natural law.

I maintain that such an interpretation at once fails to correctly understand Hobbes’s theory of equity as a moral check on the sovereign and the real import of the mutual containment thesis. Let us consider Hobbes’s notion of equity.

We saw earlier how Hobbes maintained, on his theory of authorization, that nothing the sovereign can do is “unjust.” My reconstruction of Hobbes suggested that this claim should be understood of the sovereign insofar as he (it) acts as sovereign. That is, inasmuch as sovereign acts according to its purpose. In this way, a sovereign who commands one to contravene the basic rational necessity to preserve one’s life would not be acting *as sovereign*, and so technically, “justice” is not implicated because the addressee’s exercises his right to self-defense outside the confines of covenant. While Hobbes won’t admit the sovereign can do injustice, he does say that the sovereign “may commit inquiry.”⁵⁷¹

According to Hobbes, the “general rule of equity” is both “the law of reason” and “the law of God.”⁵⁷² Equity consists in dealing equally when judging between man and man or the “equal distribution to each man, of that which in reason belongeth to him,” and is properly the act of a judge or arbitrator.⁵⁷³ As such, the natural law of equity is derived from fundamental human equality, since disputes between fundamentally equal men merit impartial judgment. The law is grounded in a deeper principle that Hobbes

⁵⁷¹ *L*, 18.6, 113.

⁵⁷² *EW* VI, 21-2

⁵⁷³ *L*, 15.24, 97.

calls the “easy sum” of the laws of nature: “doing to others as we would be done to” or, in its negative formulation “do not that to another, which thou wouldest not have done to thy self.”⁵⁷⁴ Hence, the judge who “performs his trust” deals equitably between persons; the judge who deals inequitably is “partial in judgment” and is a practitioner of “acceptation of persons.”⁵⁷⁵

Hence, Hobbes recognizes the possibility that the sovereign judge can fail to act according to the precept of equity. As Noel Malcolm puts it, Hobbes’s notion of equity “shows that morality remains an objective standard, by which the laws or actions of the sovereign can be judged.”⁵⁷⁶ Such judgments can take the form of violation of the basic right to self-defense. Judgments of that kind are parallel to IWS commands. Yet, the class of judgments properly called iniquitous broadens what counts as acts inconsistent with sovereignty. All iniquitous judgments are, properly speaking, inconsistent with sovereignty. Accordingly, all iniquitous judgments are morally invalid on the ground of the independent criterion of equity.

Hobbes’s condemnation of the iniquitous judgments of his day is suggestive of their moral invalidity. One example is Hobbes’s criticism of a judgment set down by Sir Edward Coke that an innocent man accused of a felony who flees for fear of corrupt or partial judges and who is afterwards brought to trial and proved innocent, shall, notwithstanding his innocence, forfeit his goods and property.⁵⁷⁷ Hobbes rejects Coke’s

⁵⁷⁴ L, 15; 17.1

⁵⁷⁵ L, 15.24, 97.

⁵⁷⁶ Noel Malcolm, *Aspects of Hobbes* (Oxford: Oxford University Press, 2002), 437. While Malcolm helpfully illuminates the sovereign’s office to promote the good of the people, my argument suggests Malcolm is incorrect that the sovereign is “jurally entitled to treat them just as he would his enemies,” if we take “civil law” to be a jural term (446).

⁵⁷⁷ L, 26.24, 181-2; Cf. *A Dialogue Between a Philosopher & a Student of The Common Laws of England* in *EW VI*, 137-8 and Coke, *The First Part of the Institutes of the Laws of England*, 8th ed., (London: 1670), §709.

justification of presumption of law that the flier is guilty as iniquitous. Such would be to deprive an innocent man his due, in violation of the eleventh law of nature of equity, which requires judges “equal distribution to each man, of that which in reason belong to him.”⁵⁷⁸ The “general rule of equity”—which is both “the law of reason” and “the law of God”—requires that an innocent man not be deprived of his goods and property.⁵⁷⁹ Of this law of nature “there can be no exception at all” (*EW* VI, 137). As long as such a precedent stands by the sovereign’s will or tacit permission, the law is systemically valid (and, in some cases that is enough to garner merely prudential obedience—we consider the point further later). But the upshot of Hobbes’s criticism is that it is morally invalid.

One immediately notices that, in criticizing the common law of his day, Hobbes himself does not practice the sort of absolute subordination of judgment that Lloyd claims Hobbesian natural law demands. Neither can we say that Hobbes’s criticism was of Coke and not of the sovereign, since Hobbes maintains that common law has the force of civil law by the sovereign’s tacit will. But, let us set that point aside. The natural law of equity is supposed to be a principle binding the judge, and thus the judge can fail to judge equitably. Lloyd maintains that when judges fail, Hobbesian natural law unflinchingly binds us to obey, because resorting to the right of private judgment would risk return to anarchy.

But consider Hobbes’s remark in his discussion of the natural law of equity that the acts of the inequitable judge are the “cause of war.”⁵⁸⁰ As Lloyd correctly points out, the sovereign is the supreme judge. It follows from Hobbes’s remark that the sovereign will can fail to be equitable when it fails to perform its trust—and when he (it) fails to

⁵⁷⁸ *L*, 15.23, 97.

⁵⁷⁹ *EW* VI, 21-2.

⁵⁸⁰ *L*, 15.23, 97.

judge equitably, he (it) causes war. Because inequitable judgments are always bellicose, they are always inconsistent with sovereignty, since the very purpose of the sovereign office and power is the peace of security.

Why does the failure to judge equitably cause war? Hobbes answers that the inequitable judge “doth what in him lies, to deter men from the use of judges, and arbitrators.”⁵⁸¹ It is fairly obvious why the deterrence of men from the use of judges brings on a state of war. I agree with Lloyd that erecting a sovereign judge entails giving up the right to be judge in one’s own case. This means that one gives up the *right of private judgment* over good and evil. So, to deter men from the use of judges and arbitrators is to encourage men to rely on the right of private judgment. But the widespread practice of the right of private judgment would inaugurate war. Hobbes is here indicating a point we have already seen in Chapter 1: man’s first disobedience to the rule of law was man’s disobedience to God in Eden by usurping the right of private judgment over good and evil. Now, as a potential condition of actual, fallen persons, the state of nature is a *reductio* of the practice of the right of private judgment on a massive scale.

Yet, Lloyd’s claim that the laws of nature direct subjects to completely subordinate our judgment to the sovereign judge on the pain of the subjects causing war (or initiating a chain of causes leading to war)—even when his (its) judgments are “cosmically” iniquitous—ignores Hobbes’s point that it is *the sovereign* who causes war when he (it) judges iniquitously. The *sovereign* himself (itself) *causes* a state of war by *detering* agents from the use of judges. How is that?

⁵⁸¹ L, 15.23, 97.

The sovereign's iniquitous judgment need not initiate *actual* fighting or battle for it to cause war, according to Hobbes. War consists not in actual fighting, but "in the known disposition thereto, during all the time there is no assurance to the contrary."⁵⁸² Suppose there is a case in which the sovereign judges iniquitously and Smith discerns that he has been unreasonably harmed. Suppose further that Smith is a reasonable fellow and he acts according to RT: he does not do that which he condemns in another. (These suppositions are warranted—when Smith becomes a *subject*, he does not become a new *kind* of thing—he is still a *rational animal*. Hence, he has not lost his reasoning powers in erecting a sovereign judge.⁵⁸³) Smith is now doubtful that he will get a fair shake from appealing to sovereign judge. But Smith is not the only one. Insofar as iniquitous judgments of the sovereign are publicly known, others are deterred from the use of judges, too—and Smith knows that. Smith knows that his neighbor, Jones, is not assured of getting a fair shake from the sovereign judge. Hence, Smith knows Jones is deterred from appeal to the sovereign judge and encouraged to assume a right of private judgment—and he wouldn't blame him if he did. After all, Smith was the victim of the iniquitous judgment and he wouldn't blame his neighbor if his neighbor judged that his person, family, and goods were no longer safe from iniquity in the sovereign's court. If we accept the RT as a valid formulation of the easy sum, then, if Smith is deterred from appeal to the sovereign judge (and accordingly assumes a right of private judgment), he acts reasonably, since he does not condemn that in Jones. This story shows, *pace* Lloyd, how the easy sum or its formulation in RT does not direct unfailing subordination of judgment to the sovereign.

⁵⁸² *L*, 13.8, 76.

⁵⁸³ Fuller makes a similar point. See Fuller, "Compatibilities on the Idea of Law in Thomas Aquinas and Thomas Hobbes," 114-115.

Given the sovereign's iniquity, and his neighbor's knowledge of it, Jones is reasonable to judge that the security of his person, family, property, etc. are in jeopardy not only from the sovereign, but from his neighbors. Hobbes explicitly warns that corrupt judgments will lead to this chaotic state of affairs. While this statement comes in the context of explaining what sovereigns should cause to be taught to subjects, Hobbes is actually teaching about the duty of the sovereign in his capacity as judge, and may even be suggesting subjects should remain vigilant to watch out for corruption in the sovereign's courts:

For which purpose also it is necessary they be showed the evil consequences of false judgment, by corruption either of judges or witnesses, whereby the distinction of propriety is taken away, and justice becomes of no effect: all which things are intimated in the sixth, seventh, eighth, and ninth commandments.⁵⁸⁴

It follows that if the sovereign judges iniquitously at t_1 then, the *sovereign* has initiated a time series (t_1, t_2, t_3, \dots) in which men lack the assurance of peace—iniquitous judgment inaugurates a condition of war until such time as peace is reassured.

Since the sovereign's iniquitous judgment causes war, the absolute subordination of private judgment to the sovereign judge does not seem to be the meaning of the mutual containment thesis. I suggest that the true import lies in Hobbes's indication that commands and judgments fail to have moral validity because they incite war, and that this is illuminated in Hobbes's *in foro interno-in foro externo* distinction. Hobbes writes:

The laws of nature oblige in foro interno; that is to say, they bind to a desire they should take place: but in foro externo; that is, to the putting them in act, not always. For he that should be modest, and tractable, and perform all he promises, in such time, and place, where no man else should do so, should but make himself a prey to others, and procure his own certain ruin, contrary to the ground of all laws of nature, which tend to nature's preservation. And again, he that having sufficient security, that others shall observe the same laws towards him, observes

⁵⁸⁴ *L*, 30.12, 224 (emphasis added).

them not himself, seeketh not peace, but war; & consequently the destruction of his nature by violence... The laws of nature are immutable and eternal; For injustice, ingratitude, arrogance, pride, iniquity, acception of persons, and the rest, can never be made lawful. For it can never be that war shall preserve life, and peace destroy it.⁵⁸⁵

The *in foro interno-in foro externo* distinction is supposed to make sense of how Hobbes's catalogue of natural laws can be immutably and eternally binding in a non-absurd way, i.e., in a way that would not conduce to one's own self-destruction, which is contrary to the very ground of all the laws of nature in Hobbes's scheme. The catalogue of natural laws do not always bind *in foro externo* in the state of nature—not because they aren't really laws by God's prior legislation, but because of the risk of getting double-crossed. The situations Hobbes has in mind where performance of a contract would lead to one's own destruction are those contracts and covenants formed in a condition in which there is not a common power to keep everyone in awe, i.e., where there is no immediate palpable threat of sanction for breach of the natural law. This is the condition of war.

But when the sovereign judges iniquitously, he (it) causes war. Hobbes seems to mean that, when the sovereign commands or judges contrary to basic equity, the sovereign has initiated a state of affairs in which men and women would be justified in judging that there is no longer "sufficient security" to observe the laws of nature *in foro externo*. We have already seen why. When the sovereign publicly judges iniquitously, he deters reasonable persons from appeal to him (it) as judge. This has the potential to initiate a chain of causes in which reasonable persons are deterred from adverting to the common judge and are encouraged to assert a right of private judgment as a surer means to secure their persons, families, and goods. The state of war, as distinct from a state of peace, may be either a *disposition toward* or an *actual* assertion of the right or private

⁵⁸⁵ L, 15.36, 99.

judgment on a massive scale. Either way, such a condition is not a peaceful one. The non-peaceful condition is one in which, by definition, sufficient security fails to obtain for the laws of nature to bind *in foro externo*. But the *in foro externo* “putting into place” of the laws of nature just does consist in obeying (at least a major part of) the civil law, since it contains the natural law. Therefore, the warlike condition is one in which the civil laws do not bind one *in foro externo*.

It follows that the sovereign’s own iniquitous judgment fails to attain the status of binding civil law because in the very act of commanding in this way, the sovereign brings on a state in which there will be a tendency to the widespread assertion of private judgment and fisticuffs. In that case, one would not be assured of the *in foro externo* compliance of others—and the only precept that would be binding both *in foro interno* and *in foro externo* is the basic rational necessity to preserve one’s life. This is another way of saying that for something to become civil law it must be congruent with natural law, which is ultimately congruence with God’s will.

CONCLUSION

Let us sum up our discussion of authorization and the mutual containment thesis. I have argued that Hobbes should be interpreted as having a properly natural law account of civil law. This means that assessing the legal status of some edict or ordinance cannot rest simply on its *source* or *pedigree*, independent of (or separable from) its moral content. For something to bind with the force of civil law it must give the addressee a sufficient reason to act—it must be both systemically and morally valid. Hobbes’s theory of authorization and the mutual containment thesis have been taken to collapse systemic and moral validity under the sovereign will. This is in a sense true, but only *inasmuch as*

the sovereign acts as a sovereign—and that “inasmuch as” imports the ends of the sovereign-making covenant, *life and security*, as validating conditions of which possible ordinances can count as civil law. Moreover, the natural law of equity limits the sorts of judgments that can count as properly sovereign acts and bind addressees.

When seen in this light, we can start to see more clearly how Hobbes could maintain that civil law and natural law are necessarily congruent just as he can maintain a normatively charged notion of sovereignty-for-the-sake-of-security. Natural law requires us to secure our persons. Hence, it requires us to erect a sovereign powerful enough to protect us. If and when the sovereign acts violently toward those who authorized him (it) to secure the peace, the sovereign fails to bind addressees with the force of civil law. Hobbes has effectively ensured the practical congruence of natural law and civil law because for an ordinance to attain the full status of civil law (they bind the addressee *as law*), it must be systemically and morally valid. This account is compatible with an absolutist conception of the sovereign’s lawmaking and adjudicative authority because morally invalid commands and judgments fail to be consistent with sovereignty.

Conclusion

Shortly after the publication of *Leviathan* in 1651, one of Thomas Hobbes's most intelligent critics, Bishop John Bramhall, published a scathing critique. Bramhall was something of an English Thomist, inasmuch as he defended a full-throated Christian Aristotelianism and its characteristic doctrines. He contended that Hobbes's natural law theory, including his list of twenty laws of nature in *Leviathan*, was incoherent and just one of many instances in which Hobbes was "inconsistent and irreconcilable" with himself.⁵⁸⁶ In Bramhall's view, Hobbes had scorched the whole scholastic tradition. For Bramhall, Hobbes's theory was entirely novel, positing myriad doctrines couched within the language of natural law but which had theretofore been thought unconscionable in the natural law tradition. The frontispiece of *Leviathan* was portentous of the doctrines within. As the frontispiece vividly portrays, Hobbes constructs a theory of absolutist, unitarist theory of sovereignty out of a mass of individual wills which make up the body politic. There is an imposing crowned figure, brandishing sword and crozier, with a body made up of citizens. In the midst of the English Civil War, Hobbes's message seemed to be that, in order to secure the peace, the sovereign must have the kind of power over the body politic that an individual has over his or her bodily members—an absolute power to command motion proper to their capacities. Above the imposing man, there is an inscription quoting from the Book of Job: *Non est potestas Super Terram quae comparetur*, which the Authorized Version translates (the antecedent being the great beast Leviathan): "Upon the earth there is not his [its] like." Bramhall agreed: indeed

⁵⁸⁶ John Bramhall, *The Catching of Leviathan or The Great Whale in The Works of the Most Reverend Father in God John Bramhall*, Vol. IV, (Oxford: John Henry Parker, 1844), 869. Cf. *Leviathan*, Ch. 15.

the world has never seen such a doctrine before. Thomas Hobbes's natural law theory was so novel (and for Bramhall, so pernicious) as to be without comparison.

For nearly four centuries since the publication of *Leviathan*, traditional natural law theorists—not to mention many other interpreters who are unsympathetic to the classical natural law tradition—have tended to agree with Bramhall in their assessment of Thomas Hobbes's moral and political doctrines. Yet, this dissertation has attempted to show that, while Hobbes did break from the older tradition in important and sundry ways, scholars have largely misunderstood *how* Hobbes breaks from the tradition. I have argued that, in fact, Hobbes maintains key features of classical natural law while formulating a theory distinctively his own. Indeed, Hobbes retains the key elements essential to natural law theory, including an idea of a fixed human nature, the dignity of reason to know the human good and tame the passions in accord with its goals, the legal character of the practical necessities that reasons discovers as conducive to human happiness, as well as the reality of the political community and the common good. Hobbes's novelties flows neither from his rejection of the legal character of natural law, nor a rejection of the objectivity of the human good, but flows chiefly from his thin theory of the human good and the common good. Nothing in my argument has pretended to show that Hobbes consciously tries to mimic his scholastic predecessors. Rather, in spite of his attempts at novelty and scorn for scholasticism, Hobbes teachings, on the whole, do retain some essential continuities with the older tradition.

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