

The 2016 Annual Meeting of the Catholic Social Science Association included a panel called “Contemporary Thomist: J. Budziszewski and Nature’s Law.” All of the talks, including my response, were published as a symposium in *Catholic Social Science Review* 22 (2017).

My response begins on the next page. The gracious comments of the other symposiasts can be accessed either [here](#) or from the list below.

John P. Hittinger, [Budziszewski on Natural Law, Conscience, and Atheism](#)

William McCormick, S.J., [Budziszewski on the Natural Law as a “Sign of Contradiction”](#)

Kevin E. Stuart, [A Dark Coast: An Application of Conscience in Contemporary Ethics](#)

Matthew D. Wright, [“The Earth Itself Is a Suburb”: Local Attachments and Universal Norms in the Natural Law](#)

Paul R. DeHart, [Nature’s Lawgiver: On Natural Law as Law](#)

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Response

J. Budziszewski

J. Budziszewski responds in turn to each of the papers that were presented as part of the session honoring him at the twenty-fourth annual conference of the Society of Catholic Social Scientists held in Grand Rapids, Michigan, in October 2016. He responds to the comments of John P. Hittinger, William McCormick, SJ, Kevin E. Stuart, Matthew J. Wright, and Paul R. DeHart.

I am deeply grateful to these scholars for considering my work at all, not only where they agree, but also where they do not. Thank you.

Before I get started, though, I want to say something about all the things that I have said from time to time which they call questionable, misleading, or just plain wrong.

In the spirit of the recent campaign: Those things were just locker room talk.

RESPONSE TO HITTERER

Professor Hittinger raises questions of first importance. If a friend of such intelligence thinks we are in so much greater disagreement than I think we are, I must take the blame; no one ever writes as clearly as one thinks one does. Concerning the image of conscience as a courtroom, however, I think Hittinger has incorrectly viewed a difference of emphasis in one context as a categorical rejection of all other images in any context whatsoever. And concerning the atheist, I think he simply misunderstands my position. We are really very close.

The context of our discussion is Thomas Aquinas's doctrine about disobedience to unjust laws in the *Summa Theologiae*, I-II, Q. 96, Article 4. It may be helpful to begin by reviewing what the Angelic Doctor says about the matter. His crucial point is that although a genuine law "binds" us in conscience to obey, an unjust law is not a real law but a fraud, an imitation of a law. Consequently, we have no obligation to obey *because it is a law*, but it may in some cases be right to obey for prudential reasons. Here St. Thomas makes a distinction. If the law is unjust because it is contrary to our divine good, then we must disobey; nothing could be more important than the integrity of our relation with God. But if the law is unjust because it is contrary to our human common good, then we may disobey, but not

if disobedience would be detrimental to the common good. How could disobedience be detrimental to the common good? By causing either *scandalum* or *turbationem*, so-called “scandal” and “disturbance.”

Scandalum is anything that causes others to stumble, either physically, like a banana peel, or morally, like a bad example. The relevant meaning here is bad example. Suppose others see me disobeying an unjust law. If they are morally weak and undiscerning, they may not view my act as a protest against injustice; instead they may see me as getting away with something which they would like to get away with too. If I can evade laws that inconvenience me, why shouldn't they? In this case my example causes them to lose respect not for counterfeit laws, but for law itself.

Turbationem can refer to any sort of confusion, commotion, or disorder. Most obviously, the disobedience of one person might cause people to riot in the streets. But disturbance might take quieter forms too. Suppose the city council reduced the speed limit in my neighborhood from thirty miles per hour to five, just to punish the residents for their votes in the last election. Clearly the law would be unjust. Yet if all my neighbors complied with it, then my disobedience would probably endanger them. It could hardly be safe for one car to zip along at thirty while the others were creeping at five. This broader meaning of *turbationem* or disturbance is confirmed by St. Thomas's Reply to Objection 3, where he treats causing disturbance as equivalent to inflicting an even greater hurt.

The terms “human good” and “divine good” also need explanation, for St. Thomas's wording may be a little obscure; these terms are not meant to distinguish between what is good for man and what is good for God. The context for understanding the terms is the distinction between man's natural and supernatural end, which runs throughout the *Summa*, but is especially prominent in Question 91, Article 4, on the need for a Divine law. In connection with Question 96, Article 4, on civil disobedience, I wrote in the *Commentary on Thomas Aquinas's Treatise on Law*¹ that “‘human good’ refers to the temporal aspects of man's good, those which he can achieve by his natural power, and ‘Divine good’ to the eternal aspects of his good, those which he can achieve only with the assistance of God's grace.” Hittinger thinks that my terms “temporal” and “eternal” are a little misleading here, and perhaps they are, if they are taken to mean “in this life” and “in the next life.” As my wording indicates, though, I did not intend them in these senses. Even in this life, by God's grace we begin to experience the eternal good, although in this life we do not experience its fullness, the beatific vision.

Hittinger offers a different explanation of what is meant by the humane and divine goods. The term “human good,” he suggests, refers to the

“political good.” This proposal may be taken in two ways. If it means that the term refers only to the common good and not to the individual good, I think this is mistaken. On the other hand, if it means only that in the discussion of obedience to laws, we are chiefly concerned with the common good, then so long as we are speaking of the *natural* aspects of the common good, we need not disagree.

The term “divine good,” he proposes, refers to the “moral/religious good.” Here we do disagree. The divine good must not be identified with the *moral* good because according to St. Thomas, good morals are commanded not only by divine law but by natural law. Nor is the divine good to be identified with the *religious* good, because what St. Thomas calls “religion” is not a supernatural virtue, but a natural virtue, linked with justice, known even to the pagans, which disposes us to pay homage to the Divine. What I think Hittinger may have in mind is not the natural virtue of religion, but the supernatural gift of piety, which St. Thomas distinguishes from religion. One who has the natural virtue of religion recognizes that there is such a thing as Deity, and that whatever it is, it deserves reverence—but without the further help of grace, his knowledge of the Divine is limited to what can be worked out by natural reason (and it may not even get that far). By contrast, the spiritual gift of piety transcends what we can attain by our natural powers. We might say that the virtue of religion disposes us to reach our hands up to the unknown and infinite God, an effort that always falls short—but that the spiritual gift of piety is the work of the infinite God Himself, reaching all the way down to make Himself known.²

But as Hittinger remarks, these terminological matters are quibbles, so let us turn to more important matters. St. Thomas frames the question of civil disobedience in a particular way: Rather than simply asking whether so-called unjust laws may be disobeyed, he asks whether they bind in conscience. Conscience has many facets. Hittinger and I agree that the courtroom is not St. Thomas’s only image for it, and does not serve for all purposes. I am rather surprised that he views me as thinking that it is St. Thomas’s only image for it, and that it does serve for all purposes, for I say just the opposite. For example, in the *Commentary*’s partner volume, the online *Companion to the Commentary*, I discuss the significance of another of St. Thomas’s images for conscience, the image of *biting back*:

St. Thomas speaks of “remorse of conscience” in several places. Perhaps by the expression he means only the mordant sorrow of self-reproach; this is how he is usually understood, and it is the meaning of the English word “remorse.” But he might have more in mind, for in Latin, *remorsus* refers literally to a “biting back,” a bite of vengeance—

and mordant feelings are not the only way that the moral foundations of the mind bite back when they are bitten. Consider what happens to us when we lie to ourselves. As St. Thomas approvingly quotes the comment of Gregory the Great, “It is a common vice of mankind to sin in secret, by lying to hide the sin that has been committed, and when convicted to aggravate the sin by defending oneself.” But since we offer such excuses not only to placate others but to placate conscience, and since conscience is an act of reason, our reasoning becomes more and more disordered. . . . Having planned only one sort of sin, we leap further into evil than we had planned.³

St. Thomas does use the courtroom image more often than any other. Moreover, the image of the courtroom is often in the background even when it is not explicit. For example, in the context of the discussion of civil disobedience, St. Thomas refers to St. Paul’s statement that whoever resists proper authority “resists what God has ordained.” But in the same passage, St. Paul goes on to say, “and those who resist will incur *judgment*.”⁴ I explained in the *Commentary*, “The ‘judgment’ to which he refers is a legal verdict of condemnation in the Divinely appointed court. Plainly, then, St. Thomas views the judgment as being rendered not only by God on the Day of Judgment, but also here and now in the court of conscience.” And I think this is correct.

Again, St. Thomas says that that when laws are just, “they have the power of binding in conscience, from the eternal law whence they are derived.” Bearing in mind what it means to “bind,” I offered the paraphrase that just laws “derive from the eternal law the strength to tie a man up, like a bailiff in the court of his conscience.” Hittinger chides that no court is actually mentioned. Correct, but a paraphrase is not limited in the way that a translation is; among other things it is free to bring out more clearly what is not explicit. “Binding” is the moral necessity imposed *in foro conscientiae*, in the court of conscience. As to the bailiff, “If we are to picture a defendant being bound in the court of conscience, then someone has to bind him.”

More important, I simply do not say, nor do I think, that the courtroom image is most fitting for all purposes. What I say, in the context of the same Article, is that “*in view of the fact that St. Thomas is discussing law . . . the courtroom image seems most fitting.*” That is, it seems most fitting *in a legal context*. This statement does not in any way suggest that the image of the courtroom is the only permissible image in every context. Does Hittinger deny that it is helpful and legitimate in any context? If he does, I think his disagreement is not with my interpretation of St. Thomas but with St. Thomas.

Another important matter is that what today we tend to think of as one thing, St. Thomas thought of as two: *Synderesis*, which is the natural disposition that I have called deep conscience, and *conscientia*, which is conscience in action. Hittinger correctly points out that Pope Benedict XVI—who is not primarily a Thomist but an Augustinian, closer in many ways to Plato than to Aristotle—finds the notion of *synderesis* very much less helpful than the image of *anamnesis*, that is, of remembering or recollecting. Hittinger thinks I reject the image of *anamnesis*, but this is incorrect. What I reject is the Socratic *theory* of *anamnesis* expressed in Plato’s dialogues, the theory that it is a literal remembering. Benedict rejects that theory too; so does Hittinger. Neither Benedict XVI, nor Hittinger, nor I, believe, as Socrates did, that when we experience conscience, we are literally remembering things we learned previous to this life. The *image* of *anamnesis* is quite another matter, for as I stated, “Yet even though listening to deep conscience is not a literal remembering, it is often very much like remembering. So even though *anamnesis* is an incorrect theory, it has a certain value as a metaphor, just because it reminds us of the texture of the experience.”

It is this texture that Benedict is dealing with—for his purposes, quite properly. But if we leave the texture aside and simply ask what deep conscience is, what we find is that our minds have a dispositional tendency to be aware of certain foundational principles about good and evil, a tendency which is not learned, but natural. Even though we are not always thinking of these truths, indeed even though we may be trying hard not to think of them, the effort to hold them down is laborious and never completely successful. We are not taught them; it is because of them that we *can* be taught. We do not draw them as conclusions from more basic premises; they are the basic premises from which conclusions are drawn. The experience of memory is something like this, but the differences are marked. In the first place, memory is about past events rather than foundational principles. In the second place, memory is plastic, but it is impossible to err about first principles. In the third place, although I may have a dispositional tendency to remember *certain* things, in general memory is not a dispositional tendency to remember but a mere potentiality of remembering. It is difficult for me to imagine that the proponents of the image of *anamnesis* would deny these three differences. So “remembering” is a good name for what *synderesis* feels like, but not a proper name for what it is.

Turning to conscience in the sense of *conscientia*, Hittinger and I agree completely that even though conscience can err and does not always speak clearly, nevertheless, we experience its authority as the authority of God. St. Thomas emphasizes this point with great force. Yet again Hittinger

chides me for thinking that the image of a courtroom is helpful in any context whatsoever. I wrote, “when we enter the court of conscience and listen closely, the voice we are trying to hear is the voice of God—whether or not we fully realize that we are trying to do so.” Hittinger objects that in a court of law, “there is no mistaking the voice of the law. It is the judge, or it is the head juror, and by his decree you clearly hear the judgment.”⁵

But surely there is a difference between hearing the judge and hearing him clearly. I may sullenly sit in the courtroom yet ignore him and refuse to listen. I may hear him clearly, yet deny that he is a judge: “You are no judge, you leather-tongued oracle of the ruling class!” More interesting still, I may both hear him and know that he is a judge, yet deny who he is. The possibility of denying who he is brings us to the question of the atheist.

According to Hittinger, “Budziszewski excludes the atheist from the ranks of those who may authentically exercise conscience.”⁶ I am not sure what he means by excluding them from those who may authentically exercise it. As I have emphasized in many works, atheists have consciences too. It is impossible for a human being not to have a conscience. Moreover the atheist does exercise his conscience. I have never denied it; I insist on it. The atheist’s difficulty is that he cannot explain how conscience can be real and God not.

The crux of the matter is that although the atheist too experiences the force of divine authority when he hears conscience speak, he denies that this is in fact the authority of God. Instead he tries to explain the force of conscience in other ways, all of which ultimately fail. So the atheist who says he recognizes conscience but not God is not just denying a theory; he is also denying a property of his experience. For the judgment of conscience is not only a logical inference. It speaks to us with God’s voice. This his theory will not allow him to admit.

Hittinger says, “Budziszewski believes that an atheist, by denying God, would thus claim that the source of the moral norm is oneself. But not all atheists claim that the source of norm is oneself.”⁷ I agree with Hittinger that not all atheists claim that the source of norm is oneself, and perhaps I might have made that more clear. But let us think about the matter. Two kinds of atheists concede a source of normativity beyond us.

One kind of atheist concedes a *delusional* source, such as selfish genes or inherited compulsions. We care for our children because we are descended from apes, but if we were descended from guppies, we might be more inclined to eat them, and if we think our apish behavior has a deeper meaning, we are mistaken. Thus E. O. Wilson and Daniel Dennett write, “ethics as we understand it is an illusion fobbed off on us by our genes to

get us to co-operate (so that human genes survive). . . . Furthermore the way our biology enforces its ends is by making us think that there is an objective higher code to which we are all subject.”⁸ Robert Wright chimes in, “It’s amazing that a process as amoral and crassly pragmatic as natural selection could design a mental organ that makes us feel as if we’re in touch with higher truths. Truly a shameless ploy.”⁹

With all their talk of nature’s “ploys,” these poor fellows are reasoning in a circle. They say conscience is an illusion which makes us perceive meaning in our acts; yet the perception of meaning would strengthen the motive to perform these acts only if we possessed a preexisting need to perceive meaning, and lost interest in living if we didn’t perceive it. What adaptive value could there possibly be in a need to perceive a meaning that isn’t there? Rather than first producing animals who lose their will to live unless they see what isn’t there, then making them think that they see what isn’t there in doing certain things, why didn’t natural selection simply produce animals who do these things and who need no further motive?

Although it is curious that with their talk of “shameless ploys,” these thinkers continue to speak in moral terms,¹⁰ it seems clear to posit a delusional source of normativity beyond us is not to affirm conscience but to deny it. So far, I think, Hittinger probably agrees. The kind of atheist his remark has in mind is probably a different kind, the kind who concedes a non-delusional source of normativity beyond us—some ultimate source of good and of our power to distinguish good from evil; some object or cause to which we owe unconditional loyalty. Many such sources have been proposed: The Fatherland, the Maximum Leader, and the Aggregate Happiness, to mention but a few.

But what are we to make of such authority? In a fascinating passage very early in the *Summa*, St. Thomas makes the startling suggestion that the human desire for supreme happiness implies a dim and cloudy knowledge of God:

To know that God exists in a general and confused way is implanted in us by nature, inasmuch as God is man’s beatitude. For man naturally desires happiness, and what is naturally desired by man must be naturally known to him. This, however, is not to know absolutely that God exists; just as to know that someone is approaching is not the same as to know that Peter is approaching, even though it is Peter who is approaching; for many there are who imagine that man’s perfect good which is happiness, consists in riches, and others in pleasures, and others in something else.

It seems to me that St. Thomas could have written much the same way about the voice of conscience. I imagine him saying,

To know that God exists in a general and confused way is implanted in us by nature, inasmuch as conscience speaks with transcendent authority. For man experiences the voice of conscience as divine, and what is naturally experienced by man must be naturally known to him. This, however, is not to know absolutely that God exists; just as to know that someone is approaching is not the same as to know that Peter is approaching, even though it is Peter who is approaching; for many there are who imagine that the voice of conscience which speaks with God's authority, consists in the State, and others in the Leader, and others in something else.

So although the kind of atheist Hittinger has in mind denies God explicitly, he affirms Him "in a general and confused way," just by affirming conscience. He may misidentify the transcendent authority whose voice he hears, just as we may think Peter is Paul. Yet, to use the language of the existence proofs, this being we call God.

Thomas Hobbes, no friend to our way of thinking, rightly said that people who fail to see that their premises imply the nonexistence of God are "Atheists by Consequence, and yet they do not all say in their Hearts that there is no God." I would say that the kind of atheists whom Hittinger has in mind are *theists* by Consequence, and yet they do not all say in their hearts that there is a God. Herein lie mysteries I hope we can explore more fully, and I look forward to the continuance of the conversation.

RESPONSE TO MCCORMICK

Let me turn next to Dr. McCormick's discussion of the importance of Divine law even to the pedagogy of natural law. I especially appreciate his defense of speaking about God in the public square (or in this case, to the king). Some would tell us that because natural law can be known by reason alone but that the revealed religion requires faith, we should never speak of religious matters, but only of natural law. Thoughtfully responding to the fact that *On Kingship* explicitly discusses eternal law but at most implies the reality of natural law, McCormick recognizes that the approach which would counsel entire silence about God is entirely mistaken. The question is not whether to speak of revealed truths but when to do so, a matter requiring great sensitivity and discernment.

Traditionally the Church has viewed the doctrine of natural law as one of the *praeambula fidei*, "preambles" of faith, and certainly it is.¹¹ But the Church also teaches that because of the Fall, natural law can be clearly viewed only in the light of salvation history. Shouldn't we then also call faith one of the *praeambula amicitiae cum natura*, "preambles" of friendship with nature? Declarations about natural law address themselves to

“men of good will,” but the gospel came to us “while we were yet sinners.” These two addresses must cooperate.

I should not wish to be misunderstood, for I am far from suggesting that faith is a preamble and the natural law is *not*. What I am suggesting is that the relationship between the two preambles is not one-sided. They co-illuminate each other; each becomes clearer when they are seen together. Nor am I suggesting that dialogue about natural law is futile before all of our dialogue partners have been converted. What I am suggesting is that the dialogue is unlikely to achieve its ends unless we are explicit not only about our philosophy but also about our theology.

How does failure to appreciate the importance of salvation history impede dialogue about natural law? By way of analogy, suppose everyone was born with broken hands, and no one had ever seen an unhurt hand. Hands would still have the purposes given to them by the order of creation, but because the use of the hands to grasp, to gesture, to caress would cause pain, it would be difficult for anatomists to recognize these purposes. Some might even deny that hands do have purposes. Though some of our powers are more broken than others, our case is much the same. If I ask my students the purpose of the respiratory powers, they answer without hesitation, “To take in oxygen”; of the ingestive powers, “To nourish us”; of the visual powers, “To show us the physical world.” But if I ask them the purpose of the sexual powers, they become confused. By far the greatest number reply “To give pleasure,” ignoring the fact that the exercise of every voluntary power is pleasurable, and if the production of pleasure were the criterion of function, then the purpose of breathing, eating, and seeing would be pleasure too. The immanent intelligibility of sex is so obscured by concupiscence that we imagine concupiscence to be its intelligibility.

And there is more. Failure to acknowledge that we are made for a supernatural good that transcends our natural powers does not wipe out the longing for that good; it only makes us hopeless. Failure to recognize our fallen condition and the possibility of redemption does not wipe out the misery of brokenness; it only produces despair. Finally, when the Godward impulse is denied, it turns elsewhere; when Christian eschatology is denied, rather than evaporating, it spills. We come to pay divine honors to what is not divine—perhaps to the state itself, perhaps to something else. The paradox is that not all of the questions that vex dialogue about natural law are contained within natural law. On the one hand, the truth of natural law can be grasped by every person of good will; on the other hand, its contours will seem cloudy apart from the light of grace, and the stirrings it awakens may madden us. About problems like this, we scarcely yet know what to do, and McCormick’s reflections are very welcome.

Some of McCormick's most intriguing reflections are side observations. He says politics is the realm "in which man is most proud," "that activity in which man's self-understanding can ossify into ideology [and] false metaphysics."¹² My first thought was that pride is just as great a temptation for captains of industry as for captains of state. But perhaps just insofar as great industry usurps the ordering function of law, the activity of captains of industry is political. Again, my first thought was that political activity is not unique in provoking false ideologies and metaphysics, for consider today's false ideologies and metaphysics of sex. But perhaps one of the reasons why sex does occasion false ideologies and metaphysics, rather than just ordinary sins of lust, is that in our time, the state lends these ideologies its force. I would like to hear more.

The paper McCormick prepared for the panel on which this symposium is based included the striking remark that if the tyrant wants honor and glory, "he must go to extraordinary lengths to *simulate* the experience of his subjects granting him such things."¹³ For reasons of length, he deleted this remark from the version of his remarks in the symposium itself. However, since McCormick assures me that he has not changed the view that it expresses, I feel free to comment on it briefly. I wonder whether what McCormick has in mind is something like St. Augustine's claim in the *Confessions* that all who separate from God do but imitate him in a perverse way.¹⁴

They seek to be exalted, says Augustine, but God alone is exalted over all. They desire glory, but God alone is glorious forever. They seek to possess many things, but God possesses all things. They seek to be feared, but no one is more awesome in judgment than He. They seek love in lustful caresses, but nothing is more lovable than He, and nothing more caressing than His charity. They crave knowledge, but he knows everything. Even their ignorance puts on airs, pretending to be noble simplicity, but nothing is more single than He. Just by imitating Him, he concludes, they confess that He has created everything, and that He cannot be escaped.

Theologians have often discussed this passage in the context of the psychology of the fallen soul. However, political philosophers have not often commented on it in the more particular context of the psychology of the fallen ruler.

RESPONSE TO STUART

I enjoyed Dr. Stuart's expert flaying of the *Consensus Statement's* manifold incoherences. Reading it was like watching a demonstration of how to lance a dangerous boil. The *Statement's* confused sentence, "Healthcare practitioners' primary obligations are towards their patients, *not toward*

their own personal conscience”—expressing what Stuart calls “a moral duty to act against one’s understanding of one’s moral duty”¹⁵—reminds me of an incident in teaching. When I asked some of my graduate students to discuss the movie *Sophie’s Choice*, one of them said it would have been “selfish” for Sophie to refuse the Nazi guard’s demand to choose which of her children he should murder in exchange for letting the other one live. Why? Because, he said, she should have been willing to “sacrifice” herself—by which he meant to *set her petty conscience aside*.

It took me some time to realize that my student considered his own conscience as an expression of true moral duty—but considered consciences *other than his own* as mere fetishes or preferences, on a par with “I am not the sort of person who skips bathing.” This, it seems to me, is exactly the attitude taken by the authors of the *Consensus Statement*. Of course, it would have been perfectly legitimate for the authors to explain why they thought the moral judgments of their opponents mistaken. Unfortunately, that is not what the *Consensus Statement* does. Without argument, it simply *asserts* a moral duty to give the patient anything he wants, even abortion. Rather than taking up the problem of formal cooperation in evil, it suppresses it. One is *not to judge* whether abortion is evil.

Behind this facade of non-judgmentalism, what the authors of the *Consensus Statement* are really doing is making judgments about what may be done, and with the force of the state, they are cramming these judgments down the throats of other citizens by pretending that they are *not* judgments, but suspensions of judgment. Suppose they really were suspending judgment; then they could not assert any duty on the part of the physician. Alternatively, suppose they admitted to making judgments about the duty of the physician, and claimed to suspend judgment only about the morality of what the patient wants. Really? In that case, if the physician must assist in killing the patient’s unborn child, he must also assist in the killing of a born one.¹⁶ In fact, he must assist in the killing of the patient’s eight-year old. Or his wife, his previous physician, or his political opponents. One suspects that at some point even the authors of the *Consensus Statement* would balk, for if asked, the physician would even have to assist in killing *them*. It would be most surprising were the authors ready to face the anarchic consequences of their incoherent premises.

However, Stuart does not quite engage the issue of conscientious exemption, and I would welcome hearing more from him about this. Suppose someone claimed a right of conscience to seize children from their parents, just because he was convinced he would do a better job raising them than their parents would. One of my students once claimed such a right, although he did not act on it. Suppose he had acted on it. May the

state interfere with such a bully? Of course. The duty to follow the certain judgment of conscience does not generate a right to do wrong. The wrong in this case is interfering with the rights of the parents in the light of the natural law.

Now suppose that instead of *protecting* the parents, the state itself is the one interfering with them, for instance by trying to prevent them from raising their children with a Catholic view of marriage. The state would be right to say there is no right to do wrong—but *it would be wrong about what is right*. Too often, we have imagined that we can defend ourselves against such aggression by pleading liberty of conscience. The difficulty is that the aggressors also plead liberty of conscience. They say that the demands of their consciences are right, and the demands of our consciences are wrong. One cannot decide *between* claims of conscience just by pleading a claim of conscience.

There is no *neutral* way out of this conundrum. The proper liberty of conscience can be marked out only in the light of what is true. Therefore we must do more than ask the state to cut our consciences some slack. We must be more than supplicants; we must be witnesses. We are used to the duty of witnessing to the order of grace, but in the times that are upon us, we must even be witnesses to the order of creation. Even those matters of natural law that it is *impossible not to know* are now roundly denied. As G. K. Chesterton wrote in one of his great bursts of eloquent paradox,

Everything will be denied. Everything will become a creed. It is a reasonable position to deny the stones in the street; it will be a religious dogma to assert them. It is a rational thesis that we are all in a dream; it will be a mystical sanity to say that we are all awake. Fires will be kindled to testify that two and two make four. Swords will be drawn to prove that leaves are green in summer. We shall be left defending, not only the incredible virtues and sanities of mental life, but something more incredible still, this huge impossible universe which stares us in the face. We shall fight for visible prodigies as if they were invisible. We shall look on the impossible grass and the skies with a strange courage. We shall be of those who have seen and yet have believed.¹⁷

I think we had better be ready.

RESPONSE TO WRIGHT

Professor Wright intriguingly remarks that for those most in love with modernity, love of country seems obsolete. I am reminded of a young European who was baffled when a reporter asked him whether he was patriotic. Finally he pointed to himself and declared, “world man.” C. S. Lewis considered such attitudes a form of angelism, the heresy that denies body-

soul unity and claims that our bodies are merely containers for our souls. Near the conclusion of the first book Lewis wrote after his conversion, his main character cries,

“Out little spear that stabs! I, fool, believed
I had outgrown the local, unique sting,
I had transmuted wholly (I was deceived)
Into Love universal the lov’d thing

“But Thou, Lord, surely knewest thine own plan
When the angelic indifferences with no bar
Universally loved, but Thou gav’st man
The tether and pang of the particular,

“Which, like a chemic drop, infinitesimal,
Plashed into pure water, changing the whole,
Embodies and embitters and turns all
Spirit’s sweet water into astringent soul,

“That we, though small, might quiver with fire’s same
Substantial form as Thou—not reflect merely
Like lunar angels back to Thee cold flame.
Gods are we, Thou hast said; and we pay dearly.”¹⁸

All the biblical images of God’s love are particular: The husband, the wife, the Father, the Son, the friend, even the hen guarding her particular chicks. God does not love *all* at once, but *each* at once. To Him we are not a mass, but a multitude of individually treasured children. He is the *universal* particularist.

Universal particularism is a theme of the classical natural law tradition too. We often forget, because of the false universalism of Enlightenment natural right theories, for which God was at best an *absent* father, impersonal and disengaged. Forget them.

Wright points out two ways to miss the mark. One is to suppress the universal for the particular: For the sake of my neighborhood, I step on the others. The other way is to suppress the particular for the universal: For the sake of all neighborhoods, I mow them all down. But I would like to continue this conversation, because it seems to me that the problem is not just to strike the mean, but to avoid *pretended* strikings of it. Consider multi-culturalism, which pretends to love diversity but enforces a gray ideological sameness.

The principle which does strike the mean is *subsidiarity*, which is the best-kept secret of Catholic social doctrine. It is also one of the main features of our human social nature, along with interdependence, complementarity, and spontaneous order.

Interdependency means although the species is constituted by individual persons, we are not self-sufficient. We depend on each other physically, intellectually, morally, politically, procreatively, developmentally, and even for our own identity, for each understands who he is *in part* through understanding how others see him and in relation to the group.

Complementarity means that our differences are precisely what enable us to unite and work together. This fact is most conspicuously true in the natural difference between the sexes, which is the basis for the division of roles in the family. Short of a divine provision for people called to celibacy, there is something missing in the man that must be provided by the woman, and something missing in the woman that must be provided by the man.

Spontaneous order means that some aspects of human relationship take place without superintendence. We *naturally* form a rich array of associations such as marriages, neighborhoods, villages, businesses, vocational groups, religious societies, and schools. Although the little platoons are varied and diverse, one of them is ubiquitous and fundamental: the family, based on the enduring conjugal partnership of the husband and wife. Indeed it seems to be the seed from which the others sprout. No one invented the family, no one is indifferent to it, and there was never a time in human history when it did not exist. Even when disordered, it persists. The political community is not a primary association like the family, but a secondary association—an association of associations, a partnership of partnerships. Only violence or strong ideology can abolish the family, and only small societies have even tried to abolish it; those which do try always fail or else retreat gradually from their aims.

Finally, subsidiarity. First notice that from the individual and the family at the base of the social order rise a hierarchy of associations, ascending through neighborhoods and all the other little platoons right on up to those institutions for public justice that we call government. The higher rungs are as necessary to the common good as the lower; however, the higher up the ladder we go, the less spontaneous their order, and the greater the need for contrivance. There is a risk, for although the higher rungs of the ladder of associations *ought* to protect and cooperate with the more spontaneous lower rungs, nevertheless, just because they are less spontaneous, they may not. Subsidiarity, then, is the requirement that the higher rungs should be permitted to supply only those aspects of the common good that the lower rungs cannot. As Pius XI wrote in 1931, “every social activity ought of its very nature to furnish help [*subsidium*] to the members of the body social, and never destroy and absorb them.”¹⁹

One of the greatest challenges facing Catholic social doctrine in our day is that subsidiarity is not self-interpreting. I was surprised some years ago when during conversation, a visiting European Union official mentioned subsidiarity as an EU principle; this I had not heard. He, in turn, was astonished—and I think a little incredulous—to hear from me that the principle originated before there was an EU, in the social doctrine of the Church. But he seemed to think of subsidiarity as a mere formality that had to be satisfied before the state swallowed up another function formerly carried out by other institutions such as families. Needless to say, in this country the administrative state is equally blasé. “We are not destroying or absorbing them, we are helping them,” say our bureaucrats, as they interfere with their authority and deprive them of anything to do. By helping, they *mean* destroying or absorbing them. The lesson, I think, is that a healthy understanding of subsidiarity is impossible in abstraction from the rest of the natural law; there is no easy road to sanity.

RESPONSE TO DEHART

Professor DeHart and I agree about most things. For example we agree that natural law requires a divine lawmaker; we agree in rejecting the view that oughtness depends only on God’s will and not His goodness; and we agree in rejecting the view that His will is irrelevant.

The question he asks is *why* natural law requires a lawmaker. Such as it is, my short answer is that nature is not itself a mind. So, to speak of impossibilities, even if nature could exist without having been spoken into being by intelligence, she would be arbitrary and meaningless, conveying not laws but only urges. Let me unpack that. Of His goodness, without having to do so, God willed into being just those finite, created natures that He freely chose to create. As the source of such goodness as they possess, He is the source of natural law. Any finite good pursued in a manner different than He has ordained *just by making us* ceases to be good *for us*: For example, conjugal love turns inward and sours if we pursue it with indifference to children. Moreover, finite goods leave us restless; we must place them in right relation with the infinite Good, Who lulls all desire. It is not enough even to try to love my neighbor. I must love my neighbor *for His sake*.

DeHart thoughtfully reminds me of my comment about the remark of the early modern Dutch legal philosopher Hugo Grotius that even if there were no God (as Grotius conceded that it would be impious to believe), the natural law would still have a kind of force. What seems to impress most people who read this remark is that Grotius thinks it *would* have a kind of force. More interesting to me is his qualifier: it would have a *kind*

of force. The suggestion is that it would not have the kind of force that it would have if God were real. I take him to mean that although a godless natural law would lose the force of “oughtness,” it would retain the lower force of prudence. But I am not convinced that this view is coherent, for it overlooks the fact that true prudence takes into account the relation of lower goods to our ultimate and final good, which cannot be found among merely natural goods, but only in the vision of God.

I would like to hear more about DeHart’s suggestion that oughtness depends not just on what is good *but also* on what God commands. I understand one of DeHart’s pivotal reasons for this *goodness-plus* hypothesis, as I call it, to be that not every finite good is obligatory. For instance, I don’t have to send my friend a postcard while I am on vacation. But does anyone think I do? Indeed, with finite means it would be impossible for me to accomplish every finite good. The question is not whether I have to, but why I *don’t* have to. DeHart thinks the reason is that goodness is not enough for oughtness. I think the reason is more likely to be that oughtness depends not just on the fact that something is good, but on the *structure* of that good and on its relations to *other* goods, right up to God, who is my ultimate and final good.

Again, DeHart thinks it is not enough that something is good for me for it to be my duty to seek it; for even my own good to be obligatory, I must be commanded to seek it. This statement may be taken in two ways. Taken in one way, it seems to me incorrect. The fact that something is good for me is reason enough to seek it; as St. Thomas holds, good is “that which all things seek after.”²⁰ True, I may fail to seek my true good, but only because I am seeking some mistaken thing under the illusion that it is my true good. True too, I may fail to seek my true good as ardently as I should, but this is possible only if, overcome by the drag of *tristitia*, or sadness, I place too high a value on the good of rest—not realizing that the true experience of rest is possible only in the embrace of my true good, which is God. For these reasons, a command to seek the good may serve as a reminder to seek the true good rather than the false and, as an encouragement to persevere, but I do not have to be commanded to seek the good *per se*. Even those who do evil, do so only because they think it is good.

Taking the statement another way, we could say that indeed I must be commanded to seek good, but the command is implicit in how I have been made—I do not require *another* command. I have been commanded to seek the good just by the manner of my making—to have been created with certain natural inclinations simply is to have been put under the necessity of seeking certain things as good. It might be objected that God, having deemed natural law insufficient, provided Divine law, with its ver-

bal commands, alongside it. Yes, natural law is insufficient, but attend to the reason. It is not insufficient because it does not truly obligate. Its chief insufficiency lies in the fact that man is directed not only to natural good, about which God-given natural reason can direct us, but also to a supernatural good, about which God must instruct us directly because it lies beyond our natural powers.²¹ Since none of the goods of the created order lull all desire, natural reason alone can tell us that there must be some good beyond created order, and it might even leap to the intuition that this lies in union with the Creator. But it cannot be sure, and it cannot tell how friendship with Him might be restored.

How these views should be classified might be debated. But whatever slight differences we may have, DeHart and I are in deep agreement that natural law requires the obedience of love. St. Thomas rightly says that apart from the impairment of the Fall, we love God even more than ourselves. Why then should I not find my greatest fulfillment in setting aside my fulfillment to seek Him? What lover has not known the delight of doing something just because the beloved asked? What child has not begged Daddy to give him a job to do, just so he could do it for Daddy? If even the commands of men can be gifts and boons, then why not still more the commands of God?

Well. As the sage of Ecclesiastes almost said, “Of the making of symposia there is no end, and reading the remarks of a long-winded respondent is a weariness of the flesh.” So let us make an end.

Notes

1. *Commentary on Thomas Aquinas's Treatise on Law* (Cambridge: Cambridge University Press, 2014), 386.

2. Care is needed here because “piety” is *not only* the name of one of the gifts of the Holy Spirit, *but also* the name of a natural virtue, linked, like religion, with justice. Taken in the latter sense, it is the virtue which disposes us to reverence father, mother, kin and country. The reason St. Thomas uses the term “piety” in two such different ways, one spiritual, one not, is that from a Christian point of view they bear a certain analogy: After all, the virtue of filial piety includes reverence toward our fathers, and among other things the spiritual gift of piety moves us to adore God Himself as our Father. I discuss this further in *Commentary on Thomas Aquinas's Virtue Ethics* (Cambridge University Press, forthcoming).

3. *Companion to the Commentary* (Cambridge: Cambridge University Press, 2014), available for free online at http://www.cambridge.org/download_file/862440.

4. Romans 13:2 (RSV-CE); emphasis added.

5. John P. Hittinger, “Budziszewski on Natural Law, Conscience, and Atheism,” *Catholic Social Science Review* 22 (2017): 3–13, 9.

6. Ibid., 7.
7. Ibid., 8.
8. Michael Ruse and E. O. Wilson, "The Evolution of Ethics," *New Scientist* 108(1478) (October 17, 1985), 51–52.
9. Robert Wright, *The Moral Animal: The New Science of Evolutionary Psychology* (New York: Random House, 1994), 212.
10. The very idiom Wright chooses in order to tell that nature is devoid of purpose and that moral judgments are meaningless insinuates, at another level, that nature is full of wily purposes and rules in a morally base fashion.
11. The next few paragraphs are adapted from my article "Diplomacy and Theology in the Dialogue on Universal Ethics," part of a symposium on the International Theological Commission's statement, "The Search for Universal Ethics: A New Look at Natural Law," *Nova et Vetera*, English Edition, 9(3) (2011): 707–735.
12. William McCormick, S.J., "Budziszewski on the Natural Law as a "Sign of Contradiction," *Catholic Social Science Review* 22 (2017): 15–25, 17–18.
13. Emphasis added.
14. St. Augustine of Hippo, *Confessions*, 2nd edition, trans. F. J. Sheed (Indianapolis: Hackett, 2006), book 1, chap. 6.
15. Kevin E. Stuart, "A Dark Coast: An Application of Conscience in Contemporary Ethics," *Catholic Social Science Review* 22 (2017): 27–37, 35.
16. Many do defend this practice, called in the medical ethics literature "after-birth abortion." See, for example, Alberto Giubilini and Francesca Minerva, "After-Birth Abortion: Why Should the Baby Live?," *Journal of Medical Ethics* 39(5) (2013): 261–263, published online February 23, 2012, at <http://jme.bmj.com/content/early/2012/03/01/medethics-2011-100411.full>.
17. G. K. Chesterton, *Heretics* (New York: John Lane Co., 1905), chap. 20, pp. 304–305.
18. C. S. Lewis, *The Pilgrim's Regress*, chap. 10.
19. Pius XI, *Quadragesimo Anno* (English title: "On Reconstruction of the Social Order"), May 15, 1931, section 79.
20. *Summa Theologiae*, I-II, Q. 94, Art. 2.
21. *Summa Theologiae*, I-II, Q. 91, Art. 4.