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## **Divine Command Theory in Early Franciscan Thought: A Response to the Autonomy Objection**

**Abstract:** In recent years, many scholars have bemoaned the gradual demise of traditional virtue ethics, and its eventual replacement in the later Middle Ages by divine command theory. Where virtue ethics nurtures a capacity for spontaneous moral judgment, this theory turns on adherence to ordained duties and laws. Thus, virtue ethicists among others have tended to object to the theory on the grounds that it undermines the role of the moral agent in moral adjudication. In this paper, by contrast, I will argue that there is a way of construing divine command theory, which is not susceptible to this critique. To this end, I will turn to the work of first-generation Franciscan scholars, who affirmed the necessity of human understanding of divine commands and the complete freedom of the will to observe them.

**Keywords:** Divine Command Theory, Virtue Ethics, Thomas Aquinas, Franciscans, Gospel, Faith, Natural Law, Eternal Law, Mosaic Law

In recent years, many scholars – and Alasdair MacIntyre most famously – have bemoaned the gradual demise and eventual obliteration of the traditional ethic of virtue which prevailed in some form for much of the pre-modern period.<sup>1</sup> This ethic assists adherents in cultivating a personal moral disposition that makes it possible to act virtuously in a wide range of unpredictable circumstances. As recent research has shown, virtue ethics was quickly supplanted in the later middle ages by an alternative, namely, divine command theory, which received mature formulation in the work of thirteenth-century Franciscan scholars such as William of Ockham.<sup>2</sup>

As the name suggests, divine command theory turns on adherence to divinely-ordained duties and laws, where virtue ethics nurtures a capacity for spontaneous moral judgment. After gaining considerable momentum in the early modern period, a counterpart to this theory eventually emerged in the secular context in the form of deontology or duty ethics. In spite of its popularity, divine command theory has often been debated and subjected to diverse critiques. One of the most persistent critiques to be mounted against the theory, especially from the camp of virtue ethicists, concerns its apparent failure to affirm the role of the moral agent in moral adjudication.

According to many versions of divine command theory, after all, morality is mainly a matter of following arbitrary regulations, which are based on an unknown rationale and must therefore be accepted on blind faith, absent an element of personal decision or desire. Although this so-called ‘autonomy objection’<sup>3</sup> has been described by some as fatal for divine command theory, insofar as it queries the agency of the moral agent, I will endeavor in this paper to elucidate a way of construing the theory which is not susceptible to this critique. To this end, I will turn to what may seem at face value like the most unlikely of sources, namely, the work of first-generation Franciscan scholars, who flourished nearly a century before Ockham.<sup>4</sup>

In keeping with the tradition they themselves founded, these thinkers regarded God’s commands—administered initially through the Mosaic Law and subsequently through the Law of the Gospel—as the arbiters of the Christian moral life. As I will demonstrate, however, the early Franciscans did not interpret such divine laws or

commands as arbitrary rulings. Rather, they described the commands as fully intelligible in terms of the natural law that is innately known to all human beings. For such Franciscans, this law simultaneously engrains in human minds the eternal law of God that is expressed in the Law of Moses and in the Gospel.

By thus providing the rationale behind the divine commands, the natural law leaves no room to doubt that human beings both can and ought to contemplate the correctness of a course of action for themselves. Furthermore, it places the onus on the moral agent to deliberate and choose of their own accord to obey or disobey God's commands. For these reasons, clearly, the emergence of the problems noted by the autonomy objection cannot necessarily be attributed to the triumph of divine command theory over virtue ethics. Those problems may simply result from the displacement of a cognitively accessible rationale for the law of God in some later divine command theories.

Granted, early Franciscans offer a very different account of moral agency than virtue ethicists—one which involves observing divine commands rather than cultivating moral virtues. Nonetheless, they affirm most emphatically the crucial and informed role the moral being must play in exercising moral judgment. As such, I would argue, their divine command theory represents a viable counterpart to virtue ethics in the field of Christian ethics, at least in regard to the question of autonomy.

In order to make this case, I will assess the tractate on law that can be found in the so-called *Summa Halensis*. Although this Summa is named for Alexander of Hales (c. 1185-1245), who oversaw its composition, other key Franciscans undoubtedly contributed to its completion.<sup>5</sup> Indeed, the Summa represents a collaborative effort on the part of the early Franciscan school to articulate theological, philosophical, and moral principles based upon the vision and values of St Francis of Assisi for the very first time.

As one of the first great theological syntheses not only of the Franciscan school but also of the period more generally, the *Summa Halensis* was mostly completed between 1236-45, just eight years after Francis' death, and twenty years before Thomas Aquinas even set his hand to the task of authoring his own *Summa Theologiae*. Thus, it laid the foundation both for the further development of the Franciscan intellectual tradition and for systematic theology as a discipline.<sup>6</sup>

Whereas the precise author of different sections of the Summa is sometimes difficult to determine, scholarship has succeeded in establishing firmly that John of La Rochelle was the author of the treatise on law, large swaths of which simply reproduce his personal writings.<sup>7</sup> In order to throw the distinctiveness of his Franciscan approach to Christian ethics into relief, I will begin with a brief comparison of the Summa's structure and content to the more familiar text of Aquinas' Summa, which offers the most mature and well-known statement of Christian virtue ethics.

### The *Summa Halensis* vs. the *Summa Theologiae*

Similar to Aquinas' Summa, the Franciscan Summa, as I will call it, is divided into three main parts, where the second part is itself divided into first and second parts. However, the similarities between the two texts largely end there. For while Part I of Aquinas' Summa treats God, creation, angels, and humanity, the Franciscan Summa deals only with the doctrine of God. Part 2.1 of Aquinas' Summa discusses the human end, acts, passions, habits, vice and sin, law and grace—or matters preliminary to virtue

ethics--before dealing with the three theological and four cardinal virtues in Part 2.2. By contrast, the Franciscan *Summa* covers creation, angels, and humanity in Part 2.1 and provides an extensive catalogue of types of evil and sin in Part 2.2. The table of contents alone for this section alone runs over 25 pages.

In order to capture the level of detail to which the Summists resort in discussing sin, it is worth rehearsing some of the principal topics addressed in Part 2.2, which contains three main sections, namely, on evil, on sin, and on particular species of sin. The latter section contains headings on ‘venial and mortal sins’, ‘sins of omission and commission’, sins of the heart, speech, and action’, ‘the seven capital vices’, ‘sins of infirmity, ignorance, and purpose’, ‘sins of fear and love’, ‘the sin of concupiscence’, and ‘sins against God, neighbours, and the self’. In these sections, the Summists provide a lengthy catalogue of sins, which is to my knowledge unmatched in literature from this period.<sup>8</sup> Aquinas’ brief segment on ‘vice and sin’ in his own *Summa* is certainly no comparison.

In Part 3 of the *Summa Theologiae*, finally, Aquinas covers the Incarnation and sacraments, whereas the Franciscan *Summa* describes the Incarnation, the divine laws that are designed to counteract sin—and their fulfilment in the gospel—as well as grace and faith. Though there are many more differences between the two texts than the basic ones mentioned above, even these are striking and clearly testify to very different theological and moral perspectives and priorities. As scholars have observed, for instance, Aquinas devoted an extraordinary level of attention to his discussion of moral virtue, giving it a more central place in his theological scheme than any thinker prior to this time, with two whole parts of his four-part work covering matters preliminary to virtue ethics and the virtues themselves, respectively.<sup>9</sup>

By contrast, the early Franciscans commit a seemingly disproportionate amount of space to the extremely detailed enumeration of both human sins and the divine laws that have been administered to curb them. In this regard, they certainly were not alone. Many scholars of the period devoted considerable attention to the Ten Commandments, particularly after the Fourth Lateran Council of 1215 declared knowledge of the Decalogue, along with the creed and the Pater Noster, essential for all Christian persons, as part of a larger effort to reform both morals and orthodox beliefs which were being compromised at the time. In the wake of this development, a wave of literature on the Decalogue was produced, not least as a basis for preparing sermons.<sup>1</sup>

Nevertheless, John’s treatment, and that of his Franciscan contemporaries, is too extensive to be considered unexceptionable.<sup>10</sup> Thus, one might suppose that the Franciscans had particular reasons, to do with their unique ethos as a religious order, for emphasizing divine commands, reasons which space does not permit us to explore here. On account of this emphasis, the reader is hard pressed to find many references to the cardinal moral virtues, and discussion of the theological virtues is sparse and far from central. The only exception in this regard is the virtue of faith, which receives detailed coverage in a Part 3 treatise on ‘grace and faith’, which follows the treatise on divine laws—and in specific, the Ten Commandments and their relationship to the Gospel—and which closes the whole of the *Summa Halensis*.

For his part, in contrast, I have mentioned that Aquinas addressed the questions of grace and faith at the end and at the beginning of his Parts 2.1 and 2.2, respectively, covering the Old and New Laws only cursorily prior to his discussion of grace. Although

Aquinas treats some of the same key theological topics as the Summists, such as grace, faith, and the law, consequently, the context in and extent to which he does so speaks volumes regarding the theological differences between them. As I have noted, Aquinas treats law and grace at the end of a section on preliminary matters pertaining to moral virtue. In his account, therefore, the law—whether divine or natural—is not incompatible with virtue. On the contrary, the law requires that human beings strive for the highest good, or what is best, and thus bear their lives and resources to the best of their abilities. Yet that is precisely what the virtues he subsequently discusses apparently make it possible to do.<sup>11</sup>

When he discusses the Old (Mosaic) Law explicitly, Aquinas goes so far as to state that the whole purpose of that Law was to prescribe and make it possible to exhibit moral virtue.<sup>12</sup> As the grace dispensed through Christ now performs this function, at least in those who receive grace through faith, working through the other theological virtues of hope and love, that law is no longer needed. That is not to say that it has been abolished. On this score, Aquinas notes that the Law of the Gospel contains the Old Law, precisely because it nurtures automatically the virtues that inhibit the transgression of the Law.<sup>13</sup> For that very reason, however, he concludes that the Old Law has been rendered obsolete in practice, even though it remains theoretically valid.

For the Franciscan Summists, by contrast, law, grace, and faith are not preliminaries or conditions for the possibility of moral virtue, as they are for Aquinas. Rather, the law represents the whole substance of early Franciscan moral theology, where grace and faith respectively represent the divine and human contributions that render the fulfilment of the law possible. Thus, grace performs a very different function in Franciscan thought than it does in that of Aquinas. In his work, I have hinted, grace sets us up to fulfil the law—which is simply to do whatever is morally appropriate in the circumstances.

Because the circumstances vary radically depending on who is acting, towards whom, when, why, where, and how, and what the relevant action entails, however, determining how to act rightly in various circumstances requires spontaneous judgement and thus a remarkable level of adaptability, which is made possible by moral virtue.<sup>14</sup> Whatever the value of human laws and duties—which Aquinas by no means foresees—they are no substitute for the necessary involvement of the moral agent who must decide what laws or rules even apply in any given case, and that agent's will to act according to duty. In that sense, the grace that supports the faith that enacts the theological virtues, which motivate moral virtue in ideal circumstances, is bound to have quite diverse and even highly individual ramifications.

Indeed, grace is operative anywhere anyone operates in the best interests of themselves and others. Thus, it is active variously depending on who is acting and what action is involved. For the early Franciscans, by contrast, the function of grace is univocal: grace makes it possible for those with faith to fulfil the Mosaic Law. Where Aquinas spent hundreds of pages discussing the virtues, consequently, the early Franciscan Summists designate a 500-page section of their Summa to commenting on the nature and implications of the Mosaic Law. Thus it remains to examine more closely the Franciscan account of this Law, its fulfilment by the Gospel, its relationship to eternal and natural law, and ultimately, to the faith that is enlivened by grace.

## Mosaic Law and the Law of the Gospel in the *Summa Halensis*

In keeping with biblical and historical tradition, John of La Rochelle recognized three components of the Mosaic Law, as outlined in the Torah: the judicial and ceremonial precepts and the moral precepts provided in the Ten Commandments. Over half of John's section on the Mosaic Law is devoted to considering these Commandments, which are themselves spread across two tablets. In accordance with a longstanding tradition of dividing the commands which traces to Augustine, the first three commandments belong on the first tablet and order the human soul to God, while the latter seven are listed on the second and order inter-personal relations.<sup>15</sup>

On John's argument, the 'ceremonial precepts depend on the mandates of the first tablet, which were all given to enable the worship of God and to keep human beings from idolatry'<sup>16</sup>, whereas the judicial precepts were given 'for the purpose of preserving peace with others, and thus depend on the moral principles of the second tablet'.<sup>17</sup> As John observes, however, these precepts are no longer necessary after Christ, who has provided conclusive justification for sin, that is, the failure to observe God's law, for which the ceremonial and judicial laws formerly provided merely provisional compensation.<sup>18</sup>

While it would be interesting to evaluate John's account of each divine command in detail, that inquiry would take us far beyond the scope of the present project. In this regard, it suffices to note that where preceding thinkers—following Origen—had tended to interpret the Decalogue exclusively in terms of what medieval thinkers described as the 'spiritual sense' of the text, that is, with regard to its allegorical, moral, or eschatological implications, John worked under the influence of an earlier contemporary, William of Auxerre (d. 1231), who had insisted on a completely literal reading of the commands.

Although 'William's analysis was too unusual to be wholly accepted, it was influential for both John of La Rochelle and Thomas Aquinas. John could not agree that every precept had a literal meaning, but he was prepared to admit that most of them did, and all were certainly comprehensible and thus observable in a spiritual sense.'<sup>19</sup> The combination of a literal and spiritual reading of the Commands presumably made it possible theoretically to counteract all the specific sins enumerated in Part 2.1 of the *Summa*. Thus, it remains to consider how early Franciscans like John perceived the role of those laws in combatting sin in the current dispensation, that is, in an order which is privy to the revelation of the Incarnate Son.

Needless to say, both Scripture and the Christian tradition teach that the Law of Moses was not abolished but fulfilled by the Gospel of Christ.<sup>20</sup> Yet there are different ways of understanding what this teaching means. In Reformation theology particularly, the debate about the relationship between the Law and the Gospel became a matter of some significance. Following John Calvin, the Reformed tradition has tended to acknowledge three uses of the Law.<sup>21</sup> The first is the political or civil use, in which the Law is regarded as the means by which God has generally revealed principles by which believing as well as unbelieving individuals should live. The second is the pedagogical use, in which the Law makes us aware of our transgressions and points us to Christ. The third is the didactic use, exclusively reserved for believers, whereby the Law continues to instruct us in the way we should live, even though it cannot condemn us any longer.

Whereas the Lutheran tradition generally affirms the first two uses of the Law, many strands of this tradition have perceived the danger of a ‘works-based’ salvation lurking in the so-called ‘third use of the law’. The Catholic tradition, as represented by Aquinas, certainly acknowledges the significance of the Decalogue and assumes a literal reading of it as the basis for moral theology.<sup>22</sup> Yet it moves relatively quickly from this foundation to a spiritual reading of the commandments as means of cultivating the theological and moral virtues.<sup>23</sup> Thus, there is disagreement when it comes to determining what it means to affirm that the Law is fulfilled, though not completely abolished, by the Gospel, and it is vital in any instance to investigate how exactly a particular school of thought construes the relationship between the two.

The early Franciscan focus on divine commands gives us reason to believe that the Gospel in this context is interpreted as that which literally enables believers to fulfil those commands in all their specificity, and thus to avoid committing any of a long list of sins. In Franciscan thought, in other words, there is already something like a ‘third use of the Law’. This claim is actually made explicitly in the very first chapter of the treatise on Mosaic Law, which considers ‘the uses of the law’.<sup>24</sup> There, John writes that ‘the law of Moses functions according to three reasons, by divine dispensation’.<sup>25</sup>

First, the law was given in support of the natural law. Because there are seeds of justice in human nature, he elaborates, the Law was added by divine mercy, such that by its authority and teaching, the natural human proficiency for justice might bear fruit in just acts. In that sense, he argues, the natural law is included in the law of Moses, which renders that law explicit. Secondly, the law was given to restrain sin. In other words, it was given to teach humanity what sin is and to deter us from it. Thirdly, the law was given in anticipation (*ad figurandam*) of the law of grace and to direct us towards it: it served as a sign of what it signified.<sup>26</sup>

In that sense, John contends, the moral content of the law does not differ from that of the gospel. That is to say, the Law of the Gospel does not add new precepts to the Decalogue.<sup>27</sup> It only secures the justification that comes from obeying the Ten Commandments in a different way, namely, through Christ rather than through the observance of ceremonial and judicial precepts. Thus, the law of Moses is included in the Gospel just as fully as—we will see—the natural law is included in the Law of Moses itself.

This point is further substantiated in the Summa’s treatise on ‘The Law of the Gospel’ (*de lege evangelica*), which follows the treatise on Mosaic Law. In this context, John makes his view of the relationship between the two laws manifestly clear in bolstering the contention that the ‘law of the gospel and the law of Moses are one law in terms of their universal reason and diverse only in terms of their proper reasons’.<sup>28</sup> As he goes on to explain, a universal or common reason can either pertain to the source/cause or goal/end or to the sense of the law. The source is the same in the case of both laws because ‘one God is the universal legislator of both the law and the gospel’.

Moreover, the end of both laws is the same, namely, Christ, who perfects rather than destroys the law (*finis perficiens, non interficiens*) in the sense that he makes it possible actually to do those things the law imposes a duty to do.<sup>29</sup> Finally, the laws share a single sense because there is one universal truth, which, while expressed differently at different times, carries the same connotations.<sup>30</sup> Nevertheless, the Summist acknowledges that the two laws differ in these three respects in terms of their proper reasons. As regards

its source, for instance, the Mosaic law was given purely through humankind, while the gospel came through Christ.<sup>31</sup> With respect to ends, the Law serves to deter us from evil through fear, while the gospel motivates us to do good through love.<sup>32</sup> As regards senses, the laws differ in that the first is true in form, and the gospel is true in substance, and this insofar as it is ordered to the form.<sup>33</sup>

On these grounds, the Summist sums up that the law of Moses and of the Gospel are one law in universal terms, and only differ in specific terms because the former was given to carnal people, the latter to spiritual ones, the former to children, and the latter to the mature.<sup>34</sup> Since these ‘proper’ differences do not make for a substantial difference between the two laws, however, those laws do not differ as contraries but only as entities which cannot be compared in terms of their proper reasons.<sup>35</sup> In order to understand why this is so, we must turn to John’s writings on the eternal and divine law, which precede the treatises on Mosaic law and the gospel.

### Eternal and Natural Law in the *Summa Halensis*

As recent scholarship has established, John of La Rochelle was the first theologian systematically to develop an account of the eternal law that exists above our minds, in the mind of God, for which he nonetheless drew inspiration from Augustine.<sup>36</sup> According to John, this law is impressed upon our souls;<sup>37</sup> and ‘is that by which all things are ultimately ordained towards what is just.’<sup>38</sup> Thus, both the Mosaic Law and the natural law are derived from the eternal law.<sup>39</sup> In order to define the content, as it were, of the eternal law, consequently, John turns first to consider the natural law, to which the Mosaic Law gives a privileged and complete expression.

In treating this topic, he initially inquires whether the natural law pertains primarily to reason or to the will. In answering this question, he states that the natural law is ‘that by which anyone understands and is conscious in themselves as to what is good and what is bad.’<sup>40</sup> Thus, it seems at first glance to pertain primarily to reason. Since consciousness implies a habit, which is generally called a habit of the will’, however, John concludes that the application of the natural law is not simply an act of reason but also a habit of the will. In elaborating on this contention, he writes that an act of reason proceeds from and thus presupposes the substance of an innate operation.

For example, ‘to shine’ is innate to the substance of the sun, even though shining or illuminating the world is itself a further operation, to which the substance of the sun cannot be altogether reduced. Similarly, he writes, the natural law is that which shines in reason. As such, it is in the will as an aptitude or habit to operate for the good.<sup>41</sup> However, the aptitude must still be employed in operation. On this basis, John concludes that three components make up *liberum arbitrium* or the capacity for free choice, namely, reason (*ratio*), will (*voluntas*), and activity (*facultas*) in keeping with reason, which decides what to do, and the will, which provides the motivation to do it.<sup>42</sup>

From this point, he turns to consider whether the natural law is the same as the conscience or what scholastics called ‘*synderesis*’.<sup>43</sup> As noted above, the natural law is that which prescribes good and forbids evil. Though the conscience is formed by that law and regulates reason thereby, it can choose nonetheless to ignore or refuse to accept the judgments of the law. As such, it may vacillate between good and evil in a way that the natural law itself cannot do. In this regard, the purpose of *synderesis*, the so-called ‘spark



(*scintilla*) of the conscience', is to regulate the will, instigating it to do good. Nevertheless, the will may lose its connection with *synderesis* on account of inordinate, sinful desires. As a result, the conscience may become unreceptive to the natural law. For these reasons, neither conscience nor *synderesis* can be equated with that law itself.

Although the mind may lose touch with the natural law on account of a failure of the will, John further insists that the natural law itself can never be obliterated. It is permanently engraved on human reason, because it constitutes the image of God in human beings. On John's account, that image cannot be lost under any circumstances, since that would imply a defect in God's ability to make himself known to humanity, and thus a defect in God himself. For this reason, the intellectual power to apply the natural law always remains in principle. Likewise, the law itself does not change, although the circumstances in which it is applied may differ.<sup>44</sup> To suggest otherwise would again imply some defect in God and the law he prescribes.

As already noted, however, the ability to adhere to the natural law may be destroyed in practice when the will becomes preoccupied with earthly objects of affection and pursues those instead of seeking to fulfil the natural law.<sup>45</sup> When sin takes hold of the will in this way, we have seen, access to the law of reason is temporarily suspended. It becomes accessible only when the human will commits once more to conforming to the will of God,<sup>46</sup> that is, to doing what God commands, as he commands.<sup>47</sup>

In this connection, John further argues that the natural law does not merely order our actions in natural circumstances, as Aquinas believed.<sup>48</sup> It also, and indeed, firstly, ordains us to God. For John, in fact, it is because human beings are made in the image and likeness of God that they have this:

law by which they understand and are conscious in themselves of what is good and what is evil. For insofar as human beings are in the image of God, they have a cognition of the first truth, namely, God, because the image pertains to a power of knowing. But from the fact that human beings are in the likeness of God, they have the potential and also the duty to love the supreme good, because the likeness refers to the potential to love, and therefore, the law entails that human beings are ordained through itself to God and also to neighbours.<sup>49</sup>

On this showing, consequently, it is nature rather than grace, which teaches us that we are subjected to our Creator and should perform good works in his honor.<sup>50</sup> In that sense, the natural law strictly speaking impresses the eternal law upon our hearts.<sup>51</sup> 'It insinuates that we should love God above all things and above the self and through the self, and instigates us to do so, though not by causing or inducing us.'<sup>52</sup> Since the natural law became unable to instigate the conscience to love God on account of sin, however, the Law of Moses was introduced to do so, and grace was ultimately supplied to induce us actually to follow that law. This grace is received through faith, in the manner discussed below.

### Faith in the *Summa Halensis*

The concept of faith that is often associated with later Franciscan thinkers at least is a strongly voluntarist one, according to which faith in God entails a 'leap' on the part

of the will, which is not based on grounds or reasons. In the early Franciscan tradition, however, faith is attributed to the *liberum arbitrium*, which entails both reason, will, and their co-operation.<sup>53</sup> Thus, faith in this tradition is both a matter of what we believe in our minds—but do not actually see—and desire or assent to in our hearts. As such, it entails both ‘material’ and ‘formal’ components, that is, components which respectively supply the substance and enact the possibility of faith.

While the material act of faith is to know God, on the Summa’s account, the formal act of faith is to assent to love him.<sup>54</sup> It is this love that gives us access to the first Truth that is impressed upon our minds and that guides the conscience.<sup>55</sup> Because it is innately impressed upon our minds, the first Truth is the first object of our knowledge and is therefore known with utmost certainty. That certainty is only lost when the formal element of faith is forfeited by a will that becomes excessively preoccupied with loves other than that of God.<sup>56</sup> In these circumstances, a super-added grace is needed to restore the formal element and thus to reinstate access to the first truth.<sup>57</sup>

In the first instance, consequently, faith on this definition entails a movement on the part of the will to obey God’s will as expressed in his commands.<sup>58</sup> While a certain primacy is therefore attributed to the will, which can make its movement seem blind or unfounded, at least initially, this account does not promote voluntarism in the fullest sense of the term, because the initial act of the will is ordered towards the restoration of an intrinsic human knowledge of the first truth, or God, which provides the rationale behind all of his commands.

Without a doubt, therefore, there is a cognitive component to the faith that motivates obedience to God’s commands. Yet the knowledge at stake here is love’s knowledge, which is accessible only to those who have learned properly, and completely voluntarily, to order their desires in relation to God. In this light, it comes as no surprise that at the very start of the Summa, theology is defined as a ‘practical’ rather than a ‘theoretical’ science, the primary purpose of which is not to instruct the mind about God but to move the affections of the will towards what is good, on account of love for God.<sup>59</sup>

Although the principles that have been given to make us good are hidden to us because they can only reside in the mind of the transcendent God, the Summist insists in this context that they are the most certain of all principles, precisely because they derive from an infallible being.<sup>60</sup> When we conform ourselves to the God who is love by an act of faith which leads us to love him above all else, however, we become disposed to grasp the principles that might otherwise appear inscrutable, unfounded, or even arbitrary.<sup>61</sup> For this reason, the Summist frequently repeats the words of Matthew 5:8: *blessed are the pure of heart, because they will see God* (Mt. 5:8).<sup>62</sup>

### The Autonomy Objection Revisited

In light of the discussion above, we may return to the question whether divine command theory undermines the autonomy of individuals to choose their own course of moral action and to understand and deliberate about the reasons why they should act. As mentioned previously, many critics suppose that autonomy is undermined in this instance because an external factor, namely, the will of God, governs our lives, rather than personal decisions and choices. Because his will is inscrutable to us, the laws that

proceed from it cannot help but appear arbitrary at best and contradictory at worst, in the sense that God could in theory command us to do wrong or even to hate him.

Although such objections may well apply to other theories regarding the divine commands, the early Franciscan account evades them by positing a natural law with which God's commands—and our own actions—must always remain consistent. That is not to suggest that God is constrained by the natural law, which orientates all things towards what is good or in their best interests. After all, God himself ordained the natural law in accordance with his eternal law, which ultimately orders all things towards him as the highest good. In this account, consequently, God could never command us to do wrong or to hate him, let alone to perform seemingly arbitrary acts, the personal value of which is unclear.

On the contrary, he commands us only to act for our own benefit, and he gives us recourse to an understanding of the relationship between his commands and our interests through the innate knowledge of the natural law itself. In the section of the *Summa* on the divine will, the Summist states as much when he inquires whether God can command what he does not will or prohibit what he wills. In addressing this question, he distinguishes between a will by which one prepares to accomplish an act and a will by which one actually accomplishes that act. Though God may test a person's faith by issuing a command to act against his will in the first sense—as, for instance, when he asked Abraham to sacrifice his son, Isaac—he never ultimately commands what he does not will.<sup>63</sup>

The same goes for the natural law, which regulates all things according to the highest good. Since this good is simply God, God could not command anything contrary to it, namely, himself.<sup>64</sup> Nor would he command anything contrary to the Decalogue, given that this law flows from the natural law, which ultimately orders creatures not only to themselves and others but also to God. Since all things are orientated towards God as their end, nothing can be mandated by God which is contrary to the law that emanates from him.<sup>65</sup> That is not to limit his power, the *Summa* insists, for it is not consistent with divine omnipotence to do anything that would detract from or limit God's goodness, or ours.<sup>66</sup>

In summoning us to adhere to the divine commands, consequently, God offers us not only understanding of the respects in which obedience is consistent with our well being, but also total freedom to obey or disobey his law. Granted, the knowledge of the natural law was lost through sin. For this reason, the Law of Moses and ultimately the Law of the Gospel had to be introduced, in the first case, to clarify the contours of the natural law, and in the second, to reinstate a consistent means of fulfilling it, namely, grace. This grace, administered by the Holy Spirit, re-awakens love for God, which is expressed in an initial act of faith that is evidenced through obedience to God's commands.

Though this initial step of faith might seem at first glance to entail acceptance of arbitrary divine laws, and thus the deferral of our own powers of deliberation, it soon restores our awareness of the natural law as fully expressed in the Law of Moses, thus providing access to the principles behind the divine commands. While faith may be blind at first, therefore, it ultimately transforms us into initiated moral agents with the inner moral disposition to discriminate when and how to follow the divine law, and to do so of our own accord. In that sense, the early Franciscan divine command theory clearly

establishes moral agency, or the human capacity for spontaneous moral judgment, albeit in a way that differs from the tradition of Aquinas. As such, it represents a viable foundation for Christian ethics.

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<sup>1</sup> G.E.M. Anscombe initiated the discussion in her landmark article, 'Modern Moral Philosophy', *Philosophy* 33:124 (1958); Alasdair MacIntyre became more famous for raising this concern in his, *After Virtue: A Study in Moral Theory* (London: Duckworth, 2007).

<sup>2</sup> See especially Bonnie Kent, *Virtues of the Will: The Transformation of Ethics in the Late Thirteenth Century* (Washington, D.C.: The Catholic University of America Press, 1995); see also Servais Pinckaers, *The Sources of Christian Ethics* (London: Continuum, 1995), 240-79, who explains how laws, rules, and commands came to feature more than virtue and happiness under nominalism.

<sup>3</sup> Robert M. Adams seeks to articulate and respond to this objection in his *Finite and Infinite Goods: A Framework for Ethics* (New York: Oxford University Press, 1999), especially chapter 11.

<sup>4</sup> Many scholars have considered the later Franciscan William of Ockham to be a rather extreme proponent of divine command theory, who went so far as to argue that God's commands are not based on right reason, but are simply determined by his free decision to make certain things right and others wrong, such that God could even command us to do wrong or to hate him. This view is clearly endorsed in Thomas M. Osborne Jr., 'Ockham as a Divine-Command Theorist', *Religious Studies* 41:1 (Mar 2005), 1-22. By contrast, Marilyn McCord Adams argues that Ockham's ethics is based not only on divine commands but also on right reason. See her article on, 'The Structure of Ockham's Moral Theory', *Franciscan Studies* 46 (1986), 1-35, and her entry on 'Ockham on Will, Nature and Morality', in *The Cambridge Companion to Ockham* (Cambridge: Cambridge University Press, 2008).

<sup>5</sup> Victorin Doucet, in his 'Prolegomena in librum III necnon in libros I et II *Summa Fratris Alexandri*', *Alexandri de Hales Summa Theologica* (Quaracchi, 1948), 360-1, writes that Parts I and III of the *Summa* are largely John's work. However, Part II was probably written by an anonymous friar, who based his account on the writings of Alexander (367). Parts I-III were mostly complete by 1245, when John and Alexander died (133). Between 1255-7 or so, William of Melitona and others completed the *Summa* at the order of the Pope (334, 359). However, their work was probably limited to two insertions in the First and Second books, and to Book IV, on the sacraments, which has not yet been published in a modern critical edition (337, 356).

<sup>6</sup> Ignacius Brady, 'Law in the *Summa Fratris Alexandri*', *Proceedings of the American Catholic Philosophical Association* 24 (1950), 133-47, see esp. 145: Bonaventure's account of the law is generally regarded as a condensed version of the *Summa*'s account of the topic.

<sup>7</sup> The tractate on law in the *Summa Halensis* is heavily based on John's *Summa de praeceptis et consiliis* (Doucet, 'Prolegomena', 211-13) and his *Tractatus de Legibus* (Doucet, 'Prolegomena', 213 and 300). See *Doctoris Irrefragibilis Alexandri de Hales Summa Theologica*, Liber III, ed. Victorin Doucet (Quaracchi, 1948). See also the important studies of this text by the following: Aloysius Obiwulu, *Tractatus de Legibus*

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in *Thirteenth-Century Scholasticism: A Critical Study and Interpretation of Law in Summa Fratris Alexandri, Albertus Magnus and Thomas Aquinas* (Munster, 2003); Beryl Smalley, 'William of Auvergne, John of La Rochelle and Saint Thomas on the Old Law', in Beryl Smalley, *Studies in Medieval Thought and Learning from Abelard to Wyclif* (London, 1981), 121-81; M.V. Dougherty, 'Twenty Moral Dilemmas from Two Early Thirteenth-Century Summaries of Theology: William of Auxerre's *Summa aurea* and the Franciscan *Summa Halensiana*', in *Moral Dilemmas in Medieval Thought From Gratian to Aquinas* (Cambridge: Cambridge University Press, 2011).

<sup>8</sup> According to the unpublished research of Dominique Poirel, it is likely that, at least in the case of some authoritative sources, the authors of the Summa were in part attempting to compile their own more exhaustive or uniquely Franciscan collection of authoritative quotations to use alongside or instead of Lombard's Sentences. In this connection, Poirel argues, the Summa may represent an effort on the part of Alexander and his collaborators to come up with a more up-to-date version of Lombard's Sentences, which includes contemporary sources like Bernard, the Victorines, William of Auxerre, Philip the Chancellor, and so on, in addition to the longstanding authorities like Augustine and Ambrose of Milan.

<sup>9</sup> On this, see Mark D. Jordan, 'Aquinas Reading of Aristotle's Ethics', in *Ad Litteram: Authoritative Texts and Their Medieval Readers*, ed. Mark D. Jordan and Kent Emery (Notre Dame: University of Notre Dame Press, 1992).

<sup>10</sup> Bonaventure, *Collationes de decem praeceptis*, in *Opera Omnia* 5 (Quaracchi, 1891), trans. Paul J. Spaeth, *St Bonaventure's Collations on the Ten Commandments* (St Bonaventure, NY, 1995). Robert Grosseteste, *De Decem mandatis*, ed. Richard C. Dales and Edward B. King (Oxford, 1987). Lesley Smith, 'The *De decem mandatis* of Robert Grosseteste', in *Robert Grosseteste and the Beginnings of a British Theological Tradition*, ed. M O'Carroll (Rome, 2003), 265-88. James McEvoy, 'Robert Grosseteste on the Ten Commandments', *Recherches de Théologie ancienne et médiévale* 58 (1991), 167-205.

<sup>11</sup> Jean Porter, *The Recovery of Virtue: The Relevance of Aquinas for Christian Ethics* (Louisville: John Knox Press, 1990), 79.

<sup>12</sup> Thomas Aquinas, *Summa Theologiae* (ST) 2.1.100.2.

<sup>13</sup> ST 2.1.107.

<sup>14</sup> ST 2.1.7.

<sup>15</sup> *Summa Halensis* (SH), vol. 3, Pars II, Inq III, Tract 1, Qu 3, Cap 2, Ad objecta 1-3, p. 400: 'moralia primae tabulae ordinant animam ad Deum; moralia autem secundae tabulae ad proximum.' On the complex relationship between early Franciscans and Augustine, see Lydia Schumacher, *Divine Illumination: The History and Future of Augustine's Theory of Knowledge* (Oxford: Wiley-Blackwell, 2011), especially chapters 3-4.

<sup>16</sup> SH, vol. 3, Pars II, Inq III, Tract 1, Qu 3, Cap 2, Ad objecta 1-3, p. 400: 'omnia ceremonialia dependebant a mandatis primae tabulae, quia omnia errant data ad divinum cultum et ut homo revocaretur ab idololatria.'

<sup>17</sup> SH, vol. 3, Pars II, Inq III, Tract 1, Qu 3, Cap 2, Ad objecta 1-3, p. 400: 'iudicialia vero, quia errant ad conservandam pacem ad proximum, dependebant a moralibus secundae tabulae.'

<sup>18</sup> SH, vol. 3, Pars II, Inq III, Tract 1, Qu 3, Cap 2, Ad objecta 1-3, p. 400; cf. Pars II, Inq III, Tract 1, Qu 5: 'de iustificatione per legem', pp. 406-12.

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<sup>19</sup> Lesley Smith, *The Ten Commandments: Interpreting the Bible in the Medieval World* (Leiden: Brill, 2014), 38: see the chapters on God and neighbour for details about John's exposition of each command.

<sup>20</sup> Mt. 5:17.

<sup>21</sup> Christina Aus der Au, 'Being Christian in the World: The *Tertius Usus Legis* as the Starting Point of a Reformed Ethic', *Studies in Christian Ethics* 28:2 (2015), 132-41.

<sup>22</sup> Beryl Smalley, 'William of Auvergne, John of La Rochelle and Saint Thomas on the Old Law'.

<sup>23</sup> See the discussion of the Decalogue in the Catechism of the Catholic Church: <http://www.vatican.va/archive/ENG0015/INDEX.HTM>.

<sup>24</sup> *SH*, vol. 3, Pars II, Inq 3, Tract 1, Qu 1, Cap 1, pp. 366-9.

<sup>25</sup> *SH*, vol. 3, Pars II, Inq 3, Tract 1, Qu 1, Cap 1, pp. 366: 'et secundum hoc lex Moysi decurrit secundum tres rationes divinae dispensationis. Datur enim in adiutorium legis naturae.' Pars II, Inq IV, Tract 1, Qu 7, respondeo, p. 864: 'nota ergo quod lex naturalis est sicut semen, lex Moysi sicut herba supercrescens, Evangelium sicut fructus.'

<sup>26</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 7, respondeo, p. 864: 'comparatio est Legis et Evangelii sicut figurae et figurati sive signi et signati.'

<sup>27</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 8, respondeo, p. 866: 'quantum ad innovationem praeceptorum non addit Evangelium Legi.'

<sup>28</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, respondeo, p. 845: 'dicendum quod lex Evangelii et lex Moysi una lex est in ratione universali, diversae vero sunt in ratione propria. Rationem autem universalem et commune dico multipliciter: in comparatione ad efficientem, in comparatione ad finem, in comparatione ad sensum.'

<sup>29</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, respondeo, p. 846: 'finis quippe dicitur propter quem fiunt omnia quaecumque aliquo fiunt officio. Nam inter officium et finem hoc distat quod officium est in eis quae facere debemus, finis propter quem facimus.' (Indeed, an end is defined in terms of those things, which are done which are done according to some duty. Now between the duty and an end there is this distinction: that the duty consists in those things we ought to do, and the end in what we do).

<sup>30</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, respondeo, p. 846: 'unus sensus quia una universalis veritas.'

<sup>31</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, respondeo, p. 846: 'per comparisonem ad efficientem different Lex et Evangelium quia Lex data est per hominem purum, Evangelium vero per Christum.'

<sup>32</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, p. 846: 'finis enim illius est declination mali per timorem, finis istius principaliter operatio boni per amorem.'

<sup>33</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, p. 846: 'per comparisonem vero ad sententiam different, quia ibi veritas in figuratione, hic veritas in exhibitione, et hoc quantum ad figuralia.'

<sup>34</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 5, p. 846: 'dicendum igitur quod lex Moysi et lex Evangelii una lex est in ratione universali, differentes vero sunt in ratione propria, et hoc quia illa data est populo carnali, ista spirituali, illa parvulis, ista perfectis.'

<sup>35</sup> *SH*, vol. 3, Pars II, Inq IV, Tract 1, Qu 4, respondeo, p. 844: 'dicendum quod Lex et Evangelium different non sicut contraria nec etiam sicut disparate quantum ad rationem universalem, sed sicut disparate quantum ad rationem propriam.'

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<sup>36</sup> O. Lottin, *Psychologie et morale aux XII et XIII siècles*, II (Louvain, 1948), 53. See also 138-9 on the eternal law in Brady, 'Law in the *Summa Fratris Alexandri*', where the author credits John with systematizing Augustine's thought on the eternal law and providing the first concerted discussion on this score. Smith discusses John's innovations regarding the eternal law in her book, *The Ten Commandments*, 18-25. Aquinas follows John in ST 2.1.93.

<sup>37</sup> The eternal law is above our minds, but 'menti nostrae concessum est videre legem veritatis immutabilem' (*SH*, vol. 3, Pars II, Inq I, Qu unica, Cap 1, p. 314). The eternal law is impressed on our soul (*SH*, vol. 3, Pars II, Inq I, Qu unica, Cap 2, p. 316).

<sup>38</sup> In general terms, the divine law is 'lex aeterna est qua iustum est ut omnia sint ordinatissima' (*SH*, vol. 3, Pars II, Inq I, Qu unica, Cap 1, p. 314).

<sup>39</sup> In specific terms, Law of Moses, and the natural law it contains are derived from this law (*SH*, vol. 3, Pars II, Inq I, Qu unica, Cap 7, Art 4, pp. 328-9).

<sup>40</sup> *SH*, vol. 3, Pars II, Inq II, Qu 2, Cap 1, solutio, p. 343: 'lex naturalis est qua quisque intelligit et sibi conscius est quid bonum et quid malum...conscium importat habitum, dicunt quod est habitus voluntati...lex naturalis actus sit rationis et habitus voluntatis.'

<sup>41</sup> *SH*, vol. 3, Pars II, Inq II, Qu 2, Cap 1, solutio, p. 343: 'et quod dicitur actus rationis intelligitur actus, id est quaedam operatio, secundum quod dicit Johannes Damascenus, quod 'operatio est uniuscuiusque substantiae innatus motus', sicut lucere in sole: lucere enim est actus innatus substantiae solis, illuminare autem ex operatione in alio. Sic lex naturalis est quoddam lucere in ratione, est in voluntate sicut quaedam habilitas ad bene operandum. ('And what is called an act of reason, understood as an act, is a certain operation, as John of Damascus says, that 'an operation is each and every thing that is of the substance of an innate operation', as to shine is in the sun: for to shine is an innate act of the substance of the sun; however, to illuminate another is an operation. So the natural law is that which shines in reason; [as such], it is in the will as an aptitude which is to be operated for the good').

<sup>42</sup> *SH*, vol. 3, Pars II, Inq II, Qu 2, Cap 2, solutio, p. 344: 'cum liberum arbitrium sit facultas voluntatis et rationis, patet quod in intentione liberi arbitrii concurrunt tria, scilicet facultas, ratio et voluntas.'

<sup>43</sup> *SH*, vol. 3, Pars II, Inq II, Qu 2, Cap 3, solutio, pp. 344-5: an lex naturalis sit idem quod conscientia et synderesis.

<sup>44</sup> *SH*, vol. 3, Pars II, Inq II, Qu 3, Cap 2, p. 347-8: The natural law is immutable because it derives from God and he cannot change. But the places, times, and circumstances in which they applied are change. In that sense it is mutable. However, it is not really mutable, because the law is applied seemingly univocally.

<sup>45</sup> *SH*, vol. 3, Pars II, Inq II, Qu 3, Cap 1, solutio, p. 346: 'lex naturalis, quae est sicut sol in anima, quantum ad essentiam nunquam deletur ab ea, sed semper ibi lucet in se; deletur tamen aliquando quantum ad effectum, scilicet quia non semper ipsam animam illuminate, sicut cum anima avertitur a Deo et obtenebratur per peccatum. Unde tenebra peccati, interposita inter animam et Deum, prohibet istum effectum legis...Unde semper manet scriptura legis naturalis in anima. Nam per imaginem impressa est ipsa lex, et propter hoc, di deletur, quantum ad lectionem propter terrenum affectum, non tamen quantum ad essentiam.'

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<sup>46</sup> *SH*, vol. 3, Pars II, Inq I, Qu unica, Caput 8, Art 1, solutio, p. 330: the eternal law is the will of God to which we must conform our wills.

<sup>47</sup> *SH*, vol. 3, Pars III, Inq I, Tract 2, Qu 2, Tit. 1, Memb 5, Cap 2, Art 1, respondeo, p. 1037: ‘nullus servit Deo, proprie loquendo, nisi qui facit quod Deus praecipit et sicut praecipit.’

<sup>48</sup> *ST* 2.1.94: natural law.

<sup>49</sup> *SH*, vol. 3, Pars II, Inq II, Qu 4, Memb 2, Cap 1, p. 353: ‘quod homo est ad imaginem et similitudinem Dei, habet legem qua intelligit et sibi conscius est quid bonum et quid malum... In eo enim quod homo est ad imaginem, habet cognitionem primae veritatis, quae Deus est, quia, imago attenditur in potential cognoscendi. Ex hoc vero quod est ad similitudinem, est in potentia et debito diligendi summam bonitatem, quia similitude attenditur in potentia diligendi, et propter hoc in lege est quod per ipsam ordinetur homo ad Deum et etiam ad proximum.’

<sup>50</sup> *SH*, vol. 3, Pars II, Inq II, Qu I, Cap 1, solutio, p. 339.

<sup>51</sup> *SH*, vol. 3, Pars II, Inq II, Qu I, Cap 1, Ad secundum, p. 340.

<sup>52</sup> *SH*, vol. 3, Pars II, Inq II, Qu 4, Memb 2, Cap 3, solutio, p. 357: ‘dicendum quod diligere Deum super omnia et supra se et propter se est in lege naturali tamquam insinuante et instigante, sed non tamquam efficiente vel perducente. Lex enim naturalis, eo quod lex, ostendit animae et insinuate quod debet Deum sic diligere; eo autem quod naturalis, se habet ad animam ut instigans ad hoc.’

<sup>53</sup> *SH*, vol. 3, Pars III, Inq II, Tract 1, Memb 8, Cap 1, p. 1098.

<sup>54</sup> *SH*, vol. 3, Pars III, Inq II, Tract 1, Cap 3-4, p. 1082-3.

<sup>55</sup> *SH*, vol. 3, Pars III, Inq II, Tract 1, Memb 7, Cap 1, p. 1087.

<sup>56</sup> *SH*, vol. 3, Pars III, Inq II, Tract 1, Memb 1, Cap 1, p. 1064: ‘postquam autem tenebrae peccati in illam intraverunt, oculus quidem contemplationis extinctus est ut nihil videret... sola oculus carnis in sua claritate permansit.’

<sup>57</sup> *SH*, vol. 3, Pars III, Inq I, Tract 1, Qu 3, Memb 2, Cap 1, p. 973.

<sup>58</sup> *SH*, vol. 3, Pars II, Inq III, Tract 2, Qu 1, Tit 1, Cap 4, Art 1, solutio, p. 419: ‘ad conformandam voluntatem suam voluntati divinae.’

<sup>59</sup> *SH*, vol. 1, Tractatus introductorius, Cap 1, solutio: ‘Theologia igitur, quae perficit animam secundum affectionem, movendo ad bonum per principia timoris et amoris, proprie et principaliter est sapientia’. (Theology perfects the soul according to the will, by contrast, it is wisdom as far as it is wisdom.)

<sup>60</sup> *SH*, vol. 1, Tractatus introductorius, Cap 1, contra a: ‘Quod cognoscitur per divinam inspirationem verius scitur quam quod per humanam ratiocinationem, quia in inspiratione divina impossibilis est falsitas.’ (What is known through divine inspiration is better known than what is known through human reasoning, insofar as falsity is impossible in the case of what is divinely inspired.)

<sup>61</sup> *SH*, vol. 1, Tractatus introductorius, Cap 4, Art 2, reply to objection 4: ‘Et ideo hic modus est in scientia sacra, ut sit unicus sensus litterae, multiplex vero in mysterio. Et hoc non detrahit certitudini in anima, quae est disposita ad illam, quae scilicet est spiritualis, ut dictum est.’

<sup>62</sup> *SH*, vol. 1, Tractatus introductorius, Memb 1, Cap 1, Respondeo: ‘Si quaeris utrum possit Deus videri, respondeo: potest. Si quaeris unde hoc sciam, respondeo: quia in



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veracissima Scriptura legitur (Matt. 5:8): “beati mundo corde, quoniam ipsi Deum videbunt”.

<sup>63</sup> *SH*, vol. 1, Tr 6, Qu 3, Tit 2, Memb 2, Ch 1, Art 1, Respondeo, p. 376.

<sup>64</sup> *SH*, vol. 1, Tr 6, Qu 3, Tit 2, Memb 2, Ch 1, Art 2, Solutio, p. 380.

<sup>65</sup> *SH*, vol. 1, Tr 6, Qu 3, Tit 2, Memb 2, Ch 1, Art 3, Solutio, p. 383.

<sup>66</sup> *SH*, vol. 1, Tr 4, Qu 2, Memb 1, Cap 1, Respondeo, p. 209.