

Was Duns Scotus a Voluntarist?

Juan Caramuel Lobkowitz

against the Bratislava Franciscans

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Professor Stanislav Sousedík's work was a lighthouse during my studies on early-modern scholasticism for two reasons. First, as an erudite historian of the Baroque "Czechoslovak" scholastic tradition (if I may use this anachronism, since my paper will deal with debates taking place in Prague and Bratislava), he contributed to a necessary challenge to what we could call the "Munich agreement" on the history of philosophy, which claims that modernity was the sole result of a combination of British empiricism and French rationalism culminating in German idealism. Second, Professor Sousedík was an outstanding medievalist, who promoted the study of the work of John Duns Scotus and the Scotist tradition in the difficult times of triumphant "dialectical materialism", teaching in the so-called "slippers university".¹ I would like to honour today his lifelong work with a modest study on an unknown episode of Central European philosophy and theology, featuring two of Professor Sousedík's favourite protagonists: the Spanish-born and long-time Prague-resident Cistercian Juan Caramuel Lobkowitz (1606–1682), and the early-modern Franciscan Scotist tradition.

We know Caramuel and the Franciscans have always enjoyed a cordial relationship. *Schola Scoti numerosior est omnibus*, claimed Caramuel with his usual sense of exaggeration,² but with the purpose of defending the validity of their outlook with the old Augustinian argument that the multitude can't be wrong. If so many theologians were Scotists, why then should

1 On this episode, see Blum, P. R., An Interview with Stanislav Sousedík on the Czech Republic before and after Charta 77. *Intellectual News* 15, 2005, No. 1, p. 8.

2 Caramuel, J., *Theologia intentionalis* II, c. 3, disp. 10, § 1264. Lyons, Ph. Borde, L. Arnaud, P. Borde, G. Barbier 1664, p. 237. On this often-quoted passage, see Bąk, F., *Schola Scoti numerosior est omnibus aliis sumptis*. *Franciscan Studies* 16, 1956, p. 144–165.

we disagree? During the decade he spent in Prague (from 1647 to 1655),³ Caramuel seems to have enjoyed a sustained intellectual exchange with the Franciscans, regularly attending disputations and seeking their advice and doctrinal support for his own positions. However, his prime correspondents were not the “Bohemian” Franciscans of the Monastery of Our Lady of the Snow, which would produce a number of outstanding Scotist scholastics during the second half of the seventeenth century,⁴ but the very active Irish exile community of the College of the Immaculate Conception (founded 1629).⁵ The reason for this “Irish” connection is easy to explain: most of the

- 3 Stanislav Sousedík was also one of the first to document Caramuel’s years in Prague: Sousedík, S., Jan Caramuel, opat emauzský (1606–1682). *Acta Universitatis Carolinae Pragensis* 9, 1968, p. 115–138. Other studies on the Prague years include Catalano, A., Juan Caramuel Lobkowitz (1606–1682) e la riconquista delle coscienze in Boemia. *Römische Historische Mitteilungen* 44, 2002, p. 339–392; Sullivan, H. W., Fray Juan Caramuel y Lobkowitz, O.Cist.: The Prague Years, 1647–1659. In: *Corónente tus hazañas. Studies in Honor of John Jay Allen*. Ed. M.J. McGrath. Newark, Del., Juan de la Cuesta 2005, p. 339–374, and a summary in Dvořák, P. – Schmutz, J., Caramuel in Prague: the Intellectual Roots of Mitteleuropa. In: *Juan Caramuel Lobkowitz (1606–1682), the Last Scholastic Polymath*. Ed. P. Dvořák – J. Schmutz. Praha, *Filosofia* 2008, p. 11–17. On Caramuel’s life and work, see a general summary with most of the older bibliography in Schmutz, J., Juan Caramuel Lobkowitz (1606–1682). In: *Centuriae latinae II. Cent une figures humanistes de la Renaissance aux Lumières. À la mémoire de Marie-Madeleine de La Granderie*. Ed. C. Nativel. Geneva, Droz 2006, p. 189–202, to be complemented by Serrai, A., *Phoenix Europae. Juan Caramuel y Lobkowitz in prospettiva bibliografica*. Milan, Sylvestre Bonnard 2005. The most complete biographies are published in: Pastine, D., *Juan Caramuel. Probabilismo ed Enciclopedia*. Florence, La Nuova Italia 1975; Velarde Lombráña, J., *Juan Caramuel. Vida y obra*. Oviedo, Pentalfa 1989, with some new elements in Fernández-Santos Ortiz-Iribas, J., *Juan Caramuel y la probable arquitectura*. Madrid, Centro de Estudios Europa Hispánica 2014.
- 4 See Sousedík, S., *Filosofie v českých zemích mezi středověkem a osvěcstvím*. Praha, Vyšehrad 1997, p. 216–226, mentioning important figures such as Vilém Antonín Brouček (*Domus sapientiae Doctoris Subtilis Ioannis Duns Scoti*, Prague, A. Kastner 1663), Amandus Hermann (*Sol triplex*, Sulzbach, M. & J. Fr. Endter 1676) and Bernhard Sannig (*Schola theologica scotistarum*, 4 vols, Prague, D. Michalek & J. B. Goliasch 1675–1681; *Philosophia Scotistarum*, 3 vols, Prague, J. N. Hampel 1684–1685).
- 5 On the intellectual tradition of the Irish college in Prague, see the recent synthesis by Pařez, J. – Kuchařová, H., *The Irish Franciscans in Prague, 1629–1786*. Transl. J. Stoddart. Praha, Karolinum 2015 [1st Czech edn, 2001]; Pařez, J., *The Irish Franciscans in Seventeenth- and Eighteenth-Century Prague*. In: *Irish migrants in Europe after Kinsale, 1602–1820*. Ed. T. O’Connor – M. A. Lyons. Dublin, Four Courts Press 2003, p. 104–117; Kuchařová, H., *Teaching Philosophy and Theology in Prague at the Time of Caramuel’s Stay and His Contacts with Prague Tertiary Institutions*. In: *Juan Caramuel Lobkowitz (1602–1682), the Last Scholastic Polymath*, op. cit., p. 317–327. Older studies include the archival material uncovered by Jennings, B., *Irish Franciscans in Prague. Studies*. *An Irish Quarterly Review* 28, 1939, p. 210–222; Id., *Documents of the Irish College at Prague I*, *Archivum Hibernicum* 9, 1942, p. 173–294; Millett, B., *The Irish Franciscans, 1651–1665*. Rome, Gregorian University Press 1964, p. 134–165; Robinson-Hammerstein, H. (ed.), *Migrating Scholars. Lines of Contact between Ireland and Bohemia*. Dublin, Navicula Publications 1998. On the Irish college network in continental Europe, see an excellent summary by O’Connor, T., *La solidarité contre-réformée: les réseaux de collèges irlandais dans l’Europe catholique, 1578–1793*. In: *Étudiants de l’exil. Migrations internationales et universités refuges (XVIe–XXe siècles)*. Ed. P. Ferté & C. Barrera. Toulouse, Presses Universitaires du Mirail 2009, p. 71–80 (both with extensive bibliographies), as well as numerous studies in O’Connor, T. (ed.), *The Irish in*

Irish theologians of the college were old acquaintances, whom Caramuel had met years earlier during his time in Louvain, where he resided from 1631 to 1643. The Prague college was itself a direct foundation from Saint Anthony's College (founded 1607),⁶ and several Louvain-trained theologians ended up teaching in Vienna, Prague and other Central European conventual colleges. As a keen observer and participant of scholastic disputes all over Europe, Caramuel often carefully documents philosophical and theological conclusions held by these Irish Franciscans, which would otherwise have remained unknown, since very little of this academic material was printed.⁷

The seventeenth-century Franciscans had developed a strong philosophical and theological tradition centred on the work of John Duns Scotus.⁸ This prompted the various branches of the Franciscan family (mainly the Observants and Conventuals) to publish a number of philosophy and theology courses for each province, as well as a complete new edition of the works of Duns Scotus in Rome, under the direction of Luke Wadding (1588–1657), another Irish acquaintance of Caramuel, who always praised his enterprise and called him one of the “stars” (*stellae*) of his time.⁹ This was all done with

Europe, 1580–1815. Dublin, Four Courts Press 2001; O'Connor, T. – Lyons, M. A. (eds.), *Irish Communities in Early Modern Europe*. Dublin, Four Courts Press 2006.

- 6 On Saint Anthony's College, Br. Jennings, *Irish Students in the University of Louvain*. In: *Measgra I gcuimhne Mhichíl Uí Chléirigh. Miscellany of historical and linguistic studies in honour of Brother Michael Ó Cléirigh, chief of the Four Masters, 1643–1943*. Ed. S. O'Brien. Dublin, Assisi Press 1944, p. 74–97; Giblin, C. (ed.), *Liber Lovaniensis. A Collection of Irish Franciscan Documents, 1629–1717*. Dublin, Clonmore & Reynolds 1956; Jennings, Br. (ed.), *Louvain Papers, 1606–1827*. Dublin, Stationery Off. for the Irish Manuscripts Commission 1968; Conlon, P., *St. Anthony's College of the Irish Franciscans at Louvain, 1607–1977*. Dublin, Assisi Press 1977.
- 7 Outside of the printed works discussed here, most manuscript lecture notes from both Prague and Louvain have been lost. A precious testimony remain the printed thesis sheets defended in Louvain: see Fennessy, I., Canon E. Reussen's List of Irish Franciscan Theses in Louvain, 1620–1738. *Collectanea Hibernica* 48, 2006, p. 21–66.
- 8 On Scotist school formation, see Schmutz, J., *L'héritage des Subtils. L'héritage des Subtils. Cartographie du scotisme du XVIIe siècle. Les Etudes philosophiques* 1, 2002, p. 51–81, which contains most of the older and regional bibliography. For the specifically Bohemian tradition, see Sousedík, S., *Jan Duns Scotus, doctor subtilis a jeho českí žáci*. Praha, Vyšehrad 1989. Other recent monographs on the early-modern Scotist school formation include Forlivesi, M., *Scotistarum princeps. Bartolomeo Mastri (1602–1673) e il suo tempo*. Padua, Centro Studi Antoniani 2002; Id., *The “ratio studiorum” of the Conventual Franciscans in the Baroque Age and the Cultural-Political Background to the Scotist Philosophy “cursus” of Bartolomeo Mastri and Bonaventura Bel-luto*. *Noctua* 2, 2015, p. 253–384; and Andersen, C. A., *Metaphysik im Barockscotismus. Untersuchungen zum Metaphysikwerk des Bartholomaeus Mastrius. Mit Dokumentation der Metaphysik in der scotistischen Tradition ca. 1620–1750*. Amsterdam–Philadelphia, John Benjamins Publishing Co. 2016, with an extensive bibliography.
- 9 See for instance Caramuel, *Metalogica. Disputationes de logicae essentia, proprietatibus et operationibus*, liber 2, § 158. Frankfurt/M., J. G. Schönwetter 1654, p. 65b: “Duo erant in orbe literario admiratione digna, alterum Opera Scoti nunquam magnifice fuisse impressa, alterum ad ejus mentem nullum prodiisse cursum, sed evulgatas fuisse a varias Philosophiae partes. Sed nostro aevo utrumque foeliciter praestitum, nam & P. Lucas Wadingus editionem Scoti pulch-

a strong hermeneutical programme. The project was to recover the true meaning of John Duns Scotus' doctrine, against fourteenth- and fifteenth-century Franciscans who often proved very free in their interpretation.¹⁰ This has again been remarkably shown by Professor Sousedík in his study on the "true doctrine" of Duns Scotus on the relationship between God and the possibles.¹¹ He identified two tendencies in the interpretation of some vexed passages of *Ord.* I, dist. 35–36: an "essentialist" one, claiming that essences and possibles are independent from God and "anterior" even to his divine knowledge, and a more theocentric reading, arguing that the divine mind has a constitutive function in the emergence of these essences. In what follows, we shall see that a similar disagreement divided the early-modern Scotists about the relationship between God and the fundamental principles of morality, as expressed in the Decalogue: are all precepts of the Decalogue dependent upon God's will, who freely imposes them to men, or on the contrary, do these precepts express some form of morality that is independent of God's will – even to such an extent that if there was no God or if God had not spoken, they would still be valid?

Voluntarism and Intellectualism in Early-Modern Scholasticism

This opposition has gone into the history as an opposition between "voluntarism" and "intellectualism", as for instance Jerome Schneewind summarized it in his influential genealogy of early-modern moral thought: for voluntarists, "God created morality and imposed it upon us by an arbitrary fiat of

ram et opulentam exornavit, curavitque edi Lugduni ann. 1639 et P. Joannes Poncius (uterque Hibernus) cursum integrum edidit ad mentem Scoti'. Luke Wadding is also listed among the 139 *virii maximi, domini et amici optimi* at the beginning of Caramuel's *Theologia moralis fundamentalis*, Rome, I. de Lazaris 1656 (hereinafter TMF 1656), vol. I, p. 14. Caramuel considered these 139 men to be the intellectual "stars" (*stellae*) of his time.

10 This point has been well seen by Honnefelder, L., Scotus und der Scotismus. Ein Beitrag zur Bedeutung der Schulbildung in der mittelalterlichen Philosophie. In: *Philosophy and Learning in the Middle Ages*. Ed. M. J. F. M. Hoenen – J. H. J. Schneider – G. Wieland. Leiden, Brill 1995, p. 255 in particular. The institutional documents sustaining this seventeenth-century Scotist "revival" are briefly presented and translated in Schmutz, J., Les normes théologiques de l'enseignement philosophique dans le catholicisme romain moderne (1500–1650), In: *Philosophie et théologie à l'époque moderne*. Ed. J.-C. Bardout. Paris, Éd. Du Cerf 2010, p. 140–142; Roest, B., *Franciscan Learning, Preaching and Mission c. 1220–1650*. Leiden–Boston, Brill 2015, ch. 6 ("Franciscan School Networks").

11 See Sousedík, S., Der Streit um den wahren Sinn der scotischen Possibilenlehre. In: *John Duns Scotus. Metaphysics and Ethics*. Ed. L. Honnefelder – R. Wood – M. Dreyer. Leiden, Brill 1996, p. 191–204. The topic has since then been treated extensively by Hoffmann, T., *Creatura intellecta. Die Ideen und Possibilia bei Duns Scotus mit Ausblick auf Franz von Mayronis, Poncius und Mastrius*. Münster, Aschendorff 2002, p. 263–304; Andersen, C. A., *Metaphysik im Barockscotismus*, op. cit., p. 257–268.

his will”; for intellectualists, God did not “create morality. When he gives us moral commandments, his will is guided by his intellect’s knowledge of eternal standards”.¹² It was during the Prague years that Caramuel seems to have been chiefly concerned with these issues, since it was during that time that he sent the first edition of his *Theologia moralis fundamentalis* to the printer (Schönwetter in Frankfurt),¹³ with a very warm *censura* by an Irish Franciscan from Prague, Bernardine Clancy, who thereby gave strong Scotist support for Caramuel’s often innovative positions.¹⁴ He addresses this question in a chapter on divine authority and jurisdiction in a form that has been classic since the early days of thirteenth century scholasticism: are

- 12 Schneewind, J. B., *The Invention of Autonomy*. Cambridge, Cambridge University Press 1998, p. 8–9. “Intellectualism” is sometimes also called “realism”. Schneewind then presents a well informed summary of the debate according to the “standard” historiography, *Ibid.*, ch. 2 (“Natural Law: From Intellectualism to Voluntarism”), p. 16–36. For another good summary of a debate which has now become topical in textbooks, see Haldane, J., *Voluntarism and Realism in Medieval Ethics*. *Journal of Medical Ethics* 15, 1989, p. 39–44; Irwin, T., *The Development of Ethics. A Historical and Critical Study*. Vol. 1. Oxford, Oxford University Press 2007, § 256, p. 466–468, for the terminology.
- 13 The *Theologia moralis fundamentalis* went into at least four editions: Frankfurt, J. G. Schönwetter 1652 (hereinafter TMF 1652), TMF 1656, Lyons, L. Anisson – J.-B. Devenet 1657 (hereinafter TMF 1657). It was then complemented by two other volumes entitled *Theologia intentionalis* and *Theologia praeinternationalis* (Lyons, Ph. Borde – L. Arnaud, P. Borde – G. Barbier 1664), and the whole series was reprinted in a definitive four-volume set in Lyons, Ph. Borde – L. Arnaud, P. Borde – G. Barbier 1675 (hereinafter TMF 1675), with some changes. One can also consider his *Theologia moralis ad prima eaque clarissima principia reducta* (Louvain, P. Zangrius 1645; hereinafter TMPPR 1645) as a first “beta” version, but Caramuel does not count it as a proper edition in his own catalogue of his works. The editions were all targetted in a way or another by attempts or real censorships: as early as 1654, an assessor for the Congregation of the Index excerpted twenty propositions as objectionable, which prompted the second 1656 edition. See Ceyskens, L., *Autour de Caramuel*. *Bulletin de l’Institut historique belge de Rome* 33, 1961, p. 403–404. Several individual refutations also appeared, such as Martínez de Prado, J., *Observationes circa theologiam fundamentalem D. D. Ioannis Caramuel*. Alcalá, s.n. 1656; and Crespi de Borja, L., *Quaestiones selectae morales, in quibus nouae aliquae doctrinae Reverend. Patris Domini Ioannis Caramuelis confutantur*. Lyons, L. Anisson – J.-B. Devenet 1658, with a first censorship dating back to 1656.
- 14 Clancy, B., *Censura* (College of the Immaculate Conception, Prague, 1 July 1651). In: Caramuel, J., *Theologia moralis fundamentalis*. Frankfurt/M., J. G. Schönwetter 1652. Clancy had been trained in Louvain and defended his thesis in theology there, in 1639, under the presidency of John Colgan (ca. 1592–1658), an acclaimed Irish hagiographer historian who was also convinced that John Duns Scotus was actually Irish (see his *Tractatus de Vita, Patria, Scriptis Johannis Scoti, Doctoris Subtilis*, Antwerp, J. M. Paris 1655) and became later himself commissary for the Prague college. Clancy became lecturer of theology in Vienna and in Prague (some of his manuscript lectures have been kept at Prague UL, Ms. 330), as well as guardian of the Prague convent (1647). His name appears regularly in several documents related to the college: see Millett, *The Irish Franciscans*, op. cit., p. 47, 149, 156–157, 159–162, 164, *passim*, and Pařez, J. – Kuchařová, H., *The Irish Franciscans in Prague*, op. cit., p. 7–9, 51, 67–72, 74, 77. Caramuel clearly often sought advice and support from Clancy, who was also held in high esteem by Ernst-Adalbert von Harrach (1598–1667), the powerful archbishop of counter-reformation Prague who wanted him as a teacher for his newly established seminary.

certain human actions – such as murder, lying and adultery – evil because they are forbidden, or are they forbidden because they are evil (*an actiones humanae, quae malae dicuntur, prohibeantur, quia malae, an vero sint malae quia prohibita*)?¹⁵ Considering that we admit that God is the “physical” creator of all things, he must also be the “moral” creator.¹⁶ Divine *dominium* has thus two faces: a physical and a moral one, according to a dichotomy that is pervasive in all of Caramuel’s works.¹⁷ But does that entail that *all* morality would cease to exist if God, possibly or impossibly, had chosen not to make any prohibitions, or if God did not exist? The hypothesis of a non-existing God or of a “silent God”, who would not have revealed the Decalogue, has a long history in medieval theology, and has been widely used among fourteenth century authors, in particular Gregory of Rimini,¹⁸ in order to support the consistency and autarchy of natural law against divine commands.¹⁹

15 TMF 1656, § 549, I, p. 181; TMF 1657, I, p. 145. This was a common way of putting the question: Caramuel’s own master in Alcalá, the Cistercian Pedro de Lorca, calls it an *axioma theologorum* (*In lam-IIae*, disp. 10, p. 32), and Francisco de Oviedo a *commune prologium Patrum & Theologorum* (*In lam-IIae*, tract. 4, contr. 4, punct. 1, § 3, Lyons, P. Prost – Ph. Borde – L. Arnaud 1646, p. 315a). For a contemporary Scotist formulation, see for instance Punch, J. (Poncius), *Commentarii theologici in III Sententiarum*, dist. 37, q. un., § 43. Paris, S. Piget 1661, p. 536b: “An omne nemalium sit ideo malum, quia prohibitum?”. The formula itself was common already in the thirteenth century: see William of Auxerre, *Summa aurea* II, tract. 11, c. 3, q. 5, ed. J. Ribailleur, Paris – Grottaferrata, 1982, vol. II/1, p. 347–348, who refers it to Augustine (usually *De libero arbitrio* I, 3; PL 32, 1224): “... distingueret Augustinus quedam mala esse quia prohibita, et quedam prohibita quia mala”; Thomas Aquinas, *ST IIa-IIae*, q. 57, a. 2; *IIa-IIae*, q. 71, a. 6: “Sed non omnia praecepta sunt mala quia prohibita, sed quaedam sunt prohibita quia mala”. For the early history of this alternative, see O. Lottin, “Les éléments de la moralité des actes dans les écoles avant saint Thomas”, *Revue néo-scholastique de philosophie* 93, 1922, p. 25–65 (p. 38 for William of Auxerre’s formulations). For a history of the Biblical examples and a first historical sketch of late medieval solutions, see Hedwig, K., *Das Isaak-Opfer. Über den Status des Naturgesetzes bei Thomas von Aquin, Duns Scotus und Ockham*. In: *Mensch und Natur im Mittelalter*. Ed. A. Zimmermann – A. Speer. Berlin, W. de Gruyter 1992, p. 645–661, and the excellent monograph by Mandrella, I., *Das Isaak-Opfer. Historisch-systematische Untersuchung zu Rationalität und Wandelbarkeit des Naturrechts in der mittelalterlichen Lehre vom natürlichen Gesetz*. Münster, Aschendorff 2002, to which we shall regularly refer.

16 TMF 1656, § 541, I, p. 180: “Deus est physicus rerum creatarum omnium Dominus: est & moralis”.

17 And finally clearly expressed in his late *Pandoxion physico-ethicon*. Campagna, ex officina episcopali 1668; hereinafter PPE 1668. On the relationship between physical and moral reasonings in Caramuel, see Schmutz, J., Caramuel on Naturalistic Fallacy. In: *Juan Caramuel Lobkowitz (1606–1682). The Last Scholastic Polymath*, op. cit., p. 45–69.

18 Gregory of Rimini was often quoted in that context by the early-modern scholastics: see for instance Fr. de Vitoria, *Relectiones theologicae* XII. Lyons, J. Boyer 1557, p. 373; and a good presentation in Zumel, F., *Commentaria in lam-IIae*, q. 71, a. 6. Salamanca, J. Fernández 1594, p. 185b; Lugo, J. de, *Disputationes scholasticae de incarnatione dominica*, disp. 5, s. 5, § 79. Lyons, J. Prost 1633, p. 87a.

19 It is thus not an invention of Hugo Grotius (*De iure belli ac pacis*, Prol., § 11), who famously used the hypothesis to ascertain the universal validity of natural law. Standard studies on the history of the hypothesis include Saint-Leger, J., *The “etiamsi daremus” of Hugo Grotius*. Rome, Pontifi-

But a radical voluntarist would certainly draw the opposite and “nihilistic” conclusion of Dimitri in Dostoevsky’s *The Brothers Karamazov* (1879–1880):²⁰ if no God existed, then everything would just be permitted.

But has such a radical position ever really been held by any medieval theologian? Some obviously believed that John Duns Scotus held such an “unmitigated” voluntarism.²¹ In the second (Roman) edition of his *Moral Theology* (1656), Caramuel carefully reports an important debate held in 1655 at the Franciscan convent of Bratislava.²² The city was then the capital of the Kingdom of Hungary (its Hungarian name *Poszony*, is mirrored in Caramuel’s Latin use of *Posonium*), which was a part of the greater Habsburg empire. Caramuel was obviously traveling with the court of Emperor Ferdinand III of Habsburg (r. 1637–1657),²³ who celebrated the General Assembly of the Empire in Bratislava. Caramuel describes the whole assembly that had gathered to enjoy a scholastic dispute: the archbishop of Gran (*Esztergom*), primate of Hungary,²⁴ no less than eight bishops, speakers from Spain and Venice, as well as several princes. The Bratislava friars seem to have immediately caused some uproar by defending clearly that God is able to will positively the fact that man should hate him.²⁵ The *odium Dei* had become a very

cio Ateneo Angelicum 1962; Crowe, M. B., The “Impious Hypothesis”: A Paradox in Hugo Grotius? *Tijdschrift voor Filosofie* 38, 1976, p. 379–410; Haggenmacher, P., *Grotius et la doctrine de la guerre juste*. Paris, Presses Universitaires de France 1983, p. 462–529; Mandrella, I., Die Autarkie des mittelalterlichen Naturrechts als Vernunftrecht: Gregor von Rimini und das *etiamsi Deus non daretur*-Argument. In: *Herbst des Mittelalters? Fragen zur Bewertung des 14. und 15. Jahrhunderts*. Ed. J. A. Aertsen – M. Pickavé. Berlin–New York, W. de Gruyter 2004, p. 265–276. They all largely focus on the late medieval context and not on the complex early-modern scholastic treatment of the subject, to which we hope to dedicate a further study.

20 Cf. Part IV, book 11, ch. 4: “If God did not exist (...) would everything be permitted?”

21 To use the expression by T. Williams, “The Unmitigated Scotus”, *Archiv für Geschichte der Philosophie* 80, 1998, No. 2, p. 162–181, who advocates, among contemporary interpreters, a strongly “voluntaristic” reading of Duns Scotus’ moral theology. For an “intellectualist” criticism of this position, see Wolter, A. B., The Unshredded Scotus. *American Catholic Philosophical Quarterly* 77, 2003, No. 3, p. 315–356; Ingham, M. B., The Foundations of a Science of Praxis. In: Ingham, M. B. – Dreyer, M., *The Philosophical Vision of John Duns Scotus*. Washington, D.C., The Catholic University of America Press 2004, p. 132–138.

22 In what follows, I will commit the anachronism of naming the city Bratislava, although this now familiar name has been used only since 1919 and the rise of Slovak nationalism. In Caramuel’s time, it was common to use the German (Pressburg) or Hungarian forms (Poszony).

23 We know Caramuel enjoyed a strong patronage from the emperor Ferdinand III during the Prague years, and he bore the title of “imperial advisor”. See Ceyskens, L., *Autour de Caramuel*, op. cit., p. 346–347.

24 The archbishop in those years must have been György Lippay, count of Zombor (1600–1666, archbishop since 1645). On the history of the archbishopric in those years, see Tusor, P., *Purpura Pannonica. The Cardinalial See of Gran of Strigonium and Its Antecedents in the Seventeenth Century*. Budapest–Rome, Pázmány Péter Katolikus Egyetem Egyháztörténeti Kutatócsoport 2005.

25 TMF 1656, § 555, vol. I, p. 184: “Interim sententiam hanc duram et absonam vidi nonnunquam propugnari. Et praecipue Possonii in Hungaria anno 1655 mens. Aprili (...): ibi audivimus odium

standard “limit case” in late medieval theology to discuss the positive or non-positive character of natural law:²⁶ as opposed to the most important theological virtue, namely charity as love of God, the hate of God usually stands as the paramount case of sinning. Therefore, if the precept of loving God is only “voluntary” and “positive”, then an almighty God should be able change the precept into its contradictory and ask to be hated. But whether such a claim can indeed be traced back to Scotus is not evident: Scotus did indeed discuss the *odium Dei* on several occasions, but gave a rather mitigated answer about its possibility. Although he admitted that the human will was free *not* to love God, by not turning its attention to him,²⁷ he rejected the possibility of being actively “negatively willed” (*nolitum*), i.e. positively rejected by a will otherwise in full knowledge of the divine nature.²⁸ Most early-modern Scotists and other scholastics therefore admitted that it was rather a later Franciscan achievement,²⁹ due to theologians such as William of Ockham (1285–1347) and Andrew of Novocastro (fl. 1352–1358), and that their position was later popularized by Peter of Ailly (1351–1420).³⁰ Their position amounts to what

Dei posse praecipere a Deo, nimirum a Patribus Franciscanis, qui in suo monasterio hanc disputationem habebant”.

- 26 See the testimony by Almain, J., *Moralia*, ch. 15 (“An peccatum sit peccatum quia prohibitum”). Ed. D. Cranston. Paris, A. Girault 1526, f. 139r, who says about the *odium Dei* that “it was common to treat it in schools” (*quae solet communiter tractari in schola*).
- 27 Cf. Ioannes Duns Scotus, *Ord.* I, dist. 1, pa. 2, q. 2, § 149 (ed. Vaticana II, p. 100).
- 28 See in particular Ioannes Duns Scotus, *Ord.* II, dist. 43, q. 1, § 5 (ed. Wadding, vol. VI/2, p. 1069): “...quia actus charitatis ut dilectio Dei est actus perfectissimus conversivus ad Deum, si haberet oppositum, scilicet odium Dei, hoc esset maximum peccatum. Sed non credo quod talis actus charitatis habeat oppositum actum contrarium; quia Deus non potest odiri ab aliqua voluntate”. On the hate of God in Scotus, see Pizzo, G., *Malitia e odium Dei nella dottrina della volontà di Giovanni Duns Scoto*. *Rivista di filosofia neo-scolastica* 81, 1989, No. 3, p. 393–415; Alliney, G., *Velle malum ex pura libertate: Duns Scoto e la banalità del male. Etica & Politica* (Trieste) 2 (2002) [online journal]. For an example of how the case became topical in the fourteenth century, see Henninger, M. G., Henry of Harclay on the Will’s Ability to Hate God. *The Modern Schoolman* 86, 2008–2009, No. 1–2, p. 161–180. Harclay’s writings were not, however, accessible during early-modern scholasticism.
- 29 For an Irish Scotist’s rejection of the same view, see Punch, *In III Sent.*, dist. 37, q. un., § 6, p. 529a-b: “...contra Ochamum, qui putat quod nihil posset esse malum absque voluntate prohibitiva Dei, hancque voluntatem esse liberam Deo, sic ut posset eam non habere, et consequenter ut posset fieri quod nulla prorsus actio esset mala.” Ibid., § 43, p. 536b.
- 30 Usually referring to some well-known passage in Ockham, *Rep.* II, q. 15 (ed. G. Gál – R. Wood, *OTH V*, p. 352), on the hate of God, theft, adultery, etc. that can become meritorious if God orders them; *Ord.* I, dist. 41, q. un. (ed. Etzkorn & Kelley, *OTH IV*, p. 610): “Sed eo ipso quod voluntas divina hoc vult, ratio recta dictat quod est volendum”. Other key passages include *Rep.* IV, q. 16 (ed. G. Gál & R. Wood, *OTH VII*, p. 352): “...omnis voluntas potest se conformare praecepto divino. Sed Deus potest praecipere quod voluntas creata odiat eum, igitur voluntas creata potest hoc facere.” For typical passages reducing morality to obligation, see *Reportatio* II, q. 15 (*OTH V*, p. 353): “Bonitas moralis et malitia connotant, quod agens obligatur ad illud actum vel eius oppositum”; *Rep.* II, q. 3–4, (*OTH V*, p. 59): “Malum nihil aliud est quam facere aliquid ad cuius oppositum faciendum aliquis obligatur.” For Andrew of Newcastle, most of the

we call today an ethics of “divine command”,³¹ which could be summarized by the three following claims:

- (a) natural law is the direct effect of God’s will, and this extends to the totality of the precepts of the Decalogue;
- (b) these precepts can therefore be changed or dispensed from at will by the lawgiver, i.e. God, who can for instance command to be hated, as the Bratislava friars maintain and as Ockham effectively states in one very disputed proposition;³²
- (c) moral life is chiefly defined by the concept of obedience: to be good is to obey to the precepts, to be evil is to disobey.

Whether such a characterization is faithful to the thought of these authors cannot be discussed here, especially since a number of recent historians have tried to dispel the image of the late-medieval *Willkürgott* as a historical fantasy resting on some deep misunderstandings.³³ However, the picture of “nominalism” as a mixture of voluntarist theology and “authoritarian” conceptions of moral obligation was already well in place in the sixteenth century scholastic presentations, since Francisco de Vitoria (1486–1546)

relevant texts have been gathered by Idziak, J. M., *Andrew of Neufchateau, OFM. Questions on an Ethics of Divine Commands*. Notre Dame, University of Notre Dame Press 1997; and analyzed by Kennedy, L. A., Andrew of Novo Castro, OFM, and the Moral Law. *Franciscan Studies* 48, 1988, p. 28–39; Petrus de Alliaco, *In I Sent.*, q. 14, a. 3. Lyons, 1500, f. v7rb. The whole doctrine has been also summarized for the Parisian context by Almain, *Moralia*, ch. 15 (“An peccatum sit peccatum quia prohibitum”), who provides a direct link with the Spanish authors of the next generation.

31 These arguments have been resuscitated in contemporary ethics by the influential American philosopher Philipp Quinn (1940–2004), in his book *Divine Commands and Moral Requirements*. Oxford, Clarendon Press 1978; Id., *The Primacy of God’s Will in Christian Ethics. Philosophical Perspectives* 6, 1992, p. 493–513.

32 See in particular Rep. IV, q. 16 (OTh VII, p. 352): “Odire Deum potest esse actus rectus in via, puta si praecipitur a Deo, igitur in patria”. This text was one of the articles later condemned at Avignon and by John Lutterell: see J. Koch, “Neue Aktenstücke zu dem gegen Wilhelm Ockham in Avignon geführten Prozeß”, in: Id., *Kleine Schriften*. Rome, Storia e Letteratura 1973, vol. II, p. 319. Early-modern scholastics did not, however, seem to have been aware of the history of the condemnation.

33 See in particular Hübener, W., *Die Nominalismus-Legende. Über das Missverhältnis zwischen Dichtung und Wahrheit in der Deutung der Wirkungsgeschichte des Ockhamismus*. In: *Spiegel und Gleichnis. Festschrift für Jacob Taubes*. Ed. N. W. Bolz – W. Hübener. Würzburg, Königshausen – Neumann 1984, p. 87–111. Some older German and more recent English-language studies on Ockham’s ethics have attempted to moderate the classical “voluntarist” interpretation, in particular Wood, R., *Göttliches Gebot und Güte Gottes nach Wilhelm von Ockham. Philosophisches Jahrbuch* 101, 1994, p. 38–54; Osborne, Th. J., *Ockham as a Divine-Command Theorist. Religious Studies* 41, 2005, p. 1–22; Eardley, P., *Conscience and the Foundations of Morality in Ockham’s Metaethics. Recherches en philosophie et théologie médiévales* 80, 2013, No. 1, p. 77–108. See a good summary of in Mandrella, I, *Das Isaak-Opfer*, op. cit., p. 166–170.

and Francisco Suárez (1548–1617),³⁴ and twentieth-century historiography has largely embraced this four-century old narrative without much critical distance.³⁵ But what is historically striking is that such “scandalous” positions,³⁶ if we can believe Caramuel’s testimony, were *effectively* held by Franciscans in Central Europe: in a later edition, he adds that he heard them defended not only in Bratislava, but also in Vienna and in Prague.³⁷

34 Suárez’ historical references in his *De legibus* (1612), II, c. 6, § 4 (in *Opera omnia*, Paris, Vivès 1856, vol. V, p. 105) have become one of the most quoted passages in the history of legal and moral philosophy for all those in need of a useful medieval summary. For recent examples, see Schneewind, J. B., *The Invention of Autonomy*, op. cit., p. 59 ff.; T. Irwin, *The Development of thics. A Historical and Critical Study*, vol. II: *From Suárez to Rousseau*. Oxford, Oxford University Press 2008, § 425, p. 3 ff. This historical presentation was already well entrenched in the middle of the sixteenth century in Spain, as Francisco de Vitoria’s lectures testify: Vitoria, F. de, *De legibus* (1533–1534), q. 100, a. 8. Ed. J. Stüben. Stuttgart – Bad Cannstatt, Frommann-Holzboog 2010, p. 106–108; Bartolomé de Medina, *Expositio in primam-secundae Angelici Doctoris*, q. 100, a. 8. Salamanca, M. Gast 1582 [1577], p. 916b: “Ocham in secundo q. 19 tenet, nihil adeo esse perversum & iniquum quin dispensatione divina possit fieri licitum, atque laudabile, etiam odium Dei”; Vázquez, G., *Commentariorum ac disputationum in primam secundae D. Thomae tomus secundus*, q. 100, a. 8, § 1–3. Alcalá, J. Sánchez Crespo 1605, p. 376. Caramuel quotes the same doctrinal references already in the first 1645 version of his *Theologia moralis* (see TM 1645, § 1188–1189, p. 298) and in a later edition: *Theologia praeintentionalis*, lib. II, disp. 6 (“Utrum Deus possit dispensare in praeceptis Decalogis?”), § 1161, p. 255a: “Okamus in II dist. 19 ad 3 dub., cui subscribit Petrus de Aliaco In I, dist. 14 et Andreas de Novocastro In I, dist. 48, q. 1, a. 1, affirmant primo, posse Deum abrogare omnia Decalogi praecepta; quod, si faceret, possent licite homines omnia facere, quae nunc mala censentur, et sunt. Tunc nullus mereretur, neque demeretur; quia nullus impletet aut emeraret legem praeceptivam. Addunt secundo, posse Deum praecipere homicida, furta, mendacia, et alia, quae hodie inhibet...”. For a Jesuit statement contemporary to Caramuel’s *Theologia moralis*, see P. Sforza Pallavicino, *Disputationes in primam secundae*, disp. 9, q. 1, a. 2, § 2. Lyons, L. Arnaud & Cl. Rigaud 1653, p. 251b: “Suppono enim falsam esse sententiam quorundam nominalium, qui omnia referunt in liberum arbitrium Dei; ita ut aequè potuerit Deus praecipere odium Dei et prohibere actum charitatis, et sic facere ut odium Dei esset bonum et charitas mala”.

35 The line from Ockham to Peter of Ailly remains the backbone of classical presentations such as Oakley, F., *Medieval Theories of Natural Law: William of Ockham and the Significance of the Voluntarist Tradition*. *Natural Law Forum* 6, 1961, p. 65–83; Id., *The Political Thought of Pierre d’Ailly. The Voluntarist Tradition*. New Haven, Yale University Press 1964; Muralt, A. de, Kant, le dernier occamien. Une nouvelle définition de la philosophie moderne. *Revue de métaphysique et de morale* 80, 1975, No. 1, p. 32–53, as well as in most of the work of the French historian of legal philosophy Michel Villey (1914–1988). For another influential presentation of Ockham as radical divine command theorist, see Feinberg, J. S., *The Many Faces of Evil. Theological Systems and the Problem of Evil*. Wheaton, Ill., Crossway 2004, p. 37–41 (“William of Ockham’s Theonomous Position”). For a duly horrified neo-Thomist presentation of Ockham’s views, see Pinckaers, S.-T., *The Sources of Christian Ethics*. Transl. M. Th. Noble. Edinburgh, T&T Clark 1995, p. 241–253.

36 See Kobusch, T., Analogie im Reich der Freiheit? Ein Skandal der spätscholastischen Philosophie und die kritische Antwort der Neuzeit. In: *Herbst des Mittelalters? Fragen zur Bewertung des 14. und 15. Jahrhunderts*, op. cit., p. 251–264.

37 *Theologia intentionalis*, lib. II, disp. 6 (“Utrum Deus possit dispensare in praeceptis Decalogis?”), § 1161, p. 255a: (...) quod licet durum videri debeat, nihilominus vidi Viennae in Austria, Pragae in Bohemia, Possonii in Hungaria in disputatione publica doctissime a Patribus Franciscanis defendi. Tercio, putant Deum posse interdicare contritionem, voti satisfactiones, festa,

As often in his work, Caramuel presents his own doctrine after a lengthy discussion of the Thomistic and Scotistic positions on what constitutes the sinful character of human acts, taking care not to present these schools as holding a uniform doctrine. Let us look briefly at his presentation, which actually challenges a number of standard assumption we have about “intellectualist Thomists” and “voluntarist Scotists”.

Thomist Voluntarism

The Thomists are usually presented as the representatives of an “intellectualist” conception of natural law: God’s law is eternal because it expresses God’s own rational essence, which is itself eternal. Since at least Augustine, it was common to distinguish between two sets of rules in the Decalogue, the First (precepts 1 to 3) and the Second Table (precepts 4 to 10).³⁸ Aquinas argued that all precepts contain the intention of God as legislator: the precepts of the First Table as the final and common good (God is loveable), and the precepts of the Second Table as the order of justice that has to be kept among men. What gives these rules their moral character of goodness is thus not a divine command, but their orientation towards final and common goodness, reflected in the essence of God. The first principles of human practical reason therefore do not need a divine command to be put into practice and seek their end; the divine law is only justified as a reminder of what men, through the practice of right reason and prudence, would have discovered by themselves if their intelligence had not been obscured by sin. If there is a divine law, then it must express the perfect achievement of practical reason, and as such, it cannot be dispensed from.³⁹ Aquinas had there-

pietatem, castitatem, veritatem, fidelitatem, et alias virtutes quascumque, quae respiciunt Deum, aut proximum in singulari.”

38 Since Augustine (e.g. *Sermo* 278, § 6), the precepts of the First Table commonly included those directly directed towards God, whereas those of the Second Table refer to the duties towards men.

39 The key texts are Thomas Aquinas, *Summa theologiae* IIa-IIae, q. 100, a. 1 (on the relationship between moral precepts and natural law); a. 8 (on the question of dispensation): “Praecepta autem Decalogi continent ipsam intentionem legislatoris, scilicet Dei. Nam praecepta primae tabulae, quae ordinant ad Deum, continent ipsum ordinem ad bonum commune et finale, quod Deus est; praecepta autem secundae tabulae continent ipsum ordinem iustitiae inter homines observandae, ut scilicet nulli fiat indebitum, et cuilibet reddatur debitum; secundum hanc enim rationem sunt intelligenda praecepta Decalogi. Et ideo praecepta Decalogi sunt omnino indispensabilia.” These texts have given rise to an intimidating amount of literature. In the early-modern period, the strongest anti-dispensation claim was certainly made by the Jesuit Gabriel Vázquez, who claimed “piously” interpreting Aquinas on this (see *In Iam-IIae*, q. 100, disp. 179, c. 2, § 12, p. 379a: “Mihi vero multo probabilior semper visa est sententia eorum, qui universe affirmant, nullum praeceptum naturale Decalogi posse a Deo dispensatione relaxari”) – a piety in interpretation sarcastically rejected by the voluntarist Scotist Filippo Fabri,

fore argued that the Decalogue is absolutely *indispensable*, which means that there cannot be any modification nor exception.⁴⁰

These passages have given rise to a huge literature in twentieth-century Thomistic natural law theory, and Caramuel himself was already aware that his contemporary sixteenth- and seventeenth-century Thomists disagreed on their correct interpretation. Caramuel actually presents two different interpretations of Aquinas' argument, a "soft" or intellectualist version, and a "hard" or more voluntarist one, without however giving specific names of theologians holding them. In what follows, I will attempt to identify these two competing interpretations of Aquinas.

The first opinion is what he calls the common opinion of today's Thomists (*hanc hodie plurimi Thomistae defendunt*): sins against both the First and the Second Table of the Decalogue are actually sins even *before* and *independently* of a divine decree, or in the impossible case of the non-existence of God. This is a classical case of "intellectualism": some acts are evil not because they go against God's free will, but because they actually go against reason or rational nature that recognizes them as sinful. Caramuel does not mention any specific author, but one can certainly recognize a position defended by the Salamanca Dominican Bartolomé de Medina (1528–1580),⁴¹ often rebuked for his excessive rationalism or "Ciceronianism" by later Thomists. It was also championed by the key figure of the Jesuit school of Alcalá, namely Gabriel Vázquez (1549–1604). Whereas his famous contemporary Francisco Suárez (1548–1617) held fast – at least in his often-quoted *De legibus* (1612) – to the Augustinian theory linking the sin to the infraction against a superior law,⁴²

Disputationes theologicae complectentes materiam de poenitentia, de peccato, de purgatorio, de suffragiis, de indulgentiis, q. 1, disp. 1, § p. 102. Venice, M. Ginami 1623, p. 17a: "...nititur <Vázquez> eum <scil. Thomam> reducere in suam sententiam, pie, ut inquit, eum interpretando. Sed D. Thomas illam pietatem & interpretationem non admitteret."

40 The concept of *dispensatio* was inherited from canon law, and commonly designates the capacity for an authority – human or divine – to create exceptions to general rules. On the pre-history of the concept of dispensation in canon law, see the old but still useful study by Stiegler, M. A., *Dispensation. Dispensationswesen und Dispositionsrecht im Kirchenrecht geschichtlich dargestellt*. Mainz, Fr. Kirchheim 1901; and for later periods, also Brys, J., *De dispensatione in iure canonico, praesertim apud decretistas et decretalistas usque ad medium saeculum decimum quartum*. Bruges & Wetteren, Ch. Beyaert 1925; and a useful synthesis in Kuttner, S., *Harmony from Dissonance. An Interpretation of Medieval Canon Law*. Latrobe, Pa., Archabbey Press 1960, p. 55–67.

41 See Medina, *In Iam-IIae*, q. 19, a. 4, p. 299b: "Nam sunt aliqui actus, qui licet nulla lex esset, imo si per impossibile Deus non esset, mali sunt ex sua natura, ut mendacium."

42 See Fr. Suárez, *De legibus* II, c. 5, § 8–9 (*Opera* V, p. 101–102), where he criticizes Vázquez's idea that natural law precedes the divine intellect. On this debate, see the extensive literature in the note 43 below. Suárez' definite position remains difficult to assess, since in his posthumously published lectures (1628) on the *Ia-IIae*, he defends a position much closer to Vázquez's intellectualism in favor of the existence of intrinsically evil acts.

Vázquez had argued in a very resolute way in favour of an intellectualist position: whatever is evil is intrinsically evil and must be recognized as such by the human mind, without any explicit reference to God.⁴³ One generation later, following mainly the propositions of Vázquez, the reference to God in the definition of malice was increasingly obliterated. Juan de Lugo (1583–1660), the most influential of all Jesuit theologians in those decades, argued that the definition of sin does *not* include, according to Thomas Aquinas, any specific reference to divine commands or prohibitions.⁴⁴ Following such

43 Cf. Vázquez, *Commentariorum ac disputationum in primam-secundae S. Thomae. Tomus primus*, disp. 73, c. 5, § 17. Venice, E. Deuchino 1608 [1599, Alcalá], p. 408; *ibid.*, disp. 97, c. 3, § 6, p. 545: “Mihi semper placuit communis sententia, quae docet non omne peccatum eo esse peccatum, quia lege, aliquave prohibitione imperante vetitum sit, sed quia suapte natura malum sit homini”. In the later Jesuit school, Vázquez is usually seen as the strongest moral realist, either praised or attacked for that very reason: see for instance already Salas, J. de, *Disputationes in primam-secundae*, tract. 13, disp. 2, s. 4, § 52. Barcelona, S. Mateuad 1609, p. 338a; Oviedo, Fr. de, *Tractatus theologici, scholastici et morales respondentes primae secundae D. Thomae*, tract. 4, contr. 4, punct. 2, § 20. Lyons, L. Arnaud & Cl. Rigaud 1646, p. 318b, quite closely follows Vázquez’ rationalism: “Demum non multum & forsani nihil in re discedit haec sententia <mih>a sententia P. Vazquez”; Sforza Pallavicino, *In lam-IIae*, disp. 9, q. 1, a. 5, n. 1, p. 263a: “Prima sententia est Gabrielis Vasquez et multorum quos ipse sequitur et qui ipsum sequuntur, quod nimirum ita habeatur honestas atque inhonestas in obiectis per conformitatem vel diffinitatem cum natura rationali, ut etiam sublato Deo intelligatur haec integra remanere; atque adeo, ut sine ulla cognitione Dei possit non solum peccatum veniale sed mortale. Fundamentum est quia in lege naturali ideo res sunt graviter prohibita quia graviter malae, et dignae gravi prohibitione et aversatione; ergo antecederet ad huiusmodi prohibitionem et legem habent malitiam graviter odibilem et quae possit graviter inhonestare amorem ipsarum”; Rhodes, G. de, *Disputationum theologiae scholasticae tomus prior in quo Deus, Angelus, Homo sex tractatibus explicantur ad primam et vtramque secundam partem Summae Theologiae Sancti Thomae*, tr. 4, disp. 1, q. 1, s. 1, vol. I. Lyons, Cl. Prost 1661, p. 389b: “Ea quae sunt essentialiter mala non ideo sunt mala quia recta ratio iudicat, sed ideo recta est ratio quod iudicat illa esse mala quia sunt vere mala”. For a typical attack on Vázquez in the Alcalá academic environment, see Montesinos, L. de, *Commentaria in primam secundae Divi Thomae*, disp. 6, q. 1. Alcalá, J. Gracián de Antisco 1621, p. 145a: “Impugnatur solutio P. Vazquez: nihilominus tamen hoc difficile apparet, quod peccatum non habet aliquam disconvenientiam respectu Dei aut beatorum”. This aspect of Gabriel Vázquez’ thought has been often studied, especially in comparison to the sometimes more “voluntarist” Suárez. The bibliography is huge and often repetitive: see Garssen, H. von, *Die Naturrechtslehre bei Gabriel Vázquez*. Göttingen, PhD Dissertation 1951; Vereecke, L., *Conscience morale et loi humaine selon Gabriel Vázquez*. Paris–Tournai, Desclée & Cie 1957; Sánchez de la Torre, Á., *La divergencia en la fundamentación de la moralidad en los PP. Francisco Suárez y Gabriel Vázquez*. In: *Thomistica morum principia*. Ed. Ch. Boyer. Rome, Officium Libri Catholici 1960, p. 169–177; Specht, R., *Zur Kontroverse von Suárez und Vázquez über den Grund der Verbindlichkeit des Naturrechts*. *Archiv für Rechts- und Sozialgeschichte* 45, 1969, p. 235–255; Galparsoro Zurutuza, J. M., *Die vernunftbegabte Natur. Norm des Sittlichen und Grund der Sollensforderung. Systematische Untersuchung der Naturrechtslehre Gabriel Vázquez’s*. Bonn, PhD Dissertation 1972; Mandrella, I., *Das Isaak-Opfer*, op. cit., p. 218–233; Cruz Cruz, J., *The Formal Fundament of Natural Law in the Golden Age: The Case of Vázquez and Suárez*. In: *Contemporary Perspectives on Natural Law*. Ed. A. M. González. Aldershot, Ashgate 2008, p. 43–65.

44 For a critical discussion of what *aversio Dei* means in Thomas Aquinas (heralded by all those who defend the implicit and necessary link between sin and hating God), see in Lugo, *De incarnatione*, disp. 5, s. 5, § 79, p. 89a: “Dicunt S. Thomam nomine *aversionis a Deo* intelligere

an interpretation, the precept of the *odium Dei* becomes an impossibility, because it goes against the dictates of right reason which always is seeking the good: God being just another name for goodness, it follows that even in the absence of any divine prohibition, the hate of God would be evil, because it would be irrational to hate something good.⁴⁵

Caramuel mentions also a second, more “voluntarist” interpretation of Aquinas. Some Thomists argue that there is actually no sin in the *theological* sense independently of a divine prohibition, thereby establishing a stronger link between divine or eternal law and natural law. God’s law being eternal, since the very first moment of the use of human reason, the precept of charity is already present and valid, and any moral mistake is thus a deviation from what the divine will has urged us to do. Again, Caramuel does not give any names for this interpretation, which might puzzle a number of today’s interpreters of Aquinas’ natural law doctrine, who take care to argue that the existence of God or his commands are “neither a relevant concept nor a necessary condition for Aquinas’ account of natural law”.⁴⁶ This is a position

aversionem formalem, vel aversionem etiam virtutalem, qualem haberet etiam furtum factum cum ignorantia invicibili offensae Dei: nam eo ipso quod quis vult violare legem naturae, vult virtualiter violare legem Dei, cuius vicaria est lex naturae. Sed haec interpretatio manifeste convincitur falsa ex verbis S. Thomae, quibus dicit furtum, vel homicidium sine aversione a Deo adhuc fore malum, non tamen peccatum mortale: dicit enim *quamvis adhuc esset illa actio inordinata, non esset peccatum mortale*.” A parallel debate took place among the Scotists. See for instance Francisco Felix, *Tractatus de peccatis*, c. 1, diff. 3, § 3, in Id., *Tentativae Complutensis tomus posterior* (Alcalá, M. Fernández 1645), p. 298a, who maintains that all sins do not entail such an *aversio*, against earlier Scotists. For a criticism of earlier Scotists as well as of Lugo’s position, see the arguments of the voluntarist Scotist Tomás Llamazares, *Quaestiones sive Disputationes theologicae, scholasticae, dogmaticae et morales ad mentem Scoti e variis theologiae tractatibus selectae*. Lyons, Fl. Anisson 1679, p. 313a: “... circa hoc singulariter opinatus est P. Lugo de Incarnatione, disp. 5, s. 5...”

45 Medina, *In lam-IIae*, q. 71, a. 6, p. 638a: “...odium Dei & blasphemia sunt peccata et offensa Dei etiam seclusa fidei notitia: id namque cognoscitur ex lumine rationis humanae”; G. Vázquez, *Commentariorum ac disputationum in primam partem S. Thomae. Tomus secundus*, disp. 97, c. 3, § 6. Alcalá, J. Gracián 1598, p. 545b: “Nam sicut ex se non ex voluntate aut intellectu Dei, essentiae rerum non implicant contradictionem, (...) ita etiam odium Dei et periculum ex se non ex intellectu aut voluntate Dei disconvenientia sunt homini: ergo non omnia ideo sunt peccata, quia prohibita...”; this seemed also Suárez’ conclusion in his posthumously published lectures on the *lam-IIae*: *De bonitate et malitia*, disp. 7, s. 1, § 7, in: *Tractatus quinque theologici*, ed. B. Alvares. Lyons, J. Cardon 1628, p. 270; and a good summary in Oviedo, *In lam-IIae*, tr. 4, contr. 4, punct. 1, § 4, p. 316a: “quis autem neget, ait Doctus Vazquez, potuisse Deum tale praeceptum non insinuare creaturae rationali, sed illam relinquere tantum ratione luminis instructam, quod sufficiens esset, ut odium Dei malum appareret, & peccatum committeret, qui illud contraheret.”

46 Lisska, A., *Aquinas’s Natural Law Theory. An Analytic Reconstruction*. Oxford, Clarendon Press 1996, p. 120, to give just one example of a contemporary attempt of stripping Aquinas’ theory of natural law of divine foundations. On this debate, see a good summary in Eberl, J. T., *The Necessity of lex aeterna in Aquinas’s Account of lex naturalis*. In: *Lex und ius. Beiträge zur Begründung des Rechts in der Philosophie des Mittelalters und der frühen Neuzeit*. Ed. A. Fido-

quite similar to that of Medina, who had effectively rejected the principle of the derivation of all rules of human reason from God.⁴⁷ But a great number of Thomists would adopt a more clearly Augustinian reading, according to which every type of fault (*culpa*) comes from the fact that our will does not obey to God's law, so that all transgressions of natural law constitute sins in the theological sense and should be treated as such. This interpretation gained momentum during the seventeenth century, and among its most vocal representatives, we find Caramuel's own teacher in Alcalá, the Spanish Cistercian Pedro de Lorca (1561–1612), who argued that it was Thomas, and not Scotus, who should actually be considered as a “positivist” according to which *quidquid est malum, ideo esse, quia aliqua lege prohibetur*.⁴⁸ It also had supporters among the Jesuits, for instance in the brilliant commentary by Juan de Salas (1553–1612), who endorses a very positivistic definition of the sin.⁴⁹ One of the most radical exponents of that position was probably Juan Alfonso Curiel († 1609), a secular master of Salamanca, later edited by the Benedictines, who did not shy away from explaining Aquinas in Ockhamistic terms.⁵⁰

ra – M. Lutz-Bachmann – A. Wagner. Stuttgart-Bad Cannstatt, Frommann-Holzboog 2010, p. 147–174.

- 47 Medina, *In lam-Ilae*, q. 71, a. 6, p. 638b: “Illa probatio qua suadetur omne peccatum esse contra Deum, quia regula humanae rationis derivatur a Deo, invalida est: nam etiam derivatur a Deo cognitio sensitiva, et non omne quod contrariatur cognitioni sensitivae est contra Deum, ut caecitas, surditas.” Medina's naturalism was often attacked by later Dominicans, in particular Álvarez, D., *Disputationes theologicae in Primam Secundae Sancti Thomae*, disp. 130, § 4. Trani, C. Vitale 1617, p. 383b: “Haec sententia sufficienter manet impugnata...”
- 48 See Lorca, P. de, *Commentaria et disputationes in primam secundae Divi Thomae. Tomus alter*, disp. 10. Alcalá, J. Gracián 1609, p. 33b; *Ibid.*, p. 34a: “Dico ergo primo, quaecunque sunt bona, vel mala, ideo talia sunt, quia dispositum est lege aeterna Dei”; *Ibid.*, p. 35b: “Dico secundo: omne quod peccatum, & malum natura sua est, ideo est tale quia lege naturali est prohibitum, & non e converso, ideo contra legem quia malum”. The theocentric reading of Lorca was often highlighted by later commentators, such as the Scotists Felix, *De peccatis*, c. 1, diff. 2, § 6, p. 295b; Llamazares, *Quaestiones*, p. 304. As Francisco Felix rightly notes, Lorca also holds a similarly theocentric conception of the origin of possibility: “naturae rerum, vel possibilitas creaturarum non est ens a se, nam solus Deus est ens a se; ergo pendent ex Deo; ergo quod odium Dei sit malum, pendet ex iudicio Dei.”
- 49 Salas, *In lam-Ilae*, tract. 13, disp. 2, s. 4, § 53, p. 338b: “Communis veraque opinio est, malitia peccati actualis consistere in contrarietate ad legem”. See also a good discussion in J. A. Curiel, *Lecturae seu quaestiones in D. Thomae primam secundae*, q. 71, dub. 2 (“Utrum omnes actus humani, qui sunt peccata, ideo sunt aliqua lege prohibiti; an vero aliqui secundum suam naturam & seclusa omni prohibitione sint peccata?”). Antwerp, J. van Keerbergen 1621 [1618], p. 301b–303a.
- 50 Curiel, *In lam-Ilae*, q. 71, a. 6, p. 303a: “...absolute probavimus non posse reperiri peccatum, sine ordine ad legem”, with a clear rejection of Medina's, Vázquez's and even Scotus' positions on the *odium Dei*: “Decipi eos, qui dicunt, quod in casu quo nulla esset lex neque creata, neque divina, odium Dei esset peccatum & non esset peccatum (...). Neque concedendum est, quod tunc odium Dei averteret a Deo moraliter, quia solum averteret naturaliter. (...)” The inference from irrationality (*contra rationem*) to atheism (*contra Deum*) defended by Curiel is highlighted

The establishment of a closer link between sin and divine willing in the Thomistic school can also be traced back to a more Augustinian reading of Aquinas, promoted by a certain number of Dominicans following mainly Domingo de Soto (1495–1560) in his own acclaimed (and very scholastic) commentary on Romans (1550).⁵¹ All these authors take seriously the fact that the famous definition of sin taken from Augustine's *Contra Faustum* contained this explicit reference to God's law: *Peccatum est dictum, factum vel concupitum contra legem Dei aeternam*.⁵² The evangelic source could to be found in Saint Paul's famous formula *ubi non est lex, nec praevaricatio* (Rom. 4, 15), which also closely linked the knowledge of the (divine) law with sin. They embedded this positivistic or prescriptivist definition of sin into the more general metaphysical framework present in Aquinas' discussion, such as the articulation between eternal law, natural law and human law, and the underlying doctrine of participation: an aversion from the rule of reason entails immediately an aversion from God, with whom man has to be united by reason.⁵³ Hence, if we say sins are against reason, we should not forget that reason itself is an image of God or an expression of the *lex Dei*.⁵⁴ We should therefore not be misled in the interpretation of a famous distinction of the *Summa*, on which early-modern commentators have written

by Oviedo, *In lam-llae*, tr. 4, contr. 4, punct. 1, § 8, p. 316b: "Totam doctrinam superius traditam expresse docuit Curiel (...), ubi asseruit omne peccatum eo ipso est contra rectam rationem esse contra legem aeternam Dei..."

51 Soto, D. de, *In epistolam ad Romanos*. Antwerp, Steels 1550, p. 130a: "Dubitatio hinc, quamvis exigua, resultat, quod prima peccati radix non exinde innascitur quod sit contra legem, sed quod contra venimus voluntatis superioris, cui parere tenemur"; Ibid., p. 130b: "Sed quoniam lex omnis, tam naturalis quam scripta, index & linea est voluntatis Dei, ideo praevaricationem legis delictum censet <Paulus>, voluntati Dei adversum, dignum proinde illius irae, quam comminatur lex." Globally, for an excellent presentation of the pre-1600 stand of the dispute, see Zumel, *In lam-llae*, q. 71, a. 6, disp. 10: "Utrum nulla existente lege, posset esse peccatum?", p. 182–189, where most of the earlier sixteenth-century authorities are discussed. See also Álvarez, *In lam-llae*, disp. 130, § 7, p. 384a, who clearly attacks the Vazquezians. For a glimpse of the historical development encompassing Domingo de Soto, Domingo Báñez, John of Saint-Thomas, Jean-Baptiste Gonet and Charles-René Billuart in: Blic, J. de, *Vie morale et connaissance de Dieu. Revue de philosophie*, 1931, p. 581–610 (p. 604–608 in particular for the texts). This also explains why in later decades, the Dominicans will side with Arnauld in a common fight against the Jesuit notion of philosophical sin at the end of the seventeenth century: see for instance the pamphlet by Serry, J.-H., *Les véritables sentiments des Jésuites touchant le péché philosophique*. Cologne, N. Schouten 1690. In the twentieth century, this theory found its climax in the controversial commentary of the Jesuit (and cardinal) Louis Billot (1846–1931), who defended the position that atheists cannot have any moral values.

52 Augustinus, *Contra Faustum* xxii, c. 27 (PL 42, 418).

53 Cf. Thomas Aquinas, *la-llae*, q. 73, a. 7, ad 3: "...ex aversione a regula rationis, statim sequi aversionem a Deo, cui debet homo per rationem coniungi".

54 Salas, *In lam-llae*, tract. 13, disp. 2, s. 4, § 71, p. 344a: "omne obiectum aliquo modo est contra legem Dei, quia est contra rationem, quae revera est lex Dei, & est contra dictamen, quo Deus iudicat, non esse faciendum, sed fugiendum."

hundreds of pages of contradictory commentaries, because the issue was the possibility of defining morality without any reference to God (“theologians consider sin chiefly as an offense against God; and moral philosophers as something contrary to reason”⁵⁵). Although this text has sometimes been used – including by Caramuel himself and several Jesuits – to argue in favour the existence of a pre-divine conception of morality, many seventeenth century Thomists recalled that the context of Aquinas’s reply was precisely to rule out the possibility of such a purely “philosophical” sin: human actions are only closely related to human reason (*propinque et homogene*), but the *prima regula* is the eternal law, *quae est quasi ratio Dei*. In a typical fashion, Aquinas therefore says that the *material* aspect of sin is to act against reason, but the *formal* aspect – namely the aspects that confer to an evil act the *ratio* or *forma* of a sin – is its offense against eternal law, and thus divine law.⁵⁶

Hence, according to this Augustinian reading of Thomas Aquinas, there is no such thing as a purely moral evil, totally anterior to God’s command. It is impossible to argue, as Vázquez and the intellectualists do, that *even if there is no God*, there would be moral evil or sins.⁵⁷ There would certainly be some form of natural disharmony (*disconvenientia*), but not a sin in the proper sense of the word. The reason, however, is not the contingency of God’s commands (as some Scotists defend, and Caramuel himself), but because God’s command is in itself eternal and obedience is required from

55 Thomas Aquinas, *Summa theologiae* Ia-IIae, q. 71, a. 6, ad 5: “Ad quantum dicendum quod a theologis consideratur peccatum praecipue secundum quod est offensa contra Deum, a philosopho autem morali, secundum quod contrariatur rationi. Et ideo Augustinus convenientius definit peccatum ex hoc quod est contra legem aeternam, quam ex hoc quod est contra rationem, praecipue cum per legem aeternam regulemur in multis quae excedunt rationem humanam, sicut in his quae sunt fidei.”; this text has been the object of numerous commentaries, and will later be often quoted as a Thomistic proof for the thesis of the *peccatum philosophicum*. In Salamanca, Vitoria admitted “wondering” how someone could offend a God whom he/she does not know, arguing hence for the possibility of natural morality. See Vitoria, *Relectiones*, p. 368: “Item, S. Thomas dicit (...) peccatum quidem a philosophis consideratur ut est contra rationem, sed a theologo ut est offensa Dei. Mirabile autem videtur, quod quis offendat Deum quem neque cognoscit neque tenetur cognoscere”; discussed also by Salas, *In Ia-IIae*, tract. 13, disp. 2, § 51, p. 338a–338b. On the historical context of the text, see the seminal study by O. Lottin, *Le problème de la moralité intrinsèque d’Abélard à saint Thomas d’Aquin*. *Revue thomiste* 39, 1934, p. 477–512.

56 Cf. Thomas Aquinas, *ST Ia-IIae*, q. 71, a. 6, corp.: “Et ideo Augustinus in definitione peccati posuit duo, unum quod pertinet ad substantiam actus humani, quod est quasi materiale in peccato, cum dixit, dictum vel factum vel concupitum; aliud autem quod pertinet ad rationem mali, quod est quasi formale in peccato, cum dixit, contra legem aeternam”. See the vivid commentary in Salas, *In Ia-IIae*, tract. 13, disp. 2, s. 4, § 56, p. 336b: “... nam D. Thomas tantum dicit, nihil esse malum, nisi quia prohibitum saltem iure naturae, quod primario existit in lege aeterna, secundario vero in ratione nostra.”

57 See Álvarez, *In Ia-IIae*, disp. 130, § 7, p. 384a: “Notandum tamen esse aliquos ex recentioribus discipulis S. Thomae quibus non placet haec sententia. Dicunt enim, quod si non existente legae aeterna, homicidium est malum naturale, etiam debet esse malum morale & peccatum.”

the very first instant of reason: every act that contradicts the dictate of right reason is, for that very reason, a sin, since it goes against natural and eternal law.⁵⁸ And in the last case, if the hate of God (*odium Dei*) is prohibited even in the impossible situation of the divine word not having spoken about it, there would be a contradiction between this command and the divine essence of which the divine law is only an expression. God being essentially defined as good, truthful and just, we cannot find any rationality in a precept asking us to hate him, to lie or to commit unjust acts. In such cases of apparently purely “moral evil” (*malitia morali*), we must always “pre-understand” (*praeintelligere*) a prohibition linked to the fact that they contradict the divine essence, as the Salamanca Mercederian Francisco Zumel (1540–1607) puts it.⁵⁹

Scotistic Intellectualism

The Bratislava debate shows that the Scotists seem to have been equally divided about the role played by the divine will in the definition of sin. Even if it is hard to find statements as harsh as those reported by Caramuel, many early-modern Scotists seem indeed to have defended a strongly voluntarist interpretation of morality, arguing that if there is no law, then there is no sin.⁶⁰ The Scotists seemed at first glance to embrace a positivistic conception of sin, arguing that there is no sin in the absence of a divine prohibition, and most of them strongly reacted against the naturalism or the intellectualism

58 Álvarez, *In lam-llae*, disp. 130, § 8, p. 384a: “Unde quicquid est contra dictamen rationis naturalis est contra legem naturalem & aeternam, ac per consequens est peccatum”.

59 Cf. Zumel, *In lam-llae*, q. 71, a. 6, disp. 10, p. 185b: “Odium Dei, adulterium, homicidium, mendacium & alia huiusmodi intrinsece mala, illa quidem simpliciter loquendo, seclusa prohibitione legis aeternae, sunt mala malitia naturali. (....). Et probatur primo: quoniam seclusa per intellectum tali prohibitionem, haec mala dicunt oppositionem cum divinis attributis, nempe cum Dei bonitate, veritate & iustitia, & ob id necessario displicent ipsi Deo: ergo ut praeintelliguntur prohibitioni, sunt intrinsece mala.”; also Álvarez, *In lam-llae*, disp. 130, § 6, p. 384a, uses the argument of the contradiction with divine attributes. This is much more theocentric argument than that proposed earlier by Medina, *In lam-llae*, q. 71, a. 6, p. 638a: “...odium Dei & blasphemia sunt peccata et offensa Dei etiam seclusa fidei notitia: id namque cognoscitur ex lumine rationis humanae”.

60 For a good discussion among Scotists, see Herrera, F. de, *Disputationes theologicae et commentaria in secundum librum Sententiarum Doctoris Subtilis Scoti*, a. 28 usque ad 42 inclusive, in quibus tota materia de peccatis actualibus disputatur, disp. 29, q. 4 (“Utrum si nulla esset lex, aliquod esset peccatum”). Salamanca, A. Renaut 1600, p. 96b–102b; Fabri, *Disputationes*, dist. 14, c. 6 (“Quod est peccatum omne eo est peccatum, quia est contra legem Dei”), p. 16a–21a; Volpi, A. (Montepilosius), *Sacrae theologiae summa Ioannis Duns Scoti*, vol. VI. Naples, L. Scoriggio e.a. 1635, disp. 127, a. 2 (“An circumscripta lege esset peccatum”), p. 181b–184b; B. Mastri da Meldola, *Disputationes in secundum Sententiarum*, disp. 6, q. 3 (“An de ratione peccati sit esse contra legem, vel a lege prohibitum”). Venice, ex Typographia Balleoniana 1719 [1659], p. 329a–335b; Llamazares, *Quaestiones*, q. 16 (“Quid sit peccatum et qualiter a lege dependet?”), p. 295a–317b.

of the Jesuit Gabriel Vázquez – who had actually enrolled Duns Scotus as an authority for his own reading.⁶¹ The clearest and strongest exponent of a radically voluntarist reading of Duns Scotus was Filippo Fabri (*Faber*, 1564–1630), the major representative of the famous Paduan Franciscan school at the beginning of the seventeenth century, and who is commonly seen as following the “nominalist” theology.⁶² He attempted, *pace* the Thomists and the intellectualist Jesuits such as Vázquez, to defend that even a precept of the First Table, such as the prohibition of the hate of God, is valid only positively, because of divine prohibition.⁶³ He based his determination by giving a maximal extension to God’s will and to God’s power: everything that does not relate to God himself is purely contingent, and God cannot be determined by anything outside of him.⁶⁴ Therefore, even the rules of practical reason such as those teaching that *God must be loved as good and just* must depend on this contingent divine willing, because if it was not case, then God would be determined by something exterior to himself – which would contradict the general principle that he cannot be determined by anything.⁶⁵ It would thus be wrong to admit that there is some form of truth such as *odium Dei est malum* that would be independent of God.

How popular was such a strongly voluntarist account? Filippo Fabri’s interpretation is regularly quoted by later Scotists, but always criticized

61 See Vázquez, *In Iam-IIae*, disp. 97, c. 3, § 6, p. 545b; Curiel also presented Scotus as holding an intellectualist position: *in Iam-IIae*, q. 71, a. 6, p. 302b. This attempt is criticized as *frustrum* by Sannig, precisely because they claim that the prohibition of the *odium Dei* is “rational” and not purely positive: see *Tractatus VIII de peccatis*, dist. 1, q. 2, § 3, in: Id., *Schola theologica Scotistarum*, vol. II. Prague, per Ioannem Mattis Factorem 1681, p. 398b: “... tenent (...) odium, blasphemiam & mendacium seclusa omni lege esse peccata suapte natura.”

62 Mastri, *In II Sententiarum*, disp. 6, q. 3, § 66, p. 329a: “... sequitur ex nostris Faber...”

63 Fabri, *Disputationes*, disp. 1, q. 1, § 102, p. 17a: “Ego igitur (...) ostendere enitar hanc assertio-nem: Omne peccatum, ideo esse peccatum, quia est prohibitum; & nullum esse peccatum nisi sit prohibitum. Quod sic hos ostendero de odio Dei, quod videtur ex natura sua peccatum, non autem, quia sit actu prohibitum, de aliis nulla erit dubitatio. Hoc autem ex principiis doctrinae Scoti facillime declaro & probro”. An explicit rejection can be found in Punch, *In III Sent.*, dist. 37, § 44–66, p. 536b–541a.

64 Fabri, *Disputationes*, disp. 1, q. 1, § 103, p. 17b: “Est ergo verissimum, quod voluntas divina nihil extra se vult necessario, sed omnia contingenter, & quod a nulla extra se regulatur & dirigitur in suis volitionibus, sed ipsa est prima regula, & omnis regula ab ipsa pendet; & ideo quidquid est bonum, est bonum quia volitum ab ea; & quidquid est malum, est malum, quia ab ea prohibi-tum.

65 Ibid.: “Vel voluntas divina necessario illi assentiret, & illud vellet, vel esset in libera potestate eius illam veritatem velle, vel non velle: si sic, ergo voluntas divina determinaretur necessario ab aliquo extra se, nec vel et illud contingenter, sed necessario; hoc autem est falsum, & contra ax-ioma praedictum [namely that God wills everything contingently]. Praeterea, sequeretur, quod voluntas divina non esset primum efficiens, & quod omnia penderent ab ipsa, quod est falsum”. A similar case will be made by Llamazares, *Quaestiones*, p. 309a: “... siquidem eo ipso quod est aliquid extra Deum, qui est prima regula & prima causa, implicat quod sit prima regula & prima causa.”

for its excessive voluntarism. Although he was eager to follow the Scotistic doctrine of theological sin as fully positive, Caramuel also did not believe that this was the last word in the correct interpretation of Duns Scotus. Early-modern Scotists followed usually two strategies to put a distance between Scotus and the nominalist doctrine: the most standard procedure was to recall that according the Subtle Doctor, not *all* the Decalogue was dispensable, but only the precepts of the Second Table. But there was also a more innovative method, which I believe inspired in particular Caramuel: it consisted in arguing that even if we admitted the positivity of the Decalogue, there would remain another level of morality. Let us quickly examine these two argumentative strategies.

The first most classical position was illustrated by a 1643 Louvain debate, which Caramuel carefully resuscitates as a refutation of the 1655 Bratislava debate. This debate was held during the Provincial chapter called by Pierre Marchant (1585–1661),⁶⁶ himself an excellent and highly regarded Scotist theologian, and Irish as well as Flemish and Walloon Franciscans were present. Their conclusion is carefully reported by Caramuel. First they affirm generally that natural law is an act of the divine will, and that in the absence of God, there would be no sin (clearly an apparently positivistic and voluntarist statement), but then they contend that within this realm of natural law, we must distinguish between two types of matters, one absolutely necessary (and contrary to rational creatures) and one which is contingent. God can dispense only from the second, but the first is absolutely indispensable (*a nulla dispensabilis*).⁶⁷ This conclusion was a crisp summary of Scotus' classical distinction between the precepts of the First and the Second table of the Law: and Caramuel recalls that the first with the negative precepts are *necessary*, they have directly God as object, and their observance derives from self evident principles known to every intellect and God cannot dispense from

66 The conclusions of this general chapter are already discussed by Caramuel, TR 1645, § 1192 ff., p. 299 ff.; then TMF 1656, § 567, vol. I, p. 185. On Pierre Marchant, see Dirks, S., *Histoire littéraire et bibliographique des Frères Mineurs*. Antwerp, Typographie Van Os-De Wolf 1886, p. 215–228; Ceysens, L., Pierre Marchant OFM. Son attitude devant le jansénisme. *Franciscana* 20, 1965, p. 26–65 (repr. in his *Jansenistica minora*, vol. IX, Mechelen, Imprimerie Saint-François 1966, n° 74). See also numerous documents of his activity as commissary general, to the superiors of the Irish Province and the superiors of Saint Anthony's College, published in Giblin, C. (ed.), *Liber Lovaniensis*, op. cit., p. 9, 13, 20, 25, 31–33, 208.

67 Quoted by Caramuel, TMF 1656, § 567, I, p. 185: "Thesis XX: Naturalis (lex) non est ipsa Natura, sed actus divinae voluntatis, quo per impossibile sublato nullum restat peccatum contra legem Naturae. Aliqua (naturae lex) complectitur materiam absolute necessariam, aut contrariam creaturae rationali, alia non item, haec a Deo solo, a nullo illa dispensabilis." For another Scotist vindication of the distinction between both tables and the reference to most contemporaries, see Felix, *De peccatis*, c. 1, diff. 2, § 4, p. 293a.

them⁶⁸ – a conclusion directly opposed to the voluntarism of Fabri and the nominalists. When Scotus says that these principles are self-evident (*per se nota*), this does not mean that all men do explicitly know and respect them, but that they are self-evident at least for God himself: God's own perfect intellect knows that it is good and necessary to love himself, and humanity can be instructed in this through the Revelation of Scripture. In a strictly deductive way, Scotus concludes that if God is God, then he is the only one who needs to be loved,⁶⁹ and the object of God's charity is in the last end also the object of human charity. Concerning the Second Table, with the positive precepts, the solution advocated by Scotus is different: these principles cannot be deduced from the first self-evident principles and God's self-knowledge, neither do they directly refer to our ultimate end.⁷⁰ God does not need, for instance, to be loved on a specific day, nor does our relationship towards others, such as our parents or our neighbours, necessarily imply an act of love towards God. Therefore, the Second Table containing the positive precepts is the expression of a contingent will, and God can dispense from these precepts.

68 Ioannes Duns Scotus, *In Illi Sent.*, dist. 37, q. 1, § 16–17 (ed. Vaticana, vol. X, p. 279): “Dico quod aliqua possunt dici esse de lege naturae dupliciter: uno modo tanquam prima principia practica nota ex terminis, vel conclusiones necessario sequentes ex eis. Et haec dicuntur esse strictissime de lege naturae. (...) In talibus non potest esse dispensatio.” These passages have of course been much commented on in the Scotist literature, stressing in particular the difference between his view on dispensation from that of Aquinas (who also stressed a difference between the first and second tables of the Decalogue). Among the older valuable studies, see Rohmer, J., *La finalité morale chez les théologiens de saint Augustin à Jean Duns Scot.* Paris, Vrin 1939, p. 294–309; Stratenwerth, G., *Die Naturrechtslehre des Johannes Duns Scotus.* Göttingen, Vandenhoeck & Ruprecht 1951, p. 73 ff.; Prentice, R. M., *The Contingent Element Governing the Natural Law on the Last Seven Precepts of the Decalogue According to Duns Scotus.* *Antonianum* 42, 1967, p. 259–272 (a literal and complete commentary); Hedwig, K., *Das Isaak-Opfer*, op. cit., p. 651–655 in particular; Parisoli, L., *La philosophie normative de Jean Duns Scot.* Rome, Istituto Storico dei Cappuccini 2001, p. 68–75; Mandrella, I., *Das Isaak-Opfer*, op. cit., p. 132–150. For an English translation of the relevant passages, see A.B. Wolter, *Duns Scotus on Will and Morality.* Washington, D.C., The Catholic University of America Press 1997, p. 198–207.

69 Ibid., § 20 (ed. Vaticana X, p. 280–281): “...illa sunt de lege naturae, stricte sumendo legem naturae, quia necessario sequitur “si est Deus, est amandus ut Deus solus”, similiter sequitur quod “nihil aliud est colendum ut Deus, nec Deo est irreverentia facienda”. Et per consequens in istis non poterit Deus dispensare, ut aliquis possit facere oppositum huius vel illius prohibiti”.

70 Ibid., § 18 (ed. Vaticana X, p. 280): “Et non est sic, loquendo universaliter de omnibus praecipitis secundae tabulae, quia de ratione eorum quae ibi praeciipiuntur vel prohibentur, non sunt principia practica simpliciter necessaria, nec conclusiones simpliciter necessariae; Non enim est necessaria bonitas, in iis quae ibi praeciipiuntur, ad bonitatem finis ultimi (...)”; Ibid., § 25 (ed. Vaticana X, p. 283): “Alio modo dicuntur aliqua esse de lege naturae, quia multum consona illi legi, licet non necessario consequantur ex primis principiis practicis, quae nota sunt ex terminis et omni intellectui necessario nota. Et hoc modo certum est omnia praecipita – etiam secundae tabulae – esse de lege naturae, quia eorum rectitudo valde consonat primis principiis practicis necessario notis.”

This distinction between both Tables explains why even some Thomists presented the Scotists as an *opinio media inter extremas*, as Francisco de Vitoria wrote in his commentary on the *De legibus*:⁷¹ namely some “median” position between the extremes of voluntarism (usually referred to William of Ockham and Peter of Ailly) and absolute intellectualism, according to which all precepts are immutable, basing on the idea that the two first precepts are necessary (indispensable) whereas the others are contingent (dispensable). The radically voluntarist Scotists miss this essential distinction between the *ad intra* and the *ad extra*, which explains why the entire Decalogue cannot be made contingent: *Scotistarum opinio non consona Scoti*, “the Scotists are not faithful to Scotus’, said for instance the Neapolitan Conventual Angelo Volpi (*Montepilosius*, †1647), another defendant of a more intellectualist reading of Duns Scotus,⁷² who argued that the *odium Dei* was fundamentally a rational impossibility.⁷³

One specific Scotist theologian, often criticized for his innovative positions, seemed to have gone even further in his interpretation of the relationship between God’s will and morality, namely John Punch (*Poncius*, 1599–1661),⁷⁴ the Cork-born and Louvain-educated Scotist, whose commentaries were part of Wadding’s new edition of the *Opera omnia* of Scotus (1639), and whom Caramuel also often praised. Punch took particular care in

71 Vitoria, *De legibus*, q. 100, a. 8 (“Utrum praecepta decalogi sunt dispensabilia”), ed. J. Stüben, p. 106; Mastri, *In II Sententiarum*, disp. 6, q. 3, § 66, p. 329a, calls it also a “via media”.

72 Volpi, *Summa*, disp. 127, a. 3, p. 183b: “Scotus (...) solum contingentium extra, non necessario- rum asserit divinam voluntatem primam regulam”, and in the margin: “Scotistarum opinio non Scoto consona.” Another intellectualist conclusion is held by Herrera, *In II Sent.*, disp. 29, q. 4, p. 100b: “Etiam si nulla esset lex praeceptiva odium Dei, adulterium, & homicidium, & quaecun- que illa, quae intrinsece mala nuncupantur, essent mala malitia naturali & contraria contrari- etate naturali cum recta ratione & cum lege aeterna in intellectu divino existente.”

73 Volpi, *Summa*, disp. 127, a. 2, § 8, p. 183a: “... hoc peccatum odii ideo est a Deo prohibitum, quia naturaliter malum, hoc est contra legem naturam ex terminis notam.”

74 On Punch (also called Ponce in older literature), who did his novitiate and theological studies at Saint Anthony’s (Louvain) before teaching in Rome and Paris, the classical reference article remains Grajewski, M., John Ponce, Franciscan Scotist of the Seventeenth Century. *Franciscan Studies* 6, 1946, p. 54–92, and his innovative metaphysical positions have been well studied recently by numerous scholars. See in particular Forlivesi, M., “Ut ex etymologia nominis patet”: The Nature and Object of Metaphysics According to John Punch. In: *Hircocervi and Other Meta- physical Wonders. Essays in Honor of John P. Doyle*. Ed. V. Salas. Milwaukee, Marquette Univer- sity Press 2013, p. 121–155; Andersen, C. A., *Metaphysik im Barockscotismus*, op. cit. There seems, however, to be a recurrent confusion about his date of death: most scholars give 1672–1673, following probably Cleary, G., *Father Luke Wadding and St Isidore’s College*. Rome, Tipografia del Senato del G. Bardi 1925, p. 86, as well as Grajewski, but he seems clearly to have died as early as 26 May 1661 at the Paris convent, where he was buried in the cloister, as can be established in the necrology (based on the Archives Nationales, Paris, series LL 1508-LL 1527A), published by Poulenc, J., *Deux registres de religieux décédés au grand couvent de Paris au XVII^e siècle*. *Archivum Franciscanum Historicum* 59, 1966, No. 3–4, p. 323–384 (p. 344 for Punch).

refuting the “Ockhamist-Scotist” reading of Filippo Fabri,⁷⁵ and defended the following thesis: even if God *had not ordered anything*, a certain number of things would still be evil. His contemporary Bartolomeo Mastri (1602–1673) still recoiled from such a naturalistic statement, like many other Scotists who believed that the *etiamsi daremus* argument was inconclusive: since if there was no God nor law, then there would indeed be no command and thus all acts would be in the last resort indifferent.⁷⁶ But just as he defends a very essentialist position on the origin of the possibility of things, Punch defends here a very anti-voluntaristic conception of natural law as the one from which, independently of any ordering (*iussio*), an action has a good or evil character, if such an action was posited.⁷⁷ The famous Augustinian definition of sin, he says, is partial: certainly something can have its sinful character from the divine prohibition, “but that does not exclude that something could be a sin for another reason”.⁷⁸ As a result, the concept of *sin* must be distinguished in accordance with this double source of evil: there are indeed sins that depend directly on the positive will and commands of God, but also sins that get their sinful character from another source.⁷⁹ We will see that this is an important step towards the widening of the concept of sin, since many authors both in the Thomistic and the Scotistic tradition were reluctant to talk of these *mala* explicitly in terms of sin, speaking just of “natural evil” or “natural malice”, as opposed to true sinfulness, linked to divine prohibition.⁸⁰ Punch is among those who, like Caramuel, use the expression *peccatum* for

75 See Punch, *In III Sent.*, dist. 37, q. un., § 44, p. 536b: “...in impugnatione huius Authoris <scil. Fabri> aliquantulum est immorandum”. Fabri’s position is also carefully debunked by Mastri, *In II Sent.*, disp. 6 (“De peccatis”), a. 3, § 87–93, p. 332a–335b.

76 Mastri, *In II Sent.*, disp. 6, § 93, p. 335a: “...in eo casu omnis actus esset indifferens & ut talis apprehenderetur ratione, ideoque in genere moris nullum esset peccatum.”

77 Punch, *In III Sent.*, dist. 37, q. un., § 8, p. 529b: “...per legem naturalem intelligimus illam a qua per se primo independenter ab omni iussione habet aliqua actio esse bona, vel mala, si detur aliquid tale.”

78 *Ibid.*, § 17, p. 531b: “...sed hinc non sequitur quod aliquid non sit peccatum formaliter ex alio capite, quam ex eo quod prohibeatur a Deo”.

79 *Ibid.*, § 55, p. 539a: “...inde non sequitur quod <Deus> possit facere aliqua peccata non esse peccata, nisi quae peccata praecise habent esse talia ab ordinatione eius: sic autem non se habent omnia, quae sunt peccata.”

80 In the generation of Vitoria and Soto, it was still unclear, Soto speaking for instance of the possibility of a *peccatum naturale* (see the text in note 124 below). Later voluntarist Scotists such as Llamazares clearly rejected this possibility of speaking of such evil acts in terms of *peccata*: Llamazares, *Quaestiones*, p. 309b: “Si nulla esset lex nec divina nec humana, mendacium non fore malum morale nec peccatum, esse tamen malum naturale”; Sannig, *De peccatis*, dist. 1, q. 2, § 6, p. 399a: “Itaque praefati actus <scil. odium Dei, blasphemia & mendacium> essent quidem mali naturaliter & physice, non tamen moraliter; adeoque non esset peccata proprie dicta, quae per defectum ad legem dicuntur”.

both the natural and the positive forms of moral evil, by arguing for the fact that sins are not as such related to divine prohibitions.⁸¹

Punch's own solution of the foundation of morality is radically anti-voluntaristic, although he refuses Vazquezian rationalism (natural law as rational nature) and Thomistic intellectualism (natural law as an act of the divine intellect).⁸² His own solution consisted in admitting a realm of "objective propositions" expressing the harmony or disharmony of human actions with the rational nature they have in themselves, independently of any divine or human positive law.⁸³ Against Fabri in particular, he recalls that there are "thousands of truths" (*mille veritates*) that are totally independent of the divine will, and that we should not overstate our understanding of the dependency of the world on the divine will: this extends only to the *existence* of things, but not to their essence. For as regards the essences of things, or the moral qualification of acts, even if the will of God did not exist, their moral character would be unchanged (*si per impossibile non esset, adhuc essent tales*).⁸⁴ This conclusion, probably dominant among seventeenth-century Scotists, is precisely how we should respond to the hate of God discussed by the Bratislava Franciscans as well as by Fabri. To Fabri, who maintained that such a proposition as *God is not to be hated* (*Deus non est odio prosequendo*) was not *per se nota*, i.e. evidently knowable from its terms, Punch objects that an analysis of the proposition can precisely lead us to acknowledge it as evident. It must be analysed in the way that *Deus* should be replaced for instance by *Bonum*, and then it would immediately amount to a contradiction in terms (*the good is hated*) and fall, therefore,

81 Punch, *In Ill Sent.*, dist. 37, q. un., § 7, p. 529b: "Sequitur quod posset committi absque iussione Dei non solum actio mala, sed peccaminosa, culpabilis, offensiva Dei, et digna morte aeterna."

82 Punch's anti-voluntaristic (and anti-Suárezian) conception of divine law as a "law without a law-maker" is also well perceived by Pink, Th., Reason and Obligation in Suárez. In: *The Philosophy of Francisco Suárez*. Ed. B. Hill – H. Lagerlund. Oxford, Oxford University Press 2012, p. 188–190.

83 *Ibid.*, § 29, p. 533b.

84 *Ibid.*, § 51, p. 538a: "Nam evidens est quod mille veritates sint, quae non dependeant a voluntate divina, nam hae veritates: *Omne totum est maius sua parte, omnis homo est rationalis & risibilis, calor est accidens connaturale ignis, frigus aquae, sicut duo & duo faciunt quatuor, ita quatuor & quatuor faciunt octo*. Haec, inquam, veritates & infinitae aliae similes nullo modo dependent a voluntate divina, quae non potest facere, ut non sint tales, & si per impossibile non esset, adhuc essent tales: ergo ex eo quod aliquae veritates non dependeant a voluntate divina, non sequitur, quin voluntas divina sit prima causa, a qua omnia dependent in vero sensu, in quo id asserendum est; is autem sensus est, non quod omnis veritas complexa, sive practica, sive speculativa ab ipsa dependeat, ut omnes tenet; sed quod nulla res possit existere realiter a parte rei independentem ab ipsa". For another Scotist use of the *etiamsi-daremus* argument, see Felix, *De peccatis*, c. 1, diff. 2, § 8, p. 295b: "etiamsi Deus non prohiberet libere mendacium, aut odium Dei, aut etiamsi non iudicaret ista esse mala, adhuc ista mala & peccata essent, quia essent contra naturam rationalem." Felix seems here getting close to Vázquez, whose influence in the Alcalá environment seems to have gone well beyond Jesuit ranks.

under the non-will-dependent propositions. The argument of divine omnipotence, even *de potentia absoluta*, cannot be extended to such propositions that are evident in themselves and God cannot change them.⁸⁵

These very intellectualist or naturalistic conclusions went obviously too far for many other seventeenth-century Scotists. The last word of Mastri's position was a rebuttal of such a naturalistic option, and a clear statement linking obligation (morality) to divine commands. Equally, the Spanish Observant Tomás Llamazares (†ca. 1690) fiercely opposed John Punch on this issue, denying him even the right to speak in the name of Scotus and accusing him of siding with the Jesuits.⁸⁶ Many later Bohemian Scotists also tended to defend a stronger voluntaristic and positivistic interpretation of divine law, such as for instance Bernard Sannig (1637–1704), who also took care to criticize the excessive naturalism or intellectualism of the Jesuits.⁸⁷ Sannig refrained, however, from claiming the possibility of legitimate and meritorious *odium Dei*: he admitted only that such hate would be “naturally” evil, but could not be qualified in “moral” terms (*naturaliter & physice, non tamen moraliter*).⁸⁸ For Caramuel at least, it is clear the correct understanding of Scotus was an alliance between two things: first a positive conception of the sins linked to the Decalogue (only the offence to God turns these acts into sins in the properly theological sense), and second the possibility of discovering a more fundamental order of morality *anterior* and *independent* of it. Caramuel expresses this by distinguishing between the *lex theologica* and the *lex philosophica*. He was also eager to get an “official” approval for his own reading of Scotus, submitting his propositions to his old Irish Franciscan acquaintances from Louvain, now residing in Prague: Bernardine Clancy, Daniel Bruoder and Anthony O'Donnell (*Donnillus*), who issued a *Censura theologorum Pragensium* on 15 July 1650, carefully reprinted in the 1656 edition of Caramuel's *Theologia moralis*.⁸⁹

85 Ibid., § 56, p. 539a-b. For other earlier Scotistic rejection of the possibility of the *odium Dei*, see Herrera, *In II Sent.*, disp. 29, q. 4, p. 101a; Felix, *De peccatis*, c. 1, diff. 2, § 4, p. 293b.

86 Llamazares, *Quaestiones*, q. 16, § 4, p. 298a: “... cum nostro Poncio in utroque suo Cursu Philosophico & Theologico, cuius sententia est (nec memini Scoti) formale peccati consistere in ipso actu libero entitative sumpto tendente in obiectum prohibitum cognitum ut tale.” He argues that Punch's solution is not really different from that of a Jesuit such as Francisco de Oviedo (quoted above).

87 Sannig, B., *De peccatis*, p. 400: “... quodvis peccatum logicum includit rationem iniustitiae rigorosae in Deum, ratione cuius nascitur obligatio in peccatore ad satisfaciendum Deo pro illata iniuria. Ita communis Scotistarum & RR. contra Lugon. <i.e. Juan de Lugo>, Vazquez, etc.”

88 Ibid., p. 399; see also Llamazares, *Quaestiones*, p. 309b, quoted above.

89 TMF 1656, § 569, l. p. 188.

Caramuel's Cistercian Anti-Voluntarism

When it comes to expressing his own position, Caramuel starts by admitting that on this specific issue of the foundation of morality, he will be “siding with the Scotist”, whatever “veneration” he may have for Thomas Aquinas.⁹⁰ But by Scotists, he did not understand the radical Bratislava friars, but rather the tradition of those who maintained a limit to the extension of divine commands. In his later *Pandoxion* (1668), Caramuel seemed to have changed his strategy, and argued that his own solution was a synthesis of the major scholastic schools of thought, i.e. the Thomists, Scotists and Nominalists – at least how he presented them, namely “theocentric” Thomists, Scotists and Nominalists.⁹¹ Two points of the Scotist doctrine were convincing to him: first, the idea of a general dispensability of most of the precepts of the Decalogue, at least those of the Second Table; second, the idea that the *theological* definition of sin clearly includes a relationship to divine commands – to such an extent that in the case of the non-existence of God, all sins would effectively cease to be sins: *si per impossibile, nullum esset a deo latum praeceptum, nullum fore theologicum peccatum*. Caramuel seems to have defended this positivistic conclusion throughout his career in different forms.⁹² But that does not mean, claims Caramuel, the end of morality, as the Bratislava friars and the most radical Nominalists seemed to admit: such a position is *dura et absona*, and Caramuel reports that he took himself care to refute it (*oppugnavi et ego*).⁹³

In his *Moral Theology*, Caramuel admitted that a certain number of laws can be considered as purely “voluntary”, and that God or any other legitimate superior power can dispense men from their observation. But there is

90 TMF 1656, § 566, I, p. 185: “Istae conclusiones Scoto & Scholae Patrum Franciscanorum correspondent”; TMF 1657, § 1645, p. 469: “Omnia mala, quia prohibita, et non prohibita, quia mala fiunt (...) At Ego, quia S. Thomam veneror, et tametsi in hac parte libentius assentior Scoto, et existimem peccata theologica non fore in mundo, si lex Dei non esset; non enim malitia theologica, quae est in fornicatione, est illi essentialis et intrinseca.” Caramuel’s “Scotism” on this issue was often observed: see for instance Franciscus a Bona Spei, *Noctua belgica (...) ad Aquilam Germanicam Reverendissimi ac Eximii Domini D. Caramuelis*. Louvain, C. Coenesteen 1657, dub. 5 (“Unde actus malus morales sumant suam moralitatem”), n.p.: “Dom. Caramuel, autoritatibus Scotistarum non temnendis...”

91 PPE 1668, § 301, II, p. 117: “...harum trium Scholarum Autores in hoc convenir omnes, quod asserant, si per impossibile, nullum esset a Deo latum praeceptum, nullum fore Theologicum peccatum: differre autem, quod Thomistae asserant totum Decalogum esse legem latam a Deo necessario; Nominales esse totum Decalogum legem liberam; & Scotistas interesse dicentes primum & secundum Tabulae praecepta, qua negativa sunt, esse necessaria: qua positiva vero libera, & caetera negative et positive sumantur, esse libera.”

92 TMF 1656, § 541, I, p. 180: “...si Deus per possibile vel impossibile ab ea prohibitionem absteat, vel semel latam relaxet, non erit ille actus peccatum theologicum”; PPE 1668, p. 118–119.

93 TMF 1656, § 559, I, p. 184.

a number of precepts that even God cannot opt out of, among which we find the precept of the love of God implicitly contained in the first commandment, which means that God cannot, as the Bratislava friars claim, command men to hate him. This would give rise to what he calls an “intentional” opposition between what is asked from men (to hate God) and their object (the love of God which compels men to fulfil his commands).⁹⁴ Caramuel is clear in limiting logically God’s power: not even *de potentia absoluta* can I love Peter through an act of hate, since this would entail such an opposition.⁹⁵ Hence man cannot both be asked to obey God (which would imply a form of *approval*) and to hate him (which includes *disapproval*); equally God cannot even lie, since this would amount to an intentional opposition between his essence (truth) and action (lying).⁹⁶

Although he claims that this conclusion is faithful to Scotus, Caramuel also regularly invoked the authority of Bernard of Clairvaux (†1153), the founding father of the Cistercian order to which he originally belonged and to whom he had dedicated several writings, in particular his *Theologia regularis* (1646, with revised versions in 1651, 1655 and 1665).⁹⁷ Bernard had written during an age of revival of ancient natural law theories promoted by canon lawyers,⁹⁸ and he devoted an entire treatise to the issue of divine precepts and the conditions of their dispensation. Bernard, just like Caramuel, was particularly interested in the dispensation of *monastic* rules as laid out in the founding rule of Saint Benedict. Caramuel must have renewed his interest in this topic when he “switched” rather informally his own religious affiliation in Prague, from Cistercian to Benedictine, in order to rule the venerable Emmaus monastery (now known as Klášter na Slovanech) he had been endowed with by the emperor Ferdinand III.⁹⁹ Drawing upon

94 Cf. TMF 1656, § 545, I, p. 181, where Caramuel distinguished between “real” and “intentional” opposition: a real opposition (*oppositio realis*) is the opposition between two contradictory acts of the same object (for instance love and hate), whereas an intentional opposition (*oppositio intentionalis*) is the opposition between an act and its object (for instance hating something loveable).

95 TMF 1656, § 546, I, p. 181: “non enim possibile est, etiam de potentia absoluta, ut per odii destestationis actum ego amem Petrum”.

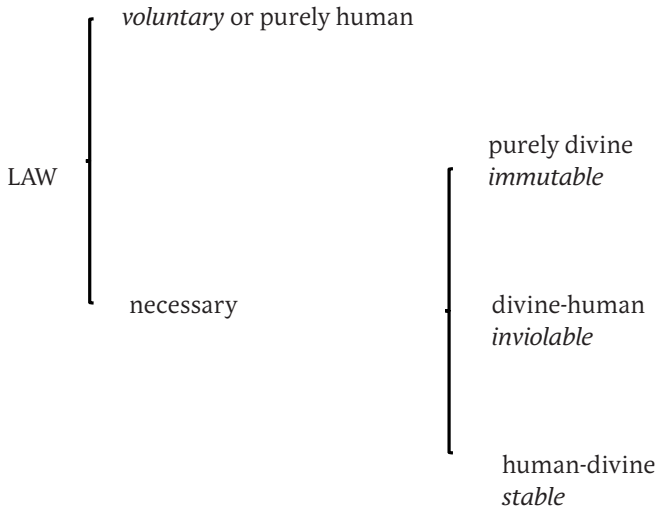
96 TMF 1656, § 547, I, p. 181.

97 On the importance of this Cistercian and Benedictine tradition for Caramuel, see U.G. Leinsle, “Probabilismus im Kloster. Caramuels *Theologia regularis*”, in: Juan Caramuel Lobkowitz (1606–1682). *The Last Scholastic Polymath*, op. cit., pp. 99–116; and J.-R. Armogathe, “Caramuel, a Cistercian Casuist”, *Ibid.*, p. 117–128.

98 For an overview of twelfth-century natural law theories as promoted by the canonists, see Weigand, R., *Die Naturrechtslehre der Legisten und Dekretisten von Irnerius bis Accursius und von Gratian bis Johannes Teutonicus*. Munich, Max Hueber 1967; and a good synthesis can also be found in Mandrella, I., *Das Isaak-Opfer*, op. cit., p. 39–55.

99 Apparently much to the discontent of the Benedictine monks who did not welcome a Cistercian abbot: see Albareda, A. M., *La Congregació benedictina de Montserrat a l’Àustria i a la*

the distinctions and the vocabulary used by Bernard in his *De praecepto et dispensatione* (ca. 1141–1145),¹⁰⁰ Caramuel draws the following graph in his *Theologia regularis*, which enlightens his discussion of different types of divine law outlined in the *Theologia moralis*.¹⁰¹



Law is divided into two main branches: *voluntary* or human law, and *necessary* or divine law. The first one is purely positive, and rules all things that are not otherwise compulsory (i.e. through divine law). The second one is divided into three branches, each one with a qualification of its modal status, drawn from the texts of Bernard of Clairvaux: i) *purely divine*, which corresponds to the first table of the Decalogue and which is called here *incommutabilis*; ii) *divine-human*, which corresponds to the second table of the Deca-

Bohemia (segles XVII–XVIII). *Analecta Montserratensia* 5, 1922, p. 119–120, 240–245; Ceyssens, L. *Autour de Caramuel*, op. cit., p. 346–347; Sousedík, S., *Jan Caramuel, opat emauzský (1606–1682)*, op. cit.

100 Bernardus Claravallensis (Bernard of Clairvaux), *De praecepto et dispensatione*, II, 4, in: *Bernardi Opera*. Ed. J. Leclercq – H. M. Rochais. Turnhout, Brepols 1963, vol. III, p. 256. These texts have been analyzed by Lottin, O., *Le droit naturel chez saint Thomas et ses prédécesseurs*. Bruges, Ch. Beyaert 2nd edn, 1931, p. 31–32; Pizzorni, R., *Il diritto naturale dalle origine a S. Tommaso d'Aquino*. Bologna, Edizioni Studio Domenicano 3rd edn, 2000, p. 351–354; Mandrella, I., *Das Isaak-Opfer*, op. cit., p. 48–49.

101 Caramuel, *Basis theologiae regularis. Editio secunda*. Venice, apud Iuntas & Ioannem Iacobum Hertz 1651, p. 40 (hereinafter BTR 1651).

logue and which is said to be *inviolable*; iii) *human-divine*, which corresponds to a type of religious law which is issued by men but on the basis of divine authority, such as the monastic rule, and which is said to be *stable*.

Three levels of dispensation are associated to these three types of law. For the first, no dispensation is possible. For the second, only God can dispense from them. For the third level, legitimate representatives (*vicariis*) of God (such as ecclesiastical authorities, bishops, etc.) can issue dispensations.

The essential distinction lies thus between the first and the second types of divine law, which perfectly embraces the Scotist distinction between the two Tables, and Caramuel was happy to acknowledge that Scotus did nothing else than subscribe to Bernard's doctrine (*D. Bernardo Scotus omni subscribit*).¹⁰² The first one remains absolutely necessary, and even God cannot alter nor modify it – “I do not believe” (*crediturus non sum*), says Caramuel against the Bratislava friars in his 1656 *Theologia moralis*, that God can oblige to what is forbidden in the First Table of the Law.¹⁰³ This means that there is no dispensability, and that the *odium Dei* is consequently a sin, even if God did not exist or had not spoken.¹⁰⁴ Just as he cannot change the rules of geometry, God cannot change the content of this law: *quia Deus non potest immutare rerum definitiones & essentias*.¹⁰⁵ The adjective used, *incommutabilis*, had itself a long tradition in the Patristic tradition – Augustine used it to qualify the eternal character of *rationes* in the divine mind.¹⁰⁶ The Second Table remains contingent to God, and there is no obstacle to the divine will deciding freely to change these commands.¹⁰⁷ The names given by Caramuel to these two first levels of divine law vary: in his *Theologia regularis*, he stays with the Bernardine vocabulary that goes back to twelfth century canon law, where indeed such a distinction between two types of precepts was very common.¹⁰⁸ In the *Theologia moralis*, the vocabulary used by Caramuel is

102 PPE 1668, § 301, II, p. 117.

103 TMF 1656, § 563, I, p. 184: “...posse enim praecipere quae in prima interdicuntur, crediturus non sum.”

104 TMF 1675, § 562, p. 147: “Nostra sententia: non tulit Deus legem realem aeternam philosophicam: non legem intentionalem aeternam philosophicam, non legem moralem philosophicam, adeoque in illis non potest dispensare. Patet, quia in ipsis reperiuntur necessitates essentiales et ex natura rei.” Later, he gives the example of hate of God that would, even if there was no Decalogue, remain an “essential sin”: TMF 1675, § 565, p. 148.

105 BTR 1651, p. 47: “Non potest Deus facere, quod vel carentia bonitatis debita physice, non sit malitia physice; vel quod carentia bonitatis debitae moraliter, non sit malitia moraliter. Patet; quia Deus non potest immutare rerum definitiones et essentias, & nos malitiam non nisi per bonitatis carentiam definimus”; TMF 1656, § 562, p. 184.

106 See for instance Augustine, *De Trinitate* VI, 10, 11 (PL 42, 931).

107 BTR 1651, p. 47: “Actiones illae, quae in tabula secunda inhihentur, si considerentur abstractae ab omni Divino praecepto, non intelliguntur opponi Deo moraliter”.

108 See for instance also Ivo of Chartres (Ivo Carnotensis), who distinguished in his *Prologus in decretum* (PL 161, 50AB; ed. B. C. Brasington, Münster, LIT 2004, p. 120–121) between mutable

modernized, and he speaks of a “real” and “intentional” eternal philosophical law” (*lex realis aeterna philosophica, lex intentionalis aeterna philosophica*) as opposed to a “theological law” (*lex theologica*); he also opposes “philosophical moral law” (*lex moralis philosophica*) to “theological moral law” (*lex moralis theologica*).¹⁰⁹ In his latest treatment of the question, the *Pandoxion* (1668) composed during his bishopric in Campagna, he goes one step further by arguing that the entire Decalogue is actually part of the *lex theologica*, but he keeps opposing it to a pre-divine law, called *lex essentialis*. This law, just as the laws of geometry, is based on the connexion of essential predicates which correspond to logical rules:¹¹⁰ just as two contradictories cannot be true, a paradoxical injunction such as *hating something good* is not acceptable as commandment. This is why Caramuel believed that beyond the classically admitted *theologia moralis*, a *logica moralis* was a desirable discipline to be developed, and to which he devoted many efforts in his later years when he was bishop in Campagna and Vigevano.¹¹¹

A new source of the “Philosophical Sin” debate

In his discussion, Caramuel made regular use of an expression that would soon become very controversial. Since moral malice, prior to divine command and prohibited by the so-called *lex philosophica* or *ius essentialis*, can also be called sin (*peccatum*), one can speak of *peccata philosophica*, “philosophical sins”, that qualify acts such as lying, ingratitude and inconstancy, which would be “indecent” even if God had not called them such, or if God did not exist – an hypothesis Caramuel welcomed as early as in the first Louvain version of his *Moral Theology*.¹¹² Speaking of *peccata philosophica*, as Caramuel notes, was apparently controversial in his age, as many did not accept

(mobiles) and immutable (*immobiles*) laws. This text was highlighted in the good synthesis of the mutability of laws by Klinkenberg, H. M., *Die Theorie der Veränderbarkeit des Rechts im frühen und hohen Mittelalter*. In: *Lex et sacramentum im Mittelalter*. Ed. P. Wilpert. Berlin, W. de Gruyter 1969, p. 157–188 (p. 179–180).

109 TMF 1656, § 562–564, I, p. 184–185.

110 PPE 1668, § 302, II, p. 118b: “Hinc patet lus naturale seu Decalogum, non esse omnium primum, sed ante illud esse lus essentielle in connexione praedicatorum essentialium consistens, & a praecepto (Divino aut humano) independens. Est autem Essentielle lus, quaedam lex, hominum conscientias obligans ex natura rei, quam Deus non potest collere, nec mutare, nec dispensatione remittere...” These conclusions would then be integrated in the last edition of the TMF 1675, II, § 1582, p. 548a. The importance of these passages has been rightly stressed by Velarde Lombraña, *Juan Caramuel*, p. 35.

111 The *Logicae moralis seu virtualis prodomus* was published in the second part of his *Pandoxion* (1668), with an independent pagination. He clearly claims, in the *occasio scribendi* (§ 1), that it goes back to his days in Louvain and to his subsequent debates with the Thomist and Scotist schools.

112 See TMPPR 1645, p. 324–325.

their possibility.¹¹³ As we have seen above, a number of Scotists and Thomists maintained that we can only speak of *sins* in the proper sense when there is a divine law. In the absence of such divine law, we can only speak of some “natural” or “physical” malice without any specifically moral character. But Caramuel argues that just as we can speak of *peccata theologica* when there is a divine law, we must be able to speak of *peccata philosophica* when we speak about this “philosophical” law which is anterior to God’s decrees and shared by all men. And although we not do seem to find the exact expression *peccatum philosophicum* in the Scotist debates reported by Caramuel, we do find it already in the theological commentaries of Punch, and among earlier “essentialist” Scotists, such as Volpi. The Neapolitan uses it regularly in its adverbial form (speaking of *peccatum philosophice*),¹¹⁴ and even claims, in a clear case of retrospective wishful thinking, that it can be found in the *Quodlibeta* of Duns Scotus.¹¹⁵

This apparently purely textual finding contradicts a broad consensus in today’s historiography, which claims that the concept of “philosophical sin” has been invented only several decades later, in the 1680s, and that it was foremost a “Jesuit invention”, a commonplace continuously repeated from Antoine Arnauld (1612–1694) to Diderot’s (1713–1784) *Encyclopédie*.¹¹⁶ The concept of “philosophical sin” received indeed universal attention when it was publicly spelled out and condemned by the Roman censors under the Pontificate of Alexander VIII (Pietro Vito Ottoboni, pope 1689–1691), by a decree of the 24 August 1690:¹¹⁷ “a moral or philosophical sin is a human act that goes

113 TMF 1656, § 547, I, p. 181.

114 Volpi, *Summa*, disp. 127, a. 2, § 7, p. 183a: “Si per impossibile non esset Deus, nec aliqua lex divina prohibens malum, & possibilis creatus intellectus recte dictans de operabilibus, existere peccatum philosophice contra rectam rationem.” This adverbial form is also often used by Mastro, *In II Sent.*, disp. 6, q. 3, a. 1, § 67, p. 329, *passim*.

115 Volpi, *Summa*, disp. 127, a. 3, § 1, p. 184b; see also Llamazares, *Quaestiones*, p. 307: “Habes hos terminos, *Philosophice & Theologice*, apud Scotum, *Quodl.* 18, § 17, & D. Thomam, q. 71, a. 6 ad quintum).” This was obviously a retrospective projection on the text of Scotus: in the Wadding edition accessible to early-modern commentators, Scotus opposes only vices “physice loquendo” to *sins* “theologic loquendo” (*Quodl.* 18, ed. Wadding, vol. XII, p. 489).

116 It was discussed as an “invention jésuite”, in Diderot, D., *Jésuite*. In: *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers*. Neuchâtel, S. Faulche & Compagnie 1765, vol. VIII, p. 512–516.

117 See DS n° 2291. For contemporary editions, see Plessis d’Argentré, Ch. du, *Collectio iudiciorum*, t. IIIB, p. 265 ff.; Viva, D., *Damnatae theses ab Alexandro VII, Innocentio XI et Alexandro VIII necnon Jansenii*, pars IIIa, *Editio nona*. Padua, G. Manfrè 1720, p. 341. The text is also easily accessible in *Dictionnaire de théologie catholique*, vol. XII. Paris, Letouzey & Ané 1933, col. 256: “Peccatum philosophicum seu morale est actus humanus disconveniēns naturae rationali et rectae rationi; theologicum vero et mortale est transgressio libera divinae legis. Philosophicum, quantumvis grave, in illo qui Deum ignorat vel de Deo actu non cogitat, est grave peccatum sed non est offensa Dei neque peccatum mortale dissolvens amicitiam Dei neque aeterna poena.” The proposition is qualified as “scandalosam, temerariam, piarum aurium offensivam

against rational nature and right reason, whereas theological and mortal sin is a transgression of the divine law". Then comes its moral qualification: "Philosophical sin, how terrible it may be, is a terrible sin (*grave peccatum*) in the heart of men ignorant of God or not thinking actively about God, but it is not a mortal sin that dissolves the friendship between God and man and will not entail eternal damnation". Such a definition and proposition is called *scandalosam, temerariam, piarum aurium offensivam et erroneam*. We have to understand this condemnation as an aftermath of the "anti-probabilist" and "anti-laxist" turn, which had been promoted by the Roman papacy since the days of Alexander VII – Caramuel's old acquaintance Fabio Chigi (1599–1667), the former legate in Cologne who condemned some "laxist" proposition in 1665–1666 – and especially Innocent XI, whose bull *Sanctissimus Dominus* condemned 65 propositions in March 1679, including some of Caramuel's.¹¹⁸ And although Alexander VIII would himself condemn a set of 31 Jansenist propositions later in December 1690, the August condemnation of the *peccatum philosophicam* was greatly cheered by the rigorist Jansenist party as well as by a number of Dominicans sympathetic to their cause, such as Jacques-Hyacinthe Serry (1659–1738).¹¹⁹ The French "secular" theologian Arnauld, from his exile in Brussels, had denounced "philosophical sin" as a

et erroneam, et uti talem damnandam et prohibendam esse, sicuti damnat et prohibet ita ut quicumque illam docuerit, etc." The topic really evolved into a major issue among all authors of the beginning of the eighteenth century: Pierre Bayle and Leibniz dedicated important passages to it. See the texts in Leibniz, G. W., *Textes inédits d'après les manuscrits de la Bibliothèque provinciale de Hanovre*. Ed. G. Grua, vol. I. Paris, Presses Universitaires de France 1948, p. 235–240, who quotes the text of the condemnation (p. 239–240; now in Ak. VI 4 C, p. 2690–2700), with a partial English translation in "The Philosophical Sin Controversy". In: *The Art of Controversies*. Transl. & ed. M. Dascal, with the collaboration of Q. Racionero – A. Cardoso. Dordrecht, Kluwer 2006, p. 305–308. Leibniz quoted explicitly the Dijon thesis (p. 2690–2691): "Peccatum philosophicum seu morale est actus humanus disconveniens naturae rationali et rectae rationi, theologicum vero mortale est transgressio libera divinae legis. Philosophicum quantumvis grave est in illo qui Deum vel ignorat vel de Deo actu non cogitat, est gravum peccatum, sed non est offensa Dei, neque peccatum mortale, dissolvens amicitiam Dei, neque aeterna poena dignum".

118 The standard reference work with all the documentation leading up to the 1690 climax remains Döllinger. J. J. I. von – Reusch, Fr. H., *Geschichte der Moralstreitigkeiten in der römisch-katholischen Kirche seit dem 16. Jahrhundert*. Nördlingen, Beck 1889; see also Ceyssens, L., Van de veroordeling der 65 lakse proposities in 1679 naar de veroordeling van de 31 rigoristische proposities in 1690. In: *Miscellanea moralia in honorem Eximii Domini Arthur Janssen*, vol. I. Louvain, Nauwelaerts 1948, p. 77–109; Quantin, J.-L., Le rigorisme: sur le basculement de la théologie morale catholique au XVII^e siècle. *Revue d'Histoire de l'Eglise de France* 89, 2003, p. 23–43; and more recently, an impressive reconstruction of this debate by Gay, J.-P., *Morales en conflit. Théologie et polémique au Grand Siècle (1640–1700)*. Paris, Éd. du Cerf 2011, with a very complete bibliography of most histories of early-modern moral theology.

119 Anon. [J.-H. Serry], *Les véritables sentiments des Jésuites touchant le péché philosophique* (Cologne, 1690). On these Dominican-Jansenist alliances, see De Franceschi, S. H., *La Puissance et la Gloire. L'orthodoxie thomiste au péril du jansénisme (1663–1724)*. Paris, Nolin 2011.

“new heresy” consisting of defining moral life without reference to God, in a vibrant volume published one year earlier (1689).¹²⁰

The debate about “philosophical sin” has rightly been considered as one of the most significant moments of the early-modern “secularization” of theological concepts: as Marcelo Dascal puts it, “far from concerning a marginal issue, the philosophical sin controversy touches the core of theological-political intelligibility – the question being not only whether there can be moral rectitude outside of Christianity, but also whether a strictly philosophical ethics is possible”.¹²¹ If atheists are capable of committing “philosophical sins”, then they can also be virtuous without directing explicitly their moral life towards the Christian God. The problem of the “virtuous atheist”, dear to Pierre Bayle (1647–1706) and to other figures of the pre-Enlightenment, finds its entire conceptual framework in this doctrinal controversy. It was thus important to reconstruct its exact origin, and all prominent historians of the concept of *peccatum philosophicum*, in particular Thomas Deman (1899–1954), Lucien Ceysens (1902–2001), Hugues Beylard (1904–1987) as well as more recently Jean-Pascal Gay (2011),¹²² have relied on late seventeenth-century discussions and institutional documents and concluded that the invention of *peccatum philosophicum* was linked to a thesis defended by a rather obscure French Jesuit, François Musnier (1642–1711), in the very provincial college of Dijon in 1686. The controversial thesis claimed indeed that a sin is theological when it offends God, and philosophical when it offends right reason, and that it was quite ordinary for man to violate moral law without in the same time offending God. However, by focusing their attention on the institutional documents and not on the content of academic

120 Arnould, A., *Nouvelle hérésie dans la morale, dénoncée au pape et aux evesques, aux princes et aux magistrats*. Cologne, N. Schouten 1689. Arnould certainly gave a broader audience to the debate outside scholastic circles, but it is exaggerated to speak of an “invention of philosophical sin by Arnould” (Gay, J.-P., *Morales en conflit*, op. cit., p. 317). As I have laboured to show in this study, the intra-scholastic debate about different types of sinning made the concept controversial already several decades earlier.

121 Dascal, M. (ed.), G. W. Leibniz, *The Art of Controversies*, op. cit., p. 305.

122 The standard article on philosophical sin is Deman, Th., Pêché. IX. Le pêché philosophique. In: *Dictionnaire de théologie catholique*, vol. XII. Paris, Letouzey & Ané 1933, col. 255–273; Beylard, H., Le pêché philosophique. *Nouvelle revue théologique* 57, 1935, p. 591–616, 673–698. See also Scholz, F., Benedikt Stattler und die Grundzüge seiner Sittlichkeitslehre unter besonderer Berücksichtigung der Doktrin von der philosophischen Sünde. Freiburg im Breisgau, Herder 1957; Ceysens, L., Autour du pêché philosophique. *Augustiniana* 14, 1964, p. 378–425 (repr. in Id., *Jansenisca Minora*, vol. IX, Mechelen, Imprimerie Saint-François 1966, n° 71, p. 1–50) and Gay, J.-P., *Morales en conflit*, op. cit., p. 318–334. Older studies include Reusch, F. H., *Der Index der verbotenen Bücher. Ein Beitrag zur Kirchen- und Literaturgeschichte*, vol. II/1. Bonn, Cohen 1885, p. 536–539; and the insightful and forgotten article by the famous American civic reformer and historian of the Inquisition Henry Charles Lea (1825–1909), Philosophical Sin. *International Journal of Ethics* 5, 1895, No. 3, p. 324–339.

lectures and textbooks, all these historians overlooked the fact that not only the concept but also the expression *peccatum philosophicum* is in reality much older. Arnauld himself was certainly right when he claimed that the doctrine was the result of a general trend in contemporary theology going back to the sixteenth-century developments on natural law and the thesis of “invincible ignorance”, defended very often in order to account for the morality of pagans or American natives: they are ignorant of God, but nevertheless commit sins because they have cruel rituals.¹²³ The French Jesuit Georges de Rhodes (1597–1661) – often credited as a direct inspiration for the teacher of the Dijon thesis – clearly argued this point, claiming that the “offense of those who ignore God or divine prohibition is a moral sin, but not an offense towards God, i.e. a mortal sin”.¹²⁴

The exact vocabulary of *peccatum philosophicum* emerged when the classical scholastic technique of distinction was applied to the notion of malice. Domingo de Soto, in his famous commentary to the Epistle to the Romans, had already clearly spoken of a *peccatum naturale* that does not have the true character of “fault” (*culpa*) if we were to admit that no God existed or that he had not spoken.¹²⁵ And as we have seen above, all early modern scholastics, when commenting on Aquinas’ distinction between the “theological” and the “philosophical” treatment of sin (*In Iam-IIae*, q. 71, a. 6), developed some form of distinction between malice against reason and malice against God. Lugo for instance distinguished the sin’s *gravitas theologica* from its *gravitas moralis*,¹²⁶ and identifies a form of *malitia contra rationem* or *malum*

123 Arnauld, *Nouvelle hérésie*, p. 9–10. Arnauld referred in particular to the work by the Liège-based English Jesuit Anthony Terill (1623–1676) and to his *Regula morum sive tractatus bipartitus de sufficienti ad conscientiam rite formandam regula in quo usus cuiusvis opinionis practice probabilis convincitur esse licitus*. Liège, J. M. Hovius 1677.

124 Rhodes, *Theologia scholastica*, tract. 4, q. 1, sect. 1, vol. I, p. 390: “Peccatum morale in iis qui Deum vel omnino ignorant, vel non actu considerant, vere nihilominus peccatum est grave, sed nullo tamen modo est Dei offensa, neque peccatum mortale dissolvens Dei amicitiam, neque dignum aeterna poena”. On Rhodes as an inspirer, see already Mabillon, J., Letter 213 to Ludovico Sergardi. Paris, 12 March 1690. In: *Correspondance inédite de Mabillon et Montfaucon avec l’Italie*. Ed. M. Valéry. Paris, Jules Labitte 1846, p. 230: “Nondum vulgata est responsio ad retractionem peccati philosophici, cuius doctrina expressis terminis traditur a Patre Georgio de Rhodes, qui auctores eiusdem sententiae laudat de Lugo, Ponink [sic, obviously De Coninck], Lessium et Henriquez”. Since the days of Mabillon, the reference to Rhodes and Lugo has been continuously repeated by historiography, especially by H. Beylard, “Le péché philosophique”, op. cit., p. 676–677.

125 Soto, *In epistolam ad Romanos*, p. 130a: “Si enim per impossibile (ut impietas absit & blasphemia verbo) nullus esset nobis superior neque Deus quidem, qui iure creationis subditum habet humanum genus & nihilominus suapte natura rationis vi polleret, certe facere contra, quam ratio dicat, licet peccatum quidem esset naturale, rationem tamen verae culpae nullam haberet.”

126 Cf. Lugo, *De Incarnatione*, disp. 5, s. 5, § 74, p. 88a.

moraliter.¹²⁷ Equally, Rodrigo de Arriaga (1592–1667), the famous Spanish-born Jesuit from Prague and another acquaintance of Caramuel, commented on the text of Thomas Aquinas in his treatise on human acts (1644) by using an expression very reminiscent of Caramuel's, speaking of the *peccatum philosophice sumptum*¹²⁸ in order to describe evil acts without any reference to divine prohibitions. Pietro Sforza Pallavicino (1607–1677), with whom Caramuel entertained a close relationship during his Roman years, aptly summarized all these debates, and noted that probably even Suárez and especially Juan de Lugo had promoted a distinction between two types of sin, the *peccatum grave philosophice* and the *peccatum grave theologice*, depending on the level of ignorance of God of those who committed them.¹²⁹ In the second part of the century, the expression *peccatum philosophicum* was commonly used in theses defended in the Jesuit College of Louvain,¹³⁰ and a local distinguished Scotist such as Willem Herincx (1621–1678) was certainly thinking of them when he recorded the “novelty” of the expression, in his own treatment of the question whether the *aversio Dei* is implicitly or not contained in every form of sin. He writes: “sins that are committed against the dictate of right reason, independently of any reference to divine

127 Cf. Lugo, *De Incarnatione*, disp. 5, s. 5, § 72, p. 87a.

128 Arriaga, R., *Disputationes theologicae in primam-secundae D. Thomae tomus primus, sive universi Cursus theologicus tomus tertius, qui continet tractatus de actibus humanis, de passionibus animae, de habitibus et virtutibus, de vitiis et peccatis*. Antwerp, ex officina Plantiniana 1644, disp. 19 (“Unde sumatur obiecti moralitas”), § 56–57, p. 216–217: “Secunda pars nostrae sententiae sit: etiam sine lege aeterna Dei potest intelligi actio mala moralis seu peccatum philosophice sumptum”. This passage had already been highlighted by the Louvain Jesuit’s collection of sources on the *peccatum philosophicum*: *Philosophistae, sive excerpta pauca ex multis libris, thesibus, dictatis theologicis, in quibus scandalosa et erronea philosophismi doctrina nuper damnata, per centum et amplius annos a theologis Societatis Jesu tradita ac per omnes fere Europae provincias longe lateque disseminata*. S.l., s.n. <Louvain> 1691, p. 8. They started their collection with excerpts from Juan de Lugo.

129 Sforza Pallavicino, *In Iam-IIae*, disp. 9, q. 1, a. 5, § 1, p. 263a: “Franciscus Suarius et Cardinalis de Lugo putarunt sine cognitione Dei fore tantummodo peccatum veniale quod vocant aliquando *grave peccatum philosophice* quia est graviter contra naturam rationalem, sed non *grave theologice*, quia non privat hominem gratia et amicitia divina, et hoc peccatum dicunt remansurum si Deus non esset”; Rhodes, *Theologia scholastica*, tract. 4, disp. 1, q. 1, s. 1, p. 388a–389b opposes the *peccatum moralis* and the *peccati consideratio quae dicitur theologica*.

130 This evolution is again well documented in the *Philosophistae*-volume published by the Louvain Jesuits (see note 127 above). Besides the adverbial forms *peccatum philosophice sumptum*, the first explicit occurrences of the syntagma *peccatum philosophicum* seems to appear in the theological tractates of the French Jesuit Jean Martinon (1586–1662), *Disputatio de peccatis*, in Id., *Disputationes theologicae quatuor tomis distinctae quibus universa theologia scholastica clare, breviter et accurate explicatur. Opus posthumum*, disp. 15, s. 1, § 8. Paris, S. Cramoisy 1663, p. 190b: “Superest tantum observare, dupliciter hanc difformitatem <actus cum obiecto> spectari posse. Primo, quatenus repugnat naturae rationali, ut tali, et sic dicitur peccatum philosophicum, quia sub ea ratione consideratur a philosophis moralibus. (...) Secundo, prout repugnat legi Dei pro suo iure exigentis oppositum, & sic dicitur offensa Dei, vel iniuria, & peccatum theologicum”. Cf. *Philosophistae*, p. 8.

law, are called by some authors (*a quibusdam*) philosophical sins; hereby they wish to signify that theological sin or sin in its theological aspect must be drawn from its reference to divine law”.¹³¹

It is always hard and risky to issue a precisely dated birth certificate to scholastic concepts. But we have discovered that the Scotists had used very similar expressions as early as in the 1630s, and that it was very probably under the influence of these Franciscan – and not specifically Jesuit – debates that Juan Caramuel Lobkowitz systematically used the expression of *peccatum philosophicum* as opposed to the *peccatum theologicum*¹³² in his *Moral Theology*. Although the Jesuits, especially those of the Vazquezian school, were famous for holding very intellectualist views of malice and sin, they were probably not the creators of the exact notion of *peccatum philosophicum*. To emerge, it needed a stronger opposition between what is necessary and what is contingent, as expressed in the dualism between the precepts of the First and the Second Table of the Law discussed at length by the early-modern Scotists. From that point of view, the Jansenists were certainly justified in heralding “Caramuel and his friends the Jesuits” in one of their numerous satires against philosophical sin,¹³³ but we have to remember that Caramuel claims to have developed his own theory by taking his inspiration from John Duns Scotus.

131 Herincx, W., *Summae theologiae et moralis (...) pars secunda*, disp. 5, § 4. Antwerp, P. Bellère 1660, p. 138b: “Peccata vero, quae omni lege divina seclusa committerentur contra dictamen rationis naturalis dictantis ea esse mala, appellantur a quibusdam peccata philosophica; per quod significare hi volunt, peccatum theologicum seu prout est theologiae et christinae considerationis desumendum per ordinem ad legem Dei, juxta ea quae a nobis sunt dicta”. He certainly thought of Louvain Jesuits, who indeed used the term, which appears often in theses defended in Louvain in the 1670s, by Antonius a Burgundia (1670) and Ignatius Jonghe (1671). Cf. *Philosophistae*, p. 22–23. Herincx was obviously part of these “Jesuitist” Scotists, as he strongly opposed the Jansenists when he became bishop. No wonder he was also accused of being *thomizans* by later Bohemian Scotists, such as Sannig, *Tractatus VII de actibus humanis*, dist. 3, q. 4, § 2, p. 364a: “ex nostris Herincx, nimium in hoc thomizans...”. The expression *peccatum philosophicum* is then widely used by the Scotists: see for instance Sannig, *De peccatis*, p. 395a.

132 TMF 1657, § 540, p. 143; § 547, p. 144: “Venio ad malitiam moralem quam vocamus peccatum: sed quia est duplex, philosophica et theologica, oportet duo genera peccatorum admittere toto coelo diversa: aliud enim est peccare philosophice, et aliud theologice”; TMF 1657, § 548, p. 145: “Et hic obiter noto contra aliquos, qui philosophicas malitias non admittunt, peccata philosophica cognosci et exponi a D. Thoma I-II, q. 71, a. 6, ad 5”.

133 “Poème anonyme sur le péché philosophique et le laxisme” (*Nouvelles ecclésiastiques*, 1690, f. 278), quoted by Gay, *Morales en conflit*, op. cit., p. 890: “Ce sont là les âmes bénites / dont l'École des Jésuites / et leur amy Caramuel / doivent un jour peupler le ciel”.

Conclusion

Perhaps the most enduring commonplace in histories of moral philosophy lies in the assumption that the passage from the “medieval” to the “modern age” amounts to a shift from “established conceptions of morality as obedience” to new “emerging conceptions of morality as self-governance”, as for instance Jerome B. Schneewind has expressed it. On this view, “on the older conception, morality is to be understood most deeply as one aspect of the obedience we owe to God”;¹³⁴ pre-modern subjects were supposedly unable to see what morality requires and therefore needed commands, threats and rewards. And since the clergy was the main holder of authority, the development of a philosophy socially independent from the Church would be needed in order to arrive at this new celebrated “realm of autonomy” proper to modernity.

Caramuel and other Baroque clergymen would certainly have smiled at their portrayal as fearful, authority-loving pre-modern subjects. Certainly, as most of the Scotists and the Thomists of his age, Caramuel defended a certain form of theological positivism, arguing that theological sins cannot be conceived independently of their divine prohibition. But that was not the end of the story. What interested Caramuel was the *reason* why we obey divine commands – or those, more down to earth, of our abbot in the monastery. If we obey God, it is foremost because what he is commanding is something we actually believe right or just *independently* of God's will. It follows that besides divine obligation, we have to admit “deeper obligation that constrains men *ex natura rei*, and which does not depend on the divine precept and the divine will”.¹³⁵ Caramuel, the Scotists and the Jesuits were all perfectly conscious of the fact that positive divine law regulated only a small part of our moral life – mainly our exterior actions, but not the rules of morality eternally accessible to our conscience. Only some very radical and marginal friars, as the Bratislava Franciscans, defended a fully voluntaristic and positivistic understanding of the divine law, according to which we would not be able to find moral orientation if God had not imposed his commands on us.

But what contradicts the standard narrative on the history of moral philosophy even more is, that in stressing the autonomy of natural law and

134 Schneewind, J. B., *The Invention of Autonomy*, op. cit., p. 4.

135 PPE 1668, § 302, p. 118b: “Frustra dicimus Decalogi praecepta obligare, nisi praesupponatur obligatio obediendi Deo: nam, vel haec est ante omne Divinum praeceptum, vel non est. Si non sit, nemo habebit obligationem obediendii Deo, cum leges pronuntiet. Si sit, datur quaedam gravis obligatio, obstringens homines ex natura rei, quae a praecepto & voluntate divina non dependet.”

human moral reasoning, those scholastics in no way believed themselves to be specifically “modern”, but understood themselves as defending the authority of their medieval models. This is very clear among the Scotists and the Thomists, who use the classical scholastic method of *pie interpretari* to grasp the authentic sense of the sometimes intricate texts of the Subtle and the Angelic Doctors. It is even more striking in the case of Caramuel, who clearly presents his own doctrine as the reaping of seeds sown during the twelfth century, “the great period of reflections about *ius divinum* (divine law) and the *ius naturale* (natural law)”, as one prominent historian puts it.¹³⁶ They believed progress was to be achieved by looking backward, not forward.

SUMMARY

In histories of medieval ethics, Thomists are usually portrayed as intellectualists and Scotists as voluntarists. The typically voluntarist linking of the morality of acts with an obligation towards a superior law is also often seen as the major influence exerted by late medieval ethics on early-modern natural law theories. The present article will challenge this standard narrative by presenting the early-modern scholastic debate on the constitutive characters of sin (*peccatum*), as it was proposed by the Spanish Cistercian Juan Caramuel Lobkowitz (1606–1682). It will reveal that most Thomists advocated in reality a very voluntarist and theocentric definition of sin, whereas many Scotists on the contrary defended a very intellectualist approach. Caramuel and some early-modern Scotists thereby played an important role in the development of a non-theological definition of sin, the *peccatum philosophicum*, which represents a major moment in the development of a strictly philosophical ethics during modernity.

Keywords: scotism, baroque scholasticism, natural law, voluntarism, secularization, history of ethics

136 logna-Prat, D., *Order and Exclusion*. Transl. Gr. R. Edwards. Ithaca, NY, Cornell University Press 2002, p. 20.