

# Interpretation

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# Interpretation

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# Anachronism All Around: Quentin Skinner on Francisco Suarez

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The historian who conceives of a writer as foundational to subsequent thought hazards a species of anachronism, understanding the earlier with a view to the later. Nathan Tarcov suggests (1982, pp. 61–62, 64) that Quentin Skinner runs just such a risk in the second volume of *The Foundations of Modern Political Thought* (1978. Unless otherwise indicated, references are to vol. 2). The plausibility of that suggestion is borne out, I shall argue, in Skinner's discussion there of Francisco Suarez. Nothing in Skinner's book is more anachronistic than its attempt to explain how Suarez "helped to lay the foundations for the so-called 'social contract' theories of the seventeenth century" (1978, p. 159; cf. p. 174). Indeed, Skinner reads *De Legibus, ac Deo Legislatore* (1612) under the spell cast backward by Hobbes and Locke, and only intermittently on Suarez's own terms.<sup>1</sup>

Skinner perpetrates his anachronism—his prolepsis—when characterizing Suarez's part in "the transition from medieval to modern political theory" (1978, I, ix).<sup>2</sup> The pivotal question concerns Suarez's view of human beings: does he believe them to be political by nature (with political society therefore according to nature), as Aristotle and Aquinas had taught, or naturally apolitical (with political society thus by artifice and convention), as Hobbes and Locke will teach? Is Suarez a Christian-Aristotelian or a proto-modern? Skinner ascribes the apoliticality thesis to Suarez, and identifies the Spaniard as a teacher of the state of nature doctrine, the apolitical premise of social contract theory.

My contention will be that, by fathering the state of nature idea on Suarez, Skinner foreshortens and truncates the history of ideas, anachronistically positing ideas out of time and place, overlooking or effacing fixed traditional elements in Suarez's thought, thus perplexing the narrative. Having no accurate baseline conception of the old in Suarez, Skinner's reader is unable to gauge the extent of the new that is undoubtedly also in his thinking. And, giving Suarez too much credit for innovation, Skinner also blinds his reader to what is truly novel, and not at all derivative from Suarez, in the teachings of Hobbes and Locke.<sup>3</sup>

It was Michael Zuckert who first made me stop and think about both Suarez and Skinner. Harold Levy showed the way through Aristotle and Aquinas, saving me from many though I fear not all blunders, which in any case are my own, not his. And Peter Digeser read countless drafts, always gently nudging me away from muddle, toward clarity, while keeping his own counsel about the substance of my argument. I thank them all.

To set the record straight, I shall be contrasting Suarez's Christian-Aristotelian natural law holism with the Hobbes- and Lockelike individualistic doctrine mistakenly ascribed by Skinner to Suarez. In particular, I shall distinguish Skinner's Suarez from Suarez himself, not only on the aforesaid question of man's alleged natural apoliticality, but also on the related question of how Suarez thinks political right comes into being, which proves to be the question of how Suarez divides up the labors of God and man as they establish political society. This is the path by which of course we will be led to consider Suarez's teaching on consent. To no one's surprise, Suarez's preoccupation with consent turns out to be the most plausible support for Skinner's English reading of the Spaniard. Finally, and to virtually everyone's surprise, we will, as directed by Skinner, suddenly abandon the Hobbesian-Lockean consensualist reading of Suarez on political right, and take our bearings by an Otto von Gierkian version of Suarez, according to which *De Legibus* must be read as the work of some kind of proto-Germanic corporatist. So then, the three readings of Suarez on political right we shall consider are: two by Skinner—(a) the Hobbes-Locke and (b) the Gierke conceptions—which are incompatible not only with each other but also with Suarez's own teaching; and (c) that teaching itself, or the reading which, it seems to me, and even once fleetingly to Skinner, Suarez himself actually calls for.

But none of these conceptions of Suarez can be considered until we have traversed the preliminaries: first canvassing Skinner's treatment of the contrast Suarez makes between two natural societies, the family and the political community, then taking up the inevitable sequel, Skinner's ascription to Suarez of a state of nature teaching.

#### I. SKINNER REGARDING SUAREZ ON NATURAL POLITICALITY; FAMILY AND POLITICAL COMMUNITY IN SUAREZ'S THOUGHT

Concerning the "nature of the situation in which men may be said to find themselves 'simply in the nature of things,'" Skinner insists that the "aim [of the Thomists, Suarez counted among them] was to establish that this condition would not be a political one" (1978, p. 155). Despite Skinner's insistence, however, this is not what Suarez writes. *De Legibus* does not propound the view, ascribed by Skinner to Suarez, that "man's natural condition is social but not political" (1978, p. 158). It does not anticipate Locke's social-but-apolitical-by-nature, state of nature doctrine. Rather, its teaching is a virtual reiteration of the political-by-nature doctrine propounded by Aristotle and Aquinas.<sup>4</sup>

Before setting that teaching out, however, we must acknowledge that Skinner might have plausibly thought he heard Suarez teaching natural apoliticality in the following words:

man is a social animal, and cherishes a natural and right desire to live in a community. . . . [H]uman community is two-fold: imperfect, or domestic; and perfect, or political. Of these divisions, the former [domestic and imperfect] is in the highest degree natural [*maxime naturalis*] and (so to speak) fundamental, because it arises from the fellowship of man and wife, without which the human race could not be propagated nor preserved. (1944, pp. 364–65—III, i, 3)<sup>5</sup>

Here is Skinner's recapitulation of this passage:

[According to] Suarez . . . "since man is by nature a social animal," the idea of a community—not of course a political one, but some form of "domestic" association—is "to the greatest possible extent natural to man, and is as it were the fundamental situation" [1978, p. 158].<sup>6</sup>

Skinner's intention here is unclear, and we should not move on before canvassing two of his statement's possible intended meanings. On the one hand, Skinner may want his reader to conclude that, Suarez having declared the family to be most natural, he must be taken to deny that the political community is natural at all. Though fallacious, such an intention would be consistent with Skinner's ascription to Suarez of the position that "man's natural condition is social but not political" (1978, p. 158). On the other, the Skinnerian recapitulation we are trying to understand, incorporating Suarez's words as it does, might merely be meant to imply that political society is also natural, though to a lesser extent than the family. If this were what Skinner wanted his recapitulation to tell us, there would be nothing objectionable in it—except that it would be inconsistent with Skinner's own aforementioned attribution to Suarez of the notion that "man's natural condition is social but not political."<sup>7</sup>

By sharp contrast with this indeterminateness of Skinner, Suarez himself is quite clear on the subject of natural politicality. According to him, "a civil magistracy accompanied by temporal power for human government is . . . in complete harmony with human nature" (1944, p. 364—III, i, 2; cf. p. 364—III, i, 3).<sup>8</sup> "The basic reason for this assertion [of natural politicality]" Suarez tells us, "is to be sought in Aristotle's *Politics* (Bk. I)" (1944, p. 364—III, i, 3; and see p. 48—I, iii, 18), evidently referring to Aristotle's teaching that political community is by nature and that man is the political animal (*Politics* 1253a1–3, 8; 1253a24). In other words, Suarez declares himself an orthodox Aristotelian as unequivocally as he possibly can on the issue over which Skinner would make him an incipient Lockean.

Nor is this all: Skinner of course fails to tell the reader how, according to Suarez, man's political nature manifests itself. The fact is that, not only does Suarez follow Aristotle in asserting the family to be more natural than political society when the natural requirement of procreation is at the fore, but he also follows him in teaching that, unlike the family, political society is not chiefly for species perpetuation but for species edification—for man's "good estate,"

and the good life.<sup>9</sup> According to Suarez, following Aristotle, political community is, one can say, our natural opening on the good or the noble as opposed to the merely subsistent, being thereby in sharp contrast with the family:

[Political] power is a part of the nature of things, and . . . in an absolute sense a good thing, extremely valuable and necessary for the good estate of human nature [*ad bonam consuetudinem humanae naturae*]. (1944, p. 379—III, iii, 4)

In general we can say then that Skinner's reading neglects Suarez's Aristotelian insistence that political community is more natural than the family in regard to the noble—or, in Suarez's language, in regard to the good or the perfect. Skinner's gloss on Suarez's passage fails to tell us that the passage declares *both* that the family is "most natural," *and* that it is "imperfect"—imperfect by direct contrast with the political association, which *is* "perfect" (1944, pp. 86–87—I, vi, 9–21; pp. 364–66—III, i, 3–4). The main point: nature is the standard according to which this judgment of imperfection and perfection is made. Nature does not leave mankind in the lurch, stranded and underdeveloped in the family, permanently cut off from a complete or perfect life:<sup>10</sup>

[T]his community [the family] . . . not self-sufficing [i.e., being imperfect] . . . [there is] from the very nature of the case, . . . a further necessity among human beings for a political [i.e., perfect] community. (1944, p. 365—III, i, 3).<sup>11</sup>

Political society has a natural priority over the family, the latter being "subordinated—naturally, as it were—to a perfect community, as the part is subordinated to the whole" (1944, p. 88—I, vi, 22).<sup>12</sup> This Aristotelian teaching, about the natural primacy of the political or governed whole (*Politics*, 1252a1ff; 1252b28–1253a20)—and not the Hobbesian-Lockean one, about the primacy of the individualistic parts—is Suarez's doctrine (see Hampton, 1986, pp. 6–7).

Following Aristotle (*Politics* 1253a7–8), Suarez teaches that humans want more from each other than conjugal, filial, and fraternal society and that gregariousness is not our deepest natural inclination. Right on the heels of Aristotle, Suarez teaches that our most profoundly human orientation is toward a different kind of community than the family—a self-sufficient, perfect, *political* society. This is the community which man "cherishes a natural and right desire to live in" (1944, p. 364—III, i, 3).

Happiness is the end, hence the criterion—so says the Aristotelian, Francisco Suarez, when he tells us the household "is not in itself sufficient to attain human happiness in the mode in which such happiness is humanly attainable" (1944, p. 88—I, vi, 22; cf. Aristotle, *Nic. Eth.* 1097b8–12). According to him, political community *is* capable of that attainment. It provides four conditions necessary to the good life—indeed, it *is* those conditions. In the process of noting them, we will see other differences between Skinner's Suarez and Suarez

himself, in particular, how affirmatively nature is implicated in the authentic Suarezian understanding of politics.

### *A. Scale-Relationship-End*

Skinner reads Suarez to say that the family or household (1944, pp. 364–65—III, i, 3) is as far as nature takes human beings collectively. What Suarez in fact teaches, however, is that whereas the family perpetuates the species, it also truncates it, thence pointing naturally beyond itself to the political, untruncated community. In the household, “the individuals are not united . . . [in] one political body, but merely exist therein as inferiors destined for the uses of the master” (1944, p. 87—I, vi, 20). Political community results when humans, weary of being used, look out of their tents, see other people in the world, and think of a larger and different kind of community. Suarez tells us that man is political because of the way he is social:

[M]an is a social animal, requiring by his very nature a civil life and [to be] . . . part of a . . . [political] community; . . . It is . . . necessary that each person should [live in a civil community so that he might] take counsel not only for himself, but also for others, preserving peace and justice. (1944, pp. 48–49—I, iii, 19)

### *B. Rule-Direction*

The idea that governmental direction is part and parcel of a natural human teleology is alien to the Skinnerian Suarez. Because Skinner reads Suarez as denying that political community as such is natural, with natural ends, he must also read him as denying the naturalness of political rule and direction of the citizenry. Yet, the real Suarez tells us that “directive [political] power” is in accord with

the natural disposition of man, the disposition to be a social animal and to demand by nature a mode of living in which he dwells in a community, the latter necessarily requiring to be ruled by means of public power. (1944, p. 371—III, i, 12)

Government is necessary because “men as individuals have difficulty in ascertaining what is expedient for the common good, and moreover, rarely strive for that good as a primary object” (1944, p. 49—I, iii, 19). “[T]herefore,” Suarez says, “in a perfect community, there necessarily exists some public power whose official duty it is to seek after and provide for the common good” (1944, p. 367—III, i, 5).

*C. Coercion*

Political rule or direction, though necessary, is not always sufficient. There are two ways of looking at this insufficiency, upward and downward. In his justification of the coercive functions of government, Skinner's Suarez does not follow the real Suarez's line of sight, upward toward the naturally perfect coercive order, instead looking downward in a Hobbesian-Lockean direction, toward the disorder Skinner believes Suarez thinks the race always spirals when human nature is left to run its course. According to Skinner's Suarez, the God of nature has done us no favors, and surely has not availed us of a natural ascent to natural perfection. God's creation, the state of nature, is badly designed and will remain unsafe for human habitation until man takes a hand, bringing it under the control of his own "regulatory machinery" (1978, p. 160). Not perfection but preservation must be our preoccupation. Skinner tells us that Suarez's

vision of man's propensity to selfishness, combined with the weakness of his moral will, leads to the emphatic conclusion that, if we continued to live our lives in the natural communities in which God has placed us, we should never flourish and scarcely manage to survive. (1978, p. 160)

This is the portentous Hobbes-style crisis mode of the Skinnerian Suarez, compared with which the real Suarez's reaction to human refractoriness is routine, measured, and low key. Believing as Suarez does that man is by nature the governing and governed being—that the state of his nature is not Hobbesian chaos and anarchy—he is doctrinally prepared to take calm cognizance of human unruliness. The human malaise not being of Hobbesian proportions, not being a war of all against all, but rather some occasionally violent intra- and interfamily rows, neither is Suarez's prescription Hobbesian. Neither the clanking of what Skinner calls "regulatory machinery," nor for that matter the artificial institution of absolute sovereignty, is part of Suarez's scenario. Rather, he helps us hear nature herself reasonably, quietly, and routinely calling for the natural response to the natural occurrence of human disorderliness: It is "natural that . . . [men] should be governed by men" (1944, p. 367—III, i, 5). Suarez's authority for this proposition? To justify coercion, he did not have to anticipate Hobbes or Locke, nor for that matter to rely on a biblical response predicated on the Fall. As Suarez points out, Aristotle had justified governmental coercion, oblivious though he was of biblically reported events, and thinking though he was only of man's natural politicality:

Aristotle (*Politics*, Bk. I, chap. ii [1253a31–34; and see 1253a1–3, 8; 1253a24]) has declared: "Even as man, when perfected, is the best of all animals, so, when separated from law and justice, he is the worst of all." (Suarez 1944, p. 48—I, iii, 18; and see p. 364—III, i, 3)

In the same vein, Aristotle explains to Suarez's satisfaction the inability of fathers alone to provide law for their wayward sons:

[T]he precept imposed by the paterfamilias upon his slaves, or even his children, or indeed, his whole household, is not law . . . because it has not been instituted by means of a truly compulsory authority, this being necessary for law, a fact that is pointed out by Aristotle (*Ethics*, Bk. X last chapter). (1944, p. 81—I, vi, 11)

Political community, the society perfect by nature, is a law-governed community; and “an efficacious binding and compelling force . . . is essential to law, according to Aristotle (*Ethics*, Bk. X, last chapter)” (1944, p. 368—III, i, 7). In short, “every perfect community is a true political body, governed by means of its own jurisdiction, which has a coercive force that is legislative” (1944, p. 87—I, vi, 21).

#### *D. A Proliferating, Abundant Community*

For Suarez, political community means not only “each person . . . tak[ing] counsel . . . for others, [and thus] preserving peace and justice” (1944 p. 49—I, iii, 19); it also means inclusion of a vastly greater range of pursuits than can be undertaken in the household. Although humans need domesticity, Suarez tells us,

no family can contain within itself all the offices and arts necessary for human life, and much less can it suffice for attaining knowledge of all things needing to be known. (1944, p. 365—III, i, 3)

Although quoting from this language (1978, p. 160), Skinner will not allow its Suarezian teaching to register. Once again he tries to transform Suarez into Hobbes, trying to sell us on the idea that Suarez here “gives the fullest and gloomiest picture of the conditions which would result [in the absence of political community]” (1978, p. 160). Skinner has Suarez reasoning that, prior to the establishment of political community, “life would almost certainly be short” (1978, p. 160)—presumably as in “solitary, poor, nasty, brutish, and. . . .”

When separated from political community, whether as individuals or by families, the men of Skinner's Hobbesianized or Lockeanized Suarez are inconvenienced, terrorized, and driven, as Skinner says, to “calculations of oblique self-interest” (1978, p. 160). By sharp contrast, however, the real Suarezian man does not suffer such a calamity—Suarez rarely if at all alludes to the psychology and experience of separation or anarchy, to say nothing of ascribing rational choice calculations about collective action to persons living outside of political community (as per Skinner's reading of Suarez: 1978, p. 160). When Suarez thinks of people without political society, he thinks less of insecurity

than of the underdevelopment or stultification of their nature. Which is to say, he thinks how drab, disorderly, sometimes violent—or, as the saying goes, imperfect—life can be within and between families (1944, p. 88—I, vi, 22; and see Aristotle, *Politics* 1252b30–1253a1; Aquinas 1949, I.14; Strauss, 1953, pp. 129–35; Nichols 1987, p. 184).

Suarez is not despairing, however, for in his view, “nature is never wanting in essentials; and therefore, . . . a perfect community[,] . . . agreeable to reason and natural law” (1944, p. 365–66—III, i, 4), is in the cards. Suarez’s idea is not, Skinner’s misreading to the contrary notwithstanding, that the lawlessness of families is so bad, but rather that life according to our political nature can be so good. Suarez is not trying to horrify us about the lives of households—their “imperfection” is not insinuated by him to be miserable, short, and Hobbesian—but rather to point us on to the telos, to the far better, the naturally perfect, the political life.

## II. GOD’S GIFT OR MAN’S INVENTION?

Like other Christian-Aristotelians, Suarez thinks God created man a naturally political animal, thereby giving political community His imprimatur. According to Suarez and other Thomists, God’s twofold assignment to man is to build a political community according to His structural precepts, and to live there in compliance with an inferrable set of instructions for its use—instructions in particular concerning the appropriate attitude toward both the building and our fellow tenants. According to this teaching, then, political community is a gift of God and a prime statement by Him on the orientation human life is to take.<sup>13</sup>

Skinner sometimes accurately depicts Suarez’s teaching about the factors contributing to the origin and status of political community.<sup>14</sup> At one point he quotes Suarez as saying that “‘God does not grant . . . [political] power as a special act or gift distinct from creation’” (1978, p. 161). Had Skinner clung to this sentence, which is Suarez’s distillation of his own teaching, he would not have erred. In it Suarez is telling his readers that, although he is indeed not one kind of divine-right theorist, he is another. Suarez teaches that God ordains government “generally” or “naturally,” but not (except, of course, in biblical times) “specially” or “supernaturally”: while affirming that God calls for government as such by creating man with a political nature, Suarez insists that very few particular regimes and rulers have been, and that presently none are being put in place by grace or a special providence (1944, e.g., pp. 379–80—III, iii, 2, 4–7).

Given the clarity of Suarez’s position, Skinner’s gloss is puzzling. Here are Suarez’s words, nestled within Skinner’s exposition:

[T]he truth is that “God does not grant this power as a special act or gift distinct from *creation*.” He merely grants men the power to *create* their commonwealths for themselves, by placing them in such a situation and endowing them with such capacities that this act of *creation* is rendered both necessary and possible. . . . (1978, p. 161; emphasis supplied; cf. Locke, *Treatises*, II, 13).

Two features of this passage are noteworthy. First, it assumes that, God not making special grants of political power, man must create that power. Skinner goes directly from the negation of special providential grants to a purely anthropogenic hypothesis, without pausing to acknowledge the third possible source of political power.<sup>15</sup> In other words, he ignores what is in fact Suarez’s constant teaching—the teaching which Suarez implies in Skinner’s quotation of him—i.e., that political power comes into being according to nature, by virtue of God’s authorship of nature and general providence, and is in that sense most definitely a gift of God.

The second interesting feature of the passage is the way Skinner’s diction, as I italicize it, makes God’s creation segue into man’s creation. Skinner has man supplant God as the creative source of political power, as he had done a few pages before when saying that the “Spanish Thomists,” Suarez conspicuously among them, believed “that it is actually a mistake to picture political community as a gift of God rather than an invention of man himself” (1978, p. 155; see also p. 167). This is Skinner’s human invention misinterpretation of Suarez, a thesis we must now examine, and which will remain a central concern throughout this study.<sup>16</sup>

In *De Legibus*, book III, chapter iii, Suarez asks a question having the effect of putting the human invention thesis squarely in issue: “Has the Power of Making Human Laws Been Given to Men Immediately by God as the Author of Nature?”<sup>17</sup> Here is Suarez’s anti-anthropogenic answer—his exuberant recognition of the hand taken by the God of nature in the temporal government of man:

[S]ince . . . [political] power is a part of the nature of things, . . . it therefore must flow from the Author of that nature. . . . [T]herefore, God is not only the chief Author of this power but its exclusive Author. (1944, p. 379—III, iii, 4; but see p. 86—I, vi, 19)

This passage rebukes Skinner, telling us it is *not* “a mistake to picture political community as a gift of God rather than an invention of man himself” (1978, p. 155).

Why then does Skinner make the mistake of saying it *is* a mistake? Why, given Suarez’s unequivocal affirmation of the gift-of-God thesis, does Skinner read Suarez as denying it and affirming the opposed anthropogenic thesis? My sense is that Skinner’s human invention interpretation of Suarez is part of a

whole mode of theorizing about nature that Skinner is determined to ascribe to him. As Skinner tells it, Suarez and his fellow Thomists liked to “consider the nature of the situation in which men may be said to find themselves ‘simply in the nature of things’” (p. 155):

Their aim was to establish that this condition would not be a political one, and thus to infer that, since no commonwealth has a natural existence, they must all have been deliberately brought into being . . . by some form of concerted action on the part of their own citizens. (1978, p. 155)

Skinner apparently conceives of Suarez theorizing in a world where, God not providing political order, man must step into the breach and invent it. In other words, according to Skinner, the Thomists—Suarez of course among them—“in effect . . . deduce[d] the necessity and in consequence the lineaments of political community from an imagined ‘state of nature’” (1978, p. 155). As we take up this theme, the reader may be assured that we are getting closer to the bottom of Skinner’s misconstruction of Suarez.

### III. THE STATE OF NATURE

“It is true,” Skinner allows,

that these theorists [the Spanish Thomists] rarely make use of this canonical phrase [“state of nature”] from the so-called “social contract” analysis of the formation of the State. Suarez invariably prefers to speak of deriving man’s power to make laws and set up a commonwealth from an examination of what may be said “to exist immediately in the very nature of things.” There is no doubt, however, that these writers possess the concept of the state of nature even when they do not possess the phrase. (1978, p. 155)

The issue is joined: Is Suarez a state of nature teacher, or is Skinner anachronistically foreshortening the history of doctrine? Does “the very nature of things” mean for Suarez what the “state of nature” means for Hobbes or Locke?

Skinner contends that “[i]t would be a mistake . . . to suggest . . . that the phrase [state of nature] is never used by any of these [Thomistic] theorists” (1978, p. 155). “[F]or example,” he says,

Molina . . . refers at several points to the condition of mankind “*in statu naturae*,” and he imagines the “*status naturae*” as that situation in which all men may be said to have found themselves after the Fall and before the inauguration of political societies. (1978, p. 155)

If Skinner’s intention here is to show that Molina’s deployment of the phrase anticipates, say, Hobbes’s or Locke’s use of it, his failure is exhibited in the

very terms of his own description of Molina, for Hobbes and Locke do not allow the Fall to affect their conception of man's apoliticality or his natural state of anarchy. According to Hobbes and Locke, the state of nature is coterminous with man, innocent or fallen, supposing there was a Fall (Strauss 1950, pp. 184–85. What follows is heavily derivative from what I continue to learn about these matters by studying the pertinent remarks of Professor Strauss.). For purposes of their state of nature teachings they do not recognize a special time “after the Fall and before the inauguration of political societies.” One can say that Hobbes and Locke do not periodize, that their scheme is single-fold: the state of man's nature is such that not government but anarchy is at all times in accord with it (cf. Orwin 1975, p. 32), from Adam to as long as the human race lasts. Or one can also say, without contradiction, that Hobbes and Locke do periodize and that their scheme is twofold: there is (1) a being whose natural element is anarchy and (2) there is the same being living in an artificial environment created by human invention and covenant, to overcome the debility of nature. In contrast, Molina's periodization is: (1) a state of innocent nature, without government, (2) a state of fallen nature, without government, and (3) a state of fallen nature, with government.

The really interesting thing, however, is that neither Aquinas nor Suarez agrees with either Hobbes-Locke *or* Molina. Even as Aquinas and Suarez take cognizance of the Fall for theological purposes, for *political* purposes they too—coercion aside (see note 19 below)—adopt what can only be called single-fold periodization, or nonperiodization. Neither Aquinas nor Suarez recognizes a special time “after the Fall and before the inauguration of political societies,” if by this is meant an interval when men were not under a heavy natural law duty to enter political society.<sup>18</sup> For Thomas and Suarez, man, fallen *or* innocent (see note 19, below), is never apolitical by nature, and hence is never at home in, or at liberty to remain in what we and Skinner, after Hobbes (e.g., *De Cive*, Preface, para. 3, near end; *Leviathan*, chap. 20, para. 4), and Locke (1965, vol. 2, e.g., pp. 4, 6–8), call a “state of nature,” meaning thereby a primitive, nonpolitical state.

The Hobbes-Locke state of nature terminology would have baffled Aquinas and Suarez. Chances are they would have understood the term “state of nature” as a reference to the difference between the states of innocent or fallen nature, à la Molina. That difference would have concerned Thomas and Suarez for political purposes only with a view to government qua coercion (1944, p. 371—III, i, 12: “[c]oercion . . . presupposes . . . defection from order”). They declare the state of nature for man as such, fallen or upright, to be *within* political community, qua directive.<sup>19</sup>

Knowing, then, something of the difference between man's natural state as conceived by the Christian-Aristotelians, on the one hand, and by the English social contract theorists of the seventeenth century, on the other,<sup>20</sup> and in partic-

ular knowing that, according to Suarez, political community is by nature and as such a gift of God the author of nature, we nevertheless do not yet comprehend with precision the mechanism by which God's gift is consummated. In other words, we do not know how political community comes into being. Another gap in our knowledge—it turns out to be the same gap—concerns Suarez's conspicuous interest in consent.

The fact that Suarez has such an interest is a difficulty for my argument. How am I to account for a preoccupation with consent in a thinker I have been touting as an Aristotelian? One way is simply to concede that Suarez was not an unqualified, but a *Christian*, Aristotelian—a theorist who felt an allegiance not only to “the Aristotelian doctrine that . . . man [is] . . . naturally political,” but also to the “medieval tradition, reaching back to the Romans and the Stoics, with its . . . theory that government was set up by the people on a contractual basis” (Gough 1936, p. 37). “There is an evident inconsistency,” says Gough, “between . . . individualism and the Aristotelian [view] . . . that man is naturally political” (1936, p. 66). Gough goes on to say that two responses to this inconsistency are possible, one being that of the “[t]horoughgoing contractarians [e.g., Hobbes and Locke, who] avoided this difficulty by abandoning the organic view of community altogether,” the other that of “some theological writers who made an interesting attempt to effect a reconciliation” (Gough 1936, p. 66). Molina and Suarez are the theologians Gough is thinking of here.

#### IV. SUAREZ ON CONSENT

The emphasis on consent in *De Legibus* suggests that Suarez does in fact move beyond the vague consensualism of Aquinas (e.g., *Summa Theologica*, I, Q. 90, Art. 3), toward the more stringent form of Hobbes (e.g., *Leviathan*, chap. 21, para. 10). Indeed, Suarez's stress on consent seems to vindicate Skinner's contention

that the analysis of the concept [“that any legitimate polity must originate in an act of consent”] was carried to a new peak of development by the sixteenth-century Thomists, and in particular by Suarez. (1978, p. 163)

Although Suarez subordinates man's *invention* to God's dispensation, he does not appear to thus subordinate man's *consent* thereto. Is there not, perhaps, fire where Skinner and others have seen all that social contract smoke?<sup>21</sup> As will be noted, Suarez himself pleads partially guilty to the charge of arson—he seems to supply good reasons for thinking he and the seventeenth-century English theorists do look at politics in the same way and deploy kindred understandings of it.

As a plausible point of departure for our study of consent in *De Legibus*, consider Suarez's characterization of "man . . . [as] by his nature free and subject to no one" (1944, pp. 362–63—III, i, 1), or his statement that, "in the nature of things all men are born free" (p. 373—III, ii, 3). This, the postulate of equal freedom, restates itself as the truth that "no person has [by nature] political jurisdiction over another person," and implies, therefore, that only the individual's consent will lead to political authority (1944, pp. 373–74—III, ii, 3).<sup>22</sup> There must be a "special volition, or common consent, by which . . . [individuals] are gathered together into one political body" (1944, p. 375—III, ii, 4; p. 86—I, vi, 19).

Suarez is sounding much as Skinner characterizes him (1978, pp. 159, 161–63; but see pp. 164–66), i.e., as a precursor of seventeenth-century contractarianism. Suarez is sounding like one who believes, in his own words, that political power "is derived from . . . [men] as individuals, . . . through their own consent" (1944 p. 377—III, iii, 1).

Observe, however, that Suarez's phrasing suggests only that consent is necessary, when what we need to know is whether it is sufficient—whether, given consent, political community and power do ipso facto exist. It turns out that, as soon as we explicitly ask the sufficiency question, Suarez's consent doctrine complicates itself. Indeed, the full Suarezian consent doctrine only comes to light through his use of a process of elimination, a process which, however, nearly eliminates the idea it is supposed to exhibit for us—consent as the source of political right.

The question is this: "In what Men Does . . . [political] Power . . . Reside Directly by the very Nature of Things?" (1944—III, ii [title question]). In the process of answering this question, Suarez eliminates the following conceivable answers: (a) the particular individuals some think God selects for rule by His special providence (1944, p. 374—III, ii, 3; p. 379—III, iii, 5), (b) particular human types that might seem eligible to rule according to an Aristotelian type of natural right standard, as well as (c) each individual as such, and finally, (d) mankind in the aggregate.<sup>23</sup> With these classes of persons disqualified, who, or what class, can be left? In particular, given that political right "does not exist in each individual," and that "[persons] are unable to give that which they do not possess" (1944, p. 372—III, ii, 1), how can the consent of individuals, understood as a putative transfer of right, succeed in endowing a political community?

We ask again, How much fire is burning behind Suarez's consensualist smoke? We might also ask, with greater precision: Assuming Suarez does teach a consent doctrine, what kind of such teaching is it? For example, does it involve a putative transfer of right? Indeed—and this is what reading ahead could prompt one to speculate—might there not be a holistic quality to Suarez's consent doctrine, a quality that obviates the need for individualistic transfer of political right through consent (cf. Locke, *Second Treatise*, 4, 9, 11, 87,

99)? Might not Suarez propound a nonindividualistic, a holistic doctrine of consent?

See how, seemingly thinking along such holistic lines, Suarez begins to move his analysis beyond the impasse he had reached so far:

[Given that political] power does exist in men, and [that] it does not exist in each individual, nor in any specific individual, . . . *it [must] exist[] in mankind viewed collectively.* (1944—III, ii, 4; emphasis supplied)

Yet, as we know from reciting Suarez's analysis by elimination, political power does not exist in a collective nonentity, i.e., in mankind as a mere confused aggregate: "[I]f one regards . . . [conglomerations of men, without order], one does not as yet conceive of . . . [political] power" (1944, p. 375—III, ii, 4). So how can political power "exist in mankind viewed collectively"?

[Political] power does not manifest itself in human nature until men gather together into one perfect community and are politically united. . . . [This] power resides not in individual men separately considered, nor in the . . . multitude . . . collected . . . confusedly without union of members into one body; therefore, such a political body must be constituted, before power of this sort is to be found in men. (1944, pp. 379–80—III, iii, 6)

Political power exists in mankind collectively, but only in a restricted sense, namely, in a series of special collectivities, i.e., in political societies.

We now know Suarez's answer to the chapter title question he asked: "In what Men Does this [political] Power . . . Reside Directly by the very Nature of Things?" There is no prepolitical locus of political power: it "resides directly . . . by . . . nature" in and only in men who have gathered to become parts of a perfect, a political community, and in them only when that political community does in fact become itself. But does it become itself, such that political power resides in its members, simply in virtue of their gathering? Is their gathering sufficient for political society? When Suarez declares that "a multitude of men does not suffice to constitute a [political] community, unless those men are bound together by a particular agreement" (1944, p. 86—I, vi, 19), he leaves it uncertain whether the agreement or consent on its own makes the community. Can a helter-skelter gathering of individuals, each lacking political power, thus having none to transfer or pass along, become a political community with political power, through their consent alone?

We thus insinuate a question about God's possible assistance, i.e., about a possible division of labor between God and man in the founding of political societies. Does Suarez envision such a cooperation between God and man, or does he want to leave God out of it, being satisfied with a statement of (human) consent as sufficient? Skinner apparently thinks the latter. That is what his denial of the gift of God thesis means. Is he right—has he been correct all

along? Does Suarez in fact set out to extinguish the idea of empowered political communities as gifts of God? While seeking answers to these questions, we shall also be forced by Suarez to ask if there is a difference that matters between the origin of the political community and the origin of its empowerment.

Consider, in this connection, the following attempt by Suarez to explain the existence of political power: “it is given immediately by God as the Author of nature,” he says, “in such a way that men in a sense dispose the matter involved and render the recipient capable of wielding the power” (1944, p. 378—III, iii, 2). This passage might be read as saying that men create the entity—political community—which God then empowers. Does Suarez favor this scenario? Does the consent of individuals create—is it a sufficient condition to creation of—political community? We can phrase our question with the help of the following formulation from *De Legibus*: “[B]y the nature of things, men as individuals possess to a partial extent (so to speak) the faculty for establishing, or creating, a perfect community” (1944, p. 383—III, iv, 1; emphasis supplied).<sup>24</sup> Does the “to a partial extent,” imply what it seems to, i.e., an insufficiency of consent, hence a division of labor between man and God?

To learn Suarez’s answer we shall consult one of his better-known utterances, his marital analogy:

[I]f we assume that men have willed to gather together into one political community, it is not in their power to set up obstacles to this jurisdiction; and this is an indication that the jurisdiction does not flow proximately from their wills as from a true efficient cause. Thus, in regard to matrimony, we rightly infer that the husband is the head of the wife by grant of the Author of nature Himself, and not by the will of the wife; for though they may contract the marriage by their own will, nevertheless, if they do contract it, they cannot prevent the establishment of this superiority. (1944, p. 378—III, iii, 2; cf. p. 366—III, i, 4)<sup>25</sup>

As helpful as this passage undoubtedly is, even it leaves the division of labor uncertain. Is the marriage, and not just the husband’s power, “made in heaven”? Is it a case of “what God hath joined,” or do the human beings do the joining? In search of the answer to that and our other questions, let us turn to the place where Suarez bespeaks most earnestly and self-consciously his concern not to mislead the reader about the status of consent.

In chapter iii of book III of *De Legibus*, Suarez expresses a scruple about an impression he may have created in chapter ii of that book. He now (as he sits down to write chapter iii) believes that what he had previously written about consent as the basis of political community may raise a question as to whether he thinks it is God or man who creates and/or empowers political community. Hence, one of the objectives of chapter iii is to clear up the question, as it is phrased in that chapter’s title: “Has the Power of Making Human Laws Been Given to Men Immediately by God as the Author of Nature?” Rendition of the

correct answer to this question will, it turns out, require Suarez to settle the question of which party, God or human beings, creates the political community to wield the political power.

Here is what he says in book III, chapter iii; this is his explanation of how a misleading impression might have been left by chapter ii:

A reason for doubt on this question [concerning God as the source of political or legislative power] may lie in the fact that it apparently follows upon what has been said above [in chapter ii, section 4, namely, that men “are gathered together into one political body” by “special volition, or common consent”] that this power over . . . [a] community of men assembled together is derived from them as individuals, and through their own consent. For such power springs from the same source as does the very community in which it resides; and that community is welded together by means of the consent and volition of its individual members; therefore, [so the argument seems to go,] the power in question also flows from those same wills. (1944, p. 377—III, iii, 1)

Preparing his reply to this erroneous inference from what he had said in chapter ii, Suarez begins by agreeing with its “major premiss,” namely, that political “power springs from the same source as does the very community in which it resides.” This is so, he says,

because, once the community is assumed to exist, it follows that this power likewise exists; for he who gives the form, gives, too, those things which are consequent upon the form; and therefore, *whoever is the . . . author of the said community, would seem also to be the author and bestower of its power.* (P. 377—III, iii, 1; emphasis supplied)

Suarez indicates here that there can be only one author, God or man, of the whole political *res*—community *and* power, power *and* community. If human beings author the community, they also therefore create the power. Conversely, if they author the power, they must also have created the community; and if they cannot create the power, then they cannot create the community. Likewise, and for the same reason, if God bestows the power, He must be author or creator of the community, and if He does not create the community then He cannot bestow the power, for, to repeat, “whoever is the . . . author of the said community, would seem also to be the author and bestower of its power” (p. 377—III, iii, 1). But, we have heard, and as Suarez now unequivocally tells us, men cannot create political power:

before men congregate into one political body this power does not reside in the individuals, . . . [;] furthermore, it does not exist even in the rough mass . . . , or aggregate, of mankind, . . . ; and therefore, the power can never flow immediately from men. (1944, pp. 377–78—III, iii, 1)

So, God must be the author and bestower of political power; ergo, He is author and creator of the community. Suarez does, after all, stand by the postulate that political community is a gift of God. Man being unable to create political community, either God creates it, or there is no such community. But there is such community; Q.E.D.

Suarez's doctrine is, then, that human beings choose "to gather together," either in marriage or polity, *but that that is all they do*. Their willing is only necessary, not sufficient, to the existence of marital and political associations possessing marital and political powers. Unaided, people make neither political communities, with "jurisdiction," nor marriages ("what God hath joined") with husbandly headship. Man proposes, God disposes. Political community and power, like marriage and marital power, exist in certain ways, "by grant ["gift" in Skinner's parlance] of the Author of nature Himself" (1944, p. 378—III, iii, 12). When men enter valid political and marital contracts, their consent has an effect beyond its unaided causal power, triggering as it does divine creations of entities and empowerments, the existence and essential form of which are beyond their freedom to negotiate.<sup>26</sup>

Human beings may choose whether to unite politically with these people rather than those (to marry Susan or Sam rather than Molly or George). Political community as such, however, is not an object of choice (nor is marriage as such), because we do not choose our political (familial) nature. By consenting to political community and marriage, human beings cooperate with nature and nature's God, and precipitate, without being their "true efficient cause" (1944, p. 378—III, iii, 2), imperfect and perfect wholes—marital and political societies, with marital and political power.<sup>27</sup>

#### V. SKINNER'S FALSE ALTERNATIVE AND THE CHRISTIAN-ARISTOTELIAN TEACHING ON MAN'S POLITICAL COOPERATION WITH THE GOD OF NATURE

When Skinner is not presenting readers with one illusory Thomistic alternative—political community as *either* a special divine grant *or* as a human invention—he is facing us with another. The Spanish Thomists, Skinner says, believed that,

since no commonwealth has a natural existence, they must all have been deliberately brought into being . . . by some form of concerted action on the part of their own citizens. (1978, p. 155)

Putting aside the falsity that, according to the Thomists, "no commonwealth has a natural existence," observe only the alternative Skinner allows and the possibility that he neglects: *Either* "a natural existence" *or* "concerted action," not "a natural existence *through* concerted action," as in Aristotle (*Politics* 1253a29–

31). Skinner conceives of Suarez and his fellow Thomists as deriving political community from man, not God, and from man, not as an Aristotelian founder, taking his bearings by natural ends, but man as free-form inventor.

What “natural existence” can Skinner have in mind as a contrast with human inventing? The family? That might be a mistake, given that Suarez seems to insist, as we have seen, that the family, like political community, has an element of choice in it (1944, p. 378—III, iii, 2).<sup>28</sup> One wonders, therefore, whether the natural existences Skinner is thinking of are not, say, instinctual zoological collectivities. Does Skinner believe Suarez thinks we must work with the following alternative: *either* free-form human invention *or* flocks, hives, schools, and packs? Where in Suarez’s book does Skinner find such a dichotomy?

One possible location for the alternative Skinner propounds is the chapter where Suarez is trying to disarm those who would argue that government “is contrary to the order of nature” (1944, p. 363—III, i, 1)—those who, e.g., cite Augustine for the proposition that political community and power “is not natural to man” (1944, p. 363—III, i, 1). Suarez observes there that one can, if so disposed, distinguish between “deriv[ing] directly from nature” and being “consonant with natural reason,” i.e., between “originat[ing] with nature” and not being “contrary to nature” (1944, p. 371—III, i, 12). Skinner’s category of “natural existences” might correspond to Suarez’s “deriving directly from nature.”

The main impediment to adducing this distinction as the Suarezian basis for the distinction Skinner ascribes to Suarez is that Suarez himself discounts the possible force of his own distinction. According to him, consonance with nature is not “less natural,” for purposes of justifying government, than “deriving directly from nature” (1944, p. 370—III, i, 11). The passage from Augustine that Suarez is rendering harmless, “indicates simply that human principates did not originate with nature, but does not indicate they are contrary to nature” (1944, p. 371—III, i, 12); and noncontrariety, Suarez implies, is all the naturalness needed to carry legitimacy with it.

Neither Aristotle, nor Thomas, nor Suarez thought their choices were limited to, on the one hand, mindless or instinctual natural existences such as flocks and hives, and on the other, free-form human inventions and constructions, oblivious of nature. The Aristotelians’ political teaching is about neither instinctual zoological groupings nor political arrangements invented and posited by untrammelled human creativity. Instead, Aristotle and the Christian-Aristotelians looked to a relationship between, an interplay of, the legislator’s or statesman’s thought and the facts of human nature and the soul. Indeed, Aristotle was famously unashamed to stand behind the apparent paradox that, although “the city is . . . by nature” (*Politics* 1253a25), and though “there is in everyone by nature an impulse toward this sort of partnership,” still, “the one who first constituted [a city] is responsible for the greatest goods” (*Politics* 1253a29–31). Something like this is what Suarez has in mind even in his most

anthropogenic statements on the founding of political communities, e.g., as “humanly assembled and devised” (1944, p. 86—I, vi, 19; cf. Gierke [1934] 1957, p. 276 n.30). Following Aristotle, Suarez affirms natural politicality hence the naturalness of political society in this striking passage:

[T]hough man was not created or born subject to the power of a human prince, he has been born potentially subject . . . to such power; and therefore, it is not in opposition to . . . natural law that one should be thus subjected in fact, even though this subjection is not derived directly from nature. On the contrary, it is consonant with natural reason that a human common-wealth should be subjected to some one, although . . . natural law has not in and of itself, and without the intervention of human will, created political subjection. (1944, p. 370—III, i, 11)

One of Suarez’s major themes, cooperation of man with nature, is adumbrated here in the phrase, “intervention of human will”—meaning, in this passage, initiation of the divine-human process of constituting political community, in a natural setting awaiting precisely such an intervention and such a community. Man’s nature being political, God and nature will be understood to give what is part and parcel with that nature, what makes that nature viable, what enables man to live up to that nature. The gift in question is political power, i.e., law-making (“directive”) and enforcing (“coercive”) right. And it is in explaining civil law that Suarez utters what we will take as his last word on the relationship between human “intervention”—thought, building, consent—and nature, hence his anticipatory critique of Skinner’s false alternative of zoological groupings, on the one hand, and free-form invention, on the other. In Suarez’s opinion, human law

pertains entirely to the natural order in so far as regards its origin and authority, for though it is not enacted directly by nature, it is nevertheless enacted through the authority connatural to man. (1944, p. 362—III Introduction)

## VI. SUAREZ’S HOLISM-ORGANICISM: THE CORPUS MYSTICUM

If Suarez taught the competency of unendowed consent and untrammelled invention of man to generate political community and power, his doctrine would indeed prove an anticipation of Hobbes and Locke. But that is not what he taught, and to say it is his teaching is to lose sight of what makes Suarez Suarez. Such a saying especially misrepresents the Suarezian natural framework or whole, i.e., what he has in mind when he invokes the phrase, “in the very nature of things.” Skinner’s interpretation turns the Suarezian whole into a chaos, one lacking even an implicit order. Let us therefore get in mind Suarez’s own idea of that natural whole, thus his holism.

Suarez can be confident that “[political] power does exist in men” (1944, p. 375—III, ii, 4), because he, following the God of nature, is a holist. For him and that God, wholes are real, with powers and other properties inhering uniquely in themselves, greater than and not deriving from their parts. A power or right comes into being when and only when the whole, for which it is the integral and natural power, comes into being.

[T]his [political] power does not manifest itself in human nature until men gather together into one perfect community and are politically united. . . . *Once this body has been constituted, however, the power in question exists in it, without delay and by the force of natural reason.* (1944, pp. 379–80—III, iii, 6; emphasis supplied; Pufendorf 1934, p. 1159; Hassing 1984, p. 197)

Unlike the individual of Skinner’s Hobbesian-Lockean Suarez—conceived as he is according to an individualistic metaphysic (cf. Nichols 1987, p. 184; Hampton 1986, pp. 6–7)—Suarez’s individual has the potential of being a part in a holistic sense. The Suarezian political community is a genuine Aristotelian political whole because its parts are political beings requiring participation in that whole to be fully realized as their essential selves, i.e., as the proper parts of a certain whole (*Politics*, book I, chap. 2; cf. Jaffa 1963, pp. 65–67; Nichols 1987, pp. 184–85; Hassing 1984, p. 197). It is a whole, and they are parts, not because they made it but because it is their nature to fit together in it (see Barker, in Gierke [1934] 1957, pp. 241–42 n., as quoted in note 25 above)—a fitting predetermined by the author of nature, nature’s God.

[H]uman will is necessary in order that men may unite in a single perfect community, but no special act of volition on their part is required to the end that this community shall possess the said power, which arises rather from the very nature of things, and from the providence of the Author of nature, so that in this sense it is rightly said to have been conferred immediately by Him. (1944, pp. 379–80—III, iii, 5–6).<sup>29</sup>

Here, Suarez tells us plainly enough that the “very nature of things” he has in mind is not the false half-Hobbesian, or Lockean, apolitical state of our nature Skinner has him professing (Skinner 1978, pp. 157–61), but the true Christian-Aristotelian political state of our nature, to be understood in terms of natural parts and a whole, of natural potency and act, and of “nature . . . as an end” (Aristotle, *Politics*, 1252b32). Suarez’s holistic gift of God conception of the provenance of political institutions is utterly antithetical to the individualistic, state of nature, human invention, Hobbes-Locke social contract thesis Skinner saddles him with.

Suarez would have us keep in mind both the trigger or catalyst (the willing, consenting individuals), and the cause—final, formal, *and efficient*—(nature,

God; creation, creator) (1944, p. 378—III, iii, 2; cf. Skinner 1978, p. 161). Men are to be looked upon

with regard to the special volition, or common consent, by which they are gathered together into one political body. . . . Thus viewed, they form a single mystical body. . . .; and that body . . . needs a single head. Therefore, in a community of this [political] kind, viewed as such, there exists in the very nature of things the power [political, legislating and enforcing] of which we are speaking, . . . For it is impossible to conceive of a unified political body without political government or disposition thereto. (1944, p. 375—III, ii, 4; emphasis supplied)<sup>30</sup>

Suarez's holism issues in, is about, a *corpus politicum* qua *corpus mysticum*. His political framework or whole has features Hobbes and Locke do not, cannot ascribe to theirs because:

*First*, consent as Suarez conceives it has both more and less efficacy than consent according to Hobbes and Locke: *more*, because the consent conceived in the Hobbes-Locke doctrine cannot generate mystical bodies; *less*, because whereas for Hobbes and Locke consent is a *sufficient* condition to the existence of the only (nonmystical) political society they recognize (*Leviathan*, chap. 18, paras. 1–2; chap. 21, para. 10; *Second Treatise*, 14, 87, 89, 95–97, 99, 116–22), Suarez denies that bare consent is a sufficient condition to the emergence of the only political community he recognizes, i.e., an entity with the standing of a mystical body. According to Suarez, nature's God or God's nature must do its own non-Hobbesian, non-Lockean, causal part.

And *second*, variants of the phrase Skinner makes so much of, i.e., “exists in the very nature of things” (1978, e.g., p. 155 n.1), do not refer to people in an extrapolitical condition, as the phrase would be used by Hobbes and Locke, but instead to the political nature of man. Although Suarez is indeed exhorting us to look deeply into, even to the very bottom of, “the nature of things,” what we shall see, according to him, is not separated individuals or families but rather the political whole into which human beings either potentially or actually fit. Only God is more fundamental; there is by nature nothing more fundamental than, there is nothing underlying, this political nature or whole (see, e.g., 1944, pp. 48–49, 362, 364–65, 371—I, iii, 18–19; III, i, 1–3, 12). Suarez is not called a Thomist for nothing. Suarez's invocation of the phrase, “to exist immediately in the very nature of things,” is part of his participation in the holistic, nonindividualistic, non-state of nature, by-nature-political, Thomistic tradition.

## VII. SKINNER'S REPRISÉ ON THE STATE OF NATURE

Skinner is prompted to his final invocation of the state of nature idea in response to a difficulty with which we have long been familiar and to which he as it were suddenly awakens. Having assiduously pushed a Hobbesian-Lockian

consensualist Suarez, Skinner suddenly seems to lose his nerve, giving up on the seventeenth-century Englishmen as sources of sense about Suarez, and looking instead to a nineteenth-century German for a true construction of Suarez (Skinner 1978, pp. 164–65; Gierke [1900] 1958, pp. xlviii, 10, 22, 89).

As Gierke originally emphasised, [there is a] problematic feature of this analysis [“the idea of political authority being brought into existence by a general act of consent performed by men in a state of nature”]. (1978, p. 164)

[I]t is impossible to regard them [i.e., individuals] as [quoting Suarez] “the authors and bestowers of the powers which are established over their communities,” since “such a capacity can scarcely be said to exist in them as individuals, or even in what we might call the rough collection or aggregate of men.” (1978, p. 165)

According to Skinner, Suarez solves his problem by conceiving the state of nature in a nonindividualistic way, by resort to “a strongly holistic theory about the capacity of the people to perceive themselves as a *universitas*” (1978, p. 165; italics original). “[I]t is . . . possible,” Skinner says, with Suarez in mind, “to think of the state of nature not as a community of individuals,”

but rather as “a single mystical body” in which all the members recognise the same obligations, follow the same rules, and are thus “capable of being regarded, from the moral point of view, as a single unified whole”. . . . It is Suarez’s essential contention that once we think of men in their natural condition in this alternative way, there is no difficulty about conceiving of them as having the power to act with a single unified will to set up the legitimate authority of a commonwealth. (1978, p. 165; cf. Tarcov 1982, p. 62)

Having denied that Suarez’s political community is by nature, and hence a mystical body, Skinner now invests what he calls Suarez’s state of nature, understood as a nonpolitical, prepolitical, anarchical condition, with the holistic indicia of political community. Indeed, he appropriates the language that Suarez had used to characterize the political entity—the commonwealth as a mystical body—to characterize the non- or prepolitical condition, the state of nature.

Let it pass that, according to Suarez, the prepolitical condition is not man’s state of nature, his natural state. Let it also pass that, for Suarez, the Church aside, *corpus mysticum* is for all intents *corpus politicum* (1944, p. 375—III, ii, 4; cf. Gierke [1934] 1957, p. 276 n. 30). Let it pass again that by now construing Suarez holistically Skinner abandons his own individualistic interpretation of Suarez, i.e., the interpretation that made faintly colorable the idea of Suarez as “foundational” to Hobbes and Locke. All that aside, it is correct, as Skinner says here, that according to Suarez a community or mystical body *does* establish the government or “legitimate authority of a commonwealth.” But it is incorrect to imply that, as in Skinner’s Gierkian account, the community which establishes government is a prepolitical entity within or part and parcel with the

condition that Hobbes and Locke will call the state of nature. According to Suarez, and contrary to Skinner, the government-forming community or body is instead entirely *apart from*, having been carved *out of*, the so-called state of nature; the government-establishing entity is political or civil community, itself, as it, itself, has been established and empowered by nature's God or God's nature.<sup>31</sup>

Skinner's ascription to Suarez of this idea of a nonpolitical community, a state of nature qua mystical body, simply has no grounding in Suarez's text. As we saw earlier (note 9), Suarez recognizes only one kind of natural collective entity in the world other than the family: incorporated political societies. Scattered persons in the unincorporated noncommunity of the prepolitical "aggregate" do not count as an entity, to say nothing of a community or *corpus mysticum*. Political society and family are the only natural human entities there are—there are no more. Indeed, Skinner fleetingly acknowledges Suarez's teaching when he quotes him to the effect that

"multitudes of men can be thought of in two different ways," [i.e., as those] "gathered together by common consent in a single political body" . . . [and] "simply as an aggregate of people." (1978, p. 181)

Notwithstanding what Skinner's spurious Suarez believes (1978, pp. 161–65), the real Suarez does not believe—this is precisely what he does not believe—it "possible to think of the [so-called] state of nature [an aggregate of people] . . . as 'a single mystical body'" (1978, p. 165). In *De Legibus*, III, ii, 4, Suarez is clear—pellucid—that the prepolitical state is precisely not a "mystical body" or "single unified whole." A salient point of that section—number 4—is that the prepolitical state is "a kind of aggregation, without any order, or any physical or moral union." "So viewed [i.e., in what Skinner calls the 'state of nature,' and Suarez an 'orderless aggregation'], men do not constitute a unified whole, whether physical or moral" (1944, p. 375—III, ii, 4). The family aside, and aggregation being all the plurality there is in the prepolitical condition, it is incorrect to maintain, as Skinner does, that

there is no difficulty about conceiving of them [people in the prepolitical condition—what Skinner, following Hobbes and Locke, calls the state of nature] as having the power to act with a single unified will to set up the legitimate authority of a commonwealth. (1978, p. 165)

Indeed, there can be no *greater* difficulty of conception. When human beings are not parts of a political community, they have no nonfamily collective existence; they participate in no *corpus mysticum*, and exercise no collective constitutive powers, e.g., powers to generate political bodies. Contrary to what Skinner says, i.e., that "it is . . . possible to think of the state of nature . . . as 'a

single mystical body'” (1978, p. 165), precisely that is not a possible Suarezian scenario (1944, p. 375—III, ii, 4).

### VIII. CONCLUSION

Heretofore, we have witnessed Skinner trying to attribute two inconsistent teachings to Suarez: Hobbesian-Lockean individualism, on the one hand, and the state of nature qua *corpus mysticum* holism, on the other. There is a third teaching: Skinner deploys a total of three mutually exclusive interpretations of Suarez. The third theory does get Suarez right. Fifteen or so pages after the episode of the state of nature as *corpus mysticum*, Skinner accurately conveys Suarez's actual holistic account of the origin of political power. “[H]e . . . argues,” says Skinner of Suarez,

that “the moment at which this political body is constituted” is also the moment at which this new power “comes instantly to reside in it by the force of natural reason” [1978, p. 181].

“[T]he moment” is the time at which God and the individuals (or individual families) constitute political community. And there is postulated in Skinner's passage here no prepolitical, nonpolitical, state of nature qua *corpus mysticum*, mediating between the individuals and political community. But, although Skinner must be credited with this belated accuracy, that credit will not balance the debits created by his two far more conspicuous positions. It is to a question about them that we must turn in concluding.

Why, at a certain point, does Skinner suddenly abandon the attempt to make over the Spanish Thomist Francisco Suarez into an English contractarian, and make him instead as it were into a German corporatist? Why does he allow himself to come so under the influence of Gierke (Skinner 1978, pp. 164–65, and Gierke [1900] 1958, p. 89) as to have the Skinnerian Suarez explain the coming into being of political community by resort to the bizarre idea of the state of nature as a mystical body? One has to think he shifted to that peculiar notion as a result of (a) a belated recognition that his anachronistic interpretation of Suarez as a Hobbesian-Lockean individualistic teacher was not grounded in Suarez's text (indeed, Skinner quotes Suarez's disqualification of individuals as “‘the authors and bestowers of [political] powers’” [1978, p. 165]), linked with (b) Skinner's longstanding prejudice against the idea that Suarez could be a teacher of natural politicality, connected then with (c) a general doubt concerning the social contract that Skinner seems to have picked up from reading Gierke. “As Gierke originally emphasized, . . . [there is a] problematic feature” of “the idea of political authority being brought into existence by a general act of consent performed by men in a state of nature” (1978, p. 164; Gierke [1900] 1958, pp. 88–89). “If the natural condition of mankind

includes no positive laws, and is thus a condition in which each individual is independent of any formal legal ties,” Skinner asks, as prompted by Gierke,

how is it possible for men to perform such . . . acts as consenting to the establishment of a sovereign, transferring their authority into his hands and contracting to acknowledge the legitimacy of his laws? If the situation . . . lacks any legal bonds, how can it include the performance of such legal acts? (1978, p. 164; Gierke [1900] 1958, pp. 88–89)

Skinner aims this objection at all social contractarians, mentioning Hobbes and Locke by name (1978, p. 165).<sup>32</sup> Actually, he thinks the objection is more telling against them than it is against Suarez, because they did not come up with the idea Skinner ascribes to Suarez, namely, “the state of nature . . . [conceived] as ‘a single mystical body’” (1978, p. 165). In other words, Skinner, who sets out to delineate the foundations of the modern individualistic social contract edifice, belatedly declares the edifice unbuildable and opts for a holistic foundation for an entirely different building. The effect of this, of course, is to render problematic Suarez’s thought as a foundation of modern thought.

Suarez’s political theory may very well be superior to that of the great seventeenth-century English theorists, but such superiority, should it obtain, could not stem from the idea of the state of nature as *corpus mysticum*. The state of nature as mystical body will not do the trick, for the two reasons we have canvassed: it is not a coherent idea, and it is not Suarez’s idea. Suarez has no such idea. If Suarez propounds an augmentation of naked consent, that augmentation cannot and therefore will not come from any *actual* state of nature *non-political* union, but only from some natural *potential* in isolated human beings for *political* union. Is there such an augmentation, such a potential? According to Suarez, you can bet there is.

From Suarez’s point of view, the flaw in the Hobbesian-Lockean type of contractual conception is that it fails to acknowledge and draw upon all of what we can call our God-given entitlements. And Skinner is driven to the far-fetched idea of a corporate state of nature because he initially ascribes to Suarez the Hobbes-Locke scheme, thereby denying to Suarez and humankind the Christian-Aristotelian doctrine of natural politicality. One mistake, Skinner’s anachronism, his prolepsis, leads to another, his huge non sequitur. Because Skinner is so eager to render Suarez foundational to or precursive of English individualism, he proves unable or unwilling to take seriously what Suarez is serious about. For Suarez, God created man a political animal and hence made him by nature a participant in a holistic coming into being of political community through a process triggered by consent but consummated by nature and hence by nature’s author. The resources needed to consummate the process initiated by the consent of the individuals are God and nature, neglected not

only by Hobbes and Locke, but also by Skinner, in his Gierke-affected account of Suarez. According to Suarez, bare consent is and need be only necessary, not sufficient, because God and nature supply the other necessary condition, thus creating a sufficiency. Only when the central features of Skinner's interpretation are cleared away does Suarez's doctrine of natural politicality stand forth as intended.

## NOTES

1. Praising Skinner's book, Judith Shklar singled out, as "[b]est of all," "the chapter on Suarez" (1979, p. 552). In that chapter—actually two, 5 and 6—Skinner also discusses several other "Thomist philosophers of the counter-reformation" (1978, pp. 174, 147): Francisco de Vitoria (1485–1546), Domingo de Soto (1494–1560), and Luis de Molina (1535–1600) (Skinner 1978, pp. 135 et seq.).

"The particular danger with intellectual biography," Skinner has said, "is that of sheer anachronism. A given writer may be 'discovered' to have held a view, on the strength of some chance similarity of terminology, on some subject to which he cannot in principle have meant to contribute" (1988, p. 32; cf. Tarcov 1982, p. 57). As Tarcov observes, "Skinner [does] not [write] 'A History of Political Thought in the Sixteenth Century,' as J.W. Allen did . . . , but [tries] . . . to unearth 'The Foundations of Modern Political Thought.' This aim . . . introduces a systematic bias toward the assimilation of sixteenth-century to modern thought (Tarcov 1982, p. 61).

Part and parcel of anachronism, Skinner tells us, is the "reification of doctrines," which "gives rise in turn to . . . [an] historical absurdity," "a form of non-history which is almost entirely given over to pointing out 'anticipations' of later doctrines" (Skinner 1988, p. 35). On Skinner's methodical cautions generally, see Zuckert 1985.

2. "[I]t is rather easy, . . . to describe . . . [some classic text] and its alleged significance in such a way that no place is left for the analysis of what the author himself meant to say, . . . . The characteristic result of this confusion is a type of discussion which might be labelled the mythology of prolepsis" (Skinner 1988, p. 44).

3. I certainly do not argue that Suarez is a rote copy of Aquinas, at odds with the seventeenth-century Englishmen in every respect, any more than I agree with Skinner that he was a virtual anticipation of them.

Skinner hopes his own book will "indicate something of the process by which the modern concept of the State came to be formed" (1978, vol. 1, p. ix). If, as Skinner believes (1978, e.g., pp. 135, 163, 356, 358), Suarez's books were influential in forming that concept, then correct understanding of the formative process presupposes accurate knowledge of those books. It would be worse than worthless to say that Suarez is somehow at one of the headwaters of modernity and then to give a misleading account of who he was and what he taught. The account of Suarez in a book said to be "magisterial" and "exquisitely scrupulous" (Holmes 1979, p. 1133), for that matter in one granted "classic" status (Ashcraft 1981, p. 389), will perforce be taken by many as definitive, and will as such preempt and stifle the impulse to study Suarez anew.

To be sure, Skinner does think it an "historical absurdity" to ask the question "whether a given idea may be said to have 'really emerged' at a given time, and whether it is 'really there' in the work of some given writer" (1988, p. 35).

4. Why make such a point of Suarez being a Thomist, when Skinner calls him one over and over and even entitles the main chapter on Suarez, "The Revival of Thomism"? That is just the point. Skinner is all too ready to call Suarez a Thomist, precisely when he is ascribing to him positions that in fact neither Aristotle, nor Thomas, nor any orthodox Thomist, e.g., Suarez, could have taken.

5. Although giving *communitas* the edge when referring to the political entity, Suarez uses the terms *communitas* and *societas* interchangeably (see, e.g., the entire section from which the quota-

tion in the text is taken: III, i, 3). There is no *Gemeinde-Gesellschaft* divide in Suarez. In citations to Suarez, “1944” designates the Carnegie-Clarendon translation of *De Legibus*. The Arabic number is the page in that edition. Numerals after the dash are Suarez’s own divisions and subdivisions, i.e., books, chapters, sections.

6. “[N]ot of course a political one”: This aside is supposed to be of a piece with Skinner’s assertion three sentences earlier that “[t]he later Thomists [one of whom is Suarez] all reiterate the same Aristotelian contention that man is by nature a social animal” (1978, p. 159). In other words, Suarez’s alleged eschewal of a by-nature-political anthropology is presented as of a piece with the “Aristotelian” contention that man is by nature social—meaning social but not political! Aristotle is in effect cited against Aristotle (see *Politics* 1253a3 [“*politikon zoon*”], *Nic. Eth.* 1097b7 [“*physei politikon*”]). On his page 182, writing of Suarez, Skinner says that, “[h]aving reaffirmed this traditional Thomist distinction between natural and political communities, Suarez is finally able *etc.*”—as if such a distinction were traditional with the Thomists. See *Summa Theologica* I–II, Q. 72, Art. 4 (“political and social animal”), and *On Kingship*, I.i.4 (“social and political animal”). Skinner himself makes clear that Vitoria, for one Thomist, does not see a difference between the natural and the political (1978, p. 161). By whom, then, in the line of transmission from Thomas to Suarez, is this anti-Aristotle, anti-Thomas, Thomistic distinction supposed to be introduced and made traditional (cf. Skinner 1978, p. 40 for the same claim)?

7. Whatever Skinner intends by the gloss in his recapitulation, we can say of the Suarezian passage he quotes in it (1944, pp. 364–65—III, i, 3) that Suarez there tracks not Locke, who teaches that man is social and not political, but Aristotle, the great teacher of man’s natural politicality, who first made the comparison Suarez now repeats, between family and polity: “The friendship between husband and wife appears to be a natural instinct; man is by nature a pairing creature even more than he is a political creature, inasmuch as the family is an earlier and more fundamental institution than . . . [the polis], and the procreation of offspring a more general characteristic of . . . animal[s at large]” (*Nic. Eth.* 1162a17–19, and see *Politics* 1252a27–30). Aristotle is one who does not believe that saying the family is more natural than the polity means the polity is not by nature (*Nic. Eth.* 1097b7; *Politics* 1253a3).

8. In this translation, “power” almost always stands for *potestas*, not *potentia*.

9. For Suarez, the necessary is to the noble as the family is to political society. But before we can understand why this would be Suarez’s ratio, we must comprehend that the family and political society are the only two natural communities Suarez recognizes. One troubling feature of Skinner’s recapitulation of Suarez is that, when he writes of “our natural and pre-political communities” (p. 159), he obscures the stark fact that Suarez recognizes only one natural prepolitical community, i. e., the household or family. Like Gierke ([1934] 1957, p. 276 n.80), who may be affecting Skinner on this point, Skinner (when not in his Hobbesian mood [1978, p. 160]) sometimes leaves the impression that Suarez finds an abundance of extrafamilial communities and a rich social life in the state of nature. But that is the wrong impression—for Suarez there is just the family.

But suppose it is acknowledged that the family is the only natural, prepolitical community. Still, why read Suarez as relegating it to the category of the necessary? For one thing, that relegation occurs because of what we have already heard that Aristotle says (note 7, above), i.e., that the family is more natural than the political community because of the necessary function, propagation, it shares with “animal[s] at large” (*Nic. Eth.* 1162a17–19). This is the natural necessity Suarez has in mind when he follows Aristotle in rating the family *maxime naturalis*. But, with a view to a specifically human nature, political association could be *as* or *more* natural than the family. In fact, it looked just that way to Aristotle (*Politics* 1252b30–1253a1), and, I argue, to Suarez who views political society as the more natural according to the more human parameter.

10. Although Suarez styles the family as indeed “perfect in itself, . . . for purposes of domestic or economic government” (1944, p. 365—III, i, 3), he also says it is “imperfect from a political standpoint,” or rather, from the standpoint of perfection as such (1944, p. 365—III, i, 3; cf. p. 87—I, vi, 20; consider Gierke [1934] 1957, p. 276 n.30).

“We are speaking . . . of man’s nature and of his legislative power viewed in itself; for we are not considering, at present, the question of whether anything has been added to or taken from that power through divine law” (1944, p. 362–63—II, i, 1; p. 85—I, vi, 18; p. 86—I, vi, 18; cf. p.

367—III, i, 5; p. 379—III, iii, 5). To be sure, in Catholic literature of the sixteenth and seventeenth centuries, political society qua perfect was juxtaposed not only with the imperfect household but as well with the Church, also *societas perfectas* (Figgis 1956, p. 160), and more perfect than by nature (1944, p. 86—I, vi, 18).

11. It is necessarily the case that, should humans arise from the realm of the necessary to that of the noble, they would do so only via membership in a political society.

12. & *ideo talis comunitas quasi naturaliter ordinatur ad perfecta comunitate, ut pars ad totu; ideoq; potestas legislatiua non est in tali comunitate, sed tantu in perfecta.*

13. The alternative teaching, as in Hobbes and Locke, says that, supposing a creation, God made humans apolitical and left us to deal with the consequences of our apoliticality by whatever individual or collective contrivance we can cobble together or postulate—political community therefore having the status of a humanly invented coping mechanism and survival strategy (Hobbes, *De Cive*, I, 1; III, 26; *Leviathan* pp. 91, 109, 111, 221–30, 245, 483–91; Locke, *Second Treatise*, 13, 21, 123–28).

14. E.g., when he (a) quotes him to the effect that “‘political power undoubtedly arises out of the law of nature’” (1978, p. 162), (b) ascribes a holistic conception of politics to him (1978, p. 165), (c) quotes Suarez on the natural human potentiality for political community (1978, p. 181), or (d) says that Suarez was not, all things considered, an individualistic thinker (1978, p. 343).

15. Or, one can say, Skinner conflates general with special providence (but see 1978, p. 164), just as Suarez seems to have feared some reader might. In any case, Suarez thought it worth his time to rehearse for his readers the difference: “God does not give this [political] power by a special act or grant distinct from creation; for if He did so, that grant would necessarily be made manifest through revelation, and this is clearly not the case, since if it were, such power would not be natural. Therefore, the power is given as a characteristic property resulting from nature, that is to say, resulting through a dictate of natural reason” (1944, p. 379—III, iii, 5; and see p. 389—III, iv, 8).

With the special grants to the Hebrew kings kept in mind as the massive exception (1944, p. 364—III, i, 2), Suarez is careful to insist that “[in] the common and ordinary course of providence . . . such cases do not come to pass, since—in the natural order—men are governed in civil affairs not by revelations, but by natural reason” (1944, 384—III, iv, 2). Suarez here responds to the Lutherans (Skinner, 1978, p. 139), as well as making himself unpopular with the English divine-right-of-kings crowd.

16. On what Skinner’s invention doctrine may owe to Gierke, see the latter, [1934] 1957, p. 276 n. 30.

Skinner attributes to the Thomists his human invention thesis as their answer to the Lutherans, who had concluded, according to Skinner, “that men with their fallen natures cannot hope to apprehend the will of the *Deus Absconditus* and in this way produce a reflection of God’s justice in the arrangement of their lives. They [the Lutherans] had thus concluded that the powers that be must have been directly ordained by God” (1978, p. 139). But it does not follow that because the Lutherans had (a) denied that men can know God’s will, and (b) had jumped to the conclusion that God had therefore ordained governments through his special providence, that the Thomists must have leaped to the opposite extreme—human invention. In any case, the Thomists did not thus leap. They rather persisted in trying “to produce a reflection of God’s justice in the arrangement of their lives” (to borrow Skinner’s elegant and accurate characterization of the Thomistic agenda).

17. Although I believe nothing is easier than setting the record straight on Suarez’s position, I must acknowledge being daunted by Skinner’s response to this chapter title question. Whereas I read Suarez as answering affirmatively, Skinner hears a “No” (1978, p. 161). We cannot both be right; indeed, we are diametrically opposed on a central point of fact—the literal meaning of chapter iii of book III of the *De Legibus*. Suarez himself would seem to give the dispositive word on this question of fact when, in chapter iv, i.e., the next chapter of book III, he writes as follows: “[Political] power can be received directly from God; since there is no other possible origin for it—as we have shown in that previous Chapter [i.e., chapter iii]—and since God, as the Author of all good things, is therefore the Author of all powers and especially of this power” (1944, p. 388—III, iv, 8). In Suarez’s understanding, *pace* Quentin Skinner (1978, p. 161), God the creator, the source of general providence, is the efficient cause of political community (1944, p. 378—III, iii, 2).

18. Suarez declares such a duty, obtaining so long as there have been men, in passages of *De Legibus*, to be read roughly in the following order: pp. 219–20, 210–11, 204–5, 222–23, 48–49, 364–67, 371, 375, 378–79—II, viii, 4; II, vii, 4; II, vi, 21; II, viii, 8–9; I, iii, 18–19; III, i, 3–6; III, i, 12; III, ii, 4; III, iii, 2, 4, 5. Skinner quotes Suarez as saying men are not “‘absolutely compelled into this course of action by the force of the law of nature’” (1978, p. 162). What “course of action” is not required by the law of nature? Skinner says it is the “setting up of political societies” (p. 162). Suarez, though, is talking, in the passage from which Skinner quotes him, about setting up monarchies. Suarez, who does think the law of nature absolutely compels us to set up political societies, only recommends his preferred regime, monarchy (1944, p. 383—III, iv, 1). Although Skinner does correctly construe Suarez as maintaining “that even before the establishment of political community, the dictates of this law [of nature] must have been fully present ‘in the hearts of men’” (1978, p. 157), he fails to observe that, according to Suarez, the law of nature not only binds our conduct outside of political community, but also binds us to become (forthwith) part of a political community.

That Skinner would miss this truth about Suarez is perhaps due to his reading of the Spaniard in light of John Dunn’s reading of Locke (Skinner, 1978, pp. 159n., 163n.). For, whereas Suarez believes that our nature is political, hence that the state of our nature is to be within the political community (see Strauss 1950, p. 184 n. 23), Locke says “all Men are naturally in that [anarchic] State [of nature], and remain so, till by their own Consents they make themselves Members of some Politick Community” (II, 15). Locke’s view is permissive: “This [put[ting}] on the bonds of Civil Community] any number of Men *may* do” (II, 95; emphasis supplied: see Strauss 1950, p. 221 n. 82; on Hobbes, see Orwin 1975, p. 32).

Consent is not perfectly free if one is duty bound to render it. This is to say that Suarez’s consent doctrine is complicated in a way that Locke’s is not. When Suarez maintains that the state of human nature is political community, and that we are therefore under a natural law duty to enter political community, he postulates a tension between one’s duty to give and one’s right to withhold consent, a tension missing in Locke, who postulates no such duty. As Ewart Lewis has written, there is a “wide gulf between medieval doctrines of consent and such theories as those of Locke or Paine”: “Medieval theories could not begin with the self-sufficient individual who freely chose to give up some of his rights in order better to protect his other rights. . . [M]edieval theories were, on the whole, developed . . . [on] the conviction that . . . [political] authority ultimately came from God and was . . . in some sense natural to man. Thus, the consent on which authority rested could not be construed as the free choice of self-determining wills—with an open alternative, perhaps of continuing in primitive anarchy; it was a choice conditioned by the principle that authority must exist. And, accordingly, the resulting obligation of obedience could not be construed in the simple terms of contract” (1954, p. 160). Lewis’s account here of the medieval doctrine fits Suarez exquisitely: to the extent that Lewis characterizes the medieval doctrine correctly, Suarez is a medieval political thinker.

19. That is in fact how Suarez uses the term (“*statu huius naturae*”) in one discussion (1944, pp. 222–23—II, viii, 8; noted by Pangle 1989, p. 301; cf. Skinner’s reference to this passage, 1978, p. 157).

Neither Thomas nor Suarez understands government as mainly a response to sin nor hence coercive as such and under all circumstances. Thomas contends that man is by nature a “social and political animal” (*On Kingship* I, i, 4; *Summa Theologica*, I–II, Q. 72, Art. 4), concluding therefore that ours would have been a species of governing and governed—directed, guided—beings even had there been no sin or Fall (*Summa Theologica*, I, Q. 96, Art. 4). As Ewart Lewis puts Thomas’s position, political community is “natural in [that] . . . even in an age of innocence, a human community without diversity, coordination, and leadership was unthinkable” (1954, p. 150). Suarez follows Thomas’s teaching closely, insisting as he does that arguments for the naturalness of government are “applicable to the state of innocence, since they are based, not upon sin, . . . but upon the natural disposition of man, the disposition to be a social animal and to demand by nature a mode of living in which he dwells in a community, the latter necessarily requiring to be ruled by means of public power” (1944, p. 371—III, i, 12). So, Thomas and Suarez ignore the Fall in asserting humans to be political by nature qua directed, just as Hobbes and Locke ignore it in denying humans to be by nature political in any respect.

20. Actually, we probably remember less than we should about the difference between the kinds of necessities recognized by the two schools. We are apt to forget the difference between explanations of politics, looking, on the one hand, to perfection of beings with a political nature, and, on the other, to the commodious living and comfortable preservation of beings with an apolitical nature. Take, as an occasion for observing this contrast, a question of motivation that Skinner, following Locke, raises. Skinner is discussing a question he thinks the Thomists (Molina and Suarez, in particular) had asked: “[I]f men naturally find themselves in the enviable position of living a life of liberty under a true law [the law of nature, in the anarchic state of nature scenario Skinner ascribes to the Thomists], it is not clear why they should ever have agreed to the formation of political societies, . . . As John Locke was later to put the point in his *Second Treatise*, ‘if man in the state of nature be so free, as has been said; . . . why will he part with his freedom?’” (1978, p. 158).

Skinner has Molina and Suarez trying to solve this Lockean motivational conundrum by replacing “the optimistic analysis of human rationality and morality to which they are basically committed by their Thomist allegiances” (1978, p. 160) with a “sombre Augustinian perception about the nature of man” (1978, p. 159): “[I]t would be no exaggeration to say that [the Spanish Thomists, in particular Molina and Suarez] . . . had . . . fully worked out . . . a method [for answering the question about the motivation men would have for leaving the state of nature, and] which in turn helped to lay the foundations for the so-called ‘social contract’ theories of the seventeenth century. It consists of giving an account of the sort of lives we might be imagined to live if we made no attempt, as John Locke was later to put it, ‘to get ourselves out of a condition of mere nature’” (1978, p. 159).

But the question posed by Skinner’s Lockean Molina-Suarez did not occur to Suarez himself. Because Suarezian man is by nature political and under a natural law duty to become a citizen, motivational questions of the Lockean kind are for Suarez redundant, irrelevant, sacrilegious. Beings of such a nature and having such a duty as ours do not individualistically ask the Lockean rational choice question of the Skinnerian Suarez about the necessity of collective action (cf. Skinner 1978, pp. 155, 160, 161; on Hobbes, see Orwin 1975, p. 32). According to the real Suarez, human beings live less by individualistic preservationist necessities than by holistic, organic, metaphysical necessities, in particular the necessities of the perfect community (1944, p. 48—I, iii, 18–19; 1944, 365—III, i, 3).

21. Of course, Skinner does not claim that this contention originates with him. See the authorities he gathers at: 1978, p. 174 n.1, and, e.g., Dunning [1905] 1928, pp. 144, 146; Figges [1907] 1956, pp. 154–55; Gough 1936, p. 66; Sabine 1959, p. 390.

22. By affirming the equality premise from which the necessity of consent follows, Suarez parts company with Aristotle (e.g., *Politics* 1254b14–15; 1280a8–1281a10; 1287b37–1288a32) and Thomas (*Summa Contra Gentiles*, III.81. para. 4; *Summa Theologica*, I, Q. 92, Art. 1, Repl. Obj. 2; I, Q. 96, Art. 3), and seems to make common cause with Hobbes (*Leviathan*, chap. 21, para. 10), and Locke (*Second Treatise*, 54). On the egalitarianism of the Spanish Thomists, see Skinner 1978, pp. 55–56, 158, 174. Or over families, see Suarez (1944, p. 365—III, i, 3); Sabine (1959, p. 390); and Skinner (1978, p. 157): “they [the Spanish Thomists] are not suggesting that it [the state of nature] would ever be a solitary or a purely individual state.”

23. Here in (a) Suarez is thinking of the divine right of kings or other claims and claimants of special providence (e.g., the Lutheran) (1944, p. 384—III, iv, 2; p. 389—III, iv, 8), the Hebrew kings of course excepted (1944, p. 364—III, i, 2; p. 384—III, iv, 2). Cf. Skinner (1978, pp. 154–55, 164).

These types in (b) are excluded by Suarez’s postulate of equal freedom (1944, pp. 373–74—III, ii, 3). But is Suarez’s egalitarianism as thoroughgoing and consistent as this postulate requires it to be? Thomas assumes that “if one man surpassed another in knowledge and justice,” he would have ruled in the state of innocence (*Summa Theologica* I, Q. 96, Art. 4). Interestingly, Suarez himself, the ostensible egalitarian, seems to call for meritocratic, hierarchical government in the state of innocence, by appeal to hierarchy amongst the angels: “in so far as directive power is concerned, it would seem probable that this existed among men even in the state of innocence. For a hierarchy and a principate exist among the angels, too” (1944, p. 371—III, i, 12). But see note 25 below.

As for (c), if neither a particular category of persons nor nameable individual(s) have special governing power, why not look "in each individual" as such (1944, p. 375—III, ii, 4)? Because the power is simply not there: "[T]his [political] power, viewed solely according to the nature of things, resides not in any individual man," hence not in each (1944, p. 373—III, ii, 3; p. 375—III, ii, 4). See Skinner (1978, p. 157).

24. On the possibility of such a sequence, compare 1944, p. 380—III, iii, 6 with p. 383—III, iv, 1. "[S]ingulos homines ex natura rei habere partialiter (ut sic dica) virtutem ad coponendam, seu efficiendam communitatem perfectam. . . ."

25. It must be noted that the hierarchy of marital government is stricter than that of government. Whereas here in the marital analogy Suarez leaves no latitude for egalitarian forms within the marriage, in *De Legibus* III, iv, 1, he at least goes through the motions of acknowledging democracy as a conceivably legitimate political regime. But see note 23 above.

26. Cf. Sommerville 1982, p. 526: "Could it not be said . . . that by consenting the woman put herself into subjection to the man, so that his authority arose as a consequence of her consent? Perhaps it could, but this is not what . . . Suarez [said; he] was very firm on this point." (Suarez is firm on the same kind of point when he denies that procreation is the cause of human freedom: 1944, p. 380—III, iii, 6.) Ernest Barker analyzes marriage à la Suarez this way: "The agreement of husband and wife is necessary to the existence of marriage. But it does not explain, or create, the institution of marriage. The institution is an inherent part of the divine scheme; and the agreement of the parties is simply an agreement to fit themselves into that scheme, which exists per se apart from their agreement" (Barker in Gierke [1934] 1957, pp. 241–42 note; for Gierke on the same subject matter, see pp. 46, 241–43 notes 60–62).

The point that Sommerville and Barker rightly agree Suarez is firm about might seem arcane or gratuitously theological (or perhaps a mere "jeu d'esprit" [Gierke (1934) 1957, p. 46; but see pp. 51, 105]) to twentieth-century ears (but see Hart 1961, pp. 27–33). It, or some such point, may have prompted Sabine's contention that "the political theory and jurisprudence of Suarez, though parts of a scholastic philosophy, could be detached from theology without suffering serious mutilation" (1959, p. 415). But in what sense would a political theory thus detached be recognizably Suarezian? Can the heart of a teaching be torn out without mutilation? Will it be said that God is not at the heart of Suarez's doctrine? According to Suarez himself or commentators such as Sabine who understand him better than he understood himself? David Williams has drawn my attention to language at the end of the Preface to *De Legibus* relevant to the question of Suarez's self-understanding: his words there are that, "in so far as we find it possible, we shall neither omit anything that pertains to the purpose of theology, nor appear to go beyond the bounds of the sacred science" (1944, p. 17).

27. Needless to say, this article is about the coming into being of political society or the commonwealth and does not extend to the institution of particular forms of government, a transaction referred to in *Defensio Fidei Catholicae* VI, iv, 15, as the "first compact by which the commonwealth transfers its power to the king." *De Legibus*, chapter iv of book III is the main text on appointing and working out the details of government.

28. But see Aristotle, *Nic. Eth.* 1162a17–19, as quoted in note 7 above: "natural instinct . . . pairing creature . . . animal[s at large]."

29. Skinner is therefore mistaken to attribute to Suarez the idea that consent is a medium—for, according to Suarez the passage of political power from God to political society is "direct," "immediate," i.e., unmediated, without mediation or medium. See also 1978, p. 154, for a comparable error.

30. For more on the *corpus mysticum*, see Suarez 1944, pp. 84, 85—I, vi, 17, 18, Kantorowitz 1957, pp. 207–31, Wolin 1960, p. 163. Specifically on the *corpus mysticum* in Suarez, see the excellent remarks of Zuckert 1994, pp. 124–26, e.g., "Both marriage and the political, according to Suarez, are natural and have natures."

31. Here are the steps by which, according to Suarez, political community and government come into being: (1) Individuals choose one another as incipient associates and consent to be a part of and ruled by a political community. (2) God, through His creation, nature, originates and empowers their political whole, their political community or commonwealth, i.e., the *corpus politi-*

*cum = corpus mysticum* (see 1944, p. 375—III, ii, 4, for that equivalence) of which they have become parts. (3) That political community then decides who—what government—will wield the God-created naturally emerging political powers. “[Political] power, in the nature of things, resides immediately in the community; and therefore, in order that it may justly come to reside in a given individual, as in a sovereign prince, it must necessarily be bestowed upon him by the consent of the community” [1944, p. 384—III, iv, 2].

Whenever you find a legitimate government, you know it “has flowed from the people as a community” (1944, p. 384—III, iv, 2). In this third step the political community is allowed some discretion: “[A]lthough . . . [political] power is in an absolute sense an effect of the natural law, its specific application as a certain form of power and government is dependent upon human choice” [1944, p. 382—III, iv, 1].

In choosing, the people, i.e., the government-constituting political community, may institute democracy (“government by the many and the common people” [1944, p. 382—III, iv, 1]). As we have observed, given that democracy seems to be the antithesis of hierarchy, it may be at odds with Suarez’s apparent stipulation for hierarchy as a nonnegotiable feature of political community-government (1944, p. 371—III, i, 12).

32. What Tarcov says would seem to be true: “That Skinner regards as ‘evasive and somewhat confused’ (1978, p. 165) Locke’s analysis of how independent individuals in the state of nature can consent to political authority is no reason to elide the difference between Locke’s claim that that is how political authority must be understood and these other views” [e.g., the views of Vitoria and Suarez] (1982, p. 62).

## REFERENCES

- Aquinas, Thomas. 1945. *Summa Theologica*, In Anton Pegis, editor, *Basic Writings of Saint Thomas Aquinas*. New York: Random House.
- . 1949. *On Kingship: To the King of Cyprus*. Translated by Gerald B. Phelan, edited by I. Th. Eschmann, O.P. Toronto: Pontifical Institute of Mediaeval Studies.
- Aristotle. *Nicomachean Ethics*. 1926. Translated by H. Rackham. London: William Heinemann Ltd.; Cambridge: Harvard University Press (Loeb).
- . *Politics*. 1984. Translated by Carnes Lord. Chicago: University of Chicago Press.
- Ashcraft, Richard. 1981. Review of Quentin Skinner, *The Foundations of Modern Political Thought*. *Journal of the History of Philosophy*, vol. 19, pp. 388–92.
- Dunning, William. [1905] 1928. *A History of Political Theories*. New York: Macmillan.
- Figgis, John Neville. [1896] 1956. *The Divine Right of Kings*. New York: Harper and Row.
- Gierke, Otto. [1900] 1958. *Political Theories of the Middle Ages*. Translated by Frederic Maitland. Boston: Beacon.
- . [1934] 1957. *Natural Law and the Theory of Society*. Translated by Ernest Barker. Boston: Beacon.
- Gough, J.W. 1936. *The Social Contract: A Critical Study of Its Development*. Oxford: Clarendon.
- Hampton, Jean. 1986. *Hobbes and the Social Contract Tradition*. Cambridge: Cambridge University Press.
- Hart, H.L.A. 1961. *The Concept of Law*. Oxford: Clarendon.
- Hassing, R.F. 1984. “Wholes, Parts, and Laws of Motion.” *Nature and System*, vol. 6, pp. 195–215.

- Hobbes, Thomas. 1991. *Leviathan*. Edited by Richard Tuck. Cambridge: Cambridge University Press.
- . 1840. *The English Works of Thomas Hobbes*. Edited by W. Molesworth. London: John Bohn. Volume 2, *De Cive* or *The Philosophical Rudiments Concerning Government and Society*.
- Holmes, Stephen. 1979. Review of Quentin Skinner, *The Foundations of Modern Political Thought*. *American Political Science Review*, vol. 73, pp. 1133–35.
- Jaffa, Harry. 1963. "Aristotle." In Leo Strauss and Joseph Cropsey, editors, *History of Political Philosophy*. Chicago: Rand McNally.
- Kantorowitz, Ernst H. 1957. *The King's Two Bodies*. Princeton: Princeton University Press.
- Lewis, Ewart. 1954. *Medieval Political Ideas*. London: Routledge & Kegan Paul.
- Locke, John. 1965. *Two Treatises of Government*. Edited by Peter Laslett. Cambridge: Cambridge University Press.
- Nichols, Mary. 1987. *Socrates and the Political Community*. Albany: State University of New York Press.
- Orwin, Clifford. 1975. "On the Sovereign Authorization." *Political Theory*, vol. 3, pp. 26–44.
- Pangle, Thomas. 1989. *The Spirit of Modern Republicanism*. Chicago: University of Chicago Press.
- Pufendorf, Samuel. 1934. *The Law of Nature and Nations*. Translated by C.H. and W.A. Oldfather. Oxford: Carnegie-Clarendon.
- Sabine, George. 1959. *A History of Political Theory*. New York: Henry Holt.
- Shklar, Judith. 1979. Review of Quentin Skinner, *The Foundations of Modern Political Thought*. *Political Theory*, vol. 7, pp. 549–52.
- Skinner, Quentin. 1988. "Meaning and Understanding in the History of Ideas." In James Tully, editor, *Meaning and Context: Quentin Skinner and His Critics*. Princeton: Princeton University Press.
- . 1978. *The Foundations of Modern Political Thought*, vols. 1 and 2. Cambridge: Cambridge University Press.
- Sommerville, J. P. 1982. "From Suarez to Filmer: A Reappraisal." *The Historical Journal*, vol. 25, pp. 525–40.
- Strauss, Leo. [1950] 1953. *Natural Right and History*. Chicago: University of Chicago Press.
- Suarez, Francisco. 1944. *A Treatise on Laws and God the Lawgiver*. In *Selections from Three Works of Francisco Suarez, S.J.*, vol. 2. Translated by G. Williams, A. Brown, and J. Waldron. Oxford: Carnegie-Clarendon.
- . *A Defence of the Catholic and Apostolic Faith*. In *Selections from Three Works of Francisco Suarez, S.J.*, vol. 2.
- Tarcov, Nathan. 1982. "Political Thought in Early Modern Europe II: The Age of Reformation." *Journal of Modern History*, vol. 54, pp. 56–65.
- Wolin, Sheldon. 1960. *Politics and Vision*. Boston: Little, Brown.
- Zuckert, Michael. 1994. *Natural Rights and the New Republicanism*. Princeton: Princeton University Press.