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Of the Laws of Ecclesiastical Polity (Excerpts)

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Of the Laws of Ecclesiastical Polity, Excerpts

By Richard Hooker

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III. The law which natural agents have given them to observe, and their necessary manner of keeping it.

I am not ignorant that by law eternal the learned for the most part do understand the order, not which God hath eternally proposed himself in all his works to observe, but rather that which with himself he hath set down as expedient to be kept by all his creatures, according to the several condition with which he hath endued them. They who thus are accustomed to speak apply the name of *Law* unto that only rule of working which superior authority imposeth; whereas we somewhat more enlarging the sense thereof term any kind of rule or canon whereby actions are framed, a law. Now that law which, as it is laid up in the bosom of God, they call *eternal*, receiveth according unto the different kinds of things which are subject unto it different and sundry kinds of names. That part of it which ordereth natural agents we call usually *nature's law*; that which Angels do clearly behold and without any swerving observe is a law *celestial* and heavenly; the law of *reason*, that which bindeth creatures reasonable in this world, and with which by reason they may most plainly perceive themselves bound; that which bindeth them, and is not known but by special revelation from God, *Divine law*; *human law*, that which out of the law either of reason or of God men probably gathering to be expedient, they make it a law. All things therefore, which are as they ought to be, are conformed unto *this second law eternal*; and even those things which to this eternal law are not conformable, are notwithstanding in some sort ordered by *the first eternal law*. For what good or evil is there under the sun, what action correspondent or repugnant unto the law which God hath imposed upon his creatures, but in or upon it God doth work according to the law which himself hath eternally purposed to keep; that is to say, the *first law eternal*? So that a twofold law eternal being thus made, it is not hard to conceive how they both take place in all things.¹¹

Wherefore to come to the law of nature: albeit thereby we sometimes mean that manner of working which God hath set for each created thing to keep; yet forasmuch as those things are termed most properly natural agents, which keep the law of their kind unwittingly, as the heavens and elements of the world, which can do no otherwise than they do; and forasmuch as we give unto intellectual natures

the name of *voluntary* agents, that so we may distinguish them from the other; expedient it will be, that we sever the law of nature observed by the one from that which the other is tied unto. [...]

VIII. Of the natural way of finding out laws by reason to guide the will unto that which is good.

[...]

The general and perpetual voice of men is as the sentence of God himself. For that which men have at all times learned, nature herself must needs have taught^[2]; and God being the author of nature, her voice is but his instrument. By her from him we receive whatsoever in such sort we learn. Infinite duties there are, the goodness whereof is by this rule sufficiently manifested, although we had no other warrant besides to approve them. The Apostle St. Paul having speech concerning the heathen saith of them,^[3] *They are a law unto themselves*. His meaning is, that by force of the light of reason, wherewith God illuminateth every one which cometh into the world, men being enabled to know truth from falsehood, and good from evil, do thereby learn in many things what the will of God is; which will himself not revealing by any extraordinary means unto them, but they by natural discourse attaining the knowledge thereof, seem the makers of those laws which indeed are his, and they but only the finders of them out.

A law therefore generally taken, is a directive rule unto goodness of operation. The rule of divine operations outward, is the definitive appointment of God's own wisdom set down within himself. The rule of natural agents that work by simple necessity, is the determination of the wisdom of God, known to God himself the principal director of them, but not unto them that are directed to execute the same. The rule of natural agents which work after a sort of their own accord, as the beasts do, is the judgment of common sense or fancy concerning the sensible goodness of those objects wherewith they are moved. The rule of ghostly or immaterial natures, as spirits and Angels, is their intuitive intellectual judgment concerning the amiable beauty and high goodness of that object, which with unspeakable joy and delight doth set them on work. The rule of voluntary agents on earth is the sentence that reason giveth concerning the goodness of those things which they are to do. And the sentences which reason giveth are some more some less general, before it come to define in particular actions what is good.

The main principles of reason are in themselves apparent. For to make nothing evident of itself were to take away all possibility of knowing anything. [...]

Touching the several grand mandates, which being imposed by the understanding faculty of the mind must be obeyed by the will of man, they are by the same method found out, whether they import our duty towards God or towards man.

Touching the one, I may not here stand to open, by what degrees of discourse the minds even of mere natural men have attained to know, not only that there is a God, but also what power, force, wisdom, and other properties that God hath, and how all things depend on him. This being therefore presupposed, from that known relation which God hath unto us as unto children,^[4] and unto all good things as unto effects whereof himself is the principal cause,^[5] these axioms and laws natural concerning our duty have arisen. [...]

The like natural inducement hath brought men to know that it is their duty no less to love others than themselves. For seeing those things which are equal must needs all have one measure; if I cannot but wish to receive all good, even as much at every man's hand as any man can wish unto his own soul, how should I look to have any part of my desire herein satisfied, unless myself be careful to satisfy the like desire which is undoubtedly in other men, we all being of one and the same nature? To have any thing offered them repugnant to this desire must needs in all respects grieve them as much as me: so that if I do harm I must look to suffer; there being no reason that others should shew greater measure of

love to me than they have by me shewed unto them. My desire therefore to be loved of my equals in nature as much as possible may be, imposeth upon me a natural duty of bearing to them-ward fully the like affection. From which relation of equality between ourselves and them that are as ourselves, what several rules and canons natural reason hath drawn for direction of life no man is ignorant. [...]

A law is properly that which reason in such sort defineth to be good that it must be done. And the law of reason or human nature is that which men by discourse of natural reason have rightly found out themselves to be all for ever bound unto in their actions.

Laws of reason have these marks to be known by. Such as keep them resemble most lively in their voluntary actions that very manner of working which nature herself doth necessarily observe in the course of the whole world. The works of nature are all behoveful, beautiful, without superfluity or defect; even so theirs, if they be framed according to that which the law of reason teacheth. Secondly, these laws are investigable by reason, without the help of revelation supernatural or divine. Finally, in such sort they are investigable, that the knowledge of them is general, the world hath always been acquainted with them. [...] It is not agreed upon by one, or two, or few, but by all: which we may not so understand, as if every particular man in the whole world did know and confess whatsoever the law of reason doth contain; but the law is such that being proposed no man can reject it as being unreasonable and unjust. Again, there is nothing in it but any man (having natural perfection of wit and ripeness of judgment) may by labour and travail find out. And to conclude, the general principles thereof are such, as it is not easy to find men ignorant of them. Law rational therefore, which men commonly use to call the law of nature, meaning thereby the law which human nature knoweth itself in reason universally bound unto, which also for that cause may be termed most fitly the law of reason: this law, I say, comprehendeth all those things which men by the light of their natural understanding evidently know, or at leastwise may know, to be beseeeming or unbeseeeming, virtuous or vicious, good or evil for them to do.

[...]

If it then be here demanded, by what means it should come to pass (the greatest part of the law moral being so easy for all men to know) that so many thousands of men notwithstanding have been ignorant even of principal moral duties, not imagining the breach of them to be sin: I deny not but lewd and wicked custom, beginning perhaps at the first among few, afterwards spreading into greater multitudes, and so continuing from time to time, may be of force even in plain things to smother the light of natural understanding; because men will not bend their wits to examine whether things wherewith they have been accustomed be good or evil.

[...]

X. How reason doth lead men unto the making of human laws whereby politic societies are governed; and to agreement about laws whereby the fellowship or communion of independent societies standeth.

[...]

The laws which have been hitherto mentioned do bind men absolutely as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do.^[6] But forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us living singly and solely by ourselves, we are naturally induced to seek communion and fellowship with others. This was the cause of men's uniting themselves at the first in politic societies; which societies could not be without government, nor government without a distinct kind of law from that which hath been already declared. Two foundations

there are which bear up public societies; the one, a natural inclination, whereby all men desire sociable life and fellowship; the other, an order expressly or secretly agreed upon touching the manner of their union in living together. The latter is that which we call the law of a commonweal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions as the common good requireth. Laws politic, ordained for external order and regiment amongst men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature; in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hindrance unto the common good for which societies are instituted: unless they do this, they are not perfect.

[...]

We all make complaint of the iniquity of our times: not unjustly; for the days are evil. But compare them with those times wherein there were no civil societies, with those times wherein there was as yet no manner of public regiment established, with those times wherein there were not above eight persons righteous living upon the face of the earth^[1]; and we have surely good cause to think that God hath blessed us exceedingly, and hath made us behold most happy days.

To take away all such mutual grievances, injuries, and wrongs, there was no way but only by growing unto composition and agreement amongst themselves, by ordaining some kind of government public, and by yielding themselves subject thereunto; that unto whom they granted authority to rule and govern, by them the peace, tranquillity, and happy estate of the rest might be procured. Men always knew that when force and injury was offered they might be defenders of themselves; they knew that howsoever men may seek their own commodity, yet if this were done with injury unto others it was not to be suffered, but by all men and by all good means to be withstood; finally they knew that no man might in reason take upon him to determine his own right, and according to his own determination proceed in maintenance thereof, inasmuch as every man is towards himself and them whom he greatly affecteth partial; and therefore that strifes and troubles would be endless, except they gave their common consent all to be ordered by some whom they should agree upon: without which consent there were no reason that one man should take upon him to be lord or judge over another; because, although there be according to the opinion of some very great and judicious men a kind of natural right in the noble, wise, and virtuous, to govern them which are of servile disposition^[2]; nevertheless for manifestation of this their right, and men's more peaceable contentment on both sides, the assent of them who are to be governed seemeth necessary.

To fathers within their private families Nature hath given a supreme power; for which cause we see throughout the world even from the foundation thereof, all men have ever been taken as lords and lawful kings in their own houses. Howbeit over a whole grand multitude having no such dependency upon any one, and consisting of so many families as every politic society in the world doth, impossible it is that any should have complete lawful power, but by consent of men, or immediate appointment of God; because not having the natural superiority of fathers, their power must needs be either usurped, and then unlawful; or, if lawful, then either granted or consented unto by them over whom they exercise the same, or else given extraordinarily from God, unto whom all the world is subject. It is no improbable opinion therefore which the arch-philosopher was of, that as the chiefest person in every household was always as it were a king, so when numbers of households joined themselves in civil society together, kings were the first kind of governors amongst them.^[3] Which is also (as it seemeth) the reason why the name of *Father* continued still in them, who of fathers were made rulers; as also the ancient custom of governors to do as Melchisedec, and being kings to exercise the office of priests, which fathers did at the first, grew perhaps by the same occasion.

Howbeit not this the only kind of regiment that hath been received in the world. The inconveniences of one kind have caused sundry other to be devised. So that in a word all public regiment of what kind soever seemeth evidently to have risen from deliberate advice, consultation, and composition between men, judging it convenient and behoveful; there being no impossibility in nature considered by itself,

but that men might have lived without any public regiment. Howbeit, the corruption of our nature being presupposed, we may not deny but that the Law of Nature doth now require of necessity some kind of regiment, so that to bring things unto the first course they were in, and utterly to take away all kind of public government in the world, were apparently to overturn the whole world.

The case of man's nature standing therefore as it doth, some kind of regiment the Law of Nature doth require; yet the kinds thereof being many, Nature tieth not to any one, but leaveth the choice as a thing arbitrary. At the first when some certain kind of regiment was once approved, it may be that nothing was then further thought upon for the manner of governing, but all permitted unto their wisdom and discretion which were to rule^[10]; till by experience they found this for all parts very inconvenient, so as the thing which they had devised for a remedy did indeed but increase the sore which it should have cured. They saw that to live by one man's will became the cause of all men's misery. This constrained them to come unto laws, wherein all men might see their duties beforehand, and know the penalties of transgressing them.

[...]

And because the greatest part of men are such as prefer their own private good before all things, even that good which is sensual before whatsoever is most divine; and for that the labour of doing good, together with the pleasure arising from the contrary, doth make men for the most part slower to the one and proner to the other, than that duty prescribed them by law can prevail sufficiently with them: therefore unto laws that men do make for the benefit of men it hath seemed always needful to add rewards, which may more allure unto good than any hardness deterreth from it, and punishments, which may more deter from evil than any sweetness thereto allureth. Wherein as the generality is natural, *virtue rewardable and vice punishable*; so the particular determination of the reward or punishment belongeth unto them by whom laws are made. Theft is naturally punishable, but the kind of punishment is positive, and such lawful as men shall think with discretion convenient by law to appoint.

[...]

Laws do not only teach what is good, but they enjoin it, they have in them a certain constraining force. And to constrain men unto any thing inconvenient doth seem unreasonable. Most requisite therefore it is that to devise laws which all men shall be forced to obey none but wise men be admitted. Laws are matters of principal consequence; men of common capacity and but ordinary judgment are not able (for how should they?) to discern what things are fittest for each kind and state of regiment.

[...]

Howbeit laws do not take their constraining force from the quality of such as devise them, but from that power which doth give them the strength of laws. That which we spake before concerning the power of government must here be applied unto the power of making laws whereby to govern; which power God hath over all: and by the natural law, whereunto he hath made all subject, the lawful power of making laws to command whole politic societies of men belongeth so properly unto the same entire societies, that for any prince or potentate of what kind soever upon earth to exercise the same of himself, and not either by express commission immediately and personally received from God, or else by authority derived at the first from their consent upon whose persons they impose laws, it is no better than mere tyranny.

Laws they are not therefore which public approbation hath not made so. But approbation not only they give who personally declare their assent by voice sign or act, but also when others do it in their names by right originally at the least derived from them. As in parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others agents there in our behalf. And what we do by others, no reason but that it should stand as our deed, no less effectually to bind us than if ourselves had done it in person.

[...]

Of this point therefore we are to note, that sith men naturally have no full and perfect power to command whole politic multitudes of men, therefore utterly without our consent we could in such sort be at no man's commandment living. And to be commanded we do consent, when that society whereof we are part hath at any time before consented, without revoking the same after by the like universal agreement. Wherefore as any man's deed past is good as long as himself continueth; so the act of a public society of men done five hundred years sithence standeth as theirs who presently are of the same societies, because corporations are immortal; we were then alive in our predecessors, and they in their successors do live still. Laws therefore human, of what kind soever, are available by consent.

[...]

XII. The cause why so many natural or rational laws are set down in holy scripture.

[...]

The first principles of the Law of Nature are easy; hard it were to find men ignorant of them. But concerning the duty which Nature's law doth require at the hands of men in a number of things particular, so far hath the natural understanding even of sundry whole nations been darkened, that they have not discerned no not gross iniquity to be sin.^[121] Again, being so prone as we are to fawn upon ourselves, and to be ignorant as much as may be of our own deformities, without the feeling sense whereof we are most wretched, even so much the more, because not knowing them we cannot so much as desire to have them taken away: how should our festered sores be cured, but that God hath delivered a law as sharp as the two-edged sword, piercing the very closest and most unsearchable corners of the heart,^[122] which the Law of Nature can hardly, human laws by no means possible, reach unto? Hereby we know even secret concupiscence to be sin, and are made fearful to offend though it be but in a wandering cogitation. Finally, of those things which are for direction of all the parts of our life needful, and not impossible to be discerned by the light of Nature itself; are there not many which few men's natural capacity, and some which no man's, hath been able to find out? They are, saith St. Augustine,^[123] but a few, and they endued with great ripeness of wit and judgment, free from all such affairs as might trouble their meditations, instructed in the sharpest and the subtlest points of learning, who have, and that very hardly, been able to find out but only the immortality of the soul. The resurrection of the flesh what man did ever at any time dream of, having not heard it otherwise than from the school of Nature? Whereby it appeareth how much we are bound to yield unto our Creator, the Father of all mercy, eternal thanks, for that he hath delivered his law unto the world, a law wherein so many things are laid open, clear, and manifest, as a light which otherwise would have been buried in darkness, not without the hazard, or rather not with the hazard but with the certain loss, of infinite thousands of souls most undoubtedly now saved.

We see, therefore, that our sovereign good is desired naturally; that God the author of that natural desire had appointed natural means whereby to fulfil it; that man having utterly disabled his nature unto those means hath had other revealed from God, and hath received from heaven a law to teach him how that which is desired naturally must now supernaturally be attained. Finally, we see that because those latter exclude not the former quite and clean as unnecessary, therefore together with such supernatural duties as could not possibly have been otherwise known to the world, the same law that teacheth them, teacheth also with them such natural duties as could not by light of Nature easily have been known.

[...]

XVI. A Conclusion

[...]

Let us place man in some public society with others, whether civil or spiritual; and in this case there is no remedy but we must add yet a further law. For although even here likewise the laws of nature and reason be of necessary use, yet somewhat over and besides them is necessary, namely human and positive law, together with that law which is of commerce between grand societies, the law of nations, and of nations Christian. For which cause the law of God hath likewise said, "Let every soul be subject to the higher powers."^[1] The public power of all societies is above every soul contained in the same societies. And the principal use of that power is to give laws unto all that are under it; which laws in such case we must obey, unless there be reason shewed which may necessarily enforce that the law of Reason or of God doth enjoin the contrary. [...]

[1] "All that happens in created things is subject to the eternal law." *Summ. Theol.* I^{ae} q. 93 a. 5. "Nothing in any way evades the laws and command of the supreme Creator, by whom the peace of the universe is administered." Augustine *de Civ. Dei* xix.12. *Even sin, to the extent that it is justly permitted by God, falls under the eternal law. For sin is even subject to the eternal law, to the extent that the voluntary transgression of the law brings about a certain punitive harm in the soul, as Augustine says: "Thou hast commanded, Lord, and so it is, that every disorderly soul should be a punishment unto itself." Confessions* i.12.19. *Nor was it badly said by the Schoolmen that "Inasmuch as we see that natural things, when they depart from their particular end and so from the natural law, are subject to the same natural law, inasmuch as they pursue another end that was also established for them by the eternal law in this particular case; so it is similarly that men, even when they sin and fall away from the eternal law as teaching, they fall back into the order of the eternal law as punishing."*

[2] "There cannot be error when all believe the same." Montecatini's commentary on the *Politics*. "Whatever is in all individuals of one species, that must be held as a common cause which is the species and nature of those individuals." Ibid. "Whatever is the case with the whole of any species, is so by an instinct of universal and particular nature." Ficino, *de Christ. Rel.* I. "If you wish to attain mastery, begin by considering that as firmly true, which the sound mind of all men bears witness to." Nicholas of Cusa, *Compendium*, I. "One may not consider the natural and universal judgment of men to be false and vain," Telesius, *De rerum natura*. "Ὁ γὰρ πᾶσι δοκεῖ, τοῦτ' εἶναί φαμεν. ὁ δ' ἀναιρῶν ταύτην τὴν πίστιν οὐ πάνυ πιστότερα ἐρεῖ. [For we say that which everyone thinks to be true, and the man who attacks this belief will hardly say anything more credible.]" Aristotle, *Nich. Eth.* x.2 [1173a1].

[3] Rom. 2:14.

[4] "Οὐδεὶς θεὸς δύνουσι ἀνθρώποις. [No god is unkind to men.]" Plato, *Theaetetus* [151d].

[5] "Ὁ τε γὰρ Θεὸς δοκεῖ τὸ αἷτιον πᾶσιν εἶναι καὶ ἀρχή τις. [For God seems to be the cause of everything and a sort of principle.]" Aristotle, *Metaphysics* i.2 [983a8].

[6] "Ἔστι γὰρ ὃ μαντεύονται τι πάντες, φύσει κοινὸν δίκαιον καὶ ἄδικον, καὶ μηδεμία κοινωνία πρὸς ἀλλήλους ἢ μηδὲ συνθήκη. [For all men divine a common idea of justice and injustice by nature, even if there is no communication nor agreement among them.]" Aristotle, *Rhetoric* i.13 [1373b].

[7] 2 Pet. 2:5.

[8] Aristotle, *Politics* III and IV.

[9] Aristotle, *Politics* I.2 See also Plato *Laws*, III.

[10] "For when the poor commonalty were oppressed by those of greater wealth, they had recourse to

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some one man pre-eminent in virtue, who, while he defended the poorer classes from wrong, by establishing equitable jurisdiction kept the highest under the same legal obligations with the lowest. [...] But when this ceased to be the case, laws were invented." Cicero, *De officiis*, ii.12.

[11] Josephus, *contra Apionem*, II.38: "And why do not the Lacedemonians think of abolishing that form of their government which suffers them not to associate with any others, as well as their contempt of matrimony? And why do not the Eleans and Thebans abolish that unnatural and impudent lust, which they of old thought to be very excellent and advantageous? And when they had done these things, they even mixed them into their laws." *Summ. Theol.* I^aII^{ae} q. 94 a. 4: "The natural law was so corrupted among the Germans, that they did not think theft was a sin." Augustine, or whoever the author is of the book of questions on the Old and New Testament: "Who does not know what is conducive to a good life, or is ignorant that he ought not do to others what he would not have done to himself? But when the natural law has faded away under an oppressive custom of wickedness, it was then necessary to make it clear by the scriptures, so that all might hear it; not because it had been completely wiped out, but because they lacked its greatest authority, they were eager for idolatry, the fear of God was not on earth, fornication was practiced, and there was greedy concupiscence for the things of one's neighbor. Therefore the law was given, so that what was known might have authority, and that which had begun to be hidden might be made clear." (Q. 4)

[12] Heb. 4:12

[13] *de Trinitate*, xiii.12

[14] Rom. 13:1.

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