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Source: *The Review of Politics*, Vol. 16, No. 2 (Apr., 1954), pp. 194-211

Published by: Cambridge University Press for the University of Notre Dame du lac on behalf of Review of Politics

Stable URL: <https://www.jstor.org/stable/1404911>

Accessed: 10-09-2018 18:05 UTC

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## The Premises of Brownson's Political Theory

by Stanley J. Parry, C.S.C.

THE theorist's attempt to interpret man's relation to man in civil society inevitably grows from and reflects his deeper conception of man's relation to the universe and to God. Consequently, the ultimate meaning and significance of a political theory can be ascertained only by establishing the precise way in which the theorist's world view has been spelled out in his view of the state. In the case of Orestes A. Brownson this is especially true. In the course of his movement from Transcendentalism to Catholicism he elaborated a metaphysic distinctively his: it summarizes his own intellectual history, his basic thought prior even to his theology, for it is the rationale of his acceptance of the Catholic Church. Our thesis with regard to Brownson's political thought is first, that this same metaphysic constitutes the premises on which he elaborates his political theory and, secondly, that the solution he offers to the ultimate problem raised by that theory is theological since ultimately his basic metaphysic gets completed by his theology. Our task is to indicate how this metaphysic and theology determine the fundamental conceptions of his specifically political thought.

The work preliminary to such an effort has already been done. A. R. Caponigri, in his paper "Brownson and Emerson: Nature and History," has adequately identified Brownson's metaphysic.<sup>1</sup> Its main features are found in the ideas that God alone can create and that, consequently, anything existing in nature must be the product of Divine causality. Nature, however, is created in a state of potency and must activate those potentialities in the course of history. Such evolution is in fact a continuation of the creative act so that history is simply the unfolding of nature under the guiding causality of Divine Providence. In the course of such evolution, man, united in the common possession of the same nature, exercises a secondary causality whose influence is restricted to the modification of existing being and whose basic teleological problem is that

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<sup>1</sup> *New England Quarterly*, XVIII (1945)

of discovering and implementing the purposes of God discoverable in nature and history. With regard to Brownson's political theory, Roemer,<sup>2</sup> and Cook and Leavelle<sup>3</sup> have developed an acceptable outline. Its core, as these men show, is found in an organismic theory of the origin of civil society, a consent theory of the origin of government, and a natural law theory of the norm of just law. In indicating the relations between these two areas of thought we hope, indirectly, to offer further evidence in support of Caponigri's analysis and, more directly, to deepen the interpretation thus far offered by commentators on Brownson's political thought.

The fundamental point of integration between Brownson's world view and his political theory is found in his conception of the inner or organic constitution of the state. Two elements in that conception are relevant to our problem: 1) that society and authority are natural, and 2) that the state is a product of evolution in the Aristotelian sense of "growth."<sup>4</sup> For Brownson this means that the origins of civil society must be explained exclusively in terms of Divine creation and Providence:

It [the organic structure of society] is never the work of deliberation, but always the work of Divine Providence, *using men and circumstances as his instruments*. It is always immediately or mediately . . . imposed by God himself, is the expression of the Divine will, and therefore legitimate, sacred, and suited to the nation. . . . The generative principle of all political constitutions which are such is Divine Providence, never the deliberate wisdom or will of men.<sup>5</sup>

On the negative side, he begins the formulation of this theory with a criticism of liberal democratic thought. In both its contractarian and simple consent formulations, the defect he finds in the liberal individualistic approach is that it roots the existence of both social life and authority in an act of human will.<sup>6</sup> Since this act sup-

<sup>2</sup> Lawrence Roemer, *Brownson On Democracy and the Trend Toward Socialism* (N. Y.: Philosophical Library, 1953), hereafter referred to as *Brownson*.

<sup>3</sup> Thomas I. Cook and Arnaud B. Leavelle, "Orestes A. Brownson's The American Republic," *Review of Politics*, IV (1942), pp. 77-90; 173-193.

<sup>4</sup> Roemer, *Brownson*, ch. 5, develops Brownson's thought on this point. In Brownson, the most concise expression of these ideas is found in his "Political Constitutions," *The Works of Orestes A. Brownson* (ed.) Henry F. Brownson (Detroit, 1884), XV, pp. 546-572.

<sup>5</sup> *Works*, XV, 560. See also, *Works*, XVIII, 91, 126.

<sup>6</sup> See Roemer, *Brownson*, ch. 2.

posedly brings the social order into existence, it assumes, on the premise of the naturalness of that order, creative power in man. Such an assumption carries within it its own evidence of error. For, "Man is never a creator; he can only develop and continue, because he is himself a creature, and only a second cause."<sup>7</sup> Further evidence, however, is found in the logical necessity that such theories eventuate in either anarchy or despotism, and so are not theories of a human political order.<sup>8</sup> The effect of this criticism is to establish as fundamental the principle that the question of origins cannot be explained in terms of human causality and intention.

In the positive development of this theory, therefore, Brownson's problem is to explain origins apart from such causality. His solution depends on a distinction between the purpose inherent in a free human act and the further purpose to which God can direct this same act. It depends, further, on the premise that in the case of moral being, efficient causality can be identified with the influence of intention. Within the confines of these premises Brownson solves his problem through the application of the ideas of Providence, nature and history. It is clear from history that the state is a product of evolution from the family. In this evolution, the strategic point occurs at the passage from the paternal familial society to the essentially different form of political society.<sup>9</sup> Here it is that Divine Providence extends the original creation of man by guiding free human actions to a purpose and end neither foreseen nor intended by man. Out of war, conquest, migration, leadership, and the multifarious good and evil acts of man, God weaves among men psychic bonds which are stabilized within a defined territory. And so a civil

<sup>7</sup> *Works*, XVIII, p. 33. See also the essay, "What Human Reason Can Do," *Works*, I, pp. 306-323.

<sup>8</sup> See Roemer, *Brownson*, pp. 19-28, and the essay, "Protestantism Ends in Transcendentalism," *Works*, VI, pp. 113-134.

<sup>9</sup> Cook and Leavelle, "Orestes A. Brownson's The American Republic," *Review of Politics* IV, 83, deny that Brownson identifies any such break. But compare such statements as: "If my right of chieftainship grows out of my right as a father, why has not every father in the tribe the same right to be its chief? This question alone shows that it is impossible to deduce the state from the family. I do not regard the family as the germ of the State." *Works*, XV, 325. In *The American Republic* written twenty-three years after the above quotation, Brownson rejects the patriarchal theory of the origin of political authority, *Works*, XVIII, 24-27: 73. An important principle is involved in this point: authority cannot be explained in any way that gives anyone a personal right to it. *Works*, XVIII, 24.

society exists as a result of Divine causality.<sup>10</sup> In developing this point, Brownson carefully constructs his argument in the first place to show that the social bond, while its material cause resides in human actions, has as its efficient cause Divine Providence.<sup>11</sup> Secondly, it is organized so as to insist that the formal cause or idea according to which the society exists, pre-exists in the mind of God.<sup>12</sup> While society grows from human actions whose sum is the content of history, yet with regard to the actual production of social relations among men, they do not exercise even secondary co-operating causality.<sup>13</sup> The intention or purpose that controls the development resides exclusively in God; "the deliberate wisdom or will of men have no share in it." While men can recognize the social bond when it exists, its existence derives from God alone, not in his formal capacity as Creator—the form of society is educed from pre-existing material—but in his capacity as Providential Ruler—the form is inserted, not educed. Here Divine Providence must be understood to include the elements both of *gubernatio divina* and *creatio continuata*. Thus: "the constitution of a state, or the people of the state, is in its origin at least, providential, given by God himself, operating through historical events or natural causes."<sup>14</sup>

<sup>10</sup> The Constitution is a "fact" that exists prior to human causality, *Works*, XVIII, 105-109, 113-116.

<sup>11</sup> See Brownson's *Works*, XVIII, 107-109.

<sup>12</sup> *Works*, XV, 562: "The people of this Country [the United States] have not made, and could not make, our political constitutions. It was imposed by a competent authority, and has grown to be what it is, through the providence of God. The people have never had the control of it. It was not their foresight, wisdom, convictions, or will, that made it republican. The constitution was republican from the first, and we established no monarchy or nobility at the close of the war of Independence, for the simple reason that neither was in our constitution." Brownson rejects all "voluntary and deliberate action of the people" in the establishment of authority. In *The American Republic*, *Works*, XVIII, 47-54 he rejects "spontaneous" evolution. *Ibid.*, pp. 54-58, he rejects divine establishment through positive legislation. And *ibid.*, pp. 58-66, he rejects the idea that God established the state through the Church. Thus having rejected human causality, and these forms of non-human causality, the way is cleared for him to develop his own theory of providential development in which God uses men and circumstances to form nations.

<sup>13</sup> The relationship between Divine Causality and human action in producing the basic constitutions is discussed in *Works*, XV, 356-361.

<sup>14</sup> XVIII, 74. *Ibid.*, p. 88: "The providential constitution is, in fact, that with which a nation is born. . . ." It is only by way of modification that human agency can affect it.

The obviously organismic character of this account of origins can be given precise meaning by a closer examination of the implications his view of Providence and history have with regard to it.

In Brownson's hands, the organismic theory lacks many of the usual corollaries of organismic thought. There is no analogy drawn between the body politic and the human body, no conception of articulated sub-purposes, no functional integration of the activity of the parts of the whole.<sup>15</sup> The organismic character of the theory derives entirely from the explanation of origins apart from human volition and causality. In this Brownson can be compared to Edmund Burke who offered a similar theory in opposition to radical French contractarian theory. The similarity between the two extends even to the conclusion that each state has divine sanction for its existence and that its history is a history of God's providential intentions. But where Burke's analysis never penetrated beyond an acceptance of the on-going development of the state, Brownson pushes the issue to the question of ultimate origins. In doing so he avoids the possibility—from which Burke is not entirely protected—of being interpreted in the context of an Hegelian type of immanentism. His rejection of the immanentism in the transcendentalist union of the natural and the Divine is spelled out in his political theory through a rigorously logical application of his conception of Providence. The providential excludes the casual influence of all secondary created causes, and perhaps even more importantly, it lodges the form according to which growth occurs in the trans-historical order. Thus the growth of a society cannot be interpreted as the immanent unfolding of a naturally existing form or idea.<sup>16</sup> And the embodiment of the form of society in the context of history is a result of transient efficient causality operating upon the historical order from outside it.<sup>17</sup>

The influence of human causality and the problems it raises appear in the logic of Brownson's theory only when he turns to the problem of the origin of just and valid government. As his analysis of the origins of social life and authority constitute his interpretation of the principle that all authority comes from God, so

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<sup>15</sup> Even in his discussion of pluralism, Brownson does not get involved in the traditional analogy between the parts of a body and the sub-groups of the state. See his discussion of federalism in the United States, *Works*, XVIII, chs. ix-xi.

his analysis of the origin of the written political constitution of a country constitutes his interpretation of the principle that government derives its just powers from the consent of the governed. To specify it is necessary to follow Brownson's separation of the problem of a good constitution from the problem of good government. The first is concerned with the conformity between the written constitution established by men and the inner organic constitution produced by Providence. The second is concerned with the justice and validity of acts of government. In the last analysis Brownson gives the same solution to each problem. But his perception of difficulties and his application of principles in each case is sufficiently different to require separate treatment of each.

With regard to the good constitution, Brownson's theory of the providential formation of a people requires that the organic structure of the society be the norm with regard to which the written constitution is to be judged:

The constitution drawn up, ordained, and established by a nation for itself is a law . . . and must be the act of the sovereign power. That sovereign power must exist before it can act, and it cannot exist, if vested in the people or nation, without a constitution, or without some sort of political organization of the people or nation. There must, then, be for every state or nation a constitution anterior to the constitution which the nation gives itself, and from which the one it gives itself derives all its vitality and legal force.<sup>18</sup>

The providential constitution is, in fact, that with which the nation is born, and is, as long as the nation exists, the real living and efficient constitution of the state. . . . The constitution which a nation is said to give itself, is never the constitution of the state, but is the law ordained by the state for the government instituted under it.<sup>19</sup>

<sup>16</sup> There may seem to be an Hegelian element in Brownson's conception of the relations between humanity and the individual man, *Works*, IV, 115-120; XV, 363-366. But this idea is employed generally to explain the social character of human nature. The form and content of civil society is supplied by Providence to concretize this natural need for society.

<sup>17</sup> Brownson observes: "My politics are, to no inconsiderable extent founded on the Platonic doctrine of ideas. . . ." *Works*, XV, 364. And he adds, *ibid.*, p. 364: "The Platonic sense . . . places ideas out of the human mind, in the divine mind. . . . *Ideas are the genera of things.* . . . They are real existences." The Hegelian possibilities in these passages are belied by his insistence that civil society is an effect produced exclusively by God. The background for this conception is found in the essay, "The Problem of Causality," *Works*, I, 381-407.

<sup>18</sup> *Works*, XVIII, 77.

<sup>19</sup> *Ibid.*, XVIII, 80.

Since with regard to the organic constitution the actual situation is always providential, Brownson's reflections on political constitutions are concentrated exclusively on the problem of conforming to the actual situation. The good political constitution is that which as Aristotle says, "is the best in relation to actual conditions."<sup>20</sup> In reasoning to this conclusion, however, Brownson's minor premise is quite different from Aristotle's. He uses the political argument of Aristotle: that a constitution out of joint with its society will not work and therefore is not good for the society.<sup>21</sup> But this is not ultimate in his thinking. The real reason why such a constitution is bad is that it is the product of secondary causality operating out of harmony with the primary effects of Providence. Thus it violates the basic law that human action must conform to the patterns created and developed by Divine action. Brownson is entirely aware of, indeed he insists on the implication: that the organic constitution is the concrete divine norm for constitution making in much the same way that natural law is the norm for good moral action.<sup>22</sup>

So, in handling the question of the norm of good political constitution the controlling considerations are those of the nature and limitations of human causality. The basic rule advanced is that secondary causality must operate according to the norms determined by the First Cause.<sup>23</sup> This means that human causality functions

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<sup>20</sup> *Politics*, Bk. IV, ch. i, 1288b. The ideal state approach is rejected completely by Brownson. See *Works*, XVIII, 81: "The constitution of a state is not a theory, nor is it drawn up and established in accordance with any preconceived theory. . . . The constitutions conceived by philosophers in their closets are constitutions only of Utopia or Dreamland."

<sup>21</sup> See his criticisms of the French constitution, *Works*, XV, 564, and XVIII, 81.

<sup>22</sup> The question, however, is not ethical, but strictly political. The organic constitution determines such matters as federal structure for the United States, *Works*, XVII, 560-594. It also determines the general form of government, *Works*, XV, 562: "the constitution (of the United States) was republican from the first, and we established no monarchy or nobility . . . for the simple reason that neither was in our constitution." But he also says, *Works*, XVIII, 95: "The nation, as sovereign, is free to constitute government according to its own judgment under any form it pleases—monarchical, aristocratic, democratic, or mixed." But he adds, *ibid*, XVIII, 96: "ordinarily the form of the government practicable for a nation is determined by the providential constitution of the territorial people."

<sup>23</sup> This is Brownson's most general rule for the evaluation of human action. Secondary causality is equated with the area of human freedom, *Works*, XV, 355-372. God must achieve his purposes in this area through the cooperation



rightly only when it brings the intentions of God to completion in the area of human liberty.

As man must be active wherever he is, and as he can be active no further than he is free, it follows that his agency must always count for somewhat in every practical arrangement adapted for the expression of the divine will. The will of God depends in some degree on me whether it shall be expressed in my life or not.<sup>24</sup>

With specific regard to the problem of the constitution this means that God makes individuals a people or civil society, and they in turn complete this divine plan by giving themselves a political constitution suitable to their corporate life. In no other way can man have a hand in the formation of his own society. Thus where his theory of the providential origins of the organic social constitution begins with the premise of the absolute inadequacy of human causality to explain origins, his theory of the relation of the political constitution to the society begins with his premises concerning the secondary yet necessary character of the human causality that produces the government.

The causality man exercises is of different kinds. With regard to efficient causality Brownson is quite clear: it resides completely in human agency.<sup>25</sup> On the question of the formal cause determining the type of government established by the constitution, he makes a distinction. Human intention is the proximate formal cause of the constitution. But the ultimate form according to which government ought to be organized is implicit in the organic constitution. Thus the basic problem for man, intentionally, is to discover the form of government inherently required by the society within which he lives.

Nations are only individuals on a larger scale. They have a life, an individuality, a reason, a conscience, and instincts of their

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of man. And man, on his part, can achieve his real ends only by cooperation with God, *Works*, XV, 389-394. See also the essay, "The Problem of Causality," *Works*, I, 381-407.

<sup>24</sup> *Works*, XV, 360.

<sup>25</sup> See the discussion of the true basis for majority rule, *Works*, XV, 339-346. The majority has no intrinsic right to rule. If it does rule, it is by a mere civil agreement. The basic principle is expressed in *ibid.*, XV, 357-358, authority is divine in origin; God rules man in the state. But because this rule must be in accordance with man's free nature, man determines the form according to which rule is exercised.

own. . . . Equally important and no less difficult than for the individual, is it for a nation to know itself, understand its own existence, its own powers and faculties, rights and duties, constitution, instincts, tendencies and destiny.<sup>26</sup>

That is, since it is not creative, human causality must be essentially cooperative. In efficient causality, it must spell out and conform to some model idea existing apart from the agent. Thus in the specific case of the establishment of a constitution, man must take up the concrete work already begun by Providence and complete it.

Fit your shoes to your feet. . . . The constitution of government must grow out of the constitution of the state, and accord with the genius, the character, the habits, customs, and wants of the people or it will not work well. . . . The constitutions imagined by philosophers are for Utopia, not for any actual, living, breathing people.<sup>27</sup>

The principle of unlimited human volitional activity is essentially unreal. The true governing principle is that of the limited character of all secondary causal activity. And the application of this principle establishes an historically concretized form of society rather than an abstract set of values as the element that defines the goal of constitution making.

The precise significance of this approach can be seen by contrasting it with the approach of such writers as Rousseau and Plato. Both these writers agree with Brownson that between social and political constitutions there must be conformity in the sense that each type of political constitution requires a social basis appropriate to it. Indeed, each one defines rather extensively the social constitution necessarily prerequisite for the ideal political constitution. Yet both of them approach the problem from the point of view of abstract rational analysis. Their basic premise is that the first problem of constitutionalism is to define the abstract values to be sought and in view of them to determine the distribution of authority necessary to realize them. Consequently, they approach the problem of the relationship between social and political constitutions as one of adjusting the social context to the needs of the political system. For such adjustment they depend on the activity of a "Leg-

<sup>26</sup> *Works*, XVIII, 6.

<sup>27</sup> *Ibid.*, XVIII, 97-98.

islator" who has the science of politics plus the art of making societies.<sup>28</sup> For Brownson, as we have pointed out, the problem is rather that of recognizing the form existing in the social group and of adjusting the constitution to it.

But the basic difference between these two approaches is not to be found in a simple difference between the points from which each starts. Behind that difference there is a much more important one that throws a great deal of light upon the extent to which Brownson's metaphysic has determined his political theory.

The assumption latent in Rousseau and Plato is that although societies can emerge historically in an unconscious, undirected fashion, this is not a desirable thing. The "Legislator" is simply the man who can inject rational purpose into the process of history. Granted this premise, it becomes impossible to begin by accepting the existing society as the norm for determining the good form of constitution. With Brownson, however, the *ought* and the *is* tend to become identified on the premise that the growth of society is always a directed activity, and that in the very nature of the growth it is an activity to be directed only by God. Consequently the form of that society is not only good, but more importantly it is the form God intends for the given people. In the logic of this thought the problem of conformity between political and social constitutions can only be one of fitting a distribution of authority to a concrete historical complex of circumstances organized on the basis of an intrinsic form predetermined by God. Thus the abstract question of the forms of the state is a matter of indifference to Brownson. Constitutions cannot be compared with one another; they can be compared only to the form inherent in the societies in which they exist.

This identification of the existential and the normative orders is applied without qualification as long as the question at issue is the political one of the good form of government. When, however, the issue settled upon the ethical question of the justice and validity of positive law, Brownson saw that the organic constitution, that is, the historically concretized order, could not serve as norm. The controlling idea here is that Brownson attributes to the direct action

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<sup>28</sup> For Rousseau, see the *Social Contract*, Bk. II, ch. vii. For Plato, see the *Laws*, Bk. I, 627, 628, 630; Bk. II, 671, 684, 691.

of Divine Providence only the existence of the state and its inherent structure. To make this point he had to insist, as we indicated above, that God produced the constitution through the morally evil actions of man as well as the morally good ones. Consequently, far from being a norm for moral action, the social order must itself be evaluated with reference to abstract ideas drawn from the ontological order by philosophical reflection rather than by empirical, historical study. Nevertheless, Brownson is reluctant to abandon the historical order entirely. In this he is deeply influenced by his struggle against the absolutely subjective approach to truth proposed by transcendental theory. The transcendentalist rejection of history and its confusion of subjective preference with objective truth involves, as he clearly saw, the rejection of the objective ontological order precisely because such an approach seeks norms in a conscience which offers itself not as a reflection of the real order but as a projection of self upon that order as the measure of it.<sup>29</sup> To escape this subjectivism Brownson clung to the contingent order with its obvious extra-mental existence. Thus, while recognizing the inescapable need for abstract norms of value he tends to identify history as the order within which the substantial achievements of a people get expressed and preserved. And with regard to the norm of just positive law he tends to draw the conservative conclusions implied in his generally high evaluation of the products of history: the ordinary norm of just law will always be the values inherent in the existing order. On this point the similarities between Brownson's view and Montesquieu's theory of the spirit of the laws has been noted by commentators.<sup>30</sup> His ultimate theory, like that of Burke's, is one of conservative improvement. That is, legislation should always conform to the good in the social bond, and when reform is necessary the evil should be removed in such a way as to strengthen the good already existing.<sup>31</sup>

<sup>29</sup> For Brownson's interpretation of transcendentalism on this point, see his *Works*, VI, 1-18. For a general analysis of the point see Charles N. R. McCoy, "The Turning Point in Political Philosophy," *American Political Science Review*, XLIV (1950), pp. 678-688.

<sup>30</sup> Cook and Leavelle, "Orestes A. Brownson," *Review of Politics*, IV, 177.

<sup>31</sup> In the case of the abolition controversy, Brownson's point was that the case for abolition should not be stated so as to "subordinate the constitution of the United States to emancipation." *Works*, XVII, 539. The objection to this is that social order is the basic good of man. Implicit in Brownson's every discussion of revolution is the principle that there is no right to revolt against society.

By this arrangement Brownson sought to find a place for an abstract evaluation of the content of the actual social order without abandoning that order as the focal point of value judgment. The principle he builds on in this attempt is that of the limitations reality imposes on human choice. As we have indicated, he attacked the doctrinaire reformers precisely because they disregarded the limitations of reality in their assumption that man at any moment has an unlimited choice of possible courses of action. For Brownson, the past, as summarized in the actual condition of the social order, determines the possibilities of action for any society. Indeed his entire theory of reform is nothing more than an application of this principle.<sup>32</sup> And in it he has achieved a striking integration of his idea of change with his idea of the operation of human causality. For once the society is brought into existence man, now having in nature a form from which he can gain knowledge, is able to begin the work of cooperating with the intentions of God as expressed in that form. And where the mind of God discoverable in the nature of things is not realized in the historical order, man can act to bring the two into agreement.<sup>33</sup>

But before reform can be begun the historical order with its imperfections must be distinguished from the perfect divine intention expressed in the nature of things. "For sensible facts are not intelligible by themselves, because they do not exist by themselves; and if the human mind could not penetrate beyond the individual fact, beyond the mimetic to the methexic, or transcendental principle copied or imitated by the individual fact, it could never know the fact itself."<sup>34</sup> Granted this admission of abstract values as a basis for corrective action in the existential order, it was impossible

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<sup>32</sup> Brownson offers a concise statement in his essay, "Reform and Conservation," *Works*, IV, 79-99. At p. 79, the true scribe, "is one who retains a firm hold on the past, while exerting himself to conquer the future; that reform is progress; and that the true reformer labors ever to fulfill the old, and never destroy it." In his essay, "The Higher Law," *Works*, XVII, 1-17, he develops this position by stressing and perhaps overstressing, in view of his other work, the divine character of the social order itself.

<sup>33</sup> One must remember the dilemma thrust upon the contractarians, *Works*, XVIII, 31: "These primitive men (in the state of nature) have no experience, no knowledge, no conception even of civilized life, or of any state superior to that in which they have lived thus far. How then can they . . . even conceive of civilization, much less realize it." This in the course of an argument that progress cannot even begin until civilization exists in its first stage. Roemer analyses the argument in detail, *Brownson*, pp. 20-25.

for Brownson to avoid the problems that emerge from the necessarily subjective element in every judgment concerning truth and justice. His attempts to solve this problem are complicated by the peculiar double aspect under which it must be handled. For the general philosophical problem of the norm for truth and goodness enters into political theory on the norm of just law precisely at the point where it gets complicated by the existence of two sources of judgment about that norm: that of conscience and that of authority. In this context the problem of just law, when considered in its general aspects, breaks down into two problems: 1) what is the general norm for the truth of judgments? and 2) when two judgments concerning justice are made—that of authority and that of conscience—which is to be preferred in the event of conflict between them?

Brownson's formulation of this problem is especially penetrating and complex in that he saw the inadmissibility of separating the two elements in it in order to solve them successively. His problem is how to achieve harmony between law and conscience in circumstances that insure the objective truth of the social and the individual judgment. "Liberty cannot be conceived without justice, and wherever there is justice there is liberty. Liberty, then, must be secured just in proportion as we secure the reign of justice. This is done in proportion to the guaranties we have that the will which rules be a just will."<sup>35</sup> It is important to note that the problem did not appear to him as one of discovering, in circumstances where conscience and law are in conflict, some way of compromising that conflict. He accepted as obvious the truth that there can be no compromise with conscience. Indeed his insistence on this fact despite his antipathy to any principle proposed by transcendentalism is essential to his problem. The core of that problem, however, and the distinctive feature of his conception of it derives from his insistence that one must accept as equally imperative the principle that the law, once passed, must be observed: there can be no compromise with the law. "Man's prime necessity is society, and the

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<sup>34</sup> *Works*, XVIII, 48. The power of natural reason to grasp the nature of things was vigorously defended by Brownson. His position on revelation and the infallible Church represents for him the attempt at precision in defining that power. See his essay, "What Human Reason Can Do," *Works*, IV, 306-323.

<sup>35</sup> O. A. Brownson, *Essays and Reviews* (N. Y.: Sadlier and Co., 1870) p. 399.

prime necessity of society is government. The question whether government shall or shall not be sustained, is at bottom only the question, whether the human race shall continue to subsist or not. . . . In no case can any man ever be justified in setting aside or resisting a civil enactment save on an authority higher than his own and that of government."<sup>36</sup> Given this conception of the problem, it follows—and Brownson accepted the conclusion—that in a situation of conflict there exists no human, political way of resolving the conflict. For who is to judge between conscience and law?

The principle of private judgment, adopted by Protestants in religious matters, . . . has destroyed for them the church as an authoritative body, and put an end to every thing like ecclesiastical authority; transferred to civil matters, it would equally put an end to the state and abolish all civil authority, and establish the reign of anarchy or license. Clearly, if the government is to be retained, and to govern, the right to decide when a civil enactment does or does not conflict with the law of God cannot be lodged in the individual subject. Where then shall it be lodged? In the state? Then are you bound to absolute obedience to any and every law the state may enact; you make the state supreme, absolute, and deny your own principle of a higher law than the civil law. You have then no appeal from the state, and no relief for conscience, which is absolute civil despotism.<sup>37</sup>

Brownson's first attempt to solve this problem, one which he later rejected, centers about his early theory that the universal agreement of men in matters of moral judgment constitutes objective evidence of the truth of such a judgment.<sup>38</sup> Based on this principle, his solution was comparatively simple because the situation he necessarily envisaged was one of consensus rather than of conflict. He saw that granted an agreement in moral matters sufficiently universal to qualify as his objective norm, it would be impossible for a conflict between conscience and law to occur; at least impossible within the democratic processes he postulates in the group. This solution, considered only in its logical aspects, fulfills

<sup>36</sup> *Works*, XVII, 10. Almost every political essay of Brownson repeats this idea. The principle of the social nature of man is developed at length in *Works*, IV, 115 ff.

<sup>37</sup> *Works*, XVII, 8. The same idea is in his *Essays*, p. 403. This dilemma, again, is a theme in all Brownson's political essays.

<sup>38</sup> Brownson's clearest statement of this theory is contained in his essay, "Leroux on Humanity," *Works*, IV, 100-139.

all the conditions Brownson required of a solution. It provides for harmony between conscience and law, and the very existence of such harmony constitutes objective evidence of the truth of the judgment agreed upon. But almost as soon as this solution suggested itself it was abandoned. For Brownson came to reject the theory that group consensus is evidence of the truth of the group's judgment.<sup>39</sup>

Haunted by this basic problem of establishing an objective social norm for the direction of conscience, Brownson turned again to the problem of conscience and law. We suggest that his ultimate position is found in his position that freedom, order, and justice can exist securely and in principle only in a Catholic society.<sup>40</sup> As Brownson states it: "The thesis we propose to maintain is, therefore, that without the Roman Catholic religion it is impossible to preserve a democratic government, and secure its free, orderly, and wholesome action. Infidelity, Protestantism, heathenism may institute a democracy, but only Catholicity can sustain it."<sup>41</sup> In the infallibility of the Church he finds the only source of judgment that avoids the difficulties he finds in any approach to the truth that cannot get disengaged from the element of individual subjectivity. In answer to the dilemma he proposed, his answer is: "Who then [will decide the question of right]? Evidently the power whose function it is to declare the law of God. Since the government derives its authority from God, and is amenable to his law, evidently it can be tried only under that law, and before a court which has authority to declare it, and to pronounce judgment accordingly. . . . Almighty God could never give a law without instituting a court to declare it, and to judge of its infractions."<sup>42</sup> This solu-

<sup>39</sup> His modifications of the consensus norm appear in *Works*, XV, 548-549. Three factors are relevant to the modification: 1) the consensus of the individual group cannot be equated with the consensus of all men, 2) this consensus is a norm of practical reason not of speculative, and 3) it is not as trustworthy as the authority of the Church. In his *Essays*, p. 402, he comes to distrust consensus as a norm because it might imply infallibility in the group.

<sup>40</sup> We say "securely and in principle" because Brownson thought freedom and substantial justice existed *de facto* in the United States. He also thought that this was a *de facto* situation, and his great concern was to establish a foundation in principle that would sustain it.

<sup>41</sup> *Works*, X, 1.

<sup>42</sup> *Essays*, p. 403. His reasoning runs as follows: 1) no individual can reject the law on his own authority, *Essays*, p. 401; 2) but when authority is misused it must be corrected, *Works*, XVII, 6; 3) the correction must be under authority, the authority of God and religion.



tion, however, is developed in connection with his thought on the problem of conformity between authority and conscience in the situation where the two are in disagreement. And we will close our analysis with a brief examination of the premises of his thought in this regard.

The question Brownson really proposes is: when two subjective judgments are at variance is there any way to resolve the conflict short of suppressing one of them? As was suggested, insofar as Brownson restricts himself to purely political theory, the answer is no.<sup>43</sup> That is, in the natural order the problem is insoluble. For in the answer he does give, his appeal to the infallible authority of the Church, he abandons the entire context of his basic rational metaphysic and political theory. And he seeks a solution not in the ordinary providential order of history, not in the appeal of a purer natural knowledge of God's intention gained through abstract considerations, but rather he seeks a solution in a new and supernatural movement of the Divine into the order of history—in Christ, that is to say, projected through history in his Mystical Body, the Church.

This solution is profoundly indicative of the intensity with which Brownson struggled against the individualism and subjectivism of the transcendentalist theory. The appeal to the Church's teaching authority is not simply a despairing appeal to a single voice to referee a conflict. It is, in its ultimate significance, a decision that the conflict between conscience and law can never be solved by the decision of the individual conscience. It is not, however, an absolute appeal to authority as distinguished from conscience. For Brownson begins his solution from the principle that conscience, "uniformly and invariably commands us to obey the law. . . . We demand then obedience as a *duty* not merely as a sentiment, but a virtue."<sup>44</sup> A conflict between conscience and law must beget in every rightly ordered individual an internal division of conscience itself. In this conception of the struggle, the appeal to the decision of the Church is based on the principle that the Church has an authority, divine in both its origin and exercise, over con-

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<sup>43</sup> *Works*, XVII, 11. Brownson holds that despotism is inevitable in such a conflict, if the state has its way. But, *Works*, XVIII, 229, if the individual has his way, rule by force rather than law is accepted in principle.

<sup>44</sup> *Works*, XV, 557-558.

science itself.<sup>45</sup> Thus it is the proper instrument through which one can dissolve the paralysis of conscience engendered by a conflict that cannot be resolved by the inner resources of the individual. Thus his solution can be called authoritarian in the political sense only if one crudely thrusts upon him a premise he never accepted: that the authority of the Church is a purely human authority. He rejected authoritarianism precisely because it is incompatible with freedom of conscience.

Moreover, he does not argue that the authority of the Church extends actively over all men simply by virtue of the Church's existence. For there is in his argumentation an apocalyptic element pointing to the day when all citizens are Catholic, universally accepting the teaching of the Church. Only then will the problem of freedom and order be solved in principle. It is through this element in his thought that he reintroduces the original consent situation envisaged in his first solution to the problem. For the Church's authority cannot cope with the problem except in a social situation characterized by agreement about the nature of the Church. "If men, by rejecting the divinely authorized interpreter of the law of God, voluntarily place themselves in such a condition that they have no alternative but either civil despotism or resistance to the ordinance of God, the fault is their own." Thus Brownson, perhaps without being clearly aware of it himself, tells us that the prerequisite for a freedom compatible with secure order is consensus on fundamental principles.

With regard to the objective criterion of truth, Brownson's appeal to the Church solves his problem, not by an abandonment of norm in favor of a purely authoritarian solution, but through the assertion of a norm whose objectivity is insured by virtue of its independence of human causality. It is in a Church that speaks in Christ's name that he finds the ultimately objective judgment for which he searched through much of his life. He was forced by his own logic to the conclusion that ultimately nothing existing in the order of history alone could be accepted as an absolute norm. The premise to this conclusion is found in his assertion that ultimately the Divine can shine through the natural order of history only in a

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<sup>45</sup> *Works*, XVII, 11. However, *Works*, XVIII, 214-215, he thought that in America because of the perfection of its constitution and its pragmatic approach to law men could retain freedom and justice *de facto* for a long time.

refracted way, and so it must be judged on the basis of a reference to some unrefracted source of the Divine Mind. In the infallibility of the Church he found a judgment in which the secondary causality of man, which was the source of refraction in the historical order, is dispensed with in order to permit a clear determination of the intentions of God. Ultimately, therefore, the solution to the problem raised in his political theory is reached in the supernatural order. And in this we have but the reflection in his political theory of his movement from his original rational metaphysic into the realm of theology. And the ultimate consistency in his thought is found in this: his final solution is based on the acceptance of the new relationship between the natural and the divine which is established in Christ, and on a new revelation of the ways in which God works in and through history.