

Reviews

AQUINAS'S THEORY OF NATURAL LAW by Anthony J. Lisska
Clarendon Press, Oxford, 1996, pp 320. £35. 00.

In many respects this book represents a missed opportunity. It aims to make Aquinas's theory of natural law acceptable to moral and legal philosophers by presenting it in a version freed from theological (and other disreputable) concepts and by answering common objections to it from the analytic school. Unfortunately, the 'reconstructed' natural law is rather far from Aquinas and far from original, and the objections discussed are largely part of the history of earlier twentieth century philosophy and now of limited relevance.

The book attempts to do the following: to explain renewed interest in natural law, reconstruct Aquinas's theory in a way sensitive to modern criticisms, answer these criticisms, dispose of Finnis's natural law theory, shore up Veatch's, and outline an account of natural rights. It concludes with appendices translating *Summa Theologiae* 1–2, 90–97 and sketching a little known but interesting article by Vincent McNabb 'St Thomas Aquinas and Law'. Along the way Lisska signposts his argument (which is not complex) to the point of repetitiveness: in general, the book might have been slimmed down considerably without loss to its argument.

Those unfamiliar with this literature will benefit from the straightforward presentation of natural law's reemergence and struggle in Chapters 1 and 2 (Anscombe, MacIntyre, Veatch, Finnis...). Chapter 2 is more successful with jurisprudence than ethics, where Lisska might have gone wider to tease out the influence of natural law on virtue ethics, realism, neo-Kantianism, Gewirth etc. Chapter 3 is a rather specialised (British analytical) history of the rediscovery of natural law. Lisska is right that debate from Moore to Warnock is central to this history but given that Aristotelian and Thomist thinking has been widely acknowledged by important ethicists for twenty years now, such attention to that debate seems indulgent and rather dated. Bizarrely, Lisska links earlier interests in practical reason to modern day Aristotelianism through an article by John and Patricia White on liberal accounts of the good. However, he does well in choosing to bridge Chs 3 and 4 with Columba Ryan's classic article 'The Traditional Concept of Natural Law: An Interpretation'.

Chapter 4 is a useful explanation of Aquinas's essentialism in terms of natural kinds analysed dispositionally. If essences are sets of dispositional properties, then human beings, for example, are not fixed parcels of static inclinations but subjects disposed to develop naturally (and rationally). This allows Lisska to argue, in Chapter 8, that there is no naturalistic fallacy in Aquinas since human goods are merely the natural outcomes of natural human dispositions ('...the value is the terminus of

the development of the dispositional properties', p. 162-3). While this might be useful for teaching Aquinas to analytic philosophers with little knowledge of him, it is not otherwise particularly helpful. Despite a good presentation of natural inclinations (p. 100-3), the claim that they are dispositions would need a great deal of connecting with Aquinas's own work on dispositions and habits (e.g. *Summa Theologiae* 1-2, qq 49-54) and the claim that immoral acts are those which hinder rational development hardly expresses the radical nature of acts which unreasonably and immorally obstruct beatitude by preferring one its (limited) components to the whole.

Unlike Finnis who gives his own natural law theory inspired by Aquinas but without overt reference to God, Lisska wants to give Aquinas's natural law theory without reference to God ('The existence of God is, in a structural sense, neither a relevant concept nor a necessary condition for Aquinas's account of natural law', p. 120). This is entirely implausible. For Aquinas natural law is merely a human participation in eternal law, the intelligent acknowledgement of certain precepts given by divine intelligence. Moreover, the good which all things seek is (ultimately) God, and one of the ends of the natural law is knowledge of God. Certainly one can know essences and goods without knowing God, but this does not mean one can accurately state Aquinas's natural law theory without reference to God. John Finnis in this journal ('Practical Reasoning, Human Goods and the Ends of Man' in *New Blackfriars* 66, 1985, 438-51) has demonstrated the degree to which imperfect beatitude is continuous with perfect beatitude; we must also acknowledge (contra Lisska pp 134-6) the degree to which imperfect beatitude depends upon God (e.g., infused virtues, grace, no moral virtues or prudence without charity, revealed moral norms, gifts of the Holy Spirit, vocation...).

Lisska accuses Finnis of ignoring the importance of human essence, of mistakenly treating practical reason as theoretical and of a 'Cartesian indubitability'. But all these now rather tired criticisms have been adequately answered by Finnis et al. (e.g. Grisez, Boyle and Finnis 'Practical Principles, Moral Truth and Ultimate Ends' *American Journal of Jurisprudence* 32, 1987, 99-151) and in various places by Robert George (e.g. 'Natural Law and Human Nature', *Natural Law Theory*, OUP, 1992, 31-42). The emotional heart of Lisska's book is the chapter on Veatch - which is interesting, although those without much interest or knowledge of Veatch's work would benefit from rather more background discussion than is given here. Chapter 8 includes excellent attempts to demonstrate similarities between some natural law and Kantian concepts and to analyse the contingency involved in practical reasoning for Aquinas (pp 212-18). Chapter 9 tries to generate human rights from Aquinas's theory by arguing that there are duties to allow dispositions to fulfil themselves. In doing so Lisska fails to engage with the complexities of contemporary rights theory or to add anything substantial to our understanding of Aquinas on the defence of human goods.

It is important that Aquinas be made accessible to moral

philosophers who read only British analytical ethics, even if they are a dying breed. But given that this work has already long been under way, more than an empiricist reconstruction of Aquinas's natural law now seems possible and desirable. Concentration on Aquinas's essentialism may win a few supporters from the camp of Putnam and Kripke but unless this goes hand in hand with work on his theory of practical reason it risks losing supporters from the broad spectrum of moral views now sympathetic towards Aristotelianism.

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TERTULLIAN AND THE CHURCH by David Rankin, *Cambridge University Press, 1995, Pp. xvii + 229.*

To say that this is not a book for first-time Tertullianists is a comment neither upon its scholarship nor upon the readability of its author's prose, both of which are impeccable. Dr Rankin is taking part in a long and slowly evolving debate on Tertullian's ideas, here concerning the nature and functioning of the Church, and does not provide the novice with more information about the subject of his work than is necessary for the understanding of the arguments that he is advancing. He does, however, place those arguments in the widest possible historiographical context, citing the opinions of a broad range of authors across the whole span of the present century. This shows, not least, how many mutually contradictory interpretations of Tertullian's life and work there have been, and how he has been used to support a bewildering array of modern positions on questions concerning the Church, the episcopate and the role of the laity. The book itself, after a brief introduction, is divided into three sections. These comprise 'The Historical Questions', 'Tertullian's Doctrine of the Church', and 'Tertullian's Doctrine of Ministry and Office'. They are followed by a useful and lucid drawing together of the various strands of argument into 'General Conclusions'. Indeed, the lucidity and the cogency of the arguments throughout the book constitute one of its finest features, even if those of an opposing view-point may not wish to accept them all.

It is no criticism to say that the first section is the most challenging and exciting, in that the other two serve to complement it by drawing out the textual evidence for themes that are most boldly displayed in the opening chapters. Thus, in the second section there is some particularly interesting analysis of the different images that Tertullian used when talking of the Church. Dr Rankin clearly aligns himself with those, like T.D. Barnes, who see Tertullian as a layman who never became a priest. He rightly sees his own contribution as part of a wider process of the re-evaluation of Tertullian's place in the history of early Christianity. In particular, he takes issue with the previously dominant tendency to dismiss Tertullian as unorthodox and in consequence to diminish his significance. This has resulted, not least, from labelling him a Montanist and interpreting the meaning of this in the light of the later reputation of