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0521543401 - Liberty, Right and Nature: Individual Rights in Later Scholastic Thought

Annabel S. Brett

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Liberty, right and nature is a vibrant and powerful contribution to the recently renewed debate over natural rights and natural rights language.

Closely examining traditional histories of the subject, which place the origins of individual rights squarely within the voluntarist tradition, Annabel Brett argues persuasively that in order to understand the development of the concept we need to look at the way in which the Latin language of *ius* functioned in a wide range of philosophical contexts. Deploying an enormous array of primary sources, many of them previously ignored, Dr Brett traces the range of the terminology of rights within the scholastic tradition from the thirteenth-century poverty controversy to the works of the sixteenth-century neo-Thomistic 'School of Salamanca'. A final chapter considers the consequences of this investigation for the rights theory of Thomas Hobbes. Dr Brett's analysis covers a panoply of theological and legal sources, and should prove indispensable to all those working in the field of mediaeval and early modern moral and political philosophy.

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IDEAS IN CONTEXT

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For my parents

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EDITIONS

Where available, I have used modern critical editions of all mediaeval and early modern works cited. Where such have not been available, I have used the first edition where possible, and where not, the earliest possible subsequent edition.

TRANSLATIONS

All translations are my own unless otherwise indicated: I have aimed for literal accuracy rather than elegance. The reader's attention is drawn to the following particular points of translation: firstly, the Latin term 'ius', as the authors were themselves aware, can cover the senses of both 'law' and 'right'. It is part of the argument of this book that they used it with a high degree of self-consciousness and precision. Hence, I have not hesitated to render it as 'right' either where it is clearly attributed to a subject ('subjective right') or where it is equivalent to the 'iustum', 'the right thing' ('objective right'). Where it is evidently used in the same sense as 'law', 'lex', I have translated it as such. There remain, however, a few cases in which 'ius' bears an objective sense of 'right ordering' or 'right ordination', which lies between 'iustum' and 'lex': and in these cases I have occasionally rendered this as 'right', although other translators have preferred 'law'. Secondly, with regard to 'proprius' ('proper to oneself', 'one's own'): I have rendered this as 'proper', to preserve the overtone of 'proprietas', 'property'. Thirdly, I have usually translated the Latin 'civitas' as 'city', in the sense of the civic or political unit, close to the sense of 'respublica' as 'commonwealth'.

For all quotations of any length I have given the original Latin

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without altering spelling and punctuation where practicable. Where there are errors in the original I have indicated the fact without correcting it.

PROPER NAMES

I have used the appellation which is most usual: so Thomas Aquinas, but Jean Gerson. Where neither Latin nor vernacular is more usual, I have generally preferred the Latin form, as being the one used by the authors themselves.