

Tour du Pin, for his part, frankly prefers medieval serfdom to the “unlimited competition of the free market” (315, 317).

Culturally, there is a recurring aspiration detectable throughout this volume to, as it were, replay the religious wars. Maistre commends Louis XIV’s Revocation of the Edict of Nantes in 1685 (144), a move that denied toleration to French Protestants and led to their mass exodus. Keller contrasts his proposed Catholic corporatism with the “financial feudalism” of “the Protestant school” (302). Virtually all the authors are strongly opposed to the separation of church and state (73, 153, 266, and *passim*). Keller wants even higher education to be religiously based (307). Maistre denies that Protestantism is a religion at all; it is a mere spirit of rebellion (154).

The translations in the volume—which, it should be noted, is recommended for its literary style as well as its intellectual content—are generally readable, and the book is handsomely produced (though minor errors and/or translation problems will be found at 16, 36, 52, 73, 140, 162, 177, 193, 250, 251, 319, 322, 330, and it would have been good to know which page numbers from the French originals were being translated). If the current liberalizing global order—whose fragility is often underestimated, especially by its boosters—should stumble badly or (who knows?) be proven untenable, conservative alternatives will certainly be sought with more vigor than at present. Readers will decide for themselves how many good ones are to be found in this collection.

—Henry C. Clark  
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## Saint Thomas Aquinas and the Natural Law Tradition: Contemporary Perspectives

**John Goyette, Mark S. Latkovic, and Richard S. Myers (Editors)**

Washington, D.C.: Georgetown University Press, 2004 (311 pages)

The history of natural law thinking during the twentieth century is perhaps best described as turbulent. Until the 1960s, the study of natural law throughout the Roman Catholic world flourished in the wake of Pope Leo XIII’s call in his 1879 encyclical, *Aeterni Patris*, for Catholic theologians to return to the study of Thomistic thought. Attention to natural law, however, underwent a sudden decline in the Catholic intellectual world following the Second Vatican Council. It even became far less prominent in documents of the Roman Magisterium (until forcefully revived by John Paul II’s encyclical *Veritatis Splendor*). Among the Protestant confessions, attention to natural law had long been relegated to the academic sidelines following the famous Brunner-Barth debates of the 1930s.

The reasons for this eclipse are many. They range from the dominance of either Barthian thought or theological liberalism among Protestant scholars, to the fascination within the Catholic academy with the work of people such as Karl Rahner, whose later

theological works appear to define the “natural” in natural law in a decidedly un-Thomistic fashion. The cultural upheavals of the 1960s, not to mention a certain discomfort among many Christian theologians and clergy with the moral absolutes underlined by authentic natural law thinking, were also contributing factors. Then there was the widespread adoption of utilitarian thought, otherwise described as proportionalism and consequentialism, by Christian moral theologians.

Even today, serious natural law scholarship is regularly described as *dead* in continental Western Europe. In recent years, then Cardinal Joseph Ratzinger, Prefect of the Congregation for the Doctrine of the Faith, has called upon Christian scholars to return once more to the study of natural law, no doubt because of the growing conviction among Christians that there is no reason why they should allow secularist fundamentalists to claim that they alone take human reason seriously.

The editors of the recently released collection of essays contained in *St. Thomas Aquinas and the Natural Law Tradition* believe that a revival of natural law thought is occurring throughout much of the Christian intellectual world, especially in North America. The papers in this collection bring together a large number of some of the most accomplished natural law thinkers such as David Novak, Russell Hittinger, Robert P. George, Ralph McInerney, and William E. May. All but one of the papers were presented at a conference cosponsored by Sacred Heart Seminary (Detroit, Michigan) and the Ave Maria School of Law (Ann Arbor, Michigan).

The papers are divided into four groups. The first discusses some of the philosophical foundations of natural law. The second concerns itself with the theological framework that serves as grounding for Aquinas’s natural law thought. A third section is devoted to the new classical natural law theory expounded primarily by John Finnis and Germain Grisez. The papers in the last section examine various contemporary political and legal questions from the standpoint of natural law thinking.

The thematic division of the papers in this collection makes this book an excellent resource for students of natural law. Even highly theoretical discussions, such as whether “basic goods” can be derived from speculative reasoning, or Aquinas’s account of the immateriality of the soul, are made relatively accessible to novices of natural law theory. Especially fascinating in this regard is the debate between David Novak and Martin D. Yaffe about the place of natural law in the thought of the twelfth-century Egyptian Jewish rabbi, Moses Maimonides. Those unfamiliar with the debates about the Grisez-Finnis new classical natural law theory will find that the papers by William E. May, Mark S. Latkovic, and Steven A. Long amount to a fair summary and exposition of the central arguments advanced by “old” and “new” natural law scholars.

American audiences will likewise discover the essays by Robert P. George, Russell Hittinger, Christopher Wolfe, and William Mathie to be useful illustrations of how natural law offers revealing insights into problems especially relevant to American legal and political conversation. The tensions, for instance, between Lockean “natural rights” and classic Thomistic natural law have, as Wolfe and Mathie note, profound significance for the American political order. It may well be that the tensions between the two

are indeed unsurpassable. The fact that there are serious tensions, however, often comes as a revelation to many students of political and legal philosophy, including many orthodox Christians.

A discerning reader of these essays should leave with the impression that the late-twentieth century's natural law revival has created the basis for a genuinely ecumenical movement of thinkers, capable of serving as a corrective to the dualistic, secularist vision of man presently dominating Western philosophical, political, and legal discourse. By making this material available to wider audiences, the editors have significantly contributed to what one hopes will be the eventual realization of this noble end.

—Samuel Gregg  
*Acton Institute*

**The Supreme Court and Religion in American Life**  
**Vol. I: The Odyssey of the Religion Clauses (218 pages)**  
**Vol. II: From “Higher Law” to “Sectarian Scruples”**  
**(261 pages)**

**James Hitchcock**

Princeton, New Jersey: Princeton University Press, 2004

The Supreme Court began a significant shift during the 1940s, argues James Hitchcock, by increasing the number of First Amendment cases it reviewed and by altering its understanding of the relationship between church and state to an Enlightenment view of religion and politics. Hitchcock's two-volume contribution to church-state scholarship will prove to be a cornerstone for accommodationist theory and a thorn in the flesh for separationist scholars. The St. Louis University history professor's work is the latest in a trend toward accommodationist scholarship, most notably evident in Philip Hamburger, *Separation of Church and State* (Harvard University Press, 2002), and Daniel Dreisbach, *Thomas Jefferson and the Wall of Separation Between Church and State* (New York University Press, 2003).

The first volume provides the reader with an analysis of the most extensive set of religion cases reviewed by the Supreme Court to date, including cases that have been overlooked by other works on church-state relations. The religion clauses, Hitchcock demonstrates, played a minimal role in the early court, yet the court was still concerned with protecting religious liberties by using other factors, such as property rights and contract law. For example, *Dartmouth College v. New Hampshire* (1819), a case involving a religious institution's legal autonomy, was decided not on the First Amendment but on the basis of contract law. Religion cases did increase, due to litigation brought by Mormons and Jehovah's Witnesses, yet the most significant period of transition and expansion in the court, according to Hitchcock, was the 1940s. He chronicles the cases during this period, demonstrating a simultaneous and paradoxical expansion of religious freedom based on the free exercise clause (e.g., conscientious objection cases)