

THE LEGAL CHARACTER OF NATURAL LAW  
ACCORDING TO ST THOMAS AQUINAS

by

Stephen L. Brock

A Thesis submitted in conformity with the requirements  
for the Degree of Doctor in Philosophy in the  
University of Toronto

©1988

## ABSTRACT

The claim is that Aquinas conceives of natural law as something that perfectly fulfills his general definition of law. It is a law in even a fuller sense than human positive law. The wide range of positions on this question among contemporary interpreters is surveyed and evaluated. It is first argued that for Aquinas, the formal notion of natural law involves a reference to the eternal law, and that nevertheless the complete promulgation of natural law to man does not require his knowledge of divine providence and legislation, or even of God's existence. Next treated is the difference between the promulgation of natural law and that of positive law, with special attention to Aquinas' notion of command; the aim is to show that the effect proper to command, and hence the full institution of a law, does not necessarily require that those who are subject to it make advancement to its author's will. Then taken up is the role that Aquinas assigns to knowledge of the physical world in the understanding of the precepts of natural law, and his general doctrine of the "imitation of nature," in order to determine whether he in some way attributes an authoritative status to nature. Finally, the manner in which natural law carries obligatory force is shown; the connection between obligation and sanction in Aquinas' thought is indicated, and natural law is found to carry its own proper sanction, called "remorse of conscience." The conclusion is that insufficient attention has been paid to Aquinas' doctrine of the eternal law as a principle governing even the very natures of created things.

## TABLE OF CONTENTS

INTRODUCTION .....	1
CHAPTER 1: THE QUESTION OF THE LEGAL CHARACTER OF THOMISTIC NATURAL LAW .....	10
A. Natural law as law in a qualified sense .....	11
B. Natural law as a law <i>secundum se considerata</i> .....	17
C. Natural law as a not-quite-natural law.....	23
D. Natural law as a natural law of God .....	28
Notes.....	41
CHAPTER 2: THE RELATION BETWEEN NATURAL LAW AND ETERNAL LAW ....	52
A. The question of the Franciscan influence .....	53
B. The meaning of the question proposed in <i>Summa theologiae</i> I-II q.91 a.2 .....	62
C. Natural law as one of the divisions of law.....	65
D. The demonstration of the existence of natural law .....	72
E. The logical inseparability of eternal law from natural law .....	82
Notes .....	85
CHAPTER 3: NATURAL LAW AND POSITIVE LAW (1): THE PROBLEM OF AUTHORITY.....	95
A. Natural and positive promulgations of law .....	96
B. The definition of natural law and the natural knowledge of natural law .....	99
C. The assent to the precepts of natural law: <i>ex ipsa ratione boni</i> .....	106
D. Command.....	109
E. The analogy of 'law' as predicated of natural and positive law .....	124
Notes.....	133

CHAPTER 4: NATURAL LAW AND POSITIVE LAW (2): THE AUTHORITY OF NATURE .....	142
A. The question of the role of nature in the knowledge of natural law.....	143
B. Some prominent answers to the question .....	147
C. Natural inclination as following upon natural understanding.....	152
D. The meaning of the imitation of nature .....	167
E. The immediacy of man's subjection to the eternal law.....	176
Notes.....	181
CHAPTER 5: THE OBLIGATORY FORCE OF NATURAL LAW .....	192
A. The nature of obligation.....	194
B. Punishment.....	204
C. Punishment and command .....	210
D. Natural law and punishment .....	212
E. Obligation and the first principles of practical reason .....	218
Notes.....	223
CHAPTER 6: CONCLUSION .....	233
A. Support for the traditional reading and resolution of minor problems .....	236
B. Qualified support of natural law as law <i>secundum se considerata</i> .....	242
C. Rejection of the view that natural law is law in only a partial sense.....	244
D. Natural law as not-quite-natural law: two denials and a demurrer .....	246
E. The intimate dependency of all things on the eternal law .....	252
Notes.....	258
BIBLIOGRAPHY .....	260