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TABLE OF CONTENTS

A Poor Benighted Philosopher Looks at the Issue of Judicial Activism	Henry B. Veatch	1
Coercion to Environmental Virtue: Can and Should Law Mandate Environmentally Sensitive Life Styles?	Richard O. Brooks	21
Metaphysics, Epistemology, and Natural Law Theory	Tibor R. Machan	65
Politics and Human Nature	Peter Simpson	79
The Myth of Neutrality in Positive Legal Theory: Hart Revisited	Julius Cohen	97
Property and Punishment in the Eighteenth Century: Beccaria and His Critics	David B. Young	121
Human Nature as a Ground for Absolute Prohibitions	Gary M. Atkinson	137

METAPHYSICS, EPISTEMOLOGY, AND NATURAL LAW THEORY

TIBOR R. MACHAN

It is maintained here that the problems that have beset natural law theory actually pertain to the theory's philosophical underpinnings in metaphysics and epistemology. To wit, a Platonistic conception of "the nature of X" and a Cartesian idea of the requirement of knowledge have plagued the theory.

With recent developments in epistemology, which make a contextualist—rather than either idealist/absolutist or relativist/conventionalist—idea of definitions of the natures of things, as well as such a conception of human knowledge, possible, we are, it is argued here, in a position to improve the philosophical underpinnings of natural law theory, perhaps even to the satisfaction of sympathetic but persistent critics, such as Has Kelsen.

INTRODUCTION

RECENTLY WE HAVE WITNESSED A revival of normative political and legal philosophy. Even natural law has returned as a palatable hypothesis on matters of justice and lawfulness. The reigning view of law during the better part of the 20th century, positivism/realism, despite the relentless efforts of Lon Fuller and a few others, has proven to be inadequate for securing some sense of direction with questions of legitimacy pressing at us from everywhere on the globe. John Rawls, Robert Nozick, and, especially, Ronald Dworkin, however, reintroduced normative politics and legal theory into the scholarly community.¹

These developments had not yet sufficed to revive the natural law approach. Rawls' intuitionism is hardly a natural law method of contending with questions of justice and moral or political legitimacy. Nozick is a neo-Hobbesean who employs the "argument from best explanation" approach in his political theorizing.² Dworkin invokes Rawls

1. John Rawls, *A Theory of Justice* (Cambridge: Harvard, 1971); Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), and Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard, 1977).

2. That is, he assumes about persons that they are inherently self-interested. See Tibor R. Machan, "Nozick's Geometrical Libertarianism," *The Occasional Review*, Vol. 6 (1977). Even Rawls makes this assumption about persons prior to their joining the effort to establish principles of justice behind the veil of ignorance. See James

