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NATURAL LAW, PROPERTY, AND REDISTRIBUTION

Paul J. Weithman

ABSTRACT

In his essay "Natural Law, Property, and Justice," B. Andrew Lustig argues for what he calls "significant correspondences" between John Locke's theory of property and scholastic theories of property on the one hand, and between Locke's theory and contemporary Catholic social teaching on the other. These correspondences, Lustig claims, establish an intellectual "tradition of property in common." I argue that linking Aquinas—even via Locke—to the redistributivism of contemporary Catholic social teaching requires distorting his political theory. This distortion, I argue, obscures the possibility of using Aquinas's political theory as a basis for radical social criticism.

1

IN HIS ARTICLE "NATURAL LAW, Property, and Justice: The General Justification of Property in John Locke," Professor B. Andrew Lustig examines how various natural law theories of property have accommodated the claims of those who lack material goods sufficient to meet their basic needs. The focus of the paper is, as its subtitle indicates, John Locke's property theory. Crucial features of Lustig's interpretation of Locke have, as he acknowledges, been anticipated by other scholars, and his paper does not aim to review the arguments they have offered in support of that reading. Lustig's primary contribution is his attempt to link Locke's property theory to others.

Lustig argues for three theses:

1. Locke's theory of property is "a certain recasting of Scholastic natural law arguments" that "shares significant correspondences" with scholastic property theories (Lustig 1991, 121). The theories Lustig has in mind are those of the medieval scholastic Thomas Aquinas and the Renaissance scholastic Francisco Suarez.

Thanks are due to Phil Quinn and Eleonore Stump for helpful comments on an earlier draft.

2. Locke's property theory also "shares significant correspondences" (122) or "basic correspondences" (145) with "the discussion of the social obligations of property in Catholic social teaching" (122).
3. There is a tradition of thought running from Aquinas through Locke to contemporary Catholic social thought, the members of which are united by their acceptance of certain fundamental theses about property. Lustig calls this tradition "the tradition of property in common" (143).

Before examining Lustig's defense of these claims, I want briefly to recall their importance for religious ethics. The first thesis contradicts the interpretation of Locke propounded most prominently by C. B. MacPherson, against whom Lustig explicitly argues. According to that interpretation, Locke is the father of "possessive individualism" and not a thinker who "must be understood in light of the Scholastic discussion of property-in-common" (119). The argument against that interpretation shows that theological assumptions play a large role in Locke's political theory (stressed also by Mouw 1991). This feature of his thought is often neglected by students of religious ethics. The significance Lustig attaches to the second thesis is somewhat less clear. Certainly the arguments in its support are meant to discredit interpretations of Locke according to which his views are *inconsistent* with recent Catholic social teaching (131) or with the "systematic [government] redistribution" that that teaching has recently endorsed (145). Lustig's concluding remarks, however, suggest more far-reaching implications. There he claims that "one can reconstruct Locke's natural law position to comport with recent Catholic social thought on the legitimate function of government in safeguarding the positive . . . rights of individuals" (145). Perhaps Lustig means that Locke's thought can be reconstructed to *support* or to *legitimate* ascribing redistributive functions to government. This raises the possibility that Locke's view, far from being inconsistent with egalitarian elements in Catholic thought, could be exploited to provide it an intellectual foundation.¹

This second and stronger claim is an intriguing one, but since Lustig does not pursue it, I will not either. Nor will I contest the weaker claim that Locke's thought is consistent with contemporary Catholic

¹ Lustig's assertion of continuities between Locke's thought and Thomism, the traditional source of Catholic thought, might also be intended to show it appropriate for this purpose. His brief criticism of John Rawls (143) might be intended to show that Locke's view provides an intellectual foundation superior to the Rawlsian views on which some Catholic social thought has recently relied; cf. National Conference of Catholic Bishops 1986, paragraphs 86 and 90, which are reminiscent of Rawls's Difference Principle.

social teaching. I do not disagree with the exegetical claim that Locke's theory "must be understood in light of Scholastic discussion[s]," nor do I want to defend MacPherson's interpretation of Locke. In what follows I want to focus on what I take to be the real significance of the first and second theses for religious ethics: their support for the third.

The third thesis is significant because it ties recent Catholic social teaching's endorsement of "systematic redistribution" (145) to the work of Aquinas, the *de facto* source of much Catholic thought and the *de jure* source of twentieth-century Catholic social thought.² Indeed the ties between Aquinas and contemporary Catholic social teaching are so close, Lustig argues, that this endorsement gives "the moral force" of Aquinas's property theory its appropriate contemporary expression (144). Lustig's interpretation of Locke is crucial to this historical argument, for Locke, he claims, facilitates an important transition within the "tradition of property in common." That transition makes possible the "translat[ion]" (144) of Aquinas's views into a contemporary redistributive idiom. Let us therefore see how Lustig takes the first and second theses to support the third and how he thinks Locke insures the continuity of this tradition.

2

The "shared correspondences" asserted in the first and second theses reflect, Lustig claims, a shared underlying view about "property in common." For Aquinas and the authors of contemporary Catholic social thought, Lustig writes, common property enjoys "moral priority" (for Aquinas, see 123-24; for the latter, see 145). For Locke, too, common property has a "moral priority" (121), is a "prior notion" (138), and serves as a "moral heuristic" (138).

Lustig believes these three property theories share three doctrines. First, according to the natural law, material goods are given to the human race as a whole to meet the necessities of life. Second, the ne-

² See Leo XIII [1879] 1947, xv: "Truly all civil society would be much more tranquil and much safer if healthier teaching were given in universities and schools; a doctrine more in unison with the perpetual teaching office of the church, such as is contained in the volumes of Thomas Aquinas. He disputes about the true nature of liberty, which in these days is passing into lawlessness; about the Divine origin of all authority; about laws and their binding force; about the paternal and just government of sovereign princes, with our obedience to higher powers, and the common love that should be among all. The words of Thomas about these things, and others of a like nature, have the greatest strength, indeed a resistless [*sic*] strength, to overthrow the principles of this new jurisprudence, which is manifestly dangerous to the peaceful order of society and to public safety."

cessities which material goods are to meet are *social* needs or purposes, including, prominently, the perpetuation of the species and of society (124, 145). Third, those in great need have an overriding moral claim on the rightfully held property of others. According to the first and second of these theses, then, property is common in that it is given to all to be used for all humankind and/or for all of society. Property in common enjoys “moral priority” in that claims of those in need could be founded on the social purposes of property and could override claims to private property.

Lustig does note significant differences among various thinkers in the “tradition of property in common.” Locke, following Suarez, argues that individuals in need have “*ad rem* claim rights” to the property they need (130, emphasis added) and that they have a “right to a living” (139, emphasis added). Aquinas, Lustig concedes, has no such notions. Nonetheless Suarez’s formulation, which Locke takes over, merely “clarifies the *ad rem* implications of Thomas’s more modest property-in-common considerations” (129). It “recasts” Aquinas’s own language (129) and is a “meaningful extension” of it (132). That Locke merely elucidates the “*ad rem* implications” of Aquinas’s theory shows that there are “significant correspondences” between Locke and Aquinas. These significant correspondences ensure the unity of a common property tradition including Locke and Aquinas. There is also a difference between Locke’s theory and Catholic social teaching: Locke does not *advocate* government redistribution to satisfy individual claim rights, though he “in no way resists [it]” (134). Nevertheless, the fact that Locke’s theory can, as we saw above, be “reconstructed to comport” with Catholic social teaching shows “significant correspondences” between that teaching and Locke’s view (145). These correspondences suffice, Lustig believes, to ensure that Catholic social teaching belongs in the tradition in which he locates Locke and Aquinas. Locke is an important transitional figure in the tradition, for his “recasting” of Aquinas’s views with the notion of “*ad rem* claim rights” makes it possible for thinkers later in the tradition to endorse government intervention to fulfill those claim rights.

Lustig suggests that differences among property theories within the tradition are best understood as but different expressions of underlying moral commitments and priorities. Thus he writes of differences between Aquinas and Locke on the one hand and Catholic social encyclicals on the other: “As agricultural models grow increasingly irrelevant to the stratified interdependence of modern economic life, the moral force of property in common is *appropriately translated* into specific welfare guarantees” (144, emphasis added). This talk of translation is reminiscent of Lustig’s earlier claims that Locke’s theory “re-

casts" Aquinas's and that his theory can be "reconstructed" to comport with Catholic social teaching. It is hard to know what Lustig means by these claims. His treatment of differences among Aquinas, Locke, and Catholic social teaching suggests, however, that Lustig thinks Aquinas the source of an intellectual tradition that is both faithful to his property theory and marked by significant conceptual change.

John Pocock, Quentin Skinner (1978, ix-xv), and other historians of political theory have, in the last three decades, produced very powerful reasons for thinking that linguistic and conceptual differences in the expression of theories reflect very profound differences among them. These same historians have produced strong arguments against the hasty assimilation—based on linguistic similarities—of political thinkers into traditions of thought. That Lustig asserts a tradition of property in common therefore shows how much weight is born by his theses about "shared correspondences." He links Aquinas's theory of property to the redistributivism of contemporary social teaching through the transitional figure of Locke. He forges this link in the face of powerful historiographic reasons to believe that doing so requires neglecting or distorting central elements of Aquinas's political theory.

I suggest that historiographic reservations of the sort Pocock and Skinner have expressed are very well founded. In the remainder of this paper, I will try to substantiate this suggestion by focusing on Lustig's treatment of Aquinas and will do so by arguing for two points. First, there are essential elements of Aquinas's discussion of justice that imply his opposition to systematic government redistribution. Second, Aquinas's theory, if properly interpreted, affords a standpoint from which to criticize much of what Lustig subsumes under the phrase "the stratified interdependence of modern economic life" (144). The claim that the "moral force" of Aquinas's arguments properly finds expression in arguments legitimating the welfare state obscures the critical power of his theory of distributive justice. It thereby obscures the value of Thomism as an intellectual basis of social and cultural criticism.

3

Aquinas's discussion of property at *Summa Theologiae* II-II 66 is crucial to the questions at issue here, as Lustig himself notes. Article 2 on private property with common use and article 7 on the permissibility of stealing in times of need are especially important.

In the latter article, Aquinas famously argues that someone in need may take what belongs to another, and that this is not stealing “properly speaking” (*ad 2*). Lustig notes by way of comment on this article that “In times of need, all property is to be considered common” (127). This interpretive remark suggests, even if it does not imply, the congeniality of governmental redistribution to Aquinas’s discussion of the claims of the needy. If, in time of need, literally *all* property is commonly held or is to be used by all or any, then whether the poor take their share or the government distributes it to them might seem immaterial. Before asserting that Aquinas’s views in this article are congenial to or consistent with such redistribution, however, we must see whether Aquinas says in article 7 what Lustig claims that he does.

In that article Aquinas draws a distinction, which Lustig neglects, between two cases. One is that of a person in “urgent and evident necessity . . . as when there is imminent danger to his person.” The other is that of someone in need, but not in such dire necessity.

In the former case, Aquinas says, the needy individual A may take from person B what A needs to survive. Note first that Aquinas is *not* making a claim about *all* of B’s property, as Lustig seems to assert. Rather, he is making a claim about *some* of that property—namely, what A needs in order to address his urgent needs. Moreover, though Lustig reads Aquinas as saying that this property becomes *common*, it is important to see in what sense this is so. The property of B that A needs to survive does not, in virtue of A’s poverty, come to be owned by society corporately. It is common only in the limited sense that another may use or consume it without being guilty of theft.³ The former sense of “common ownership” is clearly congenial with government redistribution, since governments redistribute what becomes socially owned through taxation. However, it is the latter and not the former sense of “common ownership” that Aquinas has in mind.

Aquinas’s treatment of the other case mentioned in article 7 not only does not suggest the congeniality of governmental redistribution, it is, I shall argue, incompatible with it. A crucial premise in Aquinas’s

³ Aquinas’s paradigm of common use here is almost certainly an example he takes from Aristotle’s *Politics*: “The Lacedaemonians, for example, use one another’s slaves and horses and dogs as if they were their own; and when they lack provisions on a journey, they appropriate what they find in the fields of the country” (1263a35ff.). Aquinas would, I believe, assimilate treatment of the needs of those in poverty to this discussion of those in need on a journey and would argue that in both cases those in need may avail themselves of another’s plenty to satisfy their need. Aquinas cites Aristotle’s example in his commentary on this passage of the *Politics*; cf. *In Libros Politicorum* [1269-72] 1873, II.4. Oddly, Lustig takes no account of this work in his interpretation of Aquinas.

treatment of this case is expressed in a passage of which Lustig makes much: "Whatever a man has in superabundance is owed, of natural right, to the poor for their sustenance" (II-II 66.7, quoted at Lustig 1991, 128). Shortly thereafter, however, in an equally crucial passage that Lustig fails to mention, Aquinas writes: "But because there are many suffering necessity and it is not possible to sustain them all from the same thing, *the stewardship of his own goods is left to the judgment of each*, so that from these [things] he may meet the need of those suffering it" (emphasis added).

There are a couple of points I want to note about these passages. First, Aquinas does not say that *all* property "is owed, by natural right, to the poor for their sustenance" as Lustig claims in the remark I quoted above. He says only that that "held in superabundance" is. Second, Aquinas's remarks in the second passage suggest that here, as in his treatment of "urgent and evident necessity," he thinks property held in superabundance is common in a very weak sense. It is common only in that any individual having such property is obligated to use it to meet the needs of another. Aquinas does *not* say that property held in superabundance is common in the sense that it is owned by society corporately, that it is owned by the poor corporately, or that it is owned by some specifiable poor person or persons singly. The weak sense of "common property" to which Aquinas commits himself is not, therefore, the sort of common property which is a prerequisite for governmental redistribution.

Aquinas does juxtapose the remark about property held in superabundance with a quote from Ambrose, which Lustig translates as: "The bread which you withhold *belongs* to the hungry; the clothing you shut away, to the naked; and the money you bury in the earth is the redemption and freedom of the penniless" (cited at Lustig 1991, 128, emphasis added). His employment of this quote does not, however, establish that Aquinas thought superabundant property common in a stronger sense than I have indicated. Rather, Aquinas's own remarks about the morally required use of superabundant property should be taken to express both his own view about the sense in which such property is common and the sense he attaches to "belongs" in the passage from Ambrose.⁴

⁴ In fact the passage is better rendered "It is the hungry man's bread that you withhold" since Aquinas uses the possessive *Esurientium panis* rather than some Latin word meaning "belongs." My point is therefore that Aquinas interprets the use of the possessive case in this passage.

The exact provenance of the passage is difficult to ascertain. Aquinas's text at this point indicates that he knows the passage from the *Decretum Gratiani* where it is

Even so, Aquinas's picture of someone administering his superabundant goods to satisfy the needs of the poor is very suggestive. Perhaps his place could be taken by a *government* administrator. And perhaps Aquinas's theory can be "recast" or "translated" without significant alteration so that it contains the stronger sense of "common property" that government redistribution presupposes.

The problem with this suggestion is that the way in which Aquinas says that goods are to be used for the benefit of the poor—by the judgment or discretion of the person possessing them in superabundance—is essential to his property theory. To replace the person in question with a government administrator and to make his goods society's property would not be to "translate" Aquinas's view or to draw out "its *ad rem* implications" (139). It would be to distort Aquinas's theory profoundly.

Briefly put, Aquinas, following Aristotle, thinks that development and exercise of the virtues are among the reasons people live in political society. To structure political society so that significant opportunities for virtuous activity are lost is therefore to put in place a political society that thwarts what Aquinas would regard as one of its own fundamental purposes. Now consider a government that forcibly confiscates property through taxation backed by coercion and that effects "systematic redistribution" (145). Such government activity clearly restricts the scope of the personal judgment in the redistribution of

quoted and explicitly attributed to Ambrose (Gratian [1140] 1879 c.1, d.47). Aquinas undoubtedly accepted the veracity of the *Decretum's* attribution of the words to Ambrose's Sermon 81 on Luke 12:18. Unfortunately, I have been unable to locate a copy of this sermon. Volume 17 of Migne 1845, where one would naturally expect to find the homily, seems not to contain it. A footnote to II-II 32 in the Blackfriar's edition of the *Summa Theologiae* (1975, vol. 34) locates the sermon at Migne 1845, 17:613-14, but since editions of Migne differ in both composition and pagination, I have been unable to find it.

Two problems account for the difficulty of locating the sermon. First, while the number 81 assigned the sermon by the traditional *ordo antiqua* is widely accepted, other systems for numbering Ambrose's sermons seem also to be employed. Second, scholars dispute whether the sermon in question is authentically Ambrose's. On this dispute and the consequent omissions of Sermon 81 from some editions of Ambrose's collected works, see Gratian [1140] 1879, 171 n. 72.

The passage Aquinas quotes and attributes to Ambrose bears an extremely close resemblance to a remark in Basil's Homily 6 on the same scriptural passage. Quite possibly Ambrose read Basil's homily in the Greek, translated it loosely without attribution, and incorporated it into his own sermon. At *S.T.* II-II 32.5 *ad* 2 Aquinas quotes the relevant passage from Basil in a Latin translation that does not coincide with Ambrose's paraphrase. He does not indicate whether he is aware that Ambrose drew on Basil, though after quoting Basil he notes that "Ambrose says this same thing" and alludes to the passage in the *Decretum*. Basil's sermon can be found at Migne 1885, 31:277-78.

one's own goods that Aquinas mentions in II-II 66.7. However, Aquinas thinks that by exercising this discretion or judgment, one develops and exercises a number of virtues to which he attaches great importance. Government confiscation and redistribution of property for the benefit of the poor thus thwarts one of the purposes Aquinas ascribes to political society.

Does Aquinas regard the exercise of judgment in the distribution of one's own goods as an opportunity to develop and exercise the virtues? Aquinas's perfunctory allusion to this judgment in II-II 66.7 can only be interpreted properly if read in conjunction with II-II 71.1 and II-II 32.5. In the former of these passages, Aquinas discusses mutual aid at some length. In the latter, he also discusses mutual aid and analyzes "superfluity" or "superabundance," a notion left unanalysed in II-II 66.7. It is to these that we must turn to determine why exercise of and acting on the judgment mentioned in 66.7 should be considered virtuous.

In II-II 32.5 Aquinas explicitly says that giving away what one has in superabundance is an act of virtue. His subsequent discussion shows why he thinks this is so. According to that discussion, determining just what one has in superabundance (and thus what one is required to give away by 32.5 and 66.7) requires quite sophisticated judgment. The benefactor must determine what is necessary to sustain herself and what is needed by all those "whose care is incumbent upon her."

As Aquinas hastens to add, determining what persons need is no easy matter: benefactors need not give away all property above what they and their families need for bodily survival. It is morally permissible, Aquinas says, to live "according to [one's] station." Property judged necessary for this, even if not needed for bodily survival, need not be given away, as Aquinas makes clear in II-II 32.6. Deciding to whom to give one's superfluous goods and how much one must give to each of the recipients also requires sophisticated judgment. General conditions concerning to whom aid is owed are laid down in II-II 71.1 and are explicitly applied to material aid in the *corpus* of II-II 32.5 and in the responses to objections 2, 3, and 4. Exercising the judgment to which Aquinas alludes in II-II 66.7 therefore requires significant exercise of practical wisdom.

Acting on the judgments of practical wisdom also draws on and exercises the virtues. Giving away one's superfluous goods is an act of justice, as the location of II-II 66 in Aquinas's discussion of that virtue shows. Voluntarily giving away one's own goods requires that one not be unduly attached to them and that one be appropriately affected by the plight of another. This act of justice thus presupposes acts of the

virtues of liberality and mercy, as Aquinas notes in II-II 117.5 *ad* 1 and 3.

By setting a tax rate, the government restricts the citizen's opportunity to decide how much of her income is to be given to the poor. By redistributing tax revenues, the government rather than the citizen determines who is to receive goods the government deems held in superabundance.⁵ A welfare state is therefore a state which restricts citizens' opportunities to exercise the virtues of practical wisdom, justice, mercy, and liberality. The more effective the welfare state, the more sharply restricted are these opportunities. In a maximally effective welfare state with a sound health care system and a maximally attentive bureaucracy, there would—*per impossibile*—be no opportunity at all to exercise these virtues by benefitting the poor because there would be no poor. I am not, of course, arguing that Aquinas thinks that there should be poor people just so that those with superfluous goods have the opportunity to benefit them. To impute this claim to Aquinas would be to require him to object to the limitless plenty of the state of innocence on the grounds that, had original sin not been committed, there would have been no poor to be benefitted.⁶ I assume that Aquinas takes moderate scarcity of material goods (for this notion, see Rawls 1971, 127f.) to be a permanent feature of our fallen condition. The issue that divides Aquinas from the welfare state theorist is the mechanism by which scarce goods should be redistributed and poverty ameliorated.

⁵ Aquinas does not envision a state of affairs in which there are no mechanisms for enforcing the moral obligation to help the poor. Since he argues that giving away one's superfluous goods is an act of justice, Aquinas presumably thinks that those who fail to do so sin seriously and perhaps mortally. Perhaps he thinks that fear of divine sanction for serious or mortal sin would strongly influence people to help the poor with their superfluous goods. Perhaps he thinks that citizens would regularly and forcefully be reminded by the church both of their obligations and of the operation of divine sanctions. However, even the presence of such mechanisms leaves significant scope for development and exercise of the virtues. Divine sanctions backed up by ecclesiastical exhortation and enforcement still leave individuals some scope for judgment in deciding how much they hold in superfluity and a great deal of latitude in deciding which of the poor to benefit. These opportunities are not present in a welfare state with a fixed tax rate used to fund entitlement programs. Thanks are due to Eleonore Stump for this important point.

⁶ Aquinas, of course, did not think the fall inevitable. He, like Bonaventure and other scholastics, was quite interested in what would have happened had original sin not been committed and had innocents multiplied to fill the earth. The most famous of his speculations occurs at *Summa Theologiae* I 96.4, where Aquinas argues that even innocents would have needed to be ruled by political authority.

The welfare state theorist argues for “systematic [government] redistribution” (145). Aquinas, because of the importance he attaches to the exercise of the virtues in political society, would argue instead for a political structure in which poverty is ameliorated by citizens performing works of mercy and justice. Such a state, he would argue, is not only of benefit to the poor; it also benefits the benefactors by affording them the opportunity to exercise the virtues.

This reading of Aquinas is not without precedent in recent social ethics. Peter Maurin, co-founder of the Catholic Worker movement, argues that what he calls “social reconstruction” should be effected by individuals performing the works of mercy, rather than by government redistribution (Maurin 1934). Among the reasons he favors individual action to help the poor is that it gives the benefactors the opportunity to be good. It is in part because Maurin finds these ideas in Aquinas’s social thought that he finds Aquinas’s work so attractive (for Aquinas’s influence on Maurin, see Ellis 1981, 180 n. 30).

I have argued, then, that according to Aquinas’s theory of property, the poor are to be cared for by others’ exercise of the virtues and performance of works of mercy. His is therefore a theory fundamentally at odds with government redistributivism or welfarism. Claiming, as Lustig does, that the “moral force” of Aquinas’s property theory is best expressed or “translated” into programs of government redistribution seriously distorts his thought.

4

It might be objected that by stressing the importance of discretion and individual judgment in the care of the needy, as he does at II-II 66.7, Aquinas makes relief of the poor an act of supererogation. Indeed, there are passages suggesting that Lustig believes an act is supererogatory if it is discretionary.⁷ Aquinas, the objection might continue, is no libertarian and cannot have intended that poverty be alleviated only through the performance of supererogatory acts. My interpretation, hinging as it does on the remarks about individual judgment in II-II 66.7, must therefore be incorrect.

⁷ He contrasts justice and “discretionary charity” early in his paper (119), and near the end of his paper he contrasts “the language of justice” with “our usual notions of discretion involved in discharging the duties of charity” (144). Belief in a necessary connection between discretion and supererogation together with concern to establish that Aquinas holds care for the poor to be obligatory may jointly explain why Lustig omits the crucial passage about discretionary judgment from his own quotation of II-II 66.7.

The crucial premise in this objection is the claim that discretionary acts, acts requiring the exercise of judgment, are *ipso facto* supererogatory. The fact that an act is discretionary, however, does not entail that it is supererogatory, as a simple example makes clear. Though I exercise discretion when I vote for one among a number of candidates in a free election, it certainly does not follow from that fact that voting is supererogatory.⁸ Similarly, Aquinas says, person A should exercise discretion or judgment in deciding to which of the many needy she will give her superfluous goods. It does not follow from that that A's giving her superfluous goods away is supererogatory. The premise on which the objection rests is therefore mistaken.

That premise seems plausible only if two ways in which an act can be discretionary are confused. An act is discretionary in one sense just in case the act belongs to some species S such that the agent is under no obligation to perform any act that belongs to S. Acts falling under the counsels of perfection are discretionary in this sense. An act is discretionary in another sense just in case (1) it belongs to some species S' such that the agent is obligated to perform some act or other belonging to S' but (2) there is no particular act belonging to S' that the agent is obligated to perform since any of a number of acts can satisfy the obligation. Acts discretionary in the first sense are supererogatory; those discretionary in the second sense, of course, are not. Aquinas would say that giving away one's surplus goods is discretionary in the second sense rather than the first.

It might also be objected that alms-giving is an act of charity and is therefore supererogatory. The use of surplus goods to aid the poor, as this use is discussed in II-II 66.7, is a requirement of justice. My reliance on II-II 32, which treats of alms-giving, to illuminate II-II 66, which occurs in Aquinas's treatment of justice, might therefore be thought to blur the important distinction between required redistribution and supererogatory alms-giving.

This objection, too, is mistaken. Aquinas clearly distinguishes required from supererogatory alms-giving at II-II 32.5. Immediately after drawing this distinction, he analyzes the notion of superfluity and the conditions on mutual aid. These analyses, I have argued, illustrate the complexity of the judgment made by someone giving alms. Aquinas's discussion makes it clear that he is talking here about those who are giving alms to fulfill the *moral requirement* that they give away their superfluous goods. As if to drive home the points that not all

⁸ Voting may be supererogatory, but it is not the voter's exercise of informed judgment in choosing among candidates that makes it so. If it did, then people would be obligated to cast their votes if and only if a single candidate were running for election.

alms-giving is supererogatory and that II-II 32.5 bears on II-II 66.7, as I have claimed that it does, Aquinas refers at 32.5 *ad 2* to the passage from Ambrose that he quotes at 66.7. Nothing in my interpretation implies, therefore, that Aquinas thinks that using one's surplus to meet the needs of the poor is supererogatory.

It might, however, be objected that Aquinas's property theory, as I have interpreted it, is simply impractical. The political and economic structures of the First World have created enormous inequalities of income and wealth, and millions around the planet live in dire want. It is illusory and foolish, it might be argued, to suppose that poverty can be eliminated or significantly ameliorated by individuals performing the corporal works of mercy, even if most of those with superfluous goods were inclined to perform them, which they conspicuously are not. The only way to alleviate poverty, it might be concluded, is to provide "specific welfare guarantees" (144) through "systematic redistribution" (145). It might seem a virtue of Lustig's interpretation that, rather than marginalizing Aquinas's work, he has shown its contemporary relevance by locating the work in a tradition that expresses its "moral force" by so "translating" it that it legitimates just such government redistribution.

The claims that, given current economic and political conditions, poverty can only be alleviated through massive redistribution of income and wealth and that poverty will not be significantly reduced by individual performance of the works of mercy are quite plausible. It does not follow, however, that we can or should "recast" or "translate" Aquinas's property theory to legitimate government redistribution.

The fact that Aquinas's discussion of justice cannot be pressed into service to legitimate government redistribution does not imply its irrelevance to "the stratified interdependence of modern economic life" (144). Aquinas's political thought, which accords a central place to the development and exercise of the virtues in social life, furnishes the intellectual resources for thoroughgoing social criticism of modern economic and political structures. Aquinas could surely criticize these or any structures for leaving so many in want, a criticism in which Lustig would presumably join him.

Aquinas also has grounds for further criticism: these structures are such that the preferred solution to poverty cannot work. Aquinas would argue that political society ought to allow ample scope for the development and exercise of the virtues, that it should be structured in such a way that virtuous activity is for the most part effective, that it should not generate massive inequalities of income and wealth, that it should not leave millions in dire poverty, and that what poverty there is should be susceptible to alleviation by the just activity of those

with surplus goods. If contemporary social and political structures depart from these norms, then they are to be criticized for their departures.

These may not be all of the norms that Aquinas would impose on political society. Defending these norms and enumerating others would require appealing to a great deal of his political and moral thought. Surveying all the grounds for Aquinas's claim that political life should permit exercise of the virtues would, for example, require explicating his notoriously elusive discussions of the common good, its centrality to a good citizen's structure of motives, and the perfection of legal justice by charity. Substantiating the claim that he thinks inequalities of wealth should be restricted even in agricultural societies would require exegesis of his treatment of the Mosaic law.⁹ I cannot, of course, undertake this exegetical work here. My point is merely that Aquinas's work provides ample resources for developing a model of social life that is very different from "modern economic life" and, therefore, for illuminating the shortcomings of the latter. Far from being irrelevant to modern economic life, Aquinas's political thought permits construction of an ideal that can be critically and instructively compared with structures that generate the very conditions government redistribution seeks to improve.

A number of distinguished disciples of Aquinas, from activists Dorothy Day and Peter Maurin to philosopher Alasdair MacIntyre,¹⁰ have eschewed constructive political theory addressed to the modern world. Instead they have employed Aquinas's moral and political thought as the foundation for their social criticism. Their efforts have proven extraordinarily fruitful for the theory and practice of religious ethics. The possibility of reading and employing Aquinas in this way is unfortunately obscured if his views are employed—even via Locke—to legitimate contemporary welfarism.

⁹ That Aquinas thinks massive and persistent inequalities improper is suggested by his approval of Old Testament laws requiring the community of Israel to return property to its original owners every fifty years; cf. I-II 105.2. I cannot interpret Aquinas's arguments here, but see Kries 1990.

¹⁰ For a concise statement of MacIntyre's position as critic of "the political, economic and moral structures of advanced modernity," rather than as a communitarian political theorist, see MacIntyre 1991.

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