

## BOOK REVIEWS

essays, they serve as a strong reminder of certain large gaps in value theory, and thus of the need for further research both external and internal to preference theories. Externally, further investigation is obviously needed of how values and reasons might be grounded independently of preferences. Internally, the questions prompted by these essays indicate that more exploration is needed of the limits of preference theories themselves. Broome's problem of fine individuation, for instance, may seem to pose only a bare theoretical challenge to preference theories: most people's preferences are simply not so fine-grained. How damaging would it be to moderate Humeanism if the ability of decision theory to constrain preferences depended partly on contingent facts about our systems of preference? Could a corrected preference view incorporate something akin to Broome's rational principles of indifference? Sumner's arguments invite the question whether preference theorists might succeed in delimiting a subset of preferences that could properly be identified with a person's well-being. Finally, Copp's picture of how needs figure in practical reasoning is intriguing, yet a question remains about whether needs can be encompassed within a preference theory. Although the status of something as a basic need may not depend on its being desired, the status of the reasons furnished by needs may depend on a connection to desire. Those things that we need will also (generally) be those things for which we have especially stable and strong desires. If this were not so, it seems unlikely that needs could provide the potent considerations in practical reasoning that Copp depicts them as providing.

The foregoing remarks, of course, do not begin to cover the many issues explored in and raised by the essays in this volume. It should be of real interest to anyone working in the relevant areas of value theory.

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*LEGISLATIVE INTENT AND OTHER ESSAYS ON LAW, POLITICS AND MORALITY*. By GERALD C. MACCALLUM JR. Ed. MARCUS G. SINGER and REX MARTIN. Madison: University of Wisconsin Press, 1993. Pp. xxxii, 277.

Gerald MacCallum taught philosophy at the University of Wisconsin from 1961 until 1977. The stroke he suffered in that year prevented him from further teaching. He continued to write, even through the crippling effects of a second stroke, until his death in 1987. His final project was the Prentice Hall Foundations in Philosophy book, *Political Philosophy*. The present collection brings together papers, published and unpublished, spanning his writing career. I hope in this short space to convey some bigger, largely



#### BOOK REVIEWS

tacit themes underlying MacCallum's penetrating but humble attention to detail and distinctions.

Two of the papers are well known: "Legislative Intent" (1966), and especially "Negative and Positive Freedom" (1967). The former piece criticizes arguments to the effect that since legislatures could not have intentions, judicial interpretation of statutes ought not to appeal to legislative intent. In the latter article MacCallum tries to transcend the influential dichotomy between "negative freedom" (freedom from interference by another) and "positive freedom" (freedom to do something). Building on work of Felix Oppenheim, MacCallum argues that there are not two fundamentally different kinds. Freedom is "always of something (an agent or agents), from something, to do, not do, become, or not become something; it is a triadic relation" (87). His analysis has been influential. For example, Rawls relies on it in *A Theory of Justice* to avoid intractable disputes about the definition of the terms "freedom" or "liberty" (Rawls, 201-2). As Rawls shows, MacCallum's triadic analysis does not settle the underlying disputes about liberty, but it shows them for what they are: moral, not linguistic or conceptual, disputes.

The remaining twelve papers hang together (with some exceptions) in their concern for the relationship between conscience and conflict in political contexts. MacCallum does not eschew conflict between people, and is patient with the possibility that political action can defensibly be sometimes uncivil or even violent. He is less sympathetic to the idea that we must each be in conflict with ourselves, or that as a culture our ideals must conflict with each other. In "Berlin on the Compatibility of Values, Ideals, and 'Ends'," provoked again by Isaiah Berlin, MacCallum resists the sad thesis that worthy ends, values, and ideals must inevitably conflict.

Take the example of justice and progress. For clarity, let's mean distributive justice and aggregate economic progress. For simplicity let us assume that these conflict in the sense that some level of aggregate economic advancement is possible only by violating distributive justice. (Now? Forever? This is one of several ambiguities in Berlin to which MacCallum usefully calls attention.) It follows that perfect justice is only possible at the expense of progress. Is this the conflict of two "ideals" or, rather, of two good things? One of MacCallum's points is that this is far from clear. Having justice or progress as a personal or a societal ideal is not necessarily to value unlimited justice at the expense of progress, or unlimited progress at the expense of justice. So even if justice and progress conflict in this way, it does not follow that our ideals conflict.

A related possibility, not mentioned by MacCallum, is that there is no such thing as justice at the expense of progress, or progress at the expense of justice. For example, suppose that the very idea of economic progress respected the requirements of justice: Suppose that if a distribution included



BOOK REVIEWS

inequality beyond a certain extent, then it would not count as progress, no matter how high the sum or average of individual utility might rise. Then justice and progress would be in perfect harmony, not only as they figure in our ideals, but in themselves.

A Berlinean (*Ich bin nicht*) might contend that this is artificially defining the concepts so as to harmonize them. But what is artificial about it? It would be artificial only if it were beyond dispute that a higher sum or average utility really would be better whatever its bearing on distributive equality. This is not something Berlin ever argued for, and it is debatable. One has to conceive of the values of justice and progress in a certain crude and narrow way to generate the Berlinean tragedy, and it hardly seems worth it.

This parallels a point about the moral virtues. Do the virtues of benevolence and justice conflict? It's true that unbridled pursuit of the good of others would be incompatible with the virtue of justice, but that is not a virtue. The person who refuses to hang an innocent man even to prevent his mistaken accusers from killing several people is not less benevolent than a person who would hang him, even though his pursuit of the good of others is less unbridled. It is not clear, then, that the virtue of benevolence does conflict with the virtue of justice. (Phillippa Foot explores these points to profound effect in "Consequentialism and the Virtues.")

Berlin's other influential claim that many values are incommensurable is logically independent of the claim that they conflict. It may be impossible to compare the values of justice and progress, even when they have been maximally achieved. Incommensurability of two values does not imply that they conflict.

Most of the eleven remaining papers take up problems concerning the relationships between law, coercion, conscience, resistance, and violence. This nest of topics was more popular in the turbulent period when MacCallum wrote the essays: roughly 1965 to 1975. Nevertheless, the essays are not about the special events of those years in America. They go to the heart of the moral relationship between a conscientious citizen and any modern state. The essays are not about what our collective purposes should be, but about the challenges to personal integrity and good conscience posed by the processes and requirements of modern law and government. The arguments are subtle and perceptive, while the conclusions incline to the morally hopeful: Our values and ideals can cohere even under the pressure of modern political life, and even under close intellectual scrutiny, if the scrutiny is careful and the complexity of the issues is fully appreciated. Integrity does not depend on naiveté; complexity is the friend of coherence. This is a broader, more general statement than the author would make. Nevertheless, the book will surely interest anyone who wonders whether it is a claim that can be sustained.

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