
A TREATISE OF LEGAL PHILOSOPHY
AND GENERAL JURISPRUDENCE

Editor-in-Chief: Enrico Pattaro

Volume 6

A History of the Philosophy
of Law from the Ancient
Greeks to the Scholastics

edited by

Fred D. Miller, Jr.

and

Carrie-Ann Biondi

Second Edition

 Springer

A Treatise of Legal Philosophy and General Jurisprudence

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A History of the Philosophy of Law from the Ancient Greeks to the Scholastics

A Treatise of Legal Philosophy and General Jurisprudence

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edited by

Fred D. Miller, Jr.

Bowling Green State University and University of Arizona, USA

and

Carrie-Ann Biondi

Marymount Manhattan College, USA

with contributions by

Mahesh Ananth, Thomas M. Banchich, Annabel Brett, Charles E. Butterworth,
Janet Coleman, Michael Gagarin, Brad Inwood, Anthony J. Lisska, Roderick T. Long,
John Marenbon, Fred D. Miller, Jr., Charles J. Reid, Jr., Richard F. Stalley,
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GENERAL EDITOR'S PREFACE TO THE HISTORICAL VOLUMES OF THE TREATISE

In the preface to Volume 7 of this Treatise, Andrea Padovani and Peter Stein point out that the volume purposely omits to treat the rationalistic natural-law school of the 17th and 18th centuries, this despite the volume being entitled *The Jurists' Philosophy of Law from Rome to the Seventeenth Century*. This is how they explain why Volume 7 does not, despite its title, discuss Grotius (1583–1645) and the so-called natural-law school:

It is not by any accident that we have omitted to treat [...] the rational school of natural law. True, this school must be credited with affording the best innovation that juristic reflection would see in seventeenth-century Europe. But then an enquiry into the doctrines of the natural-law theorists would take us too far from our main focus, which is the *jurists'* philosophy of law. Now, it is well known that not only the jurists contributed to bringing out the new natural law, but also philosopher-jurists and philosophers tout court. Exemplary in this regard is Hugo Grotius. He was not a philosopher and had no philosophical interests properly so called, *yet he grounded the validity of his thought on a whole series of speculative questions* that cannot be ignored. In short, given any problem, such as defining “just war,” the solution for it had to be forged on philosophical grounds, and only then would it find confirmation or validation through the authority of the *ius commune*. This procedure was common to the entire modern school of natural law. [...] The exponents of this scientific movement forsook all interpretive activity (no longer deemed useful) devoting themselves instead to the effort of “discovering” a new law, a law capable of sustaining each nation, and the family of nations, in its future course. The natural-law theorists found that the source of law no longer lay in the *Corpus Iuris Civilis* or the *Corpus Iuris Canonici*, but rather lay in the “nature of things,” the only standard, certain and constant, by which to assess human behaviour. Thus, we no longer see in their treatises any mention of the methods of textual interpretation—no *argumenta* or *loci* devoted to that subject—which for three centuries had been the focus of the commentators and their exegesis. And not just anciently, either: most of the modern European jurists who practised law continued to be faithful to the canons of that long tradition. (Volume 7 of this Treatise, XIV–XV; italics added on first and second occurrence; in original everywhere else)

This passage contributes to illustrating the guidelines adopted in planning out the eleven volumes making up this Treatise, and the historical volumes in particular (Volumes 6 through 11). Indeed, in the preface to the theoretical volumes of this Treatise (Volumes 1 through 5), I indicate, on page XXI of Volume 1, that among the distinctions that from the outset served as guiding principles at the meetings held to plan out the Treatise project was the distinction (tracing back to Norberto Bobbio) between the *philosophers'* philosophy of law and the *jurists'* philosophy of law. Accordingly, the first of the historical volumes—Volume 6, entitled *A History of the Philosophy of Law from the Ancient Greeks to the Scholastics*, edited by Fred D. Miller, Jr. and Carrie-Ann Biondi—is dedicated to the *philosophers'* philosophy of law from ancient Greece to the 16th century, and spans from the early Greek thinkers to early

modern Scholasticism. And the second of the historical volumes, Volume 7 (entitled *The Jurists' Philosophy of Law from Rome to the Seventeenth Century*, and edited by Andrea Padovani and Peter Stein) is dedicated precisely to the subject stated in its title, namely, the *jurists'* philosophy of law, and as such acts as a complement to Volume 6.

Then, too, there emerges from the previously quoted passage by Padovani and Stein a further kind of philosophy of law which came to bear in planning out the historical volumes of this Treatise. In fact, alongside the *philosophers'* philosophy of law and the *jurists'* philosophy of law, we thought it appropriate to introduce the *legal philosophers'* philosophy of law: the philosophy of law par excellence. Prior to the modern era there was no distinct discipline that could be called "legal philosophy": It was only in the modern age that thinkers began to view themselves as legal philosophers.¹

For a long time, and in particular in the reaction that German legal positivism mounted against it, the "rational school of natural law" (as Padovani and Stein call the rationalistic natural-law theory of the 17th and 18th centuries) was regarded as *the* philosophy of law, meaning the *legal philosophers'* philosophy of law: It was regarded as the *Rechtsphilosophie* par excellence. (*Rechtsphilosophie* is a German expression that, in the light of what I maintain in Volume 1 of this Treatise, would be better translated to "the philosophy of what is right.") In this sense, the philosophy of law of the rationalistic natural-law school was the first classic instance of what I am calling here the legal philosophers' philosophy of law. Now, there are of course theoretical differences that distinguish these legal philosophers from one another, but then they all laid at the foundation of their doctrines a series of speculative questions from which they derived systems of ethics *ordine geometrico demonstrata* (Benedict de Spinoza, 1632–1677) or systems of natural law *methodo scientifica pertractatum* (Christian Wolff, 1670–1754). In other words, citing the title of a work by Wilhelm Leibniz (1646–1716), one of the fundamental aspects characterising the rationalistic natural-law school is a *nova methodus discendae docendaeque jurisprudentiae*, a new method for learning and teaching legal science, a method that leads to a systematic construction or reconstruction of law.²

¹ I am using here a formulation kindly suggested to me by Fred Miller, Jr.

² "The *Nova methodus* is aimed at reducing law to systematic unity, this by giving legal material an order that ascends to simple principles from which to obtain exceptionless rules. This material is, again, Roman law [it is so in Leibniz's *Nova methodus*, but not with any of the other exponents of the new natural-law theory], the law which at that time [when Leibniz was writing] was in force in Germany as the *ius commune*, but a *ius commune* reordered on the basis of a new method, a method using which the law can be rationalized and hence endowed with the unity which in the Justinian system it lacked. The system Leibniz envisioned and put forward must be such that, as a complete whole, it provides a solution for each question, and must do so through precise arguments expressed in a rigorous language, on the model of logical-mathematical procedure" (Fassò 2001, 189; my translation; cf. also *ibid.*, 186).

The rationalistic natural-law school—traditionally made to begin with Grotius—developed in the 17th century and received its classic Enlightenment form in the 18th century: It was the first philosophy of law to be considered a legal philosophy par excellence, the legal philosophers' philosophy of law.

The second classic instance of a legal philosophers' philosophy of law in the history of legal thinking was, ironically, German legal positivism itself, which proclaimed the end of the legal philosophers' philosophy of law as embodied in the rationalistic natural-law theory of the 17th and 18th centuries and replaced it with the *Allgemeine Rechtslehre*, that is, with the general doctrine, or theory, of law.³

Hence, from the 17th to the 19th century, the legal philosophers' philosophy of law (understood as legal philosophy par excellence) developed in various forms, and took different names, following a formalistic path and taking as well a strong systematic approach: It runs from the so-called natural-law school to the legal positivism of German inspiration.

This last orientation, in turn, German formalistic and systematic legal positivism, reached its most refined version in the 20th century, with Hans Kelsen (1881–1973), who gave us a very sophisticated representation of *the legal system*—a glorious and fragile representation of *das Recht* (“what is right”) *als Rechtsordnung* (“as a system of what is right”) that had the strengths and the weaknesses of a daring cathedral of crystal.

In the second half of the 20th century, Kelsen's formalistic legal positivism spread not only in civil-law countries (even outside of Europe: in Latin America, for example), but also, in some measure, in common-law countries, this on account of the influence that Kelsen's work and thought had beginning from the time of his emigration to the United States. Of course, as is well known, there is a native and very important empiricist legal positivism in Anglophone countries that traces back at least to Hobbes and was then developed in the so-called analytical jurisprudence, whose fathers are Jeremy Bentham (1748–1832) and John Austin (1790–1859).⁴

If we go back now to the observations made at the beginning of this preface, we can see that Volumes 6 and 7 bring out the twofold distinction (tracing back to Bobbio) between the philosophers' and the jurists' philosophy of law in a complementary fashion: Volume 6 (edited by Fred D. Miller, Jr. and Carrie-Ann Biondi) is mainly a history of the philosophers' philosophy of law from the early Greek thinkers to the 16th century; and Volume 7 (edited by

³ Or again, we might call this the “general doctrine of what is right,” in keeping with the view I argued in Volume 1 (and in particular in Chapters 1 and 14) of this Treatise.

⁴ I just qualified Anglophone legal positivism as “empirical” and did so to stress its difference from the German-inspired legal positivism of Europe, which by contrast is formalistic. I will not enter here into any detail, as into American and Scandinavian legal realism, since these matters I leave to the discussion in Volumes 8 through 11.

Andrea Padovani and Peter Stein) is dedicated to the jurists' philosophy of law from Rome to the 16th century, and as such acts as a complement to Volume 6.

In Volumes 8 through 11, dedicated to the period running from the 17th to the 20th century, the underlying distinction is, instead, the threefold distinction sketched above between the philosophers', the jurists', and the legal philosophers' philosophy of law. These three philosophies of law are present in various forms in these volumes, however much not always in explicit distinction from one another, the reason being that the distinction was meant to be a principle for each author to interpret freely, according to his view of the purposes and contents of his volume. Volume 8 is a history of the philosophy of law in common-law countries from the 17th to the 19th century and, as is observed by its author, Michael Lobban, it is "primarily concerned with jurists' and legal philosophers' understandings of law, rather than with those of philosophers." Volume 9 is a history of the philosophy of law from the 17th to the 19th century in civil-law countries. Volume 10 can be considered in the first instance an ideal continuation of Volume 6, and hence a history of the philosophers' philosophy of law from the 17th to the 20th century, but it also discusses some thinkers, such as Grotius and Pufendorf (1632–1694), whose philosophy of law we might properly describe as a legal philosopher's philosophy of law. Volume 11, the last of the Treatise volumes, is concerned with 20th-century philosophy of law overall, in civil-law and common-law countries alike.

For the background leading up to the Treatise, and for the acknowledgements, I refer the reader to Sections 2 and 3 of the editor's preface to the five theoretical volumes, a preface found in Volume 1. The assistant editor's preface, by Antonino Rotolo, also in Volume 1, presents, instead, the editorial rules on which the Treatise is based.

In fine, I should like to take the opportunity of this preface to note that it would not have been possible to carry through the Treatise project without the care and farsightedness of the people at the publishing house (initially Kluwer, now under Springer). I have fond memories of a meeting I had, in 1995, with Alexander Schimmelpenninck and Hendrik Van Leusen. A word of thanks goes also to those at Springer who have since been entrusted with the Treatise project.

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PREFACE TO VOLUME 6

(SECOND EDITION)

We thank everyone who helped with the creation of this volume, beginning with the authors, who wrote excellent drafts and revised them in response to editorial suggestions. Most of the authors and several discussants convened at two symposia, chaired by Douglas B. Rasmussen, to discuss early drafts and plans for this volume. We gratefully acknowledge the support of the Liberty Fund (and especially Douglas Den Uyl and Emilio Pacheco) for holding these symposia and releasing the copyright of the papers so that they could be published here.

In addition to the authors, the following individuals provided advice and comments on the manuscripts: Kevin Crotty, Richard Epstein, John Haldane, Richard Helmholz, David Keyt, Louis Lomasky, Phillip Mitsis, Charles Nalls, Gerald Postema, Anthony Preus, Sam Silverman, Stephen Sheppard, Christopher Shields, Leonidas Zelmanovitz, and Michael Zuckert.

Mahesh Ananth compiled the initial bibliography and abbreviations, and Galen Foresman and Pamela Phillips corrected the page proofs. The staff of the Social Philosophy and Policy Foundation provided logistical support for both editions of this volume.

This second edition became necessary after questions arose concerning Chapter 14 of the first edition submitted by Martin Stone. We were informed by the Katholieke Universiteit Leuven that, following an investigation of allegations of plagiarism against the author, it had retracted its affiliation with the publication. The unfortunate affair is documented in an article, “40 Cases of Plagiarism,” by M. V. Dougherty, P. Harsting, and R. L. Friedman in *Bulletin de Philosophie Médiévale* 51 (2009), 350–91. The editors extend their apologies to the authors whose work was inappropriately used and to readers who were misled. We are grateful to Enrico Pattaro and to Springer for making every effort to rectify the problem, including the publication of this replacement volume. We also thank Annabel Brett for contributing a new Chapter 14, which is an excellent original treatment of the later scholastic legal philosophers.

Finally, we again express our admiration and gratitude to Professor Pattaro and his staff at the University of Bologna for expertly orchestrating the monumental Treatise of which this volume is a part.

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ABBREVIATIONS

ACRONYMS FOR MODERN SERIES OR COLLECTIONS OF TEXTS

CC	<i>Corpus Christianorum Continuatio Mediaevalis</i>
CSEL	<i>Corpus Scriptorum Ecclesiasticorum Latinorum</i> (Vienna and Leipzig)
CTh	<i>Theodosian Code=Theodosiani Libri XVI</i> (Mommsen and Meyer 1954/ trans. in Pharr 1952, reproduced 1969).
Diehl	Ernestus Diehl, ed., <i>Anthologia Lyrica Graeca</i> (Leipzig: Teubner, 1952)
DK	H. Diels and W. Kranz, <i>Die Fragmente der Vorsokratiker</i> , 3 vols., sixth edition (Berlin: Weidmann, 1951–1952)
IC	F. Halbherr, <i>Inscriptiones Creticae</i> (Rome: Libreria dello Stato, 1935–)
IG	<i>Inscriptiones Graecae</i> (Berlin: G. Reimer, 1873–)
PL	J. P. Migne, ed., <i>Patrologia Latina</i> (Paris: Migne, 1854–1856)
POxy.	B. P. Grenfell and A. S. Hunt, eds., <i>Oxyrhynchus Papyri</i> (London: Egypt Exploration Fund, 1898).
SVF	J. von Arnim, <i>Stoicorum Veterum Fragmenta</i> , 3 vols. (Leipzig: Teubner, 1903–1905)

ABBREVIATIONS FOR ANCIENT AND MEDIEVAL TEXTS

Aeschylus

<i>Eu.</i>	<i>Eumenides</i>
<i>Supp.</i>	<i>Suppliants</i>

Alcinous

<i>Did.</i>	<i>Didaskalikos</i>
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Alfarabi

<i>Aphorisms</i>	<i>Selected Aphorisms</i>
<i>Virtuous City</i>	<i>Principles of the Opinions of the Inhabitants of the Virtuous City</i>

Ambrose of Milan

Off. *De Officiis Ministrorum*
Ep. *Epistles*

Anon. Iamb. *Anonymous Iamblichi*

Aristotle

An. Pr. *Analytica Priora*
Ath. *Athênaiôn Politeia*
Cael. *De Caelo*
Cat. *Categories*
de An. *De Anima*
EE *Eudemian Ethics*
EN *Nicomachean Ethics*
GA *De Generatione Animalium*
MA *De Motu Animalium*
Metaph. *Metaphysics*
MM *Magna Moralia*
PA *De Partibus Animalium*
Phys. *Physics*
Pol. *Politics*
Rhet. *Rhetoric*
Rhet. Al. *Rhetorica ad Alexandrum*
SE *Sophistici Elenchi*
Top. *Topics*

Athenaeus

Deipn. *Deipnosophistae*

Augustine of Hippo

CD *De Civitate Dei (City of God)*
Conf. *Confessions*
Lib. Arb. *De Libero Arbitrio (On Free Will)*
Op. Mon. *De Opere Monachorum*
Enarr. in Psal. *Enarratione in Psalmos*
Ench. *Enchiridion*
Ep. *Epistolae*
Faust. *Contra Faustum Manichaeum (Against Faustus the Manichean)*

Iohann. Evangel. *Tractatus in Iohannis Evangelium*
Questions *De Diversis Quaestionibus*

<i>Sermo</i>	<i>Sermones</i>
<i>Sol.</i>	<i>Soliloquia</i>
<i>Trin.</i>	<i>De Trinitate</i>

Averroes (Ibn Rushd)

<i>Republic</i>	<i>Commentary on Plato's Republic</i>
<i>Rhetoric</i>	<i>Middle Commentary on Aristotle's Rhetoric</i>

Avicenna (Ibn Sīnā)

<i>Epistle</i>	<i>Epistle on the Divisions of the Intellectual Sciences</i>
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Bible

Cor.	Corinthians
Deut.	Deuteronomy
Exod.	Exodus
Ezek.	Ezekiel
Gal.	Galatians
Gen.	Genesis
Heb.	Hebrews
Jer.	Jeremiah
Lev.	Leviticus
Macc.	Maccabees
Matt.	Matthew
Neh.	Nehemiah
Phil.	Philippians
Rom.	Romans

Calcidius

<i>Tim.</i>	<i>In Platonis Timaeum</i> (Commentary on Plato's <i>Timaeus</i>)
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Cicero

<i>Att.</i>	<i>Letters to Atticus</i>
<i>Fin.</i>	<i>De Finibus</i> (On Goals)
<i>Leg.</i>	<i>De Legibus</i> (On the Laws)
<i>ND</i>	<i>De Natura Deorum</i> (On the Nature of the Gods)
<i>Off.</i>	<i>De Officiis</i> (On Duties)
<i>Rep.</i>	<i>De Re Publica</i> (On the Commonwealth)
<i>Tusc.</i>	<i>Tusculan Disputations</i>

Clement

<i>Strom.</i>	<i>Stromateis</i> (Miscellanies)
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Dio Chrysostom

Or. *Orationes*

Diogenes Laertius

D.L. *Vitae Philosophorum*

Diogenes of Oenoanda

New Frag. *New Fragments*

Duns Scotus, John

Rep. *Reportatio Parisiensis*

Epictetus

Diss. *Dissertationes (Discourses)*

Ench. *Encheiridion (Handbook)*

Epicurus

KD *Kuriai Doxai (Key Doctrines)*

Nat. *On Nature*

Sent. Vat. *Vatican Sentences*

Euripides

Ba. *Bacchae*

Supp. *Suppliants*

Gaius

Inst. *Institutiones*

Gratian

Decr. *Decretum*

Hesiod

Th. *Theogony*

WD *Works and Days*

Homer

Il. *Iliad*

Irenaeus of Lyons

Haer. *Adversus Haereses (Against Heresies)*

Isidore

Etym. *Etymologies*
Sent. *Sentences*

Josephus

Ant. *Jewish Antiquities*

Justin Martyr

Dial. *Dialogue with Trypho*

Justinian

Code *Code (Corpus Iuris Civilis, vol. 2)*
Dig. *Digest*
Inst. *Institutes (Corpus Iuris Civilis, vol. 1)*

Lactantius

Inst. *Divine Institutes*

Las Casas, Bartolomeo de

De Regia *De Regia Potestae o Derecho de Autodeterminación*
De Úncio *Del Úncio Modo de Atraer*

Lucretius

RN *De Rerum Natura (On the Nature of Things)*

Maimonides

Guide *The Guide of the Perplexed*

Marcus Aurelius

Med. *Meditations*

Molina, Luis de

Concordia *Concordia Liberi Arbitrii cum Gratiae Donis, Divinia Prae-*
 scientia, Providentia, Praedestinatione, et Reprobatione, ad
 Non Nullus Primae Partis D. Thomae Articulos
De Iure et Iust. *De Iure et Iustitia*

Nemesius

Nat. Hom. *De Natura Hominis (On the Nature of Man)*

Origen

Cels. *Against Celsus*

Philo

Leg. *Legum Allegoriae*
Mos. *On the Life of Moses*
Opif. *De Opificio Mundi*
Prob. *Quod Omnis Probus Liber Sit*
Spec. *De Specialibus Legibus*

Philodemus

Acad. Ind. *Academicorum Index*
Herc. *Herculanensia Volumina*
Stoic. *On the Stoics*

Photius

Bibl. *Bibliotheca*

Plato

Alc. *Alcibiades*
Ap. *Apology*
Clit. *Clitophon*
Crat. *Cratylus*
Ep. *Letters*
Erx. *Eryxias*
Euthd. *Euthydemus*
Gorg. *Gorgias*
Hipparch. *Hipparchus*
Hp. Ma. *Hippias Major*
Phd. *Phaedo*
Plt. *Politicus (Statesman)*
Prot. *Protagoras*
Rep. *Republic*
Tim. *Timaeus*

Plautus

Bacch. *Bacchides*

Plutarch

Alex. Fort. *The Luck or Virtue of Alexander*
Contr. Ep. Beat. *Contra Epicuri Beatitudinem*

<i>Lyc.</i>	<i>Life of Lycurgus</i>
<i>Sol.</i>	<i>Life of Solon</i>
<i>Stoic. Rep.</i>	<i>De Stoicis Repugnantiiis</i>
<i>TG</i>	<i>Life of Tiberius Gracchus</i>

Porphyry

<i>Abst.</i>	<i>On Abstinence</i>
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Pseudo-Plutarch

<i>Fat.</i>	<i>De Fato (On Fate)</i>
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Seneca the younger

<i>Ben.</i>	<i>De Beneficiis</i>
<i>Brev. Vit.</i>	<i>De Brevitate Vitae</i>
<i>Clem.</i>	<i>De Clementia</i>
<i>Cons. Marc.</i>	<i>Consolatio ad Marciam</i>
<i>Ep.</i>	<i>Epistulae Morales (Moral Epistles)</i>
<i>Nat.</i>	<i>Naturales Quaestiones</i>
<i>Otio</i>	<i>De Otio (On Leisure)</i>

Salas, Juan De

<i>Tract.</i>	<i>Tractatus de Legibus</i>
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Sextus Empiricus

<i>M</i>	<i>Adversus Mathematicos</i>
<i>PH</i>	<i>Outlines of Pyrrhonism</i>

Sophocles

<i>Ant.</i>	<i>Antigone</i>
<i>OT</i>	<i>Oedipus Tyrannus</i>

Soto, Domingo de

<i>De Iust. et Iure</i>	<i>De Iustitia et Iure Libri Decem</i>
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Suárez, Francisco

<i>Leg.</i>	<i>De Legibus sue de Deo Legislature</i>
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Tacitus

<i>Ann.</i>	<i>Annales</i>
<i>Dial.</i>	<i>Dialogus de Oratoribus</i>

Tertullian

<i>Anim.</i>	<i>On the Soul</i>
<i>Jud.</i>	<i>Against the Jews</i>
<i>Marc.</i>	<i>Against Marcion</i>
<i>Praescrip.</i>	<i>Prescription of Heretics</i>

Thomas Aquinas

<i>Comm. Eth.</i>	<i>Commentary on Aristotle's Nicomachean Ethics</i>
<i>SCG</i>	<i>Summa Contra Gentiles</i>
<i>STh</i>	<i>Summa Theologiae</i>

Ulpian

<i>Inst.</i>	<i>Institutes</i>
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Vázquez, Gabriel

<i>Comm. STh.</i>	<i>Comentarios a la Summa de Santo Tomas</i>
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Vitoria, Francisco de

<i>Comm. STh.</i>	<i>Comentarios a la Secunda Secundae de Santo Tomas</i>
<i>De Ind.</i>	<i>De Indis</i>
<i>De Mat.</i>	<i>De Matrimonio</i>
<i>De Pot. Civ.</i>	<i>De Potestae Civile</i>

William of Ockham

<i>Rep.</i>	<i>Reportatio</i>
<i>In I Sent.</i>	<i>Commentary on the Sentences</i>

Xenophon

<i>An.</i>	<i>Anabasis</i>
<i>Cyr.</i>	<i>Institutio Cyri (Cyropaedia)</i>
<i>HG</i>	<i>Historia Graeca (Hellenica)</i>
<i>Hier.</i>	<i>Hiero</i>
<i>Lac.</i>	<i>Respublica Lacedaemoniorum</i>
<i>Mem.</i>	<i>Memorabilia</i>
<i>Oec.</i>	<i>Oeconomicus</i>
<i>Smp.</i>	<i>Symposium</i>
<i>Vect.</i>	<i>De Vectigalibus</i>

Prologue

NEAR EASTERN ANTECEDENTS OF WESTERN LEGAL THOUGHT

by Fred D. Miller, Jr.

Western legal philosophy, like a stream flowing over three millennia, was fed by far-flung tributaries. A major spring was ancient Greek law and legal thought, manifested in a variety of sources, including poets, historians, orators, philosophers, and sophists (see Chapter 1). Greek philosophers made major contributions, including Socrates, Plato, and Aristotle and their followers, as well as the Hellenistic schools of philosophy (see Chapters 2–5). Another wellspring of Western legal philosophy was Roman jurisprudence, presented in a systematic manner by legions of Roman jurists. The combined influence of Greek philosophy and Roman law was evident in the Roman philosophers Cicero, Seneca, Epictetus, and Marcus Aurelius (see Chapter 6). A third important source was ancient Jewish legal thought, arising with the traditional Mosaic code and culminating in the Talmud. Emerging as a Jewish sect, Christianity soon became a separate branch and a distinct and powerful fourth influence on Western European medieval legal philosophers (see Chapter 7). St. Augustine's philosophy of law represented a major confluence of the Greco-Roman and Judeo-Christian streams of thought (see Chapter 8). Another important tradition was Islamic thought, represented by Alfarabi, Avicenna, and Averroes, which directly influenced Jewish philosopher Maimonides and indirectly Catholic philosopher Thomas Aquinas, and presented a fundamental challenge to European philosophers of law in the Middle Ages (see Chapter 9). Finally, the revival of Roman law and the development of Christian canon law, together with the rise of scholastic philosophy in the late Middle Ages, infused new concepts and theories into medieval European law codes and thereby created fertile ground for early modern Western legal philosophy (see Chapters 10–14).

Although Western legal philosophy arose in ancient Greece, the Greeks themselves recognized the existence of far older legal traditions. Aristotle remarks that the Egyptians “are thought to be the most ancient of people, and they have acquired laws and a political order” (*Pol.* VII.16.1329b32–3). The great antiquity of the Egyptian legal system is also accentuated in the story in Plato's *Timaeus* about the visit of Solon of Athens to Saïs in Egypt, where he interrogated priests about early history. The priests told him that “you Greeks are forever children” and “you have in your souls no belief about antiquity handed down by ancient tradition” (*Tim.* 22b4–8). While the Greeks had forgotten their own distant past due to a series of natural catastrophes, the Egyp-