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Natural Law and the "Is"-"Ought" Question: An Invitation to Professor Veatch

John M. Finnis
Notre Dame Law School, john.m.finnis.1@nd.edu

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Henry Veatch’s “sharp questions” are directed to those who deny that morals and ethics have any basis in nature or the facts of nature; to those who believe in a “wall of separation dividing ‘is’ from ‘ought’ and facts from values”; to those who “insist that ethical principles can have no grounding in fact and in nature”; to those who suppose an “absolute independence of ethics as over against metaphysics, or of morals with respect to a knowledge of nature,” so that “principles of morals and ethics are really not to be thought [of] as being in any sense principles of being or of nature at all”; and to those who “consider the human good as being such an end or ends as human beings have an inclination towards” rather than “the ends that truly perfect human beings.”

Veatch’s questions and objections, therefore, are not properly directed to either Germain Grisez or to myself. Neither Grisez nor I subscribe to any of the foregoing denials, affirmations, and suppositions; indeed, we reject them all. Neither of us has published anything which might reasonably be interpreted, in its context, as involving or entailing any such view. My invitation to Professor Veatch then, is twofold: first, to *read* what we have written, strictly and fully; second, and more importantly, to examine some of the *serious questions* which my book adresses to those who interpret Aquinas and Aristotle in Veatch’s manner.²

Who would guess, from Veatch’s polemic, that I reached the same result in my book using the “Euthyphro test” as did Veatch. This was

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* Reader in Law, Fellow and Praelector in Jurisprudence at the University College, Oxford.
1 J. Finnis, NATURAL LAW AND NATURAL RIGHTS (1980).
done prominently in the text of chapter III, a chapter devoted to a detailed examination of the nature of judgments concerning human good, by an exploration of our judgments regarding one particular basic human good, knowledge, or truth.

The chapter began by distinguishing “desire or inclination or felt want” from “grasp of value”—“value” signifying “the aspect under which a particular objective has its interest, attracts desire, choice and efforts and thus is (or is considered to be) a good thing.” Understanding of value was then shown to function as a principle of practical reasoning since “it formulates a want but makes the want more than a blind urge by referring its object . . . to the intelligible and general form of good which that object is one possible way of participating in or instantiating.”

I then turned to establish the “self-evidence of the good of knowledge.” In denying that the good in question can be demonstrated or inferred, I also denied that “there are no pre-conditions for recognizing that value.” On the contrary, the value of truth becomes obvious only to one who has experienced the urge to question, who has grasped the connection between question and answer, who understands that knowledge is constituted by correct answers to particular questions, and who is aware of the possibility of further questions and of other questioners who like himself could enjoy the advantage of attaining correct answers.

To establish how I use the terms “infer” and “deduce,” I added:

But one who, thus knowing the possibility of attaining truth, is enabled thereby to grasp the value of that possible object and attainment is not inferring the value from the possibility. No such inference is possible. No value can be deduced or otherwise inferred from a fact or set of facts.

Professor Veatch thinks that this usage of the terms “deduction” and “inference” is “somewhat straitened and overly technical.” It seems to me a desirable precision, whereby one does justice to both Aquinas' insistence that basic principles of the form “X is a good to be pursued . . .” are per se nota and indemonstrabilia, and to our contemporaries’ reasonable insistence on the logically significant distinction between propositions about what “is” and propositions about what “ought to be.” This logical

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* Finnis, supra note 1, at 59-80.
* Id. at 60-61.
* Id. at 63.
* Id. at 64.
* Id. at 65.
* Id.
* Id. at 66.
distinction is not at all a "wall of separation." To make this clear I added the following to the passage last quoted above: "Aquinas followed Aristotle’s theory of the ‘induction’ of indemonstrable first principles by insight working on observation, memory, and experience, but extended the account to a parallel ‘induction’ of indemonstrable first principles of practical reason (i.e. of natural law) by insight working on felt inclinations and a knowledge of possibilities." This induction from experience could of course be called a form of inference. Like many philosophers, therefore, I prefer to restrict the term "inference" to reasoning that moves from one proposition or principle to another, so that my use of the term would correspond to Aquinas’ notion of the per se notum.

In any event, I proceeded to deny that one could infer the basic values from the fact that they are universally affirmed or desired, from the fact that the corresponding desires manifest a deep structure of the mind, are ineradicable, are common to all animals or are peculiar to human beings, or from the fact that one feels certitude about them. Then I raised the "Euthyphro test."

The principle that truth is worth pursuing . . . is thus an underived principle. Neither its intelligibility nor its force rests on any further principle. This may tempt us to say that knowledge is a good because we desire it, are interested in it, value it, pursue it. But the temptation has plausibility only if we abandon the effort to understand the value of knowledge. And we are tempted to abandon that effort only when, for bad philosophical reasons, we confuse a principle’s lack of derivation with a lack of justification or lack of objectivity. . . . [F]or one who considers something like knowledge to be a good, the true expression of his opinion and attitude is not ‘it is good because or in so far as I desire it’ but ‘I desire it because and in so far as it is good.’

I then explained the potentially confusing Aristotelian tag ‘‘the good is what all things desire,’” concluding:

Those who used the tag were equally insistent that one’s human desire is a pursuit of something in so far as it seems desirable, and that things seem desirable to one in so far as they (appear to) promise to make one better off . . . . [For] one who is judging something to be good and desirable, his desire and decision to pursue the object are consequential on his judgment: (i) that the object is good and (ii) that he will really be better off for getting

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11 J. Finnis, supra note 1, at 77 (emphasis added).
13 J. Finnis, supra note 1, at 66.
14 Id. at 69.
15 Id. at 70.
16 Id. at 69-70.
or doing or effecting it.”

The whole argument of my chapter was summed up in a passage that says all Professor Veatch could reasonably want to hear about potentiality and actuality:

It is obvious that a man who is well-informed, etc., simply is better-off (other things being equal) than a man who is muddled, deluded, and ignorant, that the state of the one is better than the state of the other, not just in this particular case or that, but in all cases, as such, universally, and whether I like it or not. . . . For the understanding affirmation of the practical principle [that truth is a good—and mutatis mutandis for all the other basic values] is neither a reference to nor an expression of any desire or urge or inclination of mine. Nor is it merely a reference to (or implied presupposition of) any desires that my fellows happen to have. It goes beyond the desires and inclinations which may first have aroused my interest in the possibility of knowledge and which may remain a necessary substratum of any interest in truth sufficient to move me to pursue it for myself. It is a rational judgment about a general form of human well-being, about the fulfillment of a human potentiality.

In an appended note headed “Objects are desired as desirable, and considered desirable as making one better-off,” I linked my idiomatic English “better-off” with the mature Thomistic texts such as Summa Theologiae. I quoted from the texts in which Aquinas employs this analysis in relation to the good of knowledge. In later chapters, I settled for the terms “flourishing,” “well-being,” and even “full-being” to do duty for Aquinas’ perfectio, Veatch’s “actuality,” and my own “better-off.” Hence basic goods are “basic aspects of human flourishing” or “forms of well-being.”

At a crucial moment of the book’s argument, when I set out to show how ethical or moral good is a participation in the basic good of practical reasonableness, I formally stated the relation between good and being and between ethics and human nature. I invite Henry Veatch to consider this passage concerning the requirements of practical reasonableness:

Each of these requirements concerns what one must do, or think, or be if one is to participate in the basic value of practical reasonableness. Someone who lives up to these requirements is thus Aristotle’s phronimos; he has Aquinas’s prudentia; they are requirements of reasonableness or practical wisdom, and to fail to live up to them is irrational. But, secondly reasonableness both is a basic aspect of human well-being and concerns one’s par-

17 Id. at 70-71.
18 Id. at 72.
19 Id. at 78-79.
20 Id.
21 See id. at 23, 67, 87, 144.
ticipation in all the (other) basic aspects of human well-being. Hence its requirements concern fullness of well-being. . . . So someone who lives up to these requirements is also Aristotle's spoudaios (mature man), his life is eu zen (well-living) and, unless circumstances are quite against him, we can say that he has Aristotle's eudaimonia (the inclusive all-round flourishing or well-being—not safely translated as 'happiness'). But, thirdly, the basic forms of good are opportunities of being; the more fully a man participates in them the more fully he is what he can be. And for this state of being fully what one can be, Aristotle appropriated the word physis, which was translated into Latin as natura. . . . So Aquinas will say that these requirements are requirements not only of reason, and of goodness, but also (by entailment) of (human) nature. . . . Thus, speaking very summarily, we could say that the requirements to which we now turn express the 'natural law method' of working out the (moral) 'natural law' from the first (pre-moral) 'principles of natural law.' Using only the modern terminology (itself of uncertain import) of 'morality,' we can say that the following sections of this chapter concern the sorts of reasons why (and thus the ways in which) there are things that morally ought (not) to be done.22

III

Despite his assertions, it appears that Professor Veatch does not really believe that an "ought" can be inferred from a sheer "is." Veatch notes that "the so-called inferences from 'is' to 'ought' or from nature to norms, are nothing if not inferences from an 'is' that already involves an 'ought' . . . ." Veatch further adds, "the very 'is' of human nature has been shown to have an 'ought' built into it." Indeed, it is impossible to determine what a human being is, without making reference to what he ought to be—or to that natural end or fulfillment or good, which it is incumbent upon any human being (by nature) to try to be or become.

I quite agree. I invite Henry Veatch to consider this: does not his view that a full knowledge of human nature involves a knowledge of what is "incumbent upon" human beings suggest that, epistemologically, a knowledge of what is good for human beings, and thus incumbent upon them, is a condition precedent to any full knowledge of human nature. I invite him to consider the question I raised in the notes to the very pages on which he commented:

It is true that the natural law theory of, say, Aristotle and Aquinas goes along with a teleological conception of nature and, in the case of Aquinas, with a theory of divine providence and eternal law. But what needs to be shown is that the conception of human good entertained by these theorists is dependent upon this wider framework.23

22 Id. at 102-03.
23 Id. at 52.
It cannot be said that Veatch's comments confront this challenge, despite my attempt to provoke such a confrontation in the next sentence:

There is much to be said for the view that the order of dependence was precisely the opposite—that the teleological conception of nature was made plausible, indeed conceivable, by analogy with the introspectively luminous, self-evident structure of human well-being, practical reasoning, and human purposive action. . . .

My emphasized reference to the "introspectively luminous" is an allusion to the section of text so singly omitted from Veatch's quotations of that particular page:

The basic forms of [human good] grasped by practical understanding are what is good for human beings with the nature they have. Aquinas considers that practical reasoning begins not by understanding this nature from the outside, as it were, by way of psychological, anthropological, or metaphysical observations and judgments defining human nature, but by experiencing one's nature, so to speak, from the inside, in the form of one's inclinations.

It is regrettable the way the last sentence ended. Readers might be left with the impression that the relevant understanding of one's nature is found in the experience of inclinations alone. Such an impression would be incorrect and non-Thomistic. My meaning is conveyed in the last of the three sentences which immediately followed:

But again, there is no process of inference. One does not judge that 'I have [or everybody has] an inclination to find out about things' and then infer that therefore 'knowledge is a good to be pursued'. Rather, by a simple act of non-inferential understanding one grasps that the object of the inclination which one experiences is an instance of a general form of good, for oneself (and others like one).

As stated at the beginning of the chapter on basic values other than the good of knowledge, to ask oneself whether there are indeed such other basic values "is, in a way, an attempt to understand one's own . . . nature." Where, then, do I disagree with Veatch's thesis that adequate judgments concerning human nature "involve," "build right in," or "in-

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24 Id.
25 Id. at 34 (footnote omitted).
26 Id. (emphasis added).
27 I added:

The attempt thus parallels attempts made, in quite another way, by those anthropologists and psychologists who ask (in effect) whether there is a human nature and what are its characteristics. The anthropological and psychological studies ought to be regarded as an aid in answering our present question—not, indeed, by way of any 'inference' from universality or 'human nature' to values (an inference that would be merely fallacious), but by way of an assemblage of reminders of the range of possibly worthwhile activities and orientations open to one. Id.
corporate” judgments about man’s “natural end or fulfillment or good,” about “what he ought to be” and what “it is incumbent” upon any human being to be? The disagreement is this: I assert that judgments of the latter sort are primarily (though perhaps not exclusively) judgments of practical reason or practical science. Veatch asserts that they are all exclusively theoretical and not practical. Like so many interpreters of Aquinas and Aristotle, he believes that practical reason serves to tell us how the good may best be attained once it has been determined, . . . and that therefore to determine what the good is can only be the work of theoretical reason.

I have many objections to Veatch’s claim that the basic aspects of human good are identified only by theoretical reason and that practical reason is limited to identifying means to the ends which theoretical reason has identified. I will indicate and illustrate my principal philosophical objection and will then briefly refer to some reasons for why Veatch’s view is opposed by Aristotle and Aquinas.

In all that follows, I take as a given Aquinas’ mature thesis that there is only one human reason, only one human intellectual potency or faculty, and that the differences between speculative and practical reason are differences between intellectual operations with differing objectives. Additionally, one should bear in mind that “speculative” (or “theoretical”) and “practical” are analogous terms. There are paradigm cases of purely speculative and purely practical intellectual activity but most actual reasoning is both speculative and practical.

It seems that one’s primary understanding of human good and what is worthwhile for humans to have, do, and be is attained when one considers what it is good to be, have, and do and thus what it is (or would be) worthwhile to have, do, and be. Such consideration, however, is what is meant by “practical thinking”; simpliciter, when the consideration is of my own human predicament with a view towards undertaking my own commitments and actions here and now; secundum quid (but still primarily), when the consideration is more reflective, reviewing my present commitments and past actions, contemplating possible future commitments and actions, assessing the commitments, actions, and character of other persons. Hence, our primary grasp of human good, human fulfillment, and of what is “incumbent on” a human being to be is practical—which is not to deny that understanding can be integrated into a

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**28** Unless this is borne in mind, Aquinas’ use of the terms will be found merely self-contradictory. Compare Aquinas I, q. 14, a. 16c: “Intellectus practicus ordinatur ad finem operatoris; finis autem intellectus speculativi est considerationis veritatis” with q. 79, a. 11 and 2: “objectum intellectus practici est bonum ordinabile ad opus, sub ratione veri. Intellectus enim practicus veritatem cognoscit, sicut speculativus: sed veritatem cognitam ordinat ad opus.”
metaphysical account of human nature as one nature amongst others.

My contention can conveniently be illustrated by a brief considera-
tion of Henry Veatch's argument, advanced in his helpful book, Aris-
totle, which identifies man's natural good, function, perfection, and full-
development as living in accordance with reason. It must be remembered
that in Veatch's view, this argument is exclusively speculative: practical
thought takes off from but cannot constitute or even contribute to this
prior theoretical determination of the end and good of human life. But let
us examine Veatch's argument:

(1) [M]an's function, or man's perfection or full-development, does indeed
consist in . . . his living in the manner of someone with knowledge and un-
derstanding, and (2) . . . it is just this end that all men do strive for and
that is consequently the source of their true happiness and satisfaction. For
as regards (1), would we not all acknowledge that however healthy or fully
developed a human being might be in a narrowly physical or biological
sense, and however well he might be provided for in his ordinary needs and
desires, if in general he acted and behaved in a way that was no better than
a fool, we should hardly say that such a person's existence was quite what
we would consider to be a full or proper existence for a human being. Simi-
larly, as regards (2), imagine yourself in a situation where you
would be offered all of the usual and perhaps unusual necessities and even goods of
life . . . but at the price of not having any genuine knowledge or under-
standing either of yourself or of the nature of things generally—that is to
say, at the price of your not asking any questions . . . and so of your not
really knowing the what or the why of anything. Would you settle for this?
Presumably not. But, then, is not Aristotle right in his insistence that the
good or final cause of human life is precisely the intelligent life . . . ?

The structure and thrust of this argument makes it quite clear that
knowledge of the human telos and good is attained not by asking what
"all men do strive for," nor even by asking in a purely theoretical sense
what is a "full and proper existence for a human being." Rather, the ar-
gument works as a determination of that full and proper existence, pre-
cisely by prompting one to "imagine yourself in a particular situation," and then asking the question, "Would you settle for this?" In other
words, the argument compels one to acknowledge the metaphysical prop-
osition concerning human nature through consideration of a question that
is hypothetical, but nonetheless practical. The argument would work in
just the same way if the question were not hypothetical but required a
choice here and now between the alternative lives. This shows that its
hypothetical nature has no effect on its radically practical character.

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89 Id. at 106-07 (emphasis added).
90 See J. FINNIS, supra note 1, at 95-97.
Aristotle considers the end and good of man in his *Ethics*. Does not Aquinas repeatedly state that Aristotle's politics and ethics are expositions of *practical* science? Neither Aquinas nor Aristotle seem to hold the view of Veatch (and so many other neoscholastics) that the practical part of ethics and politics only begins after a theoretical determination of the human end and good. In their view, ethics and politics are practical—from their first principles to their specific recommendations for actions and motivations, and beyond that to the applications that you and I make in our choices here and now.

Aristotle is notoriously unclear with respect to the first principles of ethics and politics. Veatch recognizes that Aristotle's "theoretical" arguments for identifying the end and function of man are unconvincing. He reports Aristotle's argument that end is identified by identifying what is *peculiar* to man but rightly passes over that argument without comment and replaces it with the essentially practical and relatively convincing argument which I quoted above. That *practical* argumentation strategy corresponds more closely to Aristotle's usual procedure in his *ethics and politics*.

Aquinas is much more explicit than Aristotle with respect to the first principles of practical reasoning, including ethics and politics. He forthrightly rejects the view of so many of his commentators (and of Veatch) that practical reason and its particular virtue, *prudentia*, are concerned only with particulars (not universal truths) and means (not the identification of ends). These *principia* are comprehended by an intellectual disposition which he called *synderesis*. Having identified this primary aspect of practical reason, he can use the term *prudentia* (which we have seen him use to signify practical reason in all its aspects) to specifically signify the application of principles to relatively particular problems of conduct.

The intellectual contents of *synderesis*—the first principles of practical reason—are expounded by Aquinas in his treatise on law, beginning with the article to which Germain Grisez and I so often return, and which will not now be expounded. As Aquinas makes clear, practical reason's grasp *naturaliter apprehendit* of the human goods which correspond to the objects of natural human inclinations is a grasp of the ends of human existence. The first principles of natural law are an identification (indeed, the primary identification) of the ends of human life and thus of the *fines moralium virtutum quia finis se habet in operabilibus sicut principium*.

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34 Thomas Aquinas, *Summa Theologicae* I 79, 12 & II 47, 6, 1.
35 *Id.* at I-II 94, 2.
It cannot be denied that Aquinas' treatise on man's "last end" is not well integrated with his treatise on natural law and the first principles of practical reason. The former treatise is theology, not metaphysics but it is too easily read as a work of purely, or at least primarily, speculative reasoning. Appearances however, are deceptive. In my view, the argumentative strategy of Aquinas' long determination of what constitutes human perfectio or beatitudo is essentially the strategy of Henry Veatch's argument which I quoted and discussed at length above. At the outset an "objector" contends that "since beatitudo is man's ultimus finis, it exists in whatever is most dominating in human desire in hominis affectu." Aquinas replies to this in a way which reveals his methodology: "It is to wise people, not to fools, that we should look for judgment about human goods (just as we should look to those with 'good taste' for judgment about flavours." Aquinas and Aristotle, of course, frequently reserve the terms sophia/sapientia/wisdom for the purely speculative/theoretical knowledge of the ultimate explanation of things. The sapientes, however, to whose good judgment Aquinas appeals in identifying the human good, are surely those to whom he appeals in the very first words of his commentary on the Ethics: "sapientis est ordinare." The ordre considered in moral philosophy is the order of voluntary actions. So the sapientia in question is not sapientia simpliciter but that sapientia in rebus humanis which Aquinas calls prudentia, and which pertains "solely to practical reason." In summary, we find the consideratio of the end of human existence in the philosophical treatise which Aquinas reckons is practical. So, too, in his own theological treatise on man's last end, Aquinas' methodological appeal to judgment of the wise is an invitation to the reader to ask himself: What would I consider sensible and what silly in choices of whole lives? Confronted by the embarrassing fact that Aquinas affirms that practical reason has its own basic principles which are simply indemonstrabilia and per se (not per metaphysicam) nota, Henry Veatch believes that we must invoke certain principles from metaphysics in order to clarify and explain what is meant by the term good as it appears in those basic practical principles.

I am in favor of metaphysics as part of (and in a sense the fundamental part of) the great search for clarification and explication. I devoted more than a chapter of my book on natural law to just such an explication. I frankly called it "not practical but theoretical or metaphysical,"
and I claimed that answers to the theoretical or metaphysical questions there considered are necessary if there is to be any fully satisfactory answer to the deepest practical questions about the topic of human goods.\textsuperscript{41} I also claimed—and this is what Veatch seems to object to—that just as “a good explanation of molecular motion can be provided”\textsuperscript{42} without explaining the entire universe or the dependence of the universe and of molecular motion on the uncaused cause, “so too . . . natural law can be understood, assented to, applied, and reflectively analysed”\textsuperscript{43} without exploring the metaphysical questions to which I have referred.

Veatch pretends he is a “‘rustic’ who does not quite see the self-evident nature of [the] first principle of practical reason,” since as St. Thomas was careful to point out, “a principle may be evident in itself, and yet not evident to us.” Veatch’s phrase is regrettably ambiguous: “the important thing about a self-evident proposition is that people (with the relevant experience, and understanding of terms) assent to it without needing the proof of argument; it matters not at all whether they further recognize it as belonging to the relatively sophisticated philosophical category, ‘self-evident.’”\textsuperscript{44} I assume Veatch’s rustic is supposed to wonder not about the self-evidence of the basic practical principles but about the principles themselves: “What do they mean? Are they true?”

I do not believe in Veatch’s rustic who does not understand what “good” means but who could be illuminated by being told some “principles from metaphysics”—that good is “being, considered as just the actuality toward which a given potentiality is ordered, as to its proper fulfillment or completion or actuality.” That metaphysical “principle” is true, and thus relevant to the subject matter. It is not, however, “relevant to” the imagined rustic: it is \textit{not necessary to an answer to his supposed question}.

The proposition I advanced in the passages quoted by Veatch was simply this: the basic principles of natural law can all be intelligently grasped without adverting to metaphysical principles concerning the universal relationship between being and good, or about human nature in its relation to divine and cosmic natures. I simply gave serious consideration to Aquinas’ frequently repeated claim that \textit{even rustics understand the natural law}.\textsuperscript{45} Since, in postulating his rustic, Veatch appeals to the authority of Aquinas, I fail to understand why he makes no response whatever to the following challenge I have formulated:

\textit{Natural law, or morality, can be understood, assented to and applied with-}

\begin{itemize}
\item[A\textsuperscript{41}] Id. at 371-73, 378, 405-10.
\item[A\textsuperscript{42}] Id. at 49.
\item[A\textsuperscript{43}] Id.
\item[A\textsuperscript{44}] Id. at 31.
\item[A\textsuperscript{45}] Id. at 30.
\end{itemize}
out knowledge of metaphysics or anthropology . . . Aquinas, S.T. I-II, q. 58, a. 4c is very clear: no one can be morally upright without (a) an understanding of the first principles of practical reasoning and (b) the practical reasonableness (prudentia) which brings those principles to bear, reasonably, on particular commitments, projects, actions; but one can indeed be morally upright without speculative (i.e. theoretical, 'is'-knowledge) wisdom [sapientia, evidently stricto sensu], without the practical knowledge of a craftsman (art), and without speculative knowledge (scientia).**

If my work and that of Grisez is as influential as Veatch maintains it is, in reviving some philosophical respect for natural-law theory, it is simply because we have pressed our readers to acknowledge their own grasp of principia naturaliter (but not innately) nota which Aquinas says they have, even though they lack metaphysical or anthropological theories. Only after we have achieved that acknowledgment, and explored its moral implications do we endeavor to explain how the goods thus acknowledged are aspects of a being which participates in the four orders of created being. This pedagogical order of priorities seems to be more faithful to the content of Aristotle’s and Aquinas’ theories of ethical knowledge. It has the disadvantage, I acknowledge, of requiring the reader to attend to more than occasional sentences in fragments of our respective works.

** Id. at 52.