



From Popular Sovereignty to the Sovereignty of Law: Law, Society, and Politics in Fifth-Century Athens by Martin Ostwald

Review by: Joseph V. Dolan

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normative natural order is brought to its narrowest focus . . . the *kosmos* lies within ourselves" (p. 249).

Weinreb will surely provoke objections. I mention but one. Since both Finnis and MacIntyre contest Weinreb's claim that original sin no longer helps explain our experience, he might reconsider the tenacity of the worldview in which original sin *and* moral freedom belong.

JAMES G. HANINK
Loyola Marymount University

Ostwald, Martin. *From Popular Sovereignty to the Sovereignty of Law: Law, Society, and Politics in Fifth-Century Athens*.

Berkeley and Los Angeles: University of California Press, 1986. Pp. xxii+663. \$75.00 (cloth).

This work of impressive and at times formidable scholarship traces the history of the idea of popular sovereignty from the time of Solon, who paved its way through the instrumentality of the courts and jury system, to the restoration of the democracy at the end of the Peloponnesian War. Ostwald finds the most significant feature of this final stage—"one of the most inspiring episodes in Athenian history, if not even in human history" (p. 497)—in the self-restraint of the citizenry as instanced in the firm enforcement of the Amnesty and in its repentant resolve to curb future excesses of its power by submitting thereafter to the discipline of its own written laws. This marked a historic triumph of *nomos* over arbitrary government and over the principle clamorously invoked to justify the vindictive denial of due process to the hapless generals on trial in the aftermath of Arginusae: that (in Xenophon's account) "it was monstrous not to let the people do whatever it wanted" (p. 444).

This political development went hand in hand with changes in religious and social values, a barometer of which is found in a gradual transformation in the understanding of *nomos*. Originally it indicated a timeless, unchanging, and unquestioned pattern of conduct or of religious usage. But following its adoption by Cleisthenes as the official term for statute, *nomos* came to be regarded as a product of human agency, no longer perennial or absolute. At the same time, and in consequence, its prescriptive as opposed to merely descriptive character became prominent. With this transition from social norm to legislative act, *nomos* became expressive of the people's sovereignty; the *demos* was now the authoritative source of moral as well as political norms. An innovation in the political and legal sphere had thus culminated in a revolution of social and ethical thought in the direction of relativism, skepticism, and the rejection of traditional values. The primary agents in propagating this "new learning" among the ambitious young aristocrats were the Sophists and the orators whom they influenced.

This persuasively argued thesis, based on interpretation rather than discovery of new facts (p. xi), involves a searching philological analysis of contemporary documents. Historians, orators, and especially the dramatists are interestingly probed, with special scrutiny given, as might be expected, to the *Antigone* where Ostwald suggests we may read a warning of Sophocles against an encroaching secularism of the power of the state (p. 170).

The author's wide-ranging and detailed knowledge of his sources provides a rich background of signal political and military events and an array of prominent personages who figured in them. The book is handsomely presented, furnishing abundant citation in Greek and English. There is an extensive bibliography and a copious general index along with a convenient *index locorum*.

JOSEPH V. DOLAN
Fordham University

Mooney, Christopher F. *Public Virtue: Law and the Social Character of Religion*. Notre Dame, Ind.: University of Notre Dame Press, 1986. Pp. xii+180. \$22.95 (cloth).

The way that religion impinges on the public sphere in the United States and Britain makes an interesting contrast. Since the Reformation, the natural law tradition has made little impact in Britain. Nor has there been a dominant Calvinism with its insistence that God's law is as applicable to public life as it is to private. Since the seventeenth century, when religious passions burnt themselves out and such traditional concepts as the divine right of kings and the sinfulness of usury lost all credibility, religion has become privatized. The result is that utterances from religious leaders on social issues seem to many to be an illegitimate interference by religion in politics. In the United States, on the other hand, there is the concept of civil religion, which is illuminatingly explored by Father Mooney in *Public Virtue*. American civil religion suffers a bad press in Britain, where it is associated with flags and unquestioning patriotism. Father Mooney reveals its positive side. It means, according to him, that there is an obligation, springing from the Calvinistic roots of the founding fathers, to spell out the public policy implications of religious faith and a constituency ready to hear those implications. But isn't this what the moral majority try to do, and do we not all dislike their efforts? Yes and no: for what the moral majority fail to do is translate their beliefs into reasoned argument that can be grasped and debated by people of goodwill, whatever their beliefs. They ignore, according to Mooney, public virtue: they press sectional, sectarian interests rather than working for a common good illuminated by faith.

Reasoned argument is of the essence of the natural law tradition, which Mooney discusses in his final essay. He reminds us that in Aquinas there is a warning that the farther we move from broad general moral principles to specific applications, the less certainty there will be. Further, Aquinas allowed for the fact that our grasp of what the natural law entails in specific circumstances can change. In the economic sphere, in recent years, the Roman Catholic church has adhered to this principle. It has not, according to Mooney, repeated the mistake it made over usury, which, though wrong in a rudimentary agricultural society because peasants were at the mercy of unpredictable nature, is legitimate in a stable commercial world. In the sphere of sexual ethics, however, the church has sought to be too specific while at the same time combining an overly biological version of natural law with an outmoded biology. The result is that the church has failed to win support, even in its own constituency. Once again the lesson emerges strongly: Christian insights, which are indeed fundamental to the public