

DIMENSIONS OF POLITICS AND ENGLISH JURISPRUDENCE

Understandings of law and politics are intrinsically bound up with broader visions of the human condition. Sean Coyle argues for a renewed engagement with the juridical and political philosophies of the Western intellectual tradition, and takes up questions pondered by Aristotle, Plato, Augustine, Aquinas and Hobbes in seeking a deeper understanding of law, politics, freedom, justice and order. Criticizing modern theories for their failure to engage with fundamental questions, he explores the profound connections between justice and order and raises the neglected question of whether human beings in all their imperfection can ever achieve truly just order in this life. Above all, he confronts the question of whether the open society is the natural home of liberals who have given up faith in human progress (there are no ideal societies), or whether liberal political order is itself the ideal society?

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CAMBRIDGE
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University Printing House, Cambridge CB2 8BS, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India
 103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.
 It furthers the University's mission by disseminating knowledge in the pursuit of
 education, learning and research at the highest international levels of excellence.

www.cambridge.org
 Information on this title: www.cambridge.org/9780521196598

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First published 2013

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging in Publication data
 Coyle, Sean.

Dimensions of politics and English jurisprudence / Sean Coyle.
 pages cm

Includes bibliographical references and index.

ISBN 978-0-521-19659-8 (Hardback)

1. Jurisprudence—Great Britain. 2. Jurisprudence—United States.
 3. Law—Philosophy. 4. Liberalism. I. Title.

KD640.C69 2013

349.41—dc23

2012047170

ISBN 978-0-521-19659-8 Hardback

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To my parents

‘I think we have real progress in philosophy when a disputant thinks
little of victory as compared with the discovery of what is just and true’
– attributed to Licentius
(Saint Augustine, *Contra Academicos*, Bk 1.3)

CONTENTS

<i>Preface</i>	ix
<i>Introduction</i>	1
PART I. Jurisprudence	19
1. Jurisprudence and the liberal order	21
2. Concept and reality in jurisprudence	41
3. On the ‘Protestant’ inheritance of juridical thought	58
4. The form and direction of Anglo-American jurisprudence	77
5. Three approaches to jurisprudence	98
PART II. Understanding the present	119
6. Authority and tradition: visions of law and politics	121
7. Legalism and modernity I: Identifying and understanding the problem	149
8. Legalism and modernity II: Reflections upon the problem	167
9. Political thought and the ‘well-ordered society’	188
10. The limits of legal ideologies	209
11. Conservatism and its dilemmas	233
12. Liberal jurisprudence and its order	251

	PART III. Justice	273
13.	Justice without mercy	275
14.	Justice and moral judgment	298
15.	Fallen justice	320
16.	Freedom and justice in a democratic age	344
	<i>Bibliography of Works Cited</i>	365
	<i>Index</i>	378

PREFACE

The origins of this book lie in an ambition to explore a sceptical attitude toward modern jurisprudence and political thought. Modelled upon a kind of Academic scepticism (avoidance of positive doctrines), the intention was to subject key aspects of legal and political thought to question. This gave the book as initially conceived a somewhat looser structure, as a series of more or less independent arguments addressed to each subject in turn. As the book progressed, I decided to change this strategy. Increasingly, there were arguments or ideas that demanded to be affirmed. They could be subjected to question, but not denied. Positive doctrines began to assert themselves in the book's main line of analysis.

As a result of this, I decided (at quite a late stage) to rewrite the book almost from the ground up. I am grateful to Cambridge University Press for allowing me the extra time it took to complete this process. The result is a book that is more cohesive, but which perhaps retains vestiges of its earlier incarnation. The relationship between the chapters, particularly in the second part of the book, now resembles more a series of reflections upon a body of interrelated ideas: law, liberty, order, community, justice (and others). Each dimension of law and politics is pushed temporarily into the foreground, to be examined and then replaced, whereupon another is called forth. The reflections are underpinned by a vision of law and politics that is developed in the Introduction and the early chapters of the book. The book's overarching concern, though I did not know it at first, is with justice.

It was necessary to restrict the scope of the book. I consider first and foremost the legal and political experiences of the liberal social order. I have very little to say about established criticisms of liberalism, such as communitarianism, preferring to develop my own line of criticism. My question is above all whether liberalism represents a deepening of man's moral predicament or, as some liberals seem to suggest, a resolution.

I would like to take this opportunity to thank a number of people whose input has been invaluable to me over the course of writing the

book. For discussions of some of the book's ideas, I am grateful to audiences at the University of Antwerp's Centre for Law and Cosmopolitan Values, Birmingham Law School, the University of Minnesota School of Law, LSE, and Emory University. I owe special thanks to John Witte Jr and colleagues at the Center for the Study of Law and Religion, Emory University, for hosting me as a visiting scholar during April 2010, and for a very illuminating debate on some of the book's concerns. Brian Bix, Anna Grear, Joel Hanisek, George Pavlakos, the late Amanda Perreau-Saussine, Esther Reed, Veronica Rodriguez-Blanco, Nigel Simmonds and Melanie Williams read and commented upon a number of chapters. Tobias Schaffner offered some very helpful suggestions on two key chapters, and I am grateful for a very interesting correspondence on justice and virtue. Fiona Smith and Margaret Martin read virtually the whole of the manuscript, sometimes in successive versions, and were an unfailing source of encouragement and ideas. I am grateful to my editors at Cambridge University Press, Finola O'Sullivan and Richard Woodham, for their advice and support, and their patience. Finally, but most of all, Allison. I thank you all.

Earlier incarnations of some of the book's arguments have appeared in print elsewhere. An early version of Part I, Chapter 1 was published in *The Canadian Journal of Law and Jurisprudence*, 2010. Elements of Part II, Chapters 7 and 8 appeared in a long article in *The Australian Journal of Legal Philosophy*, 2010. Two articles in the 2009 *Northern Ireland Legal Quarterly* contain earlier versions of the arguments in Part II, Chapter 10 and Part III, Chapter 13. Part III, Chapter 15 appears in *New Blackfriars* in 2012. I am grateful to the editors of those journals for permission to reprint or adapt material.