

The Rights of Conscience

CONSCIENCE AND ITS RIGHT TO FREEDOM, by Eric D'Arcy; Stagbooks, Sheed and Ward, 10s. 6d.

It is presumptuous for a layman, a simple *aficianado* of theology, to attempt to review this work at all. Yet it has appeared in a popular form, and is, in fact, refreshingly clear in its use of modern speech to discuss scholastic problems. Moreover, the use of quotations and concepts from modern philosophers, not necessarily Christian, increases the sense of freshness. I do not know how much light these quotations really throw. Sometimes it is certainly more apparent than real, as though a phrase caught Fr D'Arcy's fancy, for instance, when he seems to agree with Ryle (p. 35) that we do not 'keep up our honesty by giving ourselves regular exercises in it' (since our knowledge of right and wrong does not get rusty) and then on page 69 he speaks himself of our becoming 'increasingly skilful in choosing and applying the principle relevant to the case in hand'—which I should have thought was a contradiction in terms. Again, though his interest in linguistics is often valuable (as when he appreciates the advantage of the English distinction between conscience and consciousness), his search for definitions and inconsistencies sometimes makes the reader recall those occasions in beagling when the hare can be seen plainly frisking, while the hounds circle with their baffled noses to the ground.

Anyone who has tried to make sense of the term *synderesis* must be deeply grateful to Fr D'Arcy for his long and careful account of its vicissitudes from St Jerome onwards. If he does not achieve complete lucidity it is the fault of the subject; what he has done is invaluable, and to unravel the inter-relations between conscience, synderesis, natural law, etc., would be far beyond the scope of this book. The modern reader who has wrestled with the subject can only rejoice to read of the headaches caused to medieval scholastics, and take encouragement. A further debt of gratitude is owed to Fr D'Arcy for his comparison of St Thomas's earlier and later views on conscience, and for bringing out clearly how, in this as in other fields, the Thomist view was the 'liberal' one, as contrasted with that of the Franciscans and secular masters. He gives us striking examples—St Thomas's acceptance of Caesar's report that robbery was no crime among the Germans, and, even more telling, the declaration that it would be wrong to give up fornication or atheism if, subjectively, one believed in conscience that it was right.

But the book is more than an historical analysis of the theory of conscience. It has stated objectives: to prove firstly, that a person is morally obliged to follow the dictates of a conscience formed in good faith; secondly, that every adult has a right to religious freedom; and, thirdly, that the State is guilty of injustice (and acting *ultra vires*) if it interferes with a person's following of con-

science in matters of religious choice, profession and worship—and, presumably, the reverse. Let it be said at once that, if such things can be ‘proved’, Fr D’Arcy proves the first point—i.e., the reader finds his arguments completely convincing as far as they go. By this I mean that some important points are not discussed at all, for instance, the question of the informed conscience. Fr D’Arcy has pointed out that St Thomas would have had great difficulty in imagining himself into the mind of someone outside medieval Christendom, and himself says (p. 215) that

the proper object of the will is not the good as it exists objectively, or as it is known to some moral genius with a skill and insight superior to one’s own: it is the good as apprehended and presented to a man by the judgment of his own reason.

But he is himself in the case of St Thomas in that in the next sentence he writes

Of course, one of the elements of the decision which one’s reason ultimately makes *will be the guidance of authoritative and skilled moralists whose standing we accept.*

That is to say, Fr D’Arcy is urging the desirability of complete freedom of conscience without fully recognizing that today the vast majority of people not only do not have such guidance, but do not and would not accept that authority. Again, he only discusses a clear-cut conscience, not one presenting a person with alternatives apparently equally bad or good. This kind of thing bothers many people who are not Existentialists. Finally, towards the end of the book Fr D’Arcy concedes that the State may have the right to decide whether a given set of beliefs is properly described as religious or not. If we accept this limitation, we are brought to the conclusion with which no one will disagree, and which was accepted as far back as the seventeenth century: that a man must stand by his conscience *and take the consequences.*

It is, in fact, when we come to the second point that the difficulty really begins. It is not possible to leap from internal rights of conscience to ‘full possession of privilege’. We are willing to concede that the more a State or Church respects the individual conscience the better; but when, after Fr D’Arcy has described St Thomas’s argument excusing from blame a man who acts conscientiously, he adds that we then ‘expect the conclusion that any action which follows conscience is praiseworthy and good’, we are not in agreement. We find that we prefer St Thomas’s statement; that to be fully good an action requires to be both subjectively and objectively good. We cannot imagine the individual will, with its good faith, outside a social situation. Elizabeth Anscombe is quoted to the effect that ‘a man’s conscience may tell him to do the vilest things’, and we know this to be true. On the inside of the cover we read that the thought of religious persecution was one of the things which moved Fr D’Arcy to write this book. But what of the conscience of the inquisitor or the witch-hunter, certain and of good intent? Fr D’Arcy does not discuss what rights such a conscience has, but moves aside to consider genuine cases of doubt. His quotation from Vermeersch that ‘an action will have in fact whatever evil or

goodness conscience attributes to it' again obscures the difference between subjective and objective good, so crucial to the second and third stages of this argument. Baier, too, seems to us to ask the wrong question, and therefore get the wrong answer: conscience may feel isolated, but can or will any authority (except God) fail to take note of the objective good or evil in a total situation?

At this point it begins to seem as if it is the use of the word *rights* which is bedevilling the discussion. Fr D'Arcy considers that modern Catholics have the advantage over St Thomas in having

seen the elaboration of the theory and vocabulary of natural and inalienable rights conceived by Locke, developed by the American and French declarations . . . The expression is more felicitous, at once simpler and more sophisticated.

Elsewhere, too, he speaks of the 'refinements' introduced by Lockeians and modern popes. Now while Fr D'Arcy has occasional doubts about rights (they have to be *against* someone; it is 'a little odd' that though they are self-evident people could not agree on what they are) he seems unfamiliar with the difficulties associated with the whole concept. It is noteworthy, for example, that while Maritain describes fully the gulf between believers in inherent rights and those who say that they have no reality unless granted by law, Fr D'Arcy, when quoting him, passes this over, and thus misses an opportunity to discuss the possible 'unreality' of rights of conscience. Far from the word *rights* clarifying the subject, the expression of St Thomas 'natural justice demands', which implies the total situation, would lead on much more easily to modern discussions of man's place as an individual in society. For when Fr D'Arcy says that in modern England we have felt no temptation to use the word 'right' in the justice situation, he is only thinking of the Whig tradition; Burke or Coleridge, for instance, would find it normal.

In his third part, Fr D'Arcy wishes to show that the absolute duty to follow conscience involves the right to 'get away with it'—or, in the minimal interpretation, that the State is acting *ultra vires* if it interferes, particularly in matters of religion. When he (on two occasions) quotes article 44 of the Irish Republic's constitution concerning liberty of conscience, he makes no comment on the phrase *subject to public order and morality*. As it happens, because of the present church-state situation in Ireland and many other factors, that is a dormant phrase; but there are any number of situations in which either the church or the state may find itself compelled to curtail freedom of conscience. It does not therefore *follow* either logically or reasonably 'that the State has a strict duty to respect his (man's) freedom': some consciences are almost totally destructive, and it only makes us sadder and wiser to reflect that the ones which (looking back) we should most like to have seen controlled have usually, in fact, been in control of the situation.

The problem today does not seem to be so much the danger to freedom of conscience (at least, in liberal-democratic societies) as ignorance. 'Perhaps no one', writes Fr D'Arcy, with great charity and truth, 'can hope to determine

in detail the extent to which ignorance of the moral law is possible'. One might add: ignorance that there is or could be a moral law. Today we can study, on the one hand, the much-criticized 'negative freedom' of some Catholic countries, with statesmen who 'wish to prevent evil', on the other, the results of complete toleration, and, e.g., a democratic Catholic statesman who can publicly declare that his religion will take second place to his country's interests. These are situations which it would be valuable to discuss, even if one cannot be impartial or even quite make up one's mind. One thing seems certain: we cannot apply a general principle to all countries at all stages of development. I suppose the most irritating thing about this stimulating book is the way in which Fr D'Arcy so often seems to stop facing a problem (because it is 'outside his field') just when it is getting really controversial. For instance, in a paragraph (p. 213) which is worth partly quoting, he writes:

Obviously there will be room for dispute about many goods that contribute to the fulfilment of the human person. Should the virtue of patriotism be subordinated to the family virtues in wartime, or vice versa? Must the enjoyment of sex in marriage be subordinated to the power of procreation, or not? Must the good which is freedom of speech be subordinated to the good which comes from public peace and order? . . .

Here he sees the whole problem, but still goes on:

No detailed settlement will ever command unanimous agreement . . . But in our investigation the good in question is indisputably supreme: the sovereign end of the human person.

This seems to argue in a circle, for what is the use of talking of sovereign good when we have just concluded that we do not know what composes it?

It is unfair to judge a book by any criterion other than its own aim, and Fr D'Arcy repeatedly declares that he is not concerned with the practical side of conscience, or with questions like church-state relations: such things, he believes, are the business of the political scientist and the constitutional lawyer. Yet the impossibility of studying the individual conscience in a vacuum leads him constantly to over-step his own limits, and it is difficult to see how *rights* can be considered apart from the community. It is therefore legitimate to say, I think, that the book is weakest on its social and political side. Fr D'Arcy's failure to distinguish between the State and society, together with similar confusions, enables him to resurrect the meaningless question: Does the individual exist for the State or the State for the individual? No one nowadays could seriously suppose that governments or forms of state which did not offer considerable benefits to much of society could last a year; equally no one can conceive of a society which does not impose serious restrictions on those abstractions 'the liberty and rights of the individual'. 'Life in an ordered society is necessary for the fulfilment of man's potentialities and inclinations'—yes, and he has to pay for it. Perhaps, in the light of this, phrases about *the State thwarting the ends of man* could be re-formulated nearer to actuality? Fr D'Arcy himself, in *The Limits of the Argument*—where he throws away much of his previous

thesis—acknowledges the frequent priority of the common good (as who must not?), but clings to the unsupported assertion that some rights must never be subordinated. They must only be ‘co-ordinated’. This is a new and unexplained concept. In fact, the whole section is a curious one—as if Fr D’Arcy had suddenly seen all the objections which might be raised to his theories and would have re-written the book if he could. Let us hope he *will* write another, really dealing with the difficulties of his thesis, and not merely, as he suggests in a postscript, ‘proving’ that freedom of conscience is the best policy. The application of principles simply cannot be left to the political scientist (I speak with feeling); everyone is confronted with the need to apply them almost daily. Here we are left with the conclusion that only one’s right to the private enjoyment of conscience—and perhaps the desirability of as much public freedom as is possible—has been *proved*; in the background lurks a jungle of problems which we have been left to solve. Yet the book leaves a very sympathetic impression, since wherever Fr D’Arcy argues a case to the point where we must abandon him, we find him bringing back our own objections, if not on the next page, in the next chapter. This must be the hardest subject in the world to write a book about.

BERNICE HAMILTON

Reviews

LETTERS TO A FRIEND, 1950-1952, by Rose Macaulay, edited by Constance Babington Smith; Collins; 25s.

MORE THAN MUSIC, by Alec Robertson; Collins; 21s.

‘They’re not for other people to see’. Rose Macaulay’s instructions were that the other half of this correspondence should be burnt after her death, and it is hard to see what principle can justify the publication of her own letters—intended, as every one of them obviously is, for Father Hamilton Johnson alone. But, now that they are published, and so much that might properly have been left to silence has been evoked, her friends at least will recognize with delight—and sadness—the generosity and fun, the maddening inconsequence and brilliant observation, the extraordinary triviality of some of her religious interests, combined nevertheless with insights of simplicity and a longing for the love of God.

For many years Rose Macaulay had abandoned the practice—and in any serious sense the faith—of her Anglican upbringing. A chance letter from a Cowley Father, stationed in New England whom she had known in London