NATURAL LAW*

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Aristotle is sometimes called the "Father of natural law". But in name and fundamental meaning natural law originated early in Greek thought from what the Greeks saw, or thought they saw, in the universe—the working of a divine mind ordering everything into a harmony. The Homeric epics refer to a law older than the decrees of the Olympian gods; to an ancient sacred order which was recognized long before the authority of Zeus and the Olympian gods was established. This most ancient law, the basis of kin society, is the *Themis*. It is *Themis,* for example, to honour one's parents, to practice hospitality, to bury the dead, not to kill a kindred person, or to indulge in a blood feud. But *Themis* is not only a pre-Olympian concept of what is "right", it is also a cosmic force which watches over the "right". *Themis* is Fate. As *Moira,* the goddess, *Themis* personifies the belief in a preordained destiny in which man's life is inextricably enmeshed.

Much later, the mythology of Plato has Zeus giving men, and men only, the *dike* (justice) which keeps them from destroying each other. Political justice for Plato exists when each class in the state performs the function appropriate to its abilities without interfering with the appropriate functioning of other classes—all under the direction of a governing class, the characteristic virtue of which is wisdom. Personal justice in the Platonic ethics is similarly structured, with each faculty of the individual independently fulfilling its proper function ideally under the direction of an intellect endowed with wisdom.

The following elements of this conception of justice, in conjunction with the Greek constant of divine law, were taken into Aristotle's political theory, and constitute the basis of his meaning of natural law:

1. That things (not only human beings, and their faculties, but all natural things) can be known to be of a certain *kind.*
2. Because a thing is of a certain kind, *reason* can determine:
3. What the *proper function* of that thing is, and
4. What *purpose* or end that function should achieve.

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5. That God is essentially involved in natural functioning to achieve a natural end, because only by the attraction of divine perfection is anything moved to function naturally.

For Aristotle, and for those philosophers who have followed him, everything has the general purpose of perfecting itself, that is, of realizing the totality of its possibilities. But it is the peculiar power, and responsibility, of intelligent beings (men) to discover what their own proper possibilities are by an examination of their own common nature, their own inclinations, and to reason out the ways in which these possibilities can best be actualized.

From this viewpoint it seemed evident to Aristotle, for example, that by the natural law man is a social animal, that some men are born slaves (or "living implements"), that the purpose of the state is paramount to the purpose of any individual citizen.

From what man *is*, then, it is possible, according to this theory, to reason to what his conduct, public or private, *ought* to be. And the conclusions man reasonably comes to about what his conduct ought to be constitute natural law.

Put very simply, the transition from the *is* to the *ought*, from fact to value, in the Aristotelian conception of natural law is the same as occurs in the situation where a man's reasonable purpose is to get up on the roof of his house, and he considers the means of getting there as either good or bad. In such a consideration, of course, more than the man's nature, the kind of operations he can perform, must be taken into account. Some thought must be given to the apparatus available and also (perhaps above all), to the people who are going to help him—it is amazing how distracted most people become when they have the responsibility of steadying the foot of an extension ladder. It is apparent that even a limited operation such as getting up on a roof is seldom simple, and it is unnecessary to emphasize that social enterprises are generally extremely complex. It would be a mistake therefore to assume that the natural law is ever responsibly proposed as source of instant precepts.

A point to be noted before we leave Aristotle is that the natural law, as he conceives it, is a moral law. It demands that a man be reasonable, but it permits him to be totally unreasonable if he so desires. The unreasonable man has only the consequences of irrationality to suffer—he will end up less a man, he will not have fulfilled his possibilities. He *ought* to fulfill these possibilities, but nothing in the natural law will compel that realization.

The Roman Stoic conception of natural law (which is basic to Roman Law) is ultimately, however, not a moral law, but

rather a physical law. The Universe, as the Stoics understood it, is governed by a "World Reason", which may simply be called "Fate". This "Fate" positively orders everything, including man, into universal harmony. The only freedom peculiar to man is to co-operate or refuse to co-operate with "Fate". If he co-operates, if he is reasonable, he is happy. If he refuses to co-operate, if he attempts to oppose his "Fate", he is miserable—but it all comes out the same in the end. Willy-nilly he does what the natural law demands. This law in Stoic theory is, therefore, a physical law, a law of coercion, with a mere minimum of moral free-play to account for happiness and misery in human life.

It may be noted that the Stoics eliminated Plato's and Aristole's distinction between free man and slave. For them the only distinction in the world community is between the wise man who goes along quietly with the forces of the natural law and the fool who struggles against them. Hence the oft-quoted lines of Seneca: "The gods do bless the man who follows willing, the man who is unwilling him they drag".

It seems generally taken for granted in political histories that there is no difference between the Roman Stoic conception of natural law and that of theologians and philosophers of the Middle Ages. There is no doubt, of course, that the latter borrowed extensively from the Stoics. But I think it is worth pointing out that Christian natural law, if the expression is admissible, is, like Aristotle's, a moral law. If a man disobeys the natural law in a serious way Christian theology sees him in danger of missing his proper final end and going to Hell; but nothing can force him along the road to Hell—or along the road to Heaven, for that matter.

Is the distinction between the Stoic and Christian conceptions of the working out of natural law of any considerable importance? Speculatively it would seem that the conception of a world force pushing one along a path of destiny could scarcely fail to encourage an individualism of an anti-social sort. If a man to be happy must follow his own unique way through life then he can scarcely be expected to cede much to the needs of others. Practically it is interesting to note that those countries which were within the pale of Roman law with its Stoic philosophical basis have never in any durable way been able to make parliamentary democracy work. The notion of absolute rights belonging to individuals as such seems in contradiction to the spirit of compromise necessary for the successful functioning of parliaments, particularly in that it seems always to engender an atomic "bloc"

system within parliaments rather than party systems of the English kind. At any rate, countries which have constructed their political forms in the English mode have succeeded rather well in maintaining stable parliamentary governments, and the fact is that England with its common law and canon law tradition was never within the pale of Roman Law.

In discussing natural law in the Medieval period, I must for reasons of time and my own limitations, ignore the Canon and Civil lawyers generally and concern myself only with two of the most representative theologians—St. Thomas Aquinas and William of Ockham. But to appreciate the difference in viewpoint of these two, it may be useful to say a word about St. Augustine who influenced a movement of thought which penetrated the thinking of the whole of the Middle Ages, pro or con, and who is still, and I think increasingly, of significant influence among Catholic theologians and philosophers.

Augustine was a Neo-Platonist philosophically, and from Plato he obtained the conviction that the eternal truth is not attained by examining things in the world. We see the truth in our own ways of thinking and we are therefore born possessing the truth. Furthermore, with Plato, Augustine held that a grasp of the truth is but a stage on the way to the knowledge of the good. Now for St. Augustine it is the will which knows the good; the intellect merely knows the truth—a lesser value. Therefore the will is superior to the intellect. From this evaluation there spread down the Middle Ages a tendency to exalt the will, both divine and human, and to emphasize the freedom of the will as God's and man's most precious attribute. What all this has to do with law, I hope will become clear later.

I think it is safe to say that the influence of Augustine predominated throughout the Middle Ages until St. Thomas established, temporarily at least, the predominance of Aristotle over Plato—a predominance I must hasten to add, which was never recognized by a large and influential school of medieval theologians and philosophers—and which is recognized today—perhaps alas—by a dwindling number of influential thinkers in the Catholic church. Among the medieval legal theorists who was not influenced by Aristotle was William of Ockham, about whom I will say something later.

The philosopher for St. Thomas Aquinas is Aristotle. His respect for St. Augustine, as a member of the same union of saints, never diminished his Aristotelian conviction that reason is prior and superior to will. Nor did his acquaintance with Roman

Law, particularly through the writings of Isadore of Seville, move him to relinquish the Aristotelian conception of the natural law as a moral law in favour of the natural positivism of the Stoics. For St. Thomas, therefore, law was always and in all forms primarily and essentially a rule of reason and only incidentally an expression of the will of the lawmaker.

So we find Aquinas giving a definition to include all law whatsoever in the following terms: *Law,* he wrote, *is an ordinance of reason for the common good promulgated by him who has care of the community.*

This insistence of Aquinas upon reason as the source of law follows from his view that it is the function of reason to direct man in the achievement of human purposes. Will is involved in this finding of means to end only secondarily because the will ought to be moved by reason and reason only. The will of the sovereign, he says, has the force of law but unless the sovereign's will is in accordance with reason it savours of lawlessness. He expresses the same notion in another way when he says that the form of government called tyranny is an absolutely unreasonable institution and therefore can have no law.

The other elements in Aquinas' definition of law need little explanation. The provision that law must serve the common good means simply that its purpose is the happiness of all members of the community and not the welfare of any individual or particular class. That law must be promulgated follows from its rational nature, wherein there is essentially no coercion. Men are expected to obey the law because it is reasonable, but to recognize its reasonableness they have to know it first. By the provision that the application of law must be made by him who has care of the community, St. Thomas explicitly states that he means the whole community (as in direct democracy) or else the vice-regent of the whole community.

Within his definition Aquinas distinguished four types of law, which taken all together constitute a system of divine government over the whole cosmos, and which regulate the relationships between creatures within the universal order.

An unlawful ruler, or one who makes bad laws, was, for Aquinas, a rebel against God and the whole divine plan for the world, since each one of the four kinds of law is a form of the ordinance of divine laws in governing a level of cosmic reality.

The highest law, and the matrix of all law in the scheme of Aquinas is the Eternal Law: another name for the reason of God. It is the model or idea of the universe in the divine intellect. It is divine wisdom. Human ideas, St. Thomas says, are derived from things, and things, including man, are derived from the divine ideas.

All other laws including human laws must conform to the eternal law. Insofar as they deviate from it they are unjust and partake not of the nature of law but of violence. Through this Eternal Law God imprints on the whole of nature the principle of its proper functions, and this He does in two ways:

(1) by an inward moving principle—a nature—which gives to things their innate inclinations;

(2) by way of knowledge. Man is subject to the eternal law in both ways. He is a material body subject, for example, to the law of gravity. He is an animal subject to instinctual drives. But he is also a rational creature capable of assessing and choosing means to fulfill his God-given functions.

The second form of law in the scheme of Aquinas is Divine Law. It need not detain us because it belongs to the supernatural order. Briefly it is contained in the old and new testaments and in the teachings of the Church. It directs man to his eternal happiness rather than to happiness in this world.

Aquinas' third form of law is natural law. It is the participation of man in the eternal law through his nature, with all its tendencies towards self-perfective activities. As has been suggested these tendencies are of various levels but all are directed towards the good, that is, towards whatever will perfect the human individual and the human species. In common with all other beings whatever, man desires his own cultural existence—hence the natural law of the preservation of human life. With all animals, he shares the mating instinct, and a concern for the education of offspring, etc. Peculiar to man, however, are the inclinations to live in society and to accomplish what is necessary to make human society possible, such as the avoidance of offence to those with whom he lives, and so on.

In short all man's appetites are a part of the natural law but it is the particular function of reason to rule these appetites and to employ them as a means to the attainment of his individual perfection and, through society, the perfection of his species.

The natural law, so conceived, is unchangeable in its general basic principles but in its remote applications, as deduced from these basic principles, change is possible. Unfortunately Aquinas

gives no examples of the kind of changes he thought to be possible but because the idea of change in the natural law is of peculiar interest theologically at the present time and consequently of concern to those who see a necessary connection betwen theology and human law, I would like to include here a quotation from Aquinas: "In its secondary principles which are certain detailed proximate conclusions drawn from the first principles, the natural law is not changed so that what it prescribes is not right in most cases. But it may be changed in some particular cases of rare occurence through some special causes hindering the observance of such precepts".

As to knowledge of the natural law by all men, St. Thomas says that all know the common principles but concerning the more remote precepts there is greater possibility of error, e.g., he says, stealing, at one time, was not considered wrong among the Germans.

Now, because of the possibility of error about the natural law in particular cases, because the natural law does not supply definite rules for application to all human situations, and because the fear of punishment is required to compel perverse individuals to avoid actions harmful to the common good, there is need for Aquinas' fourth kind of law, *human law*.

This kind of law according to St. Thomas has two divisions, civil law (*Ius Civile*—not necessarily so called in distinction from common law) and the law of nature (the Ius Gentium of the Roman lawyers). It supplements natural law in the ways already mentioned but particularly by making the natural law definite and concrete, e.g., the latter forbids murder but does not specify what kinds of homicide are to be considered as murder.

All human law without exception, however, is ultimately derived from the natural law. This is a departure from Aristotle's view which saw the two as independent and even in opposition in some cases. But Aquinas holds that law is a law only if it is just, and a law is just only insofar as it is reasonable. Now as the first rule of practical reason is the natural law, all law must be based upon the natural law.

St. Thomas' theory of natural law may be called the *intellectualist theory*. William of Ockham's theory, to which I now turn, is commonly called the *voluntarist theory*, simply because it insists that law is not essentially a matter of reason but rather of will. First of all, Ockham denies that God has ideas—being absolutely a unity there could be no multiplicity in his nature, not even of ideas. Now if there are no ideas in his intellect God could not

have employed ideas as his models in creating the universe. Hence, the way things are in the world is the result simply of a completely free, one might say arbitrary, divine covenant—an action of the divine will purely and simply. By way of contrast, then, we may say that Aquinas held that God promulgated the external, divine and natural laws because they are reasonable, and Ockham held that these laws are reasonable because God promulgated them.

Furthermore Ockham saw that if he was right in saying that God employed no models in the artistic creation of the Universe, then there are no essences or natures common to classes of things—everything is uniquely individual. Hence there is no point in trying to discover what is natural to classes of things such as men and establishing one's discoveries as laws. It is true, Ockham argued, that there is a natural law, but man discovers it not in things and their relations but in the universal principles which the human intellect formulates independently of his knowledge of the individual things which make up the universe.

Hence Ockham saw no difficulty in the proposition that murder, adultery, even hatred of God would cease to be evil and become entirely good if God commanded such actions.

What is important for our purpose here is that more than one authority subscribes to the view that the voluntarist theory of natural law encouraged legal positivism in its definition of law as the command of the sovereign. They point out that some of Ockham's followers, if not Ockham himself, extended his definition of natural law to encompass all law, so that, as one of the followers, Pierre d'Ailly, said, "The Prince is bound by no (human) law, not even that which he makes himself". In other words, although a government would be bound by the law of God, in the silence of that law there could be no criterion of right or reasonableness applicable to laws proclaimed by that government. They would be laws and equal in status to any other human law simply because the legislator commanded their observance. This view is certainly attributable to Jean Bodin (late 16th Century) who considered himself the father of the idea of sovereignty, as it also may be to the 14th century school of positivistic Roman lawyers of which Bodin considered himself a descendant.

Despite the difficulty of definitely tracing judicial practice to jurisprudential theory exposed in a theological context, as was Ockham's theory of natural law, it is considered significant by some historians of jurisprudence that in the 16th and 17th centuries, even in England, the home of common law, the claims of parliament were met by strong counter-claims of royal absolutism of a

kind unknown in the high Middle Ages. A case which is cited to illustrate these absolutist counter-claims in England is the Bates case. The facts of this taxation action are not of importance here, but the Chief Justice (actually the chief Baron) stated in his decision that the King "has an overriding absolute prerogative to deal with matters of state", "a general absolute prerogative to act as he pleased, which he could use whenever he saw fit, the ordinary (royal power) is for the profit of particular subjects, for the execution of civil justice, the determining of the 'mine' . . . and by the civilians is nominated *jus privatum* and with us common law; and these laws cannot be changed without parliament . . . the absolute (royal) power is not to the benefit of any particular person, but is only that which is applied to the general benefit of the people, and is *salus populi;* as the people is the body and the King the head".

This is considered to be a new distinction in English law, although it is suggested by the contemporaneous teaching of the professor of civil law at Oxford who referred back for his authority to the 14th century Roman lawyer Baldus, a contemporary of Ockham.

I don't wish to suggest that anyone holds Ockham personally responsible for all the positivistic theories of law since his time, or for royal absolutism and all that goes with it. One would be rather inclined to think that the seeds of Augustinianism had flowered in the 14th century fields of theological jurisprudence which in turn had seeded the political terrain. But even those who see this relationship admit that it is difficult to document and it is indeed denied by some authorities. The coincidences, however, seem really too great to be simply coincidences. As a further example, four years after the Bates case (in 1610) James 1st of England proclaimed in a speech delivered to parliament that the King is accountable to God alone and argued that "if you will consider the attributes of God, you will see how they agree in the person of the King". In other words, as God is absolutely free to command his subjects to do whatever He wills, so kings are free even, as James actually said, "to make of their subjects like men at chess".

It would be possible to go on for some time tracing the influence of the voluntarist theory of natural law through later theologians to political and legal action. Suffice it to say that the great Jesuit political philosopher Suarez subscribed largely to it, and he had considerable effect on Spanish law as applied at home and in the colonies of Spain. Among the protestant theologians

Luther, Calvin and Zwingli were Ockhamists—which no doubt had at least something to do with the views of these men concerning the powers of civil rulers.

But I am sure you have had enough of the theological foundations of natural law theory and I am going to turn now, briefly, to what is called modern natural law, then consider some post-modern objections, and possible answers to these objections.

In the early 17th century a process was begun of gradually releasing political and legal philosophy from its age-long association with theology. With the Renaissance the secularization of intellectual interests had begun with its attendant features of naturalism (as opposed to supernaturalism) and rationalism (as opposed to theological faith). The special sciences begin to dominate all fields of scholarship with their special kind of logic.

Prominent in the political thinking of the post-Renaissance period was the social contract theory of the foundation of government—a theory which attributed practically nothing to religious authority in any sense of the term. Here may be mentioned Althusius who attributed to a contract between members of a political community a two-fold effect: it founded the community, and established a government to administer the affairs of that community. The important effect of this theory was that it made sovereignty reside necessarily and inseparably in the people as a corporate body and limited that sovereignty by human law only.

This detachment of natural law from divine authority was completed by Hugo Grotius who was not as clear about national sovereignty as Althusius but who went beyond the latter in his conception of a law regulating the relations between sovereign states. With a divided Christendom to deal with, Grotius went back to the Stoic philosophy of natural law—to the trend called "sociableness" as apparent in the very nature of man. Grotius still talked about God as the author of nature, as did Althusius, but made it clear that the laws of nature would be unchanged if, by hypothesis, there were no God.

Grotius, however, gave a meaning to reason as the source of natural law which is not found in the theories of antiquity. Legal reasoning appeared as analogous to mathematical reasoning—and the basic legal maxims as axioms of the $2 + 2 = 4$ kind, the truth of which is guaranteed by their self-evidence. Grotius wanted to do for law what he thought was being done for physics by Galileo. The important jurisprudential consideration for Grotius was a good method, and in the spirit of his time, and

much later, the best method was that by which the mathematical sciences were applied to nature—a conviction which many would agree is still too much with us.

The mode of procedure of Thomas Hobbes in the middle of the 17th Century was much in accordance with that of Hugo Grotius but the results were considerably different. Grotius conceived the law of nature as directed to human purposes. Hobbes thought of the law as a mechanical principle. He dispensed with the idea of purpose altogether and thought in terms of forces—chiefly psychological—and their effects. Jurisprudence for him was part of a mechanistic body of scientific knowledge, and it is important to note that the basic fact of nature around which this body was constructed was the force of individual self-interest.

The social contract theories of Althusius, Grotius and Hobbes, the Robinson-Crusoe-like state of nature which was presumed to have preceeded the social contract, and the force of individualism which moved men in Hobbe's conception to negotiate and abide by the contract, had their most influential exposition in the natural law theory of John Locke. According to the latter, on the free individual rests a single law—the law of nature—with a single precept—that of self-preservation, the preservation of one's own life, liberty and property. This law has only one limitation—the same law as binding other individuals, who in their equally sovereign independence are likewise bound to preserve themselves, their liberty and their property. If the preservation of other individuals could be considered an added duty for Locke, it came into effect only insofar as it did not diminish each individual's own self-interest. The "common good", which he holds to be a limitation of governmental power, consists merely in the security of each individual in the possession of his property. It may easily be seen that Locke's law of nature, his rights of man, the origins of society he postulates, are not derived from reality, from man's nature as it really is in its totality. They are deduced from abstractions, a fictitious state of nature (a myth) and a disembodied notion of man according to which material possessions are the only objects of human desire.

The common sense and common law practicality of the English prevented Locke's theories from having any devastating social consequences in the British Isles. But the French. with their passion for abstractions (*La Gloire* of De Gaulle), and their individualism as derived from Roman Law Stoic philosophy, went for Locke's ideas "whole hog". Hence the complete atomic individualism of the Constitution of 1791 and of the Declaration

of the Rights of Man and Citizen. Locke's individualism provides no room for equity in law but merely a pattern of power relationships—the absolute lordship of one individual battling against the equally absolute lordship of others. In this pattern the legislator is the arbiter of "right" only in the sense that it has the power to check power. Majority rule for Locke is simply "the greater force".

In such a theory there is of course the seed of legal positivism—might makes right—and the foundation of any sort of political absolutism anybody likes.

Within the period of Locke's influence, (which was much greater than I have been able to indicate), natural law decayed, and David Hume is supposed to have destroyed it completely. However, in recent years there has been a notable revival of interest in the theory of natural law in its ancient and medieval forms. No doubt the history of the first half of this century has afforded a powerful impetus to the search for a less sterile and less dangerous theory of law than that professed by the legal positivists. The atrocities of this era, the deliberate mass starvations in Stalinist Russia, the genocide attempts by the Nazis with their gas ovens, the terror of the nuclear bomb—so many events evidencing the capacity of man to be irrational to a terrifying degree, have moved jurisprudence to seek an alternative to positivism. The natural law theory is an alternative.

I need scarcely remind this class that when the allied power sought a legal ground for the Nuremberg war crimes trials, Judge Robert Jackson of the U.S. Supreme Court, their prosecuting representative, could find none except the natural law; and if the more recent Declaration of the Rights of Man made by the United Nations is not founded upon a natural law basis, it would be difficult to find any other for it.

This theory is, however, not capturing the field of ethical jurisprudence by storm. It has powerful opponents. Foremost among them are the philosophical positivists who accept as true only the mathematical certitude of the sciences, and the kind of certitude which is based upon logical contradiction (e.g., Descartes *Cogito Ergo Sum*).

But as Aristotle pointed out over 20 centuries ago, we can only attain that degree of certitude in any science which the complexity of the facts of that science permits; and in the practical sciences we cannot hope to arrive at the certitude which mathematics and formal logic afford. Jurisprudence is of course a practical science and its findings will never be as certain as the axiom that one and one equals two or that the whole of any material thing is greater than any one of its parts.

The basic objection of the philosophical positivists to a moral natural law is that logically a statement of fact cannot be converted into a statement of obligation; an "is" cannot be converted into an "ought". To go back to our original analogy of the man wanting to get up on his roof, the positivistic philosopher will object that the fact that the man is wanting to get up on his roof cannot establish an obligation to get up on the roof. If we say: Well, if he wants to erect a television antenna he is obliged to get up on the roof, the rejoinder is that the fact of his desire to have satisfactory T.V. reception doesn't imply that he "ought" to satisfy that desire. To anyone who may say that to desire good T.V. reception is reasonable the answer is: there is no obligation to be reasonable.

These philosophers say that the natural law theory results from a confusion of logical statement forms wherein the question "What is man for" is confused with the question "What is the light switch for". The latter question can be answered, they point out, because General Electric or someone made the light switch to serve a function. But the question "What is man for" cannot have an answer because man was not made by anyone—and consequently was not made to serve a function. I can almost hear you thinking: Now comes the commercial: He is going to insist that God made us, and did indeed make us for a purpose which, as far as this world is concerned, is evident in man's nature—in the kind of thing he is.

And I am—but I am not going to preach a sermon or hold catechism class.

I agree with Jean Paul Sartre in very few things, but I think he is absolutely right when he says that you cannot deny the existence of a Creator and still make sense out of this world. He says that, if the world, and man, were not made by an intelligent being, then this world is absurd. He thinks it is absurd. I thiink his conclusion follows from his premises. Nietzche said "God is dead and everything is permitted". If God is indeed dead, then indeed everything is permitted. All the greatest thinkers I have any familiarity with agree in this, at least, that if there is no eternal rewarder of virtue then no man can be expected to be concerned with the distinction between moral good and evil, at least insofar as the effect of good and evil upon others is concerned.

The Thomist natural law protagonists say that God equipped man with the faculty of reason and expects him to use it. The positivistic philosophers say no one equipped man with his faculties, and he has no obligation to use any of them—not even his reason.

That in a nutshell is the chief battle which natural law exponents have to fight and, I think, have to win, if the civilizing function of law is to long endure. It might be objected that we are now living in a secularized, godless world without benefit of the natural law mentality and we are not doing too badly. Even if it can be conceded that we are not doing too badly, I think, nevertheless, that it can fairly be claimed that we are living on the moral capital of ages which were not godless, or secularized or deprived of natural law jurisprudence. It is not insignificant that a man can be dying in a ditch in China or India and passers-by will not even turn their head to look at him. I do not mean to suggest that if people would only read the *Summa Theologica* of St. Thomas the world's troubles would be ended. It takes more than knowledge to make men good—Plato to the contrary notwithstanding. Nor even if virtue were knowledge would a knowledge of Medieval natural law be adequate to solve the jurisprudential problems of our times. Conditions change, knowledge of men and things increases, and men must grow in wisdom and grace to organize and use their knowledge to suit the conditions.

By way of example, it is often charged that Medieval natural law is too authoritarian, that it allows too little to that unique freedom which is everyman. The modern personalist, and particularly the existentialists, have been stressing the right of man to freedom; and I think they do well to stress it. But if the human tendency towards freedom was insufficiently appreciated in the Medieval natural law theory that need merely mean that this theory was inadequate—it does not imply that the theory was entirely wrong. If every man is unique, then man is naturally unique; if every man needs a maximum of freedom, then it may be argued that it is of the nature of man to be free.

The only precaution one would enjoin here is the avoidance of a partial view of man. To define man as consciousness and to point out the absolute freedom of consciousness is to ignore the fact that man is more than consciousness. He is a conscious *body,* which as a body is as subject to the limitations imposed by the coexistence of other bodies as any other material thing in nature. Jean-Paul Sartre made this mistake in definition in his early writings with the result that when he came to deal with social problems he ended up by defecting from Existentialism to Marxism.

If we would make as great an effort to grasp the totality of human tendencies, to understand the purposes to which these tendencies lead, and the ways they can be reconciled, as we are

presently making to understand material things and the ways they can be employed to gratify man's restless appetite for diversion, then I think natural law theory could be to human law and government a light to illuminate the darkness which so many observers fear to be now gradually enveloping the world.

I cannot end on such a gloomy note, so let me add that it seems to me that men *are* following natural law principles to make gains for mankind. Never in the history of mankind has there been such a hatred of war, a horror of disease, a compassion for suffering, a concern for human freedom as is evident today in those countries in which there is still a strong tradition of Greek and Christian thought. I cannot suggest that these attitudes are entirely due to the natural law elements in that thought—Christ was not a natural law theorist—but wherever reason rather than, or along with, faith has had an influence in forming these attitudes, the natural law has had its effect.