

Reasoning on the Nature of Things



SEVERAL YEARS AGO, a friend of mine suggested that there needed to be a renewed interest and emphasis on rights in the discourse on economic matters. It was all well and good, he said, to be told that it was not expedient to regulate this or that or the other, that confiscatory taxation produced undesirable social consequences, that redistribution of the wealth reduced incentives to work, that increasing the money supply resulted in the declining value of the money, and that government intervention in the economy produced assorted social ills. He did not question that such assessments were correct. But it was equally or more important, he thought, to get back to the basic concept of rights.

My friend was aware, of course, that there was hardly a shortage of

talk about rights. Just about every sort of thing imaginable was, and is, being asserted and claimed as a right, ranging from the alleged right of women to abort unwanted pregnancies to the right of prisoners to a precise number of cubic feet of space. Every session of the Supreme Court seems to bring forth a new crop of rights, if in no other way than by its refusal to entertain appeals from decisions of lower courts which have elaborated some new set of rights. Even acts of Congress sometimes contain provisions which take on the color of rights.

He was not speaking of this new crop of rights, however, for he understood, I think, that however august the bodies which proclaim them they are but assertions of the will and power of men. These alleged rights have no more substantial backing in right than do Federal Reserve notes now have in silver and gold. They are fiat rights much

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in the same fashion as our money is fiat money.

Natural Rights

The rights my friend had in mind were of much more ancient vintage and claimed something much more substantial for their authority. They were rights said to subsist in the nature of things and to antedate governments, courts, and constitutions even. The economic rights he had in mind consist of such things as the right of man to the fruits of his labor, to exchange his goods freely with other owners, to have, to hold, and to dispose of his property, and to be secure in his possessions without arbitrary interference from any person or governmental authority.

The importance of his point has become much clearer to me in recent months. The election of Reagan to the presidency, the gaining of a Republican majority in the Senate, and the increase of conservatives in the House, have been interpreted as a major change in the thrust of government. Also, Reagan has been most vigorous in promoting his economic program during the first six months or so in his term of office. There has been considerable talk of economic freedom, of freeing enterprise, of removing government controls, and the like. But the justifications of these, so far as I am aware, have been made almost solely in utilitarian and pragmatic terms.

The justification for lowering taxes was not that people have a right to the fruits of their labors but that it could result in more saving, capital formation, more jobs, and increased production. In short, the emphasis is wholly on the social benefits to be obtained, not the vindication of the rights of individuals. Some of the weaknesses of this approach are already becoming apparent. It hinges everything on good economic results, which may or may not be forthcoming shortly. Moreover, it is readily interpreted in the framework of economic planning, though different from some that has preceded it. It makes it appear, too, that government is responsible for making the economy perform well, a conception that underlay the increasing government intervention over the years.

It is not my purpose, however, to make a critique of the Reagan programs. Rather, I call attention to them only to make clear that there is something missing from the justifications being offered. Nor is it merely something incidental to them; it is critical, even essential to their justification and direction. The gap in the thinking of the Reagan people, the omitted justification on the basis of rights, is not something peculiar to them, however. It is characteristic of our times. There is a gaping hole in modern thought.

Thinking in terms of the nature of

things, which is essential to the discovery and ascertainment of rights, while it occurs, is not in keeping with generally approved modes of thought. It is no less valid today than it ever was, but for many years now it has not been in keeping with intellectual fashion. It will be helpful, then, to examine how that came about and what was involved before giving some examples of how it works.

The Natural Law Philosophy

Reasoning on the nature of things was part and parcel of a complex of ideas which are sometimes referred to as the natural law philosophy. It needs, then, to be examined within that context.

The natural law philosophy was largely abandoned in the course of the nineteenth century. Its abandonment signified a major shift in thought. Natural law doctrines had been a staple of Western thought since the time of the Roman Stoics, and its antecedents go back even further than that. Interest in it was not constant, of course; it waxed and waned over the centuries. But every revival of learning and renaissance (harking back to and rediscovering aspects of Ancient thought) brought renewed interest in natural law, up to and including the classical revival of the seventeenth and eighteenth centuries. Indeed, Otto Gierke declared that "The development of

natural-law ideas . . . attained its culmination at the end of the eighteenth century. After that time," he continued, "we can begin to trace a process of collapse and disintegration in the natural-law system of thought."

I referred to it as a philosophy above, yet it was never quite that in an all-embracing sense. It did attain to the rank of a philosophy of law in ancient Rome, was revived as part of a more comprehensive scheme of law by Thomas Aquinas, and undergirded the development of modern law from the Renaissance down through the eighteenth century. Overall, though, it was more of a way of perceiving reality than a consciously elaborated philosophy. As such, it was an offshoot of metaphysics, from which it entered decisively into the development of science in the seventeenth century. Those who view it simply as a legal theory, or even more broadly, as a theory of society and the state, understate its claims and impact. In its varied applications it suffused thought in the eighteenth century, ranging from music and poetry to politics and science.

The impact of the natural law idea is suggested in this summary by a contemporary scholar: "It was a theory which culminated in the American Declaration of Independence in 1776 and the French Revolution in 1789. It was a theory adorned by

many illustrious names—Hooker and Suarez; Althusius, Grotius and Pufendorf; Milton and Sidney; Hobbes, Locke and Rousseau; Spinoza and Leibnitz; Thomasius and Wolff . . . Vico and Beccaria; Fichte and Kant.”² But if we examine the extended impact of the concept, many more famous names should be included in the roll: Newton, Galileo, and Franklin; Haydn, Mozart, and Vivaldi; Jefferson, Adams, and Paine; Blackstone; Hume, Smith, Turgot, and Ricardo; Pope, Addison and Steele.

Perhaps, the natural law theory can be best understood in terms of certain doctrines developed out of it. Underlying these doctrines was the belief that this is an orderly universe, that there is an underlying natural order that makes it so, that there is a law for man and a law for things, that everything has its own nature imbedded in it, that these things account for perceived regularities, and that there is a remarkable harmony pervading all of Creation. The following are some of the natural law doctrines: state of nature, the laws of nations, social contract, and natural rights.

Natural Law Doctrines

The key to the natural law doctrines is that they come into view when we focus our attention on the enduring features of reality. They are discovered by an act of the mind

in stripping away all that changes, that is ephemeral, that is cultural, that is a result of history, that is peculiar to each individual thing. It is in this fashion that we discover the nature of things, the laws that govern or pertain to them, the way they are and can be. For example, if we would know the nature of man, we must remove everything that is accidental to any particular man (or woman) in any particular time or age: dress, language, size, girth, how hairy he is, color, and what have you. Then, we ask what the distinctive features of his kind are. What are the potentialities of his being? By such methods and with such questions we may come to a grasp of the nature of man.

Much was lost, as I say, by the abandonment of the natural law concept by so many thinkers in the nineteenth century. I do not mean to suggest, of course, that it has been entirely abandoned or that relics from it are not still around. The natural law theories have been kept alive by some Catholic scholars, particularly Thomists. Such thinkers as Joseph Wood Krutch, Leo Strauss, and Eric Voegelin have kept some of the basic concepts alive in our time. And, so long as the United States Constitution or classical economics, to take two examples, remain, something of the natural law-natural rights doctrines will remain.

But from the early nineteenth century onward there was a decided shift away from the mode of thinking that nurtured the natural law concepts. Romantics continued to admire nature, indeed, many of them venerated it, but they concentrated on nature in the concrete rather than the abstract. They emphasized the particular and the unique rather than the general, the abstract, and the universal. One of the offshoots of romanticism was historicism, a movement to locate reality within the uniqueness of particular historical events. G. W. F. Hegel provided the philosophical ballast for locating reality within historical development. The evolutionary theories of the nineteenth century had residues of natural law, but they were changed into laws of historical development, and natural law became driving force rather than underlying order. The outlook had shifted from a focus on the enduring to the placing of the whole attention on the changing. History had largely replaced philosophy.

The Utilitarians

The abandonment of the natural law doctrines was not simply a matter of a shift in outlook. Some thinkers repudiated, denounced, and denigrated the very idea of natural laws. The utilitarians were among the more outspoken of these. Jeremy Bentham said of those who believed

in natural law that they "take for their subject the pretended *law of nature*; an obscure phantom, which in the imaginations of those who go in chase of it, points sometimes to *manners*, sometimes to laws; sometimes to what law *is*, and sometimes to what it ought to be."³

John Stuart Mill attacked the very notion of a benevolent and orderly nature (attacking nature and charging it with cruelties much in the manner that some attack or question God). He said, "Nature impales men, breaks them as if on the wheel, casts them to be devoured by wild beasts, burns them to death, crushes them with stones . . . , starves them with hunger, freezes them with cold, poisons them . . . , and has hundreds of other hideous deaths in reserve. . . ." Moreover, "Even the love of 'order' which is thought to be a following of the ways of Nature, is in fact a contradiction of them. All which people are accustomed to deprecate as 'disorder' and its consequences, is precisely a counterpart of Nature's ways. Anarchy and the Reign of Terror are overmatched in injustice, ruin, and death, by a hurricane and a pestilence. . . ."⁴

Mill was, of course, dealing with nature in the concrete, as many romantics did, but without their admiration of it. Bentham, too, was misconstruing the natural law theory, to some extent anyway. All this is the more strange because none

were more devoted to the principles of economics than were the utilitarians, and they surely did not believe that these were of man's devising. My suspicion is that they both misconstrued natural law and found it a nuisance in some of their endeavors. In his efforts at legal reforms, Bentham encountered natural law exponents as an obstacle and simply repudiated the theory. Mill became a socialist, at the last, which was a logical culmination of his utilitarian premises unrestrained by a countervailing belief in a natural order which made socialism impossible.

This brings us to the crux of the matter. For socialism even to have a chance at being intellectually respectable, it was necessary for the belief in a natural order (and a revealed Divine order), in a metaphysical realm in which it subsists, and in natural law, to lose its sway. There must be a belief that men can devise a system unhindered by any underlying order. That is not to say that those who do not believe in natural law inevitably become socialists. It is rather to suggest that socialism arose in the wake of the decline in the belief in a natural order (of which natural laws were believed to be the most precise evidence) and that the removal of this formidable obstacle prepared the way for it.

The economic rights to which my friend referred were natural rights in origin. The concept of natural

rights was one of the natural law doctrines, and with the fall of natural law went natural rights as well. Men continued to speak of rights, of course, but such support as they had now was only in positive law. That meant that they could be extended or withdrawn at the will of the rulers, and only expedient arguments could be raised for or against them. But before looking further at natural rights there is a related point that needs to be made.

Classical Economics

Classical economics was born out of the belief in an ordered universe and the prevailing natural law doctrines. That is another way of saying that the idea of economic freedom was first given theoretical formulation out of this complex of ideas. Adam Smith's *Wealth of Nations*, published in 1776, was the landmark publication for the development of classical economics. Smith maintained that the industrious individual in the pursuit of his own interest contributes to the well-being of others when he buys and sells goods in the market. He is bent to the pursuit of his own interest by nature, and his condition in this world is such that if he pursues it in a productive way he must contribute to the general stock of goods. In doing this, "he intends only his own gain, and he is in this, as in many other cases," Smith said, "led by an invis-

ible hand to promote an end which was not part of his intention.”⁵ There is a natural order of things, so to speak, which makes it so.

It is not necessary for government to intervene to bring about these conditions of economy, and it would be presumptive and disruptive, Smith held, for it to do so. Instead, “All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring forth both his industry and capital into competition with those of any other man, or order of men.”⁶

Smith arrived at these conclusions by keeping his attention focused on the nature of things: the self-interested nature of man, the nature of production, the nature of society, and the nature of the market. It is easy to be misled, however, by his statement that a “simple system of natural liberty establishes itself of its own accord.” This assumes a government which is attending to its proper business, that the “law of justice” prevails, and that individuals and voluntary groups are protected in the enjoyment of their rights. In short, it assumes that individuals have rights, and, given the intellectual outlook of the time, they

were understood as natural rights.

The problem can be stated in this way: Given the existence of government with its monopoly of the use of force, what is to keep it from interfering in the economic undertakings of individuals? And, in any case, what is the boundary between the business of government and the business of individuals and voluntary groups? That is where rights come in.

Like an Auto Without Brakes

Government unrestrained by the rights of people under its jurisdiction is like an automobile without brakes. It would be possible, of course, to build such an automobile, or even to remove the brakes from those already built. Such automobiles would work very well, too, in most respects. They would run as well as those with brakes, accelerate, go up hills, and they might even get lucky passengers to their destinations. But I would not want to bet on the safety of the passengers or of anyone else in their vicinity. Automobiles without brakes would be a constant threat to the lives and property of all who used them or those around whom they were being used. Pedestrians would be run down at crossings; horrible crashes at intersections would be the norm; and even houses and buildings would be in perpetual danger.

Governments without brakes sup-

plied by the rights of their citizens are equally, or even more, dangerous. Property is at peril when government is unrestrained; trade is precarious; all sorts of interventions may hamper the production and distribution of goods. In a broader sense, the lives and liberties of all are in perpetual danger. That such behavior by government would not be in the best interest of the people may indeed be a valid argument, but those with power in their hands are not likely to want for long justifications of every sort of depredation. Minus individual rights and the conception of a natural order, the arguments of Smith and the classical economists can be stood on their head.

It is not necessary to imagine this reversal, of course; it has actually taken place. Adam Smith stressed the social benefits to be derived from economy. The title itself, *The Wealth of Nations*, suggests that this is the end of economy, though that was hardly the point of the work. Nonetheless, this notion of the purpose of economy was planted, indeed, had already been planted by the mercantilists, whom Smith devoted his major effort to refuting. Nineteenth century utilitarians added the concept of "the greatest good for the greatest number" as the touchstone for the justification of an economy. They repudiated natural law and with it all but remnants of a conception of a natural order.

Enter, the Historicists

The stage was set for the historicists who would conceive of any economy as simply a result of historical development. The idea of public benefit as the goal of economic activity remained, but with only particulars to guide it, it was easy enough to show that many people were not apparently benefiting much from a given economic system. Hence, the justification for government intervention, or even revolution. The social benefits are to be achieved, in this scheme, at whatever intrusion upon the rights of individuals may be necessary to achieve them.

Now, let us set Adam Smith upright once again. He did not say that the goal of social benefit was the cause of the wealth of peoples and of nations. On the contrary, he declared that he had "never known much good done by those who affected to trade for the public good."⁷ Nor, I should add, are economic principles the cause of the wealth of peoples and of nations. If they were, governments might conceivably apply them so as to achieve these ends. The cause of the wealth of nations, Smith said, is the application of their industry and capital by individuals and groups to enrich themselves. The optimum conditions for these endeavors are firmly established individual rights. The natural rights doctrine provided a foundation for such establishment.

Natural rights are discovered, as I said, by focusing the attention on the nature of things. The traditional formulation of the position, at least that of the seventeenth and eighteenth centuries, was that man has a right to life, liberty, and property. We can arrive at the justification of the right to life in this way. Who but a man has the right to his own life? In the very nature of things how could there be a prior claim upon it? In short, a man's own claim upon his life is primary. It is his by right. If it be forfeit, it must be by his own willing act.

The Right to Use One's Faculties as One Wills for His Own Ends

The right to liberty is most directly the right not to be restrained or imprisoned. To put it affirmatively, it is the right to go and come at will, without let or hindrance. In practice, it means the right to do this unless he must be restrained for some good reason, duly attested and proved. In its extended sense, the right to liberty is the right to use one's own faculties as one wills for his own ends. This, too, is founded in the nature of things. Only the individual is situated so as to use his faculties for constructive purposes. He must command their use by his own mind and issue the signals through his own nervous system. Only he can direct his faculties to their highest and best use. The right

to the use of one's faculties is an adjunct to the right to life, too, for it is by the employment of them to constructive purposes that life can be maintained.

The natural right to property arises in this way. That which a person has conceived in his own mind, made with his own hands, utilizing his own tools, from his materials, is his by right. It is his right, then, to keep it or dispose of it at will: to save, to sell, or to bequeath to whom he will. The right to private property in land is a corollary to the natural right to property. The right to improvements on the land belong naturally to him who made them (unless he was otherwise compensated) but the right can only be secured by property in the land itself. To put it another way, he who owns the land owns the improvements on it as well. If he does not own the land, he does not own the improvements. That is in the nature of things.

There are many other things which can be learned by reasoning on the nature of things. Indeed, it is doubtful if reason itself could long survive the abandonment of thinking in terms of the nature of things. Moreover, men have never stopped thinking in terms of the nature of things, though they have not done so nearly so fruitfully for many years because they have not generally openly avowed and accepted the full range of the premise of an enduring order

which is necessary to its validation. But there is only one other use that I would make of this mode of reasoning here. The use is to refer to the social contract, another of the natural law doctrines.

I mention the social contract because it is necessary to point out that natural rights are *not* absolute; they are limited. The rights to life, liberty, and property are limited by the equal rights of others to theirs. When the rights of others are violated, the violator may suffer restrictions upon or loss of his rights. It goes further than that, however, as we can see by reference to the social contract.

The Social Contract

The social contract is not a written agreement, nor do we willingly and consciously enter into it. Rather, it is that agreement which is necessary, in the nature of things, to the existence of society. It is everyman's tacit agreement not to use violence to get his way, to leave others to the enjoyment of the fruits of their labor, not to trespass upon the property of others, to fulfill the terms of his individually entered into agreements, to honor his parents, to succor his children, to keep his word, to meet his obligations. The social contract embraces, too, the obligation of the citizen to support the government—with a portion of his means and, if need be, even his life—which protects him and his in the enjoy-

ment of their rights. If these are limits on individual rights, they contain also implicit limits upon government.

In conclusion, then, I agree with the friend who suggested that there needs to be a greater emphasis upon rights rather than upon economic expediency, social benefits, and practical measures by government. The fount of prosperity, if Adam Smith was right, is in the individual and voluntary employment of industry and capital. The ground of that is in individual rights. The rights of which I speak are not bestowed upon us by government. Rather, they are secured by restraining government. They are, as Jefferson put it, a gift of "Nature and Nature's God," and cannot be violated with impunity. ☸

—FOOTNOTES—

¹Otto Gierke, *Natural Law and the Theory of Society*, Ernest Barker, trans. (Boston: Beacon Press, 1957), p. 223.

²Ernest Barker, "Translator's Introduction" in *ibid.*, p. xi.

³Quoted in John Bowle, *Politics and Opinion in the Nineteenth Century* (New York: Oxford University Press, A Galaxy Book, 1964), p. 66.

⁴Quoted in Henry Hazlitt, *The Foundations of Morality* (Los Angeles: Nash Publishing, 1972), pp. 204–05.

⁵Adam Smith, *The Wealth of Nations* Edwin Cannan, ed. (New Rochelle, N.Y.: Arlington House, n. d.), pp. 29–30.

⁶*Ibid.*, p. 290.

⁷*Ibid.*, p. 30.



THE PLIGHT of the less developed countries has become one of the most hotly debated issues in international affairs. World-wide organizations have been established with the common purpose of uniting the less developed countries to obtain resources from the developed countries. Opinion leaders are almost unanimous in their belief that the developed countries have a duty to aid the poor countries. The debate, in fact, is not whether this aid is legitimate, but what ought to be the extent of it. Conventional wisdom holds that the situation in the less developed countries is attributable to the industrialized countries. Is this assessment correct?

Many reasons have been advanced to explain the poverty of the

underdeveloped countries, and conversely to interpret the cause of the wealth of the industrialized nations. A popular notion is that the rich nations owe their wealth to their exploitation of the poor countries. The argument is really an extension of the fallacy that in every transaction there is a winner and loser. The ideology that has been erected to explain the alleged causes of poverty in the underdeveloped world holds that the most direct cause of exploitation is colonialism. Therefore, the argument goes, the colonial powers owe their life-blood to the colonies.

There is no correlation, however, between a country's standard of living and its history of colonial power. Some of the countries in the world that presently enjoy a relatively high standard of living either never possessed colonies or, if they did, the