

F. Temple Kingston

THE LAW OF NATURE AND THE NATURAL LAW

IN HIS ADDRESS to the Fall Convocation of the Assumption University of Windsor, Lord Fisher of Lambeth, the former Archbishop of Canterbury, stressed the importance of Natural Law as a fundamental characteristic of Anglicanism. Referring to the writings of Richard Hooker, he noted an emphasis on law, order, and justice inherited from the best of the mediaeval tradition. Although theology does give sanction to the natural law, it would be wrong, however, to suppose that the natural law is primarily theological. Rather it is a philosophical notion, based on the common nature of human beings whether or not they share the gift of Christian Faith.

Though many would suggest that a notion such as natural law is now meaningless or impossible, the purpose of this paper is to shed some light on the notion of natural law, and thereby to show that the notion is not only meaningful but a necessity in a world such as ours. Everybody has some sort of notion of the nature of mankind, and one's view of values and value judgments is rooted in one's view of reality. However, many people through the history of thought have held views of what we shall call man's law of nature which are closed, limited, and prejudiced, and these have been the source of most of the tragedy and despair in human history. There are those who equate the law of man's nature largely with his animal nature, some holding an optimistic and others what may be called a pessimistic view. Others equate man's nature with his reason and, here again, some hold an optimistic and others a pessimistic view. We shall consider each of these in order and then contrast them with the natural law.

Throughout the history of human thought, there has arisen from time to time what may be called a "noble savage" view of man—romantic and sentimental. Those who hold this view yearn for the good old days when man lived the simple life,

and, for them, the simple life is the perfect life. It is civilization—in the form of knowledge, big business, big politics, and sometimes big church—which corrupts man. If man, however, could simply return to the rural way of life, in harmonious contact with relatively few people, he would recover his goodness. N. P. Williams, in *The Ideas of the Fall and of Original Sin*, points out how strongly this view is represented in the Old Testament. The tree of knowledge of good and evil stands for culture and civilization. The story of Cain and Abel represents the resentment of the nomadic shepherd against those Hebrews who settled down to be farmers. This view is the key to the story of Isaac's blessing of Jacob instead of Esau. The Lord really intended that Esau, the rugged shepherd, should be blessed, but by deceit Isaac's more polished son Jacob received the blessing which, once given, could not be retracted.

In more modern times, the concept of the noble savage is presented, among others, by Jean-Jacques Rousseau in his *Discourse on the Origin of Inequality* and by Count Leo Tolstoy. In *War and Peace*, Napoleon confesses that he performed a dreadful act of cruelty, not because he personally wished to do it, but because he was the Emperor of France and such an act was expected of one in such a position. The view is held by some modern statesmen that if only the world's leaders could come to know each other in a personal way, they would achieve mutual confidence and a relatively easy solution to the world's problems.

This view, of course, is characterized by a naïve optimism, in which the key to the value system is largely negative in that it involves a repudiation of every aspect of modern life. The value judgment is simply made on the basis that everything which tends to complicate life is necessarily evil—this includes intellectual formulations—and every step backward to the good old days is a step in the right direction.

The second view of the law of nature is also related to man's physical nature. Rather than being inherently in a state of peace with all creatures, each man—it is maintained—is an isolated unit and at war with all outside the self. This view presents man as basically a creature of appetite and desire and the law of nature as the law of the jungle. This pessimistic view, as it might be called, has arisen from time to time throughout human history, but it has possibly received its strongest support in modern times from such thinkers as Thomas Hobbes, Sigmund Freud, and Jean-Paul Sartre. Since the good for this group ultimately rests in the satisfaction of the

desires of the individual—which is pleasure—the group could be enlarged to include all those who maintain that pleasure and pain are the criteria of the good. Of special note here are the Epicureans and the Utilitarians. Desire and emotion in themselves tend to breed individualism or mass hysteria, and a consequent reduction in the sense of value. It is for this reason that John Stuart Mill in his essay *Utilitarianism* had to add the element of quality to the straight pleasure-pain criteria of Jeremy Bentham.

Basically, then, for the members of this group what is desired is good and what is not desired is equated with evil. The value judgment is made in terms of the degree in which the desire is or is not satisfied.

The third view of the law of nature under consideration is directly the opposite of the first one considered.

We have pointed out two views of the law of nature which emphasize the fact that man with a body is a creature in nature. However, it is the soul of man which distinguishes him from other creatures, and perhaps most moral philosophers have found the key to man's law of nature in that power of the human soul which is unique to man—the power to know. However, among those who emphasize the intellect, some take an optimistic and others a pessimistic view.

In *Scientism, Man and Religion*, D. R. G. Owen notes the characteristic principle of optimism in the modern scientific tradition. Having its origin in Francis Bacon is the notion that knowledge gives man power to control nature, and the assumption is that the more knowledge man gains, the better man and society become. The Positivism of Comte, the evolutionary theory of ethics found in Herbert Spencer, and the Pragmatism of John Dewey suggest that in the modern age, with his vastly increased knowledge and technical skill, man is, inevitably, morally better. Of course when modern man realizes the great power at his disposal, he is staggered by the responsibility of it. It is so evident in the 1960's how easy it is for man to use his knowledge and skill for the very destruction of the race.

The fourth view under consideration equates the law of nature with a code of law legislated by the human reason. This law of nature, in contrast with the previous one, tends to be generally pessimistic. Though reason is part of man and

indeed the distinctive aspect of man's soul, at the same time, most people—the common people—do not use their reason and therefore, driven by passion, go astray. As a result some moral philosophers believe that a moral code must be imposed on people to suppress their animal natures. In the *Nicomachean Ethics*, Aristotle suggests that reason is the tutor of the body. Kant's ethical views, and various forms of Puritanism, may be classed together here. The key word is *duty*. When one does one's duty, it is implied that this is the last thing that the person wanted to do but that the action was done because it had to be done. The grimmer the task, the more moral the act. As a result, Kant doubts if anyone can perform a truly moral act because any degree of pleasure involved in the motive of the action makes it to that degree immoral.

Of course, when anyone presents a law of reason that he claims must be imposed on society, one wonders why that person was given so much more reason than anyone else that he has the right to impose his views on others. In matters of ethics it is sometimes very difficult to say who is and who is not reasonable, and it is for that reason that Aristotle has classed ethics as a practical as distinct from a theoretical science. Sometimes men accuse women of being unreasonable, but women may equally accuse men of being unreasonable. There has been a frequent tendency for certain people to claim superiority over others, and the tragedy of this is evident to-day in South Africa, where certain people who claim enlightenment believe that they have the right to tell what they regard as unenlightened savages the way they should live.

What, then, is the natural law? The four views of the law of nature that have been outlined are theories, partial truths, but also grave errors since in one way or another they all attempt to make man into something that he is not—either an animal or an angel, but not a human being. E. L. Mascall writes of this tendency in *The Importance of Being Human* (pp. 32-33):

A very large amount of human suffering and frustration is caused by the fact that many men and women are not content to be the sort of beings that God has made them, but try to persuade themselves that they are really beings of some different kind. They may act upon the assumption that they are simply a superior grade of mammal and that their spiritual powers and aspirations are a mere epiphenomenon of an organism essentially describable in terms of biology and nothing more. They may, on the other hand, act upon the assumption that they are pure spirits temporarily equipped with a physical organism which may be viewed as either a nuisance or a tool or a play-

thing but is in any case something that the human being *has*, not part of what he *is*. Whichever of these hypotheses they adopt is a false hypothesis and so is almost inevitably bound to issue in disaster.

The natural law, then, is not a theory about people, but people themselves.

Yet one may quite rightly ask how is anything like a law to be based on people, since each human being is an individual and unique. Despite the concern in our age for teeming millions of people, still the amazing truth is that no two people are exactly alike. The natural law, however, is also based on the fact that a human being is not only an individual but also a person, and no person is absolutely different from other persons. All have souls and bodies. All have needs, dreams, desires, and hopes. All are self-conscious and have the ability to think. Although each person has different gifts and different potentialities, each person is at the same time a social and rational being and is therefore able to communicate and co-operate with other persons. Indeed the natural law is based on the fact that every person has something to say and do with his fellows, and therefore, because of his very being, he is of value not only to himself but to society as a whole. The natural law then stands for the fullest possible development of the talents of every person in all the world, no matter what the race, the creed, or the colour, no matter whether born or as yet unborn. Any positive human law must aim to reflect this ideal.

Does this imply that all human activity is good and that man can do no wrong? Not at all. In a sense goodness exists in every person, but at the same time goodness exists in no person. Both optimistic and pessimistic views of man have certain validity. A concern for values involves a degree of degradation or loss of value which must be regained or achieved. As both Plato and Aristotle saw, the development of good character involves discipline and instruction because it is so easy for a person to pursue an inadequate or false good in place of his real good. Mascal writes (*The Importance of Being Human*, pp. 40-41):

Moral development consists in becoming, through the action of our own wills, that which in essence and principle we already are. And there are two directions of movement between which the will can choose. There is the line of individuality, of the material, which will lead a man to suck into himself from his environment all that he can, thus becoming the 'hateful ego'; and there is the line of personality, of the spiritual, in which he will find his full self-realisation and perfection by giving himself to others, thus treading in the path of the saints. And because personality involves this activity of self-giving, it is essentially social.

The notion of natural law acts as a judge on any given society in that no society perfectly allows for the fullest possible development of the abilities of each and every

citizen, and the natural law acts as a judge as well on the citizens who are not freely contributing to the common good. We must bear in mind, of course, that the citizen who appears to be the greatest nuisance in any given society may in the long run be contributing far more to the common good.

Furthermore, since each human being is a person, he is able to rise above society because society exists for the benefit of persons—"the most perfect things in all of nature." Jacques Maritain writes in *Scholasticism and Politics* (p. 58) that "There is nothing above the human soul—except God."

Since man is what he is, finite and limited from the point of view of his own situation, it is absolutely essential for an adequate notion of natural law to make an appeal beyond mankind to God. It is only *sub specie aeternitatis* that man can preserve a universal view of mankind in all countries and in all ages. The vision of God keeps man from his smallmindedness and prejudice. Furthermore, it is in relation to God alone that man remembers what he is. Mascall writes, in *The Importance of Being Human* (p. 42), that "He must be ready to live, not as a disembodied spirit, but as the kind of being, composed of spirit and matter, that he actually is, in a right relationship to God, to his fellow men, and to the material earth which is the basis of his physical life."

Finally, since all men are becoming, what are they becoming? What is the destiny of man? By nature we do not know. We do know that perfection is not a dream but that it exists in the Creator, the self-existing Being. Nevertheless, by nature we do not know what that perfection is like. Therefore, the natural law does not leave us with the knowledge of mankind's ultimate destiny, but it does leave us with a tremendous hope. Moral philosophy opens man's intellect to the possibility of the attainment of a goodness beyond his comprehension, and it opens his desires and emotions to the possibility of the experience of a joy and warmth beyond his wildest imagination.