**The Rights of Man and the Tyranny of Law**

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I would like to clarify in this lecture the modern notion of human rights and its relationship to law. The importance of those rights obvious and well stated by Pierre Manent:

> The notion of human rights is today the common political and moral reference point in the West. Every political party, school, and sensibility appeals to it. Such unanimity on an ultimate principle in morality and legitimacy is extremely rare…It obliges us to correct a commonplace belief according to which our world would be the stage of an explosion of diversity, of a growing medley of values and mores. This may be true of certain superficial aspects of contemporary life, but the principle of moral judgments is more homogeneous that ever. The proof of this is very easy to find. Thos who celebrate diversity as the most pleasant and noble trait of contemporary life always invoke what the call "the right to be different"

There is however, something perplexing about this obvious reference point. The notion of rights as the ultimate principle of morality and legitimacy is wholly absent from all the treatises on ethics and politics which come from the Greeks and the Romans, and from the Medievals as well. One reads Plato and Aristotle in vain if he wishes to find any such notion of rights, and the same can be said of Cicero. Their reference point is the good. What, asks Aristotle in the beginning of the Ethics, is the good for man, a question which, if unanswered, leaves us rudderless with regard to our actions. All human action, it turns out, is for the sake of some good, and that good is achieved through the perfecting of the soul. That final perfection demands the political life, and that final good, found in the city, is an ordering of the soul to the common good of the city. Since there can be different legitimate modes of ruling, there can be different cities, differing by the character of their regimes. Therefore, while there may be one way to be good without qualification, there are many legitimate modes of human goodness. The path of life, therefore, is given and accepted according to the character of the given city, and its conception of human excellence taught and learned by those who are to be its citizens. Further, the citizens are considered as parts related to the whole, as unfinished without the perfection needed to become fully functioning within it. Seen as parts, the citizens, while equal in nature, are functionally unequal, and it is this hierarchy that makes possible the common good. As parts, the citizens order themselves toward the common good, and not that good to themselves. And since the common good is sometimes painful in achievement, it is not identical with the pleasurable. The life of the citizen then, is demanding and he fails if he lapses into the pursuit of private goods unrelated, unordered to the superior good. The only way to live successfully, therefore, is to acquire the virtues, whereby one is able in his action to order himself to the common good, whereby he becomes one with what measures him.

All this differs greatly from our world, where, again, "the notion of human rights is the common political and moral reference" through which we understand our life in society. Where the ancient took as their reference point the good, we take rights as our reference; where they speak of the perfection of the citizens, we speak of the protection of our rights; where they speak about the different regimes, we speak only of democracy; where, for the ancients, the different regimes determine the proximate basis of the political life, we consider the basis to be a consent to be governed; where they considered that the regime determined the path to take, we reject the notion that anything should be given; where they though that citizens were parts of a whole, we think of them as wholes whose rights are paramount; where they thought that the common good was a measure, we think there is finally no given measure.

The old conception, which considered political life to be the fulfillment and perfection of human aspiration, is wholly absent from the modern conception. There is, in fact, no political life properly speaking. Each particular man is a whole, equal to every other whole, and naturally lacking all political inclination. Each one is, in fact, living now in an underlying state of nature which is daily interrupted by a renewed consent to live with others. This consent involves the giving up some rights better to secure others, the end of which is the possibility of acting freely according to those which are protected. If all the rights could be operative in a pre-political state of nature, there would be no reason for civil society. This means that there is properly speaking no common good; everything sought is a private good, a good ordered toward the individual. The individual finds his happiness in himself, or with those who are an extension of himself; he separates himself from the community, and if he reenters it, it is in order to obtain the private goods which he could not otherwise obtain. Perhaps a couple of quotations from Tocqueville will help to clarify:

> "Individualism is a novel expression…Our fathers were only acquainted with selfishness. Selfishness is a passionate and exaggerated love of self, which leads man to connect everything with himself and to prefer himself to everything in the world. Individualism is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellows and to draw apart with his family and his friends, so that after he has thus formed a little circle of his own, he willingly leaves society at large to itself."

Thus not only does democracy make every man forget his ancestors, but it hides his descendants and separates his contemporaries from him; it throws him forever upon himself alone and threatens in the end to confine him entirely within the solitude of his own heart.

What, we can ask, is the reason for these radically different conceptions of social life? Why is it that the view of the ancients was not followed into later times, that rights have supplanted the good, that the individual as a whole has supplanted the citizen as part? The answer lies in the denial that nature acts for an end. Aristotle, in agreement with our ordinary experience, has shown us that the good, throughout nature is a separate species of cause, the first of all causes, and the principle through which every operation of nature is explained. While Aristotle works all this out explicitly, it seems implicit in Plato and others. Plato has Socrates discussing in many

places the difference between real goods and apparent goods, and the difference between the conventional and the natural. When, in his turn, Cicero begins his argument for the excellence of the life of practical virtue, he first notes that there are great men who, in his words, "have each been the salvation of this republic," and then without mentioning their names, says this: "I will content myself with asserting that nature has implanted in the human race so great a need of virtue and so great a desire to defend the common safety that the strength thereof has conquered all the allurements of pleasure and ease." As Aristotle states it, there is a happiness which is the natural good for man; that happiness in its fullness can be found only in the city. Therefore there is a natural desire in man to be a part of a city: man is by nature a political animal.

All this is missing from modern thought. Despite their differences, all the modern philosophers are in agreement that there is not within nature any acting for an end, or if there is, it is of no concern for our account of nature. This means that all social life is based on convention alone, and even an afterthought (Hobbes, Locke). It means further that there is no natural measure of our actions, rather we measure them. The things we seek become goods because we desire them, and they are private goods, ordered to ourselves. We are the whole toward which everything should be turned. It is as if each man is somehow the common good of the whole universe.

The doctrine of rights with which we are familiar, then, is located historically in modern thought. Only there do we find it. But before considering the particular positions of some of the moderns most responsible for this doctrine, I would like first to return again to the ancient understanding of the political life. While rights, considered as real properties of the individual, are nowhere found there, there is yet a reality which is called right, and if we can get straight that meaning of right, we can advance in considering our topic. To do this I turn to St. Thomas, who has in the Summa a short question on *Jus* which we translate as *right*. He quotes Isidore as saying that *"Jus* is so called because it is just". He goes on to day that "just is the object of justice" This means that the action according to the virtue of justice leads to something, some object, which is just – the paying back of a loan, the paying of wages for work done, the selling of something with honest disclosure, the seeking of equality in all transactions, etc. When that object has been achieved one can say that justice has been served, that the just thing has been done, another word for which is *jus*, the right. Right, then, is a good either achieved or intended. If achieved it is something in reality, if intended it exists in the mind of the agent. If right has not been achieved, it is yet something which ought to be achieved, and it is therefore a *duty.* Right is therefore inseparably united to duty. But duty is a measure of our actions (it makes no senses to be the author of our own duties). If we now apply this conception to an established city, we find that duties are made known by the positive laws; no laws, no duties. Therefore there is a necessary relationship between duty and law. The laws, further, come from those who legislate. Whatever they as our superiors legislate, we shall at this point call just, because they legislate to make plain the things they consider just (right), and what things violate the just (not right).

If then there is a natural order which undergirds the conventional, and if it seems correct to think of right, duty, law, and lawgiver as connected and brought together by some order, that natural order will have its own rights, duties, law, and lawgiver. Now the ancients thought, with greater or lesser clarity, that there is such an order with rights, duties, law, and lawgiver. In that natural order, then, there is something that can be called natural justice, with the accompanying natural right, implying natural duty, there is a corresponding natural law in natural things, and this law comes from the lawgiver of the natural things themselves. St. Thomas thinks that there is an eternal law in the mid of God which encompasses all things, that things themselves participate in this eternal law, that the order of the parts of the human soul toward their various ends is such a participation, and that those goods measure the powers of the soul. This participation in the eternal law is within the soul, placed there by the God who makes us. That part of eternal law is then a promulgation of the eternal law in the mind of God, as the written law is a promulgation of the conception of that law in the mind of the human lawgiver. But the further promulgation of that part of eternal law in the powers of the soul is found when we by nature apprehend the eternal law as it exists within us. Our apprehension of that law within us is called the natural law. And so, by putting together our participation within us of the eternal law, and our spontaneous apprehension of it, we can say that there is a natural justice, that there are things right by nature, natural duties, all made known through the natural law, which is itself based upon that eternal law of God which is the very structure of our souls.

Now, going back for a moment to the human magistrate, he enacts laws that concern the good for the sake of which he governs. That good, which concerns the citizens insofar as they live together, becomes something which not only measures them, but him as well. And since he, as lawgiver, intends the end, he must intend the means as well. That end since it will be the way of life of the body politic, cannot exist unless the citizens act toward one another according to some sense of justice, unless, that is, there is some sense of *jus*, or *right* which becomes the conventional measure. That conventional sense of justice will demand particular laws for the different activities and economic exchanges between citizens. Since the laws are concerned with the objects of justice, they enjoin duties. Those objects become duties in virtue of the first duty, so that it can be made to exist. Those duties, therefore, are mandated by the laws; they become duties because of the laws, and the framing of those laws themselves are the result of a necessity that the legislator who wills the end must will the means. The law then results from the duty of the legislator, and, concerned as they are with the objects of justice, become duties for the citizen. The rights of the citizen are his duties, and since the law applies to all citizens, it specifies their duties as well. Therefore, each citizen will not only be given his duties by the laws, but those laws will at the same time protect him from the injustice of others, who have the same duties with respect to him. And if he is so protected it will be so that he can act according to his duties, and finally to act as a perfected member of his political body.

Something similar takes place given the natural good. God, as lawgiver, intends the natural end, through the law he puts into us, and as a good lawgiver he gives us the means as well to attain that end. We are, for example, made for the sake of happiness, our perfection, and as such we are provided with food, with the seasons, with rain, with sunshine, in order that we might

remain in existence, without which the end could not be attained; the legislated end demands the means. Therefore, we can say that the natural end, the happiness of the state, so much demanding the acts of justice, can be thought of as a *jus, right* and the other particular acts of justice, coming from natural inclination, can each be thought of as rights. Depending then upon the Divine lawgiver, the natural rights of man are his duties. If we consider things in this way, there are no rights separate from duty, rights are duties. And since, according to the conviction of the ancients, nature does act for an end, there can be no positive law unless based upon the natural law, and all conventional right depends finally upon natural right. It is therefore understandable why there might be talk of duties, of means to an end, of the perfection of man, of politics as the care of the soul, of the common good of the citizens as part of a whole, and so on… but not of rights; they are the duties by which we are rectified as citizens. Any other understanding of rights clashes with this fundamental understanding of political life.

However, going back to Manent's quote, a contradictory notion of human rights is in our time "an ultimate principle of morality and legitimacy". What then do we now mean by rights, what are they?

The only light I can find to illuminate the question comes from the philosophers who have formed the modern mind, who have given us the Enlightenment. Starting with Spinoza, we can begin to clarify: He says that from the fact "that the power whereby natural things exist and operate is the very power of God itself, we easily understand what natural right is. For as God has a right to everything, and God's right is nothing else but his very power, as far as the latter is considered to be absolutely free, it follows from this, that every natural thing has by nature as much right as it has power to exist and operate; since the natural power of every natural thing, whereby it exists and operates is nothing else but the power of God, which is absolutely free." He says further that "in the state of nature [that is, the state without society], wrong-doing is impossible; or if anyone does wrong it is to himself, not to another. For no one by the law of nature is bound to please another unless he chooses, nor to hold anything to be good or evil, but what he himself, according to his temperament, pronounces to be so; and to speak generally, nothing is forbidden by the law of nature, except what is beyond nature's power." That law of nature is that "everything whatever, as far in it lies, strives to preserve its own existence." This seems to be the one given, the only measure; we measure everything else. There is, for Spinoza, conventional right and wrong, but that is, as he says, the result of "domination" and the laws which determine them constrict our natural rights.

Hobbes, as well, is illuminating. "The right of nature," he says, "which writers commonly call *jus natural*e, is the liberty each man has, to use his own power, as he wills himself, for the preservation of his own nature, that is to say, of his own life, and consequently of doing anything, which in his judgment and reason, he shall conceive to be the aptest means thereto." And since liberty here means the "absence of external impediments", each man's natural right extends as far as his liberty, which determines the extent of his power. How about natural law? "A law of nature, *lex naturalis,*" says Hobbes, "is a precept, or general rule, found out by reason,

by which man is forbidden to do that by which he thinketh it may be best preserved." And he goes on with a doctrine which touches our concerns:

> "For though they that speak of this subject, use to confound *jus* and *lex*, right and law, yet they ought to be distinguished; because right consists in liberty to do, and to forbear; whereas law determineth and bindeth to one of them; so that law and right differ as much as obligation and liberty, which in one and the same matter are inconsistent."

He determines the laws of nature by apprehending the strongest desire of men as he finds it. Since the natural state of man is "a condition of war of everyone against everyone", and that condition exposes each man to a violent death, which goes against the fundamental desire to live, reason sees that there must be peace if one is to stay alive. Therefore the first natural law, which restricts the natural right to everything, is "to seek peace and follow it." The second law is "to lay down this right to all things, and be contented with as much liberty against other men, as he would allow other men against himself." For Spinoza and Hobbes there is but one natural inclination – to remain in existence. Hobbes finds that there is in fact fear of a violent death, that men wish before all to remain alive. In both cases right is the power of the agent, which extends as far as his freedom, for there is no natural end for man, no natural good. Further, all law constricts right; lawlessness is a condition of right.

While it is more difficult to assess Locke's position, some things are clear enough for our purposes. He is attempting, in the *Second Treatise on Government*, to instruct those "Who will not give just occasion to think that all government in the world is the product only of force and violence, and that men live together by no rules but that of beasts, where the strongest carries it, and so lay the foundation for the perpetual disorder and mischief, tumult, sedition, and rebellion,…must of necessity find out another rise of government, another original of political power, and another way of designing and knowing the persons that have it than what we have inherited from the past." The key to this understanding is the state of nature. It is "that estate all men are naturally in, and that is a state of perfect freedom to order their actions, and dispose of their possessions and persons as they see fit, within the law of nature, without asking leave or depending on the will of any other man." Here we have a state of nature with a law of nature, and according to Locke, that state is governed by the law. That law of nature, says Locke, "willeth the peace and preservation of all mankind", which means that each man is propelled from within to preserve himself in existence and in the state of nature, to defend himself and punish anyone who would try to take his life. It is interesting in this connection that Locke says that everyone is *bound* to preserve himself, and not to leave his station, and *ought* to do as much as he can to preserve the rest of mankind (since the law of nature wills the preservation of each, and the peace and preservation of mankind). He also says that all men may be restrained from invading others' rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and preservation of all mankind. I take it then that "another's rights" mean that determination of nature by which that other is propelled to keep himself in being and desire peace. What then, is right but the power of nature? What man *ought* to do, over and above the impetus within him to act to protect his own life, is to respect that same impetus in

others. The law of nature is the primordial powers of nature, expressed as rights when compared to another's obligations to respect them. All civil society, according to Locke, will through the consent of those who form it, be a substitute for the obligation of each individual in the state of nature actively to preserve the peace of mankind himself. Government, therefore, is based upon the powers of nature in each, called their rights because they ought to be protected if peace is ever to be achieved.

Though in Locke's case we cannot say that right is opposed to *all* law, we can nevertheless say that, in agreement with Hobbes and Spinoza, rights lie at the basis of political life, that most laws constrict the natural rights of the state of nature, and that these rights supplant the good, without which the political life, for the ancients, remains a mystery. Locke could have said, once he derived right from the oughtness to protect the natural drive to preservation and peace in others, that all government is based upon *duty*. It is clear he did not, and this failure protracted Hobbes' revolution in political thought. Leo Strauss puts it this way: "Through the shift in emphasis from natural duties or obligations to natural rights, the individual, the ego, has become the center and origin of the moral world, since man, and not man's end had become that center or origin." Locke's doctrine concerning property validates this opinion. Everything which is valuable comes from man's own labor. Through his labor, man is emancipated from the bonds of nature; he does not imitate nature, nor is he constricted by any social bonds which "antedate all consent or compact". Other than providing the almost worthless materials themselves, nature provided no guidance whatever for the use of natural things. All forms, as it were, are supplied by man; there are no natural forms, as there are no natures. All intelligible essences are fabricated by our own thinking, which is itself a kind of labor. The peace toward which we are propelled by nature becomes acquisition of power to enjoy the fruits of our labor. Since there is no nature of man, and hence no natural end, no good for man, the end for Locke consists in pleasure. Since there is no nature of man, there is no difference between good and bad pleasures, and so any man's artificial good, whatever he desires, is a pleasurable life in accordance with the power he augmented through his labor. If all seek through their labor to increase their power and pursue their own pleasures, subject to the correctly legislated laws which stand as umpires of the game, then general peace can result. All human laws are enacted for the protection of power, each man becomes the center of attention; everything begins with him and ends with him.

One wonders, given this conception of society, why we even need the words rights. Could we not say that each individual has powers, and that the first of them tends to maintain him in existence, and, following Locke, to seek peace? Since, further, men fear above all a violent death, and since in the state of nature they are at war with each other, they are willing to give up some of their powers to do anything they are not impeded form doing in order to gain what they most want – their continued existence freed from violence. Therefore they, by consent, form a compact, a social bond, through whose laws the powers they give up will lead to the preservation of the powers the most wish to preserve. The laws they invent, therefore, will dominate them; tell them with their own power to punish what they ought to do to achieve the life they have agreed to pursue together. Even if we think the enacted laws ought to be obeyed,

and that one might talk of duty, and if that duty is to obey the statutes conceived to be about the just, and if the just thing is then conceived as a *jus,* a right – if all this makes some sense it does not demand that right, considered as an object be transferred to the being of an individual upon whom it has a claim. We ought, even if we begin speaking of the agent and not the good, to speak not of the rights of man but of his duties as man. Why then speak of rights at all?

I think the answer lies again, with the denial of final causality. The good is perfective of the agent. If, however, there is no such cause in nature there is no meaning to perfection. Each man, by simply being, is complete. He, then, with the powers with which he is born, is considered then as in every way a whole, there is not common good through which he is perfected, and he is in no way a natural part of anything. There is no distinction between the pleasurable and the noble. Philosophy, insofar as it is practical, becomes the blueprint for pursuit of the pleasurable, which is what most men in fact seek. Hobbes was an Epicurean, which fits Locke as well. The end of life in society becomes commodious living, best attained when everyone pursues exclusively his own pleasures. Against the traditional and exacting requirements of political life, demanding the acquisition of the virtues, the love of the common good, and the recognition of the citizens as parts of a whole for which they should be willing to die, the moderns have given us the a-political man, a whole in himself, demanding the protection and enhancement of his powers, now called his rights, so long as he does not prohibit anyone else from using his powers, also called right for the same reason. While the ancients considered hedonism an aberration which, if commonly embraced, would destroy a city, it became, with Hobbes, the very basis of social life; that in a nutshell, is the philosophical revolution which enshrines the priority of rights as the basis of every consideration in the life of society.

This modern doctrine of rights supplants the whole understanding of wisdom – the practical wisdom which is the hallmark of the good man. It obliterates the difference between the good man and the bad man. The only dignity we recognize is the possession of rights, which is equally true of all men. Any other dignity is wholly the subjective assessment of individual conviction. Such an aberration reminds one of Pico della Mirandola. In his flamboyant essay on the dignity of man, Pico tells us that man is greater than all other creatures, including the angels. His reason is that unlike all other creatures, who have been created with a determinate nature – trees produce fruit, beavers build dams, bees make honeycombs, the angels are determined to eternal blessedness, or as devils to eternal damnation – man alone is undetermined. He can become like a plant, or like an animal, or through the use of his spiritual powers like an angel or a devil. His greatness lies in the dignity of self-determination, the possibility of being any number of things. This dignity of indetermination is greater than the holiness of any saint, no matter how exalted his subsequent perfections. Potency, in this case, is not only prior in time to actuality, but prior in excellence as well.

Even Sarte, the atheist, is wise by comparison. In *Existentialism is a Humanism*, he holds that contrary to tradtitional philosophers (who held that essence precedes existence, that is that man has a certain nature or essence, and that he acts our his life according to that nature) man is born and begins his life without any nature at all; he first acts and through repeated actions acquires

a habitual way of life – a nature or essence. In other words, man makes himself; his nature consists solely in the kind of man he becomes, and of course no moral judgment of what he has become is possible. While of course at first glance this seems idiotic, it touches upon an important truth. The first nature, the one we are born with, is indeed in some sense undetermined, and its perfection lies in acquiring the virtues – tempereance, courage, prudence – which when acquired, constitute a second nature. It is that nature, the acquired nature, which is all important; upon it depends our salvation, for we should never forget that the damned have the same first nature as the blessed.

To hold that the first nature is most important is a serious and destructive error. Yet, the doctrine of human rights as the first principle of political life invites us to make that blunder. Having made it, one substitutes the successful implementation of human rights as properties of the individual to be the end of life, rather than fulfilling the duties which should measure us. St. Thomas, in his treatise on God in the *Summa,* teaches us that God is by nature perfect. His simple being is his simple goodness. It is not so with Socrates. His simple being, by which he is, is good only in a certain respect. In order to become simply good, he must acquire the virtues which perfect him - and then he will exist in a certain respect. If he were simply good by being, all his actions would thereby be good, and there could be nothing to measure him. He would be his own measure – Protagoras in the flesh.

Anyone, therefore, who thinks wedded to the traditional concept of morality should think long and hard before he is willing to enshrine rights as the point from which he reasons about politics. He should reflect that such a starting point became prominent with those, especially Hobbes, who thought the politics of Aristotle an intellectual aberration, and that he would be the founder of political science. This fixation upon rights, in fact, wrenches the mind from reality into fiction. The reality is this: We can be said to have rights only by what is called extrinsic denomoination – that is, they are not in us, but said of us because others have duties toward us. They are the realities, called rights when looked upon from the point of view of those to whom the duties apply. It is like calling a house seen not because there is something within it, but because someone sees it, which is the reality by which we say it is seen.

However, we if we think this we are at the same time faced with this problem: if our doctrine is not a hermetically sealed treasure by which we preach to the choir, but rather the truth about politics, we cannot neglect the fact that our civilization, which once accepted the Aristotelian conception, has abandoned it; Hobbes has achieved his revolution. We find the enshrinement of rights most prominently in the *Declaration of Independence, French Declaration of the Rights of Man and Citizen,* and the U.N. *Universal Declaration of Rights.* Two of them concern particular revolutions which have re-founded the political life of this civilization, while the other is tied to the hope of extending that new beginning. It would seem then that we should concede that there must be some truth in the position, and that, if we can follow it out, we might show some compatibility between it and the truth we claim to have learned from the ancients.

The only way I can see that this might be done is to give an acceptable meaning to rights which comes through understanding of *jus*, right, as we find in St. Thomas. If *Jus* is the object of

justice, and if, when not attained, it becomes a duty, a duty imposed by the lawgiver, and if there is a natural bond of justice, and therefore natural duties, such as preserving the life of those with whom we live, and to help them develop their human faculties, then we, in virtue of our own duties, in obeying laws, provide the means b y which others can more easily act according to their own similar duties. This in its turn means that, among other helps, those others should be protected so that they may, given their nature which inclines them to their natural good, pursue the same duties as those who have insured their protection. That protection is a duty, a right of justice, it is not only a right of one who protects, but of the one protected, for it is his duty to maintain his own life, to seek his own good, but in his turn to care for the life and good of others. Perhaps then one could say that his natural potencies with their attendant inclination, insofar as they are protected by duties which concern the objects of justice, can themselves be called rights; they aim at rights.

As far as I can see, there is no other way of speaking of rights that makes any sense within the correct understanding of politics. But even this way of thinking is finally not successfully integrated with the truth. The only reason to try lies in the social doctrine of the Church. We need not however, go into that doctrine in its entirety, for we have an example in the *Declaration of Religious Freedom* from the Second Vatican Council. Here are some passages:

1) "…all men are bound to seek the truth, especially in what concerns God and His Church, and to embrace the truth they come to know and to hold fast to it."

2) "Religious freedom, which men demand, is necessary to fulfill their duty to worship God, has to do with immunity from coercion in civil society…"

3) :It is in accordance with their dignity as persons that all men should be at once impelled by nature, and also bound by a moral obligation to seek the truth…"

4) "However, men cannot discharge these obligations in a manner befitting their own nature unless they enjoy immunity from internal coercion as well as psychological freedom. Therefore the right to religious freedom has its foundation…in the very notion of the person."

5) "Light is shed on the subject if one considers that the highest norm of human life is the divine law – eternal, objective, and universal, whereby God orders, directs, and governs. This entire universe, and all the ways of the human community, by a plan conceived in wisdom and love. Hence every man has the duty, and therefore the right, to seek the truth in matters of religion."

6) "The common welfare of society consists in its entirety of those conditions of social life under which men enjoy the possibilities of achieving their own perfection in a certain fullness of measure and also with a certain ease. Hence their welfare consists chiefly in the protection of the right sand performance of the duties of the human person. "

7) "The protection and promotion of inviolable rights ranks among the essential duties of government. Therefore government is to assume the safeguard of the religious freedom of all its citizens in an effective manner by its laws and other appropriate means."

According to the Catholic sense of it, rights are the very natural inclinations of man toward the given good for the sake of which they exist. The powers and inclinations of the soul, which are indeed inherent in man, are called rights by extrinsic denomination –insofar as they are respected by others. This respect is demanded so that we can achieve our natural end, the purpose for which we have those powers and inclinations. Newman puts it neatly: "My conscience tells me nothing about rights, but only about duties."

This conception of rights, then, though prompted by modern thought, yet rejects it. Laws do not constrict our rights, rather they legislate our duties, and so determine our rights. Power as such is not right. While Hobbes thought of this being we call man, whatever else it might be, as nasty and contemptible, he yet has given us the language we now apply to man in his supreme dignity. It is as if each human person were simply good, perfect, insofar as he is. A way of describing this perfection is confer upon him the rights as if they were properties flowing from his substance.

Nietzsche, with his characteristic clarity, saw that this attempt to establish, leads to nihilism. The modern understanding of human rights is finally incoherent. Who determines the legitimate objects of right? Who determines the legitimacy of attaining such a right? Who determines which right prevails when there are conflicting rights? This incoherence then, means all modern attempts to establish morality, to justify the life of virtue, to establish a rule of law, is a fraud. Power is the only reality; and the will to power the only rule of life. Either, then, you have Aristotle, or you have Nietzsche; there is nothing in between.

I conclude with some general reflections, and then an admonition:

1) The modern conceptions of politics are hedonistic, and they to a denial of the common good, to a denial of the noble, to a reduction of man to a self-seeking agent with an infinity of demands. This conception of the moral life says nothing about the importance of virtue, the necessity of perfection, and leaves man, in his being, as an end for himself.

2) As such, we who claim Aristotle and St. Thomas as our masters should be very wary in using the language of rights. St. Thomas, concerning another topic, provides a cautionary example: There are some who used the word fate as compatible with divine providence, but there were others, unbelievers, who used it to signify the subjection of all things to the necessity of the stars. St Thomas then warns us, "Since we would not ever have name sin common with unbelievers, lest occasion for error be taken from the association of names, the name fate is not to be used by the faithful lest we appear to agree with those who have held the wrong opinion about fat…" We should therefore continue to use Aristotle's doctrine and the appropriate language, making it clear that

> we admit rights only as enfolded in duties, themselves the result of the good which measures us.

Here is the admonition: If we let ourselves slip into the use of modern words, we ill, perhaps inadvertently, begin to think according to those words, and sooner or later our Aristotelianism will itself become a matter of words alone.