



The Natural Basis of Human Rights

OLE WANG

**"Es erben sich Gesetz und Rechte
Wie eine ew'ge Krankheit fort
Vom Rechte das mit uns geboren ist,
Von dem ist leider! nie die Frage."**

*Statutes and Law are transmitted
Like an eternal disease.*

*The question of Rights with which we are born,
Alas, is never raised.*

FAUST, PART I

IT IS significant that, at a time when "Human Rights" is a topical theme, the debate on natural law is increasing.

The United Nations Organization have solemnly declared 1968 as "The International Year for Human Rights." In Norway H.M. King Olav is its Protector, and the President of the Supreme Court is chairman of a committee who will lead the campaign in this country.

Natural law is widely discussed, being variously defined as "one unalterable law indicated by nature herself," as "the rules of justice discernable by right reason," and in other ways.

There is a related idea, namely that of laws of nature, meaning the causes underlying natural phenomena. The present writer will not presume to go further into the correlation. That would also be going beyond the object of this article, which is to review a most interesting treatise by one of Norway's foremost law experts*

It is a series of lectures given by Professor Castberg at the historical-philosophical faculty at Oslo, and opens with a survey of how the principles of natural law have been taught, accepted and obscured through the ages, until they are now again on the up-grade, the revival being partly due to the abhorrent results to which inhuman man-made laws have in many places led.

An instance is the change of attitude of German jurisprudence, both in theory and practice. Professor Castberg points out how natural law has influenced the new Bonn Constitution adopted in 1949 by the German Federal Republic (West Germany). It contains many features dictated by natural law ideas.

How these principles have fared in England is mainly told by relating the conflict between opponents and supporters in times gone by, mention being made of the attacks by Burke against the ideas of natural law as manifested in the French Revolution, and also of those by the "utilitarians" under Bentham. It is also told how John

*Professor Dr. Frede Castberg, *Natural Law and Human Rights*. The University Press, Oslo. Kr. 24.

Stuart Mill, although a utilitarian and disciple of Bentham, was an out-and-out champion of liberty and individual right, because he took the word "utility" in a much wider sense than material usefulness. The right of property he founded on the individual's right to his or her own faculties, saying at the same time that it would be the height of injustice to let the gifts of nature be engrossed by individuals. This in fact, differs little from natural law.

As regards the United States, Professor Castberg mentions that the Declaration of Independence of July 4th, 1776—the first corporative statement of human rights in modern times—is based on natural law maxims when it holds as self-evident truths "that all men are created equal, that they are endowed by their Creator with certain unalienable rights" among which are "life, liberty and the pursuit of happiness." One may wonder how a people opening its national life with such a solemn declaration could, after less than a century, come near to absolute destruction through the "peculiar institution" of slavery, and is still, after more than another century, seriously harassed by its aftermath. Human society, in whose name the United Nations acts, is also afflicted with a "peculiar institution," namely that of monopoly, most especially of the natural resources. This and chattel slavery are both sins against natural law, and as such are sure of retribution. The evil consequences are looming on the horizon and cannot be staved off except by justice. There has in the United States, as elsewhere, been much hypocrisy and cant, but there has also been idealism as witnessed by the following words which Professor Castberg quotes from President Kennedy's inaugural address on 20th January, 1961:

"And yet the same revolutionary beliefs for which our forebears fought, are still at issue around the globe—the belief that the rights of man came not from the generosity of the state, but from the hand of God."

Professor Castberg has interesting things to say about natural law being partly accepted in other countries than those mentioned above, including communist ones, and also about its influence on international law and on the activities of the United Nations Organisation.

There is an addendum giving the philosophical and legal background since Aristotle.

In the above-cited paragraph from President Kennedy's address it is noteworthy that he spoke of the rights of man as coming from God. Professor Castberg, in his introduction, shows how from the most ancient times natural law has been identified with the will of the gods (or God). Church Catechism teaches that the detailed Commandments are, in fact, superfluous, because "God has from the beginning inscribed them in men's heart, in their conscience." Or, again quoting Goethe, with acknowledgement for the translation to Mr. F. McEachran:

"Ein guter Mensch in seinem dunklen Drange
Is sich des rechten Weges wohl bewusst."
"A good man, in his dark confusion,
Is well aware of the right way."

Kennedy also said that the issues are "global." In this sense they will, of course, be dealt with in United Nations' International Year of Human Rights. Then a wider scope than that of the Universal Declaration of Human Rights adopted twenty years ago will be necessary.

The most effective way in which the United Nations Organisation could help to secure the rights of humanity would be to appropriately revise the Charter. Possibly, the initiative now taken to make 1968 a "Year of Human Rights" is the prelude to calling a conference for reviewing the Charter.

Henry George said: "If while there is yet time, we turn to Justice and obey her, if we trust Liberty and follow her, the dangers that now threaten must disappear, the forces that now menace will turn to agencies of elevation," and "Liberty calls to us again. We must follow

her fully; we must trust her fully. Either we must wholly accept her or she will not stay."

Let us hope that the statesmen of the world will act up to their great responsibility. Otherwise we may have to experience the truth of the poem "Gericht Gottes" by Friedrich von Lobau (1604-1655):

"Gottes Muhlen mahlen langsam, mahlen aber trefflich klein;

Ob aus Langmut er sich saumet, bringt mit Scharf er alles ein."

Which Longfellow translated under the title "Re-tribution":

"Though the mills of God grind slowly, yet they grind exceeding small;

Though with patience he stands waiting, with exactness grinds he all."

Miscellany

Increase in Money Supply

MR. ROBIN TURTON in the House of Commons on Tuesday, 27th February asked the Chancellor: "What was the percentage increase in the total money supply in each of the three years ending on 30th September, in 1965, 1966, and 1967, and the percentage growth of the gross domestic product at constant prices in the same three periods?"

In his reply, Mr. Harold Lever said: "The increases in the money supply in the three years were respectively 6.4 per cent., 6.2 per cent., and 8 per cent., and the increases in the gross domestic product at constant prices were 3.1 per cent., 1.7 per cent., and 1.6 per cent."

As Mr. Turton pointed out in a supplementary: "This is the root cause of our troubles rather than wage-cost inflation."

Harnessing the Horse Backwards

IF PUBLIC AUTHORITIES seek to improve the standard of private housing within their areas, there are two ways they can go about it: they can try to compel the owner to improve the property or they can make his own self-interest work to do it.

New York City tries compulsion. If an apartment block is found not to comply with the building codes, the owner is charged with specific violations, he is allowed to retain only \$1 per month per tenant of his rent, and the rest is spent on repairs

to the building. Result—the angry owner turns out the tenants and the building becomes empty. New York City lost between 30,000 and 50,000 housing units last year through these condemning proceedings.

The alternative? Adjust the property tax to raise more and more revenue from the land assessment, and less and less from the building assessment, and value the land at its true market rate. How soon would it be before landlords were improving their properties to gain higher rents from which to pay their increased property tax? Note: the landlords could not dodge this one by turning out the tenant as the land-value tax has to be paid whether the building is used or not.

White Man's Medicine

AN INDIAN chief who is also an opposition Member of British Columbia's legislature called yesterday for a ban on the sale of Japanese-made totem poles—"otherwise the Indians will go into the chopstick-making business."

That Shook Them!

THE Selective Employment Tax—designed to "shake out" labour from service industries into manufacturing—appears to have been as ineffective as it was unpopular. The number of workers in productive industry in Britain fell last year by 335,000.

DEMOCRACY

THE problem of democracy is always to make politics simple enough and responsible enough so that the non-political public can make itself felt—because the non-political public is most of the human race. There is no use exhorting the public to "take more interest." The first step is to create a form of politics which the people can follow clearly and in which they can participate creatively. Then there will be no lack of interest.

—Herbert Agar

BOOKS RECEIVED

Introduction to Statistics by J. M. Bevan. Philosophical Library Inc., New York, \$6.00.

Critical Essays in Monetary Theory by Sir John Hicks. Oxford University Press.

Business and Public Policy—The Role of the Committee for Economic Development 1942-1967 by Karl Schriftgiesser. New Jersey: Prentice-Hall Inc.

Morvern Transformed—A Highland Parish in the Nineteenth Century by Philip Gaskell, Cambridge University Press. \$10.50.

Agriculture and Economic Growth in England 1650-1815. Edited by E. L. Jones. Debates in Economic History series. University Paperback Original. London: Methuen & Co., New York: Barnes & Noble. \$2.85.

Imports of Manufactures from Less Developed Countries by Hal B. Lary. National Bureau of Economic Research. Studies in International Economic Relations—4.

LAND & LIBERTY