SPECULATIONS ON LIBERAL AND ILLIBERAL POLITICS

BY

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Now he [Socrates] was not eager for his companions to become able speakers, able men of affairs and able contrivers, but before these things he considered it to be necessary for them to acquire moderation. For he believed that those who are capable of these things without being moderate are both more unjust and more able to work harm. First, indeed, he tried to make his companions more moderate about gods.

Xenophon, Memorabilia, IV. 3.

Speculations on Liberal and Illiberal Politics*

by Laurence Berns**

We live during a time of vast and rapidly moving social, political and economic changes. This most obvious fact seems to shape the background and foreground of almost all academic political discussion today. To enable us to become well-informed about this most complex of societies new techniques of summarizing, condensing, tabulating and distributing information have been developed. Corresponding habits of rapid reading and machine-like memorization, reading with a minimum of reflective thought, seem to be appropriate for the imbibing of much of this material.

These changes, changes in the conditions of political and social life, are, for the most part, consequences of progress in the medical and technological sciences. They confront us with apparently unprecedented practical problems, increasingly complicated interdependence, relative affluence and overpopulation, the control of nuclear weapons, to mention only a few. However, a distinction may be drawn between conditions and causes. The conditions delimit the range of alternatives possible for human action. The primary causes decide which alternatives are chosen. They constitute what is called human nature. It is in no way evident that human nature, in the decisive respects, has changed as have the external conditions of political and social life.

Among the causes which account for human behaviour are reasons, and

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even those causes which are not reasons, like appetites, passions, and desires, are rarely unmixed with reasons. Reasons can be right or wrong, more or less right or wrong, true and false, etc. Human behaviour cannot be understood adequately without understanding the adequacy or inadequacy of the cognitions guiding, or accompanying, the behaviour, the prejudices, or opinions, false or true, or the knowledge guiding the behaviour. An adequate social science then, one capable of distinguishing between knowlege, opinion, and prejudice, would have to be a philosophic social science.

The study of human nature, of the persistent causes of human behaviour, has more to do with meditation and reflection than it has with technique and technology. One learns about it from those, regardless of when they lived, or live, who are most of all masters of reflection and meditation. It may well be that, along with misguided scientism, the habits of study and thought, formed in pursuit of solutions to our most urgent problems tend to make the reflections of those writers from whom illumination is most needed less and less accessible. Freedom without sobriety is easily lost. This attempt to articulate certain sobering reflections, that once were much more the common property of educated men than they are today, is undertaken with some sense of urgency. Such reflections could never be brought to light by any technique or manipulatory skill, however sophisticated.

The aim of this paper is to arrive at an adequate notion of what it means to be liberal. It is divided into five, sometimes overlapping parts: 1. Classical Liberalism, 2. Historicist Liberalism, 3. The Radicality of Classical Liberalism, 4. The Conservatism of Classical Liberalism, 5. American Liberalism.

CLASSICAL LIBERALISM

By classical liberalism we do not refer to the doctrines associated with Locke, Adam Smith, John Stuart Mill, laissez-faire economics and what historians frequently call individualism.[1] We refer rather to the word liberal as it is used in classical Greek. The liberal, the ἐλεύθέριος (eleutherios), behaves like a free man in contradistinction to a slave. But true slavishness is baseness, being enslaved by the baser parts of one's nature. The liberal man is liberated from control by the baser side of his nature: he is free from the love of money, free from domination by bodily desires and from domination by fear. He is free from vulgarity. Freedom from, however, is not enough, and one of the Greek words for vulgarity points to what the liberal man has been liberated for: that word is ἀπειροκαλία (apeirokalia), literally, lack of experience with nobility, with beauty, lack of experience with things noble. The liberal man does what he does for the sake of the noble. He is a cultivated man, a liberally educated man, a devotee of the Muses.[2]

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1. On the grounds of modern, as distinct from classical, liberalism, see Laurence Berns, "Thomas Hobbes", in History of Political Philosophy, eds. Leo Strauss and Joseph Cropsey,Rand McNally, 1963,pp.359-63. Cf. ibid.,Warren Winiarski, "Niccolo Machiavelli",pp.273-75; Stanley Rosen, "Benedict Spinoza", p.417; Robert A. Goldwin, "John Locke",pp.453-64; and esp. Leo Strauss, Natural Right and History,U. of Chicago, 1953,pp.181-2.

2. Cf. Plato, Republic,403 C; Xenophon, Memorabilia,bk.4,ch.5; Oeconomicus, 1,17-23; Aristotle, N. Ethics,1099 a 11-20; Leo Strauss, Liberalism Ancient and Modern,Basic Books, 1968, chs. 1 and 2.

What has all this to do with politics? The cultivated men, for Aristotle at least, are not what one would call aesthetes, they form a definite political class. They are not non-partisan, they are partisans of virtue. They are united not by common social origins or common economic situation, but by their common goal, the love and pursuit of excellence, of virtue. They look forward to a political order that encourages and fosters this love and this pursuit.

HISTORICIST LIBERALISM

This characterization might be accepted by many who call themselves liberals today, but only as partial descriptions of themselves. For the word as it is most often used today points not so much, or so directly, to the noble and the base, and therefore implicitly to the good and the bad, as it does to another set of distinctions. Liberal is, of course, generally opposed to conservative, or reactionary. We frequently speak of men and proposals as progressive or reactionary, assuming automatically that to try to go back to some older way or older idea is bad and to move towards the new is good, or that "forward looking" is good and "backward looking" bad. The conservative is thought of as incapable of appreciating changed conditions and the need for corresponding political, social and economic changes. It is as if the distinction between progressive and reactionary were to replace the distinction between good and bad. But the term progress, of course, implies not only change, but change for the better, the term reaction, as it is used in politics, usually means change for the worse. These terms often suggest that the issue of goodness or badness has been prejudged or is trivial, the decisive consideration is the attitude towards change. The new distinctions are time- or history-

oriented. The power of the historicist assumptions underlying them, at least in the intellectual community, can hardly be exaggerated. They pervade almost all of our discourse about practical politics. Not to respond to them is usually taken as a sign of lack of cultivation. The inadequacy of an approach that identifies rightness with change and wrongness with opposition to change would seem to be obvious as soon as it is made explicit. Its persistance, however, is a sign that perhaps some more serious concern or issue underlies it, or is reflected in it. We shall address ourselves to that more serious issue later.[3]

The classical liberal, if not every reasonable man, wants to conserve what is good and to eliminate what is bad, to promote change for the better and to prevent change for the worse. He will be conservative, progressive, and even reactionary (in the sense of going back to an older policy), according to what is called for by the circumstances. From this perspective the simple opposition between liberal and conservative makes little sense.

To take another approach to this problem, Book Five of Aristotle's Politics is frequently called the book on revolutions. But somehow the word revolution is too fancy for what Aristotle describes. The word rebellion, the word used in the Constitution of the United States, is probably closer to Aristotle's meaning. Rebellion is old-fashioned, common-sensical and personal. Revolution is more scientific, impersonal necessity is suggested. The term is a scientific term in mathematics, physics, and astronomy: a sphere is generated by the revolution of a semi-circle about its diameter; Copernicus writes about the revolutions of the celestial spheres, the revolutions of inanimate bodies.

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3. See below, p.20.

The word rebel is usually associated with the image of a man who strikes out against the government, the word revolutionary with an intellectual fighting for an elaborately articulated cause. Aristotle in Book Five was, one might say, concerned primarily with rebellions, those political controversies and conflicts of beliefs and opinions, those conflicts about justice, which arise, so to speak, naturally between political men, that is, from the consideration of political and personal issues alone without any explicit or direct intervention of theory or science. When appeal to higher authority is made in non-philosophical, non-theoretical, political life, it is usually to the gods or God generally accepted by the religious community of the country. Aristotle articulates political arguments in a political spirit, and, as far as I know, only in his Politics introduces oaths to Zeus into his arguments.[4] The notion

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4. 1281 a 17 and 1281 b 19. Cf. Abraham Lincoln, To the Voters of the Seventh Congressional District, July 31, 1846.

> Fellow Citizens:
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> A charge having got into circulation in some of the neighborhoods of this District, in substance that I am an open scoffer at Christianity, I have by the advice of some friends concluded to notice the subject in this form. That I am not a member of any Christian Church, is true; but I have never denied the truth of the Scriptures; and I have never spoken with intentional disrepect of religion in general or of any denomination of Christians in particular. It is true that in early life I was inclined to believe in what I understand is called the "Doctrine of Necessity"-- that is, that the human mind is impelled to action, or held in rest by some power, over which the mind itself has no control; and I have sometimes (with one, two or three, but never publicly) tried to maintain this opinion in argument-- the habit of arguing thus however, I have, entirely left off for more than five years-- And I add here, I have always understood this same opinion to be held by several of the Christian denominations. The foregoing, is the whole truth, briefly stated, in relation to myself, upon this subject.
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> I do not think I could myself, be brought to support a man for office, whom I knew to be an open enemy of, and scoffer at religion.--Leaving the higher matter of eternal consquences between him and his Maker, I still do not think any man has the right thus to insult the feelings, and injure the morals, of the community in which he may live.--If, then, I was guilty of such conduct, I should blame no man who should condemn me for it; but I do blame those, whoever they may be, who falsely put such a

of revolution is usually tied in, not with popular religion, but with what has come to be called ideology. Ideologies have been called, not inappropriately, secular political religions. In the post-Kantian development the distinction between progressive and reactionary usually plays a role, because the ultimate appeal of these ideologies is to a theory, or an alleged science, of history. Revolution rather than rebellion seems more appropriate to a modern technological society, a scientific society, an enlightened society.

The movement called Enlightenment could be considered as the attempt to replace revealed religion by popularized philosophy. The two most outstanding characteristics of ideologies, at the risk of further over-simplification, are: 1) as regards their theoretical foundations, history replaces nature as the standard of right and wrong and good and bad; and 2) popularized philosophy replaces revealed religion. One way to understand the origins, if not the rationale, of our modern theories of history might be to see them as attempts to surmount the difficulties consequent upon the radical separation by Kant of thought about freedom from thought about nature, of the moral realm from the natural. Theoretical history aims, so to speak, at bringing the two realms back together again and at relating them within a doctrine of the whole of human life.[5]

charge in circulation against me.
Cf. also Winston S. Churchill, letter to Lady Randolph, 14 January 1897, in Winston S. Churchill, by Randolph S. Churchill, Companion Volume I, Part 2, 1896-1900, Houghton Mifflin, Boston, 1967, pp. 724-25

5. "Idee zu einer allgemeinen Geschichte in weltbuergerlicher Absicht," "Kants Werke, Akademie - Textausgabe, B. viii, pp. 15-32. "Idea for a Universal History from a Cosmopolitan Point of View." in Kant, On History, ed. Lewis Beck, Library of Liberal Arts, pp. 11-26

The more general problem behind all this would seem to be the difficulty for a science of human nature based on modern mathematical natural science to account for morality and science.

A passage from Kant's "Conjectural Beginning of Human History"[6] may serve to illustrate the spirit of the Enlightenment. Kant presents his account in that work in the form of a commentary on the book of Genesis, chapters two to six. He invites his reader to consult the Biblical text at every point to see whether the way that philosophy takes coincides with that of Holy Writ. Towards the middle of the piece he speaks about how man became aware of how nature has raised him above community with animals. "The first time he ever said to the sheep, 'nature has given you the skin you wear for my use, not for yours'; the first time he ever took that skin and put it upon himself (3:21) - that time he became aware of the way in which his nature privileged and raised him above all animals." He refers to, but does not quote, Genesis 3:21, which reads, "Unto Adam and to his wife did the Lord God make coats of skin, and clothed them." What the Bible attributes to the action of God, Kant's philosophic conjectures about history have man do for himself.

Ideology is supposed to incorporate Enlightenment within itself. Enlightenment looks forward to a vast expansion of man's power to control his own destiny, a vast expansion of human ambition. Let us consider the relation between ideology and ambition. The Chorus in Oedipus declares, "I pray that god may never abolish the eager ambition (the rivalry), that keeps the city noble."[7] Ambition is a subtle passion: it can drive a

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6. "Muthmasslicher Anfang der Menschengeschichte", ibid., pp. 107-23 Trans., op. cit., pp. 53-68.
7. Sophocles, Oedipus Tyrannus, ll. 880-81.

hardy soul like Macbeth to raging tyranny and, on the other hand, as Sophocles's Chorus says, keep a city noble. The craving for glory, for honor, is a selfish passion, yet a passion that attains its objects most readily through public service. A public man might think that he loves the people because they are loveable, but he also might think that he loves them because they have the power to bestow what he really loves more, fame, honor, or glory. Ideology and the philosophy of history tend to focus the attention of the educable away from the analysis of the lives and the souls of individual men. Nations, social, political, or economic classes, "cultures," societies, trends and movements become the individuals concentrated on. Such concentration makes it easier for political men to disguise their own personal ambition from themselves. How much demagoguery and political fanaticism might be prevented, if the politically aspiring, or their educators, were once again to be educated by those classical authors who made it their business to try to train political men to appreciate the subtlety of their own ambition, to train them to master their master passion?[8]

It might be instructive in this connection to compare Jack Cade, the rebel, as Shakespeare presents him in the second part of Henry the Sixth, with the revolutionaries Vladimir Lenin and Adolf Hitler. Cade, one might say, is the demagogue according to nature, Lenin and Hitler ideological demagogues. Cade is stubborn, courageous, enduring and clever. Secretly set on by the Duke of York, with pretensions to the royal title of Lord Mortimer, whom he resembles, he leads his Kentish rebels into the heart of London and almost wins the city. He seems most of all to want the title Lord, and is ready to grant a Lordship to the first man

8. Cf. Xenophon, Memorabilia, bk. 3, chs. 6 and 7; bk. 4, chs. 2 and 3; bk. 1, ch. 2.

who addresses him as Your Lordship.[9] He promises his followers that "all things shall be in common," money will be abolished, the price of bread will be lowered by two-thirds, and that he will destroy their enemies, that is all scholars, lawyers, courtiers and gentlemen.[10] In this connection it is interesting to note that the late Senator Joseph McCarthy was relatively successful so long as he confined his attacks to government officials, lawyers and academics. He began to lose his following and to consolidate his opposition when he became so reckless as to extend his attacks to the military and to the clergy. Cade has no way of fulfilling the first promises, but enemies, or material for enmity, is always available. Henry the Sixth's Treasurer, Lord Say, for executing policies he did not initiate or even approve, has become a particular object of popular hatred. Besides, Cade charges,

> Thou hast most traitorously corrupted the youth of the realm in erecting a grammar school: and whereas, before, our forefathers had no other books but the score and the tally, thou hast caused printing to be used, and, contrary to the King his crown and dignity, thou hast built a paper mill. It will be proven to thy face that thou hast men about thee that usually talk of a noun and a verb and such abominable words as no Christian ear can endure to hear. Thou hast appointed justices of peace, to call poor men before them about matters they were not able to answer. Moreover, thou hast put them in prison; and because they could not read, thou hast hanged them; when, indeed, only for that cause they have been most worthy to live.

Say denies the specific charges and goes on:

> Justice with favor have I always done;
> Pray'rs and tears have moved me, gifts could never.
> When have I aught exacted at your hands
> But to maintain the King, the realm, and you?
> Large gifts have I bestowed on learned clerks,
> Because my book preferred me to the King;
> And, seeing ignorance is the curse of God,
> Knowledge the wing wherewith we fly to Heaven,
> Unless you be possessed with devilish spirits,
> You cannot but forbear to murder me.
> This tongue hath parleyed unto foreign kings
> For your behoof.

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9. Henry the Sixth, Part Two, 4.7.4-5
10. Op. cit., 4.4.39.

Cade replies, "Tut, when struckst thou one blow in the field?"

He orders him to be beheaded. Say speaks again:

> Tell me wherein have I offended most?
> Have I affected wealth or honor? Speak.
> Are my chests filled with extorted gold?
> Is my apparel sumptuous to behold?
> Whom have I injured that ye seek my death?
> These hands are free from guiltless bloodshedding,
> This breast from harboring foul deceitful thoughts.
> Oh, let me live!" (11)

Cade is moved by these words, but bridles the remorse that he, but not apparently his followers, feels at Say's words; and sensible that for most men the most potent mark of authority is the power of execution,[12] has Say put to death. However, shortly thereafter, confronted by the force of the old and clever Baron Clifford who wins away his followers by granting them pardons, invoking the name of their hero, Henry the Fifth, and appealing to their patriotic hatred of the French, Cade is forced to flee for his own life; not, however, before he observes, "Was ever feather so lightly blown to and fro as this multitude?" Where the scientific ideologist sees masses moved by necessary and scientifically determinable reactions to objective deprivations, Jack Cade sees a flighty multitude, ready to follow the man most skillful at arousing and shaping their expectations, at transforming their notions and feelings about what is tolerable and intolerable, just and unjust. He knows that the same men in the same conditions may be led to endure, or may be led to rebel - and sometimes by being made to expect by right what no one can ever provide them. His impressive final scene, the scene of his death, begins with the line, "Fie on ambitions."

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11. 4.7.32-46, 69-82, 101-08.
12. Consider the implications for the question of capital punishment

For all his villainy, Cade can still feel remorse and he is aware of his own ambition: he wants to lord it over other men. His counterpart, the ideological demagogue, learns from a science, or pseudo-science, of history to identify the ultimate good with the practical and necessary success, the "historical" goals of his revolution. I quote from Lenin, "The great world-wide historic service of Marx and Engels lies in the fact that they proved by scientific analysis the inevitability of the downfall of capitalism and its transition to communism under which there will be no more exploitation of man by man."[13] This seems to be some kind of corruption of what in Kant's religious philosophy and speculations on history is called rational faith, i.e., what, in the absence of knowledge, we are obliged by reason to believe, in order to strengthen our capacity to act in accordance with the moral law. It is not too difficult for a man to be misled by a doctrine, which successfully propagated would place him in a position of highest authority. The ideological demagogue conscientiously disciplines himself to stifle and discount any remorse or scruple that might impede success. Since for him moralities are all products of history, whatever scruples he might feel can be dismissed as discardable vestiges from a discredited past. He identifies his opposition with ignorance. He learns, apparently, to forget about himself. He disguises his ambition from himself. He seems to combine worst parts of intellectual, demagogue, and religious fanatic.

Men like Cade and men like Lenin and Hitler, share in common the natural qualities of the talented and dangerous demagogue. What distinguishes the ideological demagogues, we suggest, is the fanatic intellectuality they add to the character. Lenin was the author of a philosophic book like

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13. On the Theory of Marxism, International Publishers, New York, (1948). (cont. on following page)

Materialism and Emperio-Criticism. Mao Tse-Tung is the author of On Contradiction. Hitler could say, "It's against my own inclinations that I devote myself to politics.... I'd have chosen the arts or philosophy."[14]

New communications technology and the tastelessness of the news industry have made it all too easy for too many to be seduced and carried away by their desires for fame and notoriety.

The craving for distinction, however, takes on many forms. Between mere exhibitionism and the craving to be distinguished for excellence alone, but certainly closer to the latter, is the hero. There is much in modern life, not to speak of any life, antithetical to heroism. Aspirations for some form of heroic nobility would seem to be behind much of the political and moral rebellion of our times. Some, alarmed by what corrupted and perverted heroism can lead to, recommend the elimination of heroic aspiration from the world altogether. If heroic aspiration, expressed in some form or another, is ineradicably rooted in human nature, and if nature can be fulfilled, corrupted, or perverted, but not eliminated, the only course left would seem to be to direct one's efforts towards the cultivation of taste for, and understanding of, authentic heroism. Merely debunking is hardly sufficient: again the balance of classical liberalism shows itself in its ability to articulate together both the nobility and limits of the

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Cf. Karl Loewith, Heidegger, Denker in duerftiger Zeit, Goettingen. 1960. chs. 2 and 4; Stanley Rosen, "Philosophy and Ideology: Reflections on Heidegger," Social Research, Summer, 1968. The common ground, from our point of view, of these doctrines can be seen in Hegel's remark:"For World-History moves itself on a higher ground than that on which morality has its proper station...." "Denn die Weltgeschichte bewegt sich auf einem hoehern Boden, als der ist, auf dem die Moralitaet ihre eigentuemliche Staette hat,..." Vorlesungen ueber die Philosophie der Geschichte, Einleitung.

14. Hitler's Secret Conversations, 1941-1944, Signet Books, p. 252

hero. There may be no better way to begin this refinement of taste than by studying Shakespeare and The Iliad and The Odyssey and by trying to understand the differences between Coriolanus, Brutus, Henry V, and Prospero; between Achilles, Agamemnon and Odysseus.

THE RADICALITY OF CLASSICAL LIBERALISM

Dr. Martin Luther King, Jr., in his letter to fellow clergymen from the Birminghan Jail, refers to Thomas Aquinas's "Treatise on Law,"[15] in order to justify his advocacy of disobedience for segregation laws. An unjust law, Thomas cites Augustine, seems to be no law at all. Every human law is binding as law only in so far as it is derived from the natural law, the law of reason. To the extent to which it deviates from the natural law it is a perversion of law. The right to rebellion enunciated by Thomas is based on the distinction between human law and natural law which is in turn an interpretation of Aristotle's distinction between natural justice, or natural right, τὸ φυσικὸν δίκαιοι (to physikon dikaion), and legal or conventional justice, τὸ νομικὸν δίκαιοι (to nomikon dikaion).[16] The highest law, higher than any law promulgated by a political legislator, is the law of living reason. In Question 96, article 4, Thomas qualifies the right to rebellion, as the Declaration of Independence does, by pointing out that the possession of a right does not automatically license the possessor to exercise the right. Whether a right ought to be exercised or not depends upon the given circumstances of the situation. If it is likely that the evils attendant upon the exercise of a right would outweigh evils justly complained of, for the sake of avoiding the greater evil the just man yields his right. In the exercise of his rights too, man is responsible for the

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15. Summa Theologica, I-II Q. 95, A. 2

16. N. Ethics, 5.7, 1134 b 18 - 1135 a 15

foreseeable consequences of his actions. The right to rebellion as found in Plato, Aristotle, Thomas Aquinas, the Declaration of Independence, Lincoln and others serves as a reminder that no government of men is as important as are the moral principles of good government. The beautiful balance of Thomas's position can be seen in a passage where, pointing out that rebellion is always a serious matter for conscience, he quotes the Apostle Paul's Letter to the Romans: "All human power is from God: Therefore, he that resisteth the power, resisteth the ordinance of God." But in the middle of his quote St. Thomas adds the decisive liberal qualification, "in matters that are within its scope." The quote then with Thomas's addition reads, "All human power is from God: Therefore he that resisteth the power, 'in matters that are within its scope,' resisteth the ordinance of God.'"[17] Why reasonable radicality must be accompanied by reasonable conservatism can be seen by considering the fact that he who speculates about the principles justifying all government is in that very act speculating about principles which could justify the alteration or abolition of any government that does not measure up to those principles.

THE CONSERVATISM OF CLASSICAL LIBERALISM

Why is government, why are human laws, laws which compel obedience through fear of punishment, thought to be necessary? Why is the natural law, which appeals to reason alone, not sufficient? Federalist fifty-one notes, "what is government itself but the greatest of all reflections on human nature? If men were angels no government would be necessary. If

17. Q. 96, A. 4, ad 1. Cf. John Calvin, Commentary on the Epistle to the Romans, ch. 13, secs. 1-4; Institutes of the Christian Religion, bk. 4, ch. 2o, esp. secs. 16ff. Cf. John Locke, A Paraphrase and Notes on the Epistles of St. Paul.... Cf. note p on Romans, 13:1, with the end of paragraph 2 of Locke's introduction to this section, and cp. the latter

angels were to govern men, neither external nor internal controls on government would be necessary."

Men who are primarily devoted to learning and to teaching, concentrating on the strengthening and development of their rational powers, are prone to exaggerate the part reason plays in the lives of most men, men not so concentrated and so dedicated. Although it leads to some squandering of forces, as a practical rule of thumb in the profession of learning and teaching, if one is likely to err, it is better to err on the side of overestimating rational capacities. In politics, however, this generous, and in that sense liberal, tendency can lead to consequences far worse than mere ineffectiveness. Those who expect too much from reason are bound to be frustrated; then, like disappointed lovers, overcome by a despair that can easily turn to contempt and hate, they are liable to begin to reject reasonable procedures altogether, to turn to pressure, intimidation, direct action and force, thus depriving political life of that limited but saving part that reason can contribute to it.[18]

Although it is certainly not universally true, and though it does depend upon the books, it still might be said that in general readers of books are more rational than those who do not read books. Thus, to make reason more effective and to correct their readers' characteristic error the great tradition of classical writers taught the limits of reason. Herman Melville, commenting on More's Utopia and Plato's Republic, wrote

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with the tables of contents of his Two Treatises on Government.

18. Cf. Plato, Phaedo, 89 C ff. Cf. in this order Turgenev's novels Fathers and Sons and Virgin Soil, and Dostoevsky's Possessed, for an account of how Russia's political intellectuals turned from populism to terrorism.

a small poem entitled, A Reasonable Constitution.

> What though Reason forged your scheme?
> 'Twas Reason dreamed the Utopia's dream:
> 'Tis dream to think that Reason can
> Govern the reasoning creature man. [19]

Plato and Aristotle, I believe, would not disapprove of that poem. Aristotle's Metaphysics begins with the assertion: "All men by nature desire to know." This passage is frequently misunderstood. He never said that for most men the desire to know dominates the other desires. Those blessed ones for whom this is so are rather rare. In the preface to the Politics, the last chapter of the Nicomachean Ethics, he argues that while all men do desire to know, most men desire other things more. The presence and the power of those desires make political or human law necessary.

We might, following Thomas and Aristotle, divide the purpose of human law, or government, into maximal and minimal purposes. The maximal purpose is to furnish man with the training, or discipline, (and perhaps the conditions), which he requires for the perfection of virtue, for excellence, that is, education. And because they are most inexperienced with it, most in need of it, and most capable of acquiring it, this discipline, or education, is primarily education of the young. For those whom Aristotle calls naturally free or liberal, that is with good and uncorrupted natural dispositions, words, arguments and discourses, especially parental admonitions, can provide the ethical part of this education. But most men, living as they do by passion, prone to vice, are not easily moved by words.[20] The minimal purpose of government is to restrain these men from evil by force and fear of punishment, to restrain them from harming themselves, and especially from harming others, from

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19. The Selected Poems of Herman Melville, ed. Hennig Cohen, Anchor Books, 1964, pp. 169 and 257.

20. Aristotle, N. Ethics, 1179 b 5-18.

disturbing the peace of others. The minimal purpose of government is domestic peace. Thomas also refers to a purpose intermediate between virtue and peace, which is coordinated with a type of character intermediate to the types mentioned before: this would be the purpose of educating those who have been habituated by force and fear of punishment, to do willingly what before they did from fear, and thus to become virtuous.[21] Human law, or government, if it is to be enlightened, does keep the end of the virtuous in view. But law must be adjusted to the capacities of those for whom the law is intended. There are limits on what one can reasonably expect from the law in the way of moral improvement. Being framed for the illiberal majority, the law, according to Thomas, should not forbid all those vices from which the liberal can abstain. The illiberal majority should not be burdened with precepts too far beyond what they can be expected to live up to. For, as they violate them, they are likely to come to despise them and law in general. Thus, from contempt they are likely to break out into transgressions worse than those they began with. Thomas quotes Proverbs (30:33): "He that too vehemently blows his nose brings out blood." The law should forbid only those more grievous vices from which it is possible for the majority to abstain. It can promote, but it cannot prescribe that men be virtuous, that is, that they not only act virtuously, but do so willingly, habitually, and for virtue's sake.[22]

When the conditions presupposed by laws have changed, the laws may or

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21. Summa Theologica, I-II, Q.92, A.2,ad 4; Q.95, A.1.

22. Aristotle, N. Ethics,1105 a 26- 1105 b 1.

may not thereby be rendered obsolete. They might still be applicable, in whole or in part, to the new conditions; if not, they ought to be changed. As the need for new legislation to adapt to rapidly changing conditions grows, understanding the complexity of the problem of change becomes increasingly important.

The conservatism of classical liberalism comes to a focus in what it has to say about change in laws, the subject of Question 97 of Thomas's Treatise on Law. We quote from article 2:

> Human law is rightly changed in so far as such change is conducive to the common interest. But to a certain extent change of law itself is detrimental to the common good. For custom has great force in the observance of laws, in as much as what is done contrary to common custom, even if it should be in itself light, seems to be grave. Thus when a law is changed the constraining force of law is diminished, in so far as custom is destroyed.

Consequently, Thomas goes on, human laws should not be changed unless the good attained by the change outweighs the harm done in this respect. The first objection goes as follows:

> It seems that human law ought always to be changed whenever something better occurs. For human laws are devised by human reason as are the other arts. But in the other arts that which was held at first, is changed, if something better occurs. Therefore the same ought also to be done in human laws.

Thomas answers:

> Rules of art derive their efficacy from reason alone, and therefore whenever any improvement occurs, that which was held before ought to be changed. But laws derive very great force from custom as the Philosopher says in Book II of the Politics, and therefore they ought not to be readily changed.

In the passage referred to Aristotle points out that the strength of law with regard to compliance, depends upon the compliance becoming habitual, and, he notes, it takes some time to form habits.[23] Unlike what goes on in the other

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23. 1268 b 23 - 1269 a 28.

arts and in the sciences, what reason alone would dictate is not simply applicable in political matters. Reason, even wisdom, must compromise with and thereby be diluted by the requirements of compliance and consent, that is, by habit, prejudice, and custom. It is unreasonable not to make due concessions to irrationality in political affairs.

What seems then, to underly the common opposition between liberal and conservative is a more fundamental difference of opinion concerning the relative strengths of rational and irrational powers in most men, in practical terms, concerning how much rationality is to be expected from most men. The distinction between conservative and what probably should be called progressive would seem to be more adequate: both make serious claims to be called liberal.

This disparity between what is appropriate for the sciences and the arts, and what is appropriate for social and political life is treated more dialectically in Plato's Republic and Aristotle's Politics. It is a fundamental, if not the fundamental theme of both books. Arguments for aristocracy and kingship, the rule of living reason, in Plato and Aristotle are accompanied by arguments by analogy from the arts and sciences.[24] The rank orders of the regimes in both books could be understood as being based on the degree to which the peoples of the respective regimes are capable or not of receiving more artistic or more scientific political forms, the degree to which they are capable of being governed in a liberal manner, the degree to which they are capable of conforming their lives to the rule of their most reasonable fellows. The idea of the rule of living reason functions as a paradigm, as a standard of improvement for politics. It moves us to continue to search for governors who,

24. E.g., Aristotle, Politics, 1273 b 10-12, where flute playing is paired with shoemaking. The former addresses itself to the soul, especially the passions, the latter protects the body.

as The Federalist (number fifty-seven) puts it, "possess most wisdom to discern, and most virtue to pursue, the common good." It reminds us that institutions ought ultimately to be judged not by technical standards, but by the kind of human beings they encourage and tend to produce and by the kind they discourage and tend to eliminate, that is, that ethics is the architechtonic part of social and political science. The idea of the rule of living reason gratifies reasonable hopes by clarifying and articulating fully their ultimate goals. At the same time, however, it presupposes conditions which are so impossible, or so rare, as to preclude it as a practical political possibility. (This would not automatically preclude it as a personal possibility.) By clarifying how rare, or impossible, the pre-conditions for the perfect political order are, writers like Plato and Aristotle save idealism from fanaticism, they teach men to moderate and to civilize their hopes. They prepare men to accept the implications of the distinctions between what is best in itself, that is, what is best in the best possible circumstances, what is best in circumstances that most generally prevail, and what is best relative to any particular set of given circumstances.

The chief political alternatives open to Americans and Western Europeans would seem to be the rule of reasonable law or some form of despotism, benevolent or unbenevolent. This seemed to be the case to Herman Melville in 1863 also. In July, 1863, riots protesting the draft broke out in New York City. The rioters turned to attacking Negroes and burned a Negro church and an orphanage. Melville reflected on these events, and more, in a remarkable poem called The House Top - A Night Piece - :

(July, 1863)

No sleep. The sultriness pervades the air
And binds the brain-a dense oppression, such
As tawny tigers feel in matted shades,
Vexing their blood and making apt for ravage.
Beneath the stars the roofy desert spreads
Vacant as Libya. All is hushed near by.
Yet fitfully from far breaks a mixed surf
Of muffled sound, the Atheist roar of riot.
Yonder, where parching Sirius set in drought,
Balefully glares red Arson-there-and there.
...

...All civil charms
And priestly spells which late held hearts in awe-
Fear-bound, subjected to a better sway
Than sway of self; these like a dream dissolve,
And man rebounds whole aeons back in nature.
Hail to the low dull rumble, dull and dead,
And ponderous drag that shakes the wall.
Wise Draco comes, deep in the midnight roll
Of black artillery; he comes, though late;
In code corroborating Calvin's creed
And cynic tyrannies of honest kings;
He comes, nor parlies; and the Town, redeemed,
Gives thanks devout; nor, being thankful, heeds
The grimy slur on the Republic's faith implied,
Which holds that Man is naturally good,
And-more-is Nature's Roman, never to be scourged.[25]

The rule of law, it must be said, cannot by itself produce nobility of soul, but it may go far towards producing the best possible conditions for the cultivation of nobility of soul.

Most informed citizens in the English-speaking world pay lip-service to the blessings of the rule of law. But those who would most directly and severely feel the loss of liberty its weakening would entail are those whose very calling presupposes freedom of speech, those for whom learning, study, teaching and serious conversation are habitual and regular occupations. How ironic it is then-- we hope it is not just--that the spirit of Draco should be receiving some of its loudest invitations today from institutions that are

25. Op. cit., above, n. 19, p. 24. Cf. Acts of the Apostles, 22: 24 and 25

avowedly institutions of higher learning. We cannot avoid considering the implications of Melville's words, "Wise Draco comes": Is it worse to suffer an unwise Draco, or to deserve a wise? It is altogether possible to suffer both conditions.

The irony referred to, however, may not be something only peculiar to our times. It would seem that now, in the beginning, and always, science and philosophy come into the world with the awareness that a distinction can be made between nature and convention, or between the reasonable and the conventional. Wherever there are philosophers (a class which can include erring philosophers) there seem to arise imitators of philosophers, men who are aware of the distinction between nature and convention, but who never sufficiently reflect on the reasons for the conventions. Some would say that such men, sometimes called sophists, sometimes intellectuals, are more attracted by the honors of philosophers than by their true objects, or that they somehow confound political ambition with philosophic ambition, but whatever their motives, the problem is that they abuse the instruments of philosophy, they abuse the distinction between nature and convention, so as to undermine all conventions, so as to undermine ordinary decency. One permanent task of Socratic philosophy then would seem to be to defend ordinary pre-philosophic practical wisdom from sophistical attack; that is, to prepare, if necessary, a theoretical defence of ordinary decency against sophistical science. To avoid misunderstanding, it should be said that such polemical activity does not mean that one ceases to try to understand or to learn from those one attacks. We need only consider the Socrates of Plato and Xenophon.[26]

26. Cf. Note 4, above, and Leo Strauss, On Tyranny, The Free Press of Glencoe, 1963, esp. p. 199

AMERICAN LIBERALISM

"It has been frequently remarked," writes Hamilton in the opening paragraph of The Federalist,

> that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.[27]

It is hard to conceive of a better solution to the problem of political stability and change than the American constitutional system. The Constitution provides a point of veneration and the fixed and stable framework within which the various departments of government are granted broad and flexible powers to deal energetically with the problems arising from changing conditions. The reasonability of the constitution itself is attested to by its ample recognition of and reliance upon the indecorous, but never failing, springs of human selfishness. We recur to Federalist, number fifty-one:

> If men were angels, no government would be necessary.
> If angels were to govern men, neither external nor
> internal controls on government would be necessary.
> In framing a government which is to be administered
> by men over men, the great difficulty lies in this:
> you must enable the government to control the governed;
> and in the next place oblige it to control itself.
> A dependence on the people is, no doubt, the primary control
> on the government; but experience has taught mankind the
> necessity of auxiliary precautions.

Those auxiliary precautions are the check and balance system and separation of powers. Finding the right balance between the enabling powers of government and restrictions on governmental power is the permanent problem of American government.

If one focuses not on the needs of liberal learning, but on the ordinary concerns of most men, it might be said without too much oversimplification that the most prevalent and persistent forms of injustice are bullying and cheating.

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27. Footnote on the next page

The English-speaking peoples by means of the rule of law seem to have concentrated on preventing men from bullying one another. Like our Communist rivals, we have also been greatly concerned with preventing cheating, but have taken the precaution to deal with this problem in such a way as to avoid concentrating too much power in the hands of our governmental protectors, so as to avoid putting our protectors themselves in a position to bully us. The reasoning behind this choice seems to be that, although the two are often connected, injury to dignity is worse than injury to material well-being. In addition, he who is in a position to bully is usually in a position to cheat as well, whereas the converse is not true.

What the right balance between enabling powers and restrictions on government is depends upon the given conditions of material life. Along with the introduction of large-scale technology, a new system of administration and ownership of peoperty developed in the West, devised to coordinate the resources of large groups of men in a manner appropriate to new technological possibilities. We refer to the rise of the depersonalized, that is ethically irresponsible, ownership of joint-stock companies, organized for profit and with limited liability.[28] The inequities engendered by this system might be traced, at least in part, to the fact that the system was developed under the guidance of a philosophy, or social science, that either minimized or denied the significance of ethics for political, social, and economic science. However this may be, the principle seems to be generally accepted now that the inequities resulting from the growth of large-scale non-governmental corporate and

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27. Cf. George Anastaplo, Book Review, Levy: Legacy of Suppression-Freedom of Speech and Press in Early American History, 39 New York University Law Review 735 (1964), esp. p. 741; Laurence Berns, "Two Old Conservatives Discuss the Anastaplo Case," 54 Cornell Law Review 920, July, 1969.

28. Cf. R. H. Tawney, The Acquisitive Society, ch. 5.

institutional power can be effectively remedied only by a corresponding enlargement of governmental powers of regulation. In addition, the licensing of government corporations and agencies has been expanded in order to perform necessary public services that privately owned enterprises could not be relied upon to supply.

The American system is peculiarly well adapted to solving the problems brought on by new conditions without sacrificing, or at least with a minimum loss of, liberty.[29] New ways are continually being found to combine justice and liberty, public responsibility and private initiative. By the skillful use of tax laws an amazing proliferation of private welfare and cultural agencies has been induced, performing needed social services without concentrating power in the hands of government. Large corporations under threat of increasing regulation and taxes, and guided by an increasing awareness of the insufficiency of an unmitigated profit motive, are tending to follow more public-spirited policies and even to take on a semi-public character. Within government itself the institution of specialized relatively independent corporations and authorities, in addition to the regular constitutional separation of powers both within and between Federal, State and local governments, all enable us to address ourselves to new conditions without that concentration of power in the central government that less sophisticated structures of government cannot avoid.

The principle behind the American Union and the Constitution of the United States, in Lincoln's words, "entwining itself more closely about the human heart," is the Declaration of Independence's assertion of "Liberty to all." This principle in Lincoln's mind is inextricably connected with the Declaration's assertion that "all men are created equal."[30] The great and no longer tolerable failing

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29. Cf. De Tocqueville, Democracy in America, vol. I, ch. 5, last section; vol. 2, bk. 2, ch. 7

30. "Fragment: The Constitution and the Union" 1860 or 1861, Collected Works of Abraham Lincoln, Roy Basler, ed. Rutgers U. Press, vol. lV, pp. 168-69.

of American political life, the failure to guarantee Negro citizens equal rights of citizenship, is not, according to Lincoln, a failure of American principles; it is rather a failure of men to act in accordance with those principles. Lincoln commented on that statement in his speech on the Dred Scott decision:

> I think the authors of that notable instrument intended to include all men, but they did not intend to declare all men equal in all respects. They did not mean to say all were equal in color, size, intellect, moral developments, or social capacity. They defined with tolerable distinctness, in what respects they did consider all men created equal--equal in "certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This they said, and this they meant. They did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which could be familiar to all, and revered by all; constantly looked to, constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere. The assertion that "all men are created equal" was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration, not for that, but for future use. Its authors meant it to be, thank God, it is now proving itself, a stumbling block to those who in after times might seek to turn a free people back into the hateful paths of despotism. They knew the proneness of prosperity to breed tyrants, and they meant when such should re-appear in this fair land and commence their vocation they should find left for them at least one hard nut to crack.[31]

The difference in nature (the Declaration speaks of the "Laws of Nature"), that these natural rights are based upon, rights which all men share, is the difference between rational and irrational animals, between men, animals capable of thoughtful speech, and beasts, animals incapable of thoughtful speech. This difference both for a classical liberal like Aristotle and for the Founding Fathers is elementary and fundamental. Aristotle goes on to

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31. Speech at Springfield, Illinois, June 26, 1857, emphasis in original.

divide men in terms of the different ways and degrees that they possess this capacity, but the differences of ways and degrees can never be as significant as the difference between animals lacking the capacity entirely and those having it in any degree whatever.

Part of what Aristotle and the Declaration of Independence mean was spelled out by Kant in the work referred to before, where he uses the book of Genesis to speculate about the various stages man might have gone through in his progress towards understanding his uniqueness among the animals.[32] Kant minimizes the importance of eating from the tree of the knowledge of good and evil. For him the epoch-making event was the institution of the fig-leaf. He interprets it as follows: this removal of the object of inclination from the view of the senses reflects man's first awareness of a certain degree of mastery of reason over impulse; this was his first hint that he is a moral creature. His partner's similar action, this implicit refusal, forces man, moved by sensual desire, to become aware of the moral qualities of the objects of his desire, the rational and moral qualities of his fellow human beings. Thus he becomes able to be moved not only by sensual, but also by more inward spiritual attractions; he becomes able to move from animal desire to love, from the desire of possessive enjoyment to the simple appreciation of beauty. Through self-restraint and refusal men come to deserve and to recognize each other as worthy of the dignities befitting free men.

St. John's College, Annapolis, Maryland
May 24, 1968

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32. Op. cit., above, n. 6.