

1-1-1965

Law and the Idea of the Contemporary;Note

Martin Versfeld

Follow this and additional works at: http://scholarship.law.nd.edu/nd_naturallaw_forum



Part of the [Law Commons](#)

Recommended Citation

Versfeld, Martin, "Law and the Idea of the Contemporary;Note" (1965). *Natural Law Forum*. Paper 106.
http://scholarship.law.nd.edu/nd_naturallaw_forum/106

This Note is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Natural Law Forum by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.

NOTES

LAW AND THE IDEA OF THE CONTEMPORARY

Fugite igitur malas artes et insidias principis huius saeculi ne quando prudentia eius oppressi in caritate langueatis. Sed omnes uniti sitis indivulso corde.¹

Caritas ergo incohata incohata iustitia est; caritas provecta provecta iustitia est; caritas magna magna iustitia est; caritas perfecta perfecta iustitia est, sed caritas de corde pura et conscientia bona et fide non ficta.²

I

There can be pastiche in lawmaking as well as in the arts, and the fate of Lot's wife has to be pondered by every generation. I am concerned here with presenting a viable idea of the contemporary which ought to be the informing spirit of the law. Natural lawyers are frequently accused of archaism, and sometimes with justice. But natural law requires a mood of sensitivity to the pliancy as well as to the immutable structure of human nature. Contemporary thought has emphasized the temporal structure of human being, and it seems to me essential that law should assimilate the new ontology.

Law is concerned with the situations which arise from the desires of men, from the clash, very often, between what they want and what they need; and the desires of men arise from their temporal condition. Man is never all that he is. In the language of the existentialists, his being is a to-be. Man endeavors to discover and to be what he is, and this takes time. He desires because he is *not yet* what he wants to be, and what he wants to be is what lies covered in the present: himself. Our sense of the future rests upon the quality of our desire. The *amor concupiscentiae* creates a different future and a different legislative program from the *amor Dei*, because they place our human being in different times. Legislation for eternity and legislation for time correspond to two different qualities of desire; and my contention in this paper is that legislation for eternity will be found to be legislation for the times, and that this is just the opposite of legislation for time, which reflects the hopelessness of a desire which has no dialectic of ascent.

For society exists not primarily for the satisfaction but for the creation of desire. "If you want nothing, how are you unhappy?" the old man asks Rasselas, and the prince replies:

That I want nothing, or that I know not what I want, is the cause of my complaint; if I had any known want, I should have a certain wish; that wish would excite endeavor; and I should not then repine to see the sun move so slowly towards the western mountain, or lament when the day breaks, and sleep will no longer hide me from myself. . . . But possessing all that I can

¹ St. Ignatius of Antioch, *Letter to the Philadelphians*.

² ST. AUGUSTINE, *DE NATURA ET GRATIA* 4.70.84.

want, I find one day and one hour exactly like another, except that the latter is still more tedious than the former.³

Society progressively reveals to us what we are and therefore what we want. And if we do not learn to want ourselves, but evacuate the center, the rotation of the sun and the passage of time itself is infected with this boredom. Insofar as legislation has to do with the situations which arise from desires of men, it also has to do with situations which create proper or improper desires; and from the point of view of the ontologist, there is a fundamental angle on lawmaking, which regards it as an activity by which human time is constructed. For it can construct hopeful and hopeless situations, and a hopeless situation is essentially one in which time has lost its meaning, and in which desire has failed.

The philosophy of law, then, would do well to concern itself with the ontology of time, on the grounds that legislation has to do with the construction of human time, i.e., with the construction of historical and of subjective time. Thus legislation might be called bad when it constructed the time of frustration, or anxiety, or boredom, concepts which the reader of Augustine or Kierkegaard should have no difficulty in understanding. There is such a thing as a sophistic time of nihilism in which human acts are performed which are stripped of all meaning. Augustine's conception of the *Civitas Terrena* depends upon the conception of such a time, the time of idolatry in which creatures are stripped of significance by being blown up into false infinities or false eternities.⁴ If Maritain, following St. Thomas, is right in saying that the practical judgment must be *per conformitatem ad appetitum rectum*, i.e., *de corde pura*, then we had better be serious about the ontology of the *appetitus rectus*. It is the appetitus of a being *in via* or in a historical situation. We are involved in a dialectic of appetite or desire.

There should be no real difficulty in seeing the relevance of this angle for the student of the Thomistic conception of natural law. Man is concerned with realizing the significance of the *lex aeterna* in mundane affairs, and with salting them with the savor of eternity through the human law which uses the circumstances of history prudently as means by which man is directed to his proper end. Human law enjoins human acts which are meaningful insofar as it is governed by *prudentia*, in the strict sense; and since history is the tissue of human acts, history falls under the governance of prudence. If we say that law is *aliquid rationis* we have to take the phrase strictly within this context. Law is relative to human knowing, and human knowing is an *adequatio*, i.e., it is governed by the ontological truth of things of which God is the measure. The Thomist doctrine of natural law stands or falls by this "realist" theory of knowledge. If man is absolutely the measure, then law as *aliquid rationis* is the imposition of the human will blown up to idolatrous dimensions, whose purpose is to create the *Civitas Terrena*, and to spread the domain of sin. Legislation then becomes, in Augustine's phrase, a fornication with time, and an exhibition of the *astutia* of the prince of this world.

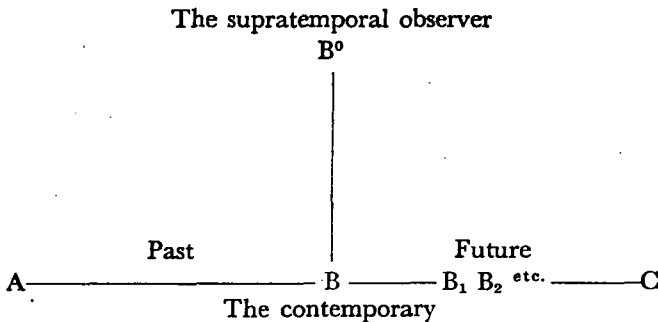
³ SAMUEL JOHNSON, *RASSELAS* ch. III.

⁴ See my *St. Augustine as a Psychotherapist*, BLACKFRIARS (March, 1964).

The law as *aliquid rationis* is formulated by a creature using creaturely circumstances prudently. The *ratio* of the creature is in process of actualization in a world of creatures which are metaphysical compositions of potency and act, and which, therefore, have their being in time. Human law is, therefore, a temporary accommodation with temporal circumstances in the light of an eternal end, and our conception of law will depend upon our metaphysical analysis of the nature of change in time.

This seems to be entirely in accord with the thought of St. Thomas, yet the present difficulties made about natural law arise from its alleged incompatibility with the historicity of things. The difficulties arise from the present condition of the metaphysics of process, and the attempt to measure truth in terms of process and to subject it to time. We thus arrive at the notion of a truth, including a moral truth, which changes, and of a human act which has no eternal significance. The chief contributory factors to this sense of difficulty arise from two cultural factors unknown in the thirteenth century, the philosophies primarily of Hegel and of Comte, and the development of a dynamic evolutionary world picture. No present consideration of natural law theory will be satisfactory which does not deal with the epistemological questions involved in the advent of these factors, and which does not relate these questions to the ontology of time.

I have written a fairly lengthy article on some of the epistemological problems of evolutionary thinking in the spring, 1965, issue of the *International Philosophical Quarterly*, and to which I shall have to refer the reader for some of the analyses I consider to be fundamental. Let me try to state the problem briefly, however, by means of a very simple diagram.



Let us represent the direction of time by means of the line AC. The time so represented is a history which is evolutionary in the wide sense that in it new forms of being and of consciousness appear. Let us take point B on the line as representing the present where we now stand. From this point we reconstruct the past, and anticipate and project the future. It is the point in which we write histories and make predictions which we endeavor to make true or accurate, and in which we try to take decisions which are right. These activities take place *within* the process AC.

Now point B is a moving point. Let us say that tomorrow it is B₁. From

our location in B_1 we shall write a different history because, for instance, our data have increased and now include what has happened at B. Further, we shall have to take different decisions because the circumstances have changed, and these decisions will affect our retrospective constructions, because the interest which we take in the past is affected by our projects. There is a sense then in which our intellectual constructs and our moral decisions are relative, though we always endeavor to make the former true and the latter good.

This is all perfectly simple, until we start to theorize about it. It is obvious enough that we may have to take different decisions tomorrow from what we take today, and that tomorrow's chemistry is likely to be better than today's. But we may jump to the conclusion that what is good today is not good tomorrow, or that what was true is no longer true. Then we may go on to hold that goodness changes and that truth changes. There is no "logic" whatever in these deductions, and we may be tempted to go to depth psychology or to the sociology of knowledge for an explanation of why they are made. Let us add that there is just as little logic in counteraffirmations about the absolute and unchangeable nature of truth and goodness, and that the debate between the absolutists and the relativists makes no sense.

However, let us admit that mistakes which were good enough for Comte and Hegel are good enough for us, in the sense that they justify our serious attention. Let us pause to make some rather flat-footed observations. Had I suffered from a bowel stoppage some two hundred years ago — note the curious dodging about in time which this supposition involves — I might have resorted to swallowing an antimony pill, possibly with dire results. Nowadays I might try something else, say agar-agar. In a sense I should have done wrong to take the antimony pill. Such pills, we know now, are useless and dangerous for the condition for which they were prescribed. It was not true that they were good for that condition. We now think that agar-agar is better. In this we are probably right. But we have not substituted one truth for another truth, but rather approximated more closely to the truth of the matter. Medical science hopes to approximate still more closely in the future, but what that truth is God alone knows. We are trying to share his knowledge, but it is always in the human mode possible at point B. If we fall into the delusion of holding that Science has now reached the Truth, we shall have reached a condition of self-apotheosis.

Further, if in an objective and timeless way it was wrong to take the antimony pill, yet I should have been subjectively right to take it. It was the best thing that I could do in the circumstances. Prudence required that I should do the best I knew. Nowadays I take agar-agar, although some much better treatment may be discovered tomorrow. Morally speaking, the second decision is not better than the first. What has remained constant over the two centuries is the conviction that it is good to look after my body, and that I must take such means as are available. If ten million years ago there were no human bodies, it would not be untrue to say that human bodies should not be taken care of; but the question of whether it was true then would be quite meaningless, because it would refer to nothing existent, and that existent comes into being in time. It must

itself be present to the truth about itself, and this presence is a presence in time.

Of course, given my existence in a body, I may change my conviction that the body should be cared for. I may, for instance, become the adherent of a philosophy which persuades me that the time has now come when the body should be neglected. The question would then arise as to whether it was true that the body should be neglected, or should not be neglected. I might argue on the one hand that the truth has changed and that my antisomatism is the new truth. Or I might, on the other hand, argue that God has from eternity intended that the human body should be looked after, that this was a meaningful truth in the mind of God even when there were no human bodies, and that I have the means of being privy to this truth.

Both these positions seem to me to be absurd, and *both* rest on the same assumption: that I am the lord and possessor of truth; in the first case, because I make it, and in the second, because I am claiming to possess the substance of the divine mind, and to know the eternal counsels of God. Both the relativist and the absolutist blaspheme. If I maintain that reason is the candle of the Lord the time will come when its flame will consume the sense of any divinity except my own.

Neither position does justice to the notion of truth as *adequatio*, a notion which requires not only that the mind be measured by things, but, further, that their interaction has a history—that my knowledge of this table is a point at which my history cuts across the independent temporal existence of this table. Knowing is an existential event. Let us say that at point B I know the table in its B-condition, and that at point B₁ I know the table in its B₁-condition. This holds also for self-knowledge. At point B I know my B-self, and at B₁ my B₁-self. Whatever we may hold about the “special creation” of the human soul, there is such a thing as an evolution of consciousness. Only God has a knowledge of himself as the eternal B, the eternal present.

Natural law is the law for a creature who at point B will know things in their B-condition, and at B₁ in their B₁-condition, and who has to take decisions correct for the point at which he stands. He does not possess tomorrow's science or a certain knowledge of future contingents.

Accordingly, the epistemological-metaphysical investigation of how B stands to past and future B's is essential for natural law theory. I have said something about past B's in the paper on evolution to which I have adverted. On the one hand I cannot change the truth, and, on the other, I grasp it as a historical being involved in an evolving and changing universe. Truth is not something which we possess but which possesses us in its own good time.

Hence I maintain that the fundamental conception which the natural lawyer must analyze is the notion of the contemporary. This will involve the exposure of our various attempts to dodge out of time, for it is easy to confuse the acosmic and atemporal with the eternal. This analysis will turn out to be in some measure a return to the Thomistic notion of *prudentialia*, with an added emphasis on the fact that both the agent and the means which he employs are involved in an evolutionary process.

I propose, in fact, to substitute the idea of relativity for the ideas both of relativism and of absolutism, as a mean which is itself an extreme, and which can therefore be played off against either of the extremes between which it is a mean. In principle, this substitution can be carried out by means of the Thomistic — and Newmanian — principle that knowledge is *per modum cognoscentis*. That natural law is a human comprehension of the eternal law *must* be taken in relation to this formula, because the reason involved is a *human* reason operating in human time, which is the time neither of stones nor of angels. The notion of truth does not require that we disembodied reason, nor insert it in an atemporal noumenal realm. Human truth is not less true for being human, though it is not the truth as held in an angelic or divine mode. Error enters when we make a mistake about our ontological status as time, and fail in humility. Modern biblical criticism has accepted this principle insofar as it recognizes that revelation accommodates itself to human modes of understanding. In so doing it frees Scripture from the grip of rationalism. The fault of the fundamentalist-literalist and of the rationalist is the same: it is a failure in humility. The fundamentalist pretends to have the mind of God. This means that in fact he is imposing a temporary and uncriticized condition of science upon the divine mind; for instance, he may oppose evolution because he imposes a Linnæan doctrine of fixed species upon the divine intentions, or thrusts current notions of history, science, and fact upon the book of Genesis, as though the intentions of God in revealing could be circumscribed by these accidents. Careful study of seventeenth and eighteenth century thought leads to the conviction that fundamentalism and rationalism are the obverse and the reverse of the same coin. Fundamentalist dicta as to what is the natural law share in the *hybris* of the rationalist.

What Hegel does is to substitute logical truth for ontological truth, and then to attribute to concepts the fluidity which belongs properly to things at the price of the intelligibility of the latter. A tree can change into a heap of ashes, but you cannot change the concept of a tree into the concept of a heap of ashes without ruining the intelligibility of the process of calcification. In effect, Hegel is substituting physical time for human time; and in this way, and at the very moment when he is proclaiming the primacy of *Geist*, he is making the mind the plaything of nature. If the real is the rational, the nonrationalities of nature have to be assumed into thought as irrationalities. It is an error of what the existentialist would call "objective thinking." Both Hegel and Comte claim to *oversee* process and history. They do so by extrajecting the mind from the position in history which it occupies. Let us say that standing at point B they shoot themselves up into the heavens to the position of a divine observer of an objective process, which they then assume into themselves as its representatives. At this point philosophy becomes Messianic and gives the Word and the Law to things. Let us say that they take their stance at B⁰. They are absolutizing a point in time, which is the essence of idolatry. What Maritain calls the stratagem of focal displacement is essentially a displacement upwards by which the ego floats loose from reality, in a sort of philosophical psychosis of which Rousseau is the para-

digm.⁵ We pretend that the truth at point B is capable of a sea — or dialectical — change, because we pretend that we can overlook the whole process. The cure is to see that B, as a historical situation, must give place to B₁, and that the temptation to extraject B₁ into B₁⁰ must be resisted. A series B⁰, B₁⁰, B₂⁰ successive and yet extratemporal would be a lunacy in divinity, in which we are landed when we absolutize process or the relative. For the humble expectation of B₁ we substitute the myth of absolute prediction or control in order to ossify ourselves in the philosophical and cultural condition in which we are. Hence progressivism must lead to conservatism. Control takes the place of Providence, because we wish to commit the enormity of controlling history from within history, and of making the future look back like Lot's wife. Acceptance of the present is more important than control of the future, because acceptance of the present in its dimension of human temporality is the true principle of change. There have been natural lawyers who have desiderated the same sort of immobility in morals, as the Hegelian or Marxian man claims for his insight, when they desired to stamp the image of the present on the future. You would think that they have forgotten what the word "nature" means, that we have to do with a *nascitus*, a *nascens*, and a *nasciturus*, and that an immutable nature is a contradiction in terms. The notion of natural law includes what we don't know about the eternal law as well as what we do. It is the latter which is the *mensurans*.⁶

Let me add that if human nature is "fixed" by the Incarnation, we should be careful not to give this a "naturalistic" interpretation, and to remember that the dogma looks forward to a future glory. Consequently we have to live in an atmosphere of expectation, rather than in an air of conservatism.

The abortions in legal philosophy brought about by Comtism and Hegelianism arise from a failure in the ontology of the *nascens*. We can and we must achieve a sense of relativity, and we can do so only by bidding farewell to the dogmas of relativism as well as of absolutism in truth and in morals. For this a sense of history is indispensable, but historicism is the enemy of history. If I did not have the firm conviction that my knowledge was true I could not relativize it. I must have the firm conviction that what I have is human knowledge, true but not absolute. Let us suppose, for instance, that I hold to an evolutionary view of the universe. That does not effect a self-displacement of my present knowledge, because what I am doing is precisely to place it, and I can place it only from its own standpoint. Or again, if I take the decision to advance my knowledge, it can be taken only upon the conviction that it will be *good* to do so, and that the sort of excellence which I at present discern in my knowledge and my decision will in the future have the recognizable family resemblance which the parent expects in the *nasciturus*.

⁵ JACQUES MARITAIN, *MORAL PHILOSOPHY* 132-133, 136 (1964). Maritain comments on how "In a man named Hegel, who having appeared at the end of history, nourished himself with all the experience of history, and assumed the whole substance of the development of thought, Spirit revealed itself to itself."

⁶ We are thus committed to what Lacroix has called an *intussuception progressive du réel*, or what he also called *croyance*. See JEAN LACROIX, *MARXISME, EXISTENTIALISME, PERSONALISME* 95-123 (5th ed., Paris, 1962).

It will be observed that I am distinguishing here between relativity and relativism, and that I am setting them in opposition to each other. The self-contradiction of relativism and historicism has been stated often enough. One states absolutely that truth is relative. How to maintain "the historical view," without invalidating that view itself, is a major epistemological problem, and it may be objected to this paper that it jettisons the universal law and unconditional precept which is essential to natural law. My contention is that the objection holds only where the above distinction is not maintained. To hold that reason itself is a becoming and a genesis is quite compatible with a belief in universal meanings as long as we remember that the genesis of reason is *sui generis*, and is not to be univocally interpreted in terms of other types of genesis. That would be to effect the exodus of reason. Its "time" cannot be broken into atoms the later of which displace the earlier. The later contain the earlier, and the earlier intend and propose the later. If we take the view that all truth and all action are a creation of the world, then we must take the view that the earlier is sustained by the later precisely insofar as the later is new. All novelty is a consummation, and could not rest on its antecedent conditions if it destroyed them. We are all engaged in constituting a world, and this is also a constituting of what the world was. Every "being in a situation" is both prospective and retroactive, and contains an element of self-transcendence which is the point of insertion of eternity in the world by virtue of which what we think and do is true and good. *Sub specie aeternitatis* it is always tomorrow today, and of this we have some participated glimpse.

In other words, *the notion of the contemporary always contains the idea of a norm*. It is only by a positivist reduction of the present to a *fact*, seen from the point of view of an impossible outside observer, that it can be relativized. In reality my good and my true speak vicariously for the good and the true of the past, and they must be of such a kind that they can be more fully actualized in the future. They are a knowledge and a goodness rooted in hope and expectation. I cannot know tomorrow's truth, or take tomorrow's decisions today, but I do know enough about truth and about goodness to know that I do not know what they are. The truth about truth is always true, and immanent in any truth that I know, though I do not know directly what truth is, but only obliquely. And a good action is always good though God alone is its judge.⁷

There is an absolute skepticism, which rises to skepticism of itself, without which there is no abiding conviction, and our highest knowledge is what Jaspers calls our knowledge of nonknowledge. This is the skepticism of wisdom, and it is poles apart from the facile nihilism of the relativist or the divine pretensions of the absolutist, which, like the Kantian imperative, can so easily annihilate the world. To act in an attitude of hopeful waiting is the proper condition of

⁷ *Id.* at 67: "La connaissance de soi chez l'homme est conscience de soi. Or la conscience n'est pas autre chose que le sentiment d'une certaine distance de soi-même à soi-même en même temps que l'effort pour se rapprocher de soi: elle n'est jamais pleine possession de l'être par lui-même, mais conquête progressive, création continue. La conscience, si l'on veut, est connaissance en mouvement d'un sujet qui toujours s'affirme et poursuit de s'affirmer, parce que jamais il ne se possède immobile. Ainsi la médiation continue est le substitut nécessaire d'une impossible immédiation."

man, and the only way of acting which expresses the presence of the eternal in the temporal. The true and the good are always present as the unchanging and immanent support of whatever is, but we must think and act with a sense of the immanence of what we can never immediately grasp. It is not true that whatever is, is right, but there is an immanent rightness which waits upon our hope and freedom. It is only in the beatific vision that we shall see how God is present in his creation, and how the eternal law is present in human reason, for the eternal law is the Logos.⁸

A Christian doctrine of natural law has to move within this framework. The history of its decline in the modern world is the history of its degeneration under the influence of a rationalism, both relativist and dogmatic, which makes divine claims for human reason, under cover of the attempt to present Christianity as rational, and which fails to think out what is implied in the relativity of a human condition whose only substance is an existence in dependence which realizes itself through history. To act well is to do the best we know. That is a basic aspect of the definition of law as *aliquid rationis*, and we will not understand this phrase of St. Thomas unless we relate it to what Pieper has called the silence of St. Thomas. Natural law does not offer ready-made or permanent solutions. But it offers the bases for the charities and decisions in hope proper to an intelligence *in via*. Based in prudence, its determinations are incommunicable because prudence is incommunicable. It makes possible a public world of *persons*, that is, of privacies and of private decisions, because it is not based upon the reduction of men to a common human nature possessing reason in general, but recognizes the realm of personality and the analogy of being. Humanity is a genus, but personality is an analogous notion, and reason is realized in persons, as Newman pointed out. Thus it is not a question of substituting natural law legislation for other legislation, but rather of a devolution of responsibility and authority. Hegelian and Comtist relativism issue from a pantheism, and from a pantheist reduction of man to humanity, which can result only in the tyranny of the deified General Will, in which Reason speaks to all alike because they are levelled out in Humanity. *Pace* Hobbes, it is because reason or the Logos speaks differently in each of us that we can understand one another. It is fantastic to treat of natural law without reference to the analogy of being.

What we are given in reality is a series of presents, B, B₁, B₂, B₃ . . . which are analogous to each other and which require analogous legislation but which cannot be flattened out by reduction to a Platonic form or general abstract law such as Hume thought that it was the function of history to discover. The art of legislation requires an anatomy of the human present, rather than the will-o'-the-wisp of a quasi-scientific general or abstract law. It is not enough to see that human law embodies natural law according to circumstances, but also that our grasp of natural law itself is subject to the temporal and discursive character of human *ratio*, subsisting in persons.

I have put a considerable load upon the concept of prudence and should like to conclude this section with a final clarification. Let us suppose that there is a perfectly clear natural law principle to be implemented, say, that children

⁸ A. HULSBOSCH, *DE SCHEPPING GODS*.

should be cared for. The legislator must consider what is the best means to effect this in the given condition of his society. This requires prudent practical judgment. But further, given that natural law is the comprehension of the divine Logos in creation by human *ratio*, then the ontological status of man comes into the picture. In Biblical thought a man is known rather than a knower, a seen rather than a seer, and this follows from his status as created intelligence. The reason, then, which formulates the natural law is a reason *in via*. *Eppur si muove*. It follows therefore that man's formulation of natural law must be qualified by an awareness of where he stands, which is an ontological rather than an epistemological question. Now prudence is necessary in estimating this, since we do not have to do only with certain generic qualities of man but with a practical decision. The very difficult question of knowing oneself is involved. Here a more difficult judgment is required than the prudence of adapting means to a settled end, since the end has now been placed in a shifting perspective by human existence in time. Since the *ratio* involved is the *ratio* of a person, there devolves upon each person the responsibility of determining where he stands. This requires the sort of prudence involved in the process of achieving an effective humility, which is a realistic estimation of where we stand. In managing the means I have to manage myself, so that the eye shall be single. A *prise de conscience* is involved, the achievement of which requires a prudence of the most delicate kind. Every human act to be good depends upon this *prise de conscience*, and the notion of prudence must be extended to include it. Since this judgment is personal, prudence is incommunicable, in the sense that the springs of my volition are incommunicable.⁹

All prudent action is public in the sense of being directed to the common good, but this good is a transcendental analogically realized in every concrete decision. The common good is the principle of coordination of our individual "times." In saying this I am assuming, what seems to me to be indispensable to natural law theory, that the Good is a transcendental analogically realized in particular decisions. Since the goodness of God is his eternity, good decisions are analogical realizations, *hic et nunc*, of an eternal good. Since every man's prudential decisions are his own, and bear upon his being, they serve to constitute or to construct his own *hic et nunc*. In this sense, every man makes his own time, which is analogically connected with the time of others in a common order or social space. Thus we come back to an early and central point, that legislation is concerned with the construction of a common time order, historically viable insofar as it makes possible a meaningful existence *hic et nunc*. Such a time order fosters a complexus of desires which are viable in the context of the *Mitwelt*, desires which are *appetitus recti*. Here, as throughout, I assume certain existentialist analyses of the connection of *Zeit* with human *Dasein* and of the nature of individual and social self-creativity. I do so in order to suggest that such an approach may help natural law theory to wash its face.

Natural law and the notion of the common good are bound up with an ontology, an ontology which has been ruined by the Newtonian disjunction of

⁹ Cf. Charles J. O'Neil, *Prudence the Incommunicable Wisdom*, in *ESSAYS IN THOMISM* 203 (ed. by Robert E. Brennan, 1942).

the *hic* and the *nunc*, by means of space and time frames of reference which are independent of each other, a disjunction the result of which is that the meaning of the lived moment is lost. I cannot see how the notion of the common good can be fundamentally treated apart from those conceptions of the *Mitwelt*, and of the present as intersubjective presence, which are the working tools of contemporary philosophy. The common good is a certain presence to God mediated by the social and historical situation, and therefore intelligible only through an analysis of the nature of man as time.

While I have not been able to extend this paper to cover the question of authority which it implicitly raises, I should like to safeguard myself against any superficial accusations of anarchism. The fact that wisdom is incommunicable does not imply that wise legislation can have no public authority. In fact, the contrary is true. Such legislation can be effective only insofar as this wisdom is publicly recognized to have authority, the authority of personality, which is not a shut but an open world. For instance, the fact that for Plato the knowledge of the Good is incommunicable is precisely what makes it the source both of the public world of science, and of the public authority of the lawgiver. It is the ultimate privacies which create a common world of mutual respect. Comte's and Rousseau's citizens have no private lives; this is the price which they pay for calling all authority into themselves. It is a patent fact of history that the decline of natural law theory has ruined the concept of authority. The Rousseauist man's "proud spirit," issuing in the Kantian autonomy, has made genuine political authority intolerable. According to Kant, I must respect the other man because he is like me as pure practical reason, and then you have the impossibility of reconciling authority with equality. But in fact I have to respect the other man because he is different, and a unique image of the One God. A *person* can take orders, for there is no authority without humility. We have almost lost the perception that only a free man knows how to take orders. Adam slipped up badly here. To be under a wise authority is to receive something, namely an existence in order into which we are integrated by that wisdom, but from Rousseau to Sartre there have been millions for whom to receive is incompatible with being free. But nobody can give unless he can take.

Analogical wisdom is public but not at the price of being abstract. There is a difference between legislating for persons and legislating for beings who exist publicly as files in a public office. I am referring to the sort of situation analyzed in Gabriel Marcel's Gifford Lectures, *The Mystery of Being*: "I am in some danger of confusing myself, my real personality, with the State's record of my activities."¹⁰ The administration of the laws governing passes and African employment and residence in the Republic of South Africa can supply hundreds of poignant examples of the subjection of human exigencies to an abracadabra with papers. The British eleven-plus will serve as another. Laws can either express or repress men, and the repression usually takes the form of their reduction to a paper simulacrum in accordance with some abstract idea.

This paper may itself seem very abstract, and lacking in concrete examples,

¹⁰ GABRIEL MARCEL, *THE MYSTERY OF BEING*, I, 28 (1950).

but the abstention from examples is deliberate, since I am concerned with the role of *prudentia* in law, and, as I shall argue, prudential acts have a character of uniqueness related to the uniqueness of every moment of historical time. The notion of "an example" immediately effects a removal to the sphere of the abstract and atemporal. What has to be suppressed is an inductive habit of mind which argues from examples in the manner of Thrasymachus, in favor of an imagination based on a tact for the concrete. I have avoided the "concrete" in order to do it honor, and I must leave the reader to supply the example *with prudence*, i.e., *per conformitatem ad appetitum rectum*. Scientific laws are confirmed by the instance; legal laws are always, in a greater or lesser degree, called into question by them. It is because persons reflect the Logos analogically, that they can agree in mutual respect, and mutually respect the authority of the legislator.

Having, I trust, made these points clear, I proceed to a closer examination of the idea of the contemporary, endeavoring to emphasize its normative character.

II

We all recognize that there is a certain *value* in being contemporary in our thoughts and attitudes. We realize that it represents a norm to be achieved, a condition of which we may fall short. A philosopher wishes his thought to be contemporary in the sense that he does not want to flog dead horses, that he has made use of the available scholarship and insight of his living fellows, that he is advancing human insight, and that what he says is relevant to the present condition of humanity. In literature, again, much as we may enjoy Shakespeare or Sir Thomas Browne, we should consider it malapropos to endeavor to write like them. What we want to do is something relevant and appropriate to men and things as we find them at the moment, and since they are the subjects of historical change, we want to do something new. For to do something new and to help to renew the tradition by which we live, is an essential urge of the creative spirit.

This urge has nothing to do with a contempt for or ignorance of the past, or with any depreciation of what our predecessors have done. On the contrary it can, it usually is, and it ought to be accompanied by historical awareness and sympathetic knowledge of the past. Originality means, among other things, that one has origins, and one of the tests of original work is that it revivifies our appreciation of what has been done before. If I need Homer's *Iliad* fully to appreciate Joyce's *Ulysses*, there is also a sense in which I need the latter to enjoy Homer. To continue the work of Augustine or Kant or Newman is to do different work, and it is from the point of view of this different work that we shall appreciate them. We shall cease to differ from them to the extent to which we are different from them, because we shall possess the perspective from which we can discern their relevance to our own times and therefore to their own.

There is, in fact, nothing really new which is not also revival, though what is merely revival too often succeeds merely in putting a tombstone upon what

we are trying to resuscitate. The so-called Renaissance of antiquity in the fifteenth century is, in some respects at any rate, the erection of a mausoleum with pseudo-classical columns for the remains of Greece and Rome. For instance, it killed the Latin language, which throughout the Dark and Middle Ages had been made to exhibit new possibilities for both verse and prose. The prose of Aquinas may be terrible by Ciceronian standards, but it is brilliant by its own; and when the former became *de rigueur* one had no alternative but to write in the vernacular. One has always to write in the vernacular.

What do we mean when we say that a poem, or a picture, or a philosophy is of its own time? Obvious as the point may be, it may be as well to point out that nothing merely quantitative is meant. A Corbusier church and an imitation Gothic cathedral might conceivably both be erected in, say, the year 1950. They will in a physical sense be contemporary with each other and with a number of other things and events. The erection of a Gothic cathedral in 1950 may tell us a great deal about the state of mind of a certain group of people in the year 1950, in the same way that the use of Gredt's *Manual of Thomistic Philosophy* does, but we would agree that it is not a contemporary building in the sense in which the Corbusier would be. All the things that are happening today are contemporary by the calendar, but some will be reactionary, repetitive, conventional, or unimaginative, and others will not; and we expect of what is qualitatively contemporary that it will be new, that is, that it will be at the growing point of that dynamic and complex series of events which is the creative growth of history from day to day. The truly contemporary is what orientates the past to the future, and opens up new possibilities of insight and action.

Once we change from the quantitative and calendar view of the contemporary to a qualitative view, we notice a number of phenomena which any theory of the contemporary would have to explain. Thus many of us would consider that the writings of Kierkegaard are much more contemporary than a number of things which were written in 1964, or that the works of St. Augustine are more really contemporary than those of Hume. They help us to see our way better. They provide us with a more acceptable interpretation of what we are. It is not so much we who resuscitate them, as they who keep us alive. There is a sense in which Plato or Dante or Shakespeare will always be contemporary, and perhaps that has something to do with the fact that they are so essentially of their own time. The qualitatively contemporary man is not bound by the physical present but ranges the centuries easily. Contemporaneity is relevance. When Kierkegaard discovers and proclaims the contemporary character of Christ, he is not denying the historicity of the Gospel events, but asking us not to physicalize historical time, in which the distinction of past and present does not correspond to the distinction between the noncontemporary and the contemporary. One could say that for Kierkegaard the contemporary is the new, and that the new is the ever-new, i.e., the eternal, and the eternal is not bound by dates. The truly present is a true presence of what transcends the secular, so that truly modern thought is what breaks the bounds of its own dates, and assists the formation of an eternal community of minds. To say that there is no contemporary thought today, but only thinking *modo hodierno*, involves no contradiction

from the qualitative point of view. There is a sense in which modernity is a timeless quality and in which no creative thinking is "secular."

There is a remarkable passage in the *Phaedrus* where Plato says that the good writer must be able to see the person whom he is addressing actually before him, and be able to say to himself, "this is the man or this is the character who ought to have a certain argument applied to him in order to convince him of a certain opinion."¹¹ The good writer must have a sense of the actual situation. He will not acquire this skill without a great deal of trouble, but he ought to undergo it "in order that he may be able to say what is acceptable to God." Writing, to be good, requires that we should be immediately present to God and to men. A "feel" for the present puts us into the creative presence of God. I take my example from Plato because his devaluation of the actual is so often exaggerated. It is to the credit of Jaspers that he has remarked how important is the sense of local attachment for Plato and Socrates.

I suspect that what bedevils the endless discussions concerning the question as to what is contemporary writing or action is not, primarily at any rate, a matter of linguistic confusions, but of ignorance of the history of ideas. We think that certain ideas or interpretative schemes are natural and unchangeable, whereas they are things of historical growth, socially conditioned, and capable of being seen as relative and thereby changed.¹² This is true of our notions of space and time, and the way in which we relate them to each other. In modern times we have tended to impose Galilean and Newtonian time and space schemes upon our experience, to achieve that atomization of thought, experience, the self, and the world which is the peculiar achievement of thinkers like Hobbes and Hume, and which it was the task of a Jewish thinker like Bergson to question, a man who carried in his memory the notion of a time which was Galilean in another sense. Our Western time and space reactions derive on the one hand from Greek and Indo-Germanic sources, and from a tense-structure which makes the distinction of past, present, and future definitive. On the other hand there is a derivation from Hebrew language and experience which is very different indeed. The Judeo-Christian spiritual tradition and the tense-structure of the Hebrew language involve a radically different attitude both to inner experience and its relation to history. For the most part we live in a condition of confusion between the two, exemplified for instance in our weary discussions of the relations between science and religion, which might very well be resolved on the basis of a clarification of the space and time schemata which are involved. Certainly the worries about the historicity and the scientific character of Genesis disappear with this approach. The achievement of Kierkegaard seems to me to lie fundamentally in this, that he revived the deposit of Judeo-Christian space and time schemata in our tradition, and realized that the space and time of spiritual events are very different from those which are implied in our so-called

¹¹ PLATO, PHAEDRUS 271.

¹² I take it that this is what Teilhard is indicating in passages like the following. The system of relationships emerging from a philosophy is always intuitively conceived in terms of a universe endowed with certain fixed properties which are not a thing in themselves *but a general condition of knowledge*

objective thinking. To approach the problem of the contemporary from the side of the latter is to be foredoomed to failure. The now of the physicist is very different indeed from the subjective now, and to be confined subjectively in the objective now is to experience that pathological sense of boredom, despair, and meaning for which the only cure is living in the spiritual now. The problem of the contemporary is the problem of sanity.

The time of the Old Testament is primarily the time of our inner life, the time of a duration whose "parts" do not exclude but include each other, and for which the now is not an elusive division of past and future with no thickness, but the achievement of a maximum of comprehension. It is in this sense that the God of the Bible is infinite nowness. His eternity is his complete comprehension.¹³

This way of looking at time is perhaps easier to a generation of existentialist philosophers and of relativity and quantum physicists. Einstein, too, was a Jew who found in Kant some traces of the notion of the subjectivity of time which could revivify a patristic and biblical tradition. But the philosophy of today seems to me to be ancient enough for the modern thinker to derive much profit from a return to what Tresmontant has called biblical metaphysics, and from a little consideration of what the Old Testament means by the *hayah* of God.

I have not the space, nor indeed the philological knowledge, to expand this notion here. It must suffice to draw attention to the verbal as opposed to the substantival import of the word "being" in biblical thought. The being of God is the action of God, and his power of effecting. The eternity of God is not the immutability of a substance but the comprehensiveness of an act. The being of God is his eternity, and his eternity is the act by which he is present to himself and to all things. One might say that eternity is the subjective time of God. This conception passed into patristic thought, and it would be very interesting to look at Augustine's struggles with the notion of time in *The Confessions* as a struggle between the Latin language and the thought of the Scriptures. When, for instance, he says that God is eternity—*aeternitas ipsa Dei substantia est*—and that he transcends the distinction of past, present, and future, he wishes to draw attention to the action of God, also in history. The structure of the City of God rests on this way of looking at things. God can be present to all times, and this presence is the action of his providence. *Non est ibi nisi est*, and this *est* is his active presence to himself and to his creation.¹⁴ When, in *The Confessions*, he argues that nothing is real except the present,¹⁵ he is not attempting the paradox of attributing the only full reality to the most elusive of things but attending to the quality of man as a spirit and as the image of God of calling things into his presence, that is, of finding a meaning and a permanence in the

. . . Indeed the past history of human intelligence is full of "mutations" of this kind, more or less abrupt, indicating, in addition to the shift of human ideas, an evolution of the "space" in which the ideas took shape. PIERRE TEILHARD DE CHARDIN, *THE FUTURE OF MAN* ch. 3, sec. 5 (Norman Denny tr., New York, 1964).

¹³ See T. BOMAN, *HEBREW THOUGHT COMPARED WITH GREEK* 137-140 (1960). See also Chapters Three and Four of my own *PERENNIAL ORDER* (1954).

¹⁴ Augustine, *Enarratio in Psalm 101*, 2. 10. *PATROLOGIA LATINA* (ed. Migne) 37:1348-49.

¹⁵ AUGUSTINE, *CONFESSIONS*, 11. 20.

flux of events, that is, of making things contemporary. Man can overcome his past not by forgetting it but by rendering it contemporary. That is why *The Confessions* is so contemporary an effort of recollection.

What is most relevant for our purposes is the biblical and Augustinian refusal to separate the time of a being from its substance, and its substance from its action. Its action is what it does *here* and from the point of view of a spiritual participant. Space, therefore, also becomes a locating rather than a location. It is impossible to separate the being here of a thing from its being now, any more than it is possible to separate the eternity of God from his omnipresence. Action is what gives spatiality to things, and their spatiality is a mode of their action. Thus *angelus* in Augustinian theology is the name of a function, the function of bearing the messages of God, that is, of *presenting* his will; and *aevum*, which is the time of the angelic being,¹⁶ is connected with the capacity of the angelus to be, so to put it, all over the place.

For Augustine, not only is time unthinkable apart from finite beings — so that the notion of a time before creation becomes for him a meaningless expression — but it belongs to the very substance of their being. The time of a thing is an index of its ontic structure. In the case of man, humanity is human time-ness, and anthropology becomes an investigation of man as time. To know what we are is to know when and where we are, and metaphysics becomes a biographical enterprise. Since he holds that there is a hierarchy of being it follows that there is a hierarchy of times, and the Augustinian is committed to the enterprise of studying the modes of temporality.

To twentieth century ears this may not sound strange. We are becoming accustomed to the notion of a time for subatomic events, for macroscopic physical events, and, following Lecomte de Nouy, for biological events. The study of subjective time-schemata is well advanced in psychiatry, and the anthropologists have pointed out that every society has its own time. Theologians can complete the scheme with the *aevum* of the angels and the eternity of God. From a monolithic notion of time we seem to be swinging over to a pluralistic notion of time according to which the time of every event is its own private qualification.

In any event, man as a self-conscious being is confronted with the problem of his own times and of his own time. What he is to do with himself and what he is to do with his time are the same problem. Men are not simply contemporary with each other as a fact of physical nature. They have to achieve contemporaneity. I come to see the fundamental problem of ethics more and more in terms of the problem of being of one's own time. The fact that man is responsible and responsible for himself indicates a power of choice with respect to the time in which he shall live.

The phrase "being of one's own time" is, as I have insisted, very difficult to sort out. In the light of the statement that the time of any entity is its own private qualification the phrase can also be taken to indicate the fact that every human being has his own personal time. Kant affirmed that time is a subjective form of intuition, but Kant does not escape the monolithic conception of time. He is still working in terms of generalized eighteenth century conceptions of

¹⁶ Augustine, *Enarratio in Psalm 103*, 1. 15. PATROLOGIA LATINA 37:1310-12.

human nature, and it is difficult in the Kantian philosophy to advance from the abstract epistemological subject to the human person. There is, of course, a time which is proper to human nature as such. Man does not exist in the mode of eternity, nor of physical transitoriness. If we care to follow Bergson we may say that the mode of his common human existence is duration. Hebrew thought insists upon connecting the "time" of God with his personality, just as Christian thought refuses to separate the personality of Christ from his function of redeeming the times.¹⁷ We have recently come back to this perception of the connection of time with personality by seeing that, while duration is the common mode of human existence, yet each person's duration has its own rhythms, which may vary with age and other factors, and which constitute the way in which he places himself in the world. The growing interest in biography may indicate the fashion in which this orientation is becoming popular. Kierkegaard's analyses of boredom and anxiety may be regarded as great pioneer undertakings in this field, undertakings which have not only borne much philosophical fruit, but which have had considerable effects in the field of psychiatry.¹⁸

Furthermore, the fashion in which one experiences time subjectively corresponds to the kind of universe which one constructs for oneself, and the way in which one views the time of history. One cannot, in the profoundest way, separate biography from history. I came first to see this clearly by undertaking to study the connections between *The Confessions* of St. Augustine and *The City of God*. *The Confessions* is the story of a man's discovering his will and taking responsibility for the times which he has had. Augustine is confronting himself with himself, recollecting his duration, and discovering that he can be present to himself only in the presence of God. His conversion takes the form of receiving the power to will his will as whole and undivided, and to redeem his time in the presence of Him who is ever old and ever young. It is a conversion to Christ as God Incarnate, that is, precisely as the focal point of history, as the Present in which past and future are fully comprehended. The conversion of the individual is for Augustine the microcosm of the redemption of time by

¹⁷ See article cited *supra* note 4.

¹⁸ Those interested in the latter subject can get a fair idea of the *status questionis* from the book *EXISTENCE* (ed. by May, Angel and Ellenberger, New York, 1958), from which I quote the following paragraph:

In order to investigate the phenomenology of time in clinical cases, let us first of all observe from outside the way in which various people deal with time. Marked differences will strike us at once. Here is the activist, concerned with filling up every minute of every day with as much activity as possible. His slogans are "Don't waste your time"; "Don't let people steal your time"; "Time is money." In contrast, there is the lackadaisical use of time, personified by the Italian *Lazzaroni* or, in Russian literature, by Oblomoff, the hero of Gontcharoff's famous novel. Between these extremes lies the contemplative, absorbed with his quiet vision of the universe and the silent growing up of his inmost self. The pseudo mystic, on the other hand, is striving to transcend common time by means of certain drug experiences in which he has the feeling of living whole years in a few hours. For certain neurotic or psychopathic personalities, time is boredom; one must "kill time" (which is perhaps a way of killing oneself). In quite different style, the compulsive neurotic wastes his time by endless procrastination and suddenly becomes stingy with it. . . . It is obvious that such conspicuous differences in the time behaviour of these individuals must be correlated with different ways of experiencing time subjectively. (pp. 102-3)

the Incarnation, so that *The Confessions* and *The City of God* depict the inner and the outer sides of the same act. He sees his guilt as complicity in the time of the *Civitas Terrena*, and his new life as a note in the harmony of the *Civitas Dei*.

A fascinating confirmation of the principles of the relation between inner and outer can be gained from viewing the connections between *The Confessions* of Rousseau and his *Social Contract*. Whereas Augustine is effecting the purging of his guilt by a confession to God which is a praise, Rousseau is establishing his innocence by an exposé to mankind which is a complaint. He is not describing the recovery of his will but the loss of it, and his doctrine of the General Will is a doctrine of the absorption of individual responsibility in the collectivity. Accompanying this, to a pathological degree, is a derangement of his orientation to time. He cannot abide the pressures and responsibilities of the present. They are an outrage upon his "proud spirit." He takes no pleasure in the real world, but prefers to take flight to a realm of imaginary constructs. He yearns in the Promenades for a kind of disincarnate existence where he will not be corrupted by the exigencies of history. He is alienated from his own present, and seeks compensation in that emotional nudity before the all-seeing eye of the General Will the stripping for which is done in *The Confessions*. Rousseau is contemporary only in the sense that he exhibits to the full the essential ambivalence of the word *contemporary*. He is physically present at a certain date, and yet subjectively absent. He incarnates a moment of the European spirit when Incarnation has lost its meaning.

It is important for the legal philosopher to see the theory of the General Will in this context. The General Will is the One, Impeccable, Infallible God, stripped of all relationship to actual events in time, and perishing at the touch of the particular. It is the parent of Kant's cosmic categorical imperative, and therefore of his inflated sense of human dignity, egoistic in its essence, since what I respect in other people is the reason in myself. The cosmic egoism of Fichte, Hegel, and Comte has already come to birth in the Metaphysic of Ethics. With it comes the ideal of abstract liberty unable to respect the conditions of empirical existence, and therefore a liberty without charity. Upon this has been built a huge edifice of "democratic" theory, requiring a judicious critique in the name of charity and reality.

It is this ambivalence of contemporaneity that must be considered. Just as a building may be built this year and not be contemporary, so a man may exist here and now and not be contemporary, and writing be done here and now which is not contemporary. We may be confronted with a man who simply fails to be a presence. We say: he isn't *there*. Human being is not merely a fact. It is also a decision. That is the crucial discovery made by Augustine during the events related in *The Confessions*. There is a true and a spurious human being, and the former requires a willed recollection into the now. It needs the act of situating oneself as a person with all the exigencies of one's bodily and spiritual makeup in the historical process of whose woof one forms a part. It is an acceptance of one's incarnation.

If we agree to call mere existence here and now without a willed congruity

with what and where one is here and now, a pseudocontemporary existence, then the analysis of the pseudocontemporary must take the form of an analysis of self-alienation. Being oneself as a decision and as a moral accomplishment will be seen to be the same thing as to be really contemporary. Being contemporary will then involve being secular, in the sense of being in living touch with things of this earth which call for our attention. This secularity will not involve any rejection of a concern with eternity which as comprehensive Presence is the very condition of secularity. There is a sense in which it is precisely God who is secular, relevant, and of this time and place, and in whom the conditions of holiness and secularity coincide. A call to holiness and a call to secularity may not be opposing calls but aspects of the same vocation. An atheistical contemporaneity, masquerading as a realism, but relativizing the present and confusing chronological with qualitative location in time, then turns out to be a phenomenon of alienation in life as well as in art.

It can be seen, then, that the analysis of the contemporary involves, on the negative side, an analysis of the forms of alienation from time and space. We will approach a painting or a building, for instance, with a question as to the symbolic significance of its treatment of space. Here again we have to accustom ourselves to the notion of subjective space.¹⁹

It does not need much imagination to see that the phenomenology of spatial experience may make a valuable contribution to the study of politics, relevant to phenomena like colonization, flight from one's country, forcible shifting of population, and the urge to explore outer space. To what extent these are phenomena of alienation I must leave unexplored for the present, as also the forms of literary expression which go with them.

As soon as we grasp the notion of subjective time the phenomena of alienation from the moment of inner comprehension also present themselves as problems. We who live in time cannot escape time, and if we refuse the presence of the present we shall not ascend into a more holy condition, but wander, err, into the chronological past or future. Escape into the past may have serious consequences. We have all seen them in ourselves and in others, including politicians. We are told to *become* as little children, not to go back to our childhood. Being a child means enjoying the toy of the moment, and there is a connection between keeping young and being holy. But the past has at any rate a determinate character. It is the future which is the most indeterminate and therefore the best refuge for phantasy. That is why the avoidance of the present by dodging into the future can be the most pernicious, and why art and writing which do so would rightly be called pseudocontemporary. We know how this dodging has been organized by philosophers and politicians upon a global as well as a

¹⁹ To quote again from EXISTENCE:

One individual is striving to conquer or explore space, another to keep and defend it, a third to organise and utilise it, another to delineate and measure it. Some people "make themselves broad"; they need a large *Lebensraum*. Other people "constrict" themselves and content themselves with narrow life-spaces. One can be "rooted" in a place or "uprooted" and wandering. One can also escape from a place and take flight, either in real space through emigration, elopement, fugues etc., or in the many modalities of sublimated or unsublimated phantasy. (p. 109)

local scale. We have philosophies of progress designed to set our hearts upon what is round the corner. We have doctrines which want us to work for the classless society of the future, or the integration or disintegration of the future, while the present tears of humanity go undried. We have evolutionary spiritualities which tell us that God himself is evolving. It is never tomorrow today, and tomorrow's sun is to be brighter than today's.

But we are expressly warned about taking care for the morrow, and the reason is that the future, however much we may like to parody eternity by stretching it out indefinitely, is the least like eternity. It is the least like eternity because it is indefinite, and we cannot comprehend it into the actuality of our now. Stretching out into its vagueness we fill ourselves with fears and anxieties. We turn the present into a moment of tension instead of a moment of relaxation. We live in anticipations and speculations, until we arrive at a horror of being which has driven some to suicide. How much thought and action is miscalled contemporary when in fact it does no more than cash in on the evasion of the present!

While I cannot here explore all the fascinating vistas which are thus opened up, I hope that I have suggested sufficient grounds for my conviction that contemporaneity is integration and that the integrated men of whatever century are always contemporary both with the men of their own times and of all times. They are contemporary because they are coeternal by reason of a comprehension of the human condition in themselves. If we remember the pseudocontemporary it is because they are parasitic upon and live by this comprehension. The desire to be contemporary is then seen as the desire to be oneself, and all men in oneself; and being contemporaries will mean being a people united in the presence of eternity, for both contemporaneity and eternity mean comprehension. Real contemporaries will know how to have a good time together. Contemporaries are friends even across the centuries, and historical time is experienced as a mode of being which unites. The quarrel of the ancients and the moderns is reconciled in the idea of the contemporary.

Contemporary work can neither rest upon an ignorance nor effect an obliteration of the past, but requires its active comprehension; nor can it be without hope. And it will be realistic in the sense that it will cross the Cartesian gap between the ego and the world, in order to be at one with the material, here and now, which is the only stuff in which its comprehension can be bodied out. It is an *adequatio* between the self and the world.

In this way it will be solitary as well as social, since solidarity with others is bought at the price of the utmost truthfulness to one's own personal conditions. The man most likely to satisfy others is he who satisfies himself, but he is bound to be enigmatical on that account since his perspectives are hidden to eternity in his own privacy. There is no greater enemy of the contemporary than a leveling conformity and equality. On this account there is some similarity between the virtue of being contemporary and the grand virtue of *prudentia*, strictly in its scholastic analysis. *Prudentia* is a certain flair for getting onto terms with the circumstances of here and now as they affect our personal decisions, and embodying a moral meaning in them through our action. In that sense it is incom-

municable insofar as every man is an inviolable center of being, from whom his history demands a constant renewal of creative decision which can be taken for him by no one else. With respect to what is contemporary work for him every man has to decide for himself, and we should be very slow to judge. Faithfulness to oneself is a hidden virtue, and being contemporary is to display that fidelity to time and place which is an echo of the fidelity of God. This is a fidelity which, unlike the General Will, is providentially present to the actual condition of man, and seeks to gather man into itself not by an obliterating transformation into the Whole, but by taking humanity upon itself. Man is spared the intolerable burden of being his own providence by being assumed into a Providence in which his freedom finds its full expansion, in the presence of the things and the people which it encounters.

Whatever new risks we may have to face let us hope that we are emerging from a period when we chose to be governed by abstractions modeled on the general laws of science, that is, by a deified atemporality which is the ape of eternity. These abstractions have been used for purposes of control, so that we have been caught in a dominative empiricism divorced from wisdom.

What I have done in this essay is to endeavor to link the notions of *lex naturalis* and *prudencia* in the light of an existential analysis of time. *Prudentia* looks at our existence as temporal and historical and local, and saves legislation from domination by abstractions. It enables us patiently to set free the ascending dialectic of desire which is immanent in the local and historical situation of any community.

What has to be recovered is a wise empiricism, and a modern version of the realism of St. Thomas seems to me to meet this need. Wisdom is something Godlike, and a Godlike empiricism combines two notions which have been tragically sundered. The foundation of a wise empiricism is charity, and legislation based on charity will be the opposite of the sentimental and ideological legislation of romantic politics. In the sphere of constitutional legislation one might cite, as examples of the latter, some of the constitutional efforts of the early constitution-makers of the French Revolution, and the Weimar as contrasted with the Bonn Constitution. What characterizes these is that they envisage an achronic Humanity, and substitute humanitarian sentiment for charity. This sentiment, in its many forms, can produce frenzy, because it abstracts from the historically concrete. Racialism is a contracted form of such humanitarianism. It belongs to the same movement of thought, only it confines the abstract sentiment to a portion of humanity. But the sentiment, and the frenzy, are not validated by being general. There is such a thing as human-racialism, and not enough thought has been given to the question whether racialism is not a concomitant of universal democracy rather than its opposite. Liberal frenzies and racist frenzies look uncommonly like each other.

A contemporary empiricism must be clear-sighted and superficially hard because it will be governed by an eye for the definition of things, and not by the fluidity of a truth which changes. For the presence of the eternal in the temporal is the principle of the definition of things. One can-

not be contemporary without charity. From Ignatius to Newman, Christian thinkers have discerned that it is abstractions which rend the heart and produce that discord of desires which rend both inner time and the time of history. Prudence requires a whole man concerned with the immediate needs of the situation in which he has been placed. A total pattern for a continent or for a world has to grow up out of respect for the immanent exigencies of local needs, a pattern which will never have the deadly beauty of a quasi-mathematical perfection, but rather be informed with the larger logic of the *esprit de finesse*, which is the proper virtue of the prudent man.

MARTIN VERSFELD