

Thomas Aquinas Meets Thomas Jefferson

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The conventional, the more or less received view, of the relationship of Aquinas's thought to Jefferson's, is that the former represents the gloomy ages of monkish superstition, and the latter the skeptical and scientific Age of Enlightenment. In due time, it is said, the progress of History replaced the former with the latter. Of course, the same progress has in our time replaced the Age of Enlightenment with the Age of Nihilism, also known as Post-Modernism. A meeting of the two Thomases today—assuming such a thing were possible—would then be a meeting of two minds, each locked within the confines of its own age, unable to understand each other, and both made obsolete by Progress. Thomas, as a quasi-official philosopher of the church, may still be of interest to some pious Roman Catholics, and to some marginal non-Catholics, who have not yet discovered that they are also prisoners within their own time and place.

Leo Strauss, in blissful defiance of what everyone else knew (or thought they knew) used to say that Socrates had more in common with any intelligent American than with any stupid Athenian. For Strauss, the difference between intelligence and stupidity was more important than any difference between an ancient Athenian and a modern American. According to Strauss, there was something called the "human condition" which was common to all human beings, apart from their time and place. What was common to all human beings made possible a common understanding which, however difficult to achieve, was nonetheless in principle accessible to all human beings. That principle was once called "philosophy." (This was before a doctorate in philosophy—Ph.D.—might be in any subject other than philosophy.) The understanding of what was important to all human beings as human beings was once regarded as a measure of one's distance from barbarism. Notwithstanding their great differences within this common

understanding, the Great Books of the Western tradition constituted the basis of what we call Western Civilization. Today, something called “cultural relativism,” a feature of what is called “political correctness” holds that what is unique to particular times and places has within itself a greater truth than what is common. At the same time, they deny the possibility of intelligent communication between different times and places. Strangely, the proposition that all vital human communication is sealed within its own time and place, is a generalization about all times and places which exempts itself from its own edict. The essence of post-modernism was captured in the ancient world by the Cretan who declared that all Cretans were liars.

“Deconstructionism” is the literary wing of post-modernism fashionable on our campuses today. It abandons any quest for objective meaning in literature but studies instead the subjective reaction of the reader. Among the historians, documents are studied for what they mean *to us*, not what intrinsic meaning they might have, or what meaning they once had to those whose lives were directly affected by them. Ken Burns, at the end of his long Civil War documentary, observed that the promise of equality in the Gettysburg Address had not been fulfilled, since there was still discrimination against sodomites (Burns however used the false neologism “gay”). It is difficult to imagine anything in 1863 further from the mind of Abraham Lincoln or the defenders of the Union than the association of the cause of freedom with that of sodomy. Lincoln did say however that Jefferson in the Declaration of Independence had embodied an “abstract truth, applicable to all men and all times.” The idea of such a truth, trans-historical and trans-cultural, would have been as familiar to Thomas Aquinas, Thomas Jefferson, and Abraham Lincoln, as it would have been strange to Ken Burns, and to most present-day academic historians.

The most famous sentence in the political literature of the world, embodying the abstract truth that commended itself to Lincoln, and the one most pregnant with consequences for all mankind, is as follows.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

Lincoln at Gettysburg said that the nation, at its birth, had been “dedicated to the proposition that all men are created equal.” We see however that in its original form, that proposition was the first in a series of propositions, all of which are regarded as self-evident. The evidence for the latter is however

contained within the former. That is to say, the sense in which all men are said to be equal implies *a priori* the rights which they are said unalienably to possess.

There is only one respect however in which “all men” (meaning all human beings) are held to be equal. That is in what John Locke calls “dominion.” By nature, no man is the ruler of another. There is no natural difference between one human being and another, such as there is between the queen bee and the workers or drones. Nor is there any such difference between one human being and another, as there is between any man, and any dog or horse or chimpanzee, by reason of which the one is the ruler and the other is the ruled. Jonathan Swift to the contrary notwithstanding, men ride horses by self-evident natural right. The “enslavement” of the horse by his rider is not against nature, and is therefore not unjust. But the enslavement of one human being by another violates that same order of nature which justifies the rider of the horse. There is here no intention to say that human beings are equal, among themselves, with respect to intelligence, strength, size, beauty, or virtue. Nor are they thought to be equal in any of those qualities which are generally regarded as desirable in those who fill the offices of government. George Washington was the first president of the United States. It is doubtful that there was then another human being in the world with the experience, the wisdom, the self-control, the justice, and the confidence of his countrymen, who could fill that office, and launch the new Constitution upon its path of glory. But Washington did not choose himself, nor did his virtues, of themselves, entitle him to office. He was indeed chosen because of his virtues, but he was chosen in a constitutional process, decided upon by the American people, embodying the consent of the governed. Let us follow the logical process whereby the proposition that all men are created equal might result in the superior virtues of George Washington being placed at the service of the American people.

It was an oft-repeated saying of James Madison, that “compact is the essence of free government.” What Madison meant is neither more nor less than what is meant by “all men are created equal.” That human beings are by nature equal in “dominion” means that human beings are not by nature under government. While human beings remain equal in dominion, with none having authority over another, they are in what is called the state of nature. The transition, by which human beings become citizens or subjects of government, is accomplished by something called the social contract (or “compact”). This is an agreement of each with all, and of all with each, that they form a government whose object shall be the better security of the equal

and unalienable rights with which each has been endowed by his Creator. For someone to be a party to such a contract, he must, first of all, recognize that each one of his partners to the contract possesses the same unalienable rights, and that each therefore has the same claim to the security of those rights. No one can, *a priori*, lay claim to greater protection of his rights, than can be afforded anyone else. Not George Washington, or anyone with George Washington's virtues, can lay claim to such protection. Nor can anyone claim any exemption from an equal share of the burdens which must be borne if the government is to be able to furnish the protection for which it is founded.

No one can claim as a right exemption from taxation or military service. The most urgent reason for the formation of the political community is protection from all violence, both foreign and domestic. Prior to government—in the state of nature—each individual had to furnish his own protection. In such a state he would remain extremely vulnerable. Now his fellow citizens will join together to help protect him. But it would be irrational to demand protection for himself, and be unwilling to join in protecting the others. No one can claim advantages not equally shared with others, or exemptions from the burdens equally shared by others. Anyone who tries to exempt himself from the common burdens, which are the price to be paid for the common benefits, cannot be accepted as a fellow citizen. He will remain in a state of nature. What, you may ask, about the Quakers, who set the pattern of conscientious exemption from military service that has remained part of the American political tradition? That exemption has not been a right, but rather a privilege granted, out of consideration for those whose mode of worshiping God requires that they abstain from violence, even in self-defense. It is an act of prudent generosity towards otherwise good citizens, a privilege that can only be granted to a few, for otherwise the political community would be disabled from performing its most urgent reason for existence.

The formation of the community, by the social contract, is by unanimous consent. This consent is based upon the mutual recognition of the common humanity of the contracting members. In the ancient city—the city of Plato and Aristotle and Moses and of Fustel de Coulanges—human beings commonly recognized each other as members of the same family, or clan, or tribe, or city, or nation. To ask them to recognize each other first and foremost as members of the human race is to reverse the order of priority of what hitherto had been the ordinary experience of mankind. Hitherto that experience had been linked to the self-understanding of the ancient city as the creation of the gods (or God) of that city. The Old Testament in this respect—in the self-

understanding of the Mosaic polity as the creation of the God of Israel—is typical of all ancient cities. The God of Israel gave Israel its laws, but did not give laws to Athens or Rome or Sparta. In the post-classical world of the Christian West however the God of Israel became the God of all mankind. In so becoming, He ceased being the lawgiver that was the God of Moses. Municipal law, the law of particular regimes, is no longer the law of a particular god, since the particular gods are all dead! The task of connecting the universal God with a particular regime would have to await the realization that mankind had been endowed by their Creator with certain unalienable rights. From the perspective of the American Founding, the governments of the West had, from the fall of the Roman Empire (in the words of the *Federalist*) depended for their political constitutions “on accident and force” rather than on “reflection and choice.” Lincoln grouped all of the former together as based upon “the divine right of kings,” which he considered in principle the same as slavery. Slavery represented the quintessence of force without right, but any form of government without a foundation in the consent of the governed was a form of slavery. The precise point in the long human story at which accident and force was replaced by reflection and choice was the point at which human equality determined the form of the unanimous consent by which the state of nature was transformed into civil society.

For more than a millennium and a half the Christian West had been afflicted by the hiatus between the authority of God and the authority of the law. By unanimous consent the authority of God became once more the authority for law, but this authority now emanated from the people, not from autocratic kings or aristocracies of wealth or birth. This was by reason of the fact that each human individual participating in the creation of a free civil society had been equally endowed by his Creator with the rights which entitled him to enter into the social contract. It was understood moreover that the exercise of these rights (among them “life, liberty, and the pursuit of happiness”) was confined to the purposes for the sake of which they had been endowed by their Creator. When the Signers of the Declaration appealed to the “supreme judge of the world” for the “rectitude of [their] intentions” they acknowledged the divine government of the world as the framework within which their rights might be exercised. The Declaration was moreover issued in the name of “the good people of these colonies.” In a letter to Spenser Roane, many years later, Jefferson said that the ultimate repository of the principles of the Constitution was “the people *en masse*.” They, he said, are independent of everything “but moral law.” The people however does not make the moral law, the moral law makes the people. Without the moral law, a human

assemblage, even one formed by consent, may be nothing more than a gang of robbers. Consent is then more than an act of will, it is an act of will informed by understanding of the moral law, which is also God's will. We see here how closely Jefferson is attuned to the natural law doctrine of Thomas Aquinas.

The community formed by unanimous consent will act by the will of the majority. The will of the majority is however restrained *a priori* by the limits intrinsic to unanimous consent. According to James Madison, in his great essay on Sovereignty, the majority may do anything that can be done *rightfully* by unanimous consent. But free governments cannot govern by unanimous consent. Majority rule is a substitute for unanimity, authorized by the social contract. The purpose of majority rule is to find the means to serve the ends of government already embodied in the unanimous consent. The ends served by majority rule are not themselves decided by majority rule.

It is amazing how little of this most basic of the elements of political right is understood today even in the highest places. Mr. Justice Scalia, in his famous Rome interview (*Origins*, vol. 26, no. 6 [June 27, 1996]), declared that "The whole theory of democracy...is that the majority rules; that is the whole theory of it. You protect minorities only because the majority determines that there are certain minority positions that deserve protection." And again: "You either agree with democratic theory or you do not. But you cannot have democratic theory and then say, but what about the minority? The minority loses, except to the extent that the majority, in its document of government, has agreed to accord the minority rights."

Justice Scalia, like all legal positivists, denies to the Declaration of Independence any constitutional status whatever. But one would think the most elementary reasoning—the natural law in its pristine form—would instruct him that there can be no legitimacy to majority rule without minority rights. What rightful authority can be attributed to an election in which there is no freedom of speech, or of the press, or of the right of the people peaceably to assemble? The plebiscite has been a favorite instrument of tyrants since Napoleon. In the last election conducted by Saddam Hussein he received 99% of the vote, doing better even than Hitler and Stalin. One of the main concerns of the authors of the *Federalist* was to prevent the tyranny of the majority.

The idea that the majority "accords" rights to the minority is the ultimate absurdity. The purpose of majority rule is to secure the rights possessed equally by every citizen. Strictly speaking, there are no minority

rights, there are only individual rights. The Bill of Rights of the Constitution is not an act of condescension by the majority; it is a recognition of rights with which we have been “endowed by [our] Creator.” Only because majority and minority have the same rights, and therefore a common interest, is majority rule a legitimate means of governing.

We said earlier that George Washington had been elected first president because of his great virtues. Once a political community has been formed, the people rightly seek those they think best qualified to find the means to secure their rights. Democracy, understood from the principles of the Declaration of Independence, is not only consistent with aristocracy, it is aristocracy. Consider the following passage from one of Jefferson’s letters to John Adams.

For I agree with you that there is a natural aristocracy among men. The grounds of this are virtue and talents ... The natural aristocracy I consider as the most precious gift of nature for the instruction, the trusts, and government of society. And indeed it would have been inconsistent in creation to have formed man for the social state, and not to have provided virtue and wisdom enough to manage the concerns of the society. May we not even say that that form of government is the best which provides the most effectually for a pure selection of these natural aristoi into the offices of government.

The last sentence in the above was quoted by Leo Strauss, in his essay “On Classical Political Philosophy,” to express the very essence of the idea of the best regime in Plato and Aristotle, the very heart of classical political philosophy. The theme of nature’s fitting man for the social state, and providing virtue and talents for government, could hardly be more Aristotelian had it been written by Thomas Aquinas. We might call the American Founding as a whole, taking into account both the Declaration and the Constitution, as prudently classical, recalling Aristotle’s dictum, that of natural right, all is changeable. The equal rights of the Creator were necessary to replace the law-giving gods of the ancient city. This replacement required a democratization of the ancient idea of aristocracy. But the change in form was less a change in substance than it might at first seem to be. Consider the following from Washington’s inaugural address as president.

[T]he foundations of our national policy will be laid in the pure and immutable principles of private morality ... I dwell on this prospect with every satisfaction ... since there is no truth more thoroughly established than that there exists in the economy and course of

nature an indissoluble union between virtue and happiness...since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained...

What Washington says about the “indissoluble union between virtue and happiness” is as succinct a précis of the *Nicomachean Ethics* as can be imagined. Clearly, the “pursuit of happiness” and the pursuit of virtue—“the pure and immutable principles of private morality”—are one and the same. There is no patronage here of the notion, popular today, that the pursuit of happiness means “doing your own thing,” no matter what that “thing” is. Finally, we see Washington asserting that the boundaries of national policy, the actions of citizens and statesmen, whether private or public, must conform to “the eternal rules of order and right.”

Wherein does this differ from Thomas Aquinas’s concept of the natural law, as the rational creature’s participation in the eternal law? This, freed from the obscurantism of historicism, relativism, and nihilism, is our true inheritance.