

from  
REFLECTIONS ON THE  
COMMON CONCEPT OF JUSTICE

by  
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It is generally agreed that whatever God wills is good and just. But there remains the question whether it is good and just because God wills it or whether God wills it because it is good and just; in other words, whether justice and goodness are arbitrary or whether they belong to the necessary and eternal truths about the nature of things, as do numbers and proportions. The former opinion has been held by certain philosophers and by theologians, both Roman and Reformed. But the Reformed theologians of today usually reject this teaching, as do also all our own theologians and most of those of the Roman church as well.

As a matter of fact it would destroy the justice of God. For why praise him for acting justly if the concept of justice adds nothing to his act? And to say, *Stat pro ratione voluntas*—"Let my will stand for the reason"—is definitely the motto of a tyrant. Moreover, this opinion would hardly distinguish God from the devil. For if the devil, that is, an intelligent, invisible power who is very great and very evil, were the master of the world, this devil or this god would still be evil even if we were forced to honor him, just as certain peoples honor imaginary gods of this kind in the hope of bringing them to do less evil. Consequently, some people, overly devoted to the absolute right of God, have believed that he could justly condemn innocent people and even that this may actually happen. This does violence to those attributes which make God love-worthy and destroys our love for God, leaving only fear. Those who believe, for example, that infants who die without baptism are cast into the eternal flames must in effect have a very weak idea of the goodness and the justice of God and thus thoughtlessly injure what is most essential to religion.

The Sacred Scriptures also give us an entirely different idea of this

sovereign substance, speaking, as they so often and so clearly do, of the goodness of God and presenting him as a person who justifies himself against complaints. In the story of the creation of the world, the Scripture says that God considered all that he had done and found it good; that is, he was content with his work and had reason to be so. This is a human way of speaking which seems to be used explicitly to point out that the goodness of the acts and products of God does not depend on his will but on their nature. Otherwise he would only have to see what he willed and did to determine if it is good and to justify himself as a wise sovereign. All our theologians, therefore, and most of those of the Roman church, as well as the ancient Church Fathers and the wisest and most esteemed philosophers, have favored the second view, which holds that goodness and justice have grounds independent of will and of force.

In his dialogues Plato introduces and refutes a certain Thrasymachus who tried to explain what justice is by a definition which, if acceptable, would strongly support the view which we are opposing. That is just, he says, which suits or pleases the most powerful. If this were true, the sentence of a sovereign court or a supreme judge would never be unjust, nor would an evil but powerful man ever deserve condemnation. What is more, the same action could be just and unjust depending on the judges who decide, which is ridiculous. It is one thing to *be* just, another to *pass* for just and to take the place of justice.

A celebrated English philosopher named Hobbes, who has a reputation for his paradoxes, has tried to maintain almost the same thing as Thrasymachus. He holds that God has the right to do anything because he is all-powerful. This fails to distinguish between *right* and *fact*. For what *can* be is one thing; what *ought* to be is another. This same Hobbes believes, for almost the same reason, that the true religion is that of the state. It would follow that if the emperor Claudius, who decreed in an edict that "*in libera re publica crepitus atque ructus liberos esse debere*," had established the god Crepitus among the authorized gods, he would have been a true god worthy of worship.

This amounts to saying, in concealed terms, that there is no true religion and that religion is merely an invention of men. And in the same vein, the remark that justice is that which pleases the most powerful is nothing but saying that there is no certain and deter-

mined rule of justice which prevents our doing what we wish to do and can do with impunity, however evil it may be. Thus treason, assassination, poisoning, the torture of innocents, would all be just if they succeeded. This is essentially to change the meaning of terms and to speak a language different from that of other men. Until now we have meant by justice something different from that which always prevails. We have believed that a happy man can be evil and that an unpunished act can nevertheless be unjust, that is, it may deserve punishment, so that the issue is solely to know why it deserves punishment, without raising the question of whether the punishment will actually follow or not, or whether there is any judge to impose it.

There were once two tyrants in Sicily named Denis, father and son. The father was more evil than the son. He had established his tyranny by destroying many honorable men. His son was less cruel but more addicted to disorders and luxuries. The father was happy and kept himself in power; the son was overthrown and finally made himself schoolmaster at Corinth in order to have the pleasure of ruling always and of carrying a scepter, after a fashion at least, by wielding the switches used in punishing the children. Should we say that the actions of the father were more just than those of the son because he was happy and unpunished? Would such a view permit history to condemn a happy tyrant? We see too, every day, that men, whether interested or disinterested, complain of the actions of certain powerful people and find them unjust. So the question is only whether they have reason to complain and whether history can justly blame the inclinations and acts of any prince. If this be granted, we must acknowledge that men mean something else by justice and right than that which pleases a powerful being who remains unpunished because there is no judge capable of mending matters.

In the universe as a whole, or in the government of the world, it is fortunately true that he who is the most powerful is at the same time just and does nothing against which anyone has a right to complain. We must hold for certain that if we understood that universal order, we should find it impossible to do anything better than he has done it. Yet his power is not the formal reason which makes him just. Otherwise, if power were the formal reason for justice, all powerful beings would be just, each in proportion to his power, which is contrary to experience.

We must therefore search after this formal reason, that is, the

"wherefore" of this attribute or the concept which should teach us what justice is and what men mean when they call an act just or unjust. And this formal reason must be common to God and man. Otherwise we should be wrong in seeking to ascribe the same attribute to both without equivocation. These are fundamental rules for reasoning and discourse.

I grant that there is a great difference between the way in which men are just and the way in which God is just, but this difference is only one of degree. For God is perfectly and entirely just, while the justice of men is mixed with injustice, with faults and sins, because of the imperfection of human nature. The perfections of God are infinite; ours are limited. Anyone, therefore, who tries to maintain that the justice and goodness of God have entirely different rules from those of men must at the same time admit that two entirely different concepts are involved and that to ascribe justice to both is either deliberate equivocation or gross self-deceit. But if we choose one of the two concepts as the proper conception of justice, it must follow either that there is no true justice in God or that there is none in man, or perhaps that there is none in either God or man, so that in the end we do not know what we are talking about when we speak of justice. This would in effect destroy justice and leave nothing but the name, as do those who make it arbitrary and dependent on the whim of a judge or ruler, since the same act will appear just and unjust to different judges.

This is somewhat as if we should try to maintain that our science—for example, arithmetic, or the science of numbers—does not agree with the science of God or the angels, or perhaps that all truth is arbitrary and based on a whim. For example, 1, 4, 9, 16, 25, etc., are square numbers produced by multiplying 1, 2, 3, 4, 5, etc., by themselves. Thus 1 times 1 is 1; 2 times 2 is 4; 3 times 3 is 9, etc. We discover that the successive odd numbers are the differences between successive square numbers. Thus the difference between 1 and 4 is 3, that between 4 and 9 is 5, between 9 and 16 is 7, etc. . . . Now would one have any reason to maintain that this is not true for God and the angels and that they see or discover something in numbers entirely contrary to what we find in them? Would we not be right in laughing at a man who maintained this and who did not know the difference between eternal and necessary truths, which must be the same for all, and truths that are contingent and changeable or arbitrary?

This same thing is true about justice. If it is a fixed term with determinate meaning—in a word, if it is not a simple sound without sense, like *blitiri*—the term or word *justice* will have some definition or intelligible meaning. And, by using the incontestable rules of logic, one can draw definite consequences from every definition. This is precisely what we do in building the necessary and demonstrative sciences which do not depend at all on facts but solely on reason; such are logic, metaphysics, arithmetic, geometry, the science of motion, and the and the science of Right [*droit*] as well, which are not at all based on experience or facts but serve rather to give reasons for facts and to control them in advance. This would be true in regard to Right, even if there were no law [*loi*] in the world. The error of those who have made justice depend upon power comes in part from their confusion of *Right* with *law*. Right cannot be unjust; this would be a contradiction. But law can be, for it is power which gives and maintains law; and if this power lacks wisdom or good will, it can give and maintain very bad laws. But happily for the world, the laws of God are always just, and he is in a position to maintain them, as he without a doubt does, even though this has not always happened visibly and at once—for which he assuredly has good reasons.

We must determine, then, the formal principle of justice and the measure by which we should judge acts to know if they are just or unjust. After what has been said we can already foresee what this must be. Justice is nothing but what conforms to wisdom and goodness combined. The end of goodness [*bonté*] is the greatest good [*bien*]. But to recognize this we need wisdom, which is merely the knowledge of the good, as goodness is merely the inclination to do good to all and to prevent evil, at least if evil is not necessary for a greater good or to prevent a greater evil. Thus wisdom is in the understanding, and goodness is in the will, and as a result justice is in both. Power is another matter. But if power is added, it brings to pass the Right and causes that which should be to exist really as well, insofar as the nature of things permits. And this is what God does in the world.

But since justice aims at the good, and wisdom and goodness together form justice and so refer to the good, we may ask what is the true good. I reply that it is merely whatever serves the perfection of intelligent substances. It is obvious, therefore, that order, con-

tentment, joy, wisdom, goodness, and virtue are goods in an essential sense and can never be bad and that power is a good in a natural sense, that is, by itself, because, other things being equal, it is better to have it than not to have it. But power does not become an assured good until it is joined with wisdom and goodness. For the power of an evil man serves only sooner or later to plunge him further into misery, since it gives him the means of doing more evil and of earning a greater punishment, from which he will not escape, since the universe has a perfectly just monarch whose infinite penetration and sovereign power one cannot avoid.

Since experience shows us that God, for reasons unknown to us but surely very wise and based on a greater good, permits many evil persons to be happy in this life and many good persons to be unhappy, a fact which would not conform to the rules of a perfect government such as God's if it had not been corrected, it follows necessarily that there will be another life and that souls will not perish with the visible bodies. Otherwise there would be crimes unpunished and good deeds unrewarded, which is contrary to order. There are demonstrative proofs, besides, of the immortality of the soul, for the principle of action and of consciousness could not derive from a purely passive extended thing indifferent to all motion, as is matter. Therefore action and consciousness must necessarily come from something simple or immaterial, without extension and without parts, which is called the soul. But whatever is simple and without parts is not subject to dissolution and as a result, cannot be destroyed. There are people who imagine that we are too small a thing in the sight of an infinite God for him to be concerned about us. It is thought that we are to God as are the worms which we crush without thinking, in relation to us. But this is to imagine that God is like man and that he cannot think of everything. God, according to this reasoning, being infinite, does things without work in a way that results from his will, just as it results from my will and that of my friend that we are in accord, without needing some action to produce the accord after our resolutions are made. But if mankind, or even the smallest thing, were not well governed, the whole universe would not be well governed, for the whole consists of its parts.

We also find order and wonders in the smallest whole things when we are capable of distinguishing their parts and at the same

time of seeing the whole, as we do in looking at insects and other small things in the microscope. There are thus the strongest reasons for holding that the same craftsmanship and harmony would be found in great things if we were capable of seeing them as a whole. Above all, they would be found in the whole economy of the government of spirits, which are the substances most similar to God because they are themselves capable of recognizing and inventing order and craftsmanship. As a result we must conclude that the Author of things who is so inclined to order will be concerned for those creatures who are naturally sources of order in the measure of their perfection and who are alone capable of imitating his workmanship. But it is impossible that this should seem so to us, in this small portion of life which we live here below, which is but a small bit of the life without bounds which no spirit can fail to achieve. To consider this bit separately is to consider things like a broken stick or like the bits of flesh of an animal taken separately, so that the craftsmanship of its organs cannot be made apparent.

This is also true when one looks at the brain, which must undoubtedly be one of the greatest wonders of nature, since it contains the most immediate organs of sense. Yet one finds there only a confused mass in which nothing unusual appears but which nevertheless conceals some kind of filaments of a fineness much greater than that of a spider's web which are thought to be the vessels for that very subtle fluid called the animal spirits. Thus this mass of brain contains a very great multitude of passages—and of passages too small for us to overcome the labyrinth with our eyes, whatever microscope we may use. For the subtlety of the spirits contained in these passages is equal to that of light rays themselves. Yet our eyes and our sense of touch show us nothing extraordinary in the appearance of the brain.

We may say that it is the same in the government of intelligent substances under the kingship of God, in which everything seems confused to our eyes. Nevertheless, it must be the most beautiful and most marvelous arrangement of the world, since it comes from an Author who is the source of all perfection. But it is too great and too beautiful for spirits with our present range to be able to perceive it so soon. To try to see it here is like wishing to take a novel by the tail and to claim to have deciphered the plot from the first book; the beauty of a novel, instead, is great in the degree that order emerges

from very great apparent confusion. The composition would thus contain a fault if the reader could divine the entire issue at once. But creation, so to speak, is also utility and wisdom in this great and true poem, this word-by-word creation, the universe. The beauty and justice of the divine government have been hidden in part from our eyes, not only because it could not be otherwise without changing the entire harmony of the world, but also because it is proper in order that there may be more exercise of free virtue, wisdom, and a love of God which is not mercenary, since the rewards and punishments are still outwardly invisible and appear only to the eyes of our reason or faith. This I find to be a good thing here, since the true faith is based on reason. And since the wonders of nature show us that God's operations are admirably beautiful whenever we can envisage a whole in its setting, even though this beauty is not apparent when we consider things detached or torn from their whole, we must likewise conclude that all that we cannot yet disentangle or envisage as a whole with all its parts must no less have justice and beauty. To recognize this point is to have a natural foundation for faith, hope, and the love of God, since these virtues are based on a knowledge of the divine perfections.

Now nothing better corroborates the incomparable wisdom of God than the structure of the works of nature, particularly the structure which appears when we study them more closely with a microscope. It is for this reason, as well as because of the great light which could be thrown upon bodies for the use of medicine, food, and mechanical ends, that it should be most necessary to push our knowledge further with the aid of microscopes. There are scarcely ten men in the world who are carefully at work on this, and if there were a hundred thousand, there would not be too many to discover the important wonders of this new world which makes up the interior of ours and which is capable of making our knowledge a hundred thousand times greater than it is. It is for this reason that I have more than once hoped that the great princes might be led to arrange for this and to induce men to work at it. Observatories have been founded for watching the stars, whose structures are spectacular and demand great apparatus, but telescopes are far from being as useful and from revealing the beauties and varieties of knowledge which microscopes reveal. A man in Delft has accomplished wonders

at it, and if there were many others like him, our knowledge of physics would be advanced far beyond its present state. It behooves great princes to arrange this for the public welfare, in which they are most interested. And since this matter involves little cost and display, is very easy to direct, and needs very little but good will and attention to accomplish it, there is little reason to neglect it. As for me I have no other motive in recommending this research than to advance our knowledge of truth and the public good, which is strongly interested in the increase of the treasure of human knowledge.

Most of the questions of Right, but especially of the right of sovereigns and nations, are confused because they do not agree on a *common conception of justice*, with the result that we do not understand the same thing by the same word, and this opens the way to endless dispute. Everyone would agree, perhaps, on this nominal definition—that justice is a constant will to act in such a way that no person has reason to complain of us. But this is not enough unless the method is given for determining these reasons. Now I observe that some people restrict the reasons for human complaints very narrowly and that others extend them. There are those who believe that it is enough if no harm is done to them and if no one has deprived them of their possessions, holding that no one is obligated to seek the good of others or prevent evil for them, even if it should cost us nothing and give us no pain. Many who pass in the world for great judges keep themselves within these limits. They content themselves with harming no one, but they are not inclined to improve people's conditions. In a word, they believe one can be just without being charitable.

There are others in the world who have greater and more beautiful views and who would not wish anyone to complain of their lack of goodness. They would approve what I have said in my preface to the *Codex juris gentium*—that justice is the charity of the wise man, that is, a goodness toward others which ought to conform to wisdom. And wisdom, in my opinion, is nothing but the knowledge of happiness. Men may be permitted to vary in their use of words, and if anyone wants to insist on limiting the term *just* to what is the opposite of charitable, there is no way to force him to change his language, since names are arbitrary. Yet we have a right to learn the reasons which he has for being what he calls just, in order to see whether these same reasons will not bring him also to be good and to do good.

I believe we will agree that those who are charged with the conduct of others, like tutors, the directors of societies, and certain magistrates, are obligated not merely to prevent evil but also to secure the good. But it might perhaps be questioned whether a man free from commitments, or the sovereign of a state, has such obligations, the former in relation to others involved in the situation, the latter in relation to his subjects.

On top of this I shall ask that whoever can sustain a person must not do evil to others. One can give more than one reason for this. The most pressing will be the fear that someone will do the same thing to us. But are we not also subject to the fear that men will hate us if we refuse them aid which does not at all inconvenience us and if we neglect to prevent an evil which is about to crush them? Someone may say, "I am content that others should not harm me. I do not ask at all for their aid and their good deeds and have no wish either to give or to claim more." But can one sincerely maintain this? Let him ask himself what he would say or hope for if he should find himself actually on the point of falling into an evil which someone could help him avoid by a turn of his hand? Would one not hold him for a bad man and even for an enemy if he refused to save us in such a situation? . . . It will be granted, then, that one ought to prevent evil for another if it can be done conveniently. But perhaps it will not be granted that justice orders us to do positive good to others. I now ask if one is not at least obligated to relieve others' ills. And I return again to the proof, that is, to the rule, *quod tibi non vis fieri*. Suppose that you were plunged into misery. Would you not complain about someone who did not help you, if he could easily do so? You have fallen into the water. If he refuses to throw a rope to you to give you a way of saving yourself, would you not judge him to be an evil man and even an enemy? Suppose that you suffered from violent pains and that someone had in his house, under his lock and key, a healing fountain capable of relieving your ills. What would you say and what would you do if he refused to give you a few glasses of its water? Led by degrees, people will agree not only that men ought to abstain from doing evil but also that they ought to prevent evil from being done and even to alleviate it when it is done, at least as far as they can without inconvenience to themselves. I am not now examining how far this inconvenience can go. Yet it will still be doubted,

perhaps, that one is obligated to secure the good of another, even when this can be done without difficulty. Someone may say, "I am not obligated to help you achieve. Each for himself, God for all." But let me again suggest an intermediate case. A great good comes to you, but an obstacle arises, and I can remove that obstacle without pain. Would you not think it right to ask me to do so and to remind me that I would ask it of you if I were in a similar plight? If you grant this point, as you can hardly help doing, how can you refuse the only remaining request, that is, to procure a great good for me when you can do this without inconvenience of any kind to yourself and without being able to offer any reason for not doing it except a simple, "I do not want to"? You could make me happy, and you refuse to do so. I complain, and you would complain in the same circumstances; therefore, I complain with justice.

This gradation shows us that the same grounds for complaint subsist throughout. Whether one does evil or refuses to do good is a matter of degree, of more or less, but this does not alter the nature of the matter. It can also be said that the absence of the good is an evil and the absence of the evil a good. In general, if someone asks you to do something or not to do something, and you refuse his request, he has reason to complain if he can judge that you would make the same request if you were in his place. And this is the principle of *equity* or, what is the same thing, of equality or of the identity of reasons, which holds that one should grant to others whatever one would himself wish in a similar situation, without claiming any privilege contrary to reason or without claiming to be able to allege one's will as a reason.

Perhaps we can say, then, that not to do evil to another, *neminem laedere*, is the precept of the Law which is called strict Right [*jus strictum*] but that *equity* demands that one also do good when this is fitting and that it is in this that the precept consists which orders us to give each one his due, *suum cuique tribuere*. But what determines fitness [*covenantance*] or what each one is due can be known by the rule of equity or of equality: *quod tibi non vis fieri aut quod tibi vis fieri, neque aliis facito aut negato*. This is the rule of reason and of our Master. Put yourself in the place of another, and you will have the true point of view to judge what is just or not.

Certain objections have been made against this great rule, but they come from the fact that it is not applied universally. For exam-

ple, it has been objected that by virtue of this maxim a criminal can wish the same thing if he were in a similar position. The reply is easy. The judge must put himself not only in the place of the criminal but also in that of the others whose interest lies in the crime being punished. And he must determine the greater good in which the lesser evil is included. The same is true of the objection that distributive justice demands an inequality among men, that a society ought to divide gains in proportion to what each has contributed, and that merit and lack of merit must be considered. Here the reply is also easy. Put yourself in the place of all and assume that they are well informed and enlightened. You will gather this conclusion from their votes: they will regard it fitting to their own interest that divisions be made between one another. For example, if profits were not divided proportionally in a commercial society, some would not enter it at all, and others would quickly leave it, which is contrary to the interest of the whole society.

We may say, then, that *justice*, at least among men, is the constant will to act as far as possible in such a way that no one can complain of us if we would not complain of others in a similar situation. From this it is evident that when it is impossible to act so that the whole world is satisfied, we should try to satisfy people as much as possible. What is just thus conforms to the charity of the wise man.

So wisdom, which is a knowledge of our own good, brings us to justice, that is to say, to a reasonable advance toward the good of others. So far we have proposed as a reason for this the fear that we will be harmed if we do otherwise. But there is also the hope that others will do the same for us. Nothing is surer than the provers, *homo homini deus, homo homini lupus*. Nothing can contribute more to the happiness, or to the misery, of man than men themselves. If they were all wise and knew how to treat each other, they would all be happy, as far as happiness can be obtained by human reason. But we may be permitted to use fictions for a better insight into the nature of things. Assume a person who has nothing to fear from others; such a person as would be a superior power in relation to men—some higher spirit; some substance which pagans would have called a divinity; some immortal, invulnerable, invincible man—in short, a person who can neither hope for nor fear anything from us. Shall we say that such a person is nonetheless obligated to do us no

harm and even to do us good? Mr. Hobbes would say "No." He would even add that this person would have an absolute right in making us his conquest, because we could not complain of such a conqueror on the grounds which we have just pointed out, since there is another condition which exempts him from all consideration for us. But without needing a fiction, what shall we say of the supreme divinity whom reason makes us recognize? Christians agree, and others should agree, that this great God is supremely just and supremely good. But it cannot be for his own repose or to maintain peace with us that he shows us so much goodness, for we should be unable to wage war against him. What then is the principle of his justice, and what is its law? It cannot be this equity or equality which exists among men and makes them envisage the common end of our human condition, "to do unto others what we wish others to do unto us."

One cannot envisage any other motive in God than that of perfection or if you like, of his pleasure. Assuming, according to my definition, that *pleasure* is nothing but the feeling of perfection, he has nothing to consider outside of himself; on the contrary, everything depends upon him. But his happiness would not be supreme if he did not aim at as much good and perfection as possible. But what will you say if I show that this same motive is found in truly virtuous and generous men, whose highest function is to imitate divinity so far as human nature is able? The earlier reasons of fear and hope can bring men to be just in public and when necessary for their own interest. They will even obligate them to exercise and practice the rules of justice from childhood in order to acquire habits, out of fear of betraying themselves too easily, and so harming themselves along with others. Yet if there were no other motive, this would merely be political at bottom. And if someone who is just in this sense should find opportunity to make a great fortune through a great crime which would remain unknown, or at least unpunished, he would say as did Julius Caesar, following Euripides:

Si violandum est jus, regnandi gratia  
Violandum est.

But he whose justice is proof against such a temptation cannot have any motive but that of his own inclination, acquired by birth or exercise and regulated by reason, which makes him find so much

pleasure in the practice of justice and so much ugliness in unjust acts that other pleasures and displeasures are compelled to give way.

One can say that this serenity of spirit, which finds the greatest pleasure in *virtue* and the greatest evil in *vice*, that is, in the perfection and imperfection of the will, would be the greatest good of which man is capable here below, even if he had nothing to expect beyond this life. For what can be preferred to this internal harmony, this continual pleasure in the purest and greatest, of which one is always master and which one need never abandon? Yet it must also be said that it is difficult to attain this disposition of spirit and that the number of those who have achieved it is small, most men remaining insensible to this motive, great and beautiful though it be. This seems to be why the Siamese believed that those who attain this degree of perfection receive divinity as a reward. The goodness of the Author of things has therefore provided for it through a motive more nearly within the reach of all men, by making himself known to the human race, as he has done by the eternal light of reason which he has given us and by the wonderful effects which he has placed before our eyes of his power, wisdom and infinite goodness. This knowledge should make us see God as the sovereign Monarch of the universe, whose government is the most perfect state conceivable, in which nothing is neglected, in which all the hairs on our heads are counted, in which everything right becomes a fact, either in itself or in some equivalent form, in such a way that justice coincides with the good pleasure of God and no divorce ever arises between the honorable [*l'honnête*] and the useful. After this it must be imprudent not to be just, because, according as he is just or unjust, a man will certainly experience good or bad for himself from what he has done.

But there is something still more beautiful than all this in the government of God. What Cicero has said allegorically of ideal justice is really true in reference to this substantial justice—that if we could see it, we should be inflamed by its beauty. One can compare the divine Monarchy to a kingdom whose sovereign would be a queen more spiritual and more learned than Queen Elizabeth; more judicious, more happy, and in a word, greater than Queen Anne—in cleverer, wiser, and more beautiful than the Queen of Prussia—in short, as accomplished as it is possible to be. Conceive that the perceptions of this queen make such an impression upon the minds of

her subjects that it is their greatest pleasure to obey and to please her. In this case the whole world would be virtuous and just by inclination. It is this which occurs literally and beyond all description in relation to God and to those who know him. It is in him that wisdom, virtue, justice, and grandeur are accompanied by sovereign beauty. One cannot know God as one should without loving him above all things, and one cannot love him thus without willing what he wills. His perfections are infinite and cannot cease. This is why the pleasure which consists in the feeling of his perfections is the greatest and most durable possible; that is, it is the greatest felicity. And that which causes one to love him at the same time makes one happy and virtuous. . . .

This shows that justice can be taken in different ways. It can be opposed to charity, and then it is only the *jus strictum*. It can be opposed to the wisdom of him who must exercise justice, and then it conforms to the general good, but there will be cases in which the particular good will not be found in it. God and immortality would not enter into account. When one considers them, however, one always finds his own good in the general good.

While justice is merely a particular virtue, moreover, when we leave out of consideration God or a government which imitated that of God, and while this virtue so limited includes only what is called commutative and distributive justice, it can be said that as soon as it is based on God or on the imitation of God it becomes *universal justice* and contains all the virtues. For when we are vicious not only do we harm ourselves but we also diminish, so far as depends on us, the perfection of the great state of which God is the monarch. And although the evil is in fact redressed by the wisdom of the sovereign Lord this is partly through our punishment. Universal justice is distinguished by the supreme precept—*honeste (hoc est probe, pie) vivere*; as *suum cuique tribuere* conforms to particular justice, whether in general or taken more narrowly as the distributive justice which distinguishes men in particular; and as *neminem laedere* stands for commutative justice or for *jus strictum* as opposed to equity, as one takes these terms.

It is true that Aristotle has recognized this universal justice, though he has not related it to God; even so, I find it beautiful that he had so lofty an idea. But a well-formed government or state takes the place of God on earth for him, and this government will

do what it can to require men to be virtuous. But as I have already said, one cannot compel men to be always virtuous by the principle solely of self-interest in this life; even less can one find the rare secret of lifting them up so that virtue constitutes their greatest pleasure, in the way I have just finished describing. Aristotle seems to have hoped for this rather than shown it. Yet I do not find it impossible that there should be times and places where one attains this, especially if piety is added.

We can still distinguish *jus strictum*, equity, and piety when we are considering the right of sovereigns and of peoples. Hobbes and Filmer seem to have considered only *jus strictum*. The Roman jurists also sometimes adhere to this level of right alone. It can even be said that piety and equity regularly demand the *jus strictum* when they do not supply an exception to it. In insisting upon *jus strictum*, however, one must always add, "except for the demands of equity and of piety." Otherwise the proverb would hold: *summum jus summa est injuria*.

In examining the *jus strictum*, it is important to consider the origin of kingdoms or states. Hobbes seems to think that men were something like beasts at first and became more tractable little by little but that, as long as they were free, they were in a state of war of all against all and thus had no *jus strictum*, since each had a right in everything and was able, without injustice, to seize the possessions of his neighbor as he saw fit. For there was then no security or judge, and anyone had the right to forestall those whom one had grounds to fear greatly. But as this state of crude nature was a state of misery, men agreed upon the means to secure their safety, transferring their right to judge to the person of the state, represented by an individual or by some assembly. However, Hobbes acknowledges somewhere that a man has not, for this reason, lost the right to judge what is most agreeable to him and that a criminal is allowed to do what he can to save himself. But the citizens of a state must submit to the judgment of the state. The same author must also recognize, however, that these same citizens, who have not lost their power of judgment, also cannot let their own safety be endangered in some situation where many are mistreated. So in the end, in spite of what Hobbes says, each one has retained his right and his liberty regardless of the transfer to the state, and this transfer will be provisional and limited, that is, it will take place to the degree that we

believe our safety is involved. The reasons which this illustrious author gives to prevent subjects from resisting their sovereign are nothing but plausible considerations based on the true principle that ordinarily such a remedy is worse than the evil itself. But what is ordinarily the case is not absolutely so. The one is like the *jus strictum*, the other like equity.

It seems to me also that this author makes the mistake of confusing right with its factual application. A man who has acquired a good, who has built a house or forged a sword, is the proprietary master of it, although someone else, in time of war, has the right to drive him from his house and to take away his sword. And although there are cases where one cannot enjoy his right for want of a judge and of enforcement the right does not cease to subsist. To try to destroy something because there is no way at once to prove it and to enjoy it is to confuse matters.

Mr. Filmer seems to me to have recognized rightly that there is a right, even a *jus strictum*, before the foundation of states. Whoever produces something new or gains possession of something already existing but which no one has possessed before, and improves and adapts it to his use, cannot as a rule be deprived of it without injustice. This is also true if one acquires a thing from such an owner, either directly or through intermediates. The right of acquisition is a *jus strictum* which even equity approves. Hobbes believes that by virtue of this right children are the property of their mother unless society orders differently, and Filmer, assuming the superiority of the father, gives him the right of property over his children as well as over the children of his slaves. Since all men from the beginning until now are, according to sacred history, descended from Adam and also from Noah, it follows, according to Filmer, that if Noah were living, he would have the right of an absolute monarch over all men. In his absence fathers always are, or should be, the sovereign masters of their descendants. This paternal power is the origin of kings, who replace progenitors, in the last analysis, either by force or by consent. And since the power of fathers is absolute, that of kings is absolute also.

This conception ought not entirely to be condemned, but I think we can say that it has been pushed too far. We must admit that a father or a mother acquires a great power over children by their procreation and education. But I do not think that we can conclude

from this that children are the property of their progenitors, as are the horses or dogs which are born to us and the works which we create. The objection may be raised that we can acquire slaves and that the children of slaves are also slaves. And according to the law of nations, slaves are the property of their masters, and no reason can be seen why children whom we have produced and nurtured by education should not be our slaves by an even juster title than those whom we have bought or captured.

To this I reply that even if I were to agree that there is a right of slavery among men which conforms to natural reason, and that according to *jus strictum* the bodies of slaves and their infants are under the power of their masters, it will always be true that another stronger right opposes the abuse of this one. This is the right of reasonable souls, which are naturally and inalienably free. It is the Law of God who is the sovereign master of bodies and souls and under whom masters are the fellow-citizens of their slaves, since slaves have the right of citizenship in the kingdom of God as well as their masters. So it can be said that a man's body is the property of his soul and ought not to be taken from him as long as he lives. Since a man's soul cannot be acquired, neither can ownership of his body be acquired, so that the right of a master over his slave can be in the nature only of what is called servitude to another, or a kind of usufruct. But usufruct has its limits; it must be practiced without destroying itself, *salva re*, so that this right cannot be extended to the point of making a slave evil or unhappy. But even if I were to agree, contrary to the nature of things, that an enslaved man is the property of another man, the right of the master, however rigorous, would be limited by *equity*, which demands that one man shall care for another as he would wish another to care for himself in a similar situation, and by *charity*, which orders us to work for the happiness of others. And these obligations are perfected by *piety*, that is, by what we owe to God. If we wished to stop with *jus strictum* alone, the American cannibals would have a right to eat their prisoners. There are those among them who demand even more; they use their prisoners to have children, then fatten and eat the mother, and afterward, when she produces no more, the mother, children, and the consequences of a pretended right of masters over slaves and of fathers over children.