

THE NATURAL LAW AND THE RIGHT TO PURSUE HAPPINESS

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THERE is no exception to the proposition that happiness is what everyone desires and seeks. "To desire happiness," says St. Thomas, "is nothing else than to desire that the will be satisfied, and this every man desires."¹ Happiness indeed "*is an act in discharge of the function proper to man, as man.* There is a function proper to the eye, to the ear, to the various organs of the human body; there must be a function proper to man as such."² And so the desire for happiness is not something accidental or acquired by experience. It is as natural as the desire for food or the desire for social communication through speech. It is part of man's original endowment, and is fundamental to his nature. The pursuit of happiness, therefore, whether conscious and explicit or not, is the universal occupation and pre-occupation of mankind.

From time immemorial there have been countless theories as to the nature of happiness—the ultimate good of man. St. Augustine, with the help of Marcus Varro's book *De Philosophia* was able to compile two hundred and eighty-eight opinions of the philosophers as to the nature of happiness. None of the two hundred and eighty-eight satisfied Augustine. It is not likely,

¹ ST. THOMAS, *Summa Theologica*, I. 11, quaest. 5, art. 8. And cf., ST. THOMAS, *Summa Contra Gentiles*, III, 1.

² RICKABY, *Moral Philosophy* 7 (3d ed. 1892).

then, that in the present article any theory of happiness will be discovered which has been unheard of before. This field has been well ploughed and thoroughly cultivated throughout the ages, while the concept remains as enigmatic as it is familiar.

Nor is it my purpose to discover new theories or propose novel considerations. I merely intend to explain somewhat, (to the extent possible in a brief paper) the concept "pursuit of happiness" as it occurs in the American Declaration of Independence. To do this it is first necessary to view briefly some of the principal theories of happiness that the great philosophers of the past have bequeathed to us, so that we can place the philosophy of the Declaration in its proper setting.

I.

Theories of Happiness

Early in Greek thought the concept of happiness became identified with "the good" of man. Plato, refining the theories of Socrates, taught that the good or "well-doing" (*eupraxia*) depended on such harmony between the various faculties of man that a proper subordination of lower to higher, of non-rational to rational elements was preserved. To the earlier Greeks happiness was the reward of goodness of life. To Plato it was rather the flowering of that harmonious functioning. Happiness belonged to the whole man and not to any particular faculty of man, when his being was functioning as it should by "following nature." Happiness was not a passive state, therefore, but consisted in harmonious activity.

But when various schools of philosophy came to define in the concrete what "following nature" meant, the Epicureans took one path and the Stoics another. To the Epicureans, following nature meant satisfying the senses with pleasure, for the desires of the senses were the voices of nature. To the Stoics, following nature meant satisfying reason, which bids man to suppress, as they thought, all his sensuous appetites. Thus while verbally in agreement with Plato's principle of following nature, these two schools arrived at exactly opposite opinions as to what constituted in the concrete the good of man, and consequently his happiness.

Aristotle agreed with Plato that nature means human nature as a whole, which is both sensuous and rational. Hence the good of man must satisfy both sensuous and rational appetites. But the highest good of man is happiness, because that is what all men always and unrelentingly seek. Therefore this happiness or highest good must be the real purpose of a man's life.

But in what does this happiness consist? This is answered by a penetrating analysis by a leading scholar: ³

Not in mere passive enjoyment, for this is open to the brute, but in action, (*energeia*) of the kind that is proper to man in contrast with other animals. This is intellectual action. Not all kinds of intellectual action, however, result in happiness, but only virtuous action, that is, action which springs from virtue and is according to its laws; for this alone is appropriate to the nature of man.

³ Maher, *Happiness* in 7 CATH. ENCYC. 131-2 (1913).

The highest happiness corresponds to the highest virtue; it is the best activity of the highest faculty.

Though happiness does not consist in pleasure, it does not exclude pleasure. On the contrary, the highest form of pleasure is the outcome of virtuous action. But for such happiness to be complete it should be continued during a life of average length in at least moderately comfortable circumstances, and enriched by intercourse with friends. . . .

Virtues are either ethical or dianoetic (intellectual). The latter pertain either to the practical or to the speculative reason. This last is the highest faculty of all; hence the highest virtue is a habit of the speculative reason. Consequently for Aristotle the highest happiness is to be found not in the ethical virtues of the active life, but in the contemplative or philosophic life of speculation in which the dianoetic virtues of understanding, science, and wisdom are exercised.

Theoria, or pure speculation, is the highest activity of man, and that by which he is most like unto the gods; for in this, too, the happiness of the gods consists. It is in a sense a Divine life. Only the few, however, can attain to it; the great majority must be content with the inferior happiness of the active life.

Happiness (*eudaimonia*), therefore, with Aristotle, is not identical with pleasure (*hedone*), or even with the sum of pleasures. It has been described as the kind of well-being that consists in well-doing; and supreme happiness is thus the well-doing of the best faculty. Pleasure is a concomitant or efflorescence of such an activity. [Paragraphs supplied.]

Therefore, the following seems to be a correct definition of Aristotle's idea of happiness: "Happiness is a bringing of the soul to act according to the habit of the best and most perfect virtue, that is, the virtue of the speculative intellect, borne out by easy surroundings, and enduring to length of days."⁴

I think the modern reader is apt to be somewhat repelled by the cold and metaphysical approach to happiness that characterizes Aristotelian thought. He does mention length of days, reasonable comfort and the society of friends. But one wonders to what extent his choice of pure speculation as the happiest human activity was due to his occupational prejudice as a philosopher. One also wonders whether he was really happy while he speculated on happiness. Along with his fore-runners in Greek thought, Aristotle's happiness was a happiness of this life and of this world. Nor does he identify the object that can satisfy the infinite capacity of that speculative faculty.

It is not surprising then that when Christian thinkers turned their minds to the philosophy of happiness they expanded the theories of Plato and Aristotle by invoking their belief in a future life to be spent in the eternal enjoyment of the one Infinite God who can satisfy man's utmost yearnings. Of these thinkers St. Augustine more than any other influenced the course of future Christian thought. He propounded his views first in a brief dialogue, *De Beata Vita* (*On the Happy Life*), written at the time of his conversion, later in his tremendous treatise *De Civitate Dei* (*On the City of God*), and

⁴ RICKABY, *op. cit.* *supra* note 2, at 12.

finally in his renowned *Confessions*. His approach to the subject is more psychological than metaphysical, and though he writes of the City of God his mind is, paradoxically, down to earth.

After disposing of the two hundred and eighty-eight above-mentioned opinions he comes to the point immediately: ⁵

If, then, we be asked what the city of God has to say upon these points, and, in the first place, what its opinion regarding the supreme good and evil is, it will reply that life eternal is the supreme good, death eternal the supreme evil, and that to obtain the one and escape the other we must live rightly. . . . As for those who have supposed that the sovereign good and evil are to be found in this life, and have placed it either in the soul or the body, or in both, or, to speak more explicitly, either in pleasure or in virtue, or in both, . . . — all these have, with a marvelous shallowness, sought to find their blessedness [happiness] *in this life and in themselves*. [Emphasis supplied.]

To those who seek their happiness in evil pleasures he says: "You are seeking the happy life in the region of death; it is not there. How can there be happy life, where there is not even life?" ⁶ In this life happiness consists in hope: "As, therefore, we are saved, so we are made happy by hope." ⁷ When Augustine insists that

⁵ ST. AUGUSTINE, *De Civitate Dei* 19.4.1, as translated in 2 DODS, *The City of God* 301-2 (1871).

⁶ ST. AUGUSTINE, *Confessionum*, 4.12 (Wagnereck ed. 1930). [Translated by the author.]

⁷ ST. AUGUSTINE, *De Civitate Dei* 19.4.5, as translated in 2 DODS, *op. cit.* *supra* note 5, at 307.

true happiness is in the knowledge of the One Truth and in the enjoyment of it, he is reminiscent of Aristotle's activity of the speculative reason. ". . . this [is] the happy life: to recognize piously and completely the One through whom you are led into the truth, the manner in which you enjoy the truth, and the bond that connects you with the supreme measure."⁸ "Happiness is nothing else but joy in the truth. . . . The truth is so loved that whoever love something else want what they love to be the truth. . . . He therefore will be happy . . . who rejoices in the only truth, the truth itself through which all things are true."⁹ "How therefore do I seek Thee, O God? Because when I seek Thee, my God, I am seeking the happy life."¹⁰ All of Augustine's psychology, philosophy and theology of happiness is summed up in the famous phrase from the first page of his *Confessions*: "Thou hast made us for Thyself, and our heart is restless until it rests in Thee."¹¹

About one hundred years after the death of St. Augustine, Boethius wrote his famous *The Consolation of Philosophy*. This work, written in prison, had exceedingly great influence on medieval and subsequent Christian thought. Its author was a Christian scholar well versed in the works of Plato and Aristotle and acquainted, too, with the thought of Augustine. Boethius had occupied important public offices but fell into disfavor, lost his wealth, was imprisoned, and finally ex-

⁸ ST. AUGUSTINE, *De Beata Vita* 4.35, as translated in SCHOPP, *The Happy Life* 13 (1939).

⁹ ST. AUGUSTINE, *op. cit. supra* note 6, 10.23. [Translated by the author.]

¹⁰ *Id.*, 10.20. [Translated by the author.]

¹¹ *Id.*, 1.1. [Translated by the author.]

cuted. He was well able to testify from sad experience to the truth of Augustine's dictum: "... lettered leisure, or public business, or the alternation of these, do not necessarily constitute happiness."¹² Although some have cast doubt on his sanctity and even on his Christianity, Boethius was honored in the middle ages as a martyr and even today is revered in Pavia under the title St. Severinus Boethius, Martyr.

His discourse on happiness is in the style of a classical dialogue between himself and the lady Philosophy who comes to console him in prison. His thought reflects the ancient philosophers and neo-Platonists, and to a lesser extent Christian teachings. When Philosophy instructs him that the aim of all men, without exception, whether they know it or not, is the Good, Happiness, God, and that the righteous attain this their aim and end, while the wicked fail to reach it, we see the influence of Augustine as well as of Plato.¹³ For Boethius "true happiness . . . is not to be found among any of the perishable things men so eagerly pursue."¹⁴ He says: ¹⁵

The forms of good are the same thing as happiness, and happiness is the Highest Good which is God. . . .

Perfect good [happiness] exists when all the kinds of good . . . are gathered together into a

¹² ST. AUGUSTINE, *De Civitate Dei* 19.2.1, as translated in 2 DODS, *op. cit. supra* note 5, at 297.

¹³ BARRETT, BOETHIUS, *Some Aspects of His Times and Work* 94 (1940).

¹⁴ *Id.*, at 90.

¹⁵ BOETHIUS, *De Consolatione Philosophiae*, 3.34, as translated in SEDGFIELD, *King Alfred's Version of the Consolations of Boethius* 98, 101 (1900).

single kind of good; then there will be no form of good lacking; all the forms of good will form a unity and this unity shall be eternal.

Among other celebrated definitions of Boethius (another example being his definition of eternity), which were commonplaces of medieval scholasticism, is his definition of happiness: *Beatitudo est status omnium bonorum aggregatione perfectus* (Happiness is a state perfected by the accumulation of all good). Boethius' teaching is especially apropos in a paper on natural law and happiness, because his *Consolation* is a conscious attempt to determine what happiness is in the light of reason, unaided by the data of revelation.

There is no doubt whatever that when the Scholastics of the classical age, culminating in St. Thomas, adopted and adapted the ethical system of Aristotle their thought was mightily influenced by Augustine's *City of God* and Boethius' *Consolation of Philosophy*. But since the doctrine of St. Thomas on happiness remains essentially unchanged today in the teaching of scholasticism and in the teaching of the Catholic Church, I will pass it by temporarily, in order to discuss briefly a few of those philosophers who wrote after the time of Descartes, and who were outside the scholastic tradition.

John Locke's teaching is especially important because his works were in the hands of the founding fathers, and his political philosophy was very influential in shaping American revolutionary thought. He discusses happiness and the pursuit of happiness, however, when dealing with free will rather than in a political context. According to Locke, also, happiness is that "which we

all aim at in all our actions.”¹⁶ Desire is the well-spring of all human action. And he declares:¹⁷

If it be . . . asked, what it is moves desire? I answer, happiness, and that alone. Happiness and misery are the names of two extremes, the utmost bounds whereof we know not. . . . But of some degree of both we have very lively impressions . . . which for shortness’ sake I shall comprehend under the names of pleasure and pain, there being pleasure and pain of the mind as well as of the body . . . or, to speak truly, they are all of the mind; though some have their rise in the mind from thought, others in the body from certain modifications of motion.

Happiness, then, in its full extent, is the utmost pleasure we are capable of, and misery the utmost pain; and the lowest degree of what can be called happiness is so much ease from all pain, and so much present pleasure, as without which any one cannot be content.

He then goes on to explain how the good is that which causes happiness, and the evil that which causes pain, and yet not every good moves man’s desire, because not every good, however great, is apprehended as a necessary part of his happiness. “Happiness, under this view, every one constantly pursues, and desires what makes any part of it. . . .”¹⁸

Locke’s theory of happiness was closely connected

¹⁶ LOCKE, *An Essay Concerning Human Understanding* 2.21.36, in 2 *Philosophical Works* 380 (St. John ed. 1901).

¹⁷ *Id.*, 2.21.41-2, 2 *Philosophical Works* at 384.

¹⁸ *Id.*, 2.21.43, 2 *Philosophical Works* at 385.

with his idea of a morality based upon the will of God. The ultimate criterion of God's will, and consequently of moral good, is "public happiness" in its highest degree, for God has "... by an inseparable connexion joined virtue and public happiness together. . . ." ¹⁹ Hence, says Fowler of Locke, "we have only to ascertain, by the use of the natural reason, what on the whole conduces most to the public welfare, in order to know the Divine Will." ²⁰ This ethical theory, then, is a theistic form of utilitarianism based on a theological regard for the will of God. Its influence on subsequent writers has not always been sufficiently recognized. ²¹ We shall later see that it appears in the thinking of some of the founding fathers.

Among the writers influenced by Locke was William Paley, Archdeacon of Carlisle (1743-1805) who was a contemporary of the revolutionary statesman and who published his *Principles of Moral and Political Philosophy* in 1785. ²² That work contains a much-quoted chapter on happiness wherein the learned divine strangely enough restricts himself almost entirely to a shrewd consideration of the meaning of happiness in this life, though he admits in passing that "A man who is in

¹⁹ *Id.*, 1.3.6, 2 *Philosophical Works* at 160.

²⁰ FOWLER, JOHN LOCKE 153 (1880). These are not Fowler's own sentiments; he is paraphrasing Locke.

²¹ *Ibid.* "This form of Utilitarianism, resting on a theological basis, and enforced by theological sanctions, is precisely that which afterwards became so popular and excited so much attention, when adopted in the well-known work of Paley. . . . I shall not here criticize Locke's theory so far as it is common to other utilitarian systems of ethics, but shall simply content myself with pointing out that its influence on subsequent writers has seldom, if ever, been sufficiently recognized."

²² PALEY, *The Principles of Moral and Political Philosophy* in 1 *THE WORKS OF WILLIAM PALEY* (Wayland ed. 1937).

earnest in his endeavours after the happiness of a future state, has, in this respect, an advantage over all the world: for he has constantly before his eyes an object of supreme importance. . . .”²³ His theory of human happiness on earth is reduced to this: happiness consists in a preponderance of pleasure over pain.²⁴

The word *happy* is a relative term. . . .

In strictness, any condition may be denominated happy, in which the amount or aggregate of pleasure exceeds that of pain; and the degree of happiness depends upon the quantity of this excess . . .

I hold that pleasures differ in nothing, but in continuance and intensity: from a just computation of which, confirmed by what we observe of the apparent cheerfulness, tranquillity, and contentment of men of different tastes, tempers, stations, and pursuits, every question concerning human happiness must receive its decision.

Despite these pronouncements, Paley’s further exposition shows that he is not a pure hedonist, but rather a theistic utilitarian. For he makes the conduciveness of human acts to temporal happiness, the criterion of their morality; but he recognizes that it is the will of God which has ordained that those acts which in the long run make mankind happy are also morally good.

It is not my purpose here to trace the further development of the concept of happiness in English and Continental philosophers. The theories range from the altruistic stoicism of German rationalists who followed

²³ *Id.*, 1.6.23.

²⁴ *Id.*, 1.6.14-5.

in the footsteps of Emmanuel Kant (1724-1804) to the hedonism and "hedonistic calculus" of Jeremy Bentham (1748-1833), the utilitarianism of John Stuart Mill (1806-1873), and the evolutionary system of Herbert Spencer (1820-1903). Their common denominator, if any, lies in the divorce of philosophy from theology, and a consequent preoccupation with the psychological constituents of happiness in this life, whether it be the happiness of the individual or the "greatest happiness of the greatest number."

The philosophy of happiness with the most ancient lineage is the *philosophia perennis* of scholasticism. The teaching of St. Thomas, derived from Aristotle and Plato through Augustine and the Fathers of the Church, remains essentially unchanged today in the teaching of the neo-scholastics and of the Catholic Church. The following is a brief summary of that teaching: ²⁵

Man is complex in his nature and activities, sentient and rational, cognitive and appetitive. There is for him a well-being of the whole and a well-being of the parts; a relatively brief existence here, an everlasting life hereafter. *Beatitudo*, perfect happiness, complete well-being, is to be attained not in this life, but in the next. Primarily, it consists in the activity of man's highest cognitive faculty, the intellect, in the contemplation of God—the infinitely Beautiful. But this immediately results in the supreme delight of the will in the conscious possession of the *Summum Bonum*, God, the infinitely good. This blissful activity of the highest spiritual faculties, as the Catholic Faith teaches,

²⁵ Maher, *supra* note 3, at 133.

will redound in some manner transcending our present experience to the felicity of the lower powers. For man, as man, will enjoy that perfect beatitude. Further, an integral part of that happiness will be the consciousness that it is absolutely secure and everlasting, an existence perfect in the tranquil and assured possession of all good — *Status omnium bonorum aggregatione perfectus*, as Boethius defines it. This state involves self-realization of the highest order and perfection of the human being in the highest degree. It combines whatever elements of truth are contained in the Hedonist and Rationalist theories. It recognizes the possibility of a relative and incomplete happiness in this life, and its value; but it insists on the importance of self-restraint, detachment, and control of the particular faculties and appetencies for the attainment of this limited happiness and, still more, in order to secure that eternal well-being be not sacrificed for the sake of some transitory enjoyment.

II.

Philosophical Origins of "The Pursuit of Happiness"

The never-dying words of the Declaration of Independence cannot be quoted too often, and for our purpose it is necessary to quote some of them again:

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*.—That to secure these rights, Govern-

ments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and *Happiness*. [Emphasis supplied.]

When Jefferson sat down to write this declaration he did not have to consult books to find his principles. They were part of his thinking as they were part of the political and philosophical thinking of the times. He tells us himself: "I know only that I turned to neither book nor pamphlet while writing it."²⁶ And again he tells us that his purpose was:²⁷

. . . not to find out new principles, or new arguments, never before thought of, not merely to say things that had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent. . . . Neither aiming at originality of principles or sentiments, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind. . . . All its authority rests then on the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, etc.

²⁶ As quoted in BECKER, *The Declaration of Independence* 25 (1922).

²⁷ *Ibid.*

It has been sometimes the fashion to belittle the fundamental philosophical principles of the founding fathers, and to consider this "common sense of the subject" to be in the nature of a series of glittering generalities, with little or no definite content. But the natural law, like philosophy, "always buries its undertakers."²⁸ Previous convocations of this Institute as well as the other papers contributed to the present sessions are ample evidence that natural law, which is that portion of the eternal law of God made known to man by the light of natural reason, is not yet dead nor ever will be. I consider the natural law philosophy which was in the very air breathed in England and America in the eighteenth century to be substantially the natural law philosophy of St. Thomas Aquinas and that which scholasticism continues to teach today.²⁹ Our task at present, however, is to examine the phrase "pursuit of happiness" and determine what its meaning and origin are in the Declaration.

In enumerating fundamental natural rights, many followers of Locke, including Samuel Adams, had been content with the classical enumeration "life, liberty and property." Some modern writers with a predilection for so-called human rights over property rights, and

²⁸ GILSON, *The Unity of Philosophical Experience* 306 (1937).

²⁹ I am not speaking here of French naturalism or of Rousseau's natural man. The substantial agreement to which I refer includes the following points: an infinite personal Creator, the source of man's inalienable rights and of moral obligation; principles of law and justice which transcend all human positive laws, and which have their basis in God; human nature as the measure in some sense of the immutable principles of morality.

with a prejudice, perhaps, against private ownership, have thought to see in Jefferson's substitution of "pursuit of happiness" for "property" a great innovation. V. L. Parrington writes: ³⁰

. . . in Jefferson's hands the English doctrine was given a revolutionary shift. The substitution of 'pursuit of happiness' for 'property' marks a complete break with the Whiggish doctrine of property rights that Locke had bequeathed to the English middle class, and the substitution of a broader sociological conception. . . .

But is it not very unlikely that Jefferson would disagree with the Constitution of Virginia which at the very time of the Declaration of Independence was being drafted by George Mason with the assistance of James Madison? That document enumerates as inherent natural rights "the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."³¹ Nor is there any reason at all for believing that Jefferson did not consider the right of acquiring property as one of the fundamental and unalienable rights for which governments existed to protect. It is much more likely that Jefferson chose the more general term "pursuit of happiness" simply because it was more general and inclusive, and because it echoed an ethical and political view of hap-

³⁰ PARRINGTON, *Main Currents in American Thought*, as quoted in BOYD, *The Declaration of Independence* 3-4 (1945).

³¹ VA. CONST. § (1776). This language has been retained in all subsequent Constitutions, and is now found in VA. CONST. Art. I, § 1.

piness current in the philosophy of the times.³² For there is no doubt that the right to pursue happiness includes the right to acquire property as well as the right to life and liberty; and there can be no doubt, either, that among the then current theories both of ethics and of political science was the idea that happiness is a criterion of morality, and general happiness the ultimate criterion of good government.

The eighteenth century was a period during which nature and power of natural reason were glorified. In England — and consequently in America — although

³² Cf. HARVEY, JEAN JACQUES BURLAMAQUI: *A Liberal Tradition in American Constitutionalism* 123-4 (1937). "Burlamaqui as one source for the phrase, 'pursuit of happiness,' and its underlying philosophy rests upon a number of factors. Jefferson owned a copy of *Natural and Politic Law*. It is conceded that George Wythe, with whom Jefferson studied law, was familiar with the work. In all probability Dr. Small, one of Jefferson's mentors, was acquainted with it. In reading and copying Wilson's pamphlet he imbibed freely the doctrine of Burlamaqui. Moreover, the concept was a rather common one in the thought of the period. The similarity of the concept with that of Burlamaqui is unmistakable. This has been noted by Fisher in his study of this period. Professor Corwin declares a striking likeness. However, he is of the opinion that the immediate source of the phrase was Blackstone. If this should have been the case, it came originally from Burlamaqui. In the early portion of the *Commentaries* Blackstone copied liberally from *Natural and Politic Law*. Sir Henry Maine has charged that Blackstone copied 'textually' from Burlamaqui. Again, granting that Jefferson took the idea from Wilson's *Considerations*, it must be remembered that Wilson copied and cited Burlamaqui as an authority for the concept. Upon the evidence at hand it is submitted that the original of the phrase 'pursuit of happiness' is *Natural and Politic Law*." See also *id.*, at 96, 112, 120 for apposite citations from Burlamaqui. Cf. also BOYD, *op. cit. supra* note 30, at 5 n.10, where it is stated that the phrase "pursuit of happiness" occurs three times in John Locke, though not in a political context. Boyd also cites CHINARD, *Thomas Jefferson, The Apostle of Americanism* (1939), and GANTER, *Jefferson's "Pursuit of Happiness" and Some Forgotten Men*, 16 WILLIAM AND MARY QUARTERLY (2d) 442, 558 (1936). See also DUMBAULD, *The Declaration of Independence and What It Means Today* 60 *et seq.* (1950).

the prevailing tone was religious, and God's revelations in Scripture were still accepted with profound respect, many thinkers (among them Jefferson, I believe) seemed to have lost that: ³³

. . . sense of intimate intercourse and familiar conversation with God which religious men of the sixteenth and seventeenth century enjoyed. Since the later seventeenth century, God had been withdrawing from immediate contact with men, and had become, in proportion as he receded into the dim distance, no more than the Final Cause, or Great Contriver, or Prime Mover of the universe; and as such was conceived as exerting his power and revealing his will indirectly through his creation rather than directly by miraculous manifestation or through inspired books. In the eighteenth century as never before, 'Nature' had stepped in between man and God; so that there was no longer any way to know God's will except by discovering the 'laws' of Nature, which would doubtless be the laws of 'nature's god' as Jefferson said.

This view of Becker has a considerable element of truth in it, for the eighteenth century was the stronghold of deism.

But it does not seem accurate to point to John Locke, as Becker does, as authority for the unqualified proposition that "*men, barely by the use of their natural faculties, may attain to all the knowledge they have.*" ³⁴ For, especially where moral truths are concerned, Locke

³³ BECKER, *op. cit. supra* note 26, at 36-7.

³⁴ *Id.* at 57.

explicitly points out the shortcomings of natural reason.³⁵

Natural religion, in its full extent, was nowhere that I know taken care of by the force of natural reason. It should seem, by the little that has hitherto been done in it, that it is too hard a task for unassisted reason to establish morality in all its parts, upon its true foundation, with a clear and convincing light. And it is at least a surer and shorter way to the apprehensions of the vulgar and mass of mankind, that one manifestly sent from God, and coming with visible authority from Him, should, as a king and law-maker, tell them their duties and require their obedience, than leave it to the long and sometimes intricate deductions of reason to be made out of them. Such trains of reasoning the greater part of mankind have neither leisure to weigh, nor, for want of education and use, skill to judge of. . . . You may as soon hope to have all the day-labourers and tradesmen, the spinsters and dairy-maids, perfect mathematicians, as to have them perfect in ethics this way. Hearing plain commands is the sure and only course to bring them to obedience and practice. The greater part cannot learn, and therefore they must believe.

Fowler continues, with excerpts from Locke: ³⁶

It is true that reason quickly apprehends and approves of these truths, when once delivered, but "native and original truth is not so easily wrought out of the mine as we, who have it delivered already dug and fashioned into our hands, are apt to

³⁵ Locke, as quoted by FOWLER, *op. cit. supra* note 20, at 158.

³⁶ *Id.* at 159.

imagine;" moreover, "experience shows that the knowledge of morality by mere natural light (how agreeable soever it be to it) makes but slow progress and little advance in the world."

But by the time of the American revolution the seed sown by Locke and his followers had ripened. In addition men had come to have a greater and greater reliance on their ability through mere natural reason to discover the moral laws of nature and the will of God. Consequently, there is considerable truth in the assertion that: ³⁷

In the eighteenth century . . . these truths were widely accepted as self-evident: that a valid morality would be a "natural morality," a valid religion would be a "natural religion," a valid law of politics would be a "natural law." This was only another way of saying that morality, religion, and politics ought to conform to God's will as revealed in the essential nature of man. . . .

Thus the eighteenth century, having apparently ventured so far afield, is nevertheless to be found within hailing distance of the thirteenth; for its conception of natural law in the world of human relations was essentially identical, as Thomas Aquinas' conception had been, with right reason.

It would be an oversimplification to imagine that the natural law philosophy of the fathers of the revolution represented scholasticism pure and undiluted. Historically it is fair to state that their ideas were a mingling

³⁷ BECKER, *op. cit. supra* note 26, at 57, 61.

of many factors and influences. Bryce points out: ³⁸

They had for their oracle of political philosophy the treatise of Montesquieu on the Spirit of Laws, which, published anonymously at Geneva forty years before, had won its way to an immense authority on both sides of the ocean. . . . Of the supposed influence of other Continental authors, such as Rousseau, or even of English thinkers such as Burke, there are few direct traces in the Federal Constitution. . . . But . . . abstract theories regarding human rights had laid firm hold on the national mind. . . . The influence of France and her philosophers belongs chiefly to the years succeeding 1789, when Jefferson, who was fortunately absent in Paris during the Constitutional Convention, headed the democratic propaganda.

From English sources they inherited the common law tradition which was primarily Christian and scholastic, although many of them also were influenced by Locke whose ideas on happiness we have previously characterized as a variety of theistic utilitarianism. It cannot

³⁸ 1 BRYCE, *The American Commonwealth* 29-30 (2d ed. 1911). Compare BECKER, *op. cit. supra* note 26, at 27. For evidence of scholastic influence on the Founding Fathers, see the following pertinent references. Figgis, *On Some Political Theories of the Early Jesuits*, 11 *TRANSACTIONS OF THE ROYAL HISTORICAL SOCIETY* (N.S.) 94 (1897): "From the Society of Jesus the theory passed to the English Whigs. Locke and Sidney, if they did not take their political faith bodily from Suarez or Bellarmine, [sic] managed in a remarkable degree to conceal the differences between the two." McILWAIN, *The Political Works of James I* xxvii (1918), in speaking of Bellarmine and his fellow Jesuits, stated: "At a single glance it becomes obvious how much English theorists, for two centuries and more owed to a party whom they dared not acknowledge." HUNT, *The Virginia Declaration of Rights and Cardinal Bellarmine*, 3 *CATHOLIC HISTORICAL REVIEW* 276-89 (1917).

be stated apodictically that the happiness philosophy underlying the Declaration was derived from this or that source alone. But we shall indicate some of the doctrines about happiness as the end of government, and happiness as a criterion of morality which appear to have played a part in the political formation of the founding fathers.

Happiness as the end of government is an ancient idea, declares Julian P. Boyd, and it is embraced by James Wilson, Alexander Hamilton, John Adams, George Mason, James Otis and a great number of the contemporaries of Jefferson, to "say nothing of Burlamaqui, Wollaston, Beccaria, Bolingbroke, and a friend of Thomas Hobbes, John Hall. . . ." ³⁹ In fact it is commonplace with scholastic writers, too, that temporal felicity (as they term it, to make sure it will not be confused with beatitude) is the end of civil society. For instance, in a typical manual, that of Nicholas Russo, one finds the doctrine that the end of civil society is the safety, prosperity and perfection of its citizens. The state provides for their safety by making them secure in life, liberty and property; it provides for their prosperity by helping them according to their needs and abilities to provide for themselves a supply of material goods; it promotes the perfection of its citizens by supplying means through which their bodily health, and mental and moral faculties may be perfected. ⁴⁰

The same general conception is found in Emerich de Vattel's *Law of Nations*, which was a political manual for John Adams, James Wilson, Thomas Jefferson and

³⁹ Boyd, *op. cit.*, supra note 30, at 4.

⁴⁰ Russo, *De Philosophia Morali* 235 n.320 (1891).

many of the revolutionary statesmen. Vattel teaches: ⁴¹

The end or aim of civil society is to procure for its citizens the necessities, the comforts, and the pleasures of life, and, in general, their happiness; to secure to each the peaceful enjoyment of his property and a sure means of obtaining justice; and finally to defend the whole body against all external violence. . . .

John Adams may have been unconsciously drawing on Vattel, whom he had studied, when he said: ⁴²

Upon this point all speculative politicians will agree, that the happiness of society is the end of government, as all divine and moral philosophers will agree that the happiness of the individual is the end of man. From this principle it will follow that the form of government which communicates ease, comfort, security, or, in one word, happiness, to the greatest number of persons, and in the greatest degree, is the best.

The philosophy of nature and of natural law found its way into the Colonies in the eighteenth century through Americans educated abroad, and through the works of Newton and Locke and their expositors, which were available at Yale, Harvard and Princeton well before the Declaration.⁴³ Furthermore the whole common law tradition of England, which was the basis of

⁴¹ VATTEL, *Law of Nations*, as quoted in BOYD, *op. cit. supra* note 30, at 5 n.10. Boyd is of the opinion that this philosophy of Vattel, in which human happiness and good politics are intermingled, stems from Leibnitz' theory of human perfectibility which was adopted by Christian Frederick von Wolff and digested and popularized by Vattel.

⁴² As quoted in BOYD, *op. cit. supra* note 30, at 4.

⁴³ See BECKER, *op. cit. supra* note 26, at 74-5.

colonial institutions, was a Christian, natural law tradition.

John Hall, a friend of Hobbes, asserted the pursuit of happiness as a natural right of the individual in 1651 in his work *The Grounds and Reasons of Monarchy Considered*, in these terms: ⁴⁴

. . . my natural liberty, that is to say, to make my life as justly happy and advantageous to me as I can, he [the monarch] can no more give away from me than my understanding and eyesight, for these are privileges which God and nature hath endued me with, and these I cannot be denied, but by him that will deny me a being.

The same point of view of the individual's right to pursue his temporal happiness is implicit in the whole conception of happiness and morality adopted by Locke, and exemplified by such diverse writers as Blackstone, Wilson, and Paley.

Blackstone, whose *Commentaries* had a wide circulation in America after their first publication in 1765, expounds the relation between natural law and happiness as follows: ⁴⁵

As, therefore, the Creator is a Being, not only of infinite *power*, and *wisdom*, but also of infinite *goodness*, He has been pleased so to contrive the constitution and frame of humanity that we should want no other prompter to inquire after and pursue the rule of right, but only our own self-love, that universal principle of action. For He has so inti-

⁴⁴ As quoted in BOYD, *op. cit. supra* note 30, at 4.

⁴⁵ 1 BL. COMM. *40.

mately connected, so inseparably interwoven the laws of eternal justice with the happiness of each individual, that the latter [happiness of the individual] cannot be attained but by observing the former [laws of eternal justice]; and if the former be punctually obeyed, it cannot but induce the latter. In consequence of which mutual connection of justice and human felicity, He has not perplexed the law of nature with a multitude of abstracted rules and precepts . . . but has graciously reduced the rule of obedience to this one paternal precept, "that man shall pursue his own true and substantial happiness." This is the foundation of what we call ethics or natural law.

Of which excerpt I will only remark at this point that it seems to make good and evil depend ultimately on the will of God rather than on His nature, and that it over-simplifies the norm of morality — to say the least.

A similar blending of theology, natural law and happiness as a moral criterion appears to be expressed in the following statement of James Wilson of Pennsylvania: ⁴⁶

[God] being infinitely and eternally happy in himself, his goodness alone could move him to create us, and give us the means of happiness. The same principle, that moved his creating, moves his governing power. The rule of his government we shall find to be reduced to this one paternal command — Let man pursue his own perfection and happiness. . . .

⁴⁶ WILSON, *Of the Law of Nature* in 1 THE WORKS OF JAMES WILSON 99, 104, 105, (Andrews ed. 1895).

. . . what is the efficient cause of moral obligation — of the eminent distinction between right and wrong? . . .

. . . I give it this answer — the will of God. This is the supreme law.

As a final example of this philosophical tendency which was current when the founding fathers lived, and which influenced their views on the pursuit of happiness, let me quote an interesting application which Paley makes of his theologico-utilitarian concept of happiness. For though this was published after the American Revolution, yet it pre-supposes the same ideas that underlay revolutionary thought. In fact it is particularly apropos, as being a criticism of the Declaration itself in the light of a philosophy of happiness taken for granted by Paley with which Jefferson may have agreed. Paley is discussing the grounds of civil obedience. He rejects any original contract or social compact and assigns as "the only ground of the subject's obligation, THE WILL OF GOD AS COLLECTED FROM EXPEDIENCE." He argues as follows: ⁴⁷

"It is the will of God that the happiness of human life be promoted:"—this is the first step, and the foundation not only of this, but of every moral conclusion.—"Civil society conduces to that end:"—this is the second proposition.—"Civil societies cannot be upholden, unless, in each, the interest of the whole society be binding upon every part and member of it:"—this is the third step, and conducts us to the conclusion, namely, "that so

⁴⁷ 1 PALEY, *op. cit. supra* note 22, 6.3.318.

long as the interest of the whole society requires it, that is, so long as the established government cannot be resisted or changed without public inconvenience, [*i.e.*, public happiness] it is the will of God (which *will* universally determines our duty) that the established government be obeyed,"— and no longer.

This principle being admitted, the justice of every particular case of resistance is reduced to a computation of the quality of the danger and grievance on the one side, and of the probability and expense of redressing it on the other.

But who shall judge this? We answer, "Every man for himself."

Among the practical rules inferred from the general one of public expediency, which largely coincides with Locke's "public happiness," is this one: ⁴⁸

"The interest of the whole society is binding upon every part of it." No rule, short of this, will provide for the stability of civil government, or for the peace and safety of social life. Wherefore, as individual members of the state are not permitted to pursue their emolument to the prejudice of the community, so it is equally a consequence of this rule that no particular colony, province, town, or district, can justly concert measures for their separate interest, which shall appear at the same time to diminish the *sum* of prosperity [another name for human happiness]. I do not mean that it is

⁴⁸ *Id.*, 6.3.322-3.

necessary to the justice of a measure that it profit each and every part of the community . . . ; but what I affirm is, that those counsels can never be reconciled with the obligations resulting from civil union, which cause the *whole* happiness of the society to be impaired for the convenience of a *part*. This conclusion is applicable to the question of right between Great Britain and her revolted colonies. Had I been an American, I should not have thought it enough to have had it even demonstrated, that a separation from the parent state would produce effects beneficial to America; my relation to that [parent] state imposed on me a farther inquiry, namely, whether the whole happiness of the empire was likely to be promoted by such a measure; not indeed the happiness of every part; that was not necessary, nor to be expected; — but whether what Great Britain would lose by the separation, was likely to be compensated to the joint stock of happiness, by the advantages which America would receive from it.

Paley is vague in this passage as to whether in his opinion the Americans really had justice on their side. The significance of the quotation, however, is to show that for Paley, with whom Jefferson probably agreed, the general happiness was the test. He was convinced of that, although he might differ with others on the question of fact, whether the American revolt would result in a sufficiently greater happiness of a sufficiently greater number of people to justify itself.

The possibility of misuse and abuse of such a doctrine of happiness did not escape the profound mind of

James Madison, who wrote to Monroe as follows:⁴⁹

There is no maxim, in my opinion, which is more liable to be misapplied, and which, therefore, more needs elucidation, than the current one, that the interest of the majority is the political standard of right and wrong. Taking the word "interest" as synonymous with "*ultimate happiness*," in which sense it is qualified with every necessary moral ingredient, the proposition is no doubt true. But taking it in the popular sense, as referring to immediate augmentation of property and wealth, nothing could be more false. In the latter sense, it would be the interest of the majority in every community to despoil and enslave the minority of individuals.

III.

Critique of "Pursuit of Happiness" as a Natural Right

Now that we have had a bird's-eye view of general theories of happiness, and have investigated, superficially at least, some of the sources from which the founding fathers drew their notions on happiness as the end of civil society, and the right of the individual to pursue his own happiness, we are in a position to see where this philosophy fits into the general tradition, and to evaluate from the viewpoint of scholasticism the meaning of the proposition: "Man has a natural right to pursue happiness."

We saw that from the time of Descartes on, there

⁴⁹ 1 MADISON, *Letters and Other Writings of James Madison* 250-1 (Congressional ed. 1884). Hence, the general welfare should not mean the same thing as the greatest happiness of the greatest number. The equality of man demands that the general welfare, not the greatest happiness of the majority should control.

was a definite tendency to divorce philosophy from theology, and that many subsequent writers, even though religious-minded men, were more interested in analyzing and describing man's felicity in this life than in speculating about the nature of beatitude. Furthermore, the practical bent of the English mind betrayed itself in the psychological approach to the question of man's felicity on earth; a habit of mind which did not relish the metaphysical reaches of Aristotelian thought. The theories of happiness current in Jefferson's day, therefore, were theories of man's happiness in this life. And so we must not imagine that the happiness of the Declaration is the *eudaimonia* of Aristotle or the *beatitudo* of St. Augustine and St. Thomas. It belongs in a different tradition. The pursuit of happiness in this life is broad enough to include doubtless, the pursuit of eternal happiness, and should include it, but the Declaration is dealing with a philosophy of civil society, which concerns itself directly with the temporal welfare of the body politic, and the temporal felicity of its citizens. It is the function of another order, the Church, to provide directly the means of eternal happiness. The state according to its scope and constitution confines itself to temporal concerns.

But since so much of political theory deals with the general welfare as the end of government the question also arises whether the happiness of the Declaration means the general happiness (welfare) of the body politic or the happiness of individual men. It seems to me to be clearly intended as individual happiness in the phrase "pursuit of happiness." Just as every man individually is endowed by his Creator with an inalien-

able right to life and liberty — his *own* life, his *own* liberty —, so each individual is endowed with the right to pursue his own happiness here on earth. On the other hand, at the end of the same paragraph there appears the phrase “their safety and happiness.” Here it is the general happiness or general welfare that is intended, because here the Declaration speaks of the right “to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.” It is the promotion of the general happiness for which new governments are formed and for which every government exists.

This theory is in substantial harmony with the scholastic teaching of today. Victor Cathrein, S.J., one of the most widely used of the modern manualists, propounds the following thesis: ⁵⁰

The end of civil society is public prosperity, *i.e.*, the sum of the conditions requisite so that as far as possible all the organic members of society will be able directly by themselves to achieve complete temporal felicity, subordinated to their last end. And among these conditions, the enjoyment of the juridical order, as the natural structure of society postulates, occupies the first place while in the second place is a sufficient abundance of the goods of soul and body which are necessary to achieve the aforesaid felicity and which cannot be sufficiently attained by private initiative.

Another author, in asserting that ‘the specific proxi-

⁵⁰ CATHREIN, *Philosophia Moralis* 391 n.516 (6a ed. 1907).

mate end of civil society is the public good of peace and prosperity, explains that the remoter, but still specific, end of the state is temporal felicity. "That the remote end of the state is temporal perfect felicity we assume from common sense and from the fact that man tending towards such felicity and finding it impossible of attainment in domestic society alone, institutes civil society for the attainment of his perfect temporal felicity."⁵¹ Thus it appears to me that though there are various formulas for expressing the idea, scholasticism is in close harmony with the Declaration in its assertion of temporal happiness as the end of government, and in close harmony with the Preamble to the Constitution which spells out this same temporal happiness.

But there are one or two points worth mentioning where the natural law philosophy of some of the authors we have quoted differs from that of scholasticism.

The first is the idea that the natural law is based on the will of God, *i.e.*, the free will of God. Apparently Locke, and after him Paley, made right and wrong, good and evil, depend solely on the will of God.⁵² Certainly from the quotation from Blackstone given above one can infer that he considers the ultimate cause of the distinction between right and wrong to be God's will. James Wilson still more clearly asserts: "... what is the efficient cause of moral obligation? — I give this answer — the will of God. This is the supreme law."⁵³

Here we find confusion, it seems to me, of the two

⁵¹ COX, *Liberty: Its Use and Abuse* 364 n.536 (2d ed. 1943).

⁵² Cf. FOWLER, *op. cit. supra* note 20, at 153-4.

⁵³ WILSON, *op. cit. supra* note 46, at 105.

questions, what is the *cause of moral obligation*, and what *causes the difference between moral good and moral evil*. Scholastic philosophers dispute about the cause of moral obligation, and many of them do invoke the will of God as the ultimate reason why one is obliged to choose good and shun evil,—but the will is not God's *free* will. This, however, is not the same question as what *makes* a good act good and an evil act evil. The basis of this difference, Scholastics teach, is the eternal nature of God, not His will, and especially not His free will. The eternal law of God, universal and unchangeable, is the expression of His very nature. Man's participation in that law through natural reason is called the natural law. Hence the dictates of natural law, when properly formulated, are unchangeable, because they are based on the unchangeable nature of God. It was because of the difficulty of this concept and its practical application to moral problems that there were so many disputes amongst the Schoolmen as to what God could permit by way of dispensation or exception, and what He could not permit as being entirely contrary to His nature and to the nature of man. Some of the eighteenth century philosophers who were outside the scholastic tradition lost sight of this important distinction. Pufendorf, a natural law philosopher much read by the founding fathers, teaches that the ultimate difference between good and evil must be traced to the *free* will of God, but once God freely decreed good and evil to be thus and thus the decree was unchangeable.⁵⁴

⁵⁴ Cf. CATHREIN, *op. cit.* *supra* note 50, at 74 n. 78.

The second point of difference between scholasticism and the theories of the eighteenth century is akin to the first. The happiness philosophy of Locke and Paley, and presumably of Jefferson, Adams and others, was a kind of theistic utilitarianism: theistic because based on God's will; utilitarian because temporal happiness was made the measure and criterion of human morality. As Wilson stated it: "The rule of his [God's] government we shall find to be reduced to this one paternal command — Let man pursue his own perfection and happiness."⁵⁵ God's will makes things good or evil. But His goodness has led Him to *contrive* things in such wise that happiness and good coincide — even on earth. Consequently by computing happiness (temporal felicity) according to quantity, or quality, or extent, or all these combined, one has a measure of goodness or evil. In other words the norm of morality is the usefulness of human conduct in producing temporal felicity either of the individual or of the generality.

Scholasticism teaches, of course, that the good and the ultimate good coincide with beatitude, or eternal happiness. But only in a severely limited sense can we say that human felicity is the measure of the good life on earth. Generally speaking, perhaps, the man who observes the moral law has a better chance of achieving felicity on earth than the man who flouts that law. But as far as observation unmistakably teaches us, that is not universally so. There are so many exceptions, that temporal felicity cannot be the essential criterion in spite of the fact that the sinner often pays for his sins in

⁵⁵ WILSON, *op. cit. supra* note 46, at 99.

this life, and that nature, as it were, frequently avenges herself on those who rebel against her injunctions.⁵⁶

But this is not the place to refute this type of utilitarianism. It is enough for our purpose merely to point out that the norm of morality according to the Scholastics is not temporal felicity or any other utilitarian ideal, but human nature itself. Thus the true measure and criterion of a human act is a comparison of it with human nature as a whole, viewed in its relations to self, to one's neighbor, and to God. Hence right reason, the natural law, may sometimes demand painful sacrifices which in this life will have no reward. This realistic point of view recognizes that the good are often unhappy in this life and the evil happy, or at least that the good are not as happy as the evil appear to be.

And so finally we come to the question: Has man a natural law right to happiness in this life? — or at least has he a natural right to *pursue* temporal felicity? And let us use the term temporal felicity in the same connotation as Paley — preponderance of pleasure over pain, understanding that both pleasure and pain are of the body, mind and soul — not that I consider this the only or the best way of describing temporal happiness. Perhaps it would be more accurate to say with Janet: "Happiness is not, as Bentham claims, the greatest pos-

⁵⁶ Compare BUTLER, *Sermon XII, Upon the Love of Our Neighbor* in 2 THE WORKS OF JOSEPH BUTLER 226 (Gladstone ed. 1896): "As we are not competent judges, what is upon the whole for the good of the world, there may be other immediate ends appointed us to pursue, besides that one of doing good, or producing happiness. . . . For there are certain dispositions of mind, and certain actions, which are in themselves approved or disapproved by mankind, abstracted from the consideration of their tendency to the happiness or misery of the world. . . ."

sible sum of pleasure: *it is the highest possible state of excellence, from whence results the most excellent pleasure.*"⁵⁷ In other words it would be philosophically more accurate to describe even temporal happiness in Plato's terms of the well-doing (*eupraxia*) of man's higher faculties, which has as its natural concomitant an efflorescence of pleasure. But in speaking of a preponderance of pleasure over pain we at least call attention to the relative and incomplete character of earthly happiness and provide a rough measurement of what is meant by happiness on earth. Nor does this by any means exclude the hope of heaven as an element of that comparative freedom from pain, comparative excellence of functioning, and comparative peace of mind that deserve to be called happiness here below.

I find it impossible to show that *all* men have a right to the *actual* attainment of this kind of happiness on earth, for these reasons: First, there is no such absolute right because there are circumstances in which the observance of the moral law results in unhappiness for this or that individual. Yet the individual has no right to achieve his happiness at the expense of the moral law. Secondly, neither reason nor revelation promises us an infallible reward of earthly happiness in return for observance of the natural law; nor is there anything inherent in the nature of things which prevents me from admitting that life is inevitably unhappy for many people. In fact the doctrine of original sin and its consequences prepares us for much human misery not personally deserved. Thirdly, human experience shows

⁵⁷ JANET, *The Theory of Morals* 77 (1894).

that many people who without blame on their part, and without any injustice on the part of others, are destined to live unhappy lives. Each one of us can think of many instances, but the example that comes to my mind are the thousands upon thousands of mentally ill. If these sufferers have an absolute right to actual happiness here on earth then someone is doing them a grave injustice. Is it man? No one can point to the man. Is it God? *Absit*. Fourthly, we see so much of the I-have-a-right-to-be-happy philosophy and to what it leads amongst the heroes and heroines of fiction as well as the less heroic characters of real life, that we cannot help but be skeptical as to the existence of any such right.

Men are undoubtedly meant by nature to be happy. They are made for it. And if they observe nature's laws their chances of achieving comparative happiness even in this life are good. (But I have heard a very wise man say that there are no happy lives; there are only happy days.) Furthermore no one will be deprived of eternal happiness except by his own fault. But have *all* men a right from nature to *achieve* actual happiness on earth? Neither experience, nor philosophy, nor revelation warrant the assertion of such a right.

But the right to *pursue* temporal happiness is another matter. That all men have a right to seek the happiness of this world, subject to the dictates of the moral law, and in subordination to their final end, is a proposition so clear that to establish it is to labor the obvious.

First of all, temporal happiness is a good worth having; it is a thing of true value. Even the Stoics recognized this, but sought their human felicity in an attempt to eliminate sensuous pleasures entirely. Certainly

neither scholastic philosophy nor Christian asceticism will tolerate the idea that human pleasures whether of body or soul are something evil in themselves, and to be shunned.⁵⁸ Even St. Augustine, the ascetic and philosopher of the *City of God*, enumerates the good things of the earthly city that constitute its blessedness here below.⁵⁹ This relation between humanism and the ascetical ideals of Christianity could be elaborated at great length.

Secondly, temporal happiness is a good *specifically proper* to man because the universal instinct of all men is to seek earthly happiness, to shun pain and sorrow, to achieve the peace, contentment and the "well-doing" that befit mankind. Only the most intolerable and irrational pessimism would deny this instinct its scope. Only an insane or upside down philosophy will hold that such a tendency is evil. Its existence is compelling proof that man has a right to seek earthly happiness. For the purposes of illustration this right can be compared with the inherent right which, according to the Scholastics, all men have in relation to property (though in fact it is much more obvious and much more fundamental than that right). Everyone has a right to *acquire* ownership of property. But not everyone has actual ownership. Furthermore those who have not, have no right to acquire property by hook and by crook. So too, everyone has an inherent right to pursue temporal happiness, but those who are without it have no right to

⁵⁸ Cf. TRINKHAUS, *Adversity's Noblemen: The Italian Humanists on Happiness* (1940) *passim*.

⁵⁹ ST. AUGUSTINE, *De Civitate Dei* 22.24, as translated in 2 DODS, *op. cit.* *supra* note 5, at 522 *et seq.*

attempt to acquire it at the expense of the rights of others or in violation of the natural law. Finally, if we examine more in particular what the conditions of this happiness are, they will generally resolve themselves into elements and values which admittedly are objects of natural rights, such as life, liberty, property, and the rest.

Scholastic philosophy and Catholic teaching therefore, as stated above,⁶⁰ recognize:

. . . the possibility of a relative and incomplete happiness in this life, and its value; but it insists on the importance of self-restraint, detachment and control of the particular faculties and appetites for the attainment of this limited happiness, and still more, in order to secure that eternal well-being be not sacrificed for the sake of some transitory enjoyment.

And so the "pursuit of happiness," as it appears in the Declaration of Independence, has little to do with the *eudaimonia* of Aristotle or the *beatitudo* of scholasticism. It is concerned with temporal felicity conceived along more practical lines. Indeed, one of the philosophical currents which appears to have influenced it is a type of theistic utilitarianism which scholastic philosophy rejects. Nevertheless, no matter what its sources — and we have seen how varied and mingled they were — as it stands, it is a statement of natural law right entirely in accord with scholastic theory. For it does not assert an absolute right which all men have to the actual achievement of happiness in this life, but rather

⁶⁰ See note 25 *supra*.

records the self-evident proposition that the right to seek happiness here below is part of man's very nature.

When Augustine was writing *The City of God*, discoursing tranquilly on the nature of happiness, the northern barbarian invaders were overrunning the civilization of Rome. Today when our own civilization is threatened, not only from without by similar oncoming hordes, but from within by some who share the materialistic philosophy of the aggressor, it may seem unduly academic to discourse upon the pursuit of happiness. But happiness is not really academic with any of us. It is our daily preoccupation. Let us thank God, then, that our right to pursue it as human beings, clothed with the dignity that belongs to every human, is protected by the fundamental laws and principles and institutions of the beloved land in which we live.

Civilizations live and die by principles. If the principles of the Declaration of Independence were a mere tinsel of glittering generalities, our American civilization would not have survived to this day. For at the bottom of every human problem, and at the bottom of every political problem, there always lies a theological problem. Who is God? What is He like? Who is man? What is his nature? Is God his destiny?

The founding fathers of this republic had definite answers in their minds to these questions, answers which though not in entire agreement with Catholic faith and scholastic tradition, yet were substantially the truths of the Christian religion and of natural religion. These answers were reflected in their political philosophy. Their house was not built on sand, because their principles were true. Those principles recognized man for

what he is, a creature of God, endowed by God with certain natural rights, and among these, the right to pursue his happiness here on earth.

Our views on happiness are inevitably shaped by our views on these fundamental theological issues. If man is mere matter, his only happiness is the pleasure of this life, whether higher or lower. If man is only a bundle of reflexes and reactions, then his happiness is nothing more than that "adequate adjustment to environment" which is the goal of psychiatry and mental hygiene. But if man is a creature of body and spirit, with the supernatural beatific vision of God as his immortal destiny, then the happiness of this life must be but a shadow of that which is to come; and the agonies of the human heart which besiege us on all sides begin to have some meaning and explanation. Neither this happiness nor those agonies are academic.

What does the *City of God* say about them? Augustine asserts: ⁶¹

. . . that life eternal is the supreme good, death eternal the supreme evil, and that to obtain the one and escape the other we must live rightly. And thus it is written, "The just [man] lives by faith," (Heb. ii. 4) for we do not as yet see our good, and must therefore live by faith; neither have we in ourselves power to live rightly, but can do so only if He who has given us faith to believe in His help do help us when we believe and pray.

⁶¹ ST. AUGUSTINE, *De Civitate Dei* 19.4.1, as translated in 2 Dods, *op. cit.*, *supra* note 5, at 301-2.