Skepticism's Maze: Natural Right "Clues," Old and New


Preface

The Problem: "Scarce Truth Enough Alive"?

It can sometimes seem as if many modern intellectuals have seen a ghost, and that they have been unnerved by the experience. What so haunts them is the fact that much, especially concerning what is good, fitting, or right, cannot be known with the precision and certainty that modern science, at least, demands. These intellectuals have as a result adopted a public, formal skepticism, a decisive influence of which has been to undermine the moral confidence of the larger community. Formal skepticism does this by aggressively calling into question the validity of—and thereby crippling the community's capacity to give effect to—its moral judgments, judgments which it has long been thought simply have to be made and acted on if good human beings and decent communities are to be achieved and sustained.

Such formal skepticism, however, may be an excessive response to the difficulty presented by moral matters. As George Anastaplo
has noted, "It is one thing to recognize that it is often difficult to know what is right or good; it is quite another to conclude from this long-familiar difficulty that it is always impossible to know what is right or good" (Artist As Thinker, 277). After all, to distinguish between the just and the unjust has always required reflection, but so has distinguishing between the good and the pleasant. Moreover, as Aristotle reminds us, "...nor is he who thinks four things are five equally wrong with him who thinks they are a thousand" (Metaphysics, 1008b34-5).

Be this as it may, this skepticism maintains, at bottom, that "there are only opinions (and quite changeable opinions at that) for which there is no adequate foundation in nature and reason" (Anastaplo, "Intellectuals and Morality," Oklahoma City Law Review, Spring 1995, 179). Now, to say that "there are only opinions" is to say, finally, that all reasons are equal or, strangely, that "everything is true." Or, as Hadley Arkes puts it, "To say that `all reasons are created equal,' is to say, in morals, no reason is better than any other-which is to say simply that there is not truth in matters of morals" (FT, 424). So, from intellectual skepticism derives a moral relativism, according to which all conclusions in the moral realm simply "become `relative' to the understanding of `right' and `wrong' that are dominant in any culture" (FT, 39). As a result, a community's confidence in the possibility of any genuinely valid judgments concerning the good is profoundly undermined.

As if this were not enough, our learning about various cultures is said to demonstrate the absence of a universal, hence natural, moral standard. Although Descartes used to know that when two people disagree about one and the same thing that at least one of them must be wrong, today we "know" that since all reasons are equal, and that therefore everything is true, then neither person is wrong. And as is also nowadays well "known," the absence of agreement on a universal standard means that there is no standard, that there is no truth. Anastaplo offers the following analysis of how the intellectuals who have contributed so much to unraveling the mysteries of the universe have also come to undermine the old-fashioned respect for morality:
For one thing, their investigations (as anthropologists, archaeologists, and sociologists) have made us all familiar with a variety of ethical systems... The accidental, if not even arbitrary, origins of systems of morality tend to be emphasized. All this, and much more, can raise questions about the natural basis of morality...

However, [these social scientists] do not seem to appreciate, or even to look at, the information they have accumulated from other places and ages. That is, they do not properly recognize and study moral things as they naturally manifest themselves in civilized communities...

Consider, for example, the implications of the remarkable similarity in ethical rules and standards that can be observed around the world and across millennia... This similarity, which can develop without any substantial contact between races or peoples in their formative stages, suggests that nature may be a factor here, just as it is for the similarity (at least enough to permit translations) found in the quite varied languages that human beings are naturally equipped for and inclined toward. ("Intellectuals and Morality," Oklahoma City University Law Review, 1995; 181-84).

Thus, according to Anastaplo, we live in an age of "aggressive relativism" (AM,24). According to this relativism,

[M]an is seen as the maker of all that he does and thinks, rather than as the discoverer.... Truths are not believed to have an existence independent of man; they are not grounded in nature, there for all to search out and to know. Rather, they are to be made and chosen, or chosen and made.... (AM,94-5)

Man is thus the maker of the truth, and if there are two men, then presumably of two (possibly incompatible) "truths." For the thoroughgoing relativist, it is as if a fixed, given action can be just, and at the same time and in the same respect, not-just, as if the same figure
Skepticism's Maze: Natural Right "Clues," Old and New 257

...can be both a circle and not-a-circle at the same time. For the relativist, the "truth" of such actions or of such figures does not have an existence independent of man; rather, man is the maker of truth, and each man at that.' This modern relativism can seem not only dubious-and even grounded in falsity-but also positively destructive of reasoning, and especially of moral reasoning; given that it is not men's reasoning about triangles that is easily perverted, but their reasoning about what is just (Aristotle, *Nicomachean Ethics*, 1140b13-17). 8

With the ascendancy of this philosophic skepticism and aggressive moral relativism, the concept of natural right has suffered an unwarranted demise. "Natural right" is the conception of nature and of the moral order which holds that certain actions may be correctly understood, explained, and defended as intrinsically right, right by their very nature, naturally right. Compared to the intellectually lazy, self-contradictory, and comfortably permissive relativism which obtains today, the natural right proposition signals an approach to moral questions which is more analytically rigorous, more intellectually respectable and compelling, more rationally and prudentially grounded, both more true and more useful.

Aristotle long ago cautioned that one should demand from any investigation only as much certainty as the subject matter allows of (*Nicomachean Ethics*, 1094b11-12). Many modern intellectuals, not heeding that caution, seem to insist that we may not conclude in the moral sphere unless there is something like mathematical certainty. But this certainty, not surprisingly, simply cannot be had. One need only consider how little absolute certainty we can hope for even in, as we say, having a punishment fit the crime. Reason and prudence should thus temper any demand for scientific certainty regarding the right and the just.

Not captive to such factitious demand for impossible mathematical certainty, students of "natural right" do try nevertheless to reason to the morally right for man, to consider how man ought to live so as to be just, to be good of his kind. Natural right thought; what Anastaplo calls the "vital teaching that there are indeed moral and political standards rooted in nature and discernible by reason" (AM,
xxiii), thus matches moral complexity with complex but common-sense moral analysis.

This natural right approach to the examination of moral questions considers that a position should be embarrassed if it embraces obviously dubious and obviously unsupportable presuppositions, outrageous violations of common sense, and internal contradictions. Even so, natural right has been largely displaced by just such moral opinion. It can sometimes seem as if there is "scarce truth enough alive."

Introduction to the Reviews

It is by now, in modernity, an old joke, an old story:

Good afternoon ladies and gentlemen. This is your pilot speaking. We are flying at an altitude of 35,000 feet and at a speed of 700 miles an hour. I have two pieces of news to report, one good and one bad. The bad news is that we are lost. The good news is that we are making very good time.

-Anonymous (MNS, 43)

The most worrisome diagnoses of our age use words like "skepticism," "nihilism," and "abyss." As if to stand against such modern dis-integrating forces, a few especially thoughtful people have turned their minds to the question of how we have gone wrong, and otherwise consider if there may be some help for our lamentable situation by recourse to the recovery and reinvigoration of the principles of natural right. Three particularly substantial efforts in this vein have been made in the last two decades: those of George Anastaplo, Hadley Arkes, and Leon Kass. Because these efforts deserve the widest possible attention, I set forward these critical reviews.

Each author-rigorous, lucid, and penetrating-is remarkable in his own right; when the three are read in combination, they provide a comprehensive account of a well-grounded alternative to modern skepticism, nihilism, and the abyss. Each of our three authors works with integrity, trying to find the truth about the
important question at hand: how modern moral philosophy has in the first place gotten to its dead-end (Anastaplo); the principles of straight thinking, and straight moral thinking (Arkes); and how we are to draw sound and defensible moral lines in the application, in this instance, of modern baby-making technology (Kass). It is not surprising, there being unity in truth, that the three efforts ultimately support and complement one another. Each author is independently working out part of the very large question concerning "natural right," "the vital teaching that there are indeed moral and political standards rooted in nature and discernible by reason" (AM,xxiii). Together, they show the logic and integrity of natural right, and the grounds upon which it merits restoration from its present fallen estate. Their arguments serve as models demonstrating the legitimacy of natural right; each considers how, as the pilot announced, we are lost, but also how we might once again get our bearings and find our way.

In Part I, we review George Anastaplo's *The American Moralist*, which (among other things) traces the lineage, the formal intellectual steps in the specifically modern emergence of an impossible, and hence failed and demoralizing, insistence on philosophic certainty. He shows the origins of such an insistence on certainty, and how it has led, instead, to a formal skepticism, and eventually to an aggressive relativism, in modern moral philosophy. As he proceeds with this "genealogy," Anastaplo points out certain dubious critical presuppositions, internal contradictions, and breakdowns in logic within this strain of modern moral philosophy, thereby indicating the way out of the modern moral impasse.

After Anastaplo thus "saves" natural right by showing that modern skepticism and nihilism are far from necessary, inescapable intellectual conclusions, and even how they are deeply compromised, I myself—taking what I hope will be deemed a forgivable liberty in this "critical" book review-attempt to show in Part II some of the "elementary" ground of natural right. This is the next, if much more modest, act of restoration. I try to illustrate the elementary vocabulary of "natural right," what it means to say, in the first instance, that something is by nature. I try to show concretely
how it makes sense to say that a human action is, or is not, right or good "by nature."

After my plain effort to illustrate the elementary vocabulary of natural right, Hadley Arkes's *First Things* provides in Part III the fancier, more refined account of natural right principles. His incisive examples and analysis reveal the internal contradictions of moral relativism, contradictions which expose and embarrass it as an indefensible and untenable way of thinking. Arkes' analysis also specifically confirms the integrity, coherence, and validity of natural right considerations in the moral order.

Part IV then shows the sustained natural right reasoning of Leon Kass, in his *Toward a More Natural Science,* on a particular moral question: How far may we rightly proceed with baby-making technologies and capacities? Kass illustrates the wrong-headedness of an untethered (i.e., relativistic) science and medicine, one not grounded in, nor disciplined by, any consideration of the principles of natural right, of what is right "by nature." Kass shows how to draw moral lines, based on the principles of natural right. In answer to the modern doctrine that there is "scarce truth enough alive," our three authors affirm, with Socrates, that "What is true is never refuted" (Plato, *Gorgias* 473b).

**Part I**

*The American Moralist: Escaping the Labyrinth*

For those who wish to get clear of difficulties it is advantageous to discuss the difficulties well; for the subsequent free play of thought implies the solution of the previous difficulties, and it is not possible to untie a knot of which one does not know. (Aristotle, *Metaphysics* 995a26-30)

George Anastaplo does the work of a Theseus in Part I as he shows the "steps" we have taken to get into our modern-day intellectual and moral labyrinth, the result of a skepticism which seems, under Anastaplo's light, neither true nor useful. Anastaplo shows us the steps in, so as to indicate the way out again.

If we could discern what principles and presuppositions inhere
in this skepticism—that is, how we got into the intellectual and moral labyrinth—we could examine them, amend any faulty ones, and thus retracing our steps, find the way out. Although many have wandered unawares into this maze, it is only one who has paid proper attention to the way in, unwinding the string from the "clew" as he goes, who can then find the way out again. Anastaplo, knowing the ground better than most, has worked out the passageways of the labyrinth. Thus, George Anastaplo is to be our guide.'

Occam

Anastaplo approaches fourteenth-century (William) Occam's Razor (a principle) on this occasion through twentieth-century Alfred North Whitehead's *The Aims of Education*. Together Occam and Whitehead may be said to form "bookends" of modern philosophic thought: Occam provides the starting point, so to speak, while Whitehead shows the radicalized issue of such a starting point when not tempered by prudence.

[Whitehead] reminds us in an `anatomy of some scientific ideas' that Occam's Razor is critical for scientific progress. William Occam announced, *Entia non multiplicanda praeter necessitatem*. That is to say, assumptions should be kept to a minimum in any attempt to explain any phenomena. Or, as Whitehead develops Occam's rule, `[E]very use of hypothetical entities diminishes the claim of scientific reasoning to be the necessary outcome of a harmony between thought and sense-presentation.' Thus, Whitehead concludes, `As hypothesis increases, necessity diminishes.' (AM,84)

Anastaplo goes on to observe,

The implications of Occam's rule have long been appreciated; Occam can be considered to have enunciated in his Fourteenth-Century formulation what had been known since antiquity. But what may be characteristic of modern thought is the extent to which what is hypothesized is reduced in the
interest of enlarging necessity—that is, in the interest of expanding the realm of certainty.... But first, consider the form the tendency takes in Whitehead, who reports (Aims of Education 133), `The material universe is largely a concept of the imagination which rests on a slender basis of direct sense presentation.' He adds, `But none the less it [presumably, the material universe] is a fact; for it is a fact that actually we imagine it. Thus it is actual in our consciousness just as sense-presentation is actual there.' (AM,84)

Anastaplo finds one sentence in particular critical to his analysis: "The material universe is largely a concept of the imagination which rests on a slender basis of direct sense-presentation." Whitehead seems to be positing this "slender basis" as a disappointing fact of life, inasmuch as our "knowing" is, as a result, largely "hypothetical." Such a way of "knowing" the material universe is very unsatisfactory; we are forced to "imagine," based on the very little sense-presentation we actually have to go on, and this "imagining" seriously diminishes any claim of the reasoning to be "scientific" or valid. Whitehead thus describes a very unsatisfactory and unpromising situation with respect to man's ability to keep assumptions to a minimum, to engage in "scientific reasoning," to make "scientific progress," to know. The insistence that old-fashioned "knowing" be replaced by knowing now based exclusively on "scientific reasoning" illustrates what modern philosophy has done with Occam; this will turn out to be the first major step toward a deep intellectual skepticism; and, not coincidentally, also the first step into an intellectual and moral labyrinth.

Consider, however, Anastaplo's response to Whitehead's analysis—two illustrations which point toward a less skeptical approach.

Take what happens within us: the slightest scrapings of bodily tissue or minute traces of blood can be used as the basis for extensive descriptions ("concept[s] of the imagination?") about the body as a whole, about its vital characteristics, about its present condition, and about its likely future. Diagnoses, upon
which life-and-death decisions rest, routinely proceed from `a slender basis of direct sense-presentation.' (AM,85)

Anastaplo, in his second illustration, moves from the microscopic to the "telescopic," and from the very small to the very large:

Or take what happens as we look into the heavens: the slightest glimmer of light (or, in recent years, the minutest particles of dust or the faintest radiation or sound) can be used as the basis for extensive speculations about vast galaxies—about what they have been doing for immense ages past, about their present condition, and about the cataclysmic changes that they will undergo in the ages ahead. (AM,85)

Anastaplo then concludes,

It has long been recognized not only that there is but a slender basis of direct sense-presentation upon which our opinions about the observable world rest and that assumptions or hypotheses should be minimized if there is to be rigorous investigation, but also that a very little can lead to everything. (AM,85)

We can see in these observations, first by Whitehead and then by Anastaplo, that people may come to more skeptical or to more promising conclusions regarding the same "slender basis of direct sense-presentation." Anastaplo, pursuing this epistemological point a bit further, shows that the conclusion need not be toward a deep skepticism:

But the understanding in antiquity of such propositions [the material universe as a `concept of the imagination...'] differs significantly from the modern opinion with respect to these matters, especially in that more seems to have been made by the ancients of the natural apprehension of things as the basis of inquiry and understanding. The soul seems to have been
conceived of (or, better still, observed?) not as a blank page upon which experience manifests itself but rather as something which by its very nature apprehends, or at least is equipped if not even disposed to apprehend, many enduring things, especially those things known as ideas. (AM,86)"

Thus, the modern, more "abstract" way is to be contrasted with an older way, a more common-sense way, which involves a more "natural apprehension" of things. The common-sense way has a greater appreciation of prudence, which, Anastaplo observes, is keyed to a recognition of what it is that nature ordains for both men and communities.

The prudent man has ends in view by which immediate actions are to be judged and in light of which choices are to be made. Critical here are the ends given by nature, not the choices of means that men make, nor the fact that men are choosing and making. This is to recognize prudence as 'teleological'-that is, as guided by a standard of excellence, however dimly perceived. (AM,97)

Nature is thus not simply opaque and unintelligible, and the study of nature, which philosophy undertakes, is not simply futile. Rather, as Anastaplo puts it, important ends are provided by nature: man's soul is equipped, even disposed by nature, to apprehend "many enduring things"; prudence, which discovers the best means to the good ends provided by nature, is available to man; and the apprehension of even a little can lead to the apprehension of a great deal. That is, the evidence regarding our ability to know does not lead ineluctably to darkness, futility, and to skepticism. Even so, all-too-many contemporary intellectuals adopt (even "choose"?) the skeptical view, which in turn leads to a relativism which despairs of (or rejects?) any discernible moral order in nature. Some, even, are then led ultimately to an "abyss." The skeptical view is the view of the day, the reigning orthodoxy: How it got to be the reigning orthodoxy,
the "default" view of Western culture, we are yet further to explore.

In his Metaphysics, Aristotle observes that "[T]he most certain principle of all is that regarding which it is impossible to be mistaken; for such a principle must be both the best known...and non-hypothetical" (emphasis added) (1005b12-14). Aristotle's appreciation of the "non-hypothetical" sounds a lot like the virtue of avoiding the "assumptions" which Occam urged should be kept to the minimum, and sounds also like avoiding the "hypothetical entities" which, Whitehead warns, diminish the claims to scientific reasoning. Although Aristotle made the point long ago about how difficult it is to achieve "certainty," even as one must strive toward the "non-hypothetical," because of his respect for common sense and prudence (as distinct from the modern tendency toward abstraction), Aristotle's philosophic endeavor did not lead to an impasse, a dead end, or to "absurdity" or "abyss." Unlike those caught up by the impulse of "Whitehead's Razor," Aristotle went on to discern as a kind of self-corrective principle that "The minute accuracy of mathematics is not to be demanded in all cases, but only in the case of things which have no matter" (Metaphysics 995a15-16). And, finally, "[I]t is impossible that there should be demonstration of absolutely everything (there would be an infinite regress, so that there would still be no demonstration)" (Metaphysics 1006a5-10). Anastaplo shows that the Occam to Whitehead trajectory is, first of all, not necessary, and then not convincing. To the degree that Whitehead and modernity absolutize Occam, the title of this section might well be "Occam's Razor, Mistook." This initial step into the labyrinth, then, is not intellectually binding on us.

On this note, we turn our attention to Descartes, who, embracing Occam and Whitehead's Razor while rejecting Aristotelian prudence and common sense, precisely sought a "demonstration of absolutely everything."

Descartes

[Dizzy Dean] won one hundred twenty games in his first five seasons as a regular pitcher with the St. Louis Cardinals and was only twenty-six when he broke a toe in the All-Star game
in 1937. He tried to come back too soon, and, favoring his injured toe, ruined his arm. The career of Dizzy Dean reminds us of the distortion that can take place, and the considerable damage that can be done.... (Anastaplo, The Constitution of 1787: A Commentary, xvii)

With Descartes' Discourse on Method, there is a conscious, perhaps a determined shunning of Aristotle's counsel that we not seek a demonstration of absolutely everything, such that we seem now to have come to the point that there is for us, on the important moral questions, only "infinite regress, and still no demonstration." Occam has enunciated the principle that certainty requires that assumptions be kept to a minimum. We have alluded to the culmination of fourteenth-century Occam in twentieth-century Whitehead's (radicalized) desire to keep "hypotheticals" to a minimum in favor of "scientific reasoning." Now, let us examine how we got from Occam to Whitehead. Enter seventeenth-century Descartes. Descartes is one of the founders of the modern scientific enterprise who, in his attempt to keep such hypotheticals to a minimum, develops an investigational method which sets what may be an impossible example for future philosophic endeavors, and re-orient philosophy in such a way that the self becomes the prism through which formal philosophical inquiry will thereafter proceed. Or, as Anastaplo puts it, the self-centeredness of the inquirer is now to serve as somehow the basis of certainty:

The slender basis in direct sense-presentation of much of modern thought consists ultimately not of observations of the kind I have touched upon, such as pieces of tissue or traces of light, but consists rather of the determined if not obsessive observation of one's self, of one's own consciousness. That is, the entrance to reality is quite narrow, consisting of the psyche's self-awareness. It is on this deliberate self-awareness that certainty depends.... (AM,86)

Thus self-consciousness is the starting place for Descartes,
whereas, Anastaplo notes, for someone like Cicero the starting place seems to have been Rome, an enduring community with traditions, laws, and forms. Rome was a city, a public thing, something outside of and larger than Cicero, larger than, different from, and more enduring than any particular self. Anastaplo considers Cicero's approach, which starts from the "outside" so to speak, the more natural approach.

Descartes's point of departure, on the other hand, is the self; the sense one has of one's consciousness, the assurance one has that however uncertain one's sense perceptions may be, at least one's awareness of one's own existence is decisively reliable. That bare minimum provides not only something upon which to build, but also a standard of what it means that something is known. (AM,87)

Anastaplo refers to this decisive awareness of one's self, this insistent and self-conscious awareness of one's own existence as Descartes's, or the moderns' "rationalistic approach" (AM,89). This self-centered, self-conscious, "rationalistic" approach, however, may be challenged on its own terms, as was Whitehead's "slender basis" proposition. Anastaplo observes, for example, that "One might wonder whether this decisive awareness of one's self, of one's own existence, does not itself depend on an extensive and deep shaping of the soul by some community" (AM,87).

One could imagine the influence of Christianity, say, on Descartes's having come to emphasize the self. Consider Christianity's teaching that every individual person is made in the image of God, and that the saving of souls takes place one at a time, not by communities; that each is baptized, and each receives the last sacraments, individually; that we all go to our deaths, eventually, but that we go one by one; that each is thus on his own with respect to his ultimate fate; that these matters are settled "individually." That is, could Christianity's teaching, emphasizing as it does the individual self, have been an influence on Descartes's determination that the self-conscious awareness of existence should be the decisive
test, the decisive base upon which all certainties could reliably be grounded? If this were to be so, one could wonder if Descartes, in his attempt to get to the "bottom" of things in his own psyche, actually got far enough "down," whether he had yet gotten underneath all the layers, whether he had reached even the basis of certainty he thought he had. Indeed, can one get "underneath" all the layers? Would it be a constructive way to proceed, if one could? Or, might such an undertaking amount to a kind of "infinite regress," and still produce no demonstration?

Now to speak of "layers" might suggest that the layers are merely conventional overlays and that there is a "tabula rasa" underneath. Is there? Or might one find "underneath" a soul with conventional overlays, to be sure, but also, as Anastaplo has suggested, a soul equipped, even disposed by its very nature, to apprehend many enduring things, especially those things called ideas? Would the attempt to strip away the conventional overlays, as well as all the things which may have been naturally apprehended, be to "undo" nature, and thereby actually to be self-defeating?  

One can even argue that Descartes's wide-ranging doubt and his consequent recourse to a consciousness of self as the basis of certainty themselves presuppose ideas and methods that rest upon assumptions and even certitudes somehow or other generally available to man, as if by intuition. (emphasis added) (AM, 87)

Do we not become aware of, certain of, our individuality, if only dimly so, pretty early on, and by means of a kind of intuition? Could such consciousness or intuition be aided by, or presuppose, certain ideas and methods? Such "ideas" that could bring one to an awareness of his distinct self could include the idea of one and the idea of many (e.g., "I am one, but there seem to be many who are not I."). Or, the early intuited idea of self and the idea of other (e.g., "When another hurts his finger, I do not seem to feel the pain that he does.").

One might also become aware of his distinct self by employing certain "methods," the capacity for which might also simply inhere
in the soul by its nature, such as the method involved in distinguishing: (e.g., "I am neither `X' nor `Y,' but some third thing, someone `other.'"); or such method as measuring: (e.g., this is smaller than I, and this is larger; I [as individuated] am of a size between."). The question which Anastaplo raises for Descartes is, Could not such (naturally apprehended) "ideas" and "methods" lead people, routinely, to, apprehend their particular selves, lead them to intuit, somehow, the individuality of their particular existences? If so, then Descartes's radical, self consciously painstaking descent into the self, if it did touch bottom, may have touched only a bottom which is routinely available to ordinary men, even if they are only dimly aware of it.

This is all to say that Descartes, adopting in an extreme form Occam's principle-and putatively relying not at all on anything "assumed"-in his effort to find solid ground upon which to base a single certitude, would with his "method" strip away all the layers of convention which presumably block the way to the self, and do this in a deliberately rationalistic way so as to avoid being influenced by, tripped up by, encrustations on the self. However, as Anastaplo sees it, Descartes himself could well have been inescapably influenced by certain naturally-intuited "ideas" and "methods," as well as by something as pervasive, and obvious, as Christianity's view of man. That is, the "bottom" may not be where Descartes thought it was, and his "rationalistic" method may not be as untainted, as free of assumptions-presupposed ideas and methods-as he had imagined. Therefore, as Whitehead's radicalization of Occam could be challenged on its own grounds, so also may the Cartesian approach be challenged on its own grounds. In these ways, the very foundations of modern philosophy, and the direction which it has subsequently taken, may be called into question. It is in this way that George Anastaplo serves as a Theseus: he can lead our exploration of the labyrinth (i.e., provide critical insight into the thought of, say, Occam, Descartes, and Whitehead) and lead us out again (i.e., show how their conclusions can be decisively challenged on their own terms). It is an indispensable service, if we are to escape the unwarranted skepticism of our day, skepticism to which the
untempered, purblind insistence on scientific certainty in human affairs, and the unnaturally "rationalistic" way of seeking certainty, ultimately leads.

What does modern philosophic thought culminate in? As Anastaplo sees it, the modernity of which thinkers such as Descartes were the progenitors means, among other things, the aforementioned skepticism and relativism; next, and as a result, a dubious emphasis on privacy (deference to the private self whereby all opinions, whether theoretical or practical, are keyed to one's own judgment, the self thereby becoming the ground for all that one chooses or comes to believe); then hedonism (when one is left free to choose for himself, the dominant tendency is to try to make oneself comfortable); next, and as a consequence, the emergence of small people (all are considered equal by the modernist, and some must even be cut down to a generally attainable size); and finally the emergence of tyranny (small people are more apt to permit, and even to encourage, tyrants, if only out of desperation as relativism and hedonism take their toll of public-spiritedness and sound government) (AM,93-94).17

Nietzsche

A new "method" has been prepared by the maxims of Occam and Descartes according to which "assumptions" are to be treated, on principle, as unreliable, even as the entrance to reality becomes quite narrow, consisting of the self-consciousness of the individual psyche, which alone can set the standard of what it means to know. The next lineal descendant in this rough history of the troubling modern insistence on philosophic and moral certainty is Nietzsche. For the epigraph to his essay on Nietzsche's Beyond Good and Evil, Anastaplo has a speech of Mephistopheles from Goethe's Faust. The passage seems fitting, even ominous, given what follows in Anastaplo's assessment of Nietzsche's thought:

To me [Mephistopheles] this pretty tale no news can tell;
Some hundred thousand years I've known it well.
Past and pure nothingness are one at last!
Whatboots this evermore creating, when
Things all sweep into nothingness again?
"There! Now 'tis past!" From this what can we glean?
'Tis all the same as though it ne'er had been;
Yet round and round it goes, as though it were.
I, for my part, Eternal Void prefer. (AM,125)

It must seem to Anastaplo that the fatigue, tedium, and despair of Mephistopheles somehow anticipates the modern vision, or is a rough approximation of the vision of Friedrich Nietzsche. Anastaplo begins,

Philosophers so far have spoken a certain way about truth and its pursuit. Nietzsche, we learn, will speak otherwise.... Among the things he ventures is a transformation of what previously was assumed to be good and what was assumed to be evil, with special affection entertained by him for the `wicked.' (AM,125-6)

"To be wicked" in this Nietzschean sense "is to assert oneself; to be good is to be bound by rules, to be essentially like others who are good.... To act or at least to think wickedly is to be an individual...." (AM,134). For Nietzsche, "[T]he `truth' is an arbitrary projection and best kept within quotation marks. He can speak of `my truths,' as in Section 231 [of Beyond Good and Evil], suggesting that what is designated as the truth varies from person to person" (AM,126). 18

Then, as if to explain himself, Nietzsche asserts, in what Anastaplo observes to be the central part of Beyond Good and Evil, the "Natural History of Morals," that,

Indeed, if one would explain how the abstrusest metaphysical claims of a philosopher really came about, it is always well (and wise) to ask first: at what morality does all this (does he) aim? Accordingly, I do not believe that a `drive to knowledge' is the father of philosophy; but rather that another drive has, here as
elsewhere, employed understanding (and misunderstanding) as a mere instrument. (AM,127)

Anastaplo has earlier observed that for the relativist truths are not there in nature to be discovered, but rather they are to be "made and chosen or chosen and made." This double formulation marks a nice distinction, and here we see that in Nietzsche's view they are "chosen and made." According to Nietzsche, the philosopher chooses some end, and then "makes" a morality to support that end. As Anastaplo explains, for Nietzsche, "Moralities are to be seen in terms of motivation or what the moralist really wants...in terms of what he is really driving at, no matter what he says" (AM,127).

Anastaplo then adds,

It has long been evident (consider, for example, the `realism' of Plato's Thrasymachus) that the role of reason in human affairs is limited, that most men implicitly justify what they want on the basis of considerations they dare not make explicit. But Nietzsche argues, in effect, that the role of reason is far more limited than has ever been suspected. He denies that it has more than a subordinate role even among the philosophers regarded, or at least who regard themselves, as metaphysical and dispassionate. (AM,127)

Another emphasis upon willing in Nietzsche may be seen in the way moral judgments are talked about. Anastaplo observes,

Much is made of values and valuations— in some twenty sections [of Beyond Good and Evil].... Does not the term values suggest making and hence willing more than it does finding or discovering?...To value, at least in the sense Nietzsche seems to use, is to allocate praise and blame, approval and disapproval, according to some standard beyond good and evil. One does not submit to something higher, to a standard of perfection; rather, one chooses (that is, constructs) one's own standards. (AM,128-9)
Nietzsche puts it candidly: "In the end one loves one's desire and not what is desired" (AM,132). Or, as Anastaplo puts it, for Nietzsche it seems to be the "going beyond" that matters, "not what one is going to" (AM,130). It also seems that it is in this "going beyond" that "greatness" lies, a "greatness" which, Anastaplo argues, "takes the place of the just, as conventionally understood" (AM,131). It is in this way that the standard of "the just" disappears. This disappearance of "the just" will come as no surprise once one notices, as Anastaplo points out, that "[M]uch of his argument was anticipate din Nietzsche's Preface by his repudiation of Plato's `pure spirit and the good as such-' (AM,132). Such "going beyond," such repudiation (of the old, well-established, and comfortable ways?) can be undertaken only by one who yearns for nobility: "He shall be the greatest who can be loneliest, the most concealed, the most deviant, the human being beyond good and evil, the master of his virtues, he that is overrich in will" [Section 212] (AM,131).

We must now try to see from Nietzsche's thought how in lineage he "follows" Occam and Descartes. There was in the first instance the impulse to know, with assumptions kept to a minimum, many things with certainty; there was then the resolution of that difficulty by locating the ground of certainty within the self, that which is most knowable. The problem of doubt is settled by recourse to authority as self-centered, by recourse to "truth" relative to oneself, that is, by recourse to a form of relativism. Eventually, this small-time individual-based relativism is transformed, is accorded dignity by Nietzsche as he asserts a full-blown, unapologetic, willful, and even "great" relativism whereby "truth" and "good," seen now as abased impostors, are dismissed as any kind of standard, and a new Truth, the real Truth, one long concealed in the past, the truth of the incontrovertible sovereignty of the will, holding always and everywhere, ascends.

One almost swoons. How can one counter such potent, confident, and aggressive relativism, such will? Well, Anastaplo does this with three swift parries, and does it on Nietzsche's own terms. The first parry, a set of questions to which all forms of relativism are vulnerable; the second, a terse observation; the third, a playful but
pointed literary image of an emphasis on the will taken from *Tristram Shandy*, accompanied by Anastaplo's concise analysis of the pertinent scene. First, he asks,

What is beyond good and evil? Is there something to be aimed at beyond?...But, then, why is not that something itself a good?.... Does it come down to personal self-assertion, to an insistence upon differentness?.... Is it the going beyond that matters, not what one is going to? That is, is it the process that is decisive here, or does the direction one moves matter? How does one know that one is going 'beyond' rather than falling 'back'? (emphasis added in this last sentence) (AM,130)

Nietzsche denies "truth," but goes on to assert as truth that he is going "beyond" good and evil; the relativist, too, denies truth, even as he asserts, curiously, the correctness, validity, or truth of his own denial. As Socrates long ago wondered (in the *Republic*), What is one to make of the Megarian who comes up and announces that "All Megarians are liars"?

Second, there is Anastaplo's terse observation:

Again and again one gets the impression that Nietzsche strives for effect, that his primary concern may not be with the truth, but rather with changes in the souls of his readers without which the truth does tend to be trivialized.... Much of Nietzsche's effect depends on `shock value,' on his spectacular departures from what has been said and long accepted by his predecessors. But in a peculiar sense, this too is to be dependent on others, upon what they have happened to say. (AM,134)

And finally, third, Anastaplo refers to Tristram Shandy's account of the choices before a traveler:

It is a great inconvenience to a man in a haste, that there are three distinct roads between Calais and Paris, in behalf of which there is so much to be said by the several deputies from...
the towns which lie along them, that half a day is easily lost in settling which one you'll take.

First, the road by Lisle and Arras, which is the most roundabout—but most interesting, and instructing.

The second that by Amiens, which you may go, if you would see Chantilly

And that by Beauvais, which you may go, if you will. For this reason a great many chuse to go by Beauvais. (AM,130)

Concerning this playful passage, Anastaplo adds only this:

Only if one goes by Beauvais...may one assert oneself. Is this what Nietzsche's will to power, his `wickedness' [not to be bound by rules like others who are good] almost comes down to? If Tristram Shandy is to be believed, `a great many' (a herd?) have chosen as Nietzsche advocates. (AM,130)

Is this to be the "loneliest," the "most deviant," the "greatest"? In this way, then, Anastaplo deals with Nietzsche squarely, and on his own terms. Nietzsche's "beyond" good and evil implies the very good whose existence he denies. Is Nietzsche's argument thereby involved in self-contradiction? Moreover, how does one know he is going "beyond" and not "back"? Is there not some standard implied here, some standard of the good, the very good whose existence Nietzsche repudiates? Next, Nietzsche's focus on his "spectacular departures" from his predecessors renders him, in some way he may not have fully appreciated, instead of radically free from the past, fundamentally dependent on it. And, finally, in a related point, what Nietzsche has imagined as the road less-travelled, travelled only by the "greatest" and, hence, the "loneliest" of the philosophers, is, it seems, even in Tristram Shandy's day—not to mention our own day-travelled by most, a "great many," even a "herd." Do not these internal contradictions pose a challenge to the integrity, the coherence, the persuasiveness of Nietzsche's thought? Given these weaknesses, one could conclude that Nietzsche's way-one not simply persuasive-hardly need be considered the neces-
sary way for modern philosophy. Indeed, the path laid out by the thought "progressing" from Occam to Descartes, and now to Nietzsche, may even be quite dubious.

What is the alternative? Anastaplo points to the alternative when he concludes his essay on Nietzsche with a reminder, "drawn from Leo Strauss, of the old saying that wisdom cannot be separated from moderation, however venturesome and hence attractive a thinker may be" (AM, 134). Such moderation might well apply to the Cartesian "project," the attempt, somehow artificial in its conception, to start with a clean slate by getting to the "bottom" of Being, and to the Nietzschean "project," also an attempt to start with a clean (moral) slate, by casting aside all that previous philosophy had ever known about good and evil, in an attempt to get "beyond" it, somehow. This modern "project" is thus distinct from its alternative, what Anastaplo refers to as, simply, the ancient "way." There was no "will" on the part of Aristotle to repudiate all that came before him, even as his reason led him both to profit from and, perhaps, to differ from his predecessor and teacher, Plato, at least with respect to emphasis. The ancient "way," according to Anastaplo the most eligible alternative to the modern intellectual project, also made greater allowance for a more "natural" way of apprehending, which can be seen repeatedly in the classic texts: "He who thinks four things are five is not equally wrong with him who thinks they are a thousand." Or, "It is not because we think truly that you are pale, that you are pale we who say this have the truth" (Aristotle, *Metaphysics*, 1008b34-35 and 1051b8-9). This natural way of apprehending is to be contrasted with the somewhat tortured "rationalistic" formulae of the modern approach. Finally, the ancient "way" did not strive so to deny or repudiate natural right; indeed, it examined that way of approaching moral questions and found it to be the coherent approach, one characterized by rigor and integrity, and infused with respect for prudence and common sense, and consistent with human experience of the enduring moral questions.

Freud

Just as in syllogistic arguments, granted one absurdity, others
must follow, so in moral matters, given one absurdity, others must follow too. (Aquinas, *Summa Theologiae*, IaIIae, Q.19, Art.6)

It has been argued that Nietzsche changed the emphasis from how one *knows* to how one *wills*. "If one emphasizes the will," Anastaplo continues, "the study of how the psyche moves and especially how it wills becomes critical" (AM,132). With this observation, Anastaplo now shifts his attention to "Some Questions About The Freudian Persuasion," wherein he proposes to sketch "an Aristotelian assessment of what Freudian psychiatry offers us," and thereby to indicate "what the ancients knew about the proper way of looking at and shaping the human soul" (AM,135).

First, there is my illustration of what the ancients knew. The truly temperate man, as described in Aristotle's *Nicomachean Ethics*, simply does not have illicit desires in any serious or significant way. That is, men may be so trained and instructed that they do not have any improper desires that distort in a sustained way their thought or their actions. (I am not talking about fleeting apprehensions of passing beauties, which tend to be much more theoretical or inquisitive than practical or acquisitive in their implications and effects.) Such temperance, it should be added, does not seem to be regarded by Aristotle as rare. (AM,136)

This is to say that the virtue of temperance, first of all, ascertains and acknowledges certain desires of man as licit and others as illicit (e.g., the ordinary desire for food by a human being, given his nature, is licit; that same human being's desire for a throat as long as a crane's so as to be able to take much greater pleasure in that food—that is, more pleasure than eating by its nature provides—would be illicit *[Nicomachean Ethics 1118a33]*). Aristotle's temperance is thus grounded in nature, is a virtue or excellence according to or by its nature; thus, if one looks to nature, one can find there a guide as to how human beings ought to conduct themselves. 22 The ancient virtue of temperance is thus not compromised by the skepticism or
relativism of modernity, a skepticism which rejects as an article of faith any possible confirmation of natural right and a relativism that then insures a subsequent moral void. Temperance examines and reflects on man's nature, and then tests its conclusions for logical consistency, integrity, and practical consequences as it tries to achieve a confident sure-footing with respect to the propriety or impropriety of man's various desires.

Next, after distinguishing the licit from the illicit, the virtue of temperance, because of the instruction and training which it provides, equips one to set aside the illicit desires such that they do not distort in a sustained way a man's thought or action. Absent temperance (which by definition is informed by knowledge of man's proper end), and given modernity's skepticism and relativism, there is for man, predictably, the "logical" slide to hedonism, which "tends to be shortsighted and fragmented, and ultimately frustrating and destructive" (AM, 595). To oppose this, there is the ancient teaching about the desires and the virtue of temperance grounded in natural right.

However, as Anastaplo observes about the "Freudian Persuasion"

Modern psychiatry must challenge this ancient teaching on at least two grounds. It must question whether any desires should be labelled improper. In addition, it suspects that the deliberate disparagement of any particular kind of desire as improper reveals an unhealthy repression that is potentially destructive. Psychiatry at times denies, in effect, the authoritative role of reason either in assessing or regulating the desires that men are heir to. (AM, 136)

Although Anastaplo does not himself elaborate on this, once again he does show us the starting point. Is not a modern psychiatry which maintains that no desires maybe labelled "improper" grounded in the skepticism and relativism we have now long been pointing to? As such, is it not vulnerable to the same question that Nietzsche was vulnerable to, and to which all forms of relativism may be vulner-
able? To wit, modern psychiatry asserts that one must not label any desires as "improper," and that to do so suggests a form of "repression." That is, modern psychiatry asserts relativism as correct, and then calls any non-relativist a bad name ("repressive") if he does not agree. It declares absolutely that there are not absolutes. That is, relativistic modern psychiatry, which asserts that there are no improper desires, implicitly accuses the one who disagrees with it of having an "improper" desire to repress. However, on modern psychiatry's own grounds, it seems improper to call any desires "improper," and thus a desire to label some desires as improper could not itself be labelled an improper desire. To do so would involve modern psychiatry in an internal contradiction. Calling such disparagement of desires "repression" might then seem just a way to enforce modern psychiatry's own normative (i.e., non-relative) standard by a kind of name-calling.

If, as I suggest, this veiled enforcement conceals a sleight of hand, indeed, an internal contradiction, is the "Freudian Persuasion" unaware of this contradiction, this limitation? Or is this assertion, this veiled insistence on having its way, explicable as a "will to power," the forceful assertion of a new morality which repudiates standards (at least ones it does not approve of), except, perhaps, the standard of the "self," according to which any desire may be proper if any particular "self" so asserts? Again, with the rejection of natural right as a way of liberating the self, we see the debauchery of, the knocking out of the supports from under a coherent, rationally defensible moral life among us.

It may be such analysis as this that leads Anastaplo to observe about "liberated intellectuals" that, "[T]hese advanced thinkers are incapable of any sustained argument, independent of `arbitrary' religious and legal prohibitions, against even such a practice (to take an extreme case) as a routine indulgence in cannibalism" (The Artist As Thinker, 276). Thus, "Intellectuals tend to suppress what men have `always known' about such things, including about the distinction between human and inhuman" (AM, 137-8). One suspects that this failing, too, is somehow related to the modern insistence on a "rationalistic"-that is, a somewhat tortured method-which seeks
a philosophic certainty, seemingly available in science, about the
good for man as distinct from a more "natural apprehension" of
things, of the things men have "always known."

Next, in assessing the "Freudian Persuasion," Anastaplo notes
that,

The ancients believed, or at least believed it salutary to affirm,
something that the moderns tend to deny: a judgment of
whether a human activity is natural or unnatural, good or bad,
is an essential, perhaps even the most important part, of any
description of it.... One must, the ancients seem to say, be at
least aware of the highest if one is to make a serious attempt to
understand anything, even the lowest things. (AM,137)

Thus, one must be aware of what the fully-enabled human being has
the capacity to do if one is to be able to appreciate what it would mean
deliberately to blind an infant. Fully to appreciate what damage
would be done-to understand the "low"-one would first have had
to understand the "high," that which could have been. Only then can
one see how far has been the fall. 26 The "Freudian Persuasion" does
not seem to take conscious account of the "high," or, to put it another
way, does not seem to be sufficiently aware of one of its own most
critical presuppositions. As Anastaplo asks, "Does not psychoanaly-
sis itself depend on the assumption that the most disturbed of men
can usually be talked to, that reason is somehow vital to man"
(AM,138)? Or, to take note of still another of modern psychiatry's
(unconscious?)presuppositions, Anastaplo asks, Why bother with
psychoanalysis,

...if there is not something in the nature of man which demands
(or at least permits) an ordering of alternatives, which suggests
a hierarchy of better and worse ways of shaping, developing,
and preserving both men and their communities? What sense
does it make to speak of `progress' if men do not have some
sense-if only a dim awareness-of what the very best would
be for human beings? (Artist as Thinker, 277)
To seek psychoanalytic "progress" implies better and worse, proper and improper, an idea which that same "Freudian Persuasion" denies in principle when it disparages the labelling of any desires as "improper."

It becomes evident that modern psychiatry-affected as it is by relativism, and thus in principle making the concession to hedonism or perversion, inasmuch as no desire may be thought improper-is unable to serve as a reliable guide in moral matters. The Freudian persuasion, it seems, has descended from that line of thought which traces itself from Occam and Descartes, down through (a Mephistophelean?) Nietzsche and into a moral free-fall, a downward spiral. Thus, a determined, exaggerated insistence on scientific certainty in moral matters (where a more "natural apprehension" of things, common sense, and prudence would have known that certainty simply cannot always be had) has led, ironically, to the point that all moral matters are now "certainly" up for grabs: we cannot know many things, if "to know" means to be able to demonstrate certainty; we surely cannot know in this way about important moral matters. (Again, one has only to consider the impossibility of such certainty even when all we desire is that a punishment fit the crime.) Moreover, the ground for whatever certainty we can hope to have is understood, since Descartes, to be located in (and thereby limited to?) the self. With Nietzsche, "greatness" consists of being the most "wicked," "deviant," and insistently individual; of being "overrich in will," repudiating the "good as such," and going "beyond" good and evil. And now with Freud, not surprisingly, no one is authorized to deny the legitimacy of desires that are generated from this newly-legitimated individual self. As a result of this modern line of thought, all moral matters are most uncertain and "relative," and therefore we are unable to pronounce and act on them, unable to praise and encourage the one or blame and discourage the other. We suffer moral paralysis because we are in an intellectual labyrinth. Again, however, we need not accept this distinctively modern analysis, for it is not, after all, obviously coherent, and it does contain internal contradictions of which it seems unaware. It also leads to an "abyss." Because it can be thus
challenged as neither true nor useful, it may well not merit our endorsement.

Existentialism

Next, Anastaplo turns to "Some Questions About `Existentialism,'" with an epigraph fittingly taken from Thomas Aquinas, "On Truth."

Because justice is a kind of `rightness'... or `equality'..., justice in its essential nature will depend primarily upon whatever has that measure by which the equality and rightness of justice are established among things. Now the will cannot be characterized as the first rule but rather as ruled, inasmuch as it is directed by reason and intellect. This is not only true for us but for God as well, although the will in us is really distinct from the intellect. This is why the will and its rightness are not the same thing. But in God the will is really identified with the intellect, so that the rightness of his will is really the same as the will itself.... (Q.23, A.6)

This is fittingly adduced because by now (i.e., after Nietzsche and Freud), the intellect and will have so long been detached-or reversed-that the obvious connection needs to be re-stated.

The next phase of modern philosophy makes much of "subjectivity," "will," "authenticity," and "the absurd." Thus, in Anastaplo's account,

Much is made by some `existentialists' (or should we simply say `moderns') of the absurd. This seems to be a term used to disparage unrealistic attempts to act well, attempts based on an all-too-human longing to do the right thing. Thus both ancient philosophy and ancient revelation, if not philosophy and revelation simply, are shown to burden mankind with aspirations that are, when properly understood, beyond realization, perhaps even beyond comprehension. This is what Soren Kierkegaard and Jean-Paul Sartre, as well as perhaps Friedrich Nietzsche and Martin Heidegger, can be taken to say.
There is no objectively determinable way out for the desperate human being of conscience. This can be said despite the life guiding claims made not only by revelation, but also by philosophy with its reliance on nature. Things are so much beyond objective comprehension (or prudent control, with a view to a knowable or obvious end) that the only source of certainty and guidance resides in the actor himself. Subjectivity, as we call it, is made much of. Decisive, then, is one's will. One must act, even though he can have no reason to prefer one action to another. (AM,140)

How have we reached this "absurd" point, deeper into the labyrinth? To recapitulate: There was Occam's dictum that "assumptions should be kept to a minimum in any attempt to explain any phenomena," with subsequent thinkers disdaining the Aristotelian moderating principle that certainty cannot be had in all subjects alike (in those, for example, that deal with "matter," whether carpentry or law-making); next, the Cartesian location of the only ground of certainty, within the self; then, the consequent abandonment of any reliance on knowing anything as "objectively" so, and also, thus, a denial of the possibility of natural right, of a morality grounded in nature and discernible by reason; thereafter; Nietzsche's unprecedentedly-radical skepticism and relativism, leading to its nihilism and the unabashed assertion of will as the only way to "greatness," taking the place of "the just," available to man; next, the Freudian relativistic unwillingness to consider any desires improper, thereby confirming the standard in the self and making a critical concession to hedonism; and now, with the existentialists, the further ascendance of an admittedly-blind will and subjectivity. About this "will," however, Anastaplo is finally brought to wonder,

What is the character of the will? It does not seem to be reasoning. Can it truly be distinguished from desire? May it not be little more than a spirited or otherwise respectable way of making much of personal ambition and of mere pleasure as one's guide to life? (AM,143)
This most recent phase of modern philosophy also emphasizes "subjectivity," and we may as well add, a gloomy subjectivity:

A further indication of the importance of the personality and hence of the will may be seen in certain distinctively modern terms made so much of by the authors under consideration: abyss, anxiety, authenticity, fear and trembling, self. Authenticity, for example, may exhibit more concern for the feelings and circumstances of the self, including the roots one sprang from or the abyss over which one finds oneself suspended, than simply for the truth.

Anything but the serenity of the classics may be discerned in such terms, or rather in the cast of mind and in the way of life they reflect and encourage. To dwell upon fear and trembling or upon anxiety is hardly edifying. Compare such sentiments as those of the Athenian Stranger in Plato’s Laws [707D]:

[I]n our consideration of the nature of the land and the order of the laws, we’re looking now to the virtue of the regime. We do not hold, as the many do, that preservation and mere existence are what is most honorable for human beings; what is most honorable is for them to become as excellent as possible and to remain so for as long a time as they may exist.

Anastaplo concludes with this telling observation: "It would be curious indeed if modern intellectuals, the contemporary imitations of Plato’s rare philosophers, should resemble in critical respects `the many’ of antiquity" (AM,142).

Their end-point for man being admittedly "absurd," their insistence nevertheless on willing (or perhaps only on desiring), and their un-edifying "fear and trembling" render the existentialists an inadequate model for us. Because of the philosophic aberrations they build on, perpetuate, and extend, they need not at all be considered the telos, the truly logical conclusion of moral philosophy. They are perhaps, instead, just the "logical" conclusion of a distinctively modern line of thought which has gone more and more astray in the
way described in the pages above—like an arrow which, off-the-mark as it leaves the bow, and traveling over a great distance, grows ever wider of the mark.

Heidegger

Next, in George Anastaplo's assessment, we come to what may be the culmination, and a sad culminating figure, of an errant modern philosophy, Martin Heidegger. For some, Heidegger represents "the plight of modern philosophy when it comes to ethical norms, which are conspicuously absent from its universe of truth," and for whom, then, Heidegger has contributed to a "nihilistic situation" (AM,147).

Anastaplo begins:

It would be difficult to exaggerate the reputation of this thinker in Twentieth-Century philosophical circles. His notorious public collaboration with the Nazis in the early days of Hitler's power is instructive... [given] his prewar suggestion that `the dinner truth and greatness' of the Nazi movement was directed to `the encounter between global technology and man.'

...His response [to the disease accompanying technology] was peculiarly infected by the disease itself. It was a response by perhaps the greatest European thinker of his time, but it was a response that was not in the best tradition of European thought. This is illustrated by the report in 1968 by Hans Jonas, ascholar...who had fled from Germany to Great Britain in the 1930s. His report contrasts the conduct of Heidegger with that of an undistinguished practitioner of an old school in German philosophy (Journal of Central Conference of American Rab-bis, Jan., 1968, 27):

To illustrate the plight of ethics in contemporary philosophy, let me open this paper with a personal reminiscence. When in 1945 I re-entered vanquished Germany as a member of the Jewish Brigade in the British army, I had to decide on whom of my former teachers in philosophy I could in good con
science visit, and whom not. It turned out that the "no" fell on my main teacher [he refers here to Heidegger, without naming him], perhaps the most original and profound, certainly one of the most influential among the philosophers of this century, who by the criteria which then had to govern my choice had failed the human test of the time; whereas the "yes" included the much lesser figure of a rather narrow traditionalist of Kantian persuasion, who meant little to me philosophically but of whose record in those dark years I heard admirable things. When I did visit him and congratulated him on the courage of his principled stand, he said a memorable thing: "Jonas," he said, "I tell you this: Without Kant's teaching I couldn't have done it." Here was a limited man, but sustained in an honorable course of action by the moral force of an outmoded philosophy; and there was the giant of contemporary thought—not hindered, some say even helped, by his philosophy in joining the cause of evil. The point is that this was more than a private failing, just as the other's better bearing was, by his own avowal, more than a private virtue. The tragedy was that the truly twentieth-century thinker of the two, he whose word had stirred the youth of a whole generation after the first World War, had not offered in his philosophy a reason for setting conduct in the noble tradition stemming from Socrates and Plato and ending, perhaps, in Kant. (AM,146-7)

"Thus, there is in this personal experience," Jonas continues,

an indication of the plight of modern philosophy when it comes to ethical norms, which are conspicuously absent from its universe of truth. How are we to explain this vacuum? What, with so different a past, has caused the great Nothing with which philosophy today responds to one of the oldest questions—the question of how we ought to live? (AM,147)

Anastaplo, noticing Mr. Jonas' observation that "ethical norms" are "conspicuously absent" from "modern philosophy," asks:
To what extent did technology, or the modern natural science on which it depends, replace old-fashioned 'ethical norms'? Did Heidegger's radical approach to philosophical questions help undermine the best of German idealism (seen, perhaps, in thinkers such as Kant)? Or was it that Kant and those immediately influenced by him were themselves decisively affected by modern natural science and other developments and hence contributed to the subversion of the natural basis for 'ethical norms'? (emphasis added, AM,146-7).  

First, concerning the subversion of the status of the "natural" basis for ethical norms, Anastaplo continues: "If there is no comprehensible nature, there is no philosophy; or metaphysics, but merely 'thinking'; process becomes far more important than goals; and in political science, we are told, value-free techniques become all that the scholar can offer his fellow-citizens" (AM, 153). Some "techniques," even some "thinking," of course, we can do without. Or, as Aristotle reminds us, some "potencies" are best left un-actualized, un-realized. "No metaphysics" means, also, no ultimate bearings or guidance; it means, again, only willing. In such a scheme of things, "It is willing, much more than reasoning with its dependence on a truth independent of one's self, that may be treasured as most one's own" (emphasis added, AM, 156).

Next, what about what Anastaplo calls Heidegger's "radical approach to philosophical questions"? Anastaplo explains,

Heidegger told us many times during his long career that he was concerned to grasp Being itself... Socrates often asked the "What is" question, such as, "What is virtue?" "What is justice?" "What is man?" But Heidegger asked, "What is it, to be?" He asked, that is, "What is Being itself?" Should not what Being is be apparent to us for most important practical purposes?.... To probe Being the way Heidegger evidently does may be to risk undermining common sense, promoting an undue abstractness. Perhaps it also serves to disparage nature, or at least to expose all inquiry to an infinite regress and hence no starting
point, thereby leaving human thought to cope with an unsettling nothingness at its foundations. Does not this in turn incline men by way of compensation to an emphasis upon will as an expression of Being, as an effort to assert the self that threatens to be cut loose from its moorings by the radical pursuit of Being itself? (AM, 157)

Heidegger's approach, according to Anastaplo, "may tend to undermine general reliance upon that grasp of Being that men have `always,' or innately, had by nature" (AM, 158). Is not Heidegger, in his too intense-by-half inquiry into Being itself, somewhat like Hamlet, considering things in a way which a more sober and less abstracted, a more-of-this-world Horatio would say is "too curious to consider so"? Does such speculation about Being, with its fatalistic and defeatist cast, unstring Heidegger, and his descendants? Lead them to see a "ghost"?

Heidegger's infinite regress may, indeed, lead to an "unsettling nothingness" for man to cope with. In contrast, Anastaplo argues that a decent regime must make some provision for "exposure to nobility." That is, "Unless life seems significant, we can expect more recourse to adventurism and drugs..." (AM, 561) and a greater "sense of purposelessness" leading to "desperate experiments" (AM, 564). Anastaplo does not, of course, recommend some blind "will to purpose," but rather that we recognize that the "abyss" to which modern philosophy seems to lead is not the proper or natural, and not, either, the necessary end or culmination of philosophy; that the "abyss" is not the true end of things "by nature," but only the dead-end we have arrived at because of certain departures from the natural order, from the better way. It has always been in man's power to make the Hobbesian "state of nature" true (wherein life is "solitary, poor, nasty, brutish, and short"); we can also make the abyss "true" by contenting ourselves with modern philosophy's questionable presuppositions and internal contradictions, and then by acting as if the abyss is true. As it is, however, the "absurd" and the "abyss" need be considered only an aberration; only an idea driven by will, one form which passion takes; only a gigantic,
incorrect, but decidedly corrigible, "opinion." Indeed, to show how it is incorrect, and corrigible is the purpose of Anastaplo's Theseus-like work in *The American Moralist*.

For Anastaplo, there is another way, one opposed to the absurd purposelessness and abysmal despair of the modern disposition, and opposed to the speech of Mephistopheles:

> Whatboots this evermore creating,  
> When things all sweep into nothingness again?

I, for my part, Eternal Void prefer.

Anastaplo's alternative is illustrated by John Bunyan's *The Pilgrim's Progress*, in "the great speech by Valiant-for-Truth as he contemplates his death":

> I ain going to my Fathers, and tho with great Difficulty I am got hither, yet now I do not repent me of all the Trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my Pilgrimage, and my Courage and Skill to him that can get it. My Marks and Scarrs I carry with me, to be a witness for me, that I have fought his Battels, who now will be my Rewarder.

Anastaplo completes this reference to Valiant-for-Truth, by agreeing with a critic's observation, that "The heart vibrates like a bell to such utterances as this" (AM, 180).

Anastaplo fittingly concludes on Heidegger, now, with the light-hearted story, told by James Madison, about an observation by Benjamin Franklin as the just-drafted Constitution was being signed on September 17, 1787, by members of the Constitutional Convention in Philadelphia. The story points to a caution, with the political excesses of Heidegger in mind, "about what is and what is not a new dawn."

Doctor Franklin looking toward the President's Chair, at the back of which a rising sun happened to be painted, observed to
a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often and often in the course of [this convention, with] the vicissitudes of my hopes and fears as to its issue, looked at [the sun] behind the President without being able to tell whether it was rising or setting. But now at length I have the happiness to know that it is a rising and not a setting Sun. (AM, 160)

"Caution about what is and what is not a new dawn," Anastaplo observes, "is one mark of the political man [such as Franklin] who is sensible about the nature of things and about the limits of political action" (AM, 159). Anastaplo would thus urge caution when imagining, or embarking politically on "new dawns," such as that political action (collaboration with the Nazis) undertaken by Heidegger. But a "new dawn" may also take the form of a "clean (epistemological) slate," such as Descartes attempted, or a "clean moral slate," as advocated by Nietzsche.

Such a "clean slate" is an abstraction pointing to "purification." Socrates lets us know how radical an undertaking is securing a clean (political) slate by the construction of his (cautionary?) "city in speech" in the Republic: producing that city involves quite drastic measures, including expelling all those except the Guardians over the age of ten. It was drastic measures, also connected with the abstract desire for a "clean slate," that led to the barbaric excesses of Pol Pot. 3

Again, as always, Anastaplo is urging moderation, is urging that wisdom is inseparable from moderation. Moderation, the ordering of the desires according to reason, good sense, prudence, justice, and the noble, urges what is fitting or best with respect to man's nature as a rational and political being. As such, moderation is a manifestation of natural right.

However, moderation seems as unwelcome to modern philosophy as it is suspected and unappreciated. Modern philosophy intemperately pursues an ever-elusive certainty. Such straining after certainty failing, modern philosophy has recourse to locating the ground for certainty in the (preeminently willing, and not reasoning-and hence unmoored) self. Eventually, and not surprisingly,
modern philosophy is unnerved by the sight of the "ghost," by the nihilism which its own skepticism and relativism produce, becomes demoralized, and we begin to hear more and more about the "absurd" and the "abyss."

The alternative to this abysmal conclusion can emerge when, first of all, one sees that such conclusion is not only not demanded by logic and reason, but is controverted by a more rigorous and more cogent reasoning: a reasoning not tortured and self-contradictory; a reasoning which does not deny a priori the existence of the good and the possibility of knowing truth; a reasoning willing and able to consider the principles of natural right; a more plausible and more coherent reasoning. Perhaps the first step in this reasoning is the adoption of moderation. Moderation is keyed to man's natural apprehension of certain truths. Moderation would urge that we need to be very cautious about clean (epistemological, political, or moral) slates. Long before Heidegger, however, modernity had done what it could to jettison "natural apprehension," moderation, and truth. It is not the case, however, that we face a necessary "abyss." We do nowadays, of course, face a philosophic dead-end, the perplexing and demoralizing center of the labyrinth, the exploration of which George Anastaplo has so skillfully conducted in The American Moralist. He has, at the same time, however, also been laying down marks which signal the way out.

No longer simply bewildered and "amazed" by the seeming necessity of the direction and radically-skeptical conclusions of modern philosophy, and now seeing the articulation of the ill-conceived steps that have led into the center of the labyrinth, the way out-by reasoning out and confidently rejecting those steps, one by one-can also be apprehended.

If modern philosophy considers that there is "scarce truth enough alive," natural right concludes that "Truth is truth/To th' end of reck'ning." The next step is then to regain old ground, to see the merit and integrity, first, of the "grammar," and then the principles of natural right, all in keeping with a "natural apprehension." Liberated from the modern intellectual and moral labyrinth, these are our next steps. First to the grammar.
Part II
Natural Apprehension: A Simple "Grammar" of Moral Reasoning

Morality stands amongst the sciences capable of demonstration: wherein I doubt not but from self-evident propositions by necessary consequences, as incontestable as those in mathematics, the measures of right and wrong might be made out to anyone that will apply himself with the same indifferency and attention to the one as he does to the other of these sciences.

John Locke, An Essay Concerning Human Understanding (FT, 5)

I
There is a philosophic axiom that in the realm of the intellect one is to seek truth and avoid error, and that in the realm of action, one is to do the good and avoid evil (Aquinas, Iallae, Q.94, Art. 2). The question now before us involves both realms: we must try to know the truth, so that we can do the good. That question is, Are certain actions intrinsically good or evil, right or wrong, somehow, by their very nature?

One may first of all wonder what is meant by something's being considered this or that, "by nature." As Aristotle explains it, the nature of a thing is seen in its fullest development or perfection, whether it is, for example, a pear tree or a shoe. That is, the nature of a thing is revealed only when it is seen in its most excellent condition. Each thing in nature has what Aristotle calls its particular "work" (ergon), and a pear tree or a shoe which does its particular work well is said to be good of its kind. When one considers it in this way, the most excellent condition or manifestation becomes the standard. It is at this highest point that the nature of the thing is manifest. We say, "Now there's a pear tree!" (A pear tree has, of course, numerous stages of development and varying better and worse conditions; in order to avoid saying that it thus has many and varying natures-and hence that it has no [single] nature at all-it
seems that we must settle on one manifestation as somehow capturing the idea, the essence, of the pear tree. Aristotle judged that such a "definitive" manifestation would be the highest or most perfect one. It is hard to quarrel with his reasoning.)

The particular "work" of a pear tree is to produce good pears; that of a shoe to provide durable comfort, support, and protection for the foot. That good pear tree and that good shoe, then, do their work well, and thereby fulfill their respective natures. This is what pear trees and shoes do—what they *are*—"by nature." That is the kind of pear tree that nature "intends," that nature would produce every time, if it could. Moreover, this excellent pear tree is just the kind of pear tree that reason, too, would produce if reason could produce pear trees. Reason would tell us simply to bring forth the best pear tree, the best shoe, the best...anything, that which is good of its kind, excellent or good by its very nature. It seems that men do seek what they think to be the good, and it is this very reason which ascertains, first, what the good is, and then urges us to seek it. It is thus simply reasonable for man to seek the best. The "natural," or the best, is thus consistent with, reflective of, the reasonable. Again, the question for us is, Are certain *actions* also intrinsically good or evil, right or wrong, somehow by their very nature?

The alternative would seem to be that actions are right or wrong, if they are, when, and only because, somebody or some man-made custom, convention, or law holds them to be so. Long ago, Aristotle noted that some people mistakenly think that all conceptions of right and wrong are based solely on convention because, as anyone may observe, laws can be seen to differ from place to place, whereas if matters of right and wrong existed *by nature*, laws presumably would everywhere be the same, as fire, by *its* nature, burns the same everywhere. Now, of course, it can be disconcerting that laws and moral codes are not the same everywhere (e.g., that the gambling which is legal in Nevada is illegal in next-door Utah), and that laws may undergo change within the same country. At one time, for example, race-based slavery was accepted by convention and law in our country. We have since rejected that practice as unjust and, importantly, in so doing have implicitly acknowledged something
which can be appealed to beyond convention and law, and in reference to which convention and law are themselves to be judged—the just simply, the truly just, that which is just by its very nature.

It was this sense of the just to which the old Roman student of law, Justinian, had recourse. In his *Institutes*, the classic discussion of Roman laws, Justinian argued that it was right, *by nature*, for an infant who had lost his parents to be assigned an adoptive guardian to tend to his upbringing. Justinian went on to add that if that guardian proved to be negligent, a second, better, guardian should be assigned. In effect, Justinian considered that it was right, by nature, for an infant to have *a good* guardian, whether by blood or by legal appointment. Should we not think Justinian correct? That is, does not the situation—the vulnerable and dependent nature of childhood-demand, by nature, reliable nurture and good guidance? It thus seems "by nature" best to have parents or (other good) guardians. What was for Justinian "by nature" the remedy for the orphan is also, we should note, exactly what is dictated by reason. Again, what is "by nature" is routinely consistent with, even identical with, the dictates of reason, which always seeks the best. Thus, an action right "according to nature," or "by nature," is one that seeks to accomplish, and has a reasonable chance to accomplish, what reason would seek, that is, the best. In the case of the orphan, the remedy right by nature looks beyond biology, looks beyond nature in the primitive or elementary sense, toward what is reasonable and therefore best, and therefore "by nature" in another, higher, sense.

That there are differences among moral codes—though the similarities are, perhaps, phenomenal *and* more important—has never meant that all moral codes are invalid. Indeed, the fact that there are moral codes and laws, seemingly everywhere, suggests something important about the nature of things, everywhere and always, something that human beings have deeply in common because of their nature, despite numerous differences in approach or emphasis. It has been noted, for example, that nowhere is ingratitude, in the form of treachery against or betrayal of one's
benefactor, known to be honored or condoned by a community, and not only on utilitarian grounds. Indeed, such ingratitude is thought not right at all; it moves people to something like righteous indignation. Do we not sense—and have not others, perhaps universally, sensed—that any community honoring or condoning such ingratitude, would be self-destructive? It may be that communities, sensing this, and intuiting the simple discordance between a good deed by the one and a biting ingratitude in the other, have developed their customs accordingly, that is, in accord with principles discoverable in nature and discernible by reason. There is thus evidence that all communities, despite differences in how they might go about discouraging ingratitude, have access to the same nature, a nature which speaks in the same voice to men everywhere, and that men who want decent communities and good lives must discern and heed that voice.

II

Next, we must consider how, in the most elementary sense, nature "tells" us whether or not something is done well, as it should be done, according to the nature of the thing. Consider a few simple preparatory examples, as we work our way toward the more difficult moral question. When a child stacks blocks, it is nature itself that tells him how best to do so. If he gets it wrong, nature informs him; if he gets it right, nature informs him of this, too, rewarding and encouraging him. The child's reason is all along trying to discover what the best arrangement of the blocks is, what nature will permit in such a circumstance, or what is, with respect to stacking blocks, "according to nature. When the boy grows up and becomes a farmer and wants to produce the best crop, this same nature will "tell" him when he must plant. Farmers must follow the calendar, which is already an attempt to follow or "track" the seasons of the year; the calendar does not follow the will of the farmer. Will is not helpful in such matters: the farmer cannot lead, so he must "follow." He will discover that to plant at such a time as to get the most from seed and soil is best, is according to the dictates of reason, and again, with respect to farming, is "according to nature."
III

For the next example, consider an artifact, the humble soapdrain built into the wall of the shower. Now in one sense the soapdrain does not exist at all "by nature"; it is artificial, even "accidental": it does not exist by necessity, but only by the design and will of man. But, this is also true of many foods which man "naturally" makes appropriate use of, for example, a loaf of bread or a piece of cheese, which also are not available for man's use without his design, will, and preparation. Like the shower itself, and like the loaf of bread, the soapdrain also has an appropriate purpose. When designed well, it does its work well, does what soapdrains are supposed to do, and thus accomplishes the function of, and fulfills the nature of...a soapdrain. The completion, end, or nature of a soapdrain is to be such as, using gravity, to drain the water but retain the soap; when it does this well, it functions as a soapdrain should, as it should by its design and purpose, as it should by its particular nature. It does the good thing it is intended to do. It "works."

Let us illustrate further what is meant when we say that something is such-and-such "by nature." We have all seen the kind of diagram (usually on the bottom of a cardboard shipping box) that informs us how best to arrange boxes of this size and shape on a wooden pallet. If we load a pallet with boxes, does not nature (or the person who first reflects on the matter—who thus discerns what nature permits or requires in this instance—and provides the original diagram) "tell" us of the best configuration, and also how many boxes altogether of such and such content and weight may be safely loaded on a pallet? Does not reason discover what nature says, what nature will permit here, also, both with respect to configuration and quantity? What, for example, will determine which arrangement of the boxes is best? Will not the answer depend on the nature of the things involved? Will there not be a "natural" limit, based especially on the size, shape, weight, and contents of the boxes? The best arrangement will be consistent with the principle of economy (which takes scarcity of space and labor as a given, and so will seek to load the greatest number possible) and consistent with the physical capacity of the pallet. The best configuration will be that
which makes the best use of space, allows the greatest number of boxes. The best configuration or arrangement will be what is, again, "according to nature."

The same will hold for how heavy the loaded boxes can be and high we stack them. Here we can see as well how nature sometimes tells us when something is not done well, when it does not "work," as we saw with the faulty stacking of blocks. We may sometimes see instructions that certain boxes should not be stacked, say, more than three high. Presumably, the weight of box #4, when added to the others, is likely to damage the goods in the bottom box, box #1. If this is the case, it would be self-defeating to stack more than three high. Now, since we seek our good, reason would tell us that we should stop at #3. It is "naturally" not for our good, in a world of scarcity and human finitude and vulnerability, to ruin in a moment the work of many hours. It is not consistent with reason deliberately to undo with the nonchalant left hand what we do with a painstaking right; for (finite, vulnerable, and toiling) human beings, waste is contrary to nature. In the same way, we do not routinely leave doors and windows wide open to freezing winds, even as we have the heat on to warm the house. It is not best, not according to reason, not "according to nature," to engage in self-defeating actions.

Next, after having loaded on each pallet what reason has told us is the best number of boxes, i.e., the greatest number consistent with efficiency, security, and safety, now it comes time to load the pallets onto the truck for shipping. How shall we load? Again, because of the general fact of scarcity, nature—or reason—will dictate economy. Would we not load the greatest number of pallets possible, the arrangement and stacking of the pallets to be consistent with the size and capacity of the truck, the security of the goods, and the safety of the workers? If there should be physical room for 51 pallets, but every time we exceed 50 and squeeze #51 in, the tires of the truck blow out, the front and rear axles break, three-fourths of the goods are ruined, and the men loading the 51st pallet are killed in the great collapse—when all the instruments agree, it is nature, I am suggesting, that tells us that 51 is too many. The nature of the things involved will not permit this arrangement to work. This arrangement does not
"work," inasmuch as the good is not achieved. Nature does not favor this arrangement; nature rules it out. This overloaded arrangement is not "according to nature." It is reasoning such as this that I will have in mind when I hereafter suggest that some particular morally-charged action, some action by man as a moral agent, also is, or is not, "according to nature."

In the cases we have examined, it should be noticed, the answer is not man-made; rather, the answer is discovered, and discovered in the very nature of things. At least in the foregoing instances, nature "declares" itself. It becomes clear to those who have eyes to see that one thing (the 50 pallets, say) is, in this respect, in accord with nature, and that another (the 51 pallets, say) is not. In this way, then, there is a guide, somehow, in the nature of things, in nature.

IV

However, none of these examples has yet offered a specifically moral question to be worked out by reference to a guide in nature. The argument hereafter is to be that there is also such a guide in nature for important moral questions. Indeed, without such a guide, without reason's access to the guidance of nature, without the availability of natural right, and without man's corresponding ability to "read" nature in important ways (even though this reading may be only dimly perceived by us most of the time), we would always be, in moral matters, flying "blind," "winging it," having to make it up as we go along. Moreover, if everything which concerns right and wrong, just and unjust, is merely man-made, and without some grounding in nature, then moral principle would not really be binding. Instead, moral principle would be understood by observant people as capricious, and therefore dubious, and finally ineffectual-only a kind of "slip-knot," for we could escape its bonds whenever we had a strong enough motive. The right by nature, on the other hand, is to be taken seriously; it is understood as tied to the true, and hence to be binding, holding us to the good. Once we abandon the true and the good, and slip those bonds, the passions, the appetites, and the will are freed, tied to nothing that they acknowledge as higher and more authoritative than themselves. If
there is to be a sound and reliable moral order—and not just particular moral "projections" which emanate from particular wills or from occasional un-grounded and transient "valuing"—there must needs be the investigation into and then, if warranted, the reasoned affirmation of, natural right.

V

As with the proper stacking of blocks, the moral order, the moral law, in addition to its being philosophically sound, also has to "work." If a moral order or law secures the good, or "works" in the way I am proposing, that would be an indication that its provisions are, by and large, in accord with nature; if a moral order or law does not secure the good, does not thus "work," that is probably an indication that something is amiss, that its provisions may not be grounded in nature. For example, if a moral code held that good deeds and benefits be repaid with gratitude, not only would that moral code be philosophically defensible, but also the more it were adhered to, the more good would be secured and the better the community would "work." In this case when we say "work," we mean that both benefactor and beneficiary—one having done and the other properly received the good—are in some way better off; the one has practiced the virtue of generosity, say, and the other has reciprocated as he ought. The "circuit" has been completed: each, separately, is better off; the two together are joined in a kind of friendship; the community, also, is heartened, confirmed, and thereby ever so slightly strengthened—is made more one than before—by such a satisfying, unifying, and ennobling association between two of its members.

If, on the other hand, the moral code urged that good be repaid with evil, that benefit be repaid with treachery and ingratitude, the more the code were adhered to, the less intellectually defensible would it be, the less good would be secured, the less friendship would be aided, the less satisfying and ennobling such association would be—indeed, it would be positively estranging—and hence the less well the community would "work." In such a place the human enterprise per se, which requires at almost every turn good
will and cooperation, would be wounded, inasmuch as people would seek, in so far as in them lies, to withdraw from one another and from a regime so counter to their natural instincts for association and aspirations for the good. A practice of returning treachery for beneficence would be self-defeating and, I suggest, deeply unsatisfying for the human being, a political creature after all, a creature especially well equipped for communal life, and one who, it seems, cannot be his best outside of a decent community. The practice of encouraging a stabbing ingratitude would not be right "by nature"; it would not properly answer to or "fit" the good deed. It would not be just, would not secure the good, would not "work." It would be contrary to the nature of human beings and their communities: contrary to what is reasonable, to what is best; contrary to nature, simply.

VI

As we prepare to take one more step into the question of natural right, that conception of man and the moral order according to which an action is right or not right by nature, I must ask the reader to adopt four (reasonable enough) presuppositions, to take four things as agreed upon, for the purposes of our next exercises. Concerning this request, I myself refer the reader to Chesterton's warning about what can be embedded in, and thus how alert one must be when accepting, any presupposition.

1.) That nature is, in some important respects, knowable, and that man has a specific, albeit limited, faculty for knowing, either about the best number of boxes on a pallet, or that a particular desire or fear is rightly or wrongly directed (we are able to judge, for example, which ought to be more feared, an earthquake, or stepping on a mere crack in the sidewalk; we also have some capacity to judge of a desire, whether, for example, it is for the right thing, at the right time, to the right degree, etc.).

2.) That Being is superior to non-Being, by which I mean something like this: It is better that our human "world" be, than that it not be. This is usually considered a nearly self-evident proposition whose validity is known intuitively and whose validity should not have to be, and perhaps cannot be definitively, demonstrated.
3.) That happiness and unhappiness for human beings do exist, and that happiness (which, by definition involves the possession of several good things and involves a fullness or wholesomeness of Being) is more choiceworthy than unhappiness (which implies an absence of certain good things, a defect in, or some harm to, Being).

4.) That by and large, despite the disappointments and inconveniences which attend human association, human beings are in critical ways significantly better off in communities than if each of us were decisively on his own, not living among or conversing and associating with other human beings. The life for man is thus one leading to the fulfillment and satisfaction of his nature in moral and intellectual excellence amongst other human beings.

Now, let us move on to examples which, I trust, illustrate a chain of moral reasoning grounded in the principles of natural right, which principles ultimately can be seen to reveal and confirm the validity of a discernible moral order in nature. Some of the examples are "extreme" (but not for that, invalid) ones, chosen for their clarity, to illustrate a point by throwing the question into sharp relief.

VII

1.) Leon Kass, perhaps the most cogent and profound medical-ethics thinker in the country, puts forward the example of a law requiring the slaying of all female infants as an example of a law, an action, easily seen to be by its nature wrong. One does not have to think long before one sees why. To embrace such a law would eventually be to reject all which nature "intends" when it brings forth man, evidently the highest of the creatures of the earth, and to assert the superiority of non-Being over Being. In contrast, rejection of a law requiring the slaying of all female infants would protect what is "according to nature" in two senses: first, inasmuch as man, who is, should not simply be extinguished; and second, inasmuch as rejection of such a law would affirm as fitting that a creature like man should exist, the creature able to reflect on and partially to "read" or understand the same nature which has brought him forth.

2.) Now, by recourse to two more extreme examples, let us "extend" the line of logic concerning what is by nature right. Would
we not also have to reject as contrary to nature a practice which would require (or permit?) a woman to take Thalidomide during pregnancy precisely so that she should bring forth a child with serious birth defects? or a practice which would call on us to blind all infants, once born? If Being is good, and if happiness is the proper end for man, surely we go wrong when we begin deliberately to frustrate that end by distorting or damaging the natural means to that end. The rejection of such an assault on the fetus, or on the eyesight of the newborn, would affirm that "harm" to Being does exist and can be done, and that such unnecessary and gratuitous harms to Being are contrary to the good in their specific applications (and thus contrary to reason), and contrary to nature in principle. A practice effecting, or a law requiring such mutilations, then, would be contrary to nature, not good and, hence, not right. "Harm," it can be argued from these examples, robs Being of some perfection or good, and thus drags Being in the direction of non-Being. The first example (slaying all female infants) shows how the annihilation of Being, and the second examples (deliberately producing birth defects or blinding) how harm to Being, is contrary to nature.

3.) These extreme examples hope to show how plain is the application of natural right in such "easy" cases. Unless we can agree readily on such as these, of course, we cannot hope later on to agree on the more ordinary, but harder cases. Having now protected Being from extinction simply, and from various gratuitous assaults on well-being while yet in the womb or as new-born, the next extension of the range of natural right moral reasoning can be illustrated by the example of Justinian's aforementioned adoption laws As noted, Justinian would provide a good guardian for every orphan as a course of action right by nature. Our first examples of natural right-not slaying all female infants, not gratuitously inflicting birth defects or not blinding all infants-involved abstaining from harm. The Justinian adoption example, now, is one that goes beyond abstaining from harm, to the natural rightness of repairing harm, or the doing of good, also as directed by the principles of natural right. If the nature of things instructs us not to inflict harm, nature "next" instructs us to do the good, also, of providing for well-being, in this
case of the orphan, by providing a reliable guardian. Does not the extension of the range of natural right from the abstention from harm to the doing of good, at least in the case of the orphan, seem valid? If so, it is in this way that the range of natural right, the range of a knowable and defensible moral order expands—or, better, that we begin to recognize the expanse which the (already-existing) natural moral order comprises. The old axiom was that "good is to be done and evil avoided"; we have seen our beginning, at the extremes, in the avoiding of evil, and we have arrived, by extension, at the doing of good. Thus, having protected Being from wanton destruction or harm in the first instance, now nature would provide it a "guardian" so that it can be sustained and formed well.

4.) Next, imagine our orphan now grown. If another man should, for no good reason, push him out of a fifth-story window to the ground below, again we would see harm to Being, either by annihilation of, or injury to, that Being. We see in this example not only that harm can be ascertained, but also that cause (and blame?) for it can be properly assigned. For example, if property is damaged by the falling body, from whom is the owner of that property rightly to seek damages? Or if the falling body should strike a pedestrian walking below, could the injured pedestrian rightly charge with assault the man who was pushed? Would it not be wrong, by its very nature, to blame the one who was pushed for these damages? And naturally right to blame, instead, the person who initiated or caused the action? This seems demonstrably correct in the same way that a billiard ball struck by the cue ball is not to be held accountable for its skipping off the table and crashing into the Ming vase. The initiative for these actions lies, identically, outside the billiard ball and outside the man pushed from the window, and it is naturally right, if one wants to assign blame properly, that he look not to the one who has suffered the action, but to the one who caused it.

We now anticipate the related question, Shall we assign blame? Is it proper, or good or naturally right, to assign blame in such a case, a blame whose next logical step may be, of course, a penalty of some sort? Do blame and penalty for wrongdoing provide a legitimate means by which the innocent may be, and ought to be, vindicated
and protected, such that Being may rightly be offered some safeguard? We see in the example of the motiveless defenestration that blame, if it is proper to assign it, is susceptible of being properly, or improperly, assigned. We also see that such a pairing of moral and "physical" examples, the man pushed and the billiard ball struck, may require the one who would reject the conclusion of (moral) "natural right" when it seeks to discover the cause of a harmful effect, to reject something else "right" by nature, a law of physics which also thinks it important to trace back to causes so as to account properly for effects.

The analysis so far, then, seems to go something like this: Since Being is good, harm to it may rightly be prevented, and good to it may in some cases be required. Moreover, when there is unjustified harm, it is certainly sometimes possible to ascertain who has caused the harm, and it may well sometimes be right and proper to penalize it, assigning such penalty as is likely reasonably to redress the injury, or otherwise restore or serve the good for some individual Being, and deter similar harms to individual and communal Being in the future.

5.) Consider next, in our catalogue of examples designed to show the validity and reach of natural right moral considerations, the man who has a wealthy, but infirm widower brother, whose young son, as nearest relative, is due, in time, to inherit his sickly father's fortune. The uncle visits his brother and nephew for lunch one afternoon. After lunch, while walking down the hall, the uncle hears his nephew slip and hit his head in the bathtub. The grasping uncle, seizing the opportunity, stealthily enters the bathroom, drowns the injured, helpless nephew, then leaves the "accident" which will make him now the heir of his wealthy, sickly brother. Should we agree that this action against a nephew and a brother is wrong by its very nature? Or, is it "wrong" only to the degree that in our particular part of the world this kind of thing is frowned upon (probably "only" for some utilitarian reason) and is therefore forbidden by law? Or, could one argue convincingly, instead, that such an action by the uncle betrays a naturally-inviolable trust, inasmuch as it mocks and corrupts the fraternal, harms the innocent, violates the familial,
poisons the wellspring of the communal, and all so that the uncle may take what is not his? In these several ways, would not such an action assault Being (Being which inheres at one level simply in the existence of the nephew and the brother, and which inheres at another level in the familial and the communal relations which uniquely-equipped human beings have been privileged to develop over many generations for their enduring good), and thereby violate the naturally right order of things?

Again, I mention the "communal." Is it not evident that man benefits considerably, even profoundly and decisively, from a decent community? These benefits range from the physical prosperity and well-being that come from the division of labor and from the pooling of communal resources (e.g., the higher standard of hygiene and nutrition, better and more accessible clothing and shelter, and the advantages of medicine and the rule of law), to the goods of the soul (leisure, education, friendship, and, in general, the occasion for and the framework within which to develop moral and intellectual excellence). Would not a community which on principle routinely condoned—that is, would not fault such actions by uncles against their nephews and brothers, forfeit many of the good things which contribute to the good lives of its citizens, and be self-defeating? If man is political by nature, that is, if he comes to his greatest human perfection or fullness only or principally in a decent community, then to harm that community maybe to decisively frustrate the lives or to defeat the promise of its people, and thus to act in a way morally problematic or unjust "by nature."

Moreover, if the community were such as to condone the uncle's treacherous actions, would we not be entitled to judge that its moral code cannot "work" in the long run, is self-destructive, and hence not grounded in what is, by nature, right?

6.) We continue our catalogue of examples. Consider, now, Ezra Pound's example of the salesman who would knowingly, and simply for his private profit, sell 3,000 faulty thermometers to a hospital. Would there be an injustice here by the very nature of the act? Or, only if and because there is a legal prohibition or a "conventional" moral code sanction against fraud and the casual inflicting of harm?
(Of course, if there were such a conventional prohibition or sanction, we would be entitled to wonder what the basis for it was, what it looked to or from what it took its bearings. Would not such a prohibition, which does not seem simply arbitrary, look to nature, somehow? Indeed, must not a moral code do so if it is to be reliable, internally consistent?) 39 Be this as it may, the deliberate selling of 3,000 faulty thermometers to a hospital would involve at several levels a kind of taking of what is not one's own, still another deep abuse of trust, an assault, the betrayal of all civic and humane instincts, the undermining of the confidence and trust upon which association of all sorts depends, and the harming of the overall security, well-being, and happiness of human beings which, given man's nature, such association is vital to.

Do not the actions of both the uncle and the faulty-thermometer salesman harm the good? Are not both actions assaults on Being? Are not both offenses precisely against reason and the right order of things, violations of what is by nature right? That is, could these actions, as drawn, ever actually be right and good, even if the law of the land and the prevailing moral code permitted and condoned them? 40 We have said that the law and the moral code have to "work," like the properly-stacked blocks or the well-designed soapdrain. If the law of the land should encourage treacheries against one's brother, or against the helpless stranger hospital population—or if the law should not actively discourage them, and should thus permit them to be perpetrated with impunity—should we not expect that the more the law were adhered to, the more the community would suffer fragmentation, the more the "one" would become "many," the less well the community could serve its purpose of contributing to human well-being, the less well it would "work"? Would not such license once again assault, do harm to, the goodness of Being? Would not such license, like the blinding of infants, seriously cripple the entire human effort of such a community? Would not such license constitute for the community a grave, self-defeating move, one toward self-destruction, annihilation of the good, and non-Being? Perhaps we may now discern at least this principle: that the naturally right moral order does call upon man, at least, to do no
harm, no harm to the good. This would confirm the first part of Aquinas' moral axiom: avoid evil.

7.) Now, we observe, again, an extension of the range of natural right in the moral order of human affairs. Consider, one more time, the uncle. This time, as he goes down the hall and hears his nephew fall and hit his head in the bathtub, he looks in, sees that his unconscious nephew is drowning, and concludes that he himself, by doing nothing, can become a rich man. Would this failure to act, by its nature, also be wrong? That is, is one morally obliged to save one who is drowning in such circumstances? Or, is one excused because he had not actually initiated the action which will bring about the convenient death of the nephew? Or, is it that there necessarily follows an "extension" of the morally right principles already enunciated, such that (especially?) when risk to oneself is, as in this case, almost non-existent, it is also by nature right to exert oneself to save the life of the nephew? That by the nature of the harm that will be done, the unwillingness to do what one could easily and safely do would also be seriously wrong? Is not the extension here from commission to omission defensible?

Or, perhaps, omissions may be overlooked as morally indifferent? But, then, consider: "I have omitted to give testimony that would have cleared the defendant in the trial." "I omitted to note in my engineer's report that we used inexpensive, dangerously low-grade steel in the new bridge, or that we installed a defective sprinkler system in the new 70-story hotel." "After checking ten thermometers and finding all of them defective, I omitted to check any more of the same batch before I sold them to the hospital." "Full of hope, I omitted to check the cause of the loud thumping sound and the shout from the bathroom where my nephew was bathing."

These few examples suggest that we had better count omissions, too, that we had better support the extension of the morally right and wrong to omissions, as well. So, if it is wrong to actively drown the nephew, it might also be wrong just willfully to let him drown. Omission, it would seem, maybe equally as culpable as commission. 41

8.) Now, to one last extension. If one may, in keeping with what is naturally right, do no harm to the good (i.e., one may not drown
the nephew); and if one must, whenever possible, ward off harm or seek to advance the good (i.e., one must act to save the drowning nephew), may a community rightly seek to deter such harms to the good before they are actually perpetrated? That is, could it even be right, by nature, for a community, anticipating the emergence of such uncles and thermometer salesmen: 1) to set up the civil machinery to develop a carefully reasoned communal sense of right and wrong? 2) subsequently to institute laws which the sustained, vigorous, and good-faith effort of reason tell us are grounded in natural right? 3) to establish, next, a regime of calibrated penalties for violations of those laws, with the primary motive of threatening blame and punishment in advance being to prevent many such violations of the right order of things? These are the conclusions which we may with some measured confidence begin to reach as we investigate and begin to see how the moral and communal orders are grounded in what is right, not only by convention, but also by nature.

With the explication of such unsophisticated, even simple examples, I believe that one may be brought to accept, as correct, as grounded in nature even, the axiom of Aquinas that, by right, one ought to do the good, and avoid evil.'

Part III
The Principles of Natural Right:
A More Refined Analysis

I
In his work, First Things: An Inquiry into The First Principles of Morals and Justice, Hadley Arkes makes the more sophisticated case for a defensible moral order grounded in nature, discernible by reason, and reflected in natural right reasoning and principles. Arkes also considers as his starting point Aquinas's proposition that "the first principle for the practical reason" is that "good is to be sought and done, evil to be avoided" (FT, 163). Does not the intellect immediately recognize the truth, the correctness, the (natural) rightness of this first principle, this "first thing"? This first principle forms the basis for what Arkes refers to as the "logic of morals." Now,
according to Arkes, this first principle of the "logic of morals" extends this far, or carries this implication: "Since we are obliged, by the logic of morals, to do what is good and refrain from what is bad, we are obliged, where we can, to do more good rather than less, and to do less harm rather than more" (FT, 165). Thus, Arkes continues,

[I]t would tell the person who is faced with the choice of saving one innocent person or thirty that it may be better for him to save the thirty. That does not spare him the task of considering whether the `one' person happens to be a doctor, who could eventually help him save twice thirty, or a statesman whose presence might be needed to save hundreds of thousands. (FT, 165-66)

In this way is established, or rediscovered, the foundation for a moral order that is not merely "subjective" and relativistic, and hence not capricious; instead, it is based on common sense (e.g., the principle that saving thirty is usually better than saving one is available to "everybody"), is guided by defensible principle, and is informed by intellectual rigor, rational consistency, and integrity.

II

Next, this first principle "that good is to be sought and done, evil to be avoided," is binding; this means that, "as Lincoln reminded us, there cannot be a `right to do a wrong' (FT, 268). That is, evil, or wrong, is to be avoided. So, although people always remain at liberty to do many things they ought not do, this is not nearly to suggest that they have any such right. The absence of a right to do harm may be seen even in this analysis by Arkes:

It would not make sense for a man to seek the `consent' of a chair before he sat in it, but he would not necessarily have a `right' to disfigure or destroy a delicate piece of craftsmanship for no reason beyond his own whim; and what may be said in this respect for a chair must be said even more forcefully for animals and infants. (FT, 70)
Arkés shows the reach of the principle that one has no right "to disfigure or destroy a delicate piece of craftsmanship [a chair] for no reason beyond his own whim," in his reference to a 100 year-old Supreme Court declaration that "the authorities could not stand back and permit a widow to be burned on the funeral pyre of her husband, even if the ritual were carried out under the auspices of religion..." (FT, 191). Is not such a "widow"-or another human being-a fortiori, a "delicate piece of craftsmanship," not to be destroyed for no good reason?

Or, again, "[I]f parents are involved in a communal life of crime, if they are schooling their children in burglary or preparing them for prostitution, the courts may intercede and remove the children from that family" (FT, 335). Justinian, we remember, considered that orphaned children ought, by nature, to have a good guardian. Such mis-raising of children as Arkes here refers to might also constitute the "disfiguring" of "delicate pieces of craftsmanship."

Moreover, if a man does have a "right," say, to sell faulty thermometers to a hospital, then neither the hospital nor the affected patients may have any legitimate cause of complaint against him. If they do complain, to that degree they wrongfully attempt to deny that man the enjoyment of, the truly free exercise of, his right; indeed, if he has such a right, the complainers wrong him. For one man to enjoy his right, others must acquiesce in his enjoyment of it, just as the driver who has the red traffic light must acquiesce in the other driver's enjoyment of the green light. Arkes continues,

It was this 'first principle' of morals which defined the fallacy that Lincoln exposed in Stephen Douglas's argument: it was incoherent to say, at the same time, that slavery was 'wrong,' but that the separate territories should be left free to decide whether they would vote slavery up or down. (FT, 162)

Implicit in Lincoln's idea that there is no right to do a wrong, Arkes continues, is the inescapable connection between morals and law, that law "emerges from the logic of morals" (FT, 187), or that "We have law only because we have morals" (FT, 24).
III

The legitimacy of such law finds its account in the simplest of examples:

The first Neanderthal who is hit on the head and utters the equivalent of `Why did you do that?!' marks an awareness of the *moral world*. What he demands is a `justification,' and as he does that, he recognizes the same logic of morals that may produce, with further refinements in the chain of reasoning, the laws against corporate embezzlement. (emphasis added) (FT 148)

This "moral world," I have been arguing from the beginning, exists by nature.

Now some who perpetrate assaults and other predations might claim, as the skeptic does, that there is not, after all, agreement on what constitutes justice and injustice. The skeptic will therefore ask: How can any community possibly be authorized to "legislate morality" and "impose" its moral views on others?

To this Arkes answers,

If it were correct that the presence of disagreement marks the absence of truth, then it would have to follow, again, that there could be no morals. It could never be possible to condemn, in principle, the acts performed by another, for there would obviously be a disagreement between the person who performs the act and the person who does the judging. (FT, 425)

This notwithstanding, the skeptic can frequently go on to complain that "[I]t would be *wrong* for other people to impose obligations on him as though morals actually existed" (FT, 77-8). To this, however, Arkes pertinently responds:

In short, [the skeptic] is expressing the essential logic of morals;
he is making nothing less than a moral argument in order to deny the existence of morals. The point here is that he is compelled to fall into this contradiction as soon as he states an argument that is at all relevant to the question of whether morals exist. For at that point it becomes necessary for him to use the form—and employ the language—of a moral proposition. (FT, 78)

Arkes has by now argued the following points: Good is to be sought and done (one must save the innocent, and all things being equal, innocents rather than only one); evil is to be avoided, and one has therefore no right to do an evil; law emerges from the logic of morals, and a community may make just laws whereby the innocent are afforded some protection from the assaults of those who, even though they have no right to, would nevertheless do evil; those who maintain that morals do not actually exist, and that therefore there ought be no "legislating" or "imposing" morality on others, fall into a contradiction and themselves employ the language of a moral proposition.

IV

Arkes now takes up the "next" question of what "would justify people in using lethal force not merely to preserve their lives, but to preserve the moral terms of principle on which human beings deserve to live" (emphasis added) (FT, 170).

This inquiry may ultimately go to the question of whether or not the community exists by nature, that is, whether human nature requires a community, really, for its essential well-being; or whether human communities exist only by virtue of some form of "contract" according to which people may choose (or choose not) to avail themselves of various forms of association, but to which association and oneself no critical harm is done by not contracting "in" because nothing natural, nothing essential, is thereby violated or lost. In such case, no genuine duty would be owed to this artificial construct of a community, even though one might judge from time to time that some level of cooperation would be consistent with his own self-
interest, including his self-preservation. Ultimately there being no duty, however, liberty would be decisive. The liberty which one would enjoy in such a loosely-binding arrangement is illustrated in Thomas Hobbes's *Leviathan*: There, a man *justly* condemned by the sovereign may—has the right to!—undertake whatever measures he may judge expedient to help him avoid the executioner (II, 21). His "duty" binds only as a slip-knot. And although in the end this man is not specifically accorded by Hobbes a right to do wrong, he is accorded the right to use *every* possible measure to escape the consequences of his having done wrong. Hobbesian man, inasmuch as his innate, private liberty may always trump his merely contractual, political duty, thus effectively "claims" for himself some measure of a right to do wrong.

By contrast, for Aristotle, politics is "by nature," that is, essential, indispensable for man's truest, deepest, and most enduring good, a proposition which Socrates' action seems to anticipate in Plato's *Crito*. Because the polis, the city, is strictly essential to man's well-being, if one throttles or frustrates the vital work of that community, he will deprive himself and others of crucial, indispensable, absolute goods; he will thus harm himself and wrong others. Thus, when one considers on the one hand the various ways there are of debasing and otherwise harming a community, and on the other whether lethal force may be used to preserve lives in a community, and even to "preserve the moral terms of principle on which human beings deserve to live," we see that something crucial is at stake.

If a community is debased, there is real harm done to the people of that community; a community shapes its people profoundly—do not most citizens become something of what their communities are?—so that debased communities tend to debase souls and, cumulatively and over time, may profoundly debase human existence. Because political life is thus to be taken seriously, the regime may protect itself, even to the point of using lethal force, as Arkes would say, and even for the sake of "preserving the moral terms of principle on which human beings deserve to live." Thus, the character of the regime, its goodness, is a profound consideration. Arkes elaborates on this point:
But the justifications for taking life would have to encompass the preservation of free governments, which are founded on the premise that their citizens are endowed with moral competence....

Now we may add, as an implication arising out of the logic of `first principles,' that it would be justified to take human life for the sake of preserving a regime of law, or a government by consent, as the kind of political regime that is suitable, in principle, for beings who can give and understand reasons. (FT, 221)

Thus for Arkes, good and evil do exist; man has the obligation to do the one and to avoid the other; from this moral obligation comes also law, since men on their own do not always sufficiently know and seek the good or will to avoid the evil. Politics being natural to, simply essential to, man's proximate and ultimate good, a decent regime may be established, and it may rightly promulgate laws which are consistent with both man's nature and the preservation of a decent regime. As such, it must honor man as a creature endowed with moral competence, and it may enforce against that morally competent man its just laws, perhaps even to the point of taking a grievously-offending citizen's life.

V

Now to speak responsibly of "the moral terms of principle on which human beings deserve to live," as well as to render such terms of principle effectual by enforcing them with laws, requires that one be capable of making numerous distinctions. Critical to Arkes' approach to these matters of law and morals is his own insistence on making distinctions such as that, for example, between "contingent" and "categorical" goods.

The very fact that certain `goods' are merely contingent means that, under certain contingencies, they will cease being `good' and may even be productive of harm. At those moments, it may be found that certain contingent goods come into conflict (in
the way that categorical `goods' cannot), and we are then compelled to choose between these contingent goods. In the nature of things, the standards that are needed to establish a hierarchy or ranking of preferences among contingent `goods' cannot themselves be merely contingent. (FT, 99)

Arkes illustrates this point:

Let us suppose that in a public square there is a sign saying, `Keep off the grass.' The rule that forbids walking on the grass would serve a plausible and legitimate end: it is pleasant to have the beauty of the grass, and it is good to honor the work that went into the cultivation of the grounds. But in an emergency it might be necessary to run across the grass if that were the fastest way of reaching a phone to call an ambulance and save a life. We would argue that the good of preserving the grass should not take precedence over the good of saving a human life, and that it would be perverse to accord precedence to the interests of the grass. (FT, 99-100)

Thus, the "logic of morals." Arkes provides a further elaboration on this logic of morals:

As I have tried to show, a valid moral principle will bear a logical connection to the idea of morals; it will state an implication that arises from the logic of morals itself. There is, of course, no mechanistic device for identifying these propositions and separating them from spurious moral principles. We must depend here on the disciplined uses of imagination.... But one useful test in judging any proposition that is offered as a moral principle is to consider whether it is possible to act upon the maxim contained in the proposition while at the same time engaging in projects that are thoroughly evil. If it were said, for example, that `people ought to act in the way that is most likely to give them pleasure,' we would recognize instantly that certain people may find their pleasure in perverse ways, in
causing harm for others without justification. To put the matter more strictly, we notice that it is possible to act on the maxim of seeking one's pleasure while simultaneously acting on a maxim that is incompatible with the logic of morals itself-e.g., that `people ought to be free to kill members of a race they find disagreeable, even though that means killing people for attributes they were powerless to affect.' To recognize that the two maxims can be reconciled-that we can act on both without conflict-is to recognize the plain truth that people may seek their pleasure unjustly. The second maxim is incompatible with the logic of morals, and if it is not in conflict with the first maxim, then we know that the maxim of `seeking pleasure' cannot arise as an implication from the logic of morals. (FT, 100-01)

To illustrate further, Arkes lists four propositions, only one of which, he argues, meets the exacting requirements that mark valid moral "principles," that express an "understanding of right and wrong that would hold true categorically, under all contingencies":
1.) It is wrong to visit punishment on people without making reasoned discriminations between the innocent and the guilty.
2.) It is wrong to take things that belong to others.
3.) It is wrong to speak other than the truth.
4.) It is wrong to kill.
"As it turns out, only one of these propositions-the first-states a valid moral principle. The notions of `innocence,' `guilt,' and 'punishment' are bound up with the logic of morals" (FT, 101). Arkes continues,

One may be indifferent, then, to distinctions of innocence and guilt only if one preserves a fundamental contempt for the notion of morals itself, from which the difference between the innocent and the guilty is ultimately drawn.... Proposition 1 stands, then, as an implication arising from the logic of morals. For that reason, it holds categorically and universally.... (FT, 102)
Arkes goes on to provide examples to illustrate how propositions 2, 3, and 4 cannot hold categorically. On proposition 2 above, he asks,

[Would we apply the label of `theft' if we were given nothing more than this account of Smith's behavior?: `Smith went to the garage of his neighbor, Jones, and took Jones's hose.' Obviously, we would not take these facts alone to define a theft. For all we know, Smith had permission from Jones to use the hose, and he intended to return it after he had made use of it. But what if Jones had not given his permission? What if a fire had broken out in Smith's house, and Smith quickly ran to borrow Jones' hose, even though Jones was not there at the time? Smith might not intend to keep the hose, and his use of the instrument without the approval of Jones could be justified' by the seriousness of the emergency, combined with Jones's absence.

What we mean more strictly, then, by a `theft' is a taking of property `without justification.' (FT, 103)

Next, the invalidity of proposition 3 as a moral principle may be likewise illustrated, first by the example Arkes borrows from Plato's *Republic*: What if a friend, whom you knew to be deranged, asked you the whereabouts of a weapon? Would you be obliged to tell him the truth?

[The telling of the truth, in that particular case, could produce an unnecessary, undeserved harm, and so the telling of the truth would not have been warranted. As a matter of common sense, we do not consider people immoral on every occasion in which they `speak other than the truth.' We find the presence of a lie, rather, when people speak falsely in the service of unjust ends—when they deceive others, for example, for the sake of defrauding and serving their own interests. But that is simply to say that a lie consists in speaking other than the truth without justification.
If it were categorically wrong to speak other than the truth, we would be faced with this moral inversion: we would have to indict as immoral the people of Holland who hid Jews in their homes during the Nazi occupation, and who did not tell the truth to the agents of the Gestapo who appeared at their doors.... If the Dutch citizens had told the truth to the Nazis, they would have made themselves, in effect, agents or accomplices for the purposes of the Nazis. The aim of the Nazis was genocide, and...genocide is a *categorical* wrong; its wrongness arises as a necessary inference from the idea of morals itself. (emphasis added) (FT, 104)

Finally, proposition 4 above is also invalidated as a principle of morals:

But if we insist that all killing is wrong, without gradations or distinctions, we would have to place on a level of moral equality the killing done, say, by a Hitler and the killing done by those who would resist being killed by a Hitler. That kind of parity could not be established without ruling out, from the beginning, any notice of the differences in motive and justification that separate the two sides. And once again it must be said that we cannot blind ourselves to these distinctions between the malicious and the innocent without showing a profound disrespect for the notion of morals itself, from which the difference between the guilty and innocent is ultimately drawn. The logic of morals compels us to make the distinction between Hitler and his victims, which means that we are obliged in turn to distinguish among lethal acts animated by purposes that are `justified' or `unjustified.' (FT, 112)

Thus, human "moral competence," grasping the logic of morals, implies the ability to make and honor distinctions. This may be brought home by a final, very instructive example, to wit: "If Jones is thrown out of a window and on the way down lands on Smith, we would not hold Jones liable for `assault'; that is, he would not be
Skepticism's Maze: Natural Right "Clues," Old and New

responsible for acts he did not intentionally perform and which he was powerless to resist" (FT, 159). The nature of things, it seems, requires us to make distinctions; it is right by nature that we do so. The study of nature and of morals leads to a "logic of morals." Arkes concludes on the decisive importance of making distinctions,

The willingness to inflict punishment without respecting the difference between innocence and guilt will be taken as the definitive and lasting mark of the corrupt, because its wrongness will continue to arise from the logic of morals itself, and it will continue to be wrong so long as the logic of morals itself endures. (FT, 426)

Arkes thus traces out the implications of the recognition of the "logic of morals." He shows how that logic forms the basis for the eventual making of laws, or how "it is the existence of morals itself which virtually entails the existence of law or polity" (FT, 14). Moreover, he shows the grounds for how and why this should be as it is: "If men were gods or angels, there would be no need for the restraint and teaching of law. But if men were beasts, if they were no different from other animals, there would be no use for the law, because men could not understand the moral teaching implicit in the law" (FT, 34). Arkes notes that this idea corresponds with the well-known Aristotelian premise:

It is the peculiarity of man in comparison with the rest of the animal world, that he alone possesses a perception of good and evil, of the just and the unjust;...'and it is association in [a common perception] of these things which makes a family and a polis.' Hence the classic understanding that the polity is, most essentially, an ethical association.... (FT, 14)

Arkes concludes the point: "We have law only because we have morals" (FT, 25), and we may "legislate only morality" (FT, 27).

VI

Next, Arkes goes to the seemingly thorny question of the legitimacy
of the law, the question of individual consent, or more exactly, the question of the validity of the law—with its necessarily moral impositions—for the one who does not consent. I say "seemingly" thorny because under Arkes's analysis, the problem is dispelled.

As Lincoln remarks, the requirement of unanimity would be impossible to meet; but quite apart from that, a requirement of unanimity would be merely another arrangement for the rule of a minority. For under one version of the rule of unanimity, the dissent of one person might be sufficient to bar any act of legislation; it may even be sufficient to block 99.99 percent of other citizens from forming a common polity and committing one another to a new constitution. One person, in effect, might rule the rest. That arrangement would have to be discarded, therefore, on the same grounds that would make the rule of the minority inadmissible as a permanent arrangement.

.... That is, of course, the "principle" that defines anarchy, and it explains at the same time why anarchy must be in principle wrong: not because it promises to create disorder, but because it rejects the very concept of morals. It must deny that there are in fact valid propositions about matters of right and wrong.... (emphasis added) (FT, 46-7)

Having thus dealt above with the question of the validity of a law, even given the absence of any particular person's consent to it, law's legitimacy is vouched for, shown to be quite plausible and convincing.

VII

Next, Arkes considers the necessity that citizens explicitly face up to the moral content of law, in order to curb practices which do not involve murder or theft, but are "only" morally bad. To this end, Arkes examines the "personally opposed" line of thought and action.

...[P]oliticians would not be likely to declare that they are "morally opposed," say, to the torture of children, but that they are disinclined to interfere with the religious or moral views of
parents. `It is not,' they may aver, `that we are in favor of torture, but that we are "pro-choice."' That argument is not likely to be heard because its incoherence would be understood instantly: one could be `pro-choice' on the torture of children only if there were nothing in principle wrong or illegitimate about the torture of innocent people. (FT, 362)

Thus, one may see the origin of law in the first principle that good is to be sought and done and evil to be avoided, and in the ensuing "logic of morals"; one then sees the validity of the long reach of law, even to those who would not consent; and now one is brought to recognize the importance, in the name of intellectual and moral integrity, of acknowledging the moral content of law, law made precisely to enforce necessarily-moral positions advanced by communities seeking to secure the human good, as grounded in nature and as keyed to man's natural faculties.

These are, it seems, the eventual implications of discovering the logic of morals: what starts as individual moral obligation upon his becoming morally competent, widens out or extends, finally, to a community, so that it, too, may be moral, so that its judgments, too, may discover, recognize, acknowledge, and encourage with the force of law the good of communities of human beings, the good of human beings simply. This logic of morals, of course, springs from the very same principles discussed earlier in Part II, principles discussed there as being grounded in nature and discoverable by reason. That is, the logic of morals seeks to discover, and then commands, what is consistent with, right by, nature.

Part IV

Baby-Making: Natural Right Analysis

The will and the intellect mutually include one another, for the intellect understands the will, and the will wills the intellect to understand (Aquinas,"On Truth": Summa Theologiae, I, Q.16, Art.4)

Anastaplo has freed us from the paralyzing grip of modern philo-
sophical skepticism; Arkes has shown that such liberation is not in vain,. that we can still think straight, reason to, and discover the ground of the moral order in nature. We have presented numerous examples to illustrate how the principle of natural right may be applied to moral questions. As Arkes spoke of a justification to "preserve the moral terms of principle on which human beings deserve to live" (FT, 170), now, Leon Kass, in *Toward A More Natural Science: Biology and Human Affairs*, addresses a question involving just such "moral terms of principle," and within a natural right framework. He deals there with what he calls the "New Biology" of "making babies." The question for natural right to address is whether, in the first instance, we may rightly "make" babies, and then if so, how far down this road (employing the range of measures from artificial insemination to surrogate motherhood) we may licitly go.

II

We shall proceed, at first, indirectly. In his discussion of cloning, Kass observes that,

Central to this matter is the idea of the dignity and worth of each human being. The question we must ask is this: Is individual dignity undermined by a lack of genetic distinctiveness? ....[O]ur personal appearance is, at the very least, symbolic of individuality. Differences in personal appearance, genetically determined, reinforce (if not make possible) our sense of self, and hence lend support to the feelings of individual worth we seek in ourselves and from others. (MNS, 67) He continues,

Membership in a clone numbering five to ten would no doubt threaten one's sense of self; membership in a clone of two might also. To answer the question posed above, we may not be entitled, in principle, to a unique genotype [Kass seems to have in mind that twins, as such, are not denied any `right'], but we are entitled not to have deliberately weakened the necessary supports for a worthy life. Genetic distinctiveness
would seem to me to be one such support.

A second and related problem of identity and individuality is this: The cloned individual is not simply denied genetic distinctiveness, he is saddled with a genotype that has already lived. He will not be fully a surprise to the world.... He may also be burdened by knowledge of his precursor's life history.... For these reasons, the cloned individual's belief in the openness of his own future may be undermined, and with it, his freedom to be himself. Ignorance of what lies ahead is a source of hope to the miserable, a spur to the talented, a necessary support for a tolerable-let alone worthy-life for all. (MNS, 68)

What is noteworthy here for the question of "making babies" is the idea that while twinning occurs spontaneously in nature, a unique genotype may still be simply best, for the reasons stated. It does seem possible to say both things—that a unique genotype is best, and that a twin is not denied any "right" to a unique genotype. Nature produces twinning, so there is no help for the potential problem of lacking a unique genotype. Even so, there are many things (such as twinning) that happen naturally, Kass observes, that we ought not do deliberately:

[T]he natural occurrence of embryo and fetal loss and wastage does not necessarily or automatically justify all deliberate, humanly caused destruction of fetal life...any more than stillbirths could be a justification for newborn infanticide. (MNS, 107)

Furthermore, "We practice adoption because there are abandoned children who need good homes. We do not, and would not, encourage people deliberately to generate children for others to adopt," partly because "we think it unfair to deliberately deprive the child of his natural ties" (MNS, 112). Regarding twinning, Kass concludes by asking, "Does it make sense to say that each person has a right not to be deliberately denied a unique genotype?" (emphasis added) (MNS, 67). Although being a twin deprives one of a unique
genotype, being a twin seems not to deprive one of any right; and although we should not deliberately deprive one of a unique genotype, being a twin is not a disease.

III

Now more directly to the question of "making babies." Although infertility deprives a couple of a capacity which 85 to 90 percent of couples enjoy, it may be in this case, also, that such a couple is not deprived of any right. Just as there is no right not to be a twin, there may also be no "right" to have the capacity to bear children. Although we should not go around deliberately making couples infertile, such infertility as does exist may not be a disease. "[I]nfertility is not a disease like heart disease or stroke, even though obstruction of a normally patent [open] tube or vessel is the proximate cause of each" (MNS, 121).

The first question for natural right is, Do infertile couples have a right to have children by whatever means possible? Or, as Kass puts it,

Does infertility demand treatment by any and all available means? By artificial insemination? By in vitro fertilization? By extracorporeal gestation? By parthenogenesis? By cloning- 'xeroxing' of existing individuals by asexual reproduction? (MNS, 45)

May we rightly proceed with any of these measures, and if so, are there any limits? If there are, where do we draw the line, or how far would be too far? This is the complex moral question about preserving "the moral terms of principle on which human beings deserve to live," which Kass takes up, appealing as he does to a "natural apprehension" in man and to common sense, employing the logic of morals, striving to ascertain which answer is consistent with natural right. Kass's starting point is that "Though it saddens the life of many couples...we must measure the cost-and I do not mean the financial cost-of seeking to eradicate that suffering [the inability to have children] by any and all means" (MNS, 79).
1.) Kass begins his natural right reasoning. The first step which a childless married couple could take is to discover if there is a pathological obstruction, an obstruction in the woman's fallopian tubes, which surgery might correct. "If this should be the case, a relatively uncomplicated surgical reconstruction of the oviduct may be attempted, "which, if successful, permanently removes the cause of infertility (i.e., it treats the underlying disease, not merely the desire to have a child).” According to Kass's analysis, this reconstruction would be "therapeutic," and "without possible moral objection or adverse social consequences" (MNS, 51). It would be, strictly speaking, a "medical" procedure. It would not be contrary to natural right since, while doing no harm, a disorder of the body is corrected and a good which is natural to man—that of husband and wife bearing a child of their own—may thereby be accomplished. It is precisely this kind of good which natural right always recommends.

2.) Sometimes, of course, the obstacle to conception is not blocked fallopian tubes, and the known remedy may then lie in "artificial insemination," a recourse according to which the husband's semen may be "artificially" united with the wife's egg (in the womb) so that fertilization may take place and, again, the couple may have a child of their own. We must note that there is still no health-threatening disease which must be cured; there is, instead, it seems, a disorder of the body which cannot be set right, but only circumvented by an artificial insemination, a remedy less a "medical" procedure than corrective oviduct surgery, in that this insemination circumvents, but does not actually correct any disorder, as successful oviduct surgery does. Nevertheless, Kass, employing natural right principles and reasoning, considers that this intramarital artificial insemination, while doing no harm, does help to accomplish some good natural to man and wife, that of bearing a child of their own.

3.) Logically next along this continuum of possible remedies is artificial [i.e., *in vitro*, outside the womb] fertilization," which again "provides for the union of the wife's egg and the husband's sperm, circumventing the pathological obstruction to that union" (MNS,
Although Kass has reservations about some of the (seemingly-exploitative) experimentation that has gone on with childless couples, and about problems concerning what will become of surplus embryos, he concludes that he can find "no intrinsic moral reason to reject the intramarital use of in vitro fertilization and implantation—at least no reason that would not also rule against artificial insemination (husband)" (MNS, 59).

On the strength of his analysis of the status of the embryo, and the respect due it, Kass observes that

[N]o objection would be raised to [intramarital] implantation.... [I]t is perfectly compatible with a respect and reverence for human life, including potential human life. Moreover, no disrespect is intended or practiced by the mere fact that several eggs are removed to increase the chance of success... Assuming nothing further is done with the unimplanted embryos, there is nothing disrespectful going on. The demise of the unimplanted embryos would be analogous to the loss of numerous embryos wasted in the normal in vivo attempts to generate a child. (MNS, 107)

Kass is aware of the "seeming paradox" of his conclusion about embryos: one the one hand, one must, out of reverence, not create embryos for experimentation; on the other hand, after a successful implantation, letting the unimplanted embryos die naturally would be the most respectful course (MNS, 108). Upon reflection, this strikes me, also, as only a seeming paradox. If embryos are used only for intramarital implantation, there is nothing wanton about the undertaking; to let the unimplanted embryos die naturally is the best way to insure that they are used for that intramarital implantation exclusively. In this way, there is no "experimentation," no use of embryos before intramarital implantation; and there is no use of extra ones after implantation. The embryo is protected from both sides, as it were; that is, there is no use outside of intramarital implantation. In this way, they are used only in the way they should be used. So far, so good.
However, Kass laments, "[T]he argument does not stop here, for we must consider both the likely other uses and abuses of this procedure, and also the other objectionable procedures that this one makes possible" (MNS, 59). To wit:

Once introduced for the purpose of treating intramarital infertility, \textit{in vitro} fertilization can now be used for any purpose. There is no reason why the embryo need be implanted in the same woman from whom the egg was obtained. An egg taken from one woman (the biological mother) could be donated to another woman (the gestational mother), either before or after fertilization-the former has been termed `artificial inovulation (donor),' the latter, `embryo transfer (donor)' or `prenatal adoption.' (MNS, 59)

Kass is concerned that there will be "eggs for sale" and "wombs for rent" (MNS, 60). "[I]s not a decisive objection to the extramarital use of these techniques that it requires and fosters, both in thought and in deed, the exploitation of women and their bodies" (MNS, 61)?

In this regard, Kass notes that some people, \textit{while expressing no objection to the practice of foster pregnancy itself},

object that it will be done for pay, largely because of their fear that poor women will be exploited by such a practice. But if there were nothing wrong with foster pregnancy, what would be wrong with making a living at it? Clearly, this objection harbors a tacit understanding that to bear another's child for pay is in some sense a degradation of oneself-in the same sense that prostitution is a degradation primarily because it entails the loveless surrender of one's body to serve another's lust, and only derivatively because the woman is paid. (MNS, 114)

Thus, in Kass's analysis, it is the practice of foster pregnancy itself which is problematic; it, too, entails the "surrender of one's body" to
serve another. "And is not a second objection to extramarital use of these techniques the fact that it fosters the notion that children are property, and encourages the practice of child buying and selling" (MNS, 61)?

5.) Then, of course, there is the further compromising element of a "mixed" parenthood, resulting in the troubling question, Who is the child's father or mother? Whenever donors are resorted to, the couple's child is "theirs" in only a diminished sense, indeed, in a precarious sense. There is a distorted lineage, and the prospect for good—which is always the end toward which natural right tends—seems already somewhat compromised.

Kass anticipates, further, the question about the generous act of a woman wishing to donate, or gestate, her sister's, or her friend's embryo, a gesture which, for psychological and ethical reasons, he fears may not be so innocent. Kass asks, "What are the psychological consequences for the womb-lending sister...of giving birth to her nephew? Will she feel like giving him up? Confusion and conflict would seem to be almost inevitable" (MNS, 61). Indeed, will the woman sense that she is more aunt, or more mother? Kass observes that, "With in vitro fertilization, the natural process of generating becomes the artificial process of making, and that it is this transfer of procreation to the laboratory which makes possible the shuffling of paternity and maternity" (MNS, 73).

6.) Kass takes us still another layer down, the metaphysician's step "down," into this question:

The desire to have a child of one's own is acknowledged to be a powerful and deep-seated human desire—some have called it instinctive....

Yet let us explore what is meant by "to have a child of one's own." First, what is meant by to have"? Is the crucial meaning that of gestation and bearing? Or is it to have as a possession? Or is it to nourish and to rear? Or is it rather to provide someone who descends and comes after....?

More significantly, what is meant by "one's own"? What sense of one's own is important? A scientist might define one's
own in terms of carrying one's own genes. Though in some sense correct, this cannot be humanly decisive.... [F]or most of us, it would not be a matter of indifference if the sperm used to fertilize the egg were provided by an identical twin brother-whose genes would be, of course, the same as his. Rather, the humanly crucial sense of one's own, the sense that leads most people to choose their own, rather than to adopt, is captured in such phrases as `my seed,' "flesh of my flesh,' `sprung from my loins.' More accurately, since one's own is not the own of one but of two, the desire to have a child of one's own is a couple's desire to embody, out of the conjugal union of their separate bodies, a child who is flesh of their separate flesh made one.... They also acquire descendants and a new branch of their joined family tree. Correlatively, the child...is given solid and unambiguous roots from which she has sprung and by which she will be nurtured,

If this were to be the only use made by embryo transfer, and if providing in this sense `a child of one's own' were indeed the sole reason for the clinical use of the techniques, there could be no objection. Here indeed is the natural and proper home for the human embryo. Here indeed is an affirmation of transmission and the importance of lineage and connectedness. Yet there will almost certainly be-in fact, there already are-other uses, involving third parties, to satisfy the desire to have a child of one's own in different senses of `to have' and `one's own....'

Here the meaning of one's own is no longer so unambiguous; neither is the meaning of motherhood and the status of pregnancy. Indeed; one of the clearest meanings of having life in the laboratory is the rupture of the normally necessary umbilical connection between mother and child.... [T]he new techniques will serve not to insure and preserve lineage, but rather to confound and complicate it. The principle truly at work in bringing life into the laboratory is not to provide married couples with a child of their own-or to provide a home of their own for children-but to provide anyone who
wants one with a child, by whatever possible or convenient means. (MNS, 110-12)

After all, the pragmatist will ask, "And why stop at couples? What about single women, widows, or lesbians? If adoption agencies now permit these women to adopt, are they likely to be denied a chance to bear and deliver" (MNS, 60)?

Leon Kass's book was published in 1985, and we know in 2004 that his questions and reservations seem prophetic. As he said then, "[We should not forget the sage observation, of Bertrand Russell: `Pragmatism is like a warm bath that heats up so imperceptibly that you don't know when to scream" (MNS, 98). Leon Kass knew then that the "warm" bath of scientific endeavor and technological invention concerning baby-making was getting "hot." He was not enthralled by the Siren song of such "pragmatism," one that can find at least one good humanitarian ground to justify each new step (MNS, 63).

7.) Next, along the continuum. The difficulties inseparable from artificial insemination (donor) attend, a fortiori, its sister development, the surrogate bearing of children. The lineage problem leads to contentious and bizarre lawsuits about who the "real" mother is, for custody or visiting rights. Our courts struggle to catch-up with the technological and moral developments of a scientific-medical community which seems to leap before it looks. The courts, considering the plight of each of the three to five parties who can be involved in such exotic (surrogate) ventures, attempt to resolve a kind of schizophrenia within these unnaturally "extended" families. In this matter of bringing children into the world, in the attempt to do what is right according to reason and prudence as consistent with man's natural apprehension of things, in the attempt to follow what is according to nature, three does seem to be a crowd.

8.) Surrogacy's offspring, ectogenesis (laboratory growth of an embryo into a viable full-term baby), produces still further confusion, according to Kass, because of the human importance of
the bonds of lineage, kinship, and descent. To be human means not only to have human form and powers; it means also to have a human context and to be humanly connected. The navel, no less than speech and the upright posture, is a mark of our being. (MNS, 109)

Or, as Kass puts it a few pages on, "The navel is our bodily mark of lineage, pointing back to our ancestors..." (MNS, 115).

V

What has happened, and how has it happened? The "pragmatism" mentioned earlier has surely engendered some of the various "steps" which our scientific and medical communities have taken. Moreover, one does not even have to focus on the problem of misuse or abuse of a given technique to see how the problem has elsewise developed. Kass simply observes that "one technical advance makes possible the next and in more than one respect. The first serves as a precedent for the second, the second for the third-not just technologically, but also in moral arguments" (MNS; 63). Here, Kass refers to how the famous "wedge" argument works, roughly that A will lead to B. Of course, it is not necessary that A lead to B, so the thin-edge-of-wedge argument has been open to criticism. But, as Kass perceptively observes,

[Such criticism misses the point for two reasons. First, critics often misunderstand the wedge argument, which is not primarily an argument of prediction, that A will lead to B, say on the strength of the empirical analysis of precedent and an appraisal of the likely direction of present research. It is primarily an argument about the logic of justification. Do not the principles now used to justify the current research proposal already justify in advance the further developments?

(MNS; 117)

Kass goes on to add that, "Second, logic aside, the opponents of the wedge argument do not counsel well. It would be simply foolish
to ignore what might come next, and to fail to make the best possible assessment of the implications of present action (or inaction)"
(MNS, 118).

What has been the effect of our "justifying in advance" various biomedical techniques? Kass answers thus:

As in so many other cases of technological innovation, the ability to initiate human life in the laboratory and to make babies using laboratory fertilization arrived on the scene before we had given thoughtful consideration either to the meaning or the desirability of doing so. Once again, scientists—acting entirely on their own, under a liberal polity that supports their freedom to do so—have produced the means before the community has even endorsed the end, let alone this particular choice of means. (MNS, 50-1)

But perhaps all of this should come as no surprise to us. As Kass notes, "One cannot speak of natural desires or natural human rights or, indeed, about disease without some notion of what would be normal, natural, and healthy for human beings" (MNS, 45). However, as discussed in Part I, a formal skepticism, and an aggressive and pervasive relativism has for some time now "spooked" the community at large, has forbidden it to have convictions, particular views about what is normal, natural, and healthy for human beings. Indeed, the prevailing skepticism and relativism would require that one may use words like "normal," "natural," and even "healthy" only within quotation marks.

That is, we seem to have gone nearly blind. Is it any wonder, then, that we are routinely unable to resolve against almost any ends which science and technology make available to us? To resolve against is to deny; to deny one thing is to affirm another. Relativism makes war on affirmations, especially moral ones. Aquinas observes that "blindness is not said except of one `whose nature it is to see- (I, Q.17, Art.4). We, who are supposed to see, are by now nearly blind. 
VI
This brings us, again, to the heart of the modern problem: the moderns have abandoned the standard which can be discerned by reason in the very nature of things. Instead, the moderns seem to favor the Cartesian view, which locates the ground of truth not in the nature of things, but in the self. That "innocent" shift has been followed by the "wicked" Nietzschean "truth" that the real driving force in even the best men has never been any philosophic search for truth and the good, but always only will, a will fundamentally without reliable guidance, fundamentally blind yet "existentially" assertive. It may be that the moderns simply do not hold as axiomatic that one should will the good, a principle which was a self-evident first principle, in need of no demonstration, to the greatest thinkers of the past.

Kass prepares to conclude: He raises the question in his book of whether we have sufficient wisdom to embark upon new ways of malting babies. He thinks we do not. "To have developed to the point of introducing such massive powers with so little deliberation over the desirability of their use can hardly be regarded as evidence of wisdom" (MNS, 78). We have been blind, but assertive nonetheless. As the pilot announced, we are lost, but we are making very good time. Not surprisingly, then, Kass concludes that there should be "no encouragement of embryo adoption or especially of surrogate pregnancy" (MNS, 113). He considers that natural right draws the line here, and for the potent reasons adduced. After all, contraception provides "only sex without babies. Babies without sex [embryo adoption or surrogate pregnancy] is the truly unprecedented and radical departure" (MNS, 113).

VII
Perhaps we may end where we began, with Justinian. The reader will remember that he argued that an orphan, by nature, needed and should have a guardian, and a good guardian at that. Nature demands it; there is nothing contrived in such a remedy: there is no help for the situation but to seek an adoptive guardian. All things being equal, there are no grounds for simple recrimination on the
part of the orphan. The adoption was not a strained attempt at "self-fulfillment." Instead, somebody was clearly trying to act for the orphan's good. Our "natural apprehension" is receptive to Justinian's attempt to secure this good in this way.

If we agree that, by nature, an orphan should have a good guardian, what does our "natural apprehension" tell us, next, about the advisability of employing donor eggs or semen, surrogate gestation of embryos, or ectogenesis, either for love or money? Whereas Justinian's remedy is natural, are not our contemporary donations and surrogacy strained, contrived, bizarre, and unnatural? They do not appeal to our natural apprehension of the good, I suggest; rather, such projects must be intellectually "forced." Our support for such ventures, one can suspect, is a measure of how far we are willing to go to get what (we think) we want. The orphan must be cared for; there is no other help for that situation. No woman must resort to artificial insemination (donor) or resort to a surrogate "mother"; no "parents" must resort to ectogenesis. No one must, and natural right concludes, on a number of grounds, that no one should.

Epilogue
The reader may have noticed that Leon Kass's book, logically "last" in my analysis, was actually published prior to the ones by Arkes and Anastaplo. Indeed, the order of publication of the three is exactly opposite to my order of analysis. Nevertheless, perhaps for the modern reader, Anastaplo comes "first" inasmuch as his arduous work shows the invalidity of modern skepticism and thus renders one more open to Arkes and Kass, in that order. There is unity in truth, as I said earlier, and in the beginning, it seems, is the end. These three books ought to be earnestly studied, severally, and perhaps thereafter thought of in combination, as I have made extremely bold to do.

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NOTES

1 This formulation is from Shakespeare's *Measure for Measure* (III ii, 221). Later in this same play is the affirmation that "...truth is truth / To th' end of reck'ning" (V i, 48-9). A clue (or clew) [in the title] was, in legend, a ball of thread or cord used in guiding one's way out of a labyrinth.

2 Some intellectuals, of course, can seem positively to welcome this weakening of the community's moral confidence: to their skepticism it seems intellectually satisfying, while the consequent easing of restraints is "liberating." This liberation may help account for why so many people do seem receptive to moral relativism: It permits one to seek, with a clear conscience so to speak, much of what he happens to want. It can be "convenient." Even so, Aquinas can remind us that

> When ignorance is in any way willed, either directly or indirectly, it does not cause the act to be involuntary. And I call that ignorance directly voluntary, to which the act of the will tends; and that ignorance indirectly voluntary, which is due to negligence, by reason of a man not wishing to know what he ought to know... ( "On Will": *Summa Theologiae*, IaIIae, Q.19, Art.6).

All subsequent references to Aquinas will also be to his *Summa*.

3 Aristotle notes that "[T]he doctrine of Heraclitus, that all things are and are not, seems to make everything true...." "[But] he who says that everything is true makes even the statement contrary to his own true, and therefore his own not true (for the contrary statement denies that it is true)..." (*Metaphysics*, 1012A24 and 1012b15-17).

4 Arkes suggests the hard-core skepticism which underlies this moral relativism in a vivid-if somewhat playful-illustration from Tom Stoppard's comedy *Jumpers*:

> The skeptics will agree that the train for Bristol leaves Paddington Station only when they themselves are there to see it leave-and even then they will agree only on the understanding that all the observable phenomena associated with the train leaving Paddington could equally well be accounted for by Paddington leaving the train (FT, ix).

5 On someone's not appreciating, or not even "looking at" things,
consider what would be incomplete about observing five noticeably different triangles, without at the same time observing what they do have in common, or of looking at a house but "seeing" only bricks and stones and the like, but not also that it is a place to provide shelter for people and their possessions. Aristotle notes that "Those who define a house as stones, bricks, and timbers are speaking of the potential house, for these are the matter; but those who propose 'a receptacle to shelter chattels and living beings,' or something of the sort, speak of the actuality" (emphasis added) (Metaphysics, 1043a14-16).

Aristotle observes, 

Thus, "it is impossible...that 'being a man' should mean precisely 'not being a man'" (Metaphysics, 1006b13-15).

But see Aristotle's Metaphysics: "A false account is the account of non-existent objects, in so far as it is false. Hence every account is false when applied to something other than that of which is true; e.g., the account of a circle is false when applied to a triangle" (1024b27-29).

Thomas Aquinas in his discourse "On Truth" (Summa Theologiae, I, Q. 16) also had to deal with this question. There he observes, "For a stone is called true, because it expresses the nature proper to a stone" and. "the being of the thing...is the cause of truth in the intellect" (Q. 16, Art. 1). Or, put another way, intellecting the stone does not cause the being of the stone. Hence, Aquinas can say, "For Augustine condemns this definition of truth, 'That is true which is seen,' since it would follow that stones hidden in the bosom of the earth would not be true stones, as they are not seen" (Q.16, Art. 1). This is all to remind us that there is a truth in things themselves, apart from the apprehension of those things, and that "the truth of our
intellect is caused by the thing," or that "Truth is the squaring of thought and thing" (*loc. cit.*).

Aristotle adduces a playful example which reveals the dubious nature of relativism, which tries to "have it both ways": "Why does [a man] not walk early some morning into a well or over a precipice, if one happens to be in his way? Why do we observe him guarding against this, evidently because he does not think that falling in is alike good and not good? Evidently, then, he judges one thing to be better and another worse.... Therefore, as it seems, all men make unqualified judgments, if not about all things, still about what is better and worse" (*Metaphysics, 1008b 14-18; 26-7*).

Hadley Arkes also indicates the logical inconvenience of holding the relativist position:

It would be incoherent...to show outrage over the acts of other people if one held, at the same time, that the standards of moral judgment were irreducibly personal and subjective. If they were, we would have no grounds for saying that the person who commits genocide does not in fact do what he regards as just or good *in his own perspective*; and if there is nothing other than a `personal' perspective on these matters, why should we think that our own `personal' view should be any more accurate or authoritative than his? (FT, 22).

Anastaplo deals with Occam's Razor (and how that principle has been "radicalized" by the time we get to Whitehead), Descartes, Nietzsche, Freudian psychology, Existentialism, and Heidegger in this order, but in separate essays, in Section I of *The American Moralist*. One may conclude, based on Anastaplo's analyses, that there is a philosophical "lineage," and that it culminates in the articulation of a single movement and direction in modern philosophy. Although it is in this order that Anastaplo lays out his thoughts, he does not specifically argue that they mark the single movement and direction which I explicitly hold them to constitute. As it is I who am at work in the interstices, joining the parts together, it is I who will be responsible for any major errors in this essay. If my analysis should be correct, however, what will be demonstrated is that there is more to George Anastaplo's writing than may at first meet the eye;
that in this case, the analysis of half a dozen seemingly discrete lines of thought points, without his so specifying it, to a single integrated whole of which the reader had hitherto been unaware. That is, his analyses may point beyond themselves to a still deeper, single analysis, a synthesis.

io Similarly, Aquinas observes that "A thing may be known in two ways: first, in itself; secondly, in its effect, wherein some likeness of that thing is found; thus someone not seeing the sun in its substance may know it by its rays" (Q.93, Art. 2). For Aquinas, it seems, the existence of the sun could (rightly) be inferred from its rays.

I have recently seen a 16-month old child, who had in the course of weeks been shown various balls and had the word "ball" repeated to her each time, call an egg a "ball," and a plum and an apple also. The child is, of course, mistaken; however, she is also observant in an important way. She sees the likenesses; she sees the "idea." Her soul seems naturally receptive to, "disposed to apprehend," the likeness, the analogy, the enduring quality which all the pertinent objects have in common-roundness. She will appreciate the differences later, which she may also be naturally "disposed to apprehend."

I sometimes think that many modern intellectuals would do away altogether with analogy. Analogy always involves a difference which accompanies the likeness, and this difference means, of course, imprecision. Do modern intellectuals, overlooking how things are alike, tend to emphasize instead how those same things are different? To the degree that they do this, do they not become like Heraclitus, seeing all things in flux, so that even the river that one puts his foot into now is not the "same" river as it was only a moment ago? Insofar as they become like Heraclitus, do they not "look past" the nature of things, a nature which can be apprehended by the soul? Are they thus inclined to deny nature? And when they deny nature, do they not also deny the possibility of knowing, and hence of philosophy? And then, do not they become professional skeptics, and consequently moral relativists?

It is this "natural apprehension" of things which I hope especially to illustrate in Part II of this essay.
On the problem which "matter" introduces, consider Aristotle's own example, that of the likely difference between the carpenter's right angle, and the geometrician's (*Ethics* 1098a 28-30). Thus, one might suggest that no roughly-square or roughly-round piece of (en-"mattered") wood can be as "accurate" as the theoretical square or circle, because the theoretical one is, by definition, accurate: any necessary adjustments or corrections will have been made before calling it a square or a circle.

Of course, even more difficult than drawing a right angle (that is, transferring thought into "matter") may be giving form, that is, "matter," to justice. Nettlesome questions concerning what is just are not hard to come by. For example, if a contract calls for foreclosure on a property if the requisite payment is not made within 90 days, one can imagine the haunting and not simply implausible appeal: "Please extend the deadline by one day; I will have the money tomorrow. Why not 91 days? Is there really so great a difference in justice between 90 days and 91? Is not the 90-day provision, at some level, arbitrary?" Or, again, one may be given a traffic citation for going 41 mph, though he might have been spared at 40 mph. Laws on foreclosure and laws on traffic safety are all attempts to "enmatter" law, to "enmatter" justice. One cannot expect to find precision and certainty in all such cases, and yet some attempt must be made to guarantee contracts and to have highway safety. After all, if one is susceptible to an appeal for one extra day to make the payment, or one more mile per hour, then why not two, etc.?

What Anastaplo has in mind here can also be seen in his appreciation for the "common law," the systematic application of human reason, along the lines of generally accepted standards of justice, to circumstances of the day, the standards to be apprehended naturally, involving a respect for common sense (AM, 559).

Anastaplo suggests that the Christian emphasis upon "individuality" is perhaps anticipated by St. Augustine (AM, 86-7).

Is it not nature that "warns" us, for example, about the danger of heights? that makes us shy away from sources of very intense heat? that moves us spontaneously, and without reflection, to regain a suddenly-lost balance? that "teaches" infants to look at other people
in their eyes (by means of which the infants endear themselves to them)? Much of this is what we call "instinct," but may not nature be the teacher of this instinct? Thus, nature may write all kinds of things on the "tabula"; many things may be "naturally apprehended" by, and be invaluable to the soul, including some moral things, such as the impulse to gratitude towards a benefactor, or our spontaneous revulsion at the torture of another living being. Does the radically self-conscious attempt to get "underneath" what nature provides torture nature, undervalue it, rob one of at least some of its benefits (e.g., a salutary regard for common sense), and leave one in an infinite regress, still with no demonstration?

Moreover, consider what Anastaplo can say in favor of "mere" conventions: that it is natural for men to have conventions (AM, 414); that conventions train and discipline men to take some standards seriously (AM, 413); that honoring certain conventions—that is, taking seriously the conventions of one's decent community—may even be necessary and good, if we are to make the best of those communities. If a man considers that his community really does not matter, he is not likely to get the best from it. Finally, Anastaplo argues that even though law-the embodiment of the civic conventions—"cannot prescribe the best, it can prevent the worst and prepare the way for the best, even as it routinely provides for the good and decent" (AM, 332).

17 Anastaplo considers that much which passes under the heading of "privacy" is not really private at all; many actions claimed to be only private actions are not truly so, for the entire community is affected, cumulatively, by independent decisions here and there of individuals (AM, 449).

18 On truth's being kept in quotation marks, one can be reminded of conversations with many intellectuals today (perhaps Nietzsche's descendants?) wherein this qualification is ritually introduced.

19 Should not Nietzsche's use of the word "philosopher" (quoted from Beyond Good and Evil above) also rightly be in quotations, as is "truth," because for Nietzsche there are no true "lovers of wisdom," but only lovers of will? One is reminded of Hobbes's dark
account of the relation between the intellect and the will: "For the Thoughts, are to the Desires, as Scouts, and Spies, to range abroad, and find the way to the things Desired" (Leviathan I,8).

20 One is reminded of Aristotle's *Metaphysics:

[N]or is he who thinks four things are five equally wrong with him who thinks they are a thousand. If then they are not equally wrong, obviously one is less wrong and therefore more right. If then that which has more of any quality is nearer the norm, *there must be some truth to which the more true is nearer.* And even if there is not, still there is already something better founded and *liker the truth,* and we shall have got rid of the unqualified doctrine which would prevent us from determining anything in our thought. (emphasis added) (1008b34-1009a5)

21 Anastaplo's moderation with respect to Nietzsche, however, is manifest:

Do I exaggerate in making as much as I do of the will in Nietzsche and in playing up as much as I do his repudiation of ends or goals, at least as these are commonly understood? He, with his poetic genius, exaggerates much more than I can safely do. My exaggerations are offered in the spirit of his, if only to point up the implications and risks of his doctrines as they come to view among the uninitiated. I appreciate that I run the risk...of trivializing the challenging arguments of truly great thinkers, thinkers superior to me in both heart and mind. (AM, 131)

It should be noted, however, that even as Anastaplo makes this acknowledgment, he also leaves the text of what he has to say as it stands. I myself believe his points are telling. That is, is not this exactly how Nietzsche's positions are "commonly understood" by most intellectuals? And is not the relativism which derives from such a repudiation of ends and emphasis on will every day still more commonly understood, as Allan Bloom observed, by almost every student who enters a university classroom these days? "There is one thing a professor can be absolutely certain of: almost every student entering the university believes, or says he believes, that truth is...
relative." Young students see this relativity of truth-"You have your truth; I have mine"-Bloom continues, as "a condition of a free society, relativism being: necessary to openness, which is to be seen as the virtue. The danger for us, as these students see it, is not error, but intolerance" (The Closing of the American Mind, 25). But, as Anastaplo argues, in order to be a community in the first place, almost all have to be judgmental in the same way about certain important things, including, perhaps especially, the moral things (AM, 411). Elsewhere, Anastaplo can note that,

We make much today of something called open-mindedness. But should we not take care lest a civilized willingness to hear out arguments become nothing more than a perverse mindlessness?.... [I]t is assumed proper, if not necessary, for men and women to attempt to think. Is it not also assumed that there are correct and incorrect conclusions following from the thinking one might attempt? (Artist as Thinker, 275-6).

22 Cicero observes, profoundly I think, that it would be contrary to nature if man walked not on his feet, but instead on his hands. Similarly, would it not be contrary to nature-that is, contrary to what is, when nature is not distorted, and contrary to what ought to be-to blind all infants at birth? However, once one abandons natural right, which calls upon us to judge what is right by a careful consideration of that guide which is available in nature, is it any longer possible to argue convincingly-in a way that does not introduce arbitrary standards-against just such blinding or otherwise mutilating of all infants at birth? Where would one find any sure foothold?

23 Nature is instructive also about another desire that arises, that concerning the possession of property. Nature seems to advise that human beings may, "by nature," rightly take possession of certain properties, such as certain amounts of food and land. Kant’s Metaphysical Elements of Justice is helpful here. Therein Kant makes the point that if all foods and lands are considered immutably "public" property, then no one will be able (without the permission of all) to take anything at all, ever, for his own person. Given man’s nature, this prohibition would be simply self-defeating, and fatal to all of
human existence. It is naturally right, then, since it is a good that human existence be sustained, for men to acquire or appropriate certain kinds of property for themselves. The Aristotelian conception of the "natural" is in this respect the same: the "natural" is the good for man; it furthers his perfection. Contrary to this idea of "natural right" would be the conception that to take an apple from a tree is a "humiliation" of nature. In contrast, the ancient virtue of temperance is desire mingled with reason, that is, desire for the right thing, to the right degree, etc., with reason able to help us discover what is best, what is "naturally right."

24 For example, once one knows that a certain drug causes one to hallucinate, and once one knows that "hallucination" involves "a wandering of the mind," and once one recognizes that man's mind already faces enough challenges (to understand, to minimize confusion, to have good sense and judgment, to know), he also knows that any substance that causes hallucinations is not for him. To desire such (ruinous) "pleasure" as hallucination is said by some to afford would be illicit, and because of his instruction and training, the temperate man would simply have no desire for it. Moreover, is not turning away from such "pleasure" quite commonplace?

25 Anastaplo points out certain (unexamined) moral prerequisites or presuppositions even of "science":

..[O]ur very competent natural scientists have come to provide the standards for knowing. At what do scientists aim? The truth, of course. But does not respect for truth itself depend upon, as well as reflect, a moral stance?.... If a moral stance did not underlie a scientist's approach, why should he not settle for fabrications of evidence, for apparent demonstrations, and for stealing others' work so long as he is not immediately detected? Be that as it may, one must know and be something before one can make well the difficult choices one confronts in scientific enterprises just as in everyday life.

Do not scientists, whether physical or social scientists, recognize that there is more to morality (including the heroic) than they can establish with the precision and certainty that may be required and may often be available for their technical

Moreover, Anastaplo remarks on the vulnerability of science to charges that even it does not always have certainty:

Theoretical inquiries depend not only upon ethical conditions, but also upon unexamined (and ultimately unexaminable) assumptions about the everyday physical world. Even physics, the queen of the modern sciences, may not be as productive of certainty as it seems to many to be.... [D]iscovering the `top quark' cannot be the end of the line. Most, if not all, physicists believe that much more is to come. The indefiniteness of the conclusion or goal of a line of inquiry can be as unsettling (or as productive of uncertainty) as the indefiniteness of its beginning or premises. Physics, like ethics, must begin with premises-with things somehow (if not even mysteriously) intuited or taken from observation. ("Lessons," 183)

Physics, like ethics it seems, if it is to get anywhere, must avoid an "infinite regress."

26 This idea is related to Anastaplo's suggestions (in *The Artist as Thinker*) about how best to understand poetry. In a Shakespearean play, for example, one needs to understand what *should* have happened regarding Hamlet or Cordelia, say, to see what prudence might have been able to accomplish, in order fully to understand what *did* happen to them, that is, to appreciate why, and how far, they fell.

27 Concerning the possible Kantian contribution to the undermining of the "natural basis for ethical norms," Anastaplo may well have in mind what he refers to as "the Kantian suggestion that we should suspect any moral alternative that is pleasurable" (AM, 131). Is not this Kantian idea somehow counter-natural, separating, as it does, pleasure from the good? After all, a brick-layer who does his job well may "naturally" feel pleasure at having done his work well. Or, consider the pleasure of giving just the right gift. Is not that pleasure fitting, the natural conclusion of something done well?
Why should we not experience pleasure just as naturally, then, when we do something morally good? Should there not also be a pleasure proper to, "natural" to, that kind of doing well? If this is so, does not Kant's idea of separating pleasure from the good strain after "purity"? Is this still another manifestation of the desire for an elusive moral certainty? At any rate, Kant's prescription has the effect of separating pleasure from virtue, something which a more prudent Aristotle does not do. For Aristotle, the good man takes pleasure in his good actions, or at least no pain.

Aquinas, too, addresses this point:

Pleasure perfects operation. First, as an end...according as every good which is added to a thing and completes it can be called its end. And in this sense the Philosopher [Aristotle] says that `pleasure perfects operation...as some end added to it'; that is to say, in so far as to this good, which is operation, there is added another good, which is pleasure, denoting the repose of the appetite in a good....' Moreover, as the Philosopher says, `Pleasure perfects operation, not as a physician makes a man healthy, but as health does' ("On Pleasure": Iallae, Q.34, Art. 4).

According to this idea, pleasure in a good work is not adventitious. Instead, as health perfects "being healthy" (or as being healthy culminates in health, or health is intrinsic to "being healthy"), so pleasure perfects an operation involving the good. This is to say that such operation culminates in pleasure, or that pleasure is intrinsic to "the repose of the appetite in a good." Aquinas observes that

[J]ust as in the natural order there is a certain natural repose, whereby a thing rests in that which agrees with its nature, for instance, when a heavy body rests down below... so in the moral order, there is a good pleasure, according to which the higher or lower appetite rests in that which is in accord with reason. (Q.34, Art. 1).

Aquinas continues his analysis by arguing that "Since pleasure perfects operation as its end...an operation cannot be perfectly good unless there be also pleasure in good" (Q.34, Art. 4). Finally, he observes that "Happiness is the greatest good, since it is the end of
man's life. But Happiness is not without pleasure..." (loc. cit.).

Indeed, should we, following Kant, (unnaturally?) subtract pleasure from the good, from the morally good action, and hence from happiness? Or would not this subvert what Anastaplo calls the "natural basis for ethical norms"?

8 In the *Metaphysics* Aristotle observes that "the [good] actuality is also better and more valuable than the good potency," but that "Also in the case of bad things the end or actuality must be worse than the potency" (1051a4, 15).

Is not this radical approach to Being what was begun by Descartes in *his* attempt to get to the "bottom" of things? That is, we can see the radical approach, the abstract, the "metaphysical," as distinct from reliance on the "natural apprehension" of things from the beginning, to this culmination of modern developments in philosophy. It is this line from Occam, Descartes, Nietzsche, and Freud, to the Existentialists and Heidegger which Anastaplo's analysis brings to light.

3. See Hamlet's abstracted examination of the skull (and of Being?):

*Hamlet.* Dost thou think Alexander looked o' this fashion i' the earth?

*Horatio.* E'en so.

*Hamlet.* And smelt so? pah!

[Put down the skull.]

*Horatio.* E'en so, my lord.

*Hamlet.* To what base uses we may return, Horatio.

Why may not imagination trace the noble dust of Alexander; till he find it stopping a bung-hole?

*Horatio.* 'Twere to consider too curiously, to consider so.

Anastaplo observes on this passage in *Hamlet* that, "One does not understand a king, a political man-perhaps not even the human being simply-if one insists upon doing what Hamlet does: "Twere to consider too curiously, to consider so" *(The Constitutionalist, 30-31)*.

31 Anastaplo quotes from a 1979 issue of the *New Yorker:*
The streets [of Phnom Penh] were filled with trash and broken things...Our guides told us that the entire city, of two million people, had been evacuated in twenty-four hours by the Pol Pot forces shortly after they took over [in 1975]... [The people driven out into the country] lived in compound[s] and were given two meals of rice per day. They worked in the fields...for fourteen to sixteen hours, and then had to go to political-indoctrination classes at night. No one was allowed to cook his own meals. If you were caught with a pot of your own, you could be shot...You could be killed for wearing glasses...Glasses meant that you spent your time reading and were an intellectual. Intellectuals and professionals had to hide all sign of their identities..No religious practices were permitted. I was told by one of our guides that among the Charn people-a Muslim sect-about ninety percent of the men had been killed...When we asked people, "Why did Pol Pot do this? How could it have happened, they would only say, "He's a madman." But later, when I arrived in Thailand, Thai friends told me that Pol Pot had believed that he was following an ideology. He wanted to build the New Socialist Man and the New Socialist Woman. All Western technology was to be rooted out. Cambodia would be self-reliant. At first, everyone would work in agriculture, and be pure. They would create a surplus of rice, and export it. Then they would build up their own Cambodian-style industry. You see, they had this whole plan. But it didn't work. (AM, 95)

32 This example is taken from John Holt's widely anthologized essay, "Three Kinds of Discipline."

33 [I]n the natural order there is a certain natural repose, whereby a thing rests in that which agrees with its nature, for instance, when a heavy body rests down below...so, in the moral order, there is a good pleasure, according to which the higher or lower appetite rests in that which is in accord with reason....” (emphasis added) (Aquinas, Iallae, Q.34, Art. 1).

There thus seems to be an intuition in man of the right order of things. Whatever is in accord with reason, it seems, is something man
is able to repose or "rest" in; such repose in reason provides a "good pleasure." Consider, for example, how readily one grasps the double wrong of an innocent man's being punished for a crime he did not commit: the man who should not be punished is punished, and the man who presumably should be punished is not punished. Such a false conclusion of affairs provides for us no "good pleasure," no "natural repose"; we cannot "rest" in this. This kind of perversion of the right order does not, cannot, "work." Or, consider Edward Gibbon's example of the systematic perversion of justice: During the reign of Commodus, "A wealthy criminal might obtain not only the reversal of the sentence by which he was justly condemned, but might likewise inflict whatever punishment he pleased on the accuser, the witnesses, and the judge" (The Decline and Fall of the Roman Empire, ch.4). This would ultimately imply the vindication and victory of the worse, and the humiliation and defeat of the better people in a community. This cannot contribute to a wholesome, durable social and moral order; it cannot "work."

34. "Since the modern world began in the Sixteenth Century...each [system of philosophy has] started with a paradox; a peculiar point of view demanding the sacrifice of what they would call a sane point of view.... A man had to believe something that no normal man would believe, if it were suddenly propounded to his simplicity.... The modern philosopher claims, like a sort of confidence man, that if once we will grant him this, the rest will be easy; he will straighten out the world, if once he is allowed to give this one twist to the mind." (G.K. Chesterton, as cited at AM, vii).

35 Kass elsewhere makes two observations consistent with his position that the slaying of all female infants would be wrong: "In my sense of the terms 'right' and one might even say that a dog or a fetal dog has a 'right to life,' and that it would be cruel and immoral for a man to go around performing abortions even on dogs for no good reason" (MNS, 82). If the fetal dog is protected, a fortiori is it that the female infant should be. Next, Kass observes, "[N]o one would sanction the deliberate production of live fetuses to be aborted for the sake of research, even very beneficial research. To
this observation, however, Kass attaches the following crucial footnote: "Though perhaps a justifiable exception would be a universal plague that fatally attacked all fetuses in utero. To find a cure for the end of the species may entail deliberately `producing' (and aborting) live fetuses for research" (MNS, 103). Thus, even as one may not gratuitously assault human (or animal) existence, one may take extraordinary measures to sustain it when it is profoundly threatened. Thus is Being, nature's "intention," to be protected, and from both sides, as it were.

The first rule of medicine, apparently, is Primum non nocere: "First of all, do no harm."

37 This example comes from HadleyArkes' First Things (89). He says there that it would be not only "illiberal and unjust" to punish the man who was pushed, but also "incoherent." I take my next example, that of the grasping uncle, also from Arkes.

38 It seems we are bound by the logic of cause and effect: "If A is when B is, and B is when C is, and if C exists not by chance but of necessity, that also of which C was cause will exist of necessity, down to the last causation as it is called." (Aristotle, Metaphysics 1065a8-10).

39 George Anastaplo shows what internal consistency looks like in constitutional matters: the Freedom of Speech provisions of the First Amendment, for example, must not be understood as extending so far that they nullify the "impartial jury" requirement or the fair trial provision of the Sixth Amendment. If the one should nullify the other, that is, if "freedom of speech" or today's less restrained "freedom of expression" should make it impossible for a defendant to get a fair trial-if the two constitutional provisions should be rendered thus inconsistent with one another-that would be a sign that someone is stretching too far, misreading, the freedom of speech provision. Such inconsistencies are theoretically embarrassing, and because they are disruptive and indefensible, they do not "work."

40 Another way to put this kind of question is to ask, Is murder and stealing wrong, for example, because God says it is? Or, is murder and stealing wrong by its very nature, and that not even
God can alter that fact (and at the same time remain perfect, and consistent with Himself)? What is the origin of the moral quality of an action? If one considered that murder and stealing is wrong by its specific nature, then one could argue further that God, recognizing that, and seeking man's happiness, informs man of its intrinsic wrongness, because that way of life will not "work" for man.

Consider the following examples adduced by Hadley Arkes:

It is taken now as an understanding beyond question that parents are obliged to furnish help to their children in peril or distress.... [The same] can be said also in relation to spouses. In a noted case in Australia, in the 1930's, a couple had sat quarreling at the edge of a swimming pool. The wife, in a fit of anger, jumped into the pool, a gesture that was all the more dramatic since she could not swim. But the husband, in vengeful detachment, sat watching her thrash about in the water until she drowned. The husband was eventually [rightly in Arkes' view] convicted for criminal homicide. (FT, 295)

Arkes tontines, if there were a fire in the house,

Even a babysitter, in case of an emergency, would be obliged to do more than seek his own safety.... The responsibility...would emerge from the nature of the job, and it would emerge precisely because the sitter is one who is understood to possess the capacity to act for the care of his charge. But then it becomes more evident that the source of the responsibility lies in the combination of a special competence and a unique opportunity to help...Charles Gregory has raised the question in this vein, of whether the case of the Australian couple would have been different if the man and woman had been lovers, rather than two people connected through a contract of marriage.... [However,] once it had been established that the man could swim and that he was the only person who could have rendered aid, would his obligation have been any less if he had not been bound to the woman through marriage-or, indeed, if he had not known her at all? (FT, 296)

Still one more illustration of the point by Arkes:
We remember the more dramatic cases [of `heroics'], and we may remember for the wrong reasons. The man who tangles with thugs in the street, while others turn away from the crime and the victim, claims a place in our memory. In our language of praise, we would honor him today for rising himself in a rescue he was not obliged to try. But that understanding, I think, is wrong: it may be more accurate to say that we honor him because he was the only one who recognized that he was obliged to act where he could to avert a wrong. His excellence, in other words, did not come from a state of goodness beyond the rules of morality. His distinction inhered in the fact that he alone recognized his obligation and summoned the strength to pursue it. (FT, 308)

Do not these three examples illustrate how a good (and stable?) community must view such matters? The husband, the babysitter, and even the stranger must take reasonable measures to protect those who are, somehow, in their charge. People of a community must be to some degree, it seems, their brothers' keepers. To the degree that the communal is corrupted, we would not be able to look for help from the stranger, or the babysitter, or even the husband. Indeed, when it is every man for himself, the babysitter and the husband are "strangers."

42 The long version of Aquinas' axiom, roughly, would involve, in sequence, the following principles of moral philosophy: 1) Being, far from being "absurd," is good; 2) Being, though essentially good, admits of being harmed, of suffering a privation or destruction of some good that would otherwise attach to Being; 3) this harm is something for which blame may sometimes fittingly be assigned, and be assigned correctly; 4) since wholesome Being is good, its good should be secured, while harm to it should be avoided and, by extension, may be legitimately prevented; 5) concerning such prevention, a community's promulgated willingness to assign blame and to punish for harm done (either by commission, or by omitting compelling goods in compelling circumstances), according to law, should be considered naturally right ways of deterring harm; and, 6) laws, when they are properly reasoned, enacted, and executed will,
by that, be grounded in the dictates of natural right, and can thereafter be defended as being not arbitrary or otherwise suspect, but by their very nature, right. With this last point comes the natural right provision for man, especially as he finds himself engaged in political, or communal life.

With such (and other) examples and their explication, one is on his way to recovering the "natural apprehension" of moral matters, to rediscovering the vocabulary and grammar of moral reasoning, and eventually the grounds for the natural right position, the grounds for a sound, principled, commonsensical, convincing, and hence defensible moral order.

In this regard, one recalls Leon Kass's observation that one should not go around performing abortions even on dogs for no good reason.

The "moral world" does not seem to exist by convention alone. I do not say "merely" by convention because conventions themselves seem to exist by nature, and many conventions may look to, and be themselves grounded in nature. Now to say that the "moral world" exists by nature may also be to say that goodness or badness inheres naturally in, or is intrinsic to, some actions.

The presence of disagreement has never meant the necessary absence of truth. Thus, if two men are looking at the same geometrical figure and one calls it a triangle and the other calls it a circle, as Descartes reminds us, at least one of them is incorrect; indeed, both may be incorrect. However, it is also possible that one of them is correct, speaks truly. Or again, if there are two baseball umpires looking at the same ball landing near the right field line, one may call it fair while the other calls it foul. There is the presence of disagreement, but in this case surely, one of the umpires is correct, speaks truly.

Kass reports that "[I]t is estimated that at least one-third of such cases [tubal obstruction] are the aftermath of pelvic inflammatory disease, caused by that uninvited venereal guest, gonococcus" (MNS, 121). Although Kass does not do so, allow me to put this part of the question quite sharply: Would it be a presumption for a woman who brought such a disease on herself by, let us postulate,
a libertine promiscuity, thereby incapacitating herself to conceive a child, thereafter to claim that she nevertheless has a "right" to bear children? This can remind one of Hobbes's justly condemned prisoner who, nevertheless, is said to have a right to employ any possible means to escape the executioner.

47 Kass marks a difference between "competent medical service" and "medically competent service." If a woman is to have her left breast removed so that she can improve her golf swing, she will receive only "medically competent service"; it will not for that, however, be "competent medical service." No one is sick; no "medical" good is accomplished. Is not the same true with almost all abortions?

48 With respect to the confounding of lineage, Kass adduces the fact that

There are today numerous suits pending, throughout the United States, because of artificial insemination with donor semen (AID). Following divorce, the ex-husbands are refusing child support for AID children, claiming, minimally, no paternity, or maximally that the child was the fruit of an adulterous "union." In fact, a few states still treat AID as adultery. (MNS, 112)

In one bizarre case,

A woman wanted to have a child, but abhorred the thought of marriage or of sexual relations with men. She learned a do-it-yourself technique of artificial insemination, and persuaded a male acquaintance to donate his semen. Now some ten years after this virgin birth, the case has gone to court. The semen donor is suing for visitation privileges, to see his son. (MNS, 112)

This is "confusion" on a grand scale: ex-husbands not doing what they ought; male acquaintances doing what they ought not be asked to do.

It is because of this potential for confusion that "[M]ost physicians who practice artificial insemination (donor) routinely mix in some semen from the husband, to preserve some doubt about paternity – again, a concession to the importance of lineage and
legitimacy" (MNS, 112). Does not their precaution about mixing in the husband's semen suggest that they know they are "playing with fire"? Knowing this, should they not reconsider what they are doing? The physician's fundamental principle is, after all, "First of all, do no harm."

49 It so happened that as I wrote this, I read in the *International Herald Tribune* (Dec. 9, 1996, p.2) that Britain had its first "surrogate grandmother." The 51 year-old woman "was implanted with embryos created by eggs from her daughter, Suzanne, and sperm from Suzanne's husband, Chris Langston."

50 On the presuppositions involved in referring to something as normal, natural, or healthy: one of the lodestones of our cultural, moral, and medical compasses has been over the years our view toward abortion. Of course, one never hears anybody praising abortion as a positive good (as wrong-headed people were driven to speak about the institution of slavery long ago); instead, they only argue that pregnancies are sometimes "unwanted," and that in any case (even though abortions are *very rarely* medically necessary) women have a right to "choose" them. Leon Kass, without attempting the comprehensive treatment of this question of which he is most certainly capable, nevertheless makes some very pertinent observations:

1) "[T]he fetus is simply not a mere part of a woman's body. One need only consider whether a woman can ethically take thalidomide while pregnant to see that this is so" (MNS, 58). (Thalidomide, I believe, caused severe defects in the fetus, showing up later as severe birth defects, even as it had *no adverse effect on the mother*). It can thus be seen that a fetus is not a "mere part" of a woman’s body. It is somehow notably different from, not merely an extension of, the mother's body. All of this may raise a question, of course, about the conclusiveness of a woman's claim to a right to have an abortion because, after all, it is *her* body.

2) "In my sense of the terms 'right' and one might even say that a dog or a fetal dog has a `right to life,' and that it would be cruel and immoral for a man to go around performing abortions even on dogs for no good reason" (MNS; 82).
3) "Substantively, to say abortion is a moral issue means that, absent good reasons for termination, there is some presumption in favor of allowing the pregnancy to continue once it has begun" (MNS, 82).

4) "[P]erhaps a justifiable exception [to our broad objection to the deliberate production of live fetuses to be aborted for the sake of research] would be a universal plague that fatally attacked all fetuses in utero. To find a cure for the end of the species may entail deliberately 'producing' (and aborting) live fetuses for research" (MNS, 103).

5) Concerning the Roe v. Wade establishment of trimesters as periods during which a State may or may not intervene to prevent an abortion:

This rather careless and arbitrary placement of boundaries is already something of an embarrassment, thanks to growing knowledge about fetal development and, especially, sophisticated procedures for performing surgery on the intrauterine fetus—even in the second trimester. Also, because viability is, in part, a matter of available outside support, technical advances...will reveal that viability is a movable boundary and that development is a continuum without clear natural discontinuities. (MNS, 109)

Consider, for example, how Aquinas could treat this matter of (moral) blindness, and of leaping before we look: "'It is in our power whether to learn an art or not.' But a thing is in our power by the will, and we learn art by the intellect. Therefore the will moves the intellect" (I, Q.82, Art.4). Thus, we must will, or desire, to "learn" or to know...the art of willing properly. Also, do we leap before we look, in some large part, because skepticism and relativism cripple our capacity for "looking"?

Again, Aquinas: "The will and the intellect mutually include one another, for the intellect understands the will, and the will wills the intellect to understand" (Q.16, Art.4). Indeed, the first act of the will should be that the intellect understand, know truth. (All of this can remind one of Solomon's request, the first act of his will, that he be made wise.) The intellect which seeks the true, it seems, would,
thereafter, inform the will that it should seek the good. Also, a properly formed will—one which desires the intellect to know truth—will also be rightly disposed to act on that truth. The purpose of the will, after all, should be to secure the good. Modern philosophy seems not to adopt the principle that the good is automatically to be sought; modern philosophy, infused as it is with an insistent skepticism and an aggressive relativism, wills, rather than to bind itself to the good, to keep its options open, an openness which may require, encourage, and reflect a kind of moral "blindness."

When I consider the price we moderns shall have to pay to be cured of our professional skepticism and our self-serving relativism, I am reminded again of Aquinas: "It is sometimes good for a leper to eat things that are poisonous, which are not suitable absolutely to the human temperament" (Iallae, Q.34, Art.2). To accept natural right (which would, as John Locke says, require us to apply ourselves to it with the same "indifferency and attention" that we give to mathematics) would be a bitter pill for us ("leprous"?) moderns to swallow, indeed would seem "poison" to the modern temperament. Yet without such re-examination and assessment, we are doomed to moral blindness, the abyss, the great "Nothing" of nihilism, a nihilism which is neither "true," inasmuch as it is far from logically coherent and necessary; nor useful, inasmuch as "the abyss," as revealed by the evidence of our age, seems not to be working very well for us.