

In context, the Declaration meant that Geo.III did not have the contra-right to alienate the signers from their rights to life, liberty, & (euphemism for property) "the pursuit of happiness." Because a rights battle cannot end win-win, the Declaration's force was to deprive Geo.III (metonym for Britain) of certain rights he considered inalienable --political & economic control--without--consent of the Crown Colonies. Geo.III's ultimate sanction for his claimed & proclaimed rights? The Parliament-modified divine right of kings. The Declaration's ultimate sanction? "self-evident....created equal" (a one-two of Enlightenment & Biblical values)....This 19May87 Thinksheet deals with the why of the why in the Declaration of Independence. Why the Declaration? Because the signers wanted independence of Britain. That was their motive, their why. But down underneath our motives are their whys, our sanctions, (T.S.Eliot) "the ground of our beseeching," the incentives-inducements-supports we notice only when circumstances pressures us into the philosophical mood. To sharpen up here, I conclude with special reference to the question whether to kill old Nazi now.

1. In his latest book, my old teacher Mortimer Adler suggests that, for the least-common-denominator reason, we talk about "All men are by nature equal" and surrender the theistic "All men are created equal." An anti-semitic remark even though he's ethnically Jewish (convictionally Thomist): it switches from the Jewish-&-Christian theistic paradigm (way of seeing the world) to the pagan Greek kata physen that sees not God but "nature" as center-guide-goal for life: human beings are to live not obediently (to God) but "naturally." I'm doubly distressed: Not only would most of the public not notice that MA had gone to preaching paganism, but I doubt that he noticed it himself--so pervasive has this paganism become in the USA, chiefly from the influence of our public schools. MA could have achieved his language-neutrality (if that was his aim) by putting it in the building metaphor: "All men are fundamentally equal." The "foundation" analogy has sufficient amplitude to accomodate both major cultral strands of the West (as do our Founding Documents, the basic writings of "the Founders" who laid our national "foundations")....Not convinced MA was here (though unintentionally) antisemitic? Frightening parallel: Nazi revisionist historiography eliminated everything Jewish from the sphere of the good. And another: An American textbook publisher forbade an author to use "God" & "Bible," & the author submitted to the restrictions (Feb/87 BOOKS & RELIGION)....Our Const. Bicentennial, as well as certain current public agonies, is pressuring Americans into a philosophical mood, thank God.

2. In this Bicentennial time, many savants are saying that the Founders' fundamental value was "the dignity of man." Sounds good, but what's the content? Wherein is this dignity (in ethical language, what's the sanction?). Greek ambivalence has continued throughout Western history: Man has either inherent or no dignity. Jewish & Christian thinkers, with few exceptions, transpose the question from human to divine dignity: whatever dignity any human may have is derivative, relational: it's not who you are but Whom you know. The Latin mass can't even get started without denying inherent human dignity: Dominus, non sum dignus. Philosophically, how could this chasm be wider? But politically the picture is complex. Not face to face with God but face to face with Geo.III our Founders exploited both paradigms (for themselves, as free white adult English male landowners). Our atheist (God-less, Bible-less) public schools preach inherency as the truth (rather than one theory) about man---the essence of "secular humanism"--and by this preaching can be said to "establish" a religion using tax money. (NB this peril of inherency: It easily filps over into its opposite, viz no dignity, which easily translates into action as indignity --as in Nazism, an ethnic heteronomy.)

3. While the burden of theism is theodicy, the burden of a-theism (making sense, & living, without God) is that values derivative from theistic his-

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tory collapse into absurdity. It's not absurd to say God loves us all equally as radii from the divine Center ("created equal"), but is it not absurd to look around you & say humans are all equal "by nature" and in themselves (inherently)? You could make the argument maybe for ants, but the argument is weakest when used in the case of the species with the widest individual variations, viz us. Why is this absurdity so little noticed & remarked? Because it is obscured by the piety of the slogan "the dignity of man," a phrase from a movement that literally put an image of the Goddess of Reason on the main altar of Notre Dame de Paris.

4. Americans have so much numinous energy invested in "the dignity of man" that even religious leaders are tempted to make it the ultimate sanction--as tends to be in Catholic, Protestant, & Jewish political (change-intending) statements. Used as the metaphysical grounding for "life, liberty, & the pursuit of happiness (ie, property)," it reminds me of Korzybski's comment that gullibility & cynicism equally relieve one of the burden of thinking. Just "think" how easy your conclusions on abortion, war, capital punishment, capitalism (laissez faire as the unrestricted "pursuit of happiness"), income taxes (which my Grandma Volk never paid, on the conviction that they violated her right to property)! Take capital punishment: 86% of the people are for it, but almost 100% of the pundits are against it--and if you agree with the people (as I do), you are put down as barbarous, insensitive, irrational (Goddess Reason being worshiped in the shrine of "the Dignity of Man"). Which brings us to what I promised to deal with, viz should old Nazis be killed now or never?

5. No, if you're against capital punishment on principle, judicial killing being ruled out because life is an absolute right supported by the ultimate sanction of "the dignity of man." Trouble: None of the three "unalienable" rights are actually, societally, absolute. Eg, the right of self defense relativizes the right to life, incarceration relativizes the right to liberty, & taxes & fines relativize the right to property (and your neighbor's nose relativizes your right to pursue your happiness). QED. So the Founders' phrases should be seen for what they are, viz propaganda to promote their point of view & rationalize (in the sense of giving reasons for) their deeds, which from the Boston Tea Party onward violated all three rights of the British....Absolute pacifism & absolute antiabortionism are other instances of this absolutistic "thinking."

6. Mixing together the propaganda, propositions, & proposals, our Founders fostered these "truths": (1) Since these rights are not gov't.-originated, gov't. is not free to remove them; and (2) On the contrary, gov't.'s purpose is to preserve, protect, & promote these rights. Not only the Supreme Court, but all of us, should be at work refining & applying, making true "these truths." But we cannot do it wisely if we treat as sacrosanct absolutes, in any discussion, any of the three rights. That way lies single-issue voting & paralyzing polarization of the populace again and again.

7. So what about Linnas & Demjanjuk & Barbie & Waldheim? Kill all the old Nazis as we catch them? I will probably be killed, as we sent him to the USSR, where he's under the sentence of death. D & B won't be, as they are being tried in countries without capital punishment. W won't be, as he's in a country that's honored him by making him president. But the on-principle argument I want to reject here is this: Punishment should be only future-oriented (toward beneficent social effects), never past-oriented (as vengeance). Since killing old Nazis wouldn't deter Nazism, as it's dead (oh?), it would be vengeance, which is only barbarism--and thus would fail the test of sufficiency & therefore of necessity. The only rationale for removing someone's right is the proof that it's necessary to protect others' rights....My rebuttal would raise many questions. (1) Why the limitation of punishment to future-orientation? (2) Why not a cost/

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benefit analysis on a calculus of double proportionality (punishment being proportional not only to the anticipated effects but also to the crime)? (3) On the limitation principle that gov't. should abridge the rights of the guilty for no other reason than to protect the rights of the innocent, why should capital punishment be considered a violation of this limit? Nine women are raped & two killed by a "lifer" ("life imprisonment") who was let out in 7½ years: capital punishment would have absolutely protected the rights of those women from that rapist-murderer. The defense of the parole board was that prison overcrowding required that the prison's back door be opened to relieve the pressure of new-&-recidivist prisoners entering the front door. Where is justice here, and how can a liberal argue for this insane nonsystem? (4) Since all but anarchists will grant that social order requires the rights of the innocent to be treated as weightier than the rights of the guilty, why should not the former on occasion be treated as so weighty as to eliminate the latter, ie by capital punishment? (5) Why should the argument against capital punishment be limited to the question whether it deters other criminals, thus excluding the fact that it prevents murder absolutely (the dead being unable to kill)? (6) How, in the argumentation, use the phrase "cruel & unusual punishment"? Most nations practice, officially, both torture & capital punishment--so, in those countries, neither punishment is "unusual." In Williamsburg, the stocks are just outside the Courthouse & the Statehouse (where our first bill of rights, pre-1766, was adopted for Virginia): Was that not less cruel than incarceration, & is not capital punishment less cruel than getting "life" without possibility of parole for, say, 30 years? (7) Is not the 80% recidivism of murderers "cruel & unusual punishment" of the innocent public? (7) Was the Supreme Court irrational & barbarous in extending capital punishment from murderers only to accessories to murder?

8. Certainty is an enemy of doubt & therefore of critical thinking. The editorial this letter is attacking was so certain capital punishment has no place in progressive, humane, civilized society that its attack on McCleskey v. Kemp was shabby intellectually as well as morally. While I pray for a society in which capital punishment would be inappropriate because unnecessary, critical thinking prevents my deluding myself into believing that society has already arrived: I work with sanctions of consequences. But if "the dignity of man" the individual were my ultimate value & sanction, my "thinking" would begin & end there.

Letters CCT 10 May 87

Times editorial 'disingenuous'

Your May 1 editorial, "Deciding for Death," was doubly disingenuous. Underhandedly opposing capital punishment, you pretended to evenhandedness.

You say, of McCleskey vs. Kemp, "the matter is not resolved to anyone's satisfaction." Then you go on to quote somebody who is obviously, even triumphantly, satisfied — "Daniel Popeo, a spokesman for the conservative Washington Legal Foundation."

Instead of saying that Congress should consider knocking down state statutes enabling the death penalty, you say "An effort must be made, we believe, to address this dichotomy (that some states do, some don't, have capital punishment) at a higher level — in the U.S. Congress." Nobody is dumb enough to think you would want Congress to consider forcing the death penalty on states that don't want it.

As for the admissability of statistics in the matter, consider a few instances of how statistics can cancel each other:

Yes, blacks murdering whites are more apt to be sentenced to death than whites killing blacks or blacks killing blacks. But of sentenced murderers, whites are one-third more apt than blacks to be executed.

Yes, the U.S. is more death-penalty inclined than are most other "modern" states. But we are by far the most violent "modern" nation: our higher incidence of murders strengthens the argumentation for capital punishment. (No, there is no evidence correlating the death penalty casually* with violent crime, though we are often treated to this nonstatistic.) (*causally)

Some of us liberals argue that capital punishment, instead of being eliminated, should be extended. A Dennis resident gets caught with \$4 million worth of cocaine and will get his wrist slapped. That much cocaine would damage society far more than a murder ensuing from an argument between two strangers. How about proportionality of crime and punishment? How about justice?

WILLIS ELLIOTT
Craigville