Fifty Ways to Lose Your Freedom*
The Institute for Justice
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Thank you. This has been a wonderful evening and I congratulate all of the participants. I would like to thank William ("Chip") Mellor and Clint Bolick for inviting me to join you — even though it is August. Just knowing that such a conference exists is a refreshment to my spirit. It is not often that I am in the company of so many people who speak my language. I appreciate Mr. Bolick's kind introduction and I applaud the Institute for laboring to keep alive an authentic conversation about the core principles of our regime. It is not an easy task in a world where all the words have lost their meaning.

A few preliminaries. First, I should warn you that today's discussion will be a mile wide, but only an inch deep. That's about all you can do in a speech. Second, the title of this meditation is Fifty Ways to Lose Your Freedom, which is a paraphrase of a Paul Simon tune. If you don't know who Paul Simon is, ask an old person. It will be a good way to get acquainted. The song tells the tale of a young man trying — though not too hard — to resist temptation and remain true to his first love while being advised by the source of temptation that . . . there must be 50 ways to leave your lover. When I began writing this speech, that phrase kept revolving in my mind.

In the last 100 years – and particularly in the last 30 – the Constitution, once the fixed chart of our aspirations, has been demoted to the status of a bad chain novel. Government has been transformed from a necessary evil to a nanny – benign, compassionate, and wise. Sometimes transformation is a good thing. Sometimes, though, it heralds not higher ground but rather, to put a different gloss on Pat Moynihan's memorable phrase, defining democracy down.

My grandparents' generation thought being on the government dole was disgraceful, a blight on the family's honor. Today's senior citizens blithely cannibalize their grandchildren because they have a right to get as much "free" stuff as the political system will permit them to extract. What happened to the old time glory of constitutional democracy, which Woodrow Wilson praised for "the emphasis it puts on character; for its tendency to exalt the purposes of the average man to some high level of endeavor; for its just principles of common assent in matters in which all are concerned; for its ideals of duty and its sense of brotherhood"?[i]

I have bad news. Not only was the revolution not televised; most of us did not hear the radio broadcast; we missed it entirely.

Writing 50 years ago, F.A. Hayek warned us that a centrally planned economy is "The Road to Serfdom."[ii] He was right, of course; but the intervening years have shown us that there are many roads to serfdom. In fact, it now appears that human nature is so constituted that, as in the days of empire all roads led to Rome; in the heyday of liberal democracy, all roads lead to slavery. If

Hayek was writing today he would have to call his book "50 Ways to Lose Your Freedom." Consider these lyrics: "Climb on somebody's back, Jack; just believe every lie, Sly; plan the perfect man, Stan; If you crave slavery, go to the back of the bus, Gus. You don't have to discuss much; tell the powers that be, Lee; they can throw away the key, you don't want to be free!" Well . . . Paul Simon probably has nothing to worry about. I'm just trying to make a point. Most of us no longer find slavery abhorrent. We embrace it. We demand more. Big government is not just the opiate of the masses. It is the opiate. The drug of choice for multinational corporations and single moms, for regulated industries and rugged Midwestern farmers, and militant senior citizens.

The prevalence and permanence of this newly fledged feudal consciousness is a puzzle that led me — by a very circuitous path — to a new understanding of (or at least a new way of thinking about) the judicial role. As a conservative judge, I initially accepted the conventional wisdom that substantive due process was a myth invented by judicial activists who were up to no good. You all know the drill. Substantive due process is an oxymoron and Lochnerism is the strongest pejorative known to American law.

There are at least two problems with dismissing the idea of substance in the due process clause. First, substantive due process is still around, cleverly disguised as fundamental rights jurisprudence. Second, even conservative judges who take the rule of law seriously are appalled by legislative actions which violate the whole spirit, if not quite the letter, of provisions clearly designed to limit

government. And most significantly, if we can invoke no ultimate limits on the power of government, a democracy is inevitably transformed into a Kleptocracy — a license to steal, a warrant for oppression.

Much to my surprise, when I actually began to investigate the question, I found a small but credible body of scholarship suggesting that, in our early history, the due process clause was viewed as a restraint on government, fashioned, in part, to protect the rights of property owners. Apparently, the colonists saw in the due process clause a guarantee which had a wide, varied, and indefinite content. The concept of due process like the words "the law of the land" in the Magna Carta put some liberties and some property interests beyond the power of government. Moreover, the language of the Constitution suggests the drafters clearly distinguished between the limited framework of that document and the whole law.

This revelation was what's known in the precise, technical language of the judge's trade as an "uh-oh."

It slowly dawned on me that the problem may not be judicial activism. The problem may be the world view — amounting to an altered political and cultural consciousness — out of which judges now fashion their decisions.

At its founding and throughout its early history, this regime revered private property. The American philosophy of the Rights of Man relied heavily on the indissoluble connection between rationality, property, freedom, and justice. The Founders viewed the

right of property as "the guardian of every other right" and reasoned that "to deprive a people of this right is in fact to deprive them of their liberty."[iii] The idea of constitutional government is deceptively simple: the government cannot legitimately infringe upon our rights even if the majority votes to do so.

But, by 1890, attitudes had changed radically enough for Alfred Marshall, the teacher of John Maynard Keynes, to make "the astounding claim that the need for private property 'reaches no deeper than the qualities of human nature.' "[iv] A hundred years later came Milton Friedman's laconic reply: " 'I would say that goes pretty deep.' "[v] Marshall's statement, however, signaled a seachange: a political and cultural shift from the American vision of humans as free and creative beings entitled to enjoy the fruits of individual effort back to the tribal view of man which continues to dominate European political philosophy. "Europe's predominant idea of emancipation consisted of changing the concept of man as a slave to the absolute state embodied by the king, to the concept of man as a slave to the absolute state as embodied by 'the people' — i.e., switching from slavery to a tribal chieftain into slavery to the tribe."[vi] America sought to make government subservient to the people; the collectivist impulse which gained preeminence in Europe sought to keep people subservient to the government.

It is, I believe, this shift in world view which causes conservatives to dread judicial activism. In short, we have been fixated on the structure's gingerbread trim when we should have been focusing on its foundations.

Speaking to a conference of Ninth Circuit judges in San Francisco in 1946, Harold McKinnon identified a central problem with the socialist mystique. He understood the threat of the essentially antidemocratic and totalitarian political and legal philosophies gaining ground in American universities. Such teachings, McKinnon believed, denied the essential elements of a regime devoted to the preservation of natural rights.

> "[This teaching] denies that there is a moral law which is inherent in human nature and which is therefore immutable and to which all man-made laws to be valid must conform. It denies that by virtue of this law man possesses certain rights which are inherent and inalienable and therefore superior to the authority of the state. It denies that the purpose of government is to secure these inherent inalienable rights."[vii]

I take issue with one part of McKinnon's catechism. He says the teachings are undemocratic. While it is true that natural law was a necessary precursor to the good constitutional republic; democracy need not be a good regime — as we are proving every day. Freedom and democracy are not synonymous. Indeed, one of the grave errors of American foreign policy is the assumption that merely installing the forms of a regime like ours — without its foundation — will automatically lead to freedom, stability, and prosperity.

McKinnon correctly concluded that adherence to natural law is the essential element of the American birthright.

> "For if there is no higher law, there is no basis for saying that any man-made law is unjust . . . and, in such case, the ultimate reason for things, as Justice Holmes

himself conceded, is force. If there is no natural law, there are no natural rights; and if there are no natural rights, the Bill of Rights is a delusion, and everything which a man possesses — his life, his liberty and his property — are held by sufferance of government, and in that case it is inevitable that government will some day find it expedient to take away what is held by such a title as that. And if there are no eternal truths, if everything changes, everything, then we may not complain when the standard of citizenship changes from freedom to servility and when democracy relapses into tyranny."[viii]

Today these words sound strange to our ears. McKinnon could make such a forceful statement because he and his audience shared a common understanding. They accepted the necessary connection between natural law and natural rights and the centrality of natural law to any effective scheme of limited government. In short, McKinnon and his audience of judges shared a common devotion to a set of *first principles* — what Clint Bolick describes as that immutable body of law derived from the nature of people as rational human beings — "the law of nature that has from the beginning of human beings nurtured their progress and development."[ix]

In the context of law or morality, "natural" means "something which can be apprehended by natural man, by the use of faculties with which he is naturally endowed, including reason and the moral sense, and which does not require for its authentication more than reflection, thought, and the diligent pursuit of truth by practice, self-discipline, and attention to detail."[x]

Let me give you an example from an unlikely source: a comedy routine of Chris Rock's. He is talking about taxes and government services. He says: "The messed up thing about taxes is you don't 'pay' taxes. The government TAKES them. You get your check and money is GONE! It was not an option! That ain't a payment, that's a JACK! I been TAX JACKED! . . . [The] worst part about it, we pay taxes for [stuff] we don't even use . . . . Why are black people paying Social Security? I won't get the money till I'm 65 . . . . Meanwhile, the average black man dies at 54. Hypertension, high blood pressure, police. . . . I used to work at McDonald's making minimum wage. . . . I would get $200 a week and they would take out $50 in taxes. That's a lot of money if you only making $200. . . . What do you get with that $50? All the free street light in the world. As far as I am concerned, give everybody a candle. Just give me back my $50."

As far as I know, Chris Rock is not a lawyer; he is not a legal philosopher; and I doubt that he is a conservative. But he is using his experience, his observations, and his rational faculties to make a judgment about fairness and justice.

Natural law seems to come naturally to human beings. We almost invariably describe events as fair or unfair, sporting or not sporting, just or unjust. If memory serves, "it's not fair" is the first phrase our children learn after they master the word "no." If anything, we may make such value judgments too casually and with too little appreciation of the deep metaphysical implications of our language.

Nevertheless, for thousands of years, the idea of natural law played a dominant role in both philosophy and history. "It was conceived as the ultimate measure of right and wrong, as the pattern of the good life. . . . It provided a potent incentive to reflection, the touchstone of existing institutions, the justification of conservatism as well as revolution."[xi]

Cicero's eloquent expression of this idea should be committed to memory by every law student:

> "True law is Reason, right and natural, commanding people to fulfill their obligations and prohibiting and deterring them from doing wrong. Its validity is universal; it is immutable and eternal. Its commands and prohibitions apply effectively to good men, and those uninfluenced by them are bad. Any attempt to supersede this law, to repeal any part of it, is sinful; to cancel it entirely is impossible. Neither the Senate nor the Assembly can exempt us from its demands; we need no interpreter or expounder of it but ourselves. There will not be one law at Rome, one at Athens, or one now and one later, but all nations will be subject all the time to this one changeless and everlasting law." (De Re Publica, III, 33.)

I suspect it is the use of words, like unchanging, everlasting, immutable, that was (and is) also natural law's greatest vulnerability. The claim to fame of modern jurisprudence is precisely that it does not purport to have a monopoly on truth. Medieval scholars devoted much energy to demonstrating the demarcation between law and morals because they did not want morals reduced to narrow legal categories. They did not deny the close connection between law and morals (they would have argued that life in

society is a moral duty and that there is no aspect of life to which we can be morally indifferent), but argued morality is (and should remain) broader than legal duty. "[T]he laws of men do not primarily aim at promoting virtue, but only at securing peaceful living together; they do not forbid all that is evil, but only that which imperils society; they do not command all that is good, but only that which pertains to the general welfare."[xii]

"Natural law is the outcome of man's quest for an absolute standard of justice."[xiii] The breach between law and morals, the assertion that one has nothing to do with the other, is the essential feature of modern jurisprudence. Positivism is perhaps the inevitable result of the rationalist view that exalts the lawgiver. For the positivists, law is defined by the will of the lawmakers and the truth of legal propositions is proven by the fact the provision has been duly enacted by the appropriate authority. Positivism, in turn, paved the way for a slew of other adventures in legal criticism: legal realism, historical, feminist, critical legal studies, and even law and economics.

To the extent the Enlightenment sought to substitute the paradigm of reason for faith, custom or tradition, it failed to provide a rational explanation of the significance of human life. It thus led, in a sort of ultimate irony, to the repudiation of reason.[xiv] Rationalism pushed to its limits consigns all that is not objectively verifiable, i.e., all that is not mathematical or scientific, to the realm of rhetoric. Thus, it reduces truth to a matter of perspective; and makes all perspectives equal. And since our choices can only be justified

rhetorically — that is by reference to compassion or philanthropy or utility — even equality is debased, reduced to the equal right of all desires to be satisfied. In this brave new world, the assertion of a perspective becomes its justification. The claim is that a particular perspective serves the general welfare. What is really served is the will to power. "There can be little room left for old-fashioned discussions about the nature of justice and the essence of law when human will is made the supreme arbiter of all human values."[xv]

I am glossing over a complicated evolution, but the important point here is that positivism exalts the lawgiver because from the positivist's point of view it is the only rational thing to do. However, "[t]he repudiation of metaphysics, religion, and tradition . . . leads inevitably to the destruction of all foundations for prudence and practical reason."[xvi] Thus, "the fatal error" of the Enlightenment is "the emancipation of the will from reason."[xvii] Similarly, the fatal error of those who repudiated the idea of natural law is the attempt to separate law from morality. "Law is rooted in a series of objective value judgments about morality or 'justice' or it is about nothing."[xviii]

Lord Hailsham adds: "Law is concerned with the compulsion of human beings by other human beings. To try and divorce such compulsion from conceptions of what is right and wrong is ultimately to justify tyranny in its most naked form."[xix]

While politics is the art of the possible and law must often be expedient, "the attempt to divorce law or legislation from an objective set of moral or spiritual values connected with right and wrong, just and unjust, good and bad, virtue and vice, however

starry-eyed the proponents or advocates of such an attempt may be, is the precise heresy which has led to the major cruelties and disasters of the twentieth century."[xx]

All political ideologies involve the assertion of values and all values are derived from what we call the Natural Law, Traditional Morality, or the First Principles of Practical Reasoning. "There never has been and never will be, a radically new judgment of value in the history of the world. What purport to be new systems or [as they now call them] new 'ideologies,' all consist of fragments from [the natural law] arbitrarily wrenched from their context in the whole and then swollen to madness in their isolation, yet still owing to [natural law] alone such validity as they possess."[xxi] To put it another way, these so-called new values resemble natural law "as Satan resembles God. These bloodthirsty idols are proving to be far more exacting than the old gods of truth and justice."[xxii] The result, I believe, is an America the Constitution never contemplated.

Aaron Wildavsky notes that the Madisonian world has now gone "topsy turvy" as factions, defined as groups "activated by some common interest adverse to the rights of other citizens or to the permanent and aggregate interests of the community,"[xxiii] have been transformed into sectors of public policy. "Indeed," says Wildavsky, "government now pays citizens to organize, lawyers to sue, and politicians to run for office. Soon enough, if current trends continue, government will become self-contained, generating (apparently spontaneously) the forces to which it responds."[xxiv]

Is this the fulfillment of the Founders' plan? Not exactly. Clearly, the American Revolution, like the French Revolution, is part of a rationalist tradition. But rationalism is an ambiguous term, subtle in its infinite manifestations. For present purposes it is sufficient to identify the critical differences. The American tradition accepted the limits of reason; the European tradition did not.

America's Constitution provided an 18th Century answer to the question of what to do about the status of the individual and the mode of government. Though the Founders set out to establish good government "from reflection and choice,"[xxv] they also acknowledged the "limits of reason as applied to constitutional design,"[xxvi] and wisely did not seek to invent the world anew on the basis of abstract principle; instead, they chose to rely on habits, customs, and principles derived from human experience and authenticated by tradition.

> "The Framers understood that the self-interest which in the private sphere contributes to the welfare of society — both in the sense of material well-being and in the social unity engendered by commerce — makes man a knave in the public sphere, the sphere of politics and group action. It is self-interest that leads individuals to form factions to try to expropriate the wealth of others through government and that constantly threatens social harmony."[xxvii]

There is nothing new, of course, in the idea that the Framers did not buy into the notion of human perfectibility. The political theory upon which our Constitution was organized reflected not an antirationalist conception of human capacity — but a narrower

and, in my view, more realistic one. It could be characterized as a conception of man *after the fall.*

It was a quite opposite notion of humanity, of its fundamental nature and capacities, that animated the great concurrent event in the West in 1789 – the revolution in France. Out of that revolutionary holocaust – intellectually an improbable melding of Rousseau with Descartes – the powerful notion of abstract human rights was born. At the risk of being skewered by historians of ideas, I want to suggest that the belief in and the impulse toward human perfection, at least in the political life of a nation, is an idea whose arc can be traced from the Enlightenment, through the Terror, to Marx and Engels, to the Revolutions of 1917 and 1937. The latter date marks the triumph of our own socialist revolution.

Collectivism provided the 20th century answer to a question very different from the one our Constitution resolved. The new question was how to achieve cosmic justice – sometimes referred to as social justice – a world of perfect social and economic equality. Such an ambitious proposal sees no limit to man's capacity to reason. It presupposes a community can consciously design not only improved political, economic, and social systems, but new and improved human beings as well.

The great innovation of this millennium was equality before the law. The greatest fiasco — the attempt to guarantee equal outcomes for all people. Tom Bethell notes that the security of property — a security our Constitution sought to ensure — had to be devalued in order for collectivism to come of age. The ambitious

project of socialism was nothing less than the "reformation of human nature. Intellectuals visualized a planned life without private property, mediated by the New Man."[xxviii] He never arrived. As John McGinnis persuasively argues: "There is simply a mismatch between collectivism on any large and enduring scale and our evolved nature. As Edward O. Wilson, the world's foremost expert on ants, remarked about Marxism, 'Wonderful theory. Wrong species.' "[xxix]

We continue to chip away at the foundations of our success. We dismissed natural law and morality because its unverifiable judgments were deemed inferior to reason. But, then, we drove reason itself from the camp because the most significant of life's questions defy empiricism. Kant compared a "purely empirical theory of law" to "the wooden head in Phaedrus' fable, which may be beautiful, but alas! has no brain."[xxx] Now we have nothing left but our passion.

This is a dilemma for any judge, but one especially acute for a supreme court judge. A court of last resort is supposed to do more than resolve individual disputes. Such courts ought to be building for the future, providing guidance, structure, stability — instilling confidence in the primacy of the rule of law. But, alas, the decisions of such courts, including my own, seem ever more ad hoc and expedient, perilously adrift on the roiling seas of feckless photo-op compassion and political correctness. And we are, by and large, captives of an intellectual world view that is completely antithetical to the kind of substantive limits an authentic historical interpretation of our constitutional traditions would impose. We are committed to

doing the right thing. But with only our feelings to guide us, most of the time we cannot figure out what the right thing is.[xxxi]

I know the idea that there is an extra constitutional dimension to constitutional law is heresy. And given our recent history, it is a very scary thought. But I am slowly coming to agree with Charles Fried's assessment: it is the hubris, carelessness, and lack of candor of judges that should concern us — not the label active or passive. If judges tell us honestly what they are doing, we do know something about the world view that animated the American Revolution and formed the basis of our constitutional documents. The Founders were committed to individual liberty. Liberty not license. And not openness. Certainly not an openness so extreme it bursts the mainspring of the regime. That mainspring is reason. An idea of reason that is both modest and practical. The Founders did not demand perfection of human beings or civil society. They seemed to understand the essentially totalitarian heart of all dreams of utopia. One man's perfection is another's holocaust. Their ideas — expressed with precision and detail — will allow us to gauge the bona fides of judges audacious enough to invoke higher law.

On those rare occasions, we will have to face the countermajoritarian difficulty squarely. It must be part of the design. Individual liberty cannot be preserved if the majority's will must always triumph.

My view is admittedly a bit skewed. My heritage includes not only the middle passage but the trail of tears; not only the rhythms of

midnight trains but the terrors of midnight riders; Jim Crow and Jim Dandy; whited sepulchres and colored fountains.

Anyone with that kind of history will tell you quite emphatically that the positive law is not enough. Never enough. When I was growing up the positive law declared that some people were more equal than others. But that law, judged by a higher law, was wrong.

And the civil rights movement that firmly established that proposition was deeply rooted in the natural law, natural rights tradition. By demanding the natural and political rights which belonged to them as human beings, Black Americans in the early civil rights movement firmly allied themselves with the natural law foundations of the Constitution. Only natural law offers an alternative to might makes right and accounts for man's "unrelenting quest to rise above the 'letter of the law' to the realm of the spirit."[xxxii]

I know it is fashionable these days to dismiss the Founders as *stale, pale, and male*; to speak harshly and cynically of America's corrupt constitutional tradition. But, this is a cheap shot. One which does not do justice to the principles embodied in our founding documents. These men deserve our admiration and respect. They were human. They were flawed. Gertrude Himmelfarb says hypocrisy is the homage vice pays to virtue. But, whether the result of glorious accident, inspired mistake, Machiavellian machination or well-considered master plan, the Founders built better than perhaps they knew. They built on the right foundation and founded a regime which created the potential for moral freedom, material prosperity,

and social generosity. "[W]hat the American revolution instituted was a rule of law, a preference for restraint, a refuge from the rampaging presumptions" of those Sowell refers to derisively as the "morally anointed."[xxxiii]

Lincoln long ago foresaw that America's achievement might be jeopardized from within by those anxious to "strike a blow" against free government. Men of ambition would continue to seek to gratify their "ruling passion." Such ambition, Lincoln warned, "thirsts and burns for distinction; and, if possible, it will have it, whether at the expense of emancipating slaves, or enslaving free men."[xxxiv] Both Lincoln and Tocqueville apparently did anticipate that we might cheerfully place the shackles around our own necks. As Lincoln noted: "If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide."[xxxv]

We have had to decide before: whether to be slaves or free.

Freedom never has been easy. Not to obtain. Not to sustain. In the last 100 years we have let the government buy our birthright with our own tax money. Freedom requires us to have courage; to live with our own convictions; to question and struggle and strive. And to fail. And Fail. Recently, I saw a quote attributed to Samuel Beckett. He asks: "Ever tried? Ever failed?" Well, no matter. He says, "Try again. Fail better." Trying to live as free people is always going to be a struggle. But we should commit ourselves to trying and failing, and trying again. To failing better until we really do become like that city on the hill, which offered the world salvation.

* I am, of course, indebted to an old Paul Simon song for this felicitous phrase.

[i] Woodrow Wilson, Democracy and Efficiency, Atlantic Monthly (1901).

[ii] F. A. Hayek, The Road to Serfdom (U. of Chicago Press 1994).

[iii] Tom Bethell, *Property Rights, Prosperity and 1,000 Years of Lessons,* Wall Street J. (Dec. 27, 1999) p. A19 (Bethell); and see James W. Ely, The Guardian of Every Other Right (Oxford U. Press 1992) p. 26.

[iv] *Ibid.*

[v] *Ibid.*

[vi] Ayn Rand, Capitalism the Unkown Ideal (New Am. Lib. 1966) pp. 4-5.

[vii] Harold McKinnon, The Higher Law, address to Ninth Circuit judges (1946) p. 1 (McKinnon).

[viii] *Id.* at p. 16.

[ix] Clint Bolick, Unfinished Business (Pacific Research Inst. 1990) p. 2.

[x] Lord Hailsham, Modern Reflections on the Natural Law, address to the Canon Law Trust Society (1978) (Hailsham).

[xi] d'Entreves, Natural Law: An Introduction to Legal Philosophy (Hutchinson U. Lib. 1951) p. 7 (d'Entreves).

[xii] *Id.* at p. 86, quoting Thomas Aquinas, Summa Theologica

[xiii] *Id.* at p. 95.

[xiv] *Id.* at p. 105.

[xv] *Id.* at p. 75.

[xvi] Stanley Rosen, Rethinking the Enlightenment, 7 Common Knowledge (Winter 1998) 104, 106.

[xvii] *Id.* at p. 114.

[xviii] Hailsham, op cit. *supra*, at p. 3.

[xix] *Ibid.*

[xx] *Ibid.*

[xxi] C.S. Lewis, The Abolition of Man (First Touchstone ed. 1996) pp. 55-56.

[xxii] d'Entreves, op cit. *supra*, at p. 17.

[xxiii] Golembiewski & Wildavsky, The Cost of Federalism, Bare Bones: Putting Flesh on the Skeleton of American Federalism (1984) 67, 73.

[xxiv] *Ibid.*

[xxv] Hamilton, The Federalist Papers No. 1 (Rossiter ed. 1961) p. 33.

[xxvi] Michael W. Spicer, *Public Administration and the Constitution: A Conflict in World Views* (Mar. 1, 1994) 24 American R. of Public Admin. 85 [1994 WL 2806423 at *10].

[xxvii] John O. McGinnis, *The Original Constitution and Our Origins* (1996) 19 Harv. J.L. & Pub. Policy 251, 253, fn. omitted (McGinnis).

[xxviii] Bethell, *supra*, at p. A19.

[xxix] McGinnis, op. cit. *supra*, at p. 258, quoting Josh Getlin, Natural Wonder: At Heart, Edward Wilson's an Ant Man, L.A. Times (Oct. 21, 1994) p. E1.

[xxx] d'Entreves, Natural Law, *supra*, at p. 115.

[xxxi] See Jean Francois Revel, The Flight From Truth (Random House N.Y. 1991) p. xvi.

[xxxii] d'Entreves, Natural Law, *supra*, at p. 121.

[xxxiii] Tom Sowell, The Quest for Cosmic Justice (The Free Press 1999) p. 146.

[xxxiv] Abraham Lincoln, address to the Young Men's Lyceum of Springfield, Illinois, January 27, 1838.

[xxxv] *Ibid.*