

Natural Law and "Natural Right"

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We Hold These Truths: Catholic Reflections on the American Proposition, by John Courtney Murray. New York: Sheed and Ward. 336 pp. \$5.00.

ONLY NOW, with the publication of his *We Hold These Truths*, does John Courtney Murray cease to be mere teacher (at a college which performs a crucial function in the formation of American Jesuits), editor (of a distinguished theological journal), lecturer (before eager audiences all over the country), writer of articles (there is, to be sure, quite a bibliography of them: he is internationally prominent in one of the great continuing debates within the Catholic Church, and has contributed to many

American journals of opinion, but still only articles), and become an *author*. But a reader readily sees why the event has been so long postponed: Father Murray's mind has been pregnant all this while with quintuplets, each with an equal right and an equal determination to be born, so that *We Hold These Truths* is, *inter alia*, a great act of distributive justice; for he has determined, and contrived, that they should, all five of them, be birthed at one and the same time.

There is, first, a book about the problems, perplexities, and "uneasinesses" of what Father Murray calls the "post modern" world, and the direction in which it must move—philosophically, morally, politically—in order to come to grips with its problems, dispel its perplexities, and free itself from its uneasiness. Here, he believes,

our great danger is that of concentrating too much attention upon international Communism, which is merely "modern" politics carried to its logical conclusion (Communism, he argues, makes explicit and deliberate that which in modernity, in its non-Communist form, is merely implicit and "unintentional"); our truly urgent business is the Basic Issues, which are issues concerning metaphysical and ontological *truth*, summoning us to make decisions about the nature and structure of *reality*, the order of nature, and the economy of salvation. The present "civilizational fact" is, he insists, *confusion*, the present civilizational experience an experience of *disorder*, which however may impel us to the new act of thought that might make us clear-headed again, and enable us to re-establish order in the world. Our alternatives he sees as reducing themselves finally to two, each of which may, though it imposes upon us a single deed of choice, be stated in various ways. Taken on one of its many levels, that of "freedom," the alternative is between seeking freedom, as the moderns did, in the sovereignty of the individual conscience (how "neolithic" they seem, he exclaims, those modern prophets of freedom: Milton and Mill, Madison and Jefferson!), and seeking it, as medieval man did, in the "freedom of the Church," and the general style of political-moral thinking of which that phrase is both a symbol and a summary. On the level of government *sens pur*, it is a choice between government that is genuinely limited because limited by a standard intelligible to human reason, and the omnipotent and *therefore* spiritually impotent types of governmental authority with which in recent centuries we have had to deal. On the level of "democracy," it is a choice between the "democratic monism" of the Jacobins and something more or less akin to the democratic pluralism of the Framers of the Con-

stitution of the United States. On the level of power and the uses of power, it is a choice between the violence in the terms of which we have already become accustomed to transact our affairs, and a willingness, to use *force*, in emancipation from current sentimentalist inhibitions, on behalf of justice. On what is for Father Murray (as it seems to this reviewer, the highest level, it is a choice between the act of "interior disloyalty" to reason and reality which is the essence of modernity, and the replacing of that with the premises and affirmations and methodological procedures associated with the great tradition. On the level of political theory, it is a choice between the "law of nature" of Hobbes and Locke and Rousseau and the "natural law" of the *philosophia perennis*, between the natural rights of man and natural right (which is a matter not of particularized "rights" but of justice).

The second of Father Murray's five books, accordingly, is a book about the "law of nature," the third a book about natural law. Even readers familiar with Voegelin and Guardini will read these parts with pleasure and profit and, if they be Americans, pride. For, hitherto, the task of pronouncing dead and ready for burial the "movements"—liberalism, positivism, scientism, scientific humanism—that even today dominate the intellectual-moral climate of the American universities, has been left to men of distinctively European formation, and it is good that we should at last be able to point to a fellow-countryman who can take care of himself (as, make no doubt of it, Father Murray can) on this level of controversy, and say that which needs saying. As for those readers who have not read Voegelin and Guardini and for this reason or that are not likely to, *We Hold These Truths* can open up to them, with great economy of time and effort, a universe of discourse of which it is already

possible to say that the man who has not made himself familiar with it is (in Ortega's phrase) beneath the level of his times, and so unable to look the latter in the eye.

The second book, that on the "law of nature," would belong on the shelf with Leo Strauss's *Natural Right and History*, and the third, that on natural law, with the works of Heinrich Rommen—each of them, however, taking its place more modestly than the first book. The book on the "law of nature," like one of the chapters in *Natural Right and History*, is a critique of the political philosophy of John Locke (there are passing references to Hobbes and Rousseau both of whom he is content to treat as standing or falling with Locke; when Rousseau categorizes the types of law, in his masterwork on politics, he conspicuously omits the "law of nature"). Murray, like Strauss, is quite clear that Locke's "law of nature" is a complete perversion of the natural law of the tradition, that Locke's political writings are poor philosophical performances, and that the "modern" age, insofar as it adopted Locke's natural-law position, thereby cut itself off from any possibility of advance along the path of true freedom and justice. Unlike Strauss, however, Father Murray tends to move somewhat hastily to his (generally sound) conclusions about Locke; and, for all that it is good to witness a birching of the author of the *Second Treatise* by an ardent admirer (which Father Murray is) of those American founding fathers who allegedly wrote under its influence, the book on the "law of nature" is perhaps that one of the five books that might, with the least prejudice to his enterprise, have been omitted—especially since he chose to sidestep the question that, as I have suggested, fairly cries up at you out of the volume as a whole,

namely: Are we to conclude, if the Framers of the Constitution wrought so well, that they were *not* under the spell of Locke's "law of nature"? (If so, here certainly is a topic that wants another book.)

For the readers of a non-Catholic journal of ideas, the question that ought to be asked and answered at this point is perhaps this: To what extent is the work an expression of a "merely Catholic" point of view, or, from the standpoint of philosophy, of a "merely Christian" point of view? In the case of our first three books (on the crisis of our time, on the "law of nature," on natural law) our prior question resolves itself into the question, How careful has Father Murray been, in these three books, to keep his natural law (which strictly speaking should, as this reviewer understands it, be discoverable by human reason unaided by revelation) apart from Catholic or if you like Christian theology? The answer to that question is, I venture, not so careful as he might have been, which is to say that one can easily imagine a Leo Strauss suffering some pretty hard bumps as he puts himself through Father Murray's exposition of natural law; and that this injects a certain conspicuous ambiguity into the meaning of his book at which I have called above the highest level. Is it a summons to "modern" man to return to "natural law thinking," or to return to the thinking of the Church? Catholics would of course like to see modern man return to *both*, but that does not dispose of the question I am raising even for Catholics—who though committed to both had best be clear in their heads as to where the one commitment leaves off and the other begins. As for non-Catholic Christians and unbelievers, my fear is simply that Father Murray may, by placing too great a burden on his natural law, frighten some of them away from the rational but perhaps not specifically Catholic "act of

thought" for which, in some passages but not in others, he appears to be pleading. To put the same point otherwise, I do not think it possible to tease out of *We Hold These Truths* an unambiguous answer to the question, Is natural law, unsupported and unsupplemented by specifically Christian teaching, an adequate basis for truly civil society?

Of the remaining two books one, in which Father Murray raises and answers the question whether Catholics can, and should, and do in fact accept the "affirmations" of the American Proposition, is indeed, and quite properly, a series of "Catholic reflections"—though not, I think, in any sense that should make it the less interesting for non-Catholics or, since the question concerns a good solid one-third of the nation's population, the less important. Which brings me to the point for the sake of which I have clung thus tenaciously to the question whether Father Murray writes from a "merely Catholic" point of view, namely: That one of his five books that should be of the greatest interest to American *conservatives* as such, the book on the American Proposition, seems to this reviewer to be not merely "not merely Catholic," but a major breakthrough in American po-

litical *science*, and one that might well give to American political scientists in general their first ever-so-startling lesson in how to write "objectively" about the content and meaning of the American political system, as we received it from the First Session of Congress, and how to use "objective" criteria in arriving at judgments about the system's present state of health. Here, in a word, is a book long overdue for those American conservatives who find themselves, nowadays, hard put to it to say what it is in the American political system that they should be trying to conserve, and what it is in the present American environment that accounts for their (eminently justified) apprehensions as to whether its conservation is any longer possible. Father Murray's theses in these areas (their effect, as I have intimated above, is to move American system over from the column headed "Law-of-nature, natural-rights systems" to that headed "Natural-law systems") are so fresh, so brilliantly argued, and (in my view) so unanswerable as to warrant immediate grand jury proceedings against the authors of the entire existing literature—on grounds of incompetence, irrelevance, and inconsequentiality.