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**BUILDING BETTER THAN THEY KNEW:
JOHN COURTNEY MURRAY'S AMERICAN, CATHOLIC VIEW
OF THE TRUE FOUNDATION OF OUR COUNTRY**

John Courtney Murray (1904–1967) was a member of the Society of Jesus. He taught at the Jesuit theologiate in Woodstock, Maryland and was editor of the Jesuit journal *Theological Studies* from 1941 until his death. He became a leading American public figure – the subject of a 1960 *Time* cover story. He was known mainly for his work on the relationships between the Catholic Church and America's country's political life, his interpretation of the American view of religious liberty, and his resolutely Catholic view of the true ground of that liberty.¹ His affirmation of the basic continuity between the Catholic and the American views of human nature and human liberty led to tensions with and even his silencing by the Vatican Curia, but something like his view of religious liberty was affirmed by the Second Vatican Council.² His most celebrated book, *We Hold These Truths: Catholic Reflections on the American Proposition* (1960), reflects, even in its title, his order of priorities.³

¹ The two best introductions to Murray's life and thought are R. W. McElroy, *The Search for American Public Philosophy*, New York 1989, and T. P. Ferguson, *Catholic and American: The Political Theology of John Courtney Murray*, Lanham 1993.

² Murray's disappointment with the weak foundation for religious liberty found in the Council document *Dignitatis Humanae* is described by F. Canavan S.J., *Religious Freedom: John Courtney Murray and Vatican II*, [in:] *John Courtney Murray and the American Civil Conversation*, ed. R. P. Hunt and K. L. Grasso, Grand Rapids 1992. One way Murray tried to spin what the document actually says in the direction of his own view is described by R. Hittinger, *The Declaration of Religious Freedom*, [in:] *Dignitatis Humanae, Vatican II: Renewal within Tradition*, ed. M. L. Lamb and M. Levering, New York 2008.

³ J. C. Murray, *We Hold These Truths*, New York 1960. Subsequent references to this book around found in the text (WT). I have borrowed here and there throughout this chapter from two earlier chapters of mine

The American Constitution, for an American Catholic, can only be affirmed as intrinsically good if it recognizes each person's freedom for participation in the moral community or "order of culture" (WT, 35) that corresponds to his or her deepest natural longing.

My purpose here is to illuminate Murray's enduring contribution to American political thought – especially we Americans' proper relationship to our political Fathers and our proper relationship to God. Murray is surely America's best proponent of "natural law" criticism of the intentions of modern thought. He shows that from its beginning that thought was based on a willful and self-destructive atheism, while not denying the benefits of its destruction of unjust orders of privilege, including even the political privileges of an established church.

Murray shows that our Constitution and our Declaration of Independence – by placing the American people "under God" – is not to be understood as, in the most important respect, modern. He acknowledges that our leading founders were, in fact, influenced by the modern theory of Locke more than anything else, but that theory, in truth, is not embodied in the political order they constructed. The American problem is that our political Fathers built better than they knew, or thought they knew, and so we have to know more or better than they knew in order to appreciate properly and sustain what they accomplished. The theory that they affirmed – if ambivalently as somewhat false but very powerful – is capable, unmoderated, of consuming what they built. So the greatest gift an American Catholic citizen can give to his country, Murray claimed, is a theory adequate to its wonderful practice (WT, 10–11).

Murray quotes a key statement of the Third Plenary Council of Baltimore (1884): "We consider the establishment of our country's independence, the shaping of its liberties and laws, as a work of special providence, its framers 'building better than they knew,' the Almighty's hand guiding them." America's Catholic bishops rejected the theory but affirmed the results of our Fathers' work. God's hand guided them, whatever they might have thought. But Murray explains that what was providential was hardly miraculous: "The providential aspect of the matter, and the reason for the better building, can be found in the fact that the American political community was organized in an era when the tradition of natural law and natural rights was still vigorous" (WT, 30).

Our Fathers, partly because the requirement of legislative compromise between Christian and secular currents of thought about nature and partly because

on *We Hold These Truths* in my *Aliens in America*, Wilmington 2002 and *Homeless and At Home in America*, South Bend 2007. In *Homeless*, I show that many of Murray's views, including those concerning our Fathers' theoretical political atheism, their practice being better than theory, and the providential character of our Constitution, can be found in the great 19th century American Catholic writer Orestes Brownson. For an application of Murray's Brownson's thought to some contemporary issues, see my *Locke, Our Great Founders, and American Political Life*, [in:] *Defending the Republic: Constitutional Morality in a Time of Crisis*, ed. B. Frohnen and K. Grasso, Wilmington 2008. For my lengthy introduction to Brownson's *The American Republic*, see the ISI edition, Wilmington 2003.

they and even Locke himself did not think through all the implications of his theory, were more influenced by thought they thought they rejected than they knew.

This approach to defending my country and its Constitution differs in important ways from the exemplary constitutionalism of the great Harvey Mansfield. I do note, however, that Murray's understanding of Locke is much like that of Leo Strauss, highlighting the ways in which it works to the self-destruction of reason in modern thought and to endanger fundamentally liberty in the modern world. Mansfield, Strauss, and Murray all agree that American practice is better than Lockean theory, and that, in part, is because the accomplishments of our Founders are better than much of their theorizing. Mansfield shows, using Alexis de Tocqueville, ways in which America could be better understood using premodern or largely Aristotelian thought, and he even adds that the depth of Tocqueville's understanding and ennobling of modern and American liberty owed a lot to the Christian Pascal. Strauss, of course, says that understanding our country as a mixture of premodern and modern – including Christian – currents in thought is not enough, because the premodern contributions are eroding in the absence of a thoughtful defense. Our adherence to a universal morality, Strauss believed, is most deeply a matter of faith, one that we only hold to be self-evident, and so, in a way, we are stuck with the defense of self-evidence as a sort of dogmatism. The approach of Murray has the advantage of offering a realistic defense of what our Fathers built to defend and perpetuate liberty, while not resorting to Tocqueville's questionable approach of refusing to celebrate – of, in fact, ignoring – our Declaration of Independence. Our Declaration, it is tempting to say, is more Christian than both Jefferson and Tocqueville knew.⁴

Locke as Our Fathers' Theorist

The theory that seemed most self-evident to our American political Fathers was John Locke's. But we, Murray claims, cannot take Locke "with any philosophical seriousness" today. The "eighteenth-century gospel" he inspired unleashed a "dynamism" of destruction based on "philosophical nonsense." Murray presents two ways – both partly true – of considering of our Founders' or political Fathers' view of that dynamic nonsense. The first is that they were theoretically superficial men who sometimes really thought Locke explained it all. The second is that they sometimes quite self-consciously knew that they were using Locke's theory as a means to level unjust orders, and their liberating efforts presupposed a different and truer view of nature than Locke's. In their eyes to some extent, Locke's "philo-

⁴ See: H. Mansfield, *America's Constitutional Soul*, Baltimore 1991, with his (with D. Winthrop) introduction to his translation of Tocqueville's *Democracy in America*, Chicago 2000. For an incisive recent analysis on Strauss and America, see L. Batnitzky, *Leo Strauss and Emmanuel Levinas: Philosophy and the Politics of Revelation*, Cambridge 2008.

sophic weakness vanished before its performance of the political task” that they needed performed. Nobody can deny the Lockean achievement of “destroy[ing] an order of privilege and inaugurat[ing] an era of political equality” (WT, 311–319). Locke’s emphasis on political consent, based on his denial that “the people are the great beast of aristocratic theory” (WT, 181), was, in fact, in accord with the Christian, Thomistic, natural law tradition. Locke said something like words are weapons, nothing more. In some measure, our Fathers took him at his word, using his words as weapons, nothing more. For them, Locke’s “theoretic dogmas” may well have been “false,” but still “powerful.” Murray’s most nuanced judgment may be that Locke’s theory could not “quite veil” from them the natural-law “imperatives of a human reason that has a greater and more universal power than was dreamt of in Locke’s philosophy.” Our Fathers, finally, were ambivalent Lockeans. Their own deeds were sometimes inspired by a more realistic view of the purpose of words than Locke’s, but they pursued historical success with the weapon of Locke’s theory in mind (WT, 311–20).

When and if our Fathers really believed that Locke taught the whole truth and nothing but, from Murray’s view, they must have accepted two unempirical premises. The first is that we consent to government and every other human institution as radically free individuals. The second is that all human connections or relationships are to be understood as based on one’s own self-interested calculation. That means, as Murray explains, “all forms of sociality are purely contractual” or “have no basis in nature” (WT, 306). We are not naturally social beings; we are not hardwired, so to speak, to share a life in common. The idea that all “mutual relations” can be understood in terms of contracts that utterly free individuals enter into and dissolve according to their sovereign willfulness is, we can see, clearly “a false theory of personality.”⁵ But it is a theory that has the advantage of privileging one’s own freedom over all established privileges.

Locke’s radically individualistic insight must lead to theoretical nominalism; Our natural capacity for language or naming is not for the joy of shared discovery, which, of course, would point in the direction of shared duties. Words are for maximizing one’s own individual power, and they correspond to no “metaphysical reality” (WT, 309). The “naked essence” of Locke’s thought, Murray reveals, is that all human capabilities are for the generation of power. The “law of nature,” from this view, is nothing but a name given to the self-interested decisions I make as a free individual to perpetuate my own being and enhance my comfort. The law of nature is nothing but a corollary of the liberty each individual has to act in his own self-interest rightly understood. Locke, Murray claims, said more “politely” what Hobbes said more “forthrightly.” Man’s natural condition is war, and every capability he has is a weapon of war (WT, 304).

Locke’s most basic theoretical incoherence seems to be his effort to sustain both nominalist premises and at least the semblance of the realist epistemology

⁵ J. C. Murray S.J., *Bridging the Sacred and the Secular*, ed. J. L. Hooper, Washington 1994, p. 111.

suggested by the idea of the “law of nature” – the suggestion of continuity with the realist, Thomistic tradition of “natural law.” Locke says that all free individuals can know that all free individuals are basically in the same situation. That seems to mean there are some real truths about nature and liberty we can share in common. But it is also true that the truths each individual holds to be self-evident radically separate his thoughts and concerns from those of others, and the words he uses to communicate with others are not presented with the truth in mind. What nature has given each of us, Locke explains, is pretty worthless, and that includes our natural inability to understand much of anything at all without freely imposing our will on it. What we can know is what we have imposed on nature; even truth is the individual’s powerful creation. Murray’s best student, Francis Canavan, shows with admirable precision that Locke, “famous as an apostle of human rights,” also taught an “epistemology and metaphysics” that “did not furnish an adequate foundation for a political philosophy founded upon a common human nature.” Locke wrote that “universality belongs not to things themselves, which are all of them particular in their existence.” There, Canavan contends, “Locke makes a basic move; only individual things exist, *therefore* only individual things are real.” All “general ideas,” Locke adds, are “inventions and creations of the [individual’s] understanding, made by it for its own use.” So words really are just weapons – as the nominalist says – for the basically hedonistic goals of separated individuals; there’s nothing real that corresponds to the artificial or abstract common life that is the invention of individuals allied in pursuit of their separate interests.⁶ And even Locke’s epistemology seems deduced from the free individual who has been invented or abstracted from the real existence of particular human beings. Epistemology and metaphysics themselves are weapons wielded by the invented individual.

Murray suggests the paradox that Locke’s realism is not very realistic, and even that Locke knows that. His attempt to feign continuity with the philosophical tradition has to be understood, for the most part, as one means among many he used to maximize his power (WT, 309). His “state of nature” does not seem to be a real place. It is a name he has given to a myth – a “fictitious” “abstraction” – he has invented to maximize our power and freedom. It certainly does not correspond to what we know about our natures (WT, 305). Locke’s views of nature and liberty are less descriptions than transformational weapons meant to become more true over time. They, like all other words, are tools for individual liberation. Locke’s denial of realism in the name of freedom has worked to some extent, but, from one view, the fantasy of the modern world is that it could work completely. It has, most powerfully, worked, contrary to Locke’s intention, to undermine what we freedom we really have. Our Fathers and even Locke himself were genuine liberals – or for limited, constitutional government – “only because they did not draw out all

⁶ F. Canavan, *Rights in a Federalist System*, [in:] *Defending the Republic*, ed. B. Frohnen and K. Grasso, Wilmington 2008, p. 161–162. The quotes from Locke are from *The Essay Concerning Human Understanding*, book 3, chapter 3, subsection 11.

the implications from his theory” (WT, 308). The Jacobin French revolutionaries, Murray explains, actually understood all the implications of Locke’s theory better than Locke himself. If all human questions are to be resolved through power, then the individual has, in truth, no perspective, either theoretical or practical, by which he can resist the power of the state. The naturally contentless individual is defenseless against superior power. The French project was the “monism” or politically imposed unity of their revolution, and the omnipotent and so omniscient “totalitarian democracy” that was the prelude for the much harder totalitarianism of the 20th century. The French, inspired by Rousseau, attempt to reduce particular human beings to citizens and nothing more, and religion to “civil religion” – or yet another instrument of political power – and nothing more (WT, 308–309). Locke’s nominalism led them to conclude that there are no real limits to the state’s power to shape human beings according to its political requirements. Locke’s intention was to free the individual from political, natural, and divine determination. But because the freedom he promoted was merely negative or destructive, it did not really empower the individual to constitute himself against the powerful forces surrounding him. “The logical outcome of Locke’s individualistic law of nature,” Murray contends, “was the juridical monism of the... French Republics.” Every communal or social or purposeful reality – “the pluralism of social institutions” – between the “individual” and the “state” was abolished (WT, 308). Lockean theory, in the eyes of the French revolutionaries, asserted “the absolute autonomy of individual human reason. “ That means that “[e]ach man is a law unto himself,” and everything “is a matter of individual choice.” No obligations are imposed on particular human beings by God or nature, and there is no foundation for any political authority but the will of the individual. Reason makes us all equal, but reason gives no content to our freedom. So what there really is “by nature” is “an absolutely egalitarian mass of absolutely autonomous individuals.” Society can only be constituted by “the people,” and that public power is as unlimited as that of the individual human being, who lacks what it takes to resist or even differentiate himself from the homogeneous whole. Because “the state, like individual reason, knows no God,” it knows of no authority above its own popular will.⁷ Government becomes “the political projection of the autonomy of reason,” and so it becomes “the Supreme Judge” of even “religious truth.”⁸ Locke’s wholly indeterminate freedom has no middle place between anarchism and slavery had no place for genuinely limited government based on particularly human purposes.⁹ Locke’s effort absolutely to free human beings from natural and divine determination subordinates them completely to the will of man as expressed in a wholly conventional or simply willful Rousseauian social contract. The view that there is nothing higher than the will of

⁷ J. C. Murray S.J., *The Church and Totalitarian Democracy*, “Theological Studies” 1952, Vol. 14, December, p. 525–563.

⁸ *Idem*, *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. L. Hooper, Westminster 1993, p. 70.

⁹ *The Church and Totalitarian Democracy* is Murray’s most extended defense of this claim.

man is, for Murray, eradicates every barrier to the particular individual's totalitarian determination by the will of other men.

Lockean destructiveness, it is easy for us to see, went beyond the establishment of a kind of limited, consensual equality toward a comprehensive egalitarianism that took aim at the root of human liberty itself. We now know that the modern experiment, Murray observes, will never "erect an order of social justice or inaugurate an order of freedom" (WT, 319). So Murray viewed his task as defending our real, natural freedom and openness to order and justice against promiscuous, willful leveling, to show that America is dedicated to more than groundless equality or impersonal public opinion. We certainly have more evidence than even Murray did that our Framers – and maybe Locke himself – were naïve in believing that the full destructive or isolating impact of Locke's radical individualism and nominalism could be contained over time. Our lives, in fact, continue to be progressively more informed by a theory we know to be abstract or incomplete or, in some very important respects, just not true. The theory, as Murray explains, was not meant to be true, but to become true, to become the basis of a redescription of all of human life. Our pragmatist Richard Rorty, in a way, just echoes Locke in his confidence that human life could be improved slowly but, eventually, quite dramatically, in terms of freedom, prosperity, and the reduction of cruelty through the right use of those tools or weapons called words. Although it appears not to be enough to show Locke is wrong, Murray thought it might do some good, at least, to highlight the ways he has been discredited on the level of theory.

Darwin, Freud, and Marx as Devastating Critics of Locke

Locke's theory, Murray says, need not be refuted by us. It was demolished by his theoretical successors. "[T]he Lockean idea of man," he observes, has been "destroyed completely" by "the genuine and true insights" of "Darwin, Marx, and Freud" (WT, 309). That does not mean, obviously, that Darwin, Marx, and Freud teach anything like the whole truth. Each, Murray is clear, in his "monistic" way, denies what we really know about human liberty. Their denials of liberty flow naturally, so to speak, from Locke's abstract, nominalist separation of liberty from nature. Marx's radical view that we are nothing more than what we've produced in the economic history of the division of labor – that we are wholly historical and wholly economic beings – depends on Locke's anti-natural view that free individuals reveal themselves to themselves through their work to transform nature. Darwin's view, that we are, by nature, qualitatively no different from the other species depends on Locke's seemingly unscientific or unempirical detachment of human freedom and purpose from all natural guidance.

The Darwinian says that everything that exists is natural, and the Lockean claims that our freedom is not natural.

And so the Darwinian reasonably concludes that what Locke calls freedom could not really exist.

Marx's criticism of the anxious and miserable individuals invented by Locke is not so different from that of a Darwinian sociobiologist. They are distorted by experiences characteristic of beings unnaturally alienated from their true home. Marx was not wrong to notice that Locke's capitalist ideology had to some extent worked to detach individuals from their natural, social ties, and Marx exposed the real "loss of freedom" that came with the success of that "empty nominalism" (WT, 311). Marx, of course, exaggerates the effects of that detachment. The lives of individuals have not been reduced to nothing but whimsical playthings of the market; women have not become nothing but wage slaves, just like men, and of course the great mass of people have not become no more than cogs in a machine. But all those exaggerations contain some truth, and contemporary life is full of the anxiety that comes with the experience of being emptied out of properly human content. Those exaggerations correspond to what the modern individual would become if Locke's theory could become wholly true, and the fact that they seem more plausible than ever suggests that a false theory continues to display transformational power.

Marx, everyone now knows, offered no real remedy for the human misery he described. "Communism," Murray writes, "is political modernity carried to its logical conclusion" (WT, 211). From the most obvious view, totalitarianism is the logical, wholly political antidote of the emptiness of the Lockean individual. But when Marx himself describes life under communism, of course, it is the very opposite of totalitarianism. It is even, in a way, the very opposite of communism; the particular human being is free from alienating social or communal duties. The state, the family, and the church will have all withered away. People will, quite unobsessively, be able to do whatever they want whenever they want. Everything we do would become undistorted by any real experiences of God, truth, love, or death. Without such alienation, man would no longer be "a stranger to his own will."¹⁰

From Murray's view, Marx's theoretical communism would merely radicalize – or make more modern – the loneliness and boredom and the alienation of one human being from another that existed under Locke-inspired capitalism. And under communism, of course, people would be deprived of the "opiate" of religious or revolutionary hope. For Murray, theoretical communism cannot become real, because it cannot eradicate who we are by nature. That is the deeper reason why the pursuit of theoretical communism produced its opposite – political or totalitarian communism. The logical conclusion of modernity is a political war against who we really are, against what we cannot help but know. Murray unreservedly endorsed America's political struggle against modernity's logical culmination, but with the suggestion that the real or spiritual foundation of our struggle could not be wholly modern or Lockean. What is most true, for Murray, in Marx is expressed more deeply or psychologically by Freud. The modern conquest of nature depends on

¹⁰ J. C. Murray S.J., *The Problem of God: Yesterday and Today*, New Haven 1964, p. 110.

expanding the realm of the “techniques of conscious reason” and “renounce[ing] the forces of instinct.” The result is that our natural sources of happiness and satisfaction are increasingly repressed, and so our most basic needs are denied gratification. The success of the Lockean project does not bring “self-fulfillment and happiness, but psychic misery and loss of personal identity.” Freud rightly replaces the economic misery of the Marxian proletariat with his own “Freudian proletariat, chained in neurotic misery amidst material abundance,” and without, of course, the solace of religious or revolutionary hope.¹¹ Freud has, of course, an unrealistically monistic or reductionistic or merely sexual view of human eros and happiness. But he is right that we are miserably anxious or disoriented when we deny or repress the truth about who we are by nature, and he is right to dismiss the merely economic or historical accounts of whom we are by Marx that make the revolutionary overcoming of our alienation from nature seem inevitable or even possible. Freud “shattered forever the ‘angel-mindedness’ of Cartesian man” – the idea that we are essentially other than natural or embodied beings, and so “the brittle rationalistic optimism” based on the idea that our bodies are machines to be manipulated at will by free beings (WT, 310–311).

The Marxian and Freudian view that the Lockean war against nature or instinct is an error that makes us more unhappy than anything else is shared by Darwin, and Murray’s realistic affirmation of what is true in Darwin strikingly anticipated the sociobiological criticism of social constructionism in the wake of both the fall of communism and the naïve social experimentation of the Sixties. Darwin’s “principle of continuity in nature” shows that we are like the other animals in many ways and share some purposes with them. Evolutionary theory expresses a partial but very real truth about our being: “man is solidary, by all that is material in him, with all of life.” “Purified of its monistic connotations,” Murray writes, the Darwinian principle of natural continuity “is compatible with a central thesis of Christian anthropology,” which is “the law of solidarity of both flesh and spirit.” Our social natures connect us as both material and spiritual beings, and so it is not realistic to disparage our bodies on behalf of our spiritual freedom. “Evolutionary theory,” Murray adds, “is not compatible with Lockean individualism,” which views all expressions of solidarity with and dependence on others or nature as worthless illusions that can and should be overcome. Evolutionary theory, in truth, dealt a “mortal blow” to that atomistic individualism (WT, 310). Darwin is right both that we are social animals and that what we are given by nature is both good and, in the most important respects, inescapable, despite our best efforts. Darwin’s alleged naturalism or empiricism achieves its allegedly comprehensive explanations by abstracting from everything that essentially distinguishes particular human beings from the rest of nature. The Darwinian abstraction is, in a way, a mirror image of the Lockean abstraction: Darwin exaggerates – while Locke denies – the continuity between members of our species and members of all the others. The Thomist ob-

¹¹ *Idem, Bridging the Sacred and the Secular...*, p. 158.

serves our self-consciousness – as well as our singular, erotic openness to the truth about ourselves, other persons, and all that exists – transforms even the natural ends we share with the other animals. But he never denies that our longings or ends have a natural foundation. So he incorporates what is true and rejects what false in both Darwin and Locke, while adding more. Darwin shares Locke’s unrealistic nominalism: Words do not give us access to self-evident truths; they are tools we’ve been given by nature to aid in the survival and flourishing of a species. The truth is not genuinely self-evident to us, contrary to the claim of our Declaration of Independence, because we are not hardwired to have selves or souls – or personal freedom – at all. Locke is surely wrong to think words alone could possibly sustain us against the impersonal forces of nature or public opinion or the arbitrary will of tyrants.

The Modern Will to Atheism

Darwin, Freud, and Marx are astute critics of the empty unreality of the Lockean individual, but Locke remains right about the reality of human liberty. Locke cannot defend individual or personal freedom from monistic destruction because he has detached that person from his real natural ends, from the truth about who he is. Murray’s criticism of Locke, finally, is a criticism of the modern decision for atheism, and all the monistic tendencies of modern thought are efforts to eradicate the personal, social longing for God as a natural explanation for who we are. All modern thought attempts to understand us as less than we really are by nature, and so all modern thought is self-consciously scientific or willfully reductionistic. For Murray, the “original act of freedom” that produced modern thought was “the will to atheism.” The absence of God from modern theory is based on the prior “intention that he be absent.” Murray’s “own proposition, derivative from the Bible is that atheism is never the conclusion of any theory, philosophical or scientific.” It is, instead, “a decision, a free act of choice that antedates all theories.”¹² That means, in Murray’s eyes, “ignorance of God is not a want of knowledge or even a denial, it is a free choice of a mode of living.”¹³ God has given man the freedom to choose to live without him, but that does not mean that man can realistically – or unwillingly – say that he does not know of God. Leo Strauss, for what its worth, agrees that modern philosophical atheism – as opposed to more genuinely philosophical skepticism – rests on “an unevident, arbitrary, or blind decision.”¹⁴

The original modern intention was to “explain God away,” to show that “God can have nothing to do with the order of intelligence.” He is “to be relegated to the order of fantasy,” to become an imaginary projection for which there is no evidence. That is why the key modern dogma is that religion is merely a “private

¹² Idem, *The Problem of God...*, p. 85, 95.

¹³ *Ibidem*, p. 77.

¹⁴ L. Strauss, *Natural Right and History*, Chicago 1953, p. 75.

matter” that exists nowhere but in “the individual conscience” and has no juridical or “public status.” Public life or the reality human beings share in common is godless. The church or any religious community has no official or legal presence.¹⁵ The modern will to atheism *is* the will to complete autonomy – or freedom from God and nature. Murray explains that “man fell in love with himself,” that is, “with his own creative powers.” He fell in love, in fact, “with the dazzling brilliance of his own creations.” The will to atheistic freedom is based on the thought that nothing creatures have been given is either good or lovable, and so only an “anthropocentric” or self-created universe could do justice to who we really are. The modern, technological will has, in fact, “altered the face of the earth, “and nature has been “made to feel in her very being that man is the master.” That will, at its beginning, was, in fact, “rational and purposeful,” to create a world worthy of genuinely autonomous beings – beings who have no need of God.¹⁶

The original modern will Murray calls “aristocratic atheism,” which was for the philosophical elite to understand all there is – including who we are – without God. Its lack of definitive success caused it to be succeeded by “bourgeois atheism” – the effort to show that people can prosper or be happy and comfortable without God. Because bourgeois life, as Marx and particularly Freud explained, turned out to be in some ways more restless and miserable than ever, it was succeeded by increasingly insistent “political atheism” – various attempts, inspired by Rousseau, to reduce human beings to secular citizens and nothing more. The movement of modern atheism from aristocratic to political is from theory to practice, from understanding to imposition, from scientific abstraction to relentlessly forcible destruction.¹⁷ Despite the logic of that movement, aristocratic, bourgeois, and politicized atheism, of course, all operate simultaneously in the modern world. The collapse of political atheism with the fall of communism, Murray would not be surprised to see, led to an intensification of bourgeois atheism – shown in the efforts of our libertarians and our “bourgeois bohemians” – and of aristocratic atheism in the popularized, basically Darwinian science of our so-called “new atheists.”¹⁸

For Murray, the whole modern experience is evidence that the Christian discovery of the truth about our freedom cannot be expunged from any genuinely empirical account of “natural law” – about who we are according to nature. The misery Marx, Darwin, and Freud described is our misery in the willed absence of God. We now know that misery has no historical/political or economic or technological cure. We also know there is no returning to, for example, the Aristotelian or classical account of nature and human nature. For Aristotle, “man in the end was

¹⁵ J. C. Murray S.J., *The Problem of God...*, p. 90–99.

¹⁶ Idem, *St. Ignatius and the End of Modernity*, [in:] *The Ignatian Year at Georgetown*, Washington 1956.

¹⁷ Idem, *The Problem of God...*, p. 86–87.

¹⁸ D. Brooks, *Bobos in Paradise: The New Upper Class and How They Got There*, New York 2000; E. Fesler, *The Last Superstition: A Refutation of the New Athens*, South Bend 2008.

only citizen, whose final destiny was to be achieved within the city” (WT, 155). Aristotle, in truth, did not know of each human being’s freedom from political life – discovered by the Christians and displayed in an unrealistically extreme and reductionistically distorted way by Locke. It is unclear, to tell the truth, whether Murray regarded Aristotle as primarily ignorant of God or choosing against him, but his choice, in any case, was clearly less willful than the characteristically modern one.

Murray explains that “Christianity freed man from nature by teaching him he has an immortal soul,” which apparently he would not have known by natural means alone. That teaching revealed to man that he longs to be more than a biological, species-oriented being, that he has singular purposes not given to the other animals. So Christianity “taught him his own uniqueness, his own individual worth, the dignity of his own person, the equality of all men, and the unity of the human race” (WT, 192). Christianity freed human beings from what seemed to Aristotle to be the limits of their natures. That revelation about the real truth about who we are has survived every modern effort to distort or suppress it. We continue to know, despite the best efforts of the secular civil theologians and other ideologists, that “every fatherland” is, to some extent, “a foreign land” (WT, 15). *The political truth that the Christians discovered is that “the whole of political life is not absorbed in the polis”* (WT, 333), and that human dignity is not primarily “civil dignity” (WT, 52).

That is why the integrity of the political order cannot be restored in post-Christian times except by “totalitarian” means. The modern secularist must make inauthentic denials that the pagan secularist – such as Aristotle – did not have to make. It is inevitable, Murray observes, that any post-Christian “unification of social life” is both more “forcible” and takes place on “a lower level” than Aristotle’s (WT, 133). The attempt to restore the monistic polis in the modern world is never really a political restoration, because the Christian criticism of civil theology, being true even if the personal God does not exist, cannot be eradicated from the world. The revolutionary totalitarian democrats might have thought of themselves as guided by a republican “myth of antiquity,” but they were really about the reactionary negation of the true discoveries of “Christian civilization,” the true sources of egalitarian political and spiritual freedom.¹⁹ Every willful attempt to exaggerate the autonomy of reason ends up denying the reality of the genuine transcendence – or orientation in the direction of God and transpolitical moral responsibility – of human freedom. In thinking about the “imperatives” of his own nature, Murray says he knows that “my situation is that of a creature before God” (WT, 32). And he called the modern denial of the human situation “a basic betrayal of the existential structure of reality itself” (WT, 215). What Murray himself knows, he claims, the “common man” also knows, “instinctively and by natural inclination” (WT, 204).

The decision for natural teleology and against willful atheism depends on the affirmation that the highest purpose of human beings is to seek, know, and love

¹⁹ J. C. Murray, *The Church and Totalitarian Democracy...*, p. 545.

God. And on the basis of that decision, our self-understanding becomes more in accord with who, by nature, we are. The choice for God is at the foundation of “natural law” and can be validated on genuinely empirical grounds. The choice for God is a choice for a being who is not, essentially, “a solitary, separated individual,” but a social, loving being essentially embedded in a community while retaining his own, personal identity.²⁰ The authentically postmodern choice is not for revelation against reason, but against wholly “autonomous reason” and for reasoning about who we are as whole natural beings. There is no such thing, Murray observes, as “abstract reason, but only reason as it exists in men,” and it’s willful fantasy of abstracted or utterly autonomous reason that unrealistically abolishes the distinctions between true and false and right and wrong.²¹

Our Nation Under God

Our political Fathers’ will, Murray claims, was not fundamentally atheistic. He follows Lincoln, most of all, by showing that our Fathers, despite their Lockean theory, built “a nation under God.” He does so, first of all, in opposition to the strict separationist jurisprudence that emerged in the 1940s. According to this view of constitutional interpretation, derived from the theory of Jefferson and Madison, government and religion are to have nothing to do with each other, and religion is to become a purely private, individual affair.

In the absence of some recognition of the social and socializing function of churches or institutional religion, Murray feared, too much emphasis will be placed on the public schools as the country’s only unifying factor, as the only way of overcoming the natural fact of individualistic divisiveness. The same “powerful and articulate philosophy of ‘American education’” that would deny all juridical or public status to religious schools, he warned, is about the business of developing “a concept of the ‘historic unity’ of the American people and a rather mystical concept of democracy.”²² The idea of democracy becomes a sort of fuzzy or almost pantheistic substitute for civil religion, and the American alternatives could either become part of the democratic community or withdraw into “protest schools” that perniciously prevent children from being incorporated into the civic brotherhood. The result would be an impairment of the parent’s right to encourage the genuinely free exercise of the religious dimension of his children’s beings, and religious concerns would be viewed as necessarily conflicting with those of citizenship. The thought that a believing Christian who orients much of his life around his church – we can see better than Murray – has to sacrifice or compromise his belief when

²⁰ *Idem*, *Bridging the Sacred and the Secular...*, p. 113.

²¹ *Idem*, *How Liberal is Liberalism?*, “America” 1946, Vol. 75, No. 6.

²² *Idem*, *Laws or Prepossessions? Essays on Constitutional Law*, ed. R. G. McCloskey, New York 1957, p. 332. What follows on the Constitution and religion is based on this chapter.

he acts as a citizen alienates from our country those who have, in fact, been the best of our citizens in recent decades. Today, we also have more evidence than ever that the Court's primary intention has been to promulgate and expand the reach a kind of autonomous public reason that is, in its effect, Lockean. "For Murray as for John Locke, his master," Murray explains, "religion is of its nature a personal, private, interior matter of the individual conscience, having no relevance to the public concerns of the state."²³ Religion is completely separated from the public world constructed through the institution of government, and the state takes no interest in – or even has no awareness of – the relationship between the individual man and his private God. So the state has no jurisdiction over churches because churches have no juridical status at all. The freedom of religion is, from this view, for "religion without a church," for a phenomenon which is socially irrelevant or totally excluded from civic affairs or any public educational mission. The result is the same juridical monism that was characteristic of the omniscient politicization of the revolutionary French. The deep Lockean thought here is, of course, that individuals do not have social natures and words are just weapons, and so there is nothing natural about pointing human beings in the direction of God. The result for him is not civil religion but real secularism or a more perfect political atheism. Government, in the interest of individual liberty, has to get by without God, and there's no denying that the unamended Constitution of 1787 is silent on God. Because Locke, in Murray's view, did not think through all the implications of his radical individualism, he views it as a violation of liberty for government to impose or even rely upon a civil religion. But that is at the cost of reducing conscience to nothing but a private fantasy. Locke, in the French revolutionary view, made civic unity too much of a merely self-interested construction that leaves too much intact of the solitary emptiness of the natural individual. A Constitution based on Madisonian/Lockean theory is genuinely liberal but unsustainable, because it is based on an unrealistic psychology. The Supreme Court, Murray shows, avoided this conclusion only by taking its constitutional bearings from Madison's personal opinions without embracing his theory. That's because, in Murray's view, the theory had been totally discredited. He imagines "legal howling" that would have been the result of the Court taking its bearings from "natural rights" derived from a "pre-social" state of nature. In the world of 20th century theory and practice and in the midst of a welfare state sanctioned by the Court, Madison could confidently say that "the radically individualistic concept of religion... is today quite passé."²⁴ Mere jurists might, in fact, be entitled to detach the law's original intention from any claim for its theoretical truth, and so they can contribute powerfully to Locke's transformational intention without reflecting on the realism of what he actually says about who we are. So Murray dissented on our political Fathers' original intent – on the Constitution's history – in order to suggest a better or more realistic theory.

²³ *Ibidem*, p. 325.

²⁴ *Ibidem*, p. 328.

Our Fathers as statesmen, the evidence shows, did not intend the First Amendment to aim at strict separation of church and state, but only to prevent the national establishment of any particular religion. Madison, the statesman pursuing legislative compromise with the more Christian members of Congress, was far less ambitious in practice than he was in theory. Nonestablishment is subordinated to religion's free exercise, and there is no mention of the rights of some isolated conscience or even any concern for the option of atheism. Religion is viewed as a positive, institutional good, and it is the religion clauses of the First Amendment that are the key evidence that our Constitution presupposes the existence of a transpolitical God. Murray shows that the establishment of religion was understood uniformly in the Congressional debates in "its proper, technical sense" of no favoritism or preference to any particular organized religion – such as the Church of England. So the Constitution establishes the "political equality" of all churches and other religious institutions. Freedom of religion ended up meaning, contrary to Madisonian or Lockean theory, freedom of churches. And so religious equality is "the equality of differences," and those differences are much more than a whimsical variety of private fantasies.²⁵ The anti-ecclesiastical tendency of the eighteenth century – which reduced religious liberty to the sanctity of the privatized conscience – did not make it into the actual constitution. Our Constitution presupposes that we are social, religious beings open to the transpolitical truth about God, and that capacity of our natures that leads inevitably to organized religion is meant to be an effective limit on the omnipotence and omniscience of the state. Our Constitution, through the compromises that produced the religion clauses of the First Amendment, ended up being more Thomistic than our political Fathers knew. The legislature of Virginia, Murray observes, seeing the somewhat un-Lockean nature of the political compromise, regarded the protection afforded to the consciences of individuals as inadequate, but, in the spirit of compromise, they eventually – after almost two years – ratified it. Our Constitution, Murray concludes, "was a great providential blessing" for Catholic American citizens. Because it points in the direction of the community called the church, Catholics as Catholics can be good American citizens. The liberty it protects is religious liberty in the sense of freedom for religion, the freedom to orient one's will with others toward the truth about one's situation as a creature. The American Constitution, because it is about the free exercise of religion, does not require civic theological affirmations from its citizens – affirmations no Christian can make with "conscience and conviction" (WT, 43). Murray was and still is criticized by conservative Catholics for his "Americanism" – for identifying American political solutions with ultimate or religious truth.²⁶ But Murray's inclination was, in fact, in exactly the opposite direction.

²⁵ *Ibidem*, p. 332.

²⁶ This sort of anti-Americanist criticism is found throughout D. J. D'Elia and S. Krason, editors, *We Hold This Truths and More*, Steubenville 1994.

The key providential fact about our Constitution, for Murray, is that “the distinction between church and state, one of the central assertions of the [Christian, natural law] law tradition,” found its way into our Constitution. Our Fathers understood that separation as “the distinction between state and society,” which they, following the tradition, thought of society as composed “of a whole area of human concerns which were remote from the competence of government.” For our Fathers, it was emphatically not true that there was “nothing above the state” (WT, 58), because they presupposed that we are, by nature, more than isolated, contentless individuals. Among those natural societies to which government, properly speaking, is both ministerial and incompetent are the churches.

As others, such as Tocqueville, have noted, the American Revolution was limited; it did not aim to reconstruct the religion or the family or even local government. So our Fathers held that government cannot “presume to define the Church or in any way supervise her authority in pursuit of her own distinct ends.” Religious freedom is accorded not only to the individual, but to “the Church as an organized society with its own law and jurisdiction.” The social areas from which our Fathers excluded government “coincides with the divine mission of the Church” as the Church itself understands it (WT, 69-70), and so “there’s an evident coincidence of the principles which inspired the American republic and those which are structural to the Western Christian political tradition” (WT, 30). The providential compatibility of America’s political mission and the Church’s divine mission was actually a coincidence based on a compromise. None of those involved in the compromise were thinking in terms of the Catholic Church’s self-understanding, but that’s no reason why the Church cannot affirm the result as providential, as what our political Fathers really gave us. *The Declaration of Independence*

Following Lincoln, Murray finds the source of our fundamental law’s principles in the Declaration of Independence. The religion clauses of the First Amendment were meant, in a way, to constitutionalize that “landmark in political theory” the Declaration of Independence. The key assertion of the Declaration is that there is “a truth that lies beyond politics: it imputes to politics a fundamental human meaning. I mean the sovereignty of God over nations as well as over individual men” (WT, 28). The Declaration too was a legislative compromise, the most instructive of the founding compromises. Let me turn to a Catholic author writing at roughly the same to as Murray to explain why that’s so.

R. L. Bruckberger, a French priest who wrote a classic reflection – *Images of America* – on his visit to America in the 1950s, compares in some detail Jefferson’s fairly purely Lockean “rough draft” of the Declaration and “the final text” as adopted by Congress. For the interpreter, Bruckberger claims, “nothing speaks as eloquently as corrections on a text.” There is no doubt, he contends, “that Congress and Jefferson had different concepts of God,” and they imply “two profoundly different philosophies.” Jefferson’s “Nature’s God,” which was retained from the first draft, was essentially no different from “Voltaire’s Great Watchmaker” or

Robespierre's "Supreme Being." He is no real constraint on human will, and he is compatible with real political atheism. There was, in fact, nothing in "the reigning philosophy of the day" or Jefferson's "own attitude" that pointed in the direction of recognizing God as a Creator, Providence, or Judge, as a personal being who guides and restrains human will.²⁷

But the final draft of the Declaration ended up giving the God of Nature all those personal attributes. That is because most of the member of Congress admired Jefferson's literary skill "but did not accept his philosophy." For them, "Moses and Jesus" were more important than the latest theoretical currents (AV, 92). Men who read and believed in the Bible not only had a decisive influence of the Declaration's character and content, but, despite themselves in a way, even its philosophy. Congress remained to some extent within the Puritan tradition, and that first American founding had a decisive influence on the second.

"The greatest luck of all," Bruckberger writes, "for the Declaration was precisely the divergence and compromise between the Puritan tradition and what Jefferson wrote." A Declaration "in the strictly Puritan tradition would probably not have managed to avoid an aftertaste of theocracy and religious fanaticism." And neither theocracy nor fanaticism are, in truth, central to the political tradition of the West. "Had it been written from the standpoint of the lax philosophy of the day," Bruckberger adds, "it would have been a-religious, if not actually offensive to Christians." The compromise between the Puritans and the Lockean is, in fact, superior to either of its components, especially as philosophy. That Congress, combined with Jefferson, built better than either of them knew was "luck...strangely fused with genius" (IA, 92-93). "The men who signed the Constitution," Bruckberger claims, "were better than the philosophy of their day," and "the Declaration itself is superior to the men who signed it" (IA, 99). The Declaration was, as Murray says, providential, it depends upon what the American people were given from a variety sources. The combination of Judeo-Christian revelation with the philosophy both of the eighteenth century and of the Greeks and Romans produced a "philosophy that most manifests the equality of all men in their natural and supernatural dignity" (IA, 98-99). It is the source of the genius of a nation that, at its core, offends neither philosophers nor Christians and does not even place the God of the philosophers and the God of the Bible at odds. That the God of Nature *is* the God of the Bible is the philosophic thought, as Murray says, at the heart of the Thomistic tradition. So Catholics can both affirm and account for the truth of the compromise of the Declaration far better than the Puritans or Calvinists and Lockean or political atheists who did the compromising.

Michael Zuckert, the most able defender of a purely Lockean view of the Declaration, admits that the passages added by Congress about God as Supreme Judge and his providence "appear much closer to the biblical religions than to the

²⁷ R. L. Bruckberger, *Images of America*, trans. C. G. Paulding and V. Peters, New Brunswick 2008, originally published 1959. Subsequent references to this book are found in the text (IA).

natural theology dominant elsewhere.” These references seem, in fact, to “echo more sectarian religious sensibilities.” But this acting God, Zuckert adds, acts to enforce nothing different from the laws of the God of Nature. The Declaration never “strays from the conviction that the principles of the political sphere are contained within the sphere of reason and natural theology and do not depend upon ‘special revelation’.” And so the Declaration points to a society of people with “diverse religious commitments,” united only by “the natural universal principles that govern the political sphere.”²⁸ But according to Murray, the additions make all the difference. They point to the conclusion that our natural faculties point each of us in the direction of our personal God, and that some common knowledge of that God is a limit to our diversity. The final, corrected version of the Declaration points us away from the political atheism of the impersonal Deism (of Locke or Voltaire) characteristic of the eighteenth century. There is a personal will higher than that of particular human individuals, and so human sovereignty is not unlimited or unguided. It is true that the Declaration has, as Bruckberger notices, no reference “to revelation of any kind, no reference to the Bible or to that Christianity with which America is so deeply imbued.” But it’s still a “religious” – without being an ecclesiastical or anti-ecclesiastical – document. It’s self-evident that the Creator – without whom a universal political morality is seemingly impossible – is the source of equality and the inalienability of our rights (AV, 83).

Bruckberger, in effect, echoes Murray when he says that the American revolutionary repudiation of “divine right” on behalf of a free people was “infinitely more radical” than the one by the French. The revolutionary French transferred “all sovereignty” from “the person of the king to the nation,” and so they recognized no divine claims other than that of politicized or civil theology. The nation was, in principle, as totalitarian as was the absolute monarchy – the unlimited will of the people in general replaced that of the particular person.

The French recognized no limit to political sovereignty, because their radical individualism produced no alternatives to natural anarchy and political despotism. That is why “Congress was right and Jefferson was wrong” to believe that abolishing divine right only requires transferring full sovereignty to the people (IA, 102–103). The divine will cannot be given to human beings in a limited government devoted to liberty, and so a free people have to be not only less but more – as social beings – than political beings.

It is only the Declaration’s philosophy – a providential combination of compromise, luck, and genius – that secures what’s true about the Lockean insight to the reality of personal liberty. The particular human being is neither created by nor is essentially a creature of government.

²⁸ M. Zuckert, *Launching Liberalism*, Lawrence 2002, p. 215.

America as Part of Christian History

Jefferson's and Madison's theoretical will was moderated by the necessity they faced as a statesman operating in a somewhat Christian environment. One result was the Declaration's virtually Thomistic or "natural law" theory, a result that cannot be found in or reduced to the will of any particular Father or founder. The compromise between Locke and Calvin produced something like the synthesis of Thomas. America, as Murray says, was "very superficially Christian" (WT, 317) in the eighteenth century, but it was Christian enough not to embrace the politicized will to atheism. From the beginning of "the authentic American tradition," Murray claims, parties and statesmen who "erect atheism into a political principle" are rejected. Jefferson and Madison might have privately been atheists, but their atheism has no public status. The Americans privatize atheism and have political institutions that point beyond themselves in the direction of God. In America, it is atheism that's the private fantasy that cannot be openly affirmed by those in political life. Murray even quotes the Supreme Court as having said "We are a religious people whose institutions presuppose a free being." It is because of that presupposition that there's no need for the Constitution to mention God. From the beginning, the Americans – and especially their political leaders – acknowledged their dependence on God without resorting to official civil theology (WT, 29–30).

Because our founding compromises accommodated Christian concerns, they can be seen as "recognizably part of the Christian tradition." In that respect, Murray affirms the conservative view that "Christian history" prevailed in our Constitution over "rationalist theory." And so the man whose rights are protected by the Constitution "is, whether he knows it or not, Christian man." That is, he is a man who "has certain original responsibilities precisely as man, antecedent to his status as citizen" a man whose understanding of his "personal dignity" has an irreducibly Christian foundation (WT, 30, 36–37, 39). That conservative victory of Christian history over Lockean theory has, of course, been eroded historically by the transformational power of Lockean principle. So it cannot be defended today as providential, but only as corresponding to true or rational theory, to what, as the Declaration says, is genuinely self-evident, as corresponding to the way we really are. The true foundation of religious freedom, Murray explained, is natural status or "dignity of the human person." That moral dignity is "rooted in the given reality of man as man." Each of us is given "the basic imperative to "act in accordance with his nature." And that imperative given to the true "moral subject" is the source of freedom from political determination each dignified person has when it comes "to the search for the truth, artistic creation, scientific discovery, and the development of a man's political views, moral convictions, and religious beliefs." We are free by our natural gifts for all these aspects of "the human spirit."²⁹

²⁹ J. C. Murray S.J., *The Declaration on Religious Freedom: A Moment in Legislative History*, [in:] *Religious Liberty: An End and a Beginning*, ed. J. C. Murray, New York 1966, p. 40–41.

The key truth we hold in common – what Murray calls “the essential idea upon which a democratic culture must be erected” – turns out to be “the dignity of human nature,” which includes “man’s spiritual nature.”³⁰ It is because of that nature – probably cultivated or habituated – that we can conceive of the possibility of real freedom, which is the freedom of a virtuous people “inwardly governed by the recognized imperatives of a universal moral law” (WT, 36). That is why Leo Kass, for one, has written that an effective defense of life and liberty now depends on an explicit defense of human dignity. The defense of the pursuit of happiness with no consideration of what’s worthy of who we are is too empty or indefinite guide for the challenges we now face.³¹

The Catholic Contribution to America

American Catholic citizens as citizens, Murray claimed, are especially well equipped to give their country what it most needs – a theory that adequately accounts for the success of its experiment in liberty. Our lack of such a theory has produced what the authors of our Declaration might call a crisis of self-evidence. That crisis has moved from Locke through Darwin in one way and the Jacobin/totalitarian version of Rousseau in another to the pragmatic, relativistic conclusion that there is no reality we can know that corresponds to our experiences of self or soul or freedom. If that is the case, then our Fathers’ dedication to the protection of our equality in human liberty really makes no sense.

Locke, Darwin, and the totalitarian secular civil theologians all share the nominalist view that words are nothing more than weapons. For Locke, words exist to secure the individual’s power or survival; for Darwin they exist to secure the species’ survival; for the totalitarian civil theologians they exist to impose civic unity on naturally anarchistic individuals. They all deny that we are naturally equipped to hold the self-evident truth in common.

We need a science or theory of natural law that does not exaggerate either our freedom from nature or our continuity with the rest of nature. We need a theory that does not make us so homeless that our freedom is displayed in nothing but absurd, anxious misery, but one that does not attempt to make us so at home that our real experiences of freedom and dignity are unrealistically denied. We need a theory that grounds our personal dignity in our natural openness to God. The God who is *logos* and *eros* made us in his image, and so there must be a ground for human freedom rooted in our natural capabilities for knowing and loving. The best present expression of that view of who we are is found in the thought of our philosopher-pope.³² That view of who we are makes the best sense of our Fathers’

³⁰ Idem, *Bridging the Sacred and the Secular...*, p. 108.

³¹ L. Kass, *Life, Liberty and the Defense of Dignity*, San Francisco 2002.

³² See, on the thought of Ratzinger/Benedict, the essays collected in B. Cowan, editor, *Gained Horizons: Regensburg and the Enlargement of Reason*, South Bend 2008.

choice of our natural openness over a consistently Lockean individualism that would reduce religion – and finally all our experiences of freedom and dignity – to private fantasies with no common or public weight. That theory, as Murray summarizes, has to “be asserted within a religious framework” (or a choice for God), be “realist (not nominalist)” – or based on the truth that words are not merely weapons but give us access to the way things and persons really are, be “societal (not individualist)” – because we are given the ability to hold personal truth in common, and “integrally human (not rationalist)” – because the truth is that the whole human being or person – the being open to truth, God, and the good – cannot be reduced to either mind or body (WT, 320). What our country most needs from its Catholic citizens, in Murray’s view, is genuinely conservative in two senses. It conserves the whole truth about who we are against unrealistic abstractions and empty nominalism. It also reinvigorates the American rational tradition through conserving a tradition both older and more rational – or at least more realistic – than our own. I do not think, of course, that American politics today is likely to be animated by a Thomistic philosophical tradition that is no longer even persuasive to most American Catholics. But maybe it’s true that things have not changed that much since the time of the Founding.

The implicitly Thomistic or genuinely realistic philosophy of the Declaration and the Constitution Murray affirms was the result not of our Fathers’ theoretical reasoning but of legislative compromise between Lockean and basically Calvinist factions. Today, we have a resurgent religious faction in politics composed primarily of evangelical Christians, and we also have a more aggressive, elitist promotion of secular autonomy. Perhaps our best hope for reasonable policy is compromise between those two factions, compromises that might often be better than either party to the agreement knows. That potential for judicious, salutary, theoretically defensible statesmanship is undermined most of all today by an aggressive Supreme Court pursuing what amounts to an agenda to Lockeanize more and more of American life. As the Court explained in *Lawrence v. Texas*, its job has become deducing all the individualistic consequences of the single word “liberty” in the Due Process Clause of the Fourteenth Amendment. “As the Constitution endures,” Justice Kennedy explained, “persons in every generation can invoke its principles in their own search for greater freedom.”

The word of the Constitution, in other words, is nothing more than a tool of Lockean transformation, and the Court, of course, thinks of itself as under no obligation to consider the real truth of what it presents as the true intention of its Framers. As Canavan writes, Locke’s “nominalist epistemology... is now accepted as dogma” by many of our legal scholars, and the influence of that uncritical thinking on our Supreme Court has turned “the due process of law into an instrument for an enactment of a liberal political agenda.”³³

³³ F. Canavan, *Rights in a Federalist System...*, p. 171.

Murray's reminder that the Constitution (or fundamental law) and the Declaration (or the source of our fundamental principles) both have the character of compromise should be used to curb our judges', bureaucrats, and professors' principled urgency on behalf of liberty understood as autonomy – or freedom from nature and God. Their theory does not correspond either to the practice of our political Fathers or to a realistic view of who we are. It is with authentic piety to our Fathers' intention that we take our bearings from what is realistically self-evident to us, and we turn to “better than they knew” studies.