

[*The First Grace: Rediscovering the Natural Law in a Post-Christian World*, Russell Hittinger, ISI Books, 334 pages]

From Highest Heaven Handed Down

By Cicero Bruce

FEW ARE BETTER qualified than Russell Hittinger to expound the divine communication of moral necessities to human intellect. Hittinger holds the William K. Warren Chair of Catholic Studies at the University of Tulsa, where he also chairs the Department of Philosophy and Religion, while maintaining an appointment as Research Professor of Law. What recommends him more than anything else, though, is his membership in the Pontifical Academy of Saint Thomas Aquinas. Hittinger is well acquainted with the Angelic Doctor of Aquino, upon whose writings the Christian understanding of natural law has been solidly based for over seven centuries.

In *The First Grace* Hittinger traces Thomas's natural-law suppositions back to the Council of Arles (AD 473), where the natural law was defined as the "first grace of God" (*per primam Dei gratiam*) before the coming of Christ (*in adventum Christi*)." Thomas subscribed to this definition and, in accordance with the 30 bishops at Arles, affirmed Saint Augustine's belief that the eternal law is impressed in the soul. Thomas strongly emphasized, however, that natural law is an exclusive function of the divine intellect. To locate natural law in either nature or the human mind is a fundamental mistake, Hittinger explains, because, although the "order of nature and the order of the mind are law abiding," they are not laws in themselves.

Since the birth of Cartesian man, Thomistic formulations of natural law have lost their wide application. Nonetheless, they remain essential to

Christian orthodoxy. Even after the Reformation, when non-Catholic theologians began scrutinizing the efficacy of natural law in human affairs, the definition of natural law as "higher law" continued to inform Protestant thinking. As a case in point, Hittinger invokes Richard Hooker, an Elizabethan theologian who iterated that the "voice of nature" is but the instrument through which God imparts "whatsoever in such sort we learn." Nature, in other words, is not the seat of natural law (in spite of what Rousseau would later declare); it is but the medium through which natural law is known.

Hittinger shows that the American founding cannot be fully understood without appreciating the erstwhile influence of higher-law assumptions. Regardless of what theological doubts he may have harbored, Thomas Jefferson believed that the "Laws of Nature" must be considered in light of "Nature's God." Alexander Hamilton proclaimed that the "Sacred Rights of Mankind are ... written, as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power."

In the religious parlance of the 19th century, "and in every legislative assembly" then convened, "the higher law," writes Hittinger, "was a familiar coin of discourse." Indeed it was invoked in

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debates over slavery, especially in the wake of the Fugitive Slave Act of 1850. That the United States had placed above themselves a "higher law," that they had not subordinated moral principles to human desires, that they made of government neither a facilitator of individual caprice nor a final arbiter of the good, were reasons to "boast," said the ever sapient Orestes Brownson.

Hittinger's is not a book on the prominence of natural-law thinking in earlier centuries, however. Its focus is chiefly on the past 55 years, a period in which a disordering *Zeitgeist* has militated against the natural-law tradition and obscured its vital importance to a proper understanding of moral theology and to the making of positive laws. (According to Hittinger the Supreme Court's truckling to the disorienting spirit of the age began, in 1947, with *Everson v. Board of Education*, before which case "the First Amendment's prohibition of 'an establishment of religion' applied only to laws passed by the U. S. Congress.") What Hittinger makes positively clear is that (except in the case of Pope John Paul II's encyclical *Veritatis Splendor*) the idea of natural law has been so irresponsibly misappropriated in recent history by unqualified interpreters and ethical relativists that it has become virtually impossible to advert unambiguously to what the 30 bishops at Arles acknowledged as God's first gift to man.

To exemplify the corruption of natural-law thought as a basis for a coherent public philosophy, Hittinger recalls the Senate hearings on the nomination of Clarence Thomas to the Supreme Court. On this unprecedented occasion, Sen. Joseph Biden (D-Del.), having been apprised of Judge Thomas's extensive

writings on natural law, insisted that the Judiciary Committee determine whether the judge espoused a "good" or "bad" theory of natural law. In Biden's words, a bad theory of natural law would espouse "a code of behavior ... suggesting that natural law dictates morality to us, instead of leaving matters to individual choice." A good theory, Biden argued, would defend the rights of individuals to

make their own decisions regarding, in particular, sexual conduct and abortion.

Senator Biden's is a theologico-political problem that, in their "state of nature" scenarios, the Enlightenment thinkers solved by imagining men to be

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subject to no authority other than individual intelligences. Sundry authorities around which societies organize themselves are seen by Hobbes and Locke to derive, as Hittinger reminds us, not from God but from "covenants of individuals constrained to reach a consensus on the basis of what is (or seems) self-evident." The "state of nature" myth, or what Hittinger calls "a secular substitute of Genesis," would sever all connections between the positive law of man and the positive law of God. The difficult notion that remains a stumbling block for a mind like Senator Biden's is impeccably expressed in a sentence Hittinger quotes from the 12th-century summist Johannes Faventinus: "The streams of natural rectitude flow into a sea of natural law, such that what was lost in the first man is regained in the Mosaic law, perfected in the Gospels, and decorated in human customs."

Senator Biden's resistance to law from highest heaven handed down is symptomatic of two larger concerns: the elevation of the individual to the status of a sovereign and the question of legitimacy in the courts. These two issues come to a head in *Planned Parenthood v. Casey*, a watershed case to which Hittinger returns in chapter after chapter. While *Roe v. Wade* gave women the right to determine the fate of the unborn, *Casey* went much further in removing the trimester scheme. In the language of the opinion that prevailed in the latter case, the state may impose no "undue burden" on a woman's choice to abort.

Moreover, although the Fourteenth Amendment does not say precisely what constitutes "liberty," the prevailing opinion defined it broadly so as to include "the right to define one's own concept of existence, or meaning, of the universe,

and of the mystery of human life."

There is not room enough here to rehearse what Hittinger sees as the many and troubling implications of this bizarre definition. The connection between what was argued in *Casey* and what proponents of assisted suicide are arguing now, however, should be underscored. Hittinger illuminates the connection by revisiting a 1991 lawsuit that sought to overthrow a Washington law forbidding one from causing or aiding another to commit suicide. Chief Judge Barbara Rothstein, of the District Court for the Western District of Washington, found in favor of the plaintiffs (members of the organization Compassion in Dying), whose case rested on the claim that the Washington law violated the "due process" and "equal protection" clauses of the Fourteenth Amendment. Building her decision in large measure on the language of *Casey*, Judge Rothstein wrote, "Like the abortion decision, the decision of a terminally ill person to end his or her life 'involv[es] ... [a] choic[e] central to personal dignity and autonomy.'" It would seem, writes Hittinger, that "many Americans believe ... they have more to fear from the social contract and traditional criminal codes than they do from private decisions made by physicians, insurance companies, and families."

The First Grace deals mightily with the crisis of our time—namely, the failure of those who make, enjoy, and judge the constitutionality of laws to appreciate the dire consequences of denying the

place of natural-law considerations in the ordering of public life. America, which is fast elevating self-interest above all else and making the judiciary the final authority of right and wrong, ignores Hittinger at her peril. What Sophocles said on the Aegean nearly 2,500 years ago is relevant to our post-Christian world: "Haughtiness and the high hand of disdain / Tempt and outrage God's holy law; / And any mortal who dares hold / No immortal Power in awe / Will be caught up in a net of pain; / The price for which his levity is sold." ■

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They Have Their Graves Afar

By Jonathan Chaves

NOT LONG AGO, during a visit to London, I happened upon a delightful bookstore on Gloucester Road in Kensington. Of course I entered and began my browsing, as always, in the poetry section. There I found a slim, black-and-yellow volume in perfect condition, *The Ballad of St. Barbara and Other Verses*, by one of my very favorite writers, G.K. Chesterton, a first edition published by Cecil Palmer in 1922. I bought it, and it now resides on my bookshelf side by side with early editions of such poets as Burns, Cowper, Bryant, and Longfellow.

I had vaguely realized that Chesterton wrote poetry, and I knew that the title of one of Russell Kirk's last books, *The Wise Men Know What Wicked Things Are Written On the Sky*, a sobering and penetrating autopsy of contemporary education in America, was in fact a line of verse by Chesterton, but only now did I come to grasp G.K.'s importance as an exemplar of a counter-tradition of poetry in the 20th century. Further reading of his complete poetry, in a cheap Wordsworth Edition paperback published in 1995 (*The Works of G.K. Chesterton*, which despite the title is limited to his poetry), confirmed this impression and deepened it.

In academia and among our cultural elites in general, it has long since been assumed that the mainstream of 20th-century poetry is modernist, eschewing rhyme, meter, and indeed all formal structure, and simultaneously fragmenting meaning itself, leading to what is by now the familiar hermetic incomprehensibility of virtually all published modern poetry. Poet Dana Gioia has long since called attention to the domination of academic writing programs by this sort

of thing (in his superb book, *Can Poetry Matter?: Essays on Poetry and American Culture*).

But even a moment's reflection reminds us that there have been great poets in the 20th century—Frost, Robinson, Hardy, Masters (in many of his fine uncollected poems), to name only a few—who used rhyme (at least in some of their work) and meter, and wrote poetry that successfully conveyed meaning transcending the mere jumble of words. What has not been done is to suggest that these figures with all their differences can now be seen as constituting a counter-revolution in poetry, that while they may not all have been “conservative” in a narrowly political sense, they were so in preserving, while creatively reinvigorating, the age-old role of poetry as conveyor of meaning in beautiful, compelling language. And Chesterton most certainly belongs among their number.

For a traditional conservative, there is with Chesterton the added attraction of ideas embedded in verse that resonate through the decades and even through the centuries. Has “deconstruction” become the chosen lens through which to view the past, for historians, literary critics, art historians, academics, and “intellectuals” across the board today? My treasured *Ballad of St. Barbara*, published in 1922, berates these debunkers, whose project of “demythologizing” the past, as Chesterton fully grasped, was well underway long before Jacques Derrida reared his head among us. “O learned men who never learned to learn,” Chesterton intones in “The Myth of Arthur,” “Save to deduce, by timid steps and small, / From towering smoke that fire can never burn / And from tall tales that men were never tall!” For G.K. knows what they do not, that “myths” and “tall tales” are fingers pointing towards a truth so enormous that it cannot be conveyed in “everyday” terms, while the intellectual class of modernity take “Immortal story for a mortal sin.” They wish to demolish all claims to transcendence, as part of their utopian project of bringing everything

down to the same level. But Chesterton ends by ironically reassuring them: “Take comfort; rest—there needs not this ado. / You shall not be a myth, I promise you.”

And beauty itself is to be debunked, the ugliness and wretchedness of the world explored and upheld as the actual truth beneath the veil of lies, a truth that itself yields ultimately to the Void that lies below. But Chesterton sees in reverse, or rather, in obverse, again countering the modern anti-vision, centric rather than eccentric, and for that very reason actually eccentric among the moderns. While alive to the impermanence of the world before us, he sees its beauty as a sign of something (or rather, Someone) Real, not false, upholding it, and he can do so because he has faith:

A wandering world of rivers,
A wavering world of trees,
If the world grow dim and dizzy
With all changes and degrees,
It is but Our Lady's mirror
Hung dreaming in its place,
Shining with only shadows
Till she wakes it with her face.

It is this faith that allows Chesterton to gaze upon the “proletarians” of the world and see not misery requiring bloody revolution to correct, but workmen of the divine. *The Ballad of St. Barbara* has poems on “The Four Guilds,” including one, “The Stone-Masons,” of particular significance for those of us who reside in Washington, D.C., home of the National Cathedral, where master Italian stonecutters have kept alive the Gothic tradition in sculpture at the very moment in history that the priests and bishops were desecrating the theological traditions inherited by the Episcopalian Church:

Our gargoyles gather the roaring
rain,
Whose yawn is more than a frozen
yell,
And their very vomiting not in vain.

For the mainstream modern writer, “vomiting” is what it is all about—