

Religious freedom, truth, and American liberalism: Another look at John Courtney Murray

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The assumption has become increasingly common since Vatican Council II that Catholicism and liberalism "have successfully resolved" the fundamental differences they had in the past.¹ However one defines the difficult term, "liberalism," such an assumption typically comes attached to the claim that the Council vindicated the arguments of John Courtney Murray on matters of pluralism and religious freedom.

¹R. Bruce Douglass, "Introduction," *Catholicism and Liberalism: Contributions to American Public Philosophy*, ed. R. Bruce Douglas and David Hollenbach (Cambridge: Cambridge University Press, 1994), 1-16, at 10. On the complexities of the question of the relation of Catholicism and liberalism since the Council, see, for example, the range of topics listed by Joseph Komonchak in his "Vatican II and the Encounter Between Catholicism and Liberalism," *Ibid.*, 76-99, at 98 (fn. 22). Like Komonchak, I cannot treat these topics in a single article, and thus make no claim of providing an exhaustive analysis of the problem of liberalism during the post-conciliar period.

Surely religious pluralism is an ineliminable fact of life in America and throughout the West today. And just as surely religious freedom is one of the great achievements of the Council. As Murray argued, this achievement seems even to indicate a development of doctrine. Religious freedom is a part of the Council's recognition more generally of modern interiority and subjectivity; and is of a piece with the Council's distinctive affirmation of the Church's openness to the world. In the matter of religious freedom, one might in fact agree with Hans Urs von Balthasar that *Dignitatis humanae* perhaps did not go far enough in renouncing coercive means as unworthy of the gospel: that it would have been appropriate for the Council to have apologized to humanity, in terms as clear as its apology to other Christian churches in *Unitatis redintegratio* (n. 7).²

Given both religious pluralism and the irrevocability of the Council's endorsement of religious liberty, I wish to consider whether liberalism nonetheless does not continue to shape in unacceptable ways the terms in which pluralism and religious liberty are typically conceived. The problem lies in the tendency of liberalism to hide its character as a theory, insisting that it has no truth-content of its own. As liberalism often claims no theory of the good but only a commitment to a free market of theories of the good and to rational debate about such theories,³ so, similarly, does it often claim no religious truth but only a commitment to formal-judicial procedures which make possible a free market of religious truths and rational debate about such truths.

My contention is that liberalism just so far draws us into a con game: inviting us to dialogue within the (putatively) open and pluralistic market of religions, all the while that it has already, hiddenly, filled the terms of that dialogue with a liberal theory of religion. The liberal appeal to religious pluralism hides its own "monism"; the liberal appeal to religious freedom hides its own definite truth about the nature of religion. My proposal is that Murray, despite his intentions to the contrary, has

²"The Council of the Holy Spirit," *Theological Explorations III: Creator Spirit* (San Francisco: Ignatius Press, 1993), 245-67, at 262-65 (fn. 145). In his June, 1994, meeting with cardinals, Pope John Paul II proposed such an apology for the year 2000. See in this connection *Tertio Milenio Adveniente*, nn. 33-35.

³Cf. Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 1988), 345 (and 326-48).

disposed Catholics to share in this paradox of liberalism. The disposition has been created by two of his central theses: that the religion clauses of the First Amendment are "articles of peace"; and that religious freedom is best understood for purposes of political order first in its negative meaning, as an immunity from coercion, and thus first as a formal notion empty of positive religious content.

Let me emphasize: my proposal does not deny but on the contrary presupposes the importance of Murray's achievement in the defense of religious freedom. The argument intends to bring into relief the inner "logic" of Murray's position as expressed in the double thesis noted. Clearly Murray himself repudiated the liberal-secularistic consequences I will attempt to draw out from the premises carried in this double thesis. The burden of my argument is that, notwithstanding this intended repudiation, there remains a logical ambivalence in Murray's position that must be removed, if we are to defend religious freedom in America in a way that avoids the collapse into a (hidden) liberal dogmatism.

Joseph Komonchak, in his "Vatican II and the Encounter Between Catholicism and Liberalism," provides a helpful statement of the conciliar and postconciliar context in which I wish to situate my argument.⁴ According to Komonchak, "[t]he Second Vatican Council can be read as the event in which the Catholic Church significantly reassessed modern society and culture and the attitudes and strategies it had adopted towards them in the previous century and a half. Those earlier attitudes and strategies had been founded in a consistent repudiation of an ideology and praxis summed up in the word 'liberalism'" (76). The shift at the Council from these earlier attitudes and strategies was emphatic but differentiated. It was not a question now of blindly embracing modernity, but of reading the "signs of the time." Key here was *Gaudium et spes's* affirmation of the rightful autonomy of earthly affairs (GS, n. 36; Komonchak, 81). The order of grace did not destroy human autonomy but re-

⁴See also the following related articles by Komonchak: "The Enlightenment and the Construction of Roman Catholicism," *Annual of the Catholic Commission on Intellectual and Cultural Affairs* (1985): 31-59; "The Cultural and Ecclesial Roles of Theology," *Proceedings of the Catholic Theological Society of America* 40 (1985): 15-32; "Interpreting the Second Vatican Council," *Landas: Journal of Loyola School of Theology* 1 (1987): 81-90; "Theology and Culture at Mid-Century: The Example of Henri de Lubac," *Theological Studies* 51 (1990): 579-602.

stored to it its dignity (GS, n. 41; Komonchak, 81). The older antithesis which had been assumed between freedom and order, or again between autonomy and creaturehood, was thus nuanced. It was now a question not simply of opposing these notions but of distinguishing among senses of autonomy: of articulating a christologically centered humanism that could

fully respect today's impetus towards human self-responsibility and self-realization, while identifying and responding to the evils that attend this impetus by proclaiming the message about Christ, sin, and redemption. In this humanism, the adjective does not cancel out the noun, as too often happened in "Catholic catastrophism." Nor does the noun exile the adjective, as too often occurred in doctrinaire liberalism. (82)

Dignitatis humanae in its turn softened the antithesis between political liberalism and Catholicism, through its affirmation of religious freedom. It defined this freedom first negatively as "freedom from coercion in civil society" (DH, n. 1), then rested the right to this freedom on human dignity and not on possession of the truth (84-85). This does not mean that the Council surrendered the Catholic Church's claim to be the true religion, or that it rendered society indifferent to the question of religious truth. What it means rather is that the Council adopted the modern political tradition of constitutional separation of church and state, with its attendant guarantee of religious freedom to all.

Komonchak argues that two developments above all "permitted the Council to adopt its more nuanced attitude toward liberal modernity" (85). The first development was historical, and lay in Murray's distinction between continental (i.e., European) ideology and the Anglo-Saxon liberal tradition whose roots he saw in the medieval tradition. Continental liberalism understood the separation of church and state to imply the irrelevance of religion to the public order; Anglo-Saxon liberalism, on the other hand, distinguished between two kinds of societies, the church and the civil order, in a way that left intact the Catholic insistence on the public significance and necessity of religion.

The methodological development was complex. Komonchak notes that "[t]he bishops and theologians who constituted the 'progressive' majority at the Council came together initially because of a common opposition to the faction that had dominated the preparation of the Council and that wished to see it do nothing more than ratify the attitudes and strategies of the previous century and a half" (86). But the differences within this majority group itself became increasingly apparent as the Council began to develop positive alternatives to the earlier "dual-

ism" of church and world, with the latter's attendant disposition of defense and reaction against modernity.

Acknowledging the risk of over-simplification, and prescinding from the question of how fair the contrast is to either Augustine or Thomas, Komonchak suggests that these differences might best be characterized in terms of the traditional opposition between "Augustinians" and "Thomists."⁵ The presence of this opposition at the Council became manifest in two sets of questions. The first was over where in the past the Church should look for examples of how to engage contemporary culture—toward the great Patristic enterprise, or toward the great medieval Scholastic or Thomist effort (86)?

This question in turn raised the issue of theological epistemology. "The typically Augustinian approach works with a sharp and unmediated distinction between sin and grace. . . . The natural world appears to have no solidity or substance ex-

⁵There are of course other ways to express the tension indicated here by Komonchak: for example, in terms of the differences between Fourvière (e.g., de Lubac) and Saulchoir (e.g., Chenu); or again in terms of the different senses of the relation between "*ressourcement*" and "*aggiornamento*." That the tension indicated by Komonchak has continued in the years following the Council is confirmed by the founding of two different reviews: first (1966) of *Concilium* (with the participation of theologians such as Congar, Schillebeeckx, Rahner, and Küng) and eventually (1972) of *Communio* (with de Lubac, Balthasar, and Ratzinger).

Komonchak's three groups (i.e., on the one hand, his "traditionalist" faction which defended the Catholic theological strategies of the century and a half preceding the Council, and, on the other hand, his "progressive" majority which was made up of two groups, "Thomist" and "Augustinian") I have described elsewhere in terms of "neo-scholasticism," "transcendental Thomism," and "*ressourcement* theology." Clearly my labels, like those of Komonchak, require further differentiation (how does one easily categorize great catholic theologians like Rahner, Congar, de Lubac, and the like?). Nonetheless, both sets of labels serve at least to bring into relief the fact that discussions regarding the authentic meaning of the Council need to be carried out in terms of *three*, and not just *two*, streams (i.e., typically conceived simply as "conservative" vs. "progressive") of Catholic theology in this century. In particular, apropos of the theme of religious freedom, we need to see that a criticism of a certain prevalent notion of religious freedom does not, *a priori*, indicate a ("conservative") retreat from *Dignitatis humanae*; on the contrary, it indicates merely that one's understanding of this notion might differ depending on which theology within the "progressive" majority at the Council one takes as primary. My intention in this paper is to illustrate this difference, in terms of the theologies of Murray on the one hand, and de Lubac (and Pope John Paul II) on the other.

cept as a sign pointing beyond itself to the spiritual and supernatural" (87). "The typically Thomist approach, in contrast, effects a theoretical differentiation of the natural. . . . It has its own solidity or substance, its own laws, its created autonomy" (87). The difference between these approaches comes to light in a particularly sharp way in relation to the text of *Gaudium et spes*.⁶

The principal influence on this text, according to Komonchak, came from the French and Belgian thinkers who were more Thomist in orientation. These thinkers emphasized the distinctions necessary to understand the generative principles of the modern world "in and for themselves, only then to apply the categories of sin and grace to their development, and in doing this to be careful not to confuse nature and sin" (88). In contrast, a number of German theologians, who were more Augustinian in approach, "accused the text of indulging in a naturalism and 'naive optimism'" (88). These theologians insisted that the Thomist distinctions in fact indicated "separations or at best juxtapositions of philosophy and theology, making Christianity a second world simply attached to the natural or reduced to the role of sacralizing contemporary progress. They felt that the reality of sin was being underemphasized . . ." (88). The changes made in the final text of the document were not enough to prevent some of these thinkers from accusing it of a "naturalistic semi-Pelagianism" (88).⁷

Komonchak concludes by stating his own approach to the question of Catholicism and liberalism at the Council (89-95). What remains crucial in adjudicating this complex question, he argues, is Murray's distinction between the broad liberal tradition (represented in Anglo-Saxon countries) and the doctrinaire liberal tradition (represented in nineteenth-century Europe). Roughly, this implies the distinction in turn between "lib-

⁶For the debates at the Council in connection with this document, see Joseph Ratzinger, *Theological Highlights of Vatican II* (New York: Paulist, 1966), 147-71; Charles Moeller, "The History of the Constitution," in *Commentary on the Documents of Vatican II*, vol. 5, ed. Herbert Vorgrimler (New York: Herder & Herder, 1969), 58-62, and 1-76; Philippe Delhay, "Histoire des textes de la Constitution pastorale," in *L'Eglise dans le monde de ce temps*, vol. 1 (Paris: Cerf, 1967), 267-73.

⁷Komonchak cites Joseph Ratzinger as embodying the "Augustinian" approach discussed here. For Ratzinger's views on *Gaudium et spes* (and the Council), see: "The Church as Man's Calling," in *Commentary on the Documents of Vatican II*, vol. 5, 115-63; *Theological Highlights of Vatican II*, 147-71; and *Principles of Catholic Theology* (San Francisco: Ignatius Press, 1987), 367-93.

eral political *structures*, which the church can accept, and a liberal *ideology*, which it must repudiate" (89). In surrendering the ideal of the confessional state, says Komonchak, the Church has in principle resolved the theoretical problem of formal constitutional structures. But, once this is settled, there remains the question of the relation between religion and society: of the role of the Church in the definition and constitution of what Murray called "the spiritual substance of society" (90). Komonchak sums up:

The question of truth and genuine value thus returns even more acutely. The issue is whether the construction of society is possible simply on the basis of a formal notion of freedom, as "freedom from," which leaves in suspension or perhaps even considers unresolvable the question of "freedom for." This is the question not only of the purposes for which freedom of conscience is being used, but also of the cultural, ethical, and even religious presuppositions which underlie the very choice of a liberal political order. Put most simply, does the *constitutional* indifference of the state imply *substantive* cultural indifference to questions of truth and value? (90)

Komonchak points out that Murray himself, being clear about the distinction between formal constitutional structures (the state) and society, always insisted on the need for a "public consensus" at whose core lay moral and religious principles (90). Failure to keep this distinction in mind is what has led to the confusions common among both "Catholic intransigents" and "doctrinaire liberals" on the question of modernity (91). Thus those who "demonize" modernity, viewing the Council's achievement as a capitulation to modernity, often fail to distinguish "between the liberal political structures of modern democracies and the liberal ideology which often legitimates them" (95). And those who "deify" modernity, celebrating "the Council as a long over-due accommodation to modernity[,] often focus on its acceptance of many of the liberal structures of the day but ignore or play down the Council's insistence on the substantive relevance of religion to society" (95). Both groups miss what was distinctive about the achievement of Murray, in his own nuanced stance toward modernity.

Komonchak, following Murray, is right to insist on a distinction between liberal political structures (state) and liberal ideology (society). It nonetheless seems to me that this distinction itself requires more differentiation than Murray gives it. The claim of constitutional indifference (that is, neutrality) is tied, in the case of Murray, to his interpretation of the religion clauses of the First Amendment as "articles of peace." And this

interpretation is reinforced by his definition of religious freedom first in negative terms, as an immunity (from coercion). But what happens if it can be shown that the religion clauses, whenever they *actually* mean anything, always imply someone's "articles of faith"; and if it can be shown, further, that a religious freedom defined first in negative terms already presupposes a *theory of religion* different from one which would define religious freedom first in positive terms, in terms of the person's positive relation toward God?

What I propose to argue is that the constitutional indifference toward religious truth which Murray defends turns out already to imply the beginning of the substantive (i.e., theoretical-societal) indifference which he otherwise decries. Any attempt at a purely formal definition of religious freedom will in fact always-already import a definite content of religion. Failure to recognize this suffices to distinguish one's approach to religious freedom, and indeed to political community, as already unacceptably liberal.

Unacceptably liberal, that is, at least from the perspective of one reading of the Council. Recognizing with Komonchak the severe limitations of labels in describing the groups at the Council, I propose that we (momentarily) set them aside, and argue in terms of specific positions—and persons. In the work of Pope John Paul II, we find a sustained hermeneutic of the Council. The question of the relation between (religious) freedom and truth has been a persistent one for him, as witnessed, for example, by his interventions already at the Council,⁸ his first encyclical, *Redemptor Hominis*, and again in his most recent encyclical, *Veritatis Splendor*. The question the pope persistently addresses, of course, is not *whether* the Church should affirm religious freedom, but *how* the Church should conceive the relation between freedom and truth. And his answer to this question—and, indeed, the key to his hermeneutic of *Gaudium et spes* if not of the Council itself—seems to me contained, *in nuce*, in the text prominently cited in eight of his ten encyclicals: "Christ, . . . in the very revelation of the mystery of the Father and his love, ful-

⁸See Walter Kasper, *Wahrheit und Freiheit: Die "Erklärung der Religionsfreiheit" des II. Vatikanischen Konzils* (Heidelberg: Carl Winter Universitätsverlag, 1988), 26-28. See also Kenneth L. Schmitz, *At the Center of the Human Drama: The Philosophical Anthropology of Karol Wojtyla/Pope John Paul II* (Washington: The Catholic University of America Press, 1993), 109-10, 113-15.

ly reveals man to himself and brings to light his most high calling" (GS, n. 22). This statement, which in fact repeats almost verbatim a statement by Henri de Lubac in *Catholicism* (1938),⁹ indicates the best way into the pope's view of the autonomy of creation, or again of the relation between adjective and noun in the Council's "christologically centered humanism."¹⁰

My contention is that the pope's reading of GS n. 22 leads to a different configuration of the relation between freedom

⁹See the comments of Cambridge University theologian Paul McPartlan: "These words [GS, n. 22] remarkably reflect what Henri de Lubac had already said, as long ago as 1938, in his first book, *Catholicism*[:] 'By revealing the Father and by being revealed to him, Christ completes the revelation of man to himself' [*Catholicism* (London, 1950), 187]."

"There is certainly an influence to be discerned here, not only of de Lubac upon *Gaudium et spes*, but also of the already ageing theologian upon the young Bishop Wojtyla, with whom he collaborated at the Council" ("Henri de Lubac—Evangelizer," *Priests and People* [August-September 1992]: 343-46, at 344).

Cf. also in this connection the comments of de Lubac himself in his memoir, where he says that he and Wojtyla worked "side by side" from the outset of what eventually became *Gaudium et spes*, and that Wojtyla "knew my works and we were soon on good terms" (*At the Service of the Church: Henri de Lubac Reflects on the Circumstances that Occasioned his Writings* [San Francisco: Ignatius Press/Communio Books, 1993], 171). This judgment is confirmed by the pope in his new book, *Crossing the Threshold of Hope* (New York: Knopf, 1994), 159.

¹⁰Cf., for example, Angelo Scola, "'Claim' of Christ, 'Claim' of the World: On the Trinitarian Encyclicals of John Paul II," *Communio* 18 (1991): 322-31.

The problematic I wish to address is stated precisely in the following statement by Joseph Ratzinger, in his *Theological Highlights of Vatican II*:

One easily got the impression that the authors themselves [of the fall, 1965 draft of Schema 13—*Gaudium et spes*] saw the christological and centrally Christian statements as acceptable only on faith, that they considered this world of faith a kind of second world alongside the first and immediate world of ordinary daily life, and that they felt that people should not be prematurely and unnecessarily bothered with the second world. But looking at the text objectively, it was necessary to say: Either faith in Christ really concerns the center of human existence, either faith is something definitely realistic that goes down into the far reaches of the human heart so that the person who accepts faith can only here begin to describe man realistically, or else the world of faith is a world separate from the ordinary world of experience. But how then could faith make its claim on the center of man's existence? Doesn't this really reduce faith to an ideology for those who need such a refuge apart from reality? If theology is really going to move out from behind the walls of specialized science, it must be courageous enough to do this wholeheartedly. It must not in the name of caution leave its finest values hidden there. (154-55; cf. Ratzinger's comments in a similar vein in "The Church and Man's Calling," 119-20)

Ratzinger notes that questions such as he raises here "remained questions after the text was passed" (160).

On the problem of dualism indicated here, see the comments in fn. 12 below.

and truth from that affirmed by Murray: to a configuration more like that carried in the theology of de Lubac.¹¹ Murray and de Lubac differ regarding the immediacy and implications of nature's relation to God. This difference leads in turn to differences regarding the sense in which questions of (religious) freedom and questions of (religious) truth can be detached from each other. For de Lubac, the immediacy of nature's positive relation to God is such that the question of religious truth is implicated from the start in any discussion of the meaning of freedom. To insist otherwise is already to presuppose, not no truth-claim, but merely an alternative truth-claim on behalf of nature's primitive "indifference" toward God. The fact that such a presupposition may be adopted (putatively) only for legal or constitutional purposes does not thereby remove its definite theoretical character—and thereby its non-neutrality relative to alternative theories of nature.

In short, there is a difference between what may be called de Lubac's "organic-paradoxical" theology,¹² and Mur-

¹¹To be sure, Murray was aware of and influenced by de Lubac's writings, for example, *Le drame de l'humanisme athée*. (On this, see, *inter alia*, Robert W. McElroy, *The Search for an American Public Theology: The Contribution of John Courtney Murray* [New York: Paulist, 1989], 11-12 [and 9-38].) My point is that Murray did not integrate fully enough into his own work de Lubac's theology of nature and grace: Murray did not see in a sufficiently radical way the cultural implications of de Lubac's nature-grace theology for the "conservative liberalism" which Murray was at pains to defend as distinctive of (Anglo-) America. In my opinion, a reflection on the cultural implications of de Lubac's nature-grace theology needs to be undertaken with respect to America after the manner of Komonchak's acute reflection with respect to France (cf. "Theology and Culture at Mid-Century: The Example of Henri de Lubac").

¹²It is essential to remain mindful simultaneously of both characteristics of de Lubac's theology of the nature-grace relation—named here, respectively, "organic" and "paradoxical." "Organic" signifies that nature is (in the one and only order of history) created with a single final end, which is supernatural, that relation to this end (to the God of Jesus Christ) therefore orients nature from the beginning of nature's existence. But an emphasis on this feature of the nature-grace relation to the neglect of the radical distinction between nature and grace—to the neglect thus of the utter gratuity and novelty introduced by grace (hence the term "paradox")—leads to the difficulty underlined clearly by Ratzinger in his *Principles of Catholic Theology*:

The feeling that, in reality, there were no longer any walls between Church and world, that every "dualism": body-soul, Church-world, grace-nature and, in the last analysis, even God-world, was evil—this feeling became more and more a force that gave direction to the whole. In such a rejection of all "dualism," the optimistic mood that seemed actually to have been canonized by the words *Gaudium et spes* was heightened into the certainty of attaining perfect unity with the present world and so into a transport of

ray's dualistic theology: my contention is that this difference bears significant consequences for how one conceives the (supposed) constitutional indifference of the state relative to the substantive indifference of society, in the matter of religious truth. The argument will be developed in three increasingly comprehensive stages, which deal, in turn, with the issues of neutrality, of secularism, and of conciliar Catholicism. But first we must give more precision to our question, by examining Murray's interpretation of religious freedom in the First Amendment and in *Dignitatis humanae*.

Articles of peace

The question of whether there is genuine political community in a society, Murray says, is most immediately the question of whether that society is civil. The standard of civility is indicated in the statement (cited from Thomas Gilby) that "[c]ivilization is formed by men locked in together in argument."¹³ The distinctive bond of political community is thus dialogue or reason—or "that exercise of reason which is argument" (WHTT, 7). What is the dialogue or argument about?

Paramount among its themes is that of "the constitutional consensus whereby the people acquires its identity as a

adaptation that had sooner or later to be followed by disenchantment. (383; first published in the German edition of *Communio* in 1975)

At the same time, an emphasis on "dualism" (scil. "paradox"), to the neglect of the feature of the "organic," leads to a view of nature as "indifferent" to the world of grace, and thus to an understanding of the world of faith as "unrealistic" or arbitrary in relation to the world of ordinary daily human experience, in the way indicated in the text cited from Ratzinger in fn. 10 above.

In sum, as Ratzinger makes clear, there is in the end a logical connection between "dualism" and "reductionism": both views yield the wrong sense of optimism, or indeed a false sense of the autonomy of nature in relation to God or of the world in relation to the Church. We must thread our way between these alternatives if we are to realize that "neither embrace nor ghetto can solve for Christians the problem of the modern world" (*Principles*, 391; Ratzinger cites here Balthasar's *Razing of the Bastions* [1952] as indicative of the right sense of simultaneous openness and discontinuity between Church and world). Cf. also in this connection: de Lubac, *Athéisme et sens de l'homme: Une double requête de Gaudium et spes* (Paris: Cerf, 1968), 96-130 (the term "organic"—"plus organique, plus unifiée"—is used by de Lubac on p. 100 to describe the Council's position on the relation of nature and the supernatural); de Lubac, "The 'Sacrament of the World?'" in *A Brief Catechesis on Nature and Grace* (San Francisco: Ignatius Press, 1984), 191-234.

¹³We Hold These Truths (=WHTT) (New York: Sheed & Ward, 1960), 6.

people and the society is endowed with its vital form, its entelechy, its sense of purpose as a collectivity organized for action in history" (WHTT, 9). Murray insists that the public argument within the City and about the City's affairs begins with the agreement that there is "a heritage of an essential truth, a tradition of rational belief, that sustains the structure of the City and furnishes the substance of civil life" (WHTT, 10). Indeed, according to Murray, it was to this heritage that America's Declaration of Independence referred when it said: "These are the truths we hold." Now Murray is aware that the more one presses these truths into the upper reaches of their metaphysical and theological meaning, the more sharply is disagreement apt to appear (WHTT, 15ff.). And so the claim he finally makes regarding civil unity is minimal: short of the Eschaton, we cannot expect agreement in matters of religion (WHTT, 22-23). What we can expect rather is civility—admittedly "a thing of the surface" (WHTT, 18). In a word, we can at least commit ourselves to laying down our arms and taking up argument (WHTT, 23).

Thus there are two main elements in Murray's position. First, the commitment to reasoned discourse which he understands as the distinctive bond of civilized-political community in America comes attached to a double condition. (a) On the one hand, there is the substantial content or truth that is presupposed in America's commitment to discourse. The first truth is that of the sovereignty of God. In accord with the Declaration of Independence, nations and individual men are not the final arbiters of reason. As Murray points out, herein lies the distinction between the American and the Jacobin traditions which is of cardinal importance for the problem of pluralism. ("This is the principle that radically distinguishes the conservative Christian tradition of America from the Jacobin laicist tradition of Continental Europe" [WHTT, 28].) America's pluralism presupposes a religious as distinct from secularist context (WHTT, 30).

A second truth implied in America's commitment to discourse is carried in the tradition of natural law or natural rights (WHTT, 30). "Claiming no sanction other than its appeal to free minds, [this tradition] still commanded universal acceptance. And it furnished the basic materials for the American consensus" (WHTT, 30).

(b) Furthermore, a genuinely free society requires self-discipline (WHTT, 37). The American ideal of freedom is an ordered freedom; and its commitment to civilized discourse therefore demands the practice of morality and civic virtue (WHTT, 36-37).

Thus Murray's defense of reasoned discourse as the bond of community in a pluralist society was not an apology for discourse simply as an empty "form": as though such discourse could be sustained without some consensus (at least minimal) in matters of truth, and without the appropriate "subjective" conditions of virtue on the part of those engaging the discourse. Indeed, in many ways Murray saw the threat of dissolution of these ("objective" and "subjective") conditions of discourse and thus of community in a pluralist society: certain strands of Protestantism and of Enlightened secularism which undercut the natural law tradition were already present at the Founding of America, and these had grown stronger in recent times (WHTT, 41-43). The irony, said Murray, is that, if this dissolution were to continue to grow, it would be left to the Catholic community, clearly an "outsider" at the time of the Founding and throughout most of American history, to carry on defense of America's distinctive public discourse (WHTT, 42-43).

The second element in Murray's position which is important for our purposes concerns "the theory of the First Amendment in itself and in its relation to Catholic theories of freedom of religion and the church-state relation" (WHTT, 48). The question, as Murray frames it, is whether the two articles of the First Amendment—regarding, on the one hand, the free exercise of religion, and, on the other, the non-establishment of religion—are to be interpreted as "articles of faith" or "articles of peace." This important distinction Murray explains as follows:

On the one hand, there are those who read into them certain ultimate beliefs, certain specifically sectarian tenets with regard to the nature of religion, religious truth, the church, faith, conscience, divine revelation, human freedom, etc. In this view these articles are invested with a genuine sanctity that derives from their supposed religious content. They are dogmas, norms of orthodoxy, to which one must conform on pain of some manner of excommunication. They are true articles of faith.

On the other hand, there are those who see in these articles only a law, not a dogma. These constitutional clauses have no religious content. They answer none of the eternal human questions with regard to the nature of truth and freedom or the manner in which the spiritual order of man's life is to be organized or not organized. Therefore they are not invested with the sanctity that attaches to dogma, but only with the rationality that attaches to law. . . . In a word, they are not articles of faith but articles of peace. (WHTT, 48-49)

Those who would interpret the First Amendment as containing articles of faith, says Murray, typically read into the articles ei-

ther a certain Protestant ecclesiology or certain ultimate suppositions of secular liberalism (or some combination of both) (WHTT, 49). But if either of these "theologies" is in fact implied in the meaning of the First Amendment, then Catholics in America must immediately become dissenters. "Not being either a Protestant or a secularist, the Catholic rejects the religious position of Protestants with regard to the nature of the church, the meaning of faith, the absolute primacy of conscience, etc.; just as he rejects secularist views with regard to the nature of truth, freedom, and civil society as man's last end" (WHTT, 53-54). Indeed, continues Murray, were either of these views actually present in the First Amendment, the paradox would follow that the very Constitution "that bars any establishment of religion would somehow establish one" (WHTT, 54).

Thus Murray argues that the First Amendment contains articles of peace and not of faith: the articles are "the work of lawyers, not of theologians or even of political theorists" (WHTT, 56). It is precisely for this reason that Catholics can support the articles: that is, not because they contain a faith or religious content compatible with Catholicism, but because they contain no faith or religious content at all—and therefore Catholics, like Protestants and secular liberals, thereby share an equal freedom of exercise with respect to their views on the ultimate nature and destiny of man.

In sum, Murray's argument is that America's distinctive way of achieving political community in the face of religious diversity is through a commitment to reasoned public discourse. The argument has two main elements. First, this commitment requires a continuing consensus regarding the truth of the natural law, as well as the maintenance of a certain level of moral virtue. But, secondly, the community developed by means of this substantive consensus and level of virtue nonetheless presupposes or requires no community in matters of religion—regarding the ultimate nature and destiny of man. Indeed, community in these latter areas is expressly ruled out: such a community, however lamentably, is conceivable only in the End Time (WHTT, 23). This conviction is enshrined in the First Amendment, that is, when and insofar as we understand its religion clauses as articles of peace. In short, America's official "*unum*" which is "*e pluribus*" is, according to Murray, an "*unum*" to be realized in terms of a natural law and civic virtue envisioned as commonly shared (at least in principle) by all citizens regardless of their particular religious worldviews or indeed the absence thereof.

A recent article by Gerard Bradley of the University of Notre Dame law school helps to frame the question I wish to put to Murray.¹⁴ Reviewing Murray's argument regarding the First Amendment, Bradley notes five possible ways of interpreting the religion clauses as "articles of faith" (BMAPF, 201). There are at least two of these ways which Murray himself does not seem to be able to avoid. That is, he subscribes to two propositions in his interpretation of the First Amendment which seem in fact to carry the very implication of religious commitment that would violate his own criteria.

First, the religion clauses "presuppose for their intelligibility a distinct worldview, such as the basic Christian differentiation of experience conveyed by Murray's dyarchy" (BMAPF, 201; cf. also 194). Second, "they presuppose for effective operations a certain kind of person, as Murray suggested by noting that our government has traditionally 'represented' a common morality" (BMAPF, 201). For Bradley, then, "it follows that the parties to [Murray's] armistice *do* share cultural convictions in some decisive way and do draw from similar religious traditions. The breakdown of our common morality that has largely taken place *since* Murray's death has laid bare the cultural assumptions—not now shared—of his account" (BMAPF, 202).

The key question, then, according to Bradley, is one which Murray does not press: namely, "[w]hat does the First Amendment *mean*?" (BMAPF, 202). Indeed, the question seems to be one which Murray cannot really press: because the answer to the question "can and must rest upon presuppositions peculiar to some, but not all, faith commitments. But Articles of Peace are supposed to rest upon no such grounds" (BMAPF, 202). Thus terms like "establishment," "religion," and "free exercise" in their broader heritage involve such notions as "separation of

¹⁴"Beyond Murray's Articles of Peace and Faith," in *John Courtney Murray and the American Civil Conversation*, ed. Robert P. Hunt and Kenneth L. Grasso (Grand Rapids, MI: Eerdmans Publishing Co., 1992), 181-204. See also Bradley's "Dogmatomachy—A Privatization Theory of the Religion Clause Cases," in *St. Louis Law Journal* 30 (1986): 275-330; "Church Autonomy in the Constitutional Order: The End of Church and State?" in *Louisiana Law Review* 49 (1989): 1057-87; "John Courtney Murray and the Privatization of American Religion," in *We Hold These Truths and More*, ed. Donald J. D'Elia and Stephen M. Krason (Steubenville, OH: Franciscan University Press, 1993), 120-33; *Church-State Relationships in America* (Westport, CT: Greenwood, 1987).

church and state," "liberty of conscience," "religious liberty," and the like. But descriptions of these, and their accompanying definitions, will in fact vary: Protestants, Jews, secular liberals, Catholics, and so on, will all have their own descriptions and definitions of these notions.

The problem is evident: one cannot give *meaning* to the religious clauses of the First Amendment without *in fact* favoring some set of particular religious convictions—as even Murray's position itself, however paradoxically, implies. It follows that the religion clauses of the American Constitution cannot avoid taking on something of the character of articles of faith. Even in America, official freedom of exercise of religion, and official "non-establishment" of religion, are not simple articles of peace, and thus are not simply neutral with respect to the truth and practice of religion. In a word, the United States Constitution is not simply pluralistic in matters of religion: it is, for example, not simply equally open to both religion and non-religion, and it thus does not mean to render "private" *all* judgments regarding religious truth. "Protestant definitions and premises determined the 'original intent' of the clauses, and . . . their elaboration is now controlled by liberal individualism" (BMAPF, 191). Insofar as this is the case, it follows that the public discourse surrounding the meaning of the First Amendment must come explicitly to terms with these (hidden: often unnoticed) premises of "faith."

In sum, Bradley proposes that we resolve the problem of religious freedom, at least in terms of constitutional law, by retrieving "what the First Amendment meant in its originating context" (BMAPF, 204).

We would then be forced to move the question of the nature of American pluralism foursquare into the center of the American public argument. Underlying the different understandings of the nature of American pluralism embodied in the different interpretations of the religion clauses are nothing less than different definitions of the key terms of the discussion reflecting widely divergent ways of conceiving the universe.

What we need do is bring these "universes" and their discrepant accounts of religious liberty into some sort of dialogue. That will not be possible so long as we persist in the "judicialization" of church and state and pretend that the religion clauses can be interpreted in such a fashion as to avoid the presuppositions of any particular worldview. By establishing originalism as the guiding principle of judicial interpretation in this area, we would, in short, make room for the genuine political discourse we need. (BMAPF, 204)

Bradley's problem with Murray's position, then, is that its ambiguity blocks the sort of political discourse that we need, and in fact opens the door to the privatization and judicialization of religion which Murray himself in fact meant to reject:

From a starting point similar to Murray's concern that no particular religious view be intimate with our political institutions, "endorsement" analysis deduces privatization. This is because, in present conditions of "pluralism," any public religiosity may entail "outsider" status for some, or perhaps even many, Americans. It may be that "endorsement" analysis is flawed (I think so), but Murray's premises seem to entail it. Again, from premises like Murray's, systematic liberal thinkers have construed "justice" to privatize religion. One of the conditions of justice sounds very Murrayan: we want principles of "justice" that do *not* implicate persons' commitment on matters such as the meaning and purpose of life. To do that effectively, we have to operate publicly without implicating them. The only way to avoid implicating them is to leave them *out* of public life. Since religion commonly carries answers to such questions, religion ought to be kept out of public life too. (BMAPF, 190)

Furthermore, Bradley suggests that Murray's "articles of peace" interpretation of the First Amendment led him to overemphasize the pluralism present at the founding, regarding the essentials of religious liberty—led him, that is to say, to overlook the homogeneity in the religious worldview shared by America's founding generation (BMAPF, 193). The religious pluralism that Murray saw as America's native condition in fact cloaked a religious unity, and therefore America was not so unique in the matter of pluralism as Murray was wont to claim.

To be sure, Bradley makes these suggestions all the while insisting (rightly) that Murray himself explicitly rejects both privatization and the sort of pluralism that would entail relativism (e.g., by denying natural law). It is simply that Murray's "articles of peace" interpretation nonetheless locks him into an ambiguity which leaves him vulnerable to legitimate inferences of privatization—and unqualified (religious) pluralism.

Bradley goes on to say that Murray was committed to such an interpretation most of all because he saw it as necessary "to depict a regime acceptable to Catholics" (BMAPF, 193). Were the original interpretation of the First Amendment to have contained a dogmatic ("articles of faith") meaning, that meaning would surely—given the deep anti-Catholic cultural bias in the founding period—have been such as to force Catholics immediately into an adversary or dissenting posture (BMAPF, 192-93). The only interpretation acceptable to Catholics was one which therefore contained no dogmatic meaning. Bradley thus

concludes that Murray's "articles of peace" interpretation is more a matter of apologetics and prudential judgment in the light of history than of Murray's own religious theory as such.

Acknowledging the importance of the apologetic and prudential dimensions of Murray's "articles of peace" interpretation, I wish nonetheless to show that this interpretation is also, and indeed more decisively and intrinsically, a logical consequence already of Murray's religious theory. Now Bradley is quite aware that Murray's religious theory—his theologically informed dyarchy—guides Murray's historical interpretation. Indeed, the very point of Bradley's argument is that this theological provenance of Murray's theory needs to be brought more clearly into the open. What I wish to propose is simply that, when this is done, we will find that the ambiguity which Bradley ascribes to Murray's prudential reading of history is not removed but on the contrary is intensified: because the ambiguity begins already in Murray's theology.¹⁵

Religious freedom as immunity

But before showing how this is so, we need first to expand the scope of our proposal to include Murray's work at the Council, since Murray took America's resolution of the problem of pluralism and religious freedom to be a kind of paradigm for how the Church should now approach this problem.¹⁶

¹⁵In the end there appears to be some unresolved tension in Bradley's reading on this point. For example, he suggests in BMAPF that Murray apparently can be rescued from the charge of granting premises (like those expressed in the "articles of peace" interpretation) that lead to secular liberalism, by taking account of the other side of Murray's argument: namely, that which acknowledges the Christian cultural matrix of the notion of a dyarchy of powers or indeed America's "commonly shared values" (193-94; 199-200). Nonetheless and at the same time, Bradley points out, in his "John Courtney Murray and the Privatization of American Religion" (129-32), that Murray himself seems to disallow any softening of his premises in this manner, by deliberately hardening them into a dichotomy (*either* "articles of faith" *or* "articles of peace"). What I am proposing is simply that Murray *must* in the end harden his position into a dichotomy, that this is finally the only direction permitted by his theory (theology).

¹⁶"[T]he Declaration presents the content or object of the right to religious freedom as simply negative, namely, immunity from coercion in religious matters. Thus the Declaration moves onto the solid ground of the constitutional tradition of the West, whose development, in what concerns religious freedom, was first effected by the Constitution of the United States in 1789 and by the First Amendment in 1791. The fundamental freedoms of the First Amendment,

First, Murray affirms that the proper content of religious freedom as understood in *Dignitatis humanae* is negative: what the document asserts is immunity from coercion in religious matters. Secondly, this sense of religious freedom must be understood in light of "the vast difference between [such freedom] in its contemporary juridical meaning and 'freedom of conscience' and 'freedom of cult' in the sense of nineteenth-century continental laicism" (DRF, 568). Religious freedom in the juridical sense intended (according to Murray) by *DH*, in other words, carries no ideological implications regarding the truth of religion. Unlike the laicist view of religious freedom, the juridical-political view intends that government pass no "moral or theological judgments on the beliefs expressed, or on the actions performed, within the sphere" of religion at all (DRF, 568). Such judgments are in fact "'unconstitutional,' beyond the competence of purely juridical authority" (DRF, 568). And thus "the juridical formula, 'the free exercise of religion,' contains no positive [or negative] evaluation of the religious phenomenon in any of its manifestations" (DRF, 568). All of this is in contrast to the laicist, nineteenth-century continental view, with its absolutizing of the autonomy of conscience and indeed its implied "ideological negation of the public status and of the social function of religion" (DRF, 568-69).

By virtue of its two main elements as indicated here, Murray takes *DH*'s understanding of religious freedom to be identical in meaning with that of the First Amendment of the American Constitution.¹⁷

including the 'free exercise of religion,' were to be not claims upon government or society, but assurances against government and society. They were, what the Fourteenth Amendment would later call them, certain specified 'immunities of the citizens of the United States'" ("The Declaration on Religious Freedom" [=DRF], in *Vatican II: An Interfaith Appraisal*, ed. John M. Miller [Notre Dame: Assoc'd Press, 1966], 565-76, 577-85, at 568). And again: "It is further to be noted that, in assigning a negative content to the right to religious freedom (that is, in making it formally a 'freedom from' and not a 'freedom for'), the Declaration is in harmony with the sense of the First Amendment to the American Constitution" (Murray's commentary on "The Declaration on Religious Freedom," in *The Documents of Vatican II*, ed. Walter M. Abbott, S.J. [New York: America Press, 1966], 678, fn. 5).

¹⁷"The object or content of the right to religious freedom, as specified both in the Declaration and in the American constitutional system, is identical" ("Declaration on Religious Freedom: Commentary," in *American Participation at the Second Vatican Council*, ed. Vincent A. Yzermans [New York: Sheed & Ward, 1967], 668-76, at 668).

Further, then, once we understand that *DH*'s affirmation of religious freedom is negative-juridical as distinct from ideological in content, we will recognize, says Murray, that "the prominence given [in that document] to man's moral obligation to search for the truth" is in fact more for pastoral than for strictly theoretical reasons (DRF, 571-72). The Council Fathers, still operating too much in the shadow of nineteenth-century laicism, as distinct from something more like twentieth-century—or indeed American—constitutionalism, feared that their affirmation of religious freedom would be read as an ideology (sanctioning, for example, a kind of laicist "indifferentism," according to which religious freedom meant freedom from the claims of truth). They consequently deemed it necessary still to emphasize "the moral order of man's relationship to the transcendent order of truth and to the authority of God" (DRF, 571).

Murray's argument, in other words, is that, were the content of religious freedom properly understood, namely, as the formal-juridical one of immunity from coercion, then the *theoretical* need for underscoring the government's duty to promote conditions favorable to religion would be removed: because it makes no sense to speak of "promoting an immunity—making somebody more and more immune" (DRF, 580). In short, government's duty involves, strictly, no more than a protection against interference within a certain sphere of human activity. Religion comes under the jurisdiction of government only as a sheer social fact: as something to be taken account of relative to its value or necessity for the maintenance of social order and justice more generally (DRF, 575-76; 580). Religion in its fuller, proper understanding—in its positive content—is rather the responsibility, not of government, but of the (private) institutions of society.

One might say, in sum, that, according to Murray, the Council Fathers failed to see that religious freedom could be understood in terms of something like America's "articles of peace," and thus as exempt in principle from any potentially secularist version of "articles of faith."

Having said this, Murray nonetheless goes on to make a further argument similar to that which, as we have seen, he made in connection with his defense of reasoned public discourse as the distinguishing feature of civil community. Just as public discourse was seen by Murray to require some (minimal) consensus in matters of substantive truth as a condition of its actual exercise, so now is recognition of religious freedom, even as

a negative content, seen to require some (positive) warrant. Having insisted that *DH*'s affirmation of religious freedom is negative and juridical in content, and having clearly underlined the difference between the affirmation itself and the various arguments that might be given in support of the affirmation, Murray himself nonetheless goes on to state that the most cogent argument in support of the affirmation rests upon the dignity of man as a moral subject—as intelligent and free, and thus autonomous (*DRF*, 571-72). "What is juridically relevant . . . , and relevant in the most fundamental sense, is the personal autonomy which is constituent of man's dignity. More exactly, resident in man's dignity is the exigence to act on his own initiative and on his own responsibility. . . . [T]his exigence is the basic ontological foundation, not only of the right to religious freedom, but of all man's fundamental rights" (*DRF*, 572).

The positive warrant given here in support of religious freedom in *DH*, namely, human dignity, is for Murray accessible in principle on rational grounds alone, as were the core truths of natural law that he saw as making up the substantive truth required for continued reasoned public discourse in America. That is, Murray presupposes that a universal acceptance of human dignity as he conceives it is possible—at least in principle—on the basis only of an appeal to free minds, and thus as independent of any (Christian) revelation. In this sense, insofar as defenders of *DH*'s primarily negatively-conceived religious freedom must appeal to some (positive) warrant, even this warrant remains for Murray, in its first instance, religiously neutral.

My proposal is that Murray's interpretation of religious freedom in *DH* suffers from an ambiguity similar to that pointed out by Bradley with respect to Murray's interpretation of the religion clauses of the First Amendment. The problem lies in the priority he grants to the negative, and this in a twofold way.

First, Murray asserts that, in Continental liberalism, religious freedom is understood in ideological terms as entailing closure to God, and that, in American liberalism, on the contrary, religious freedom is understood in the purely formal terms that maintain an openness to God. But note the crucial ambiguity: the purely formal definition that Murray defends as primary in American liberalism in fact leaves unmentioned any (positive) sense of openness to God. What it mentions explicitly is rather the negative relation of "immunity from (coercion)." Now this may well *imply*, and for Murray certainly does imply, a *positive* sense of openness to the transcendent. But in point of fact this

definition of freedom is silent about God and the transcendent order. And silence about God is not yet, in and of itself, an indication of positive openness to God. The question that needs yet to be considered is thus whether Murray's constitutional "agnosticism" might not have cultural consequences which are distinct from those of a constitutional theism; or, put more sharply, whether American's constitutional "a-theism" might not dispose the culture in the end to something more like Continental liberalism's atheism. In short, is it possible to have it both ways: namely, a purely formal definition of religious freedom ("freedom from"), which nonetheless is taken already to imply a positive openness to God ("freedom for")? Can one insist that "freedom from" carries a logical implication of "freedom for," that is, without thereby abandoning a claim of a purely formal-juridical definition?

Secondly, when Murray goes on, as he says we must, to offer substantive positive foundations for his formal definition of religious liberty, he conceives these foundations first in terms of philosophy (reason) as distinct from theology (faith, revelation). These foundations, in other words, are themselves conceived first negatively¹⁸ in relation to (supernatural) revelation: they are accessible apart from (anyone's) faith. And the content of the foundations emphasizes further this negative relation: the right to religious freedom rests on man's dignity, and that dignity resides above all in the intelligence and freedom, hence in the "exigence to act on his own initiative," which renders man autonomous. Clearly Murray does not deny that (supernatural) revelation ultimately completes the foundations of religious freedom, nor does he deny that positive relation to God ultimately founds man's dignity. The question is simply whether a

¹⁸I use the term "negative" here analogously to the way in which Murray himself uses the term in connection with his understanding of religious freedom (for example, as cited in fn. 16 above): namely, to conceive as first distinct *from* rather than positively bound *to*. In other words, "negative" as used by Murray does not signify opposition or movement against; it signifies only the primacy of a relation that might rightly be called one of juxtaposition. Of course the further question elicited here is whether a philosophy-theology relation so conceived does not in the end make theology into an arbitrary—"positivistic"—addition to philosophy, hence also culturally (i.e., publicly) irrelevant. Komonchak's "Theology and Culture at Mid-Century," again, is excellent in terms of showing the logical connection between such a dualism and the cultural exile of theology in the modern era, in France.

philosophy (reason) conceived first as free from theology (revelation), and thus as juxtaposed to theology, is synonymous with a philosophy conceived first as internally related to theology; and whether a conception of man's dignity which first makes explicit man's independence from God (i.e., autonomy) is synonymous with a conception of man's dignity which first makes explicit man's positive (i.e., constitutive) relation to God.¹⁹

In sum, like his "articles of peace" interpretation of the First Amendment, Murray's interpretation of *Dignitatis humanae*, with its (primarily) formal religious freedom and its (primarily) rational foundations, harbors an ambiguity. On the one hand, it is intended to secure the continuation of religious truth in society: to maintain society's openness to God and the transcendent order. At the same time, it does so in a manner that disposes us (logically) to put off the question regarding the positive and properly religious—theological—content of this openness. To be sure, Murray sees this "putting off" as a matter simply of distinguishing between the juridical order and the societal order. My contention is that Murray's (putative) formal definition of religious freedom on the contrary already (albeit tacitly) fills the juridical order with a definite theological conception of human nature: one which is opposed to the conception of human nature retrieved in the work of Henri de Lubac and adopted, I believe, in John Paul II's hermeneutic of the Council. Murray's (putative) purely juridical definition of religious freedom serves, notwithstanding his explicit intention to the contrary, to dispose society logically toward an "indifferent" nature and away from a nature always-already positively oriented toward God.

The thesis introduced here is large and enormously complex. Making no claim of exhausting it, I will now try to differentiate it further by showing in turn: how Murray's dualism is not neutral, even when intended only as a juridical matter; how it leads (logically) to a liberal privatization of religion and hence to secularism; and how, finally, it differs from the theology of de Lubac and John Paul II, in the latter's reading of Vatican Council II.

¹⁹Cf. in this context my discussions with Norris Clarke and others regarding the meaning of person and the philosophy-theology relation: "Norris Clarke on Person, Being, and St. Thomas," *Communio* 20 (Fall 1993): 580-92; and "The Person: Philosophy, Theology, and Receptivity," *Communio* 21 (Spring 1994): 172-90.

Non-neutrality

First of all, the juridical-formal conception of religious freedom which Murray affirms to be open to all is in fact already "closed" to some: a conception of religious freedom primarily in negative terms already and in principle indicates a significant sense of openness to some religious worldviews and closure to others. On first glance, this may appear to be a trivial observation: Murray's argument itself in a certain respect allows for this. His interpretation of the religion clauses of the First Amendment as "articles of peace," for example, by his own admission, turns finally on a definite reading of the Christian (Gelasian) dyarchy of church and state; and acceptance of this dyarchy is clearly meant to imply rejection of monisms of either the "right" (wherein the state is absorbed into the Church: e.g., Catholic integralism) or the "left" (wherein the Church is absorbed by the state: e.g., Continental, or atheistic, liberalism). Thus Murray's argument already admits, indeed demands, a kind of non-neutrality: it excludes both religious and secularist monisms.

But the matter is not so simple as this seems to indicate, for Murray's position here in fact leads to a dilemma. If really tied to a theological dualism, then his "articles of peace" interpretation already implies "articles of faith": it already and in principle favors those religious worldviews which subscribe to such dualism. If, on the contrary, his "articles of peace" interpretation really means to remain such, then Murray must detach it from his own theological dualism (i.e., from any definite theological content). Similarly with respect to Murray's primary definition of religious freedom: one cannot claim that such a definition is strictly formal-juridical ("freedom from"), while at the same time insisting that such a definition carries some implication of positive openness to God and the transcendent order ("freedom for"). Formal agnosticism in and of itself does not carry any positive implication of theism. Either the juridical definition remains purely formal, in which case one cannot rightfully claim that it implies positive openness to God; or the juridical definition does carry the implication of positive openness to God, in which case it does not remain purely formal.

This charge of equivocation on Murray's part might be judged trivial, were it not the case that American liberalism has traded on just such an equivocation. Liberalism characteristically insists that it is merely offering a formal-juridical freedom

to all religions, while at the same time it (tacitly) mediates its appeal to freedom via a definite theoretical (if typically unconscious) dualism. The non-triviality of this maneuver becomes especially clear when we note its implications with respect to any non-Western (or non-liberalized) religion—with respect to any country where a traditional (or non-dualistic) worldview still predominates. In countries, for example, where certain forms of Orthodoxy, Islam, Judaism, Native American-Indian, or African religion still prevail, an invitation to adopt the juridical notion of religious freedom amounts to nothing less than an invitation to adopt the theological dualism of liberalism—albeit, again, only in the name of a purely formal commitment to the principle of freedom.

Relative to the non-trivial nature of Murray's equivocation, then, my first point is that it is in any case important to be accurate in one's description of what one is doing; and what Murray's liberalism does in effect is invite other countries to adopt a religious freedom, not which leaves a traditional religion intact but which on the contrary requires transformation of that religion: requires that it subscribe to an alternative religious truth. In exporting something like's Murray's sense of America's *novus ordo seclorum*, what one is doing is just that: exporting a new order, which always-already carries a(n) (alternative) religious worldview. Failure to be clear about this implies nothing less than the paradox of imparting a truth about freedom unconsciously and blindly—and just so far *unfreely*.

But this first point must be pressed further. For, having exposed the paradox at the heart of Murray's liberalism, we might still be disposed nonetheless to accept its dualistic content. Indeed, this content would appear to be preferable at least for Christians and at least in America: granted Murray's failure to bring his hidden "dogma" into the clear light of day, that "dogma" can still serve to protect against monisms of either the (religious) right or the (atheistic) left, and thus still seems important for both authentic Christianity and authentic Americanism.

But, again, the matter is not so simple: as we intend now to show, Murray's dualistic worldview is neither so unequivocally favorable to Christianity nor so unequivocally unfavorable to atheism-secularism as this suggestion assumes. Murray's argument, contrary to its intention, carries a(n) (onto-)logic of liberalism which weights society either toward a certain kind of secularized ir-religion or toward a certain kind of Chris-

tianity, neither of which is consistent with an authentic conciliar (Lubacian) Catholicism.

Secularism: America's practical atheism

Note again the theoretical implications of Murray's primitive conception of religious freedom as an *immunity from* (coercion by the state), or again of the religious clauses of the First Amendment as *absent* of any definite-positive content of religion (religious truth). As we have seen, this conception of religious freedom as a matter of principle grants primacy to the negative rather than to the positive in man's relation to God. In so doing, it effectively replaces an understanding of the human act as constitutively oriented to God with an understanding of the human act as not constitutively oriented to God: "indifference" to God is placed (logically) before positive relation to God. Such a maneuver by implication changes the first and most proper meaning of religion: religion, insofar as its positive content is concerned, is now something which by definition is yet to be "added" to human nature.

All of this must be carefully understood: certainly Murray wants to affirm, and indeed in an important sense does affirm, that the human act is positively related to God, or at least must finally be so related for its full integrity. He nonetheless does not build this positive relation into the *first meaning* he accords the human act in his proposals for the public order. Again, that is just the import of the notion of religious freedom as first an immunity (i.e., freedom *from*), which in turn establishes the religion clauses of the First Amendment as articles of peace (i.e., *empty* in principle of anyone's particular religious theory): the human act is affirmed *first* as *negative* of a definite relation to God, otherwise we would already and *de jure* be favoring theism at least of some sort, thus implicating someone's articles of faith. In short, the burden of Murray's claim is that this primitively *negative* sense of relation to God guarantees the *neutrality* necessary for granting all religions equal status before the law, and for permitting them all then to go on to add their own positive content of what freedom is *for*.

The simple but crucial point here is that a primitively negative relation (indifference) to God is not for all that neutral; on the contrary, it already differs from a primitively positive relation to God. A negative relation, for all of its being neg-

ative, nonetheless and for all that remains a relation which bears a definite meaning, one which excludes the priority of a positive relation. Murray's proposal thus serves as a matter of (juridical) principle to disfavor those religions which understand the human act to be first "full" of relation to God—to be positively *ordered* from the beginning, *in its very constitution as a creaturely act*, toward God.

The significance of this apparently arcane theoretical point becomes clear when we return to the question of privatization mentioned earlier. The distinctive claim of America, according to Murray, lies in its affirmation of the human act as juridically neutral toward, hence formally empty of, God. The human act in its basic structure, for purposes of the constitutional ordering of society, is understood to be silent about God (cf. "articles of peace"). But this means that, when theists go on to fill this silence with speech, they must now do so precisely by way of *addition* and in their capacity as *private* members of society. Non-theists, in contrast, have merely to *leave* the state's formally-conceived human act *as it is*, namely, in the primitive emptiness which has already been accorded *official-public* status. Worldviews that favor silence about God in the affairs of the earthly or temporal order therefore always retain an *official-public* theoretical advantage over worldviews that favor speech about God.

Murray's project thus seems to lead to a privatization of religion. By this, I do not mean that Murray himself endorses privatization: clearly he does not. I mean, with Bradley, only that Murray's position contains an equivocation: affirming premises ("articles of peace") that entail privatization while otherwise defending the contrary. Recognition of nature's constitutive relation to God, in the way sketched here, clarifies the properly theoretical ground for the reservations recorded by Bradley.

Relative to Murray's distinction between liberalism, then, my intention is not, at least not in the first instance, to call into question the legitimacy of the contrast Murray draws between nineteenth-century Europe's overt closure to God and the American Founding's apparent openness to God. The point is rather the more qualified one that America's peculiar (openness to) theism, in the ambiguous sense in which Murray interprets it, remains, for all of its explicit intention to the contrary, still consistent with a certain "a-theism." In place of the overt and aggressive atheism of Europe, America in fact (again, assuming Murray's interpretation) officially affirms a covert and more passive a-theism, the peculiarity of which lies precisely in

its ability to coexist with, indeed, to dwell within, a certain intention of theism.

To clarify this paradoxical assertion, we can usefully recall the argument developed by Will Herberg, in his classic *Protestant Catholic Jew*,²⁰ regarding what he termed the "American Way of Life." Herberg defines the "American Way of Life" most succinctly as "secularized Puritanism" (81). According to him, religion and secularism in America have a peculiar way of turning into each other. Protestant-Puritanism, for example, and secularism both accept some significant sense of God's separation from the affairs of this world. To be sure, they do so for opposite reasons. Puritans intend to subordinate all of their earthly life to the transcendent God; but, precisely to secure God's transcendence—to protect, as it were, against premature eschatology—they are nonetheless prompted to draw a clean line between the earthly ("natural") and the heavenly ("supernatural") realms, thus breaking these two realms into separate fragments. The sincere *religious intention* of the Puritans is thus undercut by a logic of God's transcendence, which, however unwittingly and paradoxically, can rightly be seen to coincide with a *logic of secularism*—which, for opposite reasons and with opposite intentions, also keeps God distant from "worldly" affairs.

According to Herberg, in sum, America's dualism is such that the order proper to this world remains logically a-theistic. Here is where Puritanism, Deism, and secularism can all come together, albeit out of vastly different motivations: what they all share is a conception of God as first distant and hence separate from the world.

Murray's position, in my opinion, does not provide any principled protection against secularism or atheism of the sort described by Herberg; on the contrary, it provides an exact theoretical foundation for the latter. Murray's interpretation of the religion clauses as articles of peace, and his understanding of religious freedom as first a freedom *from*, undergird a sense of God's transcendence of this world, or again a sense of a dualism between earthly and heavenly realms, that leads logically to Herberg's "American Way of Life."

Regarding the current situation in America, then, public opinion polls seem to indicate a strong continuing pres-

²⁰Chicago: University of Chicago Press, 1983 (originally published in 1955).

ence of religion in American life: over ninety percent of Americans say they believe in God, a decisive majority believe in the Bible as the inspired word of God, and so on. But similar evidence of religiosity was indicated by the empirical data of Herberg's time (the mid-fifties). Indeed, the purpose of his book was to explain just how this apparently widespread religiosity could nonetheless coexist with what were indications also of massive secularism (consumerism, materialism, and the like). His explanation is clear: religiosity and secularism in America share an inner logic or framework of reality, such that religion is disposed as a matter of principle to invert into secularism. Religion and secularism thus coexist, and indeed can grow directly rather than inversely in proportion to one another, because they are largely but different sides of the same coin.²¹

²¹The concluding summary of Herberg's argument is worth citing in full:

The secularism characteristic of the American mind is implicit and is not felt to be at all inconsistent with the most sincere attachment to religion. It is, nevertheless, real and pervasive, and in this sense Handlin is certainly right in saying that America is growing more secularist, at the very time when in another sense, in the sense of affiliation and identification and of the importance attributed to religion, America is becoming increasingly more religious.

So thoroughly secularist has American religion become that the familiar distinction between religion and secularism appears to be losing much of its meaning under present-day conditions. Both the "religionists" and the "secularists" cherish the same basic values and organize their lives on the same fundamental assumptions—values and assumptions defined by the American Way of Life. What really seems to distinguish one from the other is that the explicit secularism of the avowed secularists is suspicious of, sometimes even hostile to, institutional religion and its influence in public life, while the implicit secularism pervading American religion identifies itself wholeheartedly with the religious institutions of the nation. . . .

The widespread secularism of American religion, in which religion is made to provide the sanctification and dynamic for goals and values otherwise established, is often difficult for Europeans to understand, since in Europe the confrontation between secularism and religion tends to be much more explicit and well defined. . . . [T]he secularism that permeates the American consciousness is to be found in the churches themselves and is expressed through men and women who are sincerely devoted to religion. The witness to authentic Jewish-Christian faith may well prove much more difficult under these conditions than when faith has to contend with overt and avowed belief.

. . . The unique feature of the present religious situation in America is that this secularism is being generated out of the very same conditions that are, in part at least, making for the contemporary religious revival. . . . It is not secularism as such in this country but secularism within a religious framework, the secularism of a religious people. (270-71)

Herberg thus differs from those today who, appealing to empirical studies, insist, in a Murrayite vein, that America remains "incorrigibly religious." To be sure, those who thus defend the thesis of America's continuing religiosity, at least those on the Right, typically acknowledge, as Herberg did, a growing secularism in the culture—manifest, for example, in abortion and moral relativism. But, contrary to Herberg, they do so all the while restricting this secularism to a certain group within the culture. The majority of Americans remains religious; it is what is termed the "new knowledge class"—the educational elite which dominates the media and the academy and the court—that has become increasingly aggressively secular. The presence of secularism in this influential elite creates the impression of a prevailing secularism all out of proportion to what actually exists in the mainstream culture.

But note how those who thus "regionalize" the phenomenon of secularism in contemporary America follow the assumptions of Murray. These thinkers follow Murray in making a simple contrast between European secularism and American religiosity, without differentiating further, à la Herberg, how American religiosity itself tends of its nature toward inversion into secularism. When faced with the undeniable growth of a more overt and aggressive secularism in contemporary America, they consequently have no choice but to restrict secularism largely to a distinct (influential) group within society; or otherwise to claim that this secularism stems from moral and political pressures emergent only in recent decades. In either case, these thinkers, following Murray, interpret secularism in America to be largely an aberration relative to the founding principles of the country. My argument, in contrast, influenced by Herberg, is that secularism in America is logically linked to the founding principles of America, if and insofar as Murray's "articles of peace" and formal-negative notion of religious freedom correctly interpret those principles.

Catholicism, liberalism, and the Second Vatican Council

Murray and the Council. We return to the question which set our original context: namely, that concerning Murray as interpreter of conciliar and post-conciliar Catholicism. Komonchak, in the article described earlier, suggests that the Church, through the Council, has endorsed Murray's distinction between the broad liberal tradition and doctrinaire liberalism, and thus between liberal political *structures* and a liberal *ideolo-*

gy. According to Komonchak, it is this distinction that made possible the Council's abandonment of the confessional state, thereby resolving the theoretical problem of formal constitutional structures. What remains, following this resolution, is the question of the Church's role in the constitution of the "spiritual substance of society." I agree with Komonchak that the Council rejected the "integralism" characteristic of much of past Christian political thought; that the Council unequivocally endorsed religious freedom; and that John Courtney Murray played a crucial role in these conciliar events. My question is whether the Council thereby embraced Murray's sense of the distinction between liberal political structures and a liberal ideology. I believe, on the contrary, that Murray's sense of this distinction is itself mediated by a liberal ideology which remains unacceptable to the Church.

Again, rejecting for the moment the broader labels of "Augustinian" and "Thomist," my aim here is to say enough at least to show that there is a significant difference between Pope John Paul II and Murray on the relation of freedom and truth; and thereby to suggest that further argument is necessary to determine which *theory* of religious freedom best represents the meaning of the Council. The difference between the pope and Murray lies in the immediacy with which the question of truth emerges in any proposal regarding freedom. This difference in immediacy is tied in turn to different understandings of how human nature is related to God.

The difference regarding the relation between freedom and truth is indicated in John Paul's first encyclical, *Redemptor Hominis*, where he states that:

the Church in our time attaches great importance to all that is stated by the Second Vatican Council in its *Declaration of Religious Freedom*, both the first and the second part of the document. We perceive intimately that the truth revealed to us by God imposes on us an obligation. (RH, n. 12)

Noteworthy first of all is the fact that the pope, in endorsing the *Declaration*, explicitly mentions both parts of the document. (The first part of *DH* discusses "The General Principle of Religious Freedom"; the second part "Religious Freedom in the Light of Revelation.") This of course is a redundancy, unless the pope means thereby to give emphasis to something he thinks needs more attention. What that is is indicated in the sentence immediately following, regarding the obligation to the truth imposed by God's revelation. In endorsing the Council's affirmation of the principle of religious liberty, the pope thus appears con-

cerned that this principle not be separated from the fuller context of revelation which gives liberty its positive, and most proper, meaning.

Recall Murray's interpretation of the *Declaration's* emphasis on the obligation to truth: this emphasis, he says, is more for pastoral than for strictly theoretical reasons—i.e., it reflects the failure of the Council fathers to appreciate the difference between Anglo-American liberalism's formal-juridical freedom and doctrinaire liberalism's freedom, which entailed "indifferentism" toward truth (cf. *DRF*, 571-572). It seems to me that the pope's interpretation of the *Declaration's* emphasis differs from that of Murray, not primarily because the pope has a different pastoral sensitivity, nor indeed because he is ignorant of American liberalism's formal-juridical notion of freedom. The pope differs from Murray because he understands differently the relative primacy given respectively to freedom and truth, in their mutual relation. An emphasis on the formal-juridical notion of freedom logically disposes us to delay the question of truth. In a word, the pope and Murray differ *theoretically* on the relation between freedom and the truth revealed to us by God: they both affirm both freedom and truth; the difference lies in the way the pope, unlike Murray, sees the question of truth to arise already *in*, and not (logically) "*after*," the question of freedom.²³

²³Cf. in this connection the view expressed by Michael Novak:

The soon-to-be Archbishop of Krakow, Karol Wojtyla, had already submitted a statement to the preparatory commissions urging that a deepening of the traditional view of the human person, with special emphasis on the inalienable liberty and responsibility of the person, should be made the basis of all the documents of the Council. Wojtyla grasped the implications for the peoples behind the Iron Curtain, but also its implications for the whole of Catholic teaching on the philosophy of man. Murray was in favor of an *institutional* arrangement like that represented in the U.S. First Amendment . . . , but he opposed the sort of *philosophical-theological* definition of the question favored by many of the French bishops, some Germans, and others. . . .

Theologically, Wojtyla was probably correct that a coherent theory of the human person runs through several key documents, although only implicitly. But Murray did not think it wise to define *religious liberty* in terms of a philosophy and theology of the person, however profound. (For what would happen when some, inevitably, refused to accept that philosophy or theology?) Religious liberty, he believed, is a civil arrangement worked out in political history . . . rather than a deduction from rationalistic premises. It is an achievement of political practice, rather than of speculative theory. ("After 26 Years: Murray's Public Argument," *Crisis* [May 1993]: 4-10, at 5)

The burden of my argument, on the contrary, is that *both* Wojtyla and Murray inform their primary definitions of religious liberty with a definite philosophy and theology of the person, although only one—Wojtyla—is explicit and

To be sure, the statement by the pope cited above is too thin a slice of evidence to carry by itself the weight of this thesis. The thesis nonetheless gathers momentum in the light of emphases characteristic of Wojtyla, before and since assuming the papacy. Thus during the Council he already intervened frequently in defense of the question of truth: "*libertas non datur sine veritate*" ("there is no liberty without truth").²⁴ In his most recent encyclical, *Veritatis Splendor*, he places the question of freedom from the beginning in the context of the *sequela Christi*. But perhaps most of all there is the pope's repeated citation, in the major writings of his pontificate, of *Gaudium et spes*, n. 22: "It is only in the mystery of the Word made flesh that the mystery of man truly becomes clear. . . . Christ . . . reveals man to himself."²⁵

Komonchak highlights the pertinence, for the fundamental methodology of the Council, of the texts from *Gaudium et spes* that speak of rightful creaturely-human autonomy (e.g., GS, n. 36; Komonchak, "Vatican II and the Encounter Between Catholicism and Liberalism," 81-82). And I think he is correct to read Murray's hermeneutic of the Council in the light of this fundamental methodology. What I am proposing is that John Paul II's hermeneutic of the Council should, on the contrary, be placed first in the light of the Christ-centeredness affirmed in GS, n. 22. To be sure, both Murray and the pope defend a Christian humanism which accommodates both man's legitimate autonomy and man's relation to God in Christ. Nonetheless, they conceive differently the relative priority of autonomy and relation to God. The difference between the pope and Murray on this question seems to me, roughly, the difference between de Lubac and Murray. Komonchak (rightly) rejects both a "Catholic catastrophism," wherein the adjective in "Christian humanism" would cancel out the noun, and a doctrinaire liberalism, wherein the noun would exile the adjective

unequivocal about this; that the contrast between Wojtyla and Murray on the matter of religious liberty is therefore primarily a contrast between differing philosophies/theologies, and not between a definite philosophy/theology on the one hand and the absence of such on the other.

²⁴See *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II* [=AS] III/2 (Vatican City: Typis Polyglottis Vaticanis) 530-32. Cf. also AS III/2, 838-39; III/3, 766-68; IV/2, 11-13; IV/2, 292-93.

²⁵The sentence ending GS n. 21 and immediately preceding the sentence cited here is the classical one from St. Augustine: "Thou hast made us for yourself, O Lord, and our heart is restless until it rest in thee" (*Confessions*, I, 1).

(82). Neither de Lubac (nor Pope John Paul II) nor Murray would quarrel with Komonchak on this point. There nonetheless remains a crucial issue which must still be further differentiated: granted the elimination of the options indicated by Komonchak, is the relation between the adjective and the noun in "Christian humanism" intrinsic or extrinsic? Which has (relative) priority? In what sense?

I believe the question of the relation between freedom and truth, and the main differences between Pope John Paul II and John Courtney Murray, turn finally on the answer to these theologically and philosophically fine questions.

Murray's Dualism. The question I wish to pose with respect to Murray is suggested in the sharp critical formulation made already in 1961 by Yale theologian George Lindbeck:

The difficulty is not so much with the basic natural law position as with the unreconstructed and rationalistic traditionalism of Fr. Murray's version of it. He seems totally uninfluenced by the newer investigations into the meaning of "nature" and "natural" that are being carried out in Europe by such Catholic thinkers as K. Rahner, Siewerth, von Balthasar, Dondeyne and de Lubac. . . . One cannot help but suspect that the voice of natural law in the American dialogue would be stronger if it learned the new accent. . . .²⁶

That Murray intended to tie his proposals for the constitutional order directly to a theoretical dualism on nature and grace is clear:

The dualism of mankind's two hierarchically ordered forms of social life has been Christianity's cardinal contribution to the Western political tradition. . . .²⁷

[The relations between the two powers—between the spiritual and temporal—] are to be determined on theological principles—basically, those that govern the relations between nature and grace—and not by considerations of political reality, or by feudal concepts of social unity. As grace does not destroy nature, so the institution of the Church has not destroyed the spontaneously natural aspirations of man to a good political society; and this society is as autonomous as the social instinct that produces it. Again, as the harmony of nature presupposes their enduring distinction, so the harmony of the two powers is conditioned by the fidelity of each to its own nature and end; each obeys the one God and ministers to the one man, but each does so in its own order. Finally, as grace completes nature,

²⁶"John Courtney Murray, S.J.: An Evaluation," *Christianity and Crisis* 21 (27 November 1961): 213-16.

²⁷"Governmental Repression of Heresy," *Proceedings of the Catholic Theological Society of America* (1948): 26-98, at 64.

not by invading the order of nature but by elevating it, so the spiritual and temporal powers complete one another, not so that one assumes the other's functions, but so that each favors the performance by the other of the other's own functions, the favoring being done by each *suo modo*. (Ibid., 57)

At issue, then, is not whether Murray tied his dyarchy of powers to a theological dualism—he himself is explicit about this—, but whether this dualism is objectionable from the standpoint of a post-conciliar Catholicism. The question is whether Murray's "traditionalism" is guilty of "rationalism," of a false sense of human-rational autonomy, in the way suggested by Lindbeck. Recognizing the difficulty of this question, I can in the present forum hope only to identify the theoretical terms in which it seems that the needed discussion must go forward. Those terms are indicated in a passage from a contemporary interpreter of Murray, Leon Hooper:

The "Christian constitutionalism" (also called the Gelasian Dualism or the Gelasian Dyarchy) to which Murray appeals . . . resides in the realm of theory, but again theory that has real-world significance. It is in fact a principle that is rooted in Catholic faith. It claims that in this world there are two sources of moral authority. Early on these were for Murray the state and the church, or, more generally, the natural law and the revealed law. Later they became civil societies and religious communities, or the secular and the sacred. Each of the two orders is differently based (in creation and redemption) and is directed toward different ends (civic friendship and eternal beatitude). Each can legitimately claim its own autonomy. Here was a second basis for the permanent pluralism that Murray accepted. Those who seek, from the secular or the religious sides, to reduce social reality to a "Monism" are violating Christian constitutionalism.²⁸

Again, Hooper states:

Most of Murray's conciliar argument was based on the principle of Gelasian dualism, now formulated as the realms of the sacred and the secular . . . Both [orders] operated semi-autonomously out of their different foundations (in creation and redemption) with a view to their different ends. (Ibid., 34)

What seems to me critical in Hooper's formulation here, is (a) his equating of the state-church distinction with the secular-sacred distinction, simultaneous with (b) his sense of the autono-

²⁸"General Introduction," J. Leon Hooper, S.J., in *Religious Liberty: Catholic Struggles with Pluralism/John Courtney Murray*, ed. J. Leon Hooper, S.J. (Louisville: Westminster/John Knox, 1993), 11-48, at 25.

my of these two orders relative to each other. The secular is correlated with the order of creation, the sacred with the order of redemption, each with its different ends. The easy manner in which these assertions are made seems to me extraordinary in the light of the great debates within twentieth-century Catholicism. In what sense is the end of creation different from the end of redemption: are there (simply) two ends?

To be sure, there is a distinction between the orders of creation and redemption: no responsible Catholicism would deny this. But the issue raised by the work of de Lubac and others is precisely that of the *relation* between these orders: and thus the issue of whether man is created with a single—*supernatural*—end. It does not suffice to speak of a difference between ends, and indeed, in so doing, to assume something very like a juxtaposition of ends, when the very burden of de Lubac is to challenge juxtaposition. De Lubac saw nature, and all of its penultimate ends, as ordered internally and from its creation toward the God revealed in Jesus Christ. De Lubac did not thereby deny the distinctness of nature; on the contrary, he simply placed that distinctness from the beginning within a prior unity (of natural and supernatural orders). The result is a different conception of the relation between secular and sacred from that of Murray (as interpreted by Hooper): ever distinct from the sacred, the secular, for de Lubac, everywhere and always retains an ordering that is first *from within*, toward the end which is God in Jesus Christ.

Thus, according to Murray:

faith and grace [do not] determine the structures and processes of civil society; these are determined by reason, in the light of the lessons of experience, . . . [The Church] does not aim to alter the finality of the state, but to enable the state to achieve its own finality as determined by its own nature.²⁹

[The action of the Church consists not in] futile efforts to find new forms of sacralizing the terrestrial and temporal order in its structures and processes, but [in] the purification of these processes and structures and the sure direction of them to their inherently secular ends.³⁰

Compare this with de Lubac:

²⁹"Governmental Repression," 65-66.

³⁰"The Declaration on Religious Freedom," in *Concilium* 15 [War, Poverty, Freedom: The Christian Response] (New York: Paulist Press, 1966): 3-16, at 10.

The law of the relations between nature and grace, in its generality, is everywhere the same. It is from within that grace seizes nature, and, far from diminishing nature, raises it up, in order to make it serve its (grace's) own ends. It is from within that faith transforms reason, that the Church influences the state. As the messenger of Christ, the Church is not the guardian of the state; on the contrary she ennoble the state, inspiring it to be a Christian state and thereby more human.³¹

For Murray, grace's influence on nature takes the form of assisting nature to realize its own finality; the ends proper to grace and nature otherwise remain each in its own sphere. For de Lubac, on the contrary, grace's influence takes the form of directing nature from within to serve the end given in grace; the ends proper to grace and nature remain distinct, even as the natural end is placed *within*, internally subordinated to, the supernatural end. For Murray, then, the result is an insistence on a dualism between citizen and believer, and on the sharpness of the distinction between eternal (ultimate) end and temporal (penultimate) ends.³² For de Lubac, on the contrary, the call to sanctity "comprehends" the call to citizenship and all the worldly tasks implied by citizenship. The eternal end "comprehends" the temporal ends.³³

³¹"Le Pouvoir de l'église en matière temporelle," *Revue de Sciences Religieuses* 12 (1932): 329-54, at 343-44. We will discuss later how de Lubac avoids any charge of theocracy in the text cited. It is worth noting the cautionary parenthetical remark which de Lubac inserts in the slightly modified version of this article published in 1984 and translated into English in 1989: that is, after "Christian state" in the final sentence of the text cited, he adds "(one sees in what sense)" ("The Authority of the Church in Temporal Matters," in *Theological Fragments* [San Francisco: Ignatius Press, 1989], 199-221, at 212).

³²Cf. *inter alia*: "The dualism between citizen and believer is the principle of the First Amendment" ("Separation of Church and State," *America* 76 [7 December 1946]: 262).

³³Cf. *inter alia*: "[I]t does not follow that there are areas of thought or human activity that ought to be, a priori, closed to [the Church]. Because there is no activity, however profane it may appear, where the Faith and morality guarded by the Church cannot in one way or another . . . be involved. Christianity is universal not only in the sense that all men have their Savior in Jesus Christ but also in the sense that *all of man* has salvation in Jesus Christ. Since the destinies of Christianity were placed in the hands of the Church, the Church is catholic—that is, universal—in that nothing human can remain alien to her. And it is hard to see why 'politics' should be an exception to this principle" ("The Authority of the Church in Temporal Matters," Supplement, in *Theological Fragments*, 222-33, at 230). (The Supplement is a lecture given by de Lubac in 1931.) Cf. also *Athéisme et sens de l'homme*, 113.

Again, neither theologian denies the distinctness of the goals proper to citizenship and to temporal existence. The difference lies rather in the way each respectively conceives this distinctness: whether sanctity and citizenship, the temporal and the eternal, are understood as first within or as first outside or juxtaposed to each other; whether any resulting unity between them therefore comes about by way of "integration"³⁴ or, contrarily, by way of addition. The apparently subtle difference between de Lubac and Murray on the relation between the secular and sacred thus leads in the end to two different conceptions of the civilization towards which Christians should be working: one, a civilization wherein citizenship is to be suffused with sanctity; the other, a civilization wherein sanctity is always something to be (privately/hiddenly) added to citizenship.³⁵

With respect to Komonchak's "Christian humanism," then, both Murray and de Lubac avoid both "cancelling out" the human element and "exiling" the Christian element. It should nonetheless be clear that their two conceptions for all that still differ profoundly in terms of the relative priority and distinctness of "Christian" and "human," and thus with respect to the nature of the Christian's vocation in the world.³⁶

³⁴The term "integration" must be understood in the light of what we said about "organic" and "paradox" in fn. 12 above: that is, the term must be understood in such a way that the newness of the supernatural is not denied. Balthasar has some remarks about "integration as a method" which are significant here: see *Epilog* [to his trilogy] (Einsiedeln/Trier: Johannes Verlag, 1987), 11-14.

³⁵The difference can be indicated in terms of Pope John Paul II's call for a "new evangelization" (*RM*, n. 3), with its anchoring in *Gaudium et spes* n. 22 (*RM*, n. 2), and at the heart of which lies the appeal for a "civilization of love." The issue as it concerns the difference between the pope/de Lubac and Murray is that of the culture-forming dimension of grace (of the love of God revealed in Jesus Christ). The pope's view is strikingly captured, for example, in his characterization of the Church as "*forma mundi*" (in an address to the Argentinian bishops: cf. *Origins* 22 [June, 1982]: 87-88). Cf. Angelo Scola, "Christo 'Lumen Gentium,'" in the Italian *Communio* (September-October, 1987): 5-17. That this expression implies no return to theocracy or integralism lies in the pope's postconciliar ecclesiology, according to which the idea of the Church as *communio* precedes the idea of the Church as juridical structure (even as it includes the latter): on this, see our final section below.

³⁶For an indication of Murray's views on Christian humanism, see, *inter alia*, *WHIT*, 175-96, and 297-98. Important for Murray's idea of the Christian's vocation in the world (and for understanding how, at least in my opinion, he dif-

A Return of the "Confessional State"? To return to the problem of religious freedom: de Lubac's organic-paradoxical conception of the nature-grace relation indicates a primitive openness and positive movement toward God; Murray's dualistic conception, on the contrary, tends to leave nature primitively neutral toward God. The difference is crucial: on de Lubac's view, the first act of freedom can occur only as already within nature's dynamic positive relation to God; for Murray, it is (logically) possible for the first act of freedom to precede this positive relation. On de Lubac's view, the question of God's truth is already implicated in the first meaning of freedom;³⁷ for Murray, it is (logically) possible for the meaning of freedom to be engaged without implicating the question of God's truth. In a word, de Lubac's reading of nature requires a priority of the positive relation indicated in "freedom *for*"; Murray's reading, on

fers from de Lubac) are Murray's often overlooked early articles, "Toward a Theology for the Layman: The Problem of its Finality," *Theological Studies* 5 (March, 1944): 43-75; and "Toward a Theology for the Layman: The Pedagogical Problem," *Theological Studies* 5 (September, 1944): 340-76. For de Lubac, see, inter alia, *Athéisme et sens de l'homme*, 91-130. The following works by Balthasar, in the spirit of de Lubac, are helpful in clarifying further the implications of the differences between Murray and de Lubac: *The Christian State of Life* (San Francisco: Ignatius Press, 1983); *Gottbereites Leben* (Einsiedeln/Freiburg: Johannes Verlag, 1993); *Razing the Bastions* (San Francisco: Communio Books/Ignatius Press, 1993); "The Council of the Holy Spirit," cited in fn. 2 above.

³⁷The importance of Maurice Blondel for understanding the view of de Lubac on this point should be mentioned. At the heart of Blondel's work lies the claim of an élan for the infinite at the interior of human consciousness. This dynamic, at the heart of which lies the question of God, can be inhibited or suppressed but it cannot be eliminated. It follows that no human being can avoid the religious question: one's action, willy-nilly, carries an answer to this question, whether one chooses to make this answer explicit or not. See Blondel, *Action* (1893) (Notre Dame: University of Notre Dame Press, 1984); *Letter on Apologetics and History of Dogma* (Grand Rapids, MI: Ressourcement/Eerdmans Publishing Co., 1994).

Significant for the question of the inevitability of the religious question is de Lubac's *The Discovery of God* (New York: Kenedy and Sons, 1966), with its centrality of the text from Aquinas: "Every knower knows God implicitly in all that he knows" (*De Veritate*, 22, 2, ad 1). On the "apologetics" implied by this inevitability, for a Christian, see de Lubac's *Athéisme et sens de l'homme*, 91-96 (translated as "The Total Meaning of Man and the World," *Communio* 17 [Winter 1990]: 613-16).

In my opinion, it is the inevitability of the religious question as defended by Blondel and de Lubac that provides the most compelling theoretical demand for the sort of dialogue Bradley calls for with respect to the First Amendment.

the contrary, suggests a priority of the negative relation indicated in "freedom *from*." In all of this, de Lubac's reading seems to me more accurately to interpret the position of John Paul II.

Of course, Murray insists that his priority of "freedom from" is proposed first of all for strictly constitutional-legal purposes. This priority for all that still imports a religious theory: a dualistic theory of nature and grace is granted constitutional priority over an organic-paradoxical theory. Murray's constitutional "indifference" toward religious truth thus is itself already a function of a substantive (logical) "indifference" toward religious truth.

But we now appear to have backed into a dilemma. On the one hand, Vatican II surely affirmed religious freedom; religious freedom seems to require something like Murray's distinction between state and society; the distinction between state and society seems tied to an understanding of the state as neutral toward anyone's religious theory, hence as non-confessional; and, finally, Murray's dualistic distinction between nature and grace seems essential in securing the non-confessional state.

On the other hand, our suggestion is that Vatican II (in the light of the theology of de Lubac and Pope John Paul II) has embraced an organic-paradoxical understanding of the nature-grace relation.³⁸ But this would thus seem to call into question the non-confessional state and in turn the distinction between state and society, leading finally to a withdrawal of religious freedom.

In short, if we accept religious freedom as an achievement of the Council, we seem committed to non-confessionalism and hence to Murray's view of human nature; if we accept de Lubac's view of human nature, we seem committed to some form of confessionalism and hence to a rejection of religious freedom.

It seems to me that we need not accept this dilemma. Indeed, it is the common acceptance of such a dilemma by both "liberals" (e.g., Murrayites) and "conservatives" (e.g., Lefebvrites) that seems to me to lie at the heart of the impasse following Vatican II. Murrayites and Lefebvrites, however much

³⁸See in this connection de Lubac, *Brief Catechesis on Nature and Grace*, 7-53, 170-90. See also the recent book by Etienne Michelin, *Vatican II et le "Surnaturel": Enquête Préliminaire 1959-1962* (Venasque/Vaucluse: Editions Carmel/Notre Dame de Vie, 1993).

they do so for opposite reasons, nonetheless converge in their apparent conviction that clear priority of religious truth is incompatible, or at least strongly in tension, with a principled commitment to religious liberty. In what sense is this the case? And what do we propose alternatively, as a way out of the dilemma?

Let me first of all repeat what was stated earlier: Vatican Council II unequivocally affirmed religious freedom and thereby unequivocally rejected "integralism"; and the importance of Murray in these conciliar achievements is indisputable. My argument does not now call this into question. What it does, on the contrary, and in the name of the same Council, is call rather for a further differentiation of Murray's distinction between state and society; and a further differentiation, consequently, of what is meant by a confessional state.

The nub of the issue is that, although Murray intended to keep state and society clearly distinct—such that the state could be interpreted in terms strictly of "articles of peace"—, even he was not vouchsafed the ability himself to do so: because the *meaning* of the state (its written documents, and the like) in any case can become *actual* only in and through persons and groups of persons and their philosophies, and thus only through members of *society*.³⁹ Secondly, Murray interprets the meaning of the state-society distinction, with its attendant distinction between "articles of peace" and "articles of faith," via his own definite religious theory, that of dualism: but this means that his state is no longer neutral, no longer strictly non-confessional. The point of course is paradoxical, as we have seen: his "empty" theory (e.g., his priority of "freedom from") is nonetheless already definite enough that it excludes contrary theories (e.g., a priority of "freedom for"). The implication is that, however much Murray intends a non-confessional state, and indeed thinks a non-confessional state the distinctive achievement of Western-liberal constitutionalism, he himself cannot actualize its meaning except in and through his own "confession." In a word, as is revealed in the (paradigmatic) case of Murray himself, a non-confessional state is not logically possible, in the one real order of history. The state cannot finally avoid affirming, in the

³⁹The cognitional-epistemological theory presupposed here can be defended within the framework of authors as diverse as Aristotle, Aquinas, Lonergan, Polanyi, Voegelin, MacIntyre, and Balthasar, but the defense need not be undertaken here.

matter of religion, a priority of *either* "freedom from" or "freedom for"—both of these priorities implying a theology.

This, then, sets the premises for my own proposal. We must maintain the distinction between state and society even as we must acknowledge, more unequivocally than does Murray, that this distinction can never (insofar as any state *actually means* anything) be one of simple juxtaposition (or separation), that the distinction will always involve a prior internal relation between state and society. Secondly, we must acknowledge, again more unequivocally than does Murray, that a definite "confession of faith" will mediate, willy-nilly, any form of an "articles of peace"—"articles of faith" distinction. How does this twofold acknowledgment permit us, with the Council, both to affirm religious freedom and to reject an "integralist" or theocratic state?

The key lies in recognizing that the order of grace is not first a juridical order. The order of grace is not coextensive with the Church understood as a juridical entity. Rather, the meaning of grace is revealed above all in the divine trinitarian *communio*, and thus in the person and love of Jesus Christ. To be sure, this *communio*, as the Church established in history by Christ, bears an intrinsically juridical dimension. But, even so, this juridical dimension can appear only once in history; it can appear finally only in the one Church (and not also, for example, in the state).

The upshot is that the "integration" of secular and sacred called for by de Lubac's organic-paradoxical theory of nature and grace does not imply any dynamic for uniting the Church juridically with the state, at least not in the present world. For strictly *theological* reasons, this theory *cannot* intend such a unification: the Church's juridical dimension cannot be repeated outside itself (there is only one Church: "This Church, constituted and organized as a society in the present world, subsists in the Catholic Church, which is governed by the successor of Peter and by the bishops in communion with him": *Lumen gentium*, n. 8).

What de Lubac's sense of nature's inner ordering to grace nonetheless *does* imply, however, is that we seek to actualize the meaning of the state in terms of grace (or Church) now understood as *communio*. If the state and the Church are to remain ever distinct as juridical entities, they nonetheless maintain this distinctness now only from within nature's internal relation to grace, and hence in terms of nature's restlessness for

the love revealed by God in Jesus Christ. This is why de Lubac, as we saw above, can speak of the Church's efforts to influence the state, making it Christian, or, again, why the pope can refer to the Church as *forma mundi*, without either of them thereby betraying a theocratic tendency. What they both intend is simply that the whole world be inserted within the mission of Jesus Christ: that the whole world thus become a "civilization of love." This intrinsic subordination of the world to the finality given in grace must always be maintained simultaneous with the juridical distinctness of state and Church. The former subordination without the latter distinctness entails "integralism"; the latter distinctness without the former subordination entails secularism. An ecclesiology of *communio* allows us to break through this dilemma.⁴⁰

⁴⁰Ecclesiological issues of great import and complexity are raised here which need more development than can be given in the present forum. Perhaps above all, what is implied in my proposal is something like a distinction between state and society *within the Church herself*. We must distinguish between the juridical and the mystery-communion (*mysterium, communio*) dimensions of the Church, even as we recognize the intrinsic relation between these two dimensions. A one-sided emphasis either on the Church's legal or "clerical" dimension, or on the "People of God" construed as a kind of "congregationalist" democracy, prevents us from capturing the proper sense of this intrinsic relation: that is just the point of a distinctive ecclesiology named "*communio*," which is an ecclesiology of love inclusive of hierarchy and the organic note missing in "congregationalism"; a love, further, understood not vaguely and "from below," but "from above" and in terms of the trinitarian God revealed in Jesus Christ. For discussions pertinent to this ecclesiology, see: Balthasar, "Communio: A Programme," *Communio* 1 (Spring 1972): 3-12; Congregation for the Doctrine of the Faith, "Some Aspects of the Church as Communion," *Origins* 22 (25 June 1992): 108-112; Walter Kasper, "The Church as Communion," *Communio* 13 (Spring 1986): 100-117; Cardinal Joseph Ratzinger, "Communio: A Program," *Communio* 19 (Fall 1992): 435-49; Antonio Sicari, "'Communio' in Henri de Lubac," *Communio* 19 (Fall 1992): 450-64; cf. also Balthasar, *The Office of Peter and the Structure of the Church* (San Francisco: Ignatius Press, 1986).

The problem with Murray in this connection is that he tends to conflate the sacred-secular distinction into a Church-state distinction, that is, even as, in so doing, he understands the Church primarily as a juridical entity. The inevitable consequence is that he hesitates to affirm the need for Christianizing "the terrestrial and temporal order in its structures and processes," because Christianizing entails "juridicalizing" entails a renewed integralism. To put it another way, Murray backs away from any strong affirmation of the culture-forming dimension of grace because "forming" for him would immediately imply the *juridical* sort of form(ing) indicated in the legal-magisterial structure of the Church. To be sure, in the years during and after the Council, Murray is increasingly aware of a "People of God" ecclesiology. The point is that his sense

Secondly, this dynamic for the world's—and, in the way qualified, including also the state's—conversion does not deny but on the contrary affirms freedom, and indeed makes it possible. The religious truth that is now given priority is the truth of *communio*, and thus of love. This truth is not a juridical thing which can be imposed; nor is it first a string of propositions to be believed or a moral code to be enforced.⁴¹ It is first the person of Jesus Christ, as revealer of the trinitarian God. Conversion therefore must take the path of discipleship: of our own relating to Jesus Christ, and of inviting others to share in this relationship. To be sure, this relationship bears an inner movement from and toward the Church in her reality as juridical organization, as dogma, as morality. But these have their primary meaning themselves only in terms of the love revealed by the trinitarian God in Jesus Christ. It is the way of this love precisely to be free and to make free (Jn 8:32), and not to coerce. The way of

of the two dimensions, juridical—"clerical" on the one hand, and "lay" on the other, is still not adequately integrated into an ecclesiology of *communio*; and, *a fortiori*, his conflation of the sacred-secular and Church-state distinction is not re-thought in the light of such integration. The result, in my opinion, is an obstruction in terms of what Pope John Paul II is now calling for in his "new evangelization," with its dynamic for the restoration of all things in the trinitarian love revealed in Jesus Christ—a restoration which to be sure will never be complete in this life, and which in any case requires, as a matter of principle, an enduring distinction between the Church and state as juridical centers of authority.

The *communio* ecclesiology articulated here seems consistent with what I take to be the proposal of Bradley in his "Church Autonomy in the Constitutional Order," where he states: "Perhaps the most important implication of my argument is the reemergence of a unity beneath 'separation.' The *one* society differentiates the two orders of church and state within it. Both church and state are distinguishable from the society that manages the tension between them through public discussion of its commitment to *both* spirit and the world. When an entire society openly discusses such matters, it is, in every sense of the phrase, living public life. I submit that, precisely in order to separate church and state and to insure religious liberty, public discourse in this country *need* be frankly religious" (1086). What my argument does is give a theoretical grounding and indeed clarification, from the perspective of Catholic ecclesiology, for Bradley's sense of a *simultaneous* Church-state *separation* and societal *unity*: the Church and state remain distinct as juridical bodies; but the Church nonetheless seeks a unity with society, seeks to unify society in terms of her form as grace (Christic-eucharistic love).

⁴¹Cf. Balthasar's discussions of "integralism," in "Integralismus," *Wort und Wahrheit* 12 (1963): 737-44; and "Integralismus Heute," *Diakonia* 18 (1988): 221-29.

the Church in her mission to the world can therefore never, insofar as the Church's deepest reality remains that of *communio*, be to employ the mechanical-coercive methods of the state, even should she succeed in Christianizing the state's constitutional interpreters.⁴²

My argument, then, offered in the name of de Lubac and Pope John Paul II as authentic interpreters of the Second Vatican Council, has in the end two main implications. First, it demands that we challenge the regnant liberalism which would claim that it (alone) is empty of religious theory in its interpretation of the First Amendment and indeed of Western constitutionalism more generally. Secondly, it demands that we seek a truly "Catholic moment" in America, understood, that is, not as another Murrayite moment but as a truly Johannine (John Paul II) moment. This means that we must expose the con game of liberalism which enables it, precisely without argument, to privilege its place in the public order. We must patiently attempt to bring to light the theological dualism, typically unconscious but for all that still theological in its implication,⁴³ which shapes liberalism's claim of a purely formal religious freedom. We must do this all the while retrieving the positive value of the freedom liberalism rightly intends to protect. The point is not to deny freedom but to transform it with love: to seek to place freedom within the *communio* which alone finally frees and whose truth, as the truth of love, remains ever and in principle—and not just for temporary or strategic reasons—committed to freedom.

In short, what we need to do is to invite all parties in America to bring their religious theories into the clear light of day, including especially the liberal party which would claim a religious freedom without a religious theory. This is the necessary condition for beginning a truly ecumenical dialogue among all faiths, Jewish, Catholic, Protestant, Orthodox, secular, and all

⁴²There can be no question of differentiating here all the further complex issues—regarding a Christian use of the temporal power of the state as it concerns the safeguarding of morality and religion—which arise once we have said this much. On these issues, see above all the carefully nuanced but profoundly gospel-inspired reflections of Balthasar in his *Nochmals—Reinhold Schneider* (Einsiedeln/Freiburg: Johannes Verlag, 1991), which he wrote for and dedicated to those living a life of the evangelical counsels in the world.

⁴³Again, something like Blondel's "method of immanence" seems indispensable here, in terms of bringing to light the religious question that is operative, albeit often unconsciously, within every human consciousness.

others, Eastern and Western.⁴⁴ Only a dialogue of this sort can make possible a legitimate, as distinct from hiddenly liberal, kind of pluralism: make possible, in other words, the kind of pluralism which permits all parties to be open and honest about their deepest convictions, and in this already begins to realize genuine community.⁴⁵ □

⁴⁴On the conditions and spirit of dialogue indicated by an ecclesiology of *communio*, see Balthasar's programmatic statement on the founding of the journal *Communio*: "Communio: A Programme."

⁴⁵A further argument is needed here to show how, for example, Catholicism's God, as trinitarian Love, in the end provides a more adequate foundation for pluralism than does liberalism's God (e.g., the distant, mechanical, "merely" monotheistic God the Enlightenment), in terms of allowing both greater diversity and deeper unity. But this must await another occasion.