

Common Truths

Goodrich Series
Edited by Edward B. McLean

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Common Truths
New Perspectives on Natural Law

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*New Perspectives on
Natural Law*

Edited by Edward B. McLean

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Preface

Common Truths comprises lectures delivered as part of the distinguished Goodrich Lecture Series at Wabash College and reflect the growing interest in natural law. Each chapter is predicated on the desirability of replacing the dominant school of positive law and its majoritarian legitimating principle with a commitment to natural law doctrines, which alone are capable of providing the informing principles necessary for a vital, free, and virtuous society. The contributors make cogent arguments for the necessity of restoring natural law as the basis for our social and legal order but are realistic about such a prospect. The essayists agree that if any hope remains of refurbishing our civil social order, it lies in reasserting the unassailably valid natural law standards of right conduct as a guide to all human action and choice.

Natural law doctrines reject standards of conduct that come from human will only, that bear no imprimatur other than the desires of the individuals who promulgate the rules of behavior. Such positivist standards foster individual arrogance and, indeed, operate to dissolve society's capacities for functioning and sustaining itself. But a society does not intentionally set itself on a course of destruction. To shore up the legitimacy of its system of law, a positivist society must therefore establish a "new religion." Given its secular premises, however, such a reli-

gion, and hence any state based upon it, will have no legitimacy; adherence will be achieved by coercive power only.

There are three major parts to the present collection. Part one discusses certain historical dimensions in the history of natural law philosophy. Part two deals with thematic topics related to natural law. Part three focuses on the applications and importance of natural law to certain areas of legal practice. The collection is preceded by an introductory essay and closes with a prospective view of natural law's role in the twenty-first century.

Some of today's most distinguished public intellectuals and legal scholars have contributed to this unique and timely work—a fact, one hopes, that will make this collection a significant contribution to the dialogue that must occur regarding the current state of law in our society.

Edward B. McLean
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Chapter 1

Are There Moral Truths That Everyone Knows?

RALPH MCINERNY

In this paper I intend to approach natural law, as I find the idea presented in the works of St. Thomas Aquinas, in a somewhat unusual way. It is insufficiently appreciated that natural law is not a theory we are asked to adopt, but rather is the claim that there are certain judgments we have already made and could not help making. Natural law—the theory—maintains that there is a common fund of knowledge, truths we can assume that everyone—anyone—already knows. My approach is suggested by the constant procedure of Thomas Aquinas in these matters, namely, to see the practical order in terms of an analogy with the theoretical or speculative.

It has become fashionable to criticize modernity and to assert that we have entered a postmodern age. Most versions of postmodernity I have seen make modernity almost attractive. Leszek Kolakowski,¹ makes an observa-

tion that suggests that the direction to go from modernity is not “post-” but rather “pre-.” We have come to see and to say with some sophistication that a culture from which God has been driven will find it impossible to hang onto moral values. But, Kolakowski observes, that is precisely what simple priests and ministers have been saying from their pulpits in less complicated language for the past three centuries. Not all of those religious speakers have been simple priests, however. Leo XIII, on August 4, 1879, issued a famous encyclical called *Aeterni Patris*, in which he argued that we can find in St. Thomas Aquinas, and thinkers like him, the remedy for the ills of modern society and culture.

If there is any characteristic of modernity that stands athwart the path I wish to tread in this paper, it is the quite central claim that, prior to the ministrations of philosophy, prior to the application of a validating method, we can make no justified claim to know anything or to possess any truths. This elitist aspect of modernity is obscured when Rene Descartes, the father of modern philosophy, begins Part One of his *Discourse on Method* with the observation that common sense is something that everyone thinks he has a sufficient amount of.² This may seem to say that there is a fund of beliefs or truths held in common by human beings. Of course, Descartes thought no such thing. The turn into modernity is taken precisely when it is denied that common sense claims can count as knowledge.

Consider what a burden Descartes put upon philosophy. Of course, he is charmingly autobiographical and often suggests that he is not legislating for others so much as recounting his own experience. You recall that experi-

ence. Finding himself in the army, in winter quarters in Germany, with time on his hands, Descartes, in a well heated room, recalls his college days and all the things he learned. Certainly his head is chock full of information, facts, opinions—a vast inventory. Reflecting on this, Descartes asks himself, but what do I know for sure? What do I really know? And he tells us what he means by really knowing something. I really know something if I cannot even imagine it to be false, if doubting it is impossible.

Thus does the drama of modern philosophy begin, and it is a drama as Descartes recounts it, exhibiting the features of story as set forth in Aristotle's *Poetics*. An attractive protagonist confronts an important problem. In seeking to overcome the obstacles to his objective, he gets deeper and deeper into trouble, until a point is reached when all seems lost: the dark moment, just before the peripeteia, the swing in the hero's fortunes. That comes when, by his own efforts and plausibly, our hero wins through to victory. So it is with Descartes's quest for certain knowledge. In looking for some knowledge claim that can successfully resist even the possibility of doubt, Descartes first considers all judgments based on sense experience and, because his senses sometimes deceive him, dismisses all supposed truths about the physical, sensible world. He goes on to reject all mathematical truths, on two bases. Thus he arrives at the dark moment. He seems to have run out of candidates for real knowledge. No matter what he thinks to be true, he may be deceived so to think. And then, surprisingly, the light shines through. Even if he is deceived about everything he thinks he knows, he cannot be deceived that he who is deceived exists. *Cogito ergo sum*.³

Given this first indubitable truth, Descartes goes on to prove the existence of God and then, on the basis of God's veracity, he recovers the physical world as well.⁴ Everything is as it *was*, apparently, yet nothing will be the same again. Philosophy has become the indispensable condition *for* having true knowledge. Prior to the study of philosophy, you know nothing for sure. Knowledge claims must be processed through a sophisticated method in order to receive endorsement.

What this means, of course, is that there can be no appeal to common sense, to any presumed common fund of knowledge. Only philosophers really know. Now, even on the most depressing estimate, philosophers make up a minuscule subset of human beings. The vast, vast majority of human beings will have neither the leisure nor the time to undertake philosophy. Presumably they must rely on experts, trust the *cognoscenti*, believe that what the philosophers say is true.

There is irony here. The movement begun by Descartes blossoms into the Enlightenment, which promises to deliver men from the oppression of priests and princes. This epistemological turn, as we may call it, at least as a practical matter, puts 99 percent of the race in the position of having to take the word of the 1 percent as to basic truths.

The alternative to the Cartesian view can be sought, of course, in the situation he sought to replace. As Descartes saw it, his predecessors had spent centuries addressing more or less the same questions, and they had come up with a bewildering variety of answers. Call this the "Scandal of Philosophy." How is it possible that so many brilliant thinkers failed to achieve agreement on even the

most basic things? Descartes's answer was that they did not have the appropriate method that would enable them to achieve true knowledge. This was what he sought to repair.

There is nothing libelous about Descartes's claim that his predecessors present a veritable Babel of opinions. Of course things have been pretty much the same since Descartes, so that if his method were judged in terms of what it sought to achieve, it would have to be accounted a failure.

It is easy to find predecessors of Descartes who, like him, dismissed the knowledge claims of the unwashed. Think of Parmenides. Think of Socrates. We could name quite a few. Nonetheless, what I suggest is that, on the point I have stressed in the Cartesian project, there are a significant number of philosophers in the premodern period who assumed that there are certain substantive truths about the world and ourselves that are in the common domain, truths everybody knows. In other words, there are truths we know by ourselves, without the help of others. These are not the products of any sophisticated pursuit, but of the ordinary use of our natural equipment. Far from *conferring* such truths on us, the study of philosophy presupposes them. They are that to which appeal is made in the student by the teacher.

Thomas Aquinas devoted a disputed question to the topic of teaching in his *De magistro*, with his title deliberately evoking memories of St. Augustine's famous dialogue with his son Adeodatus. For St. Thomas, the human mind is a capacity that cannot fail to grasp certain truths, the starting points or principles of thinking. St. Thomas calls this use of our mind *invention* as opposed to

discipline, learning or being taught.⁵ These are not pure alternatives, of course; the latter presupposes the former. That is, someone can teach us something new only if we already know something. We can be helped to new knowledge by someone else only if we are first capable of knowing something on our own.

Because this capacity to know things by oneself is not taken to be unevenly distributed, as if some have it and others do not, but is understood as what every human being as human has by nature, there is something democratic, even egalitarian, in this classical alternative to Descartes.

This is not of course to say that there is no such thing as the “Scandal of Philosophy,” but that it can be regarded simply as a special case of the fact that human beings often disagree with one another for reasons good and bad. The difference between the modern and the pre-modern approaches (i.e., classical) turns on how such disagreements can be settled.

The differences between these two positions could be developed, emphasized, and underlined, but enough has been written to show that they are indeed pretty radically different views. It may seem a little unfair, merely a kind of rhetorical flourish on my part, to call the one elitist and the other democratic, since this looks like a cringing, craven appeal to the prejudices of the day. In any case, it is not by such labeling that the choice between the two can be made. Nevertheless there must be a choice.

As between the view that there are certain truths that every human being can be expected already to know and the view that until there has been the application of sophisticated method, no one can claim to know any-

thing, there is no common ground. They present us with an either/or. If the one is true, the other is false; and one or the other must be true. Which?

One way, an Aristotelian way, to settle the issue is by appeal to language, to discourse, to conversation. Consider how Aristotle deals with those who seek to deny or doubt what Aristotle holds to be the most fundamental truth of human discourse, of language, of thought. It is a truth that cannot be doubted and that no one can fail to know. What is the presumed principle or starting point of human knowledge? *It is impossible for a thing to be and not to be at the same time and in the same respect.*⁶

Imagine someone wishing to contest this. Of course, it will always be possible to find someone to contest any assertion, and that is good. Being able to hold to a belief in the face of relevant criticism is a *sign* that we know it. It is not, however, the *cause* of our knowing it. So, Aristotle says, imagine someone saying, "It is possible for something to be and not to be at the same time and in the same respect." Aristotle will take an instance, a sub-case, of this to be: "It is possible for (some statement) to be (true) and not to be (true) at the same time and in the same respect." But then it is possible for the denial of the first principle to be true and not true at the same time.

Aristotle makes the point even more basically, linguistically. The words in the sentence expressing the denial of the first principle must abide by the denied first principle in order for the denial to be a denial. That is, unless words mean what they mean and not also the opposite of what they mean, language, communication, and society are impossible.⁷

The formal expression of this principle is $\neg(p.\neg p)$. As a principle of logic, one cannot do logic without it. But perhaps someone might ask, "Who wants to do logic?" Furthermore, it might be said—it has been said—that principles like that of contradiction (Aristotelian first common principles) are, if true, not true of anything. Rather, they are formal truths, i.e., the form all truths must express or abide by. Thus they tell us something about our thinking or our language, but nothing about the world.

One way of responding to this, a way already suggested, is to take the logical or linguistic forms of the principle to be just that, special cases of "It is impossible for something to be and not to be at the same time and in the same respect."

Of the principle so stated, it cannot be said that it tells us nothing of the things that are. That is precisely what it does. It tells us something true of anything whatsoever that exists or can exist. Of course it is true that the principle does not tell us anything peculiar to this kind of thing as opposed to that, but that scarcely provides a basis for saying that it tells us nothing about the things that are.

Is this, as a critic might suppose, an appeal to innate ideas? Are we suggesting that our minds come equipped with a basic fund of concepts and judgments that are regulative of acquired knowledge? Not if our first principles are about the world of our experience. These are truths we naturally, without fail, grasp about the things of our experience. Prior to experience, prior to thinking, our minds are, in Aristotle's phrase, a blank slate on which nothing has been written. What is innate is our capacity,

the power to think, not completed instances or products of the activity.

If Aristotle is right, the principles we are considering are what make human intercourse possible. Thus, they are not sophisticated judgments, the fruit of taking Philosophy 101, or even Philosophy 666. They must, then, show up in the most modest of contexts since they must show up everywhere.

Children know that it is impossible for a thing to be and not to be at the same time and in the same respect. If it is true that the bike is now in the garage, it cannot be true that it is not in the garage. If it is true that you promised something, it cannot be true that you did not. Think of children arguing.

“You did.”

“I didn’t!”

“You did.”

“I didn’t.”

Or:

“It is.”

“It isn’t.”

“It is.”

“It isn’t.”

Such arguments take place, we can assume, because one party is of the opinion that some thing is and the other of the opinion that that same thing is not. Suppose that neither is lying. They are at loggerheads. But their disagreement presupposes a fundamental agreement. Indeed, their disagreement is possible only if it is true that a thing cannot both be and not be at the same time. At a rock-bottom level, it is not a question of one participant accepting the view of the other, as if he did not

already hold it and must be persuaded to hold it on the basis of what he already thinks. Rather, we are pointing to what everyone can be presumed already to know: "It is impossible for something to be and not to be at the same time and in the same respect."

The principle we have been discussing is surely the most basic and fundamental of all. There are others. "The whole is greater than its part." "Equals taken from equals leave equals." And so on. As soon as we know what a whole is and what a part is, we immediately know that the whole is greater than one of its parts. Also, once we know what equal quantities are, we know the truth of the second statement.

There are those who suggest that these so-called truths are simply truths about the definitions we assign to the words 'whole' and 'part'. And so too with 'equals'. Of this it may be said that only a philosopher could suggest it. Wholes are not words any more than parts are; their names, namely, 'whole' and 'part' relate to one another in the way they do because of the relation between the things we name.

In the crucial text in which St. Thomas Aquinas discusses the most basic practical principles, he begins by reminding us of the theoretical order (in the way in which I have been doing).⁸ I think St. Thomas is right in suggesting that we can understand the claim about the practical principles only if we are clear about theoretical principles, or principles that range over both the theoretical and practical orders but that are usually identified with the theoretical order.

What controls the theoretical order is being, that which is. The grasp of being is presupposed by the real-

ization that a thing cannot be and not be at the same time and in the same respect. What is controlling in the practical order is the good, that which is desired or sought as fulfilling and/or perfective of the one desiring. I want something not just because I want it. When it is said that the good is that-which-is-desired, the assumption is that we desire things because having them fills some want or need.

Food is good not because it is desired but because it is desirable—that is, it relates to the one desiring as fulfilling of him. Given the nature of good, and the meaning of ‘good’ (that which all things seek), the principle in the practical order analogous to “It is impossible for a thing to be and not to be at the same time and in the same respect” is “Good ought to be done and pursued, and evil avoided.” Evil is the negation of the good, so that if the good is to be desired, evil is not to be desired, is to be avoided.

The most frequent negative comment about this principle is that it tells us nothing. “Do good and avoid evil” does not sound like a course of action I could undertake nor the kind of answer we would expect if we wondered what we ought to do in the circumstances in which we find ourselves. If the advice applies, it applies to every conceivable situation in which anyone could find himself.

This objection is not without merit. If I find myself in circumstances in which I wonder what I should do, and you tell me, “Do good and avoid evil,” I am unlikely to deny the truth of that so much as question whether it provides me with any guidance.

The analogy with this in the theoretical order, as we have already seen, is that the truth “A thing cannot be

and not be at the same time and in the same respect" tells us nothing in particular; it does not express a truth that distinguishes between this kind of being and that. This, of course, is true. The principle is not the last truth about anything but the first truth about everything. To recognize it as first is to see explicitly that it is not exhausted by such special instances as "it cannot be in, and not be in, the garage at the same time and in the same respect"; and, "Miriam cannot be forty, and not be forty, at the same time and in the same respect." Of course we do not go around saying things like that. We say, "The car is in the garage," and everyone knows that if it is in the garage, it cannot not be in the garage, and so too with Miriam's age. If we disagree about where the car is or how old Miriam is, we do not disagree with either the special case of the principle or its generalized form. The principle is an expression of the underlying agreement presupposed by any disagreement.

If we are told that something is tasty, that something else is pretty, and that another thing is melodious, we would understand that the things in question are being recommended to us as pleasant to taste or see or hear. The pleasant can be taken as a special case of the good—good for the senses (i.e., for taste, sight, and hearing). But insofar as such judgments are meant to express what is good for me (that is, good for a human being), they could not be the final word unless what is good for me and what is pleasant are the same. In other words, if "Do good and avoid evil" is addressed to human agents, we could not argue simply: "Good ought to be pursued; the sweet is pleasant to taste; the pleasant is an instance of the good; therefore, sweets

ought to be pursued and non-sweets avoided." The good we recognize as the object of the most fundamental practical principle is our comprehensive good, that which is fulfilling of us as human beings, and the human good is a complex thing with many components.

Disagreement about the kinds of things that should be done by us, that is, the kinds of actions performance of which is fulfilling of the kind of agent we are, is possible only against the background that we agree that it is our good we pursue and ought to pursue when we act. Recognizing this does not provide us with a principle from which we can deduce what we should do here and now, or even the kinds of things human agents ought and ought not do.

Our good is first of all articulated in terms of components of our complete good, e.g., that I should preserve myself in existence, avoiding dangers to life and fending off attacks, and that I should eat and drink to preserve my life. Recognition of these comes easily enough and is the basis on which we can disagree as to what constitutes a danger to my life, what fending off an attack amounts to, and what is an appropriate response, as well as disagree as to how much food and drink and what kinds are best for me.

Since we are products of families, we easily recognize that our good is a common, not merely a private, good. One cannot be an isolated human being. One is born into a family, raised over many years, taught, trained, etc. This means that what we are is a member of a community, and that no account of what is good for the kind of being we are can ignore our membership in society.

These departmental goods, as we might call constituents of our comprehensive good, are the basis on which we recognize our comprehensive good.

Are first principles known first or are they products of, abstractions from, the knowledge we actually have first? The general confused knowledge of being and of good is present in any and every particular instance of knowledge. The articulated, formulated principles obviously come last. But what is formulated is recognized as what we all already knew.

Just as in human knowledge generally, and in human intercommunication, there are certain truths we can expect everyone implicitly to know, so in the practical order, there are some principles implicitly known by everyone. All practical disputes and disagreements presuppose underlying and implicit agreements between the disputants. Absent these, the quest for a resolution of the dispute makes no sense. When we seek agreement from someone, we appeal to what he already knows. If we commend a position to another, we do so by linking it to what we presume he already recognizes as true. Human language, taken in its entirety, reposes on the assumption that there are common truths, theoretical and practical, implicitly known by all.

ENDNOTES

1. See *Modernity in Constant Question*. Chicago, University of Chicago Press, 1990, p. 7.
2. *Descartes: Oeuvres et Lettres*, textes présentés par André Bridoux, Bibliothèque de la Pléiade, Gallimard, Paris, 1958, p. 126.
3. *Ibid.*, p. 147.
4. *Ibid.*, p. 153 ff.

5. *Quaestio disputata de veritate*, q. 11. See *Thomas Aquinas Selected Writings*. Penguin Classics, London, 1998, edited and translated with an introduction by Ralph McInerny, pp. 193–216.
6. *Metaphysics*, Book Four, chapters 3 and 4. See *The Basic Works of Aristotle*, edited by Richard McKeon. Random House, New York, 1941.
7. *Metaphysics*, Book Four, chapter 4, “Let it be assumed then, as was said at the beginning, that the name has a meaning and has one meaning . . .”.
8. See *Thomas Aquinas Selected Writings*, op. cit., pp. 642–3.

