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NATURAL LAW ECON0MICS AND LITURGY

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Interest in natural law has increased markedly over the past decade. A, if not *the*, major reason for the heightened interest has been dissatisfaction with developments in the systems of laws governing the United States and other Western countries during this period and with the roles of the various countries' judiciaries in this process. Proponents of natural-law thinking see natural law as something apart from the actual law, a touchstone by which the latter can be judged, and hence a potential antidote to recent happenings.

While this distinction between the positive law and the natural law is highly important, it is only one application of a line of reasoning that has much broader implications – implications that are in fact relevant to the entire spectrum of human behavior. It is this broader set of implications and their relation to natural law thinking that are the focus in this paper.

First, I briefly review the theory of natural law as exposited by St. Thomas Aquinas and the reasoning underlying it. Next I consider the applicability of this theory to societal questions in general. The focus of this part of the discussion is on issues related to what can be termed the "order" of society, the functioning and development of societal institutions. I then go on to discuss two specific examples. One involves economics, how economies operate and the evolution of economic systems over time. Here I draw heavily on the work of the Nobelist economist Friedrich von Hayek. The second application is to the liturgy. Here the work of Klaus Gamber, the subsequent commentary of Cardinal Joseph Ratzinger and the earlier historical analysis of Adrian Fortescue are of particular importance.

As it happens, and I suspect counter to what one might normally think, the two issues are closely related to one another: Both the institutions surrounding and governing the functioning of the economy and the liturgy have grown more or less spontaneously, with little or no top-down direction. To use the phrase made popular by Friedrich Hayek, they have been "the result of human action and not of human design.[1] This I shall argue is a crucial characteristic of the two -- the reason that they have been so culturally effective and that alternative institutional arrangements that have not evolved spontaneously have proven so culturally disastrous.

I. BACKGROUND AND FIRST PRINCIPLES

The reason natural law is called "natural" is because it has to do with the underlying qualities of human beings, what it is that makes human beings human. In St. Thomas Aquinas's view, natural law is "nothing else than the rational creature's participation in the eternal law" (*Summa Theologica,* I-II, 91, 2). This eternal law, in turn, is the schema that God ordains for all creation, "the directive norm of all movement and action," as the *Catholic Encyclopedia* puts it.

Natural law is, as it were, something programmed into human nature. To act in conformity with the natural law is to reach our potential as human beings. Natural law is therefore both an objective fact, an "is," and a goal, an "ought." As Lisska (1996) has argued, this dual status thus breaches the gap between the positive and the normative and as a result the theory of natural law avoids any potential conflict between the two in the way charged against other ethical theories that are said to involve the naturalistic fallacy.

The implications of this view of natural law both for actual human behavior and, by extension, for the analysis of such behavior are the issues that I want to go on to address. Before doing so, several features of natural law theory that are particularly relevant to these issues need to be considered in greater depth.

The first is the important role of the human person in natural law theory. What distinguishes human beings from other animals is the ability of humans to reason. Indeed it is via reason reflecting on human nature that man comes to know the natural law and to distinguish between moral and immoral actions.

A propos of this connection between natural law and personhood, Etienne Gilson (1991, p.205) in his lectures on medieval philosophy writes:

> "If ... Christian morals require man to live in accord with reason, there can be no word said on morals that does not directly concern the history of personality. It is the person, as practical reason, whose activity weaves the web of human life; it is the person which ... ceaselessly enriches itself with new knowledge, with new moral habits, that is to say virtues, with practical habits, that is arts, and thus gradually building itself up issues at last in those human masterpieces whom we call sage, hero, artist, saint."

As Gilson also points out (1991, p. 245), this centrality of the human person is not regarded as absolute by natural-law thinkers, nor is reason viewed

as all powerful:

> "It was only in a local sense that medieval man thought himself to be at the centre of things; the whole creation of which he was the destined crown and end, which he recapitulated in himself, was nonetheless something outside himself, something to which he had to submit and conform himself if he would know anything of nature. But modern man, brought up on Kantian idealism, regards nature as being no more than the outcome of the laws of the mind. Losing all their independence as divine works, things gravitate henceforth round human thought, whence their laws are derived."

This gets us to another important feature of natural law thinking, its realism. Natural law in the true sense of the word, as something inherent or "natural" to human beings, posits a human essence that is knowable.

In this regard, Heinrich A. Rommen in his treatise on the theory and history of natural law thinking writes (1998, p.143):

> [T]he first prerequisite of an unalterable, permanent, standard natural law is the possibility of knowledge of being, of a knowledge of the essences of things, a realistic epistemology or theory of knowledge. ... Natural law in the strict sense is therefore possible only on the basis of a true knowledge of the essences of things, for therein lies its ontological support.

It, therefore, also presupposes an ability to make inferences about real things on the basis of sensory perception. This latter aspect of the theory means that one can also, so to speak, work backwards and make inferences about specific tenets of natural law on the basis of actual experience.

II. NATURAL LAW AND SOCIETAL INSTITUTIONS

From these general considerations several important conclusions about societal institutions follow. One is that it is possible to speak about the optimal structure of such institutions in much the same way that it is possible to speak about the optimality of certain forms of human behavior. The ability to do so in both instances hinges upon an assumed constancy of human nature. Human beings act morally in St. Thomas Aquinas's view when they act in accord with their nature. Acting in this way, in turn, is by definition optimal. Since human nature does not change, what is moral will be the same across both time and space. Similar reasoning can be applied to human institutions. The only difference is that for institutions optimality is defined in terms of the intermediate goals of fostering such moral behavior rather than in terms of the behavior itself. An institution that helps people achieve these goals more than any alternative set of arrangements is optimal according to this perspective.

A prominent example of such an approach is Pope Leo XIII's discussion of property-rights arrangements in his encyclical *Rerum Novarum.* In that document, Pope Leo XIII uses natural-law reasoning to argue that private property is to be greatly preferred to public ownership on both moral and economic efficiency grounds. I discuss this encyclical in somewhat greater detail below.

A second conclusion has to do with changes in societal institutions over time. The constancy of human nature means that what is institutionally optimal at one point in time is likely to be institutionally optimal, or very nearly so, at other points. In a well-ordered society, institutional change, therefore, will be gradual and incremental rather than abrupt and far-reaching.

A third conclusion has to do with the actual process by which such institutions develop and the forces driving that development. The immutability of human nature and inherent limitations on human knowledge that are posited by natural law thinkers suggest that in a well-ordered society institutional development will be spontaneous and evolutionary rather than planned and directed from on high.

We see these features of human institutions treated in various ways in the writings of natural law thinkers. St. Thomas provides such a discussion in the context of the law. He writes (Summa Theologica, I-II, 97, 2):

> As stated above... human law is rightly changed, in so far as such change is conducive to the common weal. But, to a certain extent, the mere change of law is of itself prejudicial to the common good: because custom avails much for the observance of laws, seeing that what is done contrary to general custom, even in slight matters, is looked upon as grave. Consequently, when a law is changed, the binding power of the law is diminished, in so far as custom is abolished. Wherefore human law should never be changed, unless, in some way or other, the common weal be compensated according to the extent of the harm done in this respect.

Edmund Burke (1986, p. 285) applies these principles more broadly:

> Old establishments are tried by their effects. If the people are happy, united, wealthy, and powerful, we presume the rest. We conclude that to be good from whence good is derived. In old establishments various correctives have been found for their aberrations from theory. Indeed, they are the results of various necessities and expediencies. They are not often constructed after any theory; theories are rather drawn from them. In them we often see the end best obtained where the means seem not perfectly reconcilable to what we may

> fancy was the original scheme. The means taught by experience may be better suited to political ends than those contrived in the original project. They again react upon the primitive constitution, and sometimes improve the design itself, from which they seem to have departed.

Conclusions such as these are totally at variance with major currents in Western thinking for at least the past two centuries. During this period scientism has achieved near intellectual supremacy. Planning and intervention in all facets of human existence have come to be viewed as desiderata and the unplanned and the spontaneous, in contrast, as always and everywhere inferior. Bounds on the human ability to design and implement such plans are treated as nonexistent.

This is rationalism taken to the extreme. It is qualitatively, as well as quantitatively, different from the emphasis on rationality of St. Thomas, and the scholastic philosopher and other thinkers who followed in his intellectual footsteps. All regarded reason as capable of uncovering major truths about human existence but at the same time subject to times substantial error in reaching practical judgments. Indeed, this appears to be the reason that natural-law proponents have viewed long-standing institutions as sacrosanct.

III. EMPIRICAL EXAMPLES: ECONOMICS AND LITURGY

In the physical sciences, it is often possible to subject one's hypotheses to rigorous, well-designed tests – controlled experiments in which factors that are extraneous to the question under investigation are held constant. In studying human behavior, even in the small, this usually cannot be done. In the large – the study of human institutions – it is generally impossible.

Occasionally, however, history intrudes and provides us with an event that actually mimics a controlled experiment. A classic example in the area of monetary economics was the currency reform during the U.S. Civil War by the Confederacy in spring 1864. Following the reform the money supply, which had been growing rapidly, declined by a sizable amount. Just as theory would suggests, once the growth in money supply was reversed, inflation slowed and prices actually began to fall. It is difficult to imagine a better test of the link between excess money creation and inflation. Indeed this natural "experiment" is so clean that all of the usual objections of *post hoc ergo propter hoc* that are levied against the use of observational data lose their force.

An experiment like this has, I believe, also been provided in the realm of economic institutions with the breakdown of the Soviet empire. In the area of a liturgy, too, we have had such an experiment, with the introduction of the novus ordo by Pope Paul VI in 1969. The first empirical example that I will discuss is that of the economy and the institutions governing its function. I will then turn to the question of the liturgy and the changes that have taken place there.

III.A. Economic Behavior, Economic Institutions and Economic Analysis

For the past decade, one fact about economic behavior has become increasingly apparent: Controlled economies in which government intervention is widespread and property rights widely violated do not function even passably well and eventually break down. There are two principal sets of reasons why. One follows directly from natural law reasoning, while the other follows indirectly.

This first set of reasons was well described over a century ago by Pope Leo XIII in *Rerum Novarum*.[2] Private ownership of property, Pope Leo XIII argued, is a *sine qua non* both economically and morally. Private property, he stated, is "according to nature's law," (*RN*, 9) for "when a man engages in remunerative labor, the impelling reason and motive of his work is to obtain property and hold it as his very own."(*RN*, 5).[3] This follows he went on to say because:

> It is the mind or reason that is the predominant element in us who are human creatures; it is this which renders a human being human, and distinguishes him from the brute. ... [O]n this very account – that man alone among the animal creation is endowed with reason – it must be within his right to possess things not merely for temporary and momentary use, as other living things do, but to have and to hold them in stable and permanent possession; he must have not only things that perish in the use, but those also which, though they have been reduced into use, continue for further use in after time. (*RN*, 6)

Man, therefore, naturally "seeks to exercise his choice not only as to matters that regard his present welfare, but also about those which may be for his advantage in time yet to come" (*RN*, 7). What conforms to nature's law is both right and just. Socialist policies, therefore, are "manifestly against justice" (*RN*, 6) since they would deprive human beings of the property-owning option that by their very nature they would want to exercise. Just as important, Pope Leo XIII claimed, such policies will be highly wasteful economically and hence extremely inefficient:

> The door would be thrown open to envy, to mutual invective, and to discord; the sources of wealth themselves would run dry, for no one would have any interest in exerting his talents or his industry;

> and that ideal equality about which they entertain pleasant dreams would be in reality the levelling down of all to a like condition of misery and degradation. (*RN*, 15)

Several paragraphs later he added:

> ... the condition of things inherent in human affairs must be borne with, for it is impossible to reduce civil society to one dead level. Socialists may in their intent do their utmost, but all striving against nature is in vain. (*RN*, 17)

Socialism, therefore, creates false hopes, hopes that in the end will be dashed quite cruelly, for

> [T]he pains and hardships of life will have no end or cessation on earth; for the consequences of sin are bitter and hard to bear, and must accompany man so long as life lasts. ... If there are any who pretend differently – who hold out to a hard-pressed people the boon of freedom from pain and trouble, an undisturbed repose, and constant enjoyment – they elude the people and impose upon them, and their lying promises will only one day bring forth evils worse than the present. Nothing is more useful than to look upon the world as it actually is, and at the same time to seek elsewhere, as we have said, for the solace to its troubles. (*RN*, 18)

A good deal of this harkens back directly to the scholastic thought on the subject, both that of St. Thomas Aquinas and even more that of the late scholastics associated with the University of Salamanca.

Consider the following quotation from Tomás Mercado, cited by Alejandro A. Chafuen (1996) in his book on the Salamanca scholastics.[4]

> We cannot find a person who does not favor his own interests or who does not prefer to furnish his own home rather than that of the republic. We can see that privately owned property flourishes, while city- and council-owned property suffers from inadequate care and worse management. ... If universal love will not induce people to take care of things, private interest will. Hence, privately owned goods will multiply. Had they remained in common possession, the opposite would be true.

In Mercado's explanation, we can, I believe, hear echoes of Adam Smith's much misunderstood metaphor of the "invisible hand." It is not an illusion. There is an intellectual bloodline running from Suárez and Lessius, via the seventeenth century legal theorists Hugo Grotius and Samuel von Pufendorf, to Francis Hutcheson, Smith's teacher in Glasgow, to Adam Smith himself.

Consider how Smith put the matter in the *Wealth of Nations*:

> As every individual, therefore, endeavours as much as he can both to employ his capital in the support of domestic industry, and so to direct that industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this case, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. (Smith, 1976, Book IV, Chapter ii, p. 456)

In the very next breath, Smith went on to say:

> Nor is it always the worse for society that it was no part of it. By pursuing his own interest he frequently promotes that of society more effectively than when he really intends to promote it. I have never known much good done by those who affected trade for the public good. (Smith, 1976, Book IV, Chapter ii, p. 456)

This first statement, according to the Nobelist economist George J. Stigler, a major expositor of Smithian thinking, "is still the most important proposition in all of economics" (Stigler, 1976, p. 1201). We see its direct corollary in Pope Leo XIII's remarks about property rights violations that "the sources of wealth themselves would run dry, for no one would have any interest in exerting his talents or his industry."

A similar parallel exists between the Smith's second set of remarks above and Pope Leo XIII's statement that the "ideal equality about which [socialists] entertain pleasant dreams would be in reality the levelling down of all to a like condition of misery and degradation.[5]

The other reason why controlled economies inevitably fail is more subtle but no less important. It stems from the crucial role of information in economic performance, the costliness of information acquisition and the inherent limitations on human knowledge. One of the principal arguments in favor of a market economy is the overriding advantage such an economy has in the dissemination of information and the harnessing of human knowledge. The key here is the informational role played by prices. Prices set in the open market are signals to both consumers and producers of relative values. If a good becomes scarcer because supply of the good, say, has suddenly fallen, the price of that good will rise. Consumers and producers will thus be led to alter their behaviors. The price of the good will be bid up and consumers will end up buying less of it. These higher prices will serve as an incentive to existing producers to devise

new methods of increasing supply and will alert other producers to enter the industry. The reverberations from this event will, therefore, be felt in a host of other markets for both goods and services. In the absence of that adjustment in price, none of these subsequent adjustments would take place. Consumers would take no action to reduce their purchases; producers would have no reason of any sort to alter their supply behavior. A continual shortage of the good would be the result, while queues, favoritism, side payments and bribes would become the methods of allocation. A simple — some might even say naive — story, but witness the former Soviet Union.

Economic knowledge too dispersed

The point is that alternative arrangements to the price system are inferior from an informational perspective. Economic knowledge is too dispersed and too specific for the generalizations that a planner would use to be economically effective. A price system is capable of conveying much of this information. In a planned economy, in contrast, most of it is either overlooked or, since the functioning of prices is impeded, effectively destroyed. Central planning, therefore, inevitably fails. The degree to which it does so, moreover, will be directly related to and an increasing function of its ubiquity. When centralized planning is implemented on the broad scale that was characteristic of the Soviet Union and its bloc, the economic system breaks down entirely. This is true regardless of the motivations underlying these interventionist arrangements, however well intentioned those motivations might be.

The most articulate modern proponent of this view has been Friedrich A. von Hayek, the Austrian Nobelist economist and refugee from German National Socialism. [6] Some of the same ideas, however, can be found much earlier in the writings of the Salamancan School, in particular in their discussions of the just price. Given their realist epistemology, they regarded the just price as a subject for positive scientific analysis, and not as a normative construct to be decided on *a priori* grounds. In their view the question of what constituted a just price could not be answered without a theory of price determination and economic valuation. Since such a theory could not simply be taken off the shelf, the Salamancan writers devised their own, borrowing again from St. Thomas Aquinas.[7]

The just price under normal, non-monopolistic conditions, they said, was the market-determined price. It resulted from the interaction of peoples' preferences and the relative scarcity of the good in question. What was in fact the just price in any particular market in any particular time period, however, was not – and this is the truly important point – something that any person could ascertain with any reasonable degree of certitude, nor was it something that could be arbitrarily set.

In this respect, their analysis was very much in accord with that of Hayek, as Hayek himself subsequently recognized.[8] In Hayek's view, what makes the market economy work is the fact that it is spontaneous. There is no central coordination, and if attempts are made to impose one, the order that in the large is characteristic of the market economy degenerates into disorder. The reason, as already stated, has to do with the dispersed nature of knowledge. Individuals have specialized knowledge about the myriad of individual markets that make up the overall economy, what Hayek has termed "knowledge of the specific circumstances of time and place" (Hayek, 1945). Knowledge about all of these markets cannot possibly be had by any single individual or group of individuals. The planned economy, therefore, degenerates into the chaotic economy.

Spontaneity and the economy

This spontaneity associated with the market economy has another important dimension. It extends to the origin and formation of such an economy. The market economy develops and comes to dominate, it can be argued, because it works better than the alternatives.

An example in the small is provided by the current wave of globalization and international market integration. The development of a global market in any product or a service takes place because there are gains from the increased trade that a wider market brings about. The move towards globalization in financial markets that we have seen over the past few decades is a major case in point. It certainly was not planned or orchestrated from on high. Government in fact initially impeded rather than abetted the process. Nor is it a new phenomenon. In Lothian (2002), I present evidence showing that since the early eighteenth century bond and money markets in the major countries have had a strong tendency to become integrated with one another. Major wars and the Great Depression of the 1930s intervened and temporarily arrested the process, but in each instance such interruptions proved to be purely transitory.

The major counterfactual example is that of the Soviet Union and the former Soviet bloc. The Soviet economic system was a system that was designed and run from the top. It was a system in which trade of every sort, both international and internal, was subject to severe restriction. It failed and, as we now know, at great human cost. If reports are true, moreover, this economic breakdown has been accompanied by a unique sort of moral breakdown. After three generations of a command economy and of the totalitarian measures that went with it, large segments of the populace appear to lack the moral "skills" that are necessary for the rebirth and proper functioning of a market-based economy.

III.B. Natural Law, Societal Institutions and the Liturgy

Now let me turn to the other example that I want to consider, the Roman Catholic liturgy. Clearly there is difference in focus between it and the economy, economic institutions being purely human in focus while the liturgy, to use Cardinal Ratzinger's terminology being "opus Dei." Despite this key difference, the important questions concerning the liturgy are the same as those involving the economy: What type of institution works best? What are its characteristics and why is this set of characteristics optimal? By what method is an institution with these characteristics most likely to develop?

Consider the question of institutional development first. Here the Traditional Roman Rite is remarkably similar to the economic system, both having evolved organically rather than having been planned in any meaningful sense of the word.

In a 1913 article reviewing the history of the Roman Catholic liturgy (hereinafter "the Roman Rite"), Adrian Fortescue wrote "a modern Latin Catholic who could be carried back to Rome in the early seventh century would – while missing some features to which he is accustomed – find himself on the whole quite at home with the service he saw there." (Fortescue, 1913). Fortescue argued further that major elements of the Roman Rite could be traced back two centuries further, to the Leonine and Gelasian Sacramentaries. Such continuity, Fortescue's argument suggests, and Klaus Gamber's subsequent historical work shows, existed because the liturgy was allowed to develop organically rather then being subjected to top-down manipulation.[9]

The liturgical reform of the Council of Trent would seem to be a counterexample, but in fact it proves the point. The standardization of the liturgy via widespread imposition of the Roman Rite was actually subject to an important substantive qualification: Any rite that had existed for 300 years was, to use the modern term, grand-fathered. Thus the Milanese Rite, the Dominican Rite and a number of other rites continued to exist until the post-Vatican II liturgical changes took effect. Pope St. Pius V and the other promulgators of the Tridentine reform appear to have had substantial respect for liturgical institutions that had stood the test of time. Their reform was not designed to do away with such institutions or to impose a rigid standardization of the liturgy. Rather, it was directed at keeping the liturgy free from the influences of Protestantism.

What took place post-Vatican II was something entirely different. It was a complete departure from the slow, iterative historical pattern of liturgical development. A committee was appointed to implement the modest suggestions made by the Second Vatican Council itself and in the space of a few years this group thoroughly redesigned the Mass. In his introduction to the French version of Gamber's *The Reform of the Roman Liturgy*, Cardinal Joseph Ratzinger described the situation thus:

> [I]n the place of development came fabricated liturgy. We abandoned the organic, living process of growth and development over centuries, and replaced it – as in a manufacturing process – with a fabrication, a banal on-the spot product.

The result, in the words of one commentator, who in fact wholeheartedly approved of the liturgical changes, was that "[T]he Roman Rite which we have known hitherto no longer exists. It is destroyed."[10]

Human action, not human design

The Roman Rite Mass had survived for over fourteen centuries, not because no one could think of an alternative, but because drastically different alternatives were seen as unworkable. The liturgy, again to use Hayek's phraseology, developed as the result of human action, not human design. Someone did actually implement the gradual changes that occurred through the centuries, but no grand schema of liturgical change was imposed top down as happened after Vatican II.

At this point the objection might be raised is that this same phenomenon is in fact characteristic of the liturgy today. The myriad forms that the liturgy takes, the innovations made at the parish level by individual clergy and groups of laity, it might be argued, are simply the current manifestation of the evolutionary process that we have seen in the past. Such an argument, however, is historically incorrect. First of all it ignores the completely non-spontaneous beginning to the liturgical change that took place following Vatican II. Indeed, what started the process was something much closer to a putsch than to the grassroots movement that one might associate with organic growth, as Archbishop Annibale Bugnini (1990), one of the major architects of these changes, reveals. The second problem is the pace of the recent change in comparison to what preceded it. The difference in the Roman Rite Mass as it existed in the early Middle Ages and immediately prior to the start of Vatican II was small, exceedingly so given the long time span involved.[11] Over any three-decade period, therefore, any changes that did take place must have been almost imperceptible. One could certainly not say the same thing about the three plus decades that have elapsed since the introduction of the novus ordo. Indeed, I suspect that one can find greater differences between the Masses that are said on any given Sunday around the world today and the Masses celebrated in any two centuries over the millennium ending in 1960 picked at random. Compare, for instance, the low-church liturgy of a typical suburban American parish with the polyphonic music and chant at the high (novus ordo) Masses that are celebrated every Sunday at the Brompton Oratory in London and the pro-

cathedral in Dublin.

There is, however, another more important difference between what took place in earlier centuries and what happened since Vatican II. Liturgy is a human institution, but it is also something much greater. It is man's encounter with God. The Eucharist is the sacrificial joining together of man and God made Man in His offering to the Father. It is our attempt, made possible by the Cross, for union with the Father.[12] It thus, and this returns us to the language of natural law philosophy, involves the eternal law intimately and very directly and not just via its manifestation in the natural law.

A liturgy that is effective will clearly not be a will-o-the-wisp, something to be radically changed every few decades or even centuries. It cannot be an academic exercise, or a testing ground for theologians' latest set of hypotheses. Nor can it be designed by a committee any more than an economy or a legal system can. Replace a liturgy that does work, that is spiritually uplifting, and that strikes a deep and responsive cord with something designed by the experts, and the result is unlikely to be salutary.

Predictions fulfilled

Certainly this is a prediction that comes out of the analysis in this paper. It is also a prediction which was made before the fact in a study commissioned by Cardinals Ottaviani and Bacci in 1969 and which has subsequently come to be known as the "Ottaviani Intervention" (1992). Indeed, it was made a good deal earlier than that, albeit on a completely conditional basis, by Pope Pius XII in his encyclical *Mediator Dei* (1948).

Have these predictions been borne out by events? I believe so. In a recent article I show that since Vatican II both in the United States and in England and Wales there has been a drop in Sunday Mass attendance of roughly two-thirds from close to 65% Roman Catholic attendance in 1959 to only 25% attendance in 1995 (Lothian, 2000). These fall-offs cannot simply be dismissed as due to the "temper of the times" or some similar factor. Attendance of U.S. Protestants at services over the same period actually rose somewhat over this period.

Whatever took place after Vatican II, therefore, was idiosyncratic, affecting Roman Catholicism in particular and not Christianity viewed more generally. Certainly there is no evidence in these data of the successful renewal that had been promised and that continues to be loudly trumpeted.

Importance of 'language'

The reason for the failure of the post-Vatican II reforms, I believe, has had to do with the characteristics of the new liturgy and the difference between those characteristics and those of the Old Mass. This has been very aptly summed up by my coauthor Indira Sweeny. Sweeny, an anthropologist, writes:

> Over thousands of years, human beings have developed a "language" with which to communicate with the Other. This "language" is of paramount importance because it is authentic, in the sense that *it works* and allows humans, for a brief time, to bridge the gap between us and the Other, and has always included sacrifices, fire, incense, sacred words, sacred music, a sacred language, an anointed mediator between the Other and us, etc.
>
> Christ's sacrifice at Calvary is the culmination of this human-Other relationship – as He said "It is finished" – this is the final sacrifice, He established the sacramental re-presentation of this Ultimate sacrifice – from now on, until the end of time, humans will now re-present this sacrifice. He left us the essence of the form – the words of consecration from the Last Supper, and we supplied the rest of the ritual using the pre-existing "language" developed through time, most especially the "language" of the Jewish temple ritual.
>
> The Novus Ordo has removed most of this "language" from the Church's ritual, leaving only the "bare bones" of a religious experience. It replaced the authentic Catholic "language" with modern terminology and music, and has changed the focus of the ritual from God to us. And, so, it has failed to resonate with humans… and although it is still the bloodless representation of the sacrifice at Calvary, its form does not have the traditional, ancient ways of "clueing" us into the fact that something different is going on.

Compounding the problem

Similar ideas to Sweeny's can be found throughout the work of sociologists and social anthropologists concerned with religious questions. Aidan Nichols, O.P. in *Looking at the Liturgy* (1995) provides an excellent survey of this work. The gist of the sociologists' and social anthropologists' arguments is that the liturgists in the sixties got it all backwards and have been compounding the problem ever since.

Liturgists have stressed the desirability of spontaneity and creativity in liturgy. Sociologists, in contrast, claim that what actually works for us as human beings are their exact opposites -- discipline, habit, rite and rote. In this connection, David Martin (1973) writes: "What is done by rote and performed in ritual provides the necessary substratum of habit on which experience becomes possible." [cited in Nichols, p.53]. Liturgists have also stressed the importance of simplicity and intelligibility. Sociologists, in contrast, argue that neither is desirable, that opacity and symbolism are what actually capture our imaginations and interest (Flanagan, 1991). "[Symbols]] proclaim that which transcends the conditions under which clarity through intervention is possible. They embody that which is unavailable to rational manipulation." (cited in

Nichols, p. 63).

Backing and filling

Much the same idea is advanced by scholars like Catherine Pickstock (1998) who focus on language. Unlike liturgists, who tend to view language in purely linear terms Pickstock stresses the importance of the sort of backing and filling that is characteristic of the Traditional Roman Rite. Mass. Interestingly one can find a similar argument albeit in very much abbreviated form in Ronald Knox's discussion of the Old Mass in *The Mass in Slow Motion*.

This difference between the views of liturgists on the one hand and those of sociologists and anthropologists on the other is not at all a matter of tastes. At heart it reflects a difference in philosophies of science. Modern liturgists have approached the matter in abstract and theoretical way. They have started with a set of premises with regard to what liturgy should be and then have proceeded to fabricate one out of while cloth. The sociologists and social anthropologists who have been concerned with religion, in contrast, have been empirically oriented. They have looked around at religion as actually practiced and tried to answer the question of what type of liturgy actually works. What they have come up with a set of characteristics completely different to that of the liturgists, ones that match rather closely those of the Old Mass.

IV. CONCLUSIONS

The basic argument of this paper can be restated in three propositions: First, human institutions that work well do so because they accord well with human nature. They play to its strengths and help counteract its weaknesses. Second, because human nature does not change, institutions that work -- that are culturally effective – will themselves only change slowly and incrementally over time. The principle method of identifying culturally effective institutions, therefore, is survivorship. Institutions that stand the test of time by this reasoning are optimal. I go on to consider two such institutions in particular: the market economy and the liturgy. I then discuss two important counterfactual cases -- examples of planned institutional change that have not worked -- the command economy, that of the Soviet Union and its satellites being the most notable examples, and the Mass of Pope Paul VI, the novus ordo Missae.

That both have failed is hardly happenstance. In each instance, an institution that had evolved organically and that basically worked was replaced tout court by an alternative designed by an elite and imposed from on high. In each instance, moreover, the change had much the same intellectual motivation.

In this connection, Whittaker Chambers in the foreword to his book *Witness,* which he entitled "A letter to my children" tries to explain the appeal of the Communism he came to abandon (Chambers, 1952, p. 9). It is an appeal of the oldest sort, he says: "Its promise was whispered in the in the first Days of Creation under the Tree of Knowledge of Good and Evil: 'Ye shall be as gods.' It is the great alternative faith of mankind."

Cardinal Ratzinger makes what amounts to the same point, but using somewhat less prophetic rhetoric than Chambers. He writes (2000, p.168):

> Only respect for the liturgy's fundamental unspontaneity and pre-existing identity can give us what we hope for: the feast in which the great reality comes to us that we ourselves do not manufacture but receive as a gift.
>
> This means that "creativity" cannot be an authentic category for matters liturgical. In any case this is a word developed within the Marxist world view. Creativity means that in a universe that itself is meaningless and came into existence through blind evolution, man can creatively fashion a new and better world.

He goes on to say:

> This kind of creativity has no place within the liturgy. The life of the liturgy does not come from what dawns upon the minds of individuals and planning groups. On the contrary, it is God's descent upon our world, the source of real liberation.

ENDNOTES

[1] See the article by that name (Hayek, 1978).

[2] The discussion of *Rerum Novarum* and the related discussion of the Salamancan writers draw heavily on my earlier articles on these subjects, Lothian (1998) and Lothian (1997), respectively.

[3] The citations in parentheses are to sections of *Rerum Novarum*.

[4] Tomás de Mercado (c. 1500-1575) was a moral theologian who taught at the University of Salamanca and in Seville. Mercado, like the majority of the Salamancans and St. Thomas Aquinas himself, was a Dominican. The other prominent Dominicans include: Francisco de Vitoria (c.1492-1546), the founder of the group, a professor at the Sorbonne and later at Salamanca; Domingo de Soto (1495-1560) his student in Paris and later a professor at Salamanca; Martín de Azpilcueta (1493-1586), also known as Navarrus, an eminent canon lawyer and professor, first at Salamanca and subsequently in Portugal; and Domingo de Bañez (1527-1624), professor of theology at Salamanca and friend and confessor of St. Theresa of Avila Jesuit members of the group include Luís de Molina (1535-1600), a theologian and civil lawyer; Juan de Mariana (1535-1624); Francisco Suárez (1548-1617) a theologian who taught first at Salamanca, and later at other universities

in Spain, Portugal and Rome; Leonard Lessius (1554-1623), a Belgian theologian and student of Suárez in Rome who later taught at Louvain; and Cardinal Juan de Luego (1583-1660), the last of the Spanish late scholastics.

[5] It is worth noting that Pope Leo XIII wrote this condemnation of the command economy close to 30 years before the October Revolution and over 40 years before the rise of Hitler.

[6] See for example Hayek (1945).

[7] Excellent analyses of the economic thought of the Salamancan writers' can be found in the books by Chaufen (1986) and Grice-Hutchison (1952, 1975). See also the section on scholastic economics in Schumpeter (1954).

[8] See the discussion in Chapter 1 of Hayek's *Law, Legislation and Liberty*. Particularly illuminating are his citations of de Molina and de Luego. In the latter's words: "incertitudo ergo nostra circa premium iustum Mathematicum ... provenit ex Deo, quod non sciamus determinare."

[9] Gamber summarizes the evidence on this issue in his *The Reform of the Roman Liturgy* (1995).

[10] The quote is from Gelineau (1979, p. 10) as cited in Mole (1996).

[11] See the historical accounts in Fortescue (1913) and Gamber (1993).

[12] On the question of liturgy, worship, and law, see Ratzinger (2000).

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After natural economic law has been discovered, the failure, on the part of physical science, be-comes clear for the simple reason that economic laws relate to living things, to growth and. move-ment. of a social organism, while physical laws deal with the activity of non-living matter and. forces. In the physical world, for example, a natural law fixing the weight of one cubic foot of any substance will give each minute particle of it the same proportion of weight, but such is not the case with living things; there is no such fixed relations between life and the substance with which life work Samuel Gregg writes and speaks on questions of political economy, ethics in finance, and economic history. He is Director of Research at the Acton Institute and a consultant for Oxford Analytica Ltd. He holds an MA in political philosophy from the University of Melbourne, and a DPhil in moral philosophy and political economy from the University of Oxford. Dr. Gregg is the author of several books. Harold James, who holds a joint appointment as Professor of International Affairs in the Woodrow Wilson School of Princeton University, and as Marie Curie Professor at the European University Institut People use â€œliturgyâ€ pejoratively. When I talk about liturgy I can find myself being called a pedant, a pedantic liturgist,â€¦ a Phariseeâ€¦ Many people think that the essence of liturgy, and the fixation of liturgists, is the finicky obsession with tiny, petty, mostly-irrelevant rules. For them: liturgy = legalism. This is the second post in a series â€œliturgy and lawâ€. The first is here. To me, the liturgy=legalism view is like thinking that a great novelist or a scholar of literature is obsessed with whether to put the full stop before or after quotation marksâ€¦