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Natural Law and Modern Society. Introduced by John Cogley.

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Chicago. We aren't given any information about this sample, but it is to be hoped that it is larger than only about one percent of the total group.

It would be desirable that, based on proper samplings, studies be made that would give us a more complete, well-rounded picture of the legal profession as a whole, and which would include all groups of lawyers—individual practitioners as well as members of large firms and small firms, not only in the largest metropolitan areas like Chicago and New York, but in other metropolitan areas, and in medium sized and smaller cities, as well as in rural areas. Furthermore, for purposes of comparison, and for a better understanding of our society, it would be well if similar studies were to be made of other professions, such as the medical, teaching and clergy.

In fact, the author states in his preface that although this book was conceived initially as a study in the sociology of the professions, as time went on the study began to shape itself more as a report to the public and to the legal profession itself on what was actually going on in the practice of law. As seems to be happening so frequently these days, in both the natural and the social science fields, those engaged in research are too anxious and in too much of a hurry to put their conclusions and findings into public print.

The book has value in that it tends to some slight degree to scientifically corroborate what has been generally believed to be true—that all is not well in the legal profession. But the book must be regarded as simply a start on the sociological study of the legal profession.

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NATURAL LAW AND MODERN SOCIETY. Introduced by John Cogley; Cleveland, Ohio: World Publishing Company, 1963. pp. 251. \$4.00.

It is almost certain that we are witnessing yet another revival of a seemingly ageless moral, ethical and legal value system—the natural law. It has had its ups and downs, its benefactors and proponents from time immemorial—western time at least—from Plato and Aristotle, Cicero, and Saint Paul, right up to the present with Jacques Maritain and Felix Frankfurter. Its very survival through the numerous tempests of conflicting concepts of law, jurisprudence and philosophy may be taken as some indication of its basis in eternal truths, and foundation in a yet higher law. In fact, many in the past, at the present, and, hopefully, in the future as well, have looked, and will continue to look upon it, and perhaps to draw inspiration from it, as that most logical extension of a higher moral code that man may aspire to.

That seems to be the thing with the natural law. There is no mystery

about it. It is not to be pulled and drawn from the books and minds of esoteric philosophical or jurisprudential systems and their proponents, or strange and foreign ideologies. The man who knows that within himself lies the power to be good or evil, to be moral or immoral, to act in a legal or illegal manner, knows as much about the natural law as Roscoe Pound or Felix Frankfurter. And he will have as great an opportunity as these last mentioned gentlemen to apply it in his daily life.

Proof of the proposition that the natural law is enjoying another surge of popularity among the "thinkers" of our time is found in a handy little red volume that grew out of a series of discussions and an interchange of scholarly papers sponsored by a true cornerstone of our contemporary Liberal Establishment, the Center for the Study of Democratic Institutions in Santa Barbara, California, an agency of the Fund for the Republic, Inc. Gathered between its covers are six essays dealing sometimes with the general topic of the natural law. Dr. Robert M. Hutchins, president of the Fund, writes on "Natural Law and Jurisprudence"; Father John Courtney Murray, S.J., of Woodstock College, Maryland, on "Natural Law and the Public Consensus"; Scott Buchanan, former dean of St. John's College, on "Natural Law and Theology"; Philip Selznick, an adviser to the Center's study of the trade union, and a sociologist, on "Natural Law and Sociology"; Harvey Wheeler, also with the Center, on "Natural Law and Human Culture"; and finally, Rabbi Robert Gordis of the Jewish Theological Seminary of America, on "Natural Law and Religion." An introduction is supplied by John Cogley who is also associated with the Center. The presentation on behalf of the Center is heralded as a "contribution to the discussion of the free society" with the hope that it "will bring some enlightenment to the discussion of a frequently misunderstood and misinterpreted subject."

Unfortunately, our hypothetical average man alluded to above, who has within him an innate comprehension of the natural law and its application in the real, hard-headed and practical affairs of life, will not always, as he picks his way through the pages of this volume, recognize the signposts. But perhaps this is to be expected. Perhaps it is due to the essential character of the subject. Six different men writing on a topic as broad and vague as this are quite likely, and understandably so, to come up with six different versions of the natural law. Yet some constant datum-plane, some immovable and fixed bearing should be there, and basically it can be found in this collection of essays, if one looks hard enough.

John Cogley explains the resurgence in natural law interest as a result of the excesses of a secular age taken up with—perhaps to the point of exhaustion—the ideologies and the "isms" of the day—relativism, positivism and irrationalism. Because the natural law points to an ordered and moral universe, it would seem to be a "natural" in today's rebirth of interest in traditional concepts of ethics and morality and the growing dissatisfaction with the ideologies

that have held sway in the market place for the last thirty years. The shock that attends the realization of today's college faculties that their student bodies no longer mirror the ideas of the old Liberal Establishment of a passing generation is probably correlative with the realization that a trend away from the excesses of relativism and positivistic thought, whether in jurisprudence or the social sciences, provides a ready framework for the resurgent interest in the natural law. Accepting a moral universe, one founded in reason and intelligence, and one capable of discovery by no more intricate a tool than the the human mind employing "common sense," a universe that demands compliance with innate ethical and moral standards and undivided responsibility therefor puts one in pretty close harmony with the classic definitions. And the lawyer who sets his professional path, as it winds through the years of myriad triumph and trivia, by the guideposts of eternal law and natural justice will have accepted, whether he knows it or not, the basic tenets in the sometimes formalized structure of the natural law. Cogley quotes a definition of this structure given to us by a Roman lawyer more than two thousand years ago. Neither the greatness of the man—Marcus Tullius Cicero—nor the enduring validity of his words will ever be doubted in a civilized age, and will always be worthy of quotation:

There is in fact a true law—namely, right reason—which is in accordance with nature, applies to all men, and is unchangeable and eternal. By its commands this law summons men to the performance of their duties; by its prohibitions it restrains them from doing wrong. Its commands and prohibitions always influence good men, but are without effect on the bad. To invalidate this law by human legislation is never morally right, nor is it permissible ever to restrict its operation, and to annul it wholly is impossible. Neither the Senate nor the people can absolve us from our obligation to obey this law, and it requires no Sextus Aelius to expound and interpret it. It will not lay down one rule at Rome and another at Athens, nor will it be one rule today and another tomorrow. But there will be one law, eternal and unchangeable, binding at all times upon all peoples; and there will be, as it were, one common master and ruler of men, namely God, who is the author of this law, its interpreter and its sponsor. The man who will not obey it will abandon his better self, and, in denying the true nature of a man, will thereby suffer the severest of penalties, though he has escaped all the other consequences which men call punishment.

Cogley succeeds in clearing up a number of misconceptions concerning natural law doctrine, such as that which associates it primarily with Roman Catholicism, or that it is anti-scientific in its outlook. On this latter point, it is enough to say that any thorough-going rationalistic philosophy can hardly be accused of negligence in the pursuit of the benefits of science, including their application to the law. As Cogley points out, the natural law insists upon the relevance of scientific knowledge and its fruits; anything less than this would betray its rationalistic foundation.

Dr. Hutchins attributes the resurgence in natural law thinking among today's lawyers to the contemporary search for a normative jurisprudence after the various other systems—positivism, realism, functionalism, pragmatism, and linguisticism—have run their course. This is undoubtedly true and should be welcomed in an age that has found itself without a clear purpose. As Dr. Hutchins points out, a commitment to natural law "involves a commitment to purpose, which is implicit in the idea of ends; a commitment to reason as the instrumentality through which ends and means are discovered and adjusted; and a commitment to the ends that are discovered."

Dr. Hutchins' may be taken as the perfect illustration of the proposition that natural law principles take on almost as many different forms as there are those who consider them. In his application of the basic principles to the conditions of our time many unusual results blossom forth. While it is undoubtedly true that a genuine application of these principles leads to an outlook of social justice and reform, it does not follow that the existing social and economic order is in need of basic reform to accomplish the goals of natural justice. And most certainly, natural law does not reject capitalism as a basis for the economic order as Dr. Hutchins suggests. Neither does it entail the outlook of "one-worldism," of one great, leveling, monolithic social order that is claimed for it within these pages. And yet, perhaps the most fantastic observation that Dr. Hutchins makes is that the natural law will provide a ready seed-bed for the growing uselessness in *avant-garde* circles for the role of private property—in short, for the outright abandonment of it, in favor, no doubt, of something else—an observation that will certainly send "old guard" natural lawyers back to the books for easy refutation.

Father Murray's major proposition is that only the basic principles of natural law are able to explain the public moral experience, what he calls "the public consensus," that finds its expression in our laws. Reason applied to experience is able to lift the public consensus from the level of sheer experience "to the higher level of intelligibility" that man aspires to. In short, man comes to recognize that his conduct is shaped not by the practicalities of social living alone, but by the higher dictates of universal law—by the "good" as it will be understood and applied in men's daily lives, to industry, capital, to all of the institutionalized forms of modern society.

While Mr. Buchanan traces the origin and historical growth of the natural law thru the philosophical thought of the western world, Mr. Selznick brings to play the perspectives of the social scientist in his evaluation of natural law theory. While recognizing the existence of "latent values in the world of fact," Mr. Selznick reverts to the belief that "it is not necessary for natural law supporters to prove that man has any inherent duties, including the duty to live at all or to choose good and avoid evil. It is the system that has the commitment." Rabbi Gordis takes issue with this last point. He calls attention to the very real commitment that *individuals* have within the natural law frame-

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work. Individual responsibility and adherence to duty is a foundation block in our common and natural law system, and while the idea may not be a particular penchant of the social scientists, its vitality will not easily be doubted, whether one has a definitive commitment to a natural law position or not. Finally, Mr. Wheeler's essay traces the growth of natural law concepts thru the cultural fabric of western society with emphasis upon its relation to the Anglo-American common law tradition, and its jurisprudence.

Lawyers, law students, and law professors will be interested in this book for the very simple reason that it is most relevant to their professional calling. It provides an exposure to a system of jurisprudence that is not removed from the realities of daily affairs, but is rather of utility in their conduct. While this volume is probably not the best to serve as an introduction to the system as a whole for those who have had no previous background, it does throw some light upon it for beginner and student alike. However, its liabilities must be taken into account, and for this some background is undoubtedly desirable. Still, it answers the current need, in some small measure, for an exposition of natural law principles that should be of especial interest to the legal profession in these days that seem to call once more for particular attention to the demands of natural justice and jurisprudence. As Professor Edward McWhinney of the University of Toronto aptly put it: "The call for a value-oriented jurisprudence is beginning to be heard in all the major American law schools, whatever their particularistic affiliations. The search for a revived natural law . . . may well be the dominant theme of American legal philosophy over this second half of the century."

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